

MOTYWY POPEŁNIENIA KORUPCJI I INNYCH KRYMINALNYCH PRZESTĘPSTW W DZIEDZINIE PENITENCJARNEJ UKRAINY: POJĘCIE, TREŚĆ, WARTOŚĆ TEORETYCZNA I PRAKTYCZNA

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Streszczenie. W postanowieniach artykułu naukowego autor bada pojęcie, treść, teoretyczne i praktyczne znaczenie motywów popełnienia korupcji i innych przestępstw w zakresie penitencjarnym na Ukrainie. Przeprowadzając analizę opinii czołowych uczonych ukraińskich i zagranicznych, autor przedstawia własną definicję pojęcia „motywy popełnienia korupcji i innych przestępstw kryminalnych w zakresie penitencjarnym Ukrainy”, a mianowicie, - to ukształtowane pod wpływem odpowiedniego środowiska społecznego i doświadczenia życiowego, i zawodowego tych osób intencje popełnienia korupcji lub innych przestępstw kryminalnych na podstawie wewnętrznej bezpośredniej przyczyny i które wyrażają ich osobistą postawę wobec tego, do czego jest skierowane dane społecznie niebezpieczne, nielegalne i karalne działanie, które stało wynikiem pewnych negatywnych warunków, stylu życia i konkretnej sytuacji życiowej danej osoby. Autor stwierdza również, że funkcje tworzące system, które składają się na treść tego pojęcia, powinny obejmować: 1) bezprawne intencje osoby; 2) intencje osoby ukształtowane pod wpływem odpowiedniego środowiska społecznego i życiowego oraz doświadczenia zawodowego określonych podmiotów stosunków społecznych; 3) podmiotem realizacji zamiarów kryminalnych są osoby z personelu instytucji penitencjarnych, które z kolei stanowią integralną część całego personelu Państwowej Służby Penitencjarnej Ukrainy; 4) bezprawny zamiar w określonych osobach, mający na celu popełnienie korupcji i innych przestępstw kryminalnych w zakresie penitencjarnym Ukrainy; 5) bezprawna intencja była wynikiem wewnętrznej bezpośredniej przyczyny osoby winnej; 6) bezprawny zamiar wyraża jego osobistą postawę wobec faktu, że jest on skierowany na ten społecznie niebezpieczny, niezgodny z prawem i karalny akt; 7) bezprawny zamiar osoby winnej powstał w wyniku wpływu na nią pewnych zewnętrznych warunków negatywnych, sposobu życia i konkretnej sytuacji życiowej.

Słowa kluczowe: korupcja, kara, przestępstwo, motyw, instytucja penitencjarna.

MOTIVES OF COMMITTING CORRUPTIBLE OR OTHER CRIMINAL OFFENCES IN THE SPHERE OF PUNISHMENT EXECUTION OF UKRAINE: CONCEPTIONS, CONTENT, THEORETICAL AND PRACTICAL SIGNIFICANCE

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Abstract. In the provisions of the scientific article, the author examines the concept, content, the theoretical and practical significance of the motives for committing corruption and other criminal offenses in the area of execution of sentences in Ukraine. In conducting an

analysis of the opinions of the leading scholars of Ukraine and abroad, the author submits his own definition of "the motives for committing corruption and other criminal offenses in the field of the execution of sentences of Ukraine", namely, they are formed, under the influence of the appropriate social environment and life and professional experience of these persons, to commit corrupt or another criminal offense on the basis of an internal direct reason and expressing their personal attitude towards what is directed at it is socially dangerous, illegal and punishable dream, which was the result of certain negative conditions, lifestyles and a particular life situation on the person. Also, the author concludes that the system-forming features that make up the content of this notion should include the following: 1) the unlawful intentions of the person; 2) the intentions of the person are formed under the influence of the appropriate social environment and life and professional experience of these subjects of social relations; 3) the subject of realization of criminal intentions are persons from the staff of the administrative departments, which, in turn, is an integral part in the whole staff of the SCF of Ukraine; 4) the unlawful intention of the said persons is aimed at committing corruption and other criminal offenses in the area of execution of sentences of Ukraine; 5) the unlawful intention was the result of the internal direct cause of the guilty person; 6) the unlawful intention expresses its personal attitude towards the fact that it is directed at this socially dangerous, unlawful and punitive act; 7) the wrongful intention of the wine person was formed as a result of the influence on it of certain external negative conditions, a way of life and a particular life situation.

Key words: corruption, punishment, crime, motive, institution of punishment execution.

МОТИВИ ВЧИНЕННЯ КОРУПЦІЙНИХ ТА ІНШИХ КРИМІНАЛЬНИХ ПРАВОПОРУШЕНЬ У СФЕРІ ВИКОНАННЯ ПОКАРАНЬ УКРАЇНИ: ПОНЯТТЯ, ЗМІСТ, ТЕОРЕТИЧНЕ ТА ПРАКТИЧНЕ ЗНАЧЕННЯ

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Анотація. У положеннях наукової статті автор досліджує поняття, зміст, теоретичне та практичне значення мотивів вчинення корупційних та інших кримінальних правопорушень у сфері виконання покарань України. Проводячи аналіз думок провідних науковців України та зарубіжжя, автор подає власне визначення поняття «мотиви вчинення корупційних та інших кримінальних правопорушень у сфері виконання покарань України», а саме – це сформовані під впливом відповідного соціального середовища та життєвого і професійного досвіду цих осіб наміри вчинити корупційне чи інше кримінальне правопорушення у силу внутрішньої безпосередньої причини та які виражають їх особисте ставлення до того, на що спрямоване це суспільно небезпечне, протиправне та каране діяння, що стало результатом дії на особу певних негативних умов, способу життя та конкретної життєвої ситуації. Також автор робить висновки, що до системоутворюючих ознак, що складають зміст зазначеного поняття, слід віднести наступні: 1) протиправні наміри особи; 2) наміри особи сформовані під впливом відповідного соціального середовища та життєвого і професійного досвіду зазначених суб'єктів суспільних відносин; 3) суб'єктом реалізації злочинних намірів є особи з числа персоналу УВП, які, у свою чергу, є органічною частиною у цілому персоналу ДКВС України; 4) протиправний намір у зазначених осіб спрямований на вчинення корупційних та інших кримінальних правопорушень у сфері виконання покарань України; 5) протиправний намір став результатом дії внутрішньої безпосередньої причини винної особи; 6) протиправний намір виражає її особисте ставлення до того, на що спрямоване це суспільно небезпечне, протиправне та каране діяння; 7) протиправний намір у винної

особи сформувався в результаті впливу на неї певних зовнішніх негативних умов, способу життя та конкретної життєвої ситуації.

Ключові слова: корупція, покарання, злочин, мотив, установка виконання покарань.

In scientific sources a motive is meant a pretext, grounds for any action, deed or reason (*Lisova N. V. 2007. 20 p*). The same definition is given in Comprehensive dictionary of foreign words (*Lopokha V. V., 2016. 224 p.*). In criminal and legal aspect a motive is considered as indication of mental element of a crime (*Lopokha V. V., 2016, p.18*), which is meant awareness of a person's impulse to cause the determination of committing a crime, this is an integral psychic state making the person commit socially dangerous action and is its reason (*Lukashenko A. A., 1997. p. 86–91*). Analogical approach to crime motive definition is used in Law encyclopedia (*Lukashevych S. Yu., 2001, p.19*). Gryshchuk V. K. defining the content of philosophical and legal conception of a person's responsibility, closely links crime motive with corpus delicti, which is one of the reason of negative (retrospective) criminal and legal responsibility of a person (*Gryshchuk V. K., 2013, p. 768*). In criminological references crime motive is considered integrated psychic formation caused by external or internal incentives determined by a person's peculiarities, which prompts to the behavior aimed at relieving psychic strain of conscious actualized need of biological or social character by means of breaking criminal and legal prohibition (*Lunyeyev V. V., 1991, p.383*). On the whole, such definition corresponds with general theoretical content of offence motive concept (*Lupinosova O. M., 2007, p.248*). This concept is examined in both narrow and broad aspects in educational and methodical publications of "Criminology" course. Thus, Lykholob V. G. explains crime motive as criminal behavior motivation considering the first one to be and important inner determinant of a criminal behavior (*Lykholob V. G., 1992 p.41*). Besides, according to him, neither a motive nor motivation, nor formal ability to choose determines the content of the taken decision controlled by subject's will and consciousness (*Lykholob V. G., 1992, p.41*). Then V. A. Lyovochkin includes the motives of illegal behavior into the mechanism of person's criminal purpose (*Lyovochkin V. A., 2002, p.18*). According to the analysis of scientific works on the definite problem this scholar established that in the light of general psychological theory of purpose motivational process is of great importance, as it 1) defines psychologically acceptable type of behavior chosen among other types; 2) endows this type of behavior with more significance from point of view of value orientations; 3) makes it psychically important; 4) ensures conditions for forming a proper purpose (*Lyovochkin V. A. 2002, p.18*). A.M. Boyko used analogical approach, he is convinced, that in social individual's life and activity different lines and motives of social process do not only intersect and meet, but new social qualities for keeping or modifying old ones are synthesized in them (*Bojko A. M., 2008 p.111*). N.V.Smetanina suggests that criminal behavior motivation should be admitted to be a criterion of criminological crime classification, proving that no other criterion of such classification reflects inner integral amount of crime reasons to the full, as motivation (*Smetanina N. V., 2016 p.93-94*). Proceeding from research results received, the above scientists suggested five groups of criminal motivations: a) political; b) violent and selfish; c) self-interested; d) anarchic and individualistic; e) thoughtless and irresponsible. Taking this into consideration O. M. Lytvynov considers activity of neutralizing person's criminal behavior motivation to be a priority among three aspects of social and legal mechanism of crime counteraction in Ukraine, which he singled out (*Lytvynov O. M., 2008, p.144*). O.G.Kalman attributed a person's criminal

behavior motive to objects of counteracting and preventing criminal offences (*Kalman O.G., Kozyakov I. M., Kucz V.V., 2010, p.30*). S.F. Denysov suggests studying person's criminal behavior motives in the content of crime determinant, considering them as one of integral element of criminal mechanism structure (*Denysov S. F., Denysova T. A., Kulyk S. G., Sheremet O. S., 2015, p.289-299*). In addition to that they understand criminal behavior motive as an intention formed under the influence of social environment and life experience, which is direct inner reason of committing a crime and it expresses personal attitude towards the object this action is aimed at. In his opinion, meaningful side of the motive indicates the intention followed by the person setting a definite aim and choosing illegal way of reaching it. It is the meaningful side of the motive through which the person's direction is expressed, his or her interests, inclination for thinking and readiness to act in a certain way. But the energizing side of the motive is formed with emotions and feelings that stimulate determination and support readiness for purposeful actions. Moreover, emotional experience of criminal intention guides determined process in a certain direction. According to this scientist it is the very motives that are equally a reason and a motive power of purposeful behavioral activity, and so they are direct reason of committing any corruptible or any other criminal offence, including those in the sphere of punishment execution of Ukraine.

Proceeding from the results of this research, it should be mentioned that foreign criminologists also pay great attention to motives and motivation treating the problem about determinants and mechanisms of committing corruptible and other criminal offences. Thus, German scientist H.Y.Shnayder, studying criminal "careers" distinguished four phases of rise and development of criminal motivation, and making a juvenile criminal, in particular, namely: a) delinquency as not an isolated action, but a life process, mounted into criminal career; b) a group pushes a person into criminal career and keeps him there; c) the reaction of the people among his closest surrounding to his illegality is of great importance for forming his personal criminal image; d) finally the teenager is appointed as illegal subject. Kazakh criminologist calls person's needs, interests and motives together with moral qualities essential elements in the social and psychological mechanism of an individual crime. Russian scientist studying person's needs and interests, proves that the latter ones influence greatly person's motivational sphere implying all the motives which are formed and developed during all his lifetime. She distinguished the following motives of criminal behavior: 1) social political: state and society government mechanism, participation in this government, influence on it and so on; 2) social economic: a) satisfying absolute that is the most necessary vital needs; b) satisfying "relative needs" arising in the conditions of social and economic population differentiation and comparative analysis of the people's status; c) reaching the ideal, that is a certain material standard (superwealth) or social standard (penetrating into the high society), the person is oriented to; 3) violent and selfish (physically and psychologically aggressive): a) making the idea of self-assertion absolute, realizing the present needs and interests in any forms; b) self-assertion in the forms acceptable in concrete situations (ill-bread, uncivilized person usually react to any remark with insult), obstacles and difficulties in protecting honour and dignity in legal form cause physical violence against the insulting person. A.I.Dolgova included here the cases when the person living in inhuman conditions is self-asserted in inhuman way; 4) thoughtless and irresponsible: a) lack of need and interest to correlate his deeds with the present norms of behavior and law; b) selectivity of such correlation

(estimation) (for example, only under conditions of strict external control or communicating with high-ranking people, not with subordinates or irresponsible ones, etc.). A.I. Dolgova believes, the indicated types of motives can be displayed in different correlations in criminal behavior (*A. I. Dolgova, 2005, p.289*). In their opinion, there is another logical deadlock in this social and economic theory: why don't all the poor or at least most of them commit a crime? The above mentioned scientists made another important conclusion: a person is a criminal not because he is poor, but he is poor because he is a criminal. Criminal life style does not bring in constant incomes from hard work. As regards this, Russian criminologist D.A. Shestakov observed opportunely, that criminality is hidden, it can't be recognized with mere notion of committed and registered crimes, since it expresses the main thing characterizing the process of crime reproduction, its inner, deep regularity of multivariable conflict behavior of people contradicting with one another (*Shestakov D.A. 2011, p. 17*). In his opinion, criminality is mediated by complicated hierarchy of mass criminal behavior reasons (social contradictions, negative social processes), forming the basis of inability to conforming society interests, aimed at creating its superiority rather than regularity. Russian criminologist Along with this the choice of ways and means of motive satisfaction is realized only in a certain life situation enabling the subject to make a motivational choice of setting a certain goal. Moreover, the goal is chosen as a result of interacting at least three factors: motive, life purpose and a specific situation in which the event takes place.

Having generalized theoretical approaches to motive role in individual criminal behavior, Ukrainian criminologist A.P. Zakaliuk distinguished three approaches concerning its essence determination: a) functional; b) gnoseological and determinate; c) general personal (at the same time the second and the third factors are closely connected with the person, but they are rather specific) (*Zakalyuk A. P., 2008, p. 287*). He does not doubt the motive function, as it is a stimulus, impulse of person's activity. Likewise, motive belonging to determinate process is indisputable (*Zakalyuk A. P., 2008, p. 287*). According to A.P.Zakaliuk, gnoseological and determinate motive essence consists in the fact that a motive is a specific attitude towards the subject able to satisfy the needs of the latter, to define ways of the role implementation, to stimulate aspiration (inclination) for action, realizing the need by this subject (*Zakalyuk A. P., 2008, p. 288*) According to A.P.Zakaliuk, general personal approach to motive notion definition is first of all clarifying correlation between the motive and person or personality notions, the place motive takes in the personality structure (*Zakalyuk A. P., 2008, p. 289*). In broader sense a motive is meant as constant personal characteristics, defining person's activity in certain directions, spheres of vital functions during a long period or maybe all life. Such motives are often called principal or general, they are believed to be formed since childhood (*Zakalyuk A. P., 2008, p. 290*). A.P.Zakaliuk proves that such motive conception is more acceptable for motivation content and direction. It is close to such categories as "attitude", "determination", "valuable orientation" and almost does not differentiate with them, though the motive has more distinct stimulating function. Moreover, the mentioned difference concerns more terminology sphere than essence (*Zakalyuk A. P., 2008, p. 290*). But notwithstanding some differences in defining motivation notion, A.P.Zakaliuk makes it two main variants according to which motivation is: 1) the whole complex or system of psychological determinants, being inner reasons of a crime; 2) the process of emerging,

forming, developing, changing motives, making decision to commit a crime (*Zakalyuk A. P., 2008, p. 290*). In this case motivation is the process of forming, developing and making personal psychological readiness and motives of activity of a certain direction and social importance (*Zakalyuk A. P., 2008, p. 291*). A.P.Zakaliuk thinks, motivation itself forms the motives which is inner reason of criminal manifestation (*Zakalyuk A. P., 2008, p. 291*). He divided motives into three groups: a) social and personal; b) political, profitable, violent and selfish, anarchic and individualistic, thoughtless and irresponsible, timid and cowardly; c) ideological, material incentive including profitable and also with deformed material needs; motives stipulated by interpersonal communication, among which are personal hostility, self-assertion, egocentrism, scornful attitude towards other people, social indifference, passiveness, etc. (*Zakalyuk A. P., 2008, p. 293-294*). Both criminal motivation and motives are formed under the influence of conditions and way of life.

The conditions that influence criminogenic motivation directly, in the family, in particular, are as follows: 1) examples of criminal and the like illegal behavior: theft, hooliganism, beating, etc.; 2) examples of antisocial habits (hard drinking, drug-addiction, amorality, etc.); 3) indifference to family members' criminal manifestation, attempts of helping to avoid responsibility, to cheat victims, etc.; 4) contentiousness, strain, bitterness in relationship among family members, scandals, on the whole, the atmosphere to get rid of, by means of criminal occupancy of money, property, which enables to change this atmosphere (*Zakalyuk A. P., 2008, p. 295-296*). Other social groups in everyday life and in free time have analogical conditions of forming criminogenic motivation, including the influence of criminal group (*Zakalyuk A. P., 2008, p. 296-301*). Some other phenomena of social reality, not embraced the indicated notions, influence forming criminogenic motivation. According to A.P.Zakaliuk, they are: specific life situation, where person's antisocial intentions are formed, his acquiring socially dangerous features, criminogenic orientation and motivation, transformation of the latter one into criminal and finally into the motive of committing a criminal offence (*Zakalyuk A. P., 2008, p. 301*).

Science divides a specific life situation into the following types: a) promoting type, which embraces conditions making criminogenic motivation and motives of a crime, further –criminal intention realization- easy; b) problematic type, which prevents person's qualities from being formed and developed, but sets the task of overcoming obstacles, of making additional efforts, of search and using corresponding means, etc.; c) conflict type, where influences different according to interests and direction can collide, which causes conflict between them, it makes the person be more reasonable and understand the reason of the conflict (*Zakalyuk A. P., 2008, p. 304*). There are other ways of classifying a specific life situation. According to the sources influencing its formation, A.P.Zakaliuk divides them into connected with a) a person influenced by the environment while he is criminally formed and realizes the motive and intention to commit a crime; b) the environment and its elements of influence including the object influencing the motive to be realized; c) both sides, a person and environment elements (this situation is called mixed) (*Zakalyuk A. P., 2008, p. 304*).

All these indicated theoretical and methodological approaches are used in the given monographic research for looking into social and legal nature of motives and motivation of committing corruptible and other criminal offences in the sphere of punishment execution of Ukraine.

So, proceeding from received results we can tell the following definitions of the notion “motives of committing corruptible and other criminal offences in the sphere of punishment execution of Ukraine”, namely – they are intentions formed under the influence of the corresponding social environment and life and professional experience to commit corruptible or other criminal offence because of inner direct reason, and which reflect their personal attitude towards the object the social dangerous illegal and punishable action are aimed at, and which became the result of influencing some negative conditions, way of life and specific life situation.

Thus, the system-forming signs reflecting the content of the marked concept are as follows:

1. They are person’s illegal intentions. In science intention implies a plan, desire to do something (*Zakalyuk A. P., 2008, p. 289*). Criminologists call intention a direct inducement At the same time they urge that the motive should not be considered “initial moment of crime”, “primary stimulating reason”, because needs, interests, attitude, being the subjects, stand before a motive in a stimulating process. Further more, the sense, that is, a purpose defining the reason of impulse is important in this process too. So, as criminologists state, impulse (intention) is just impossible without sense, that should not be identified with a motive, since they have the role and function of their own in the stimulating and on the whole determination process (*Zakalyuk A. P., 2008, p. 289*).

2. The indicated person’s intentions are formed under the influence of the corresponding social environment and life and professional experience of social relations. To form means literally to make something have a particular shape or appearance; to mould particular features of character in somebody, etc. Forming criminogenic and further criminal motivation is a result of deepening antisocial direction, acquiring more distinction, intensity, firmness, and above all, social danger which is qualified by antisocial attitude to main conditions of society vital function, that is, by socially dangerous manifestations, formation criminal motives (*Zakalyuk A. P., 2008, p. 292*).

In scientific sources influence implies the action a particular person of thing or phenomenon applied to another person or thing. As practice proves, different phenomena of social reality (family, school, other educational institutions and working groups) and personal life are criminal influence motivation forming antisocial criminal behavior (*Zakalyuk A. P., 2008, p. 294*). The course of our research established that the people with little life experience, aged 20-25, and practical professional working experience in SCES of Ukraine (1-3 years) are the most difficult criminological objects in the sphere of punishment execution, their share in the structure of corruptible and other criminal offences in the sphere of punishment execution of Ukraine makes up about 70% (*Borovyk A. V., Kolb O. H. 2019, 360 p.*).

3. PEI staff officials are subjects of criminal intention realization, who are an integral part of SCES personnel. According to the requirements of art. 14 of Law of Ukraine “On State criminal and executive service of Ukraine” SCES consists of the following people: a) private men and commanders; b) specialists without special ranks; c) civil servants; d) other people working on a labour contract. But at the moment of committing corruptible or other criminal offences in the sphere of punishment execution of Ukraine the above mentioned subjects must have SCES personnel status (there must be an authorized person’s order about including in the office staff). As p.2 of the

Plenum Resolution No.15 26.12.2003 of the Supreme Court of Ukraine “On Court practice in cases of exceeding power or official commissions “ indicated, courts are obliged to demand materials of criminal cases of exceeding power of official commissions, copies of normative and legal acts, provisions, instructions, other documents explaining the character of official’s commissions. In broader sense, according to p.2,3 art.11 of CEC of Ukraine PEI personnel includes the people working (serving) in a) prisons; b) correctional centres; c) educative colonies; d) penal colonies; e) investigative isolation ward, in cases when these people punish convicts (those left in IIW according to art. 89, 90 of CEC)

4. Illegal intention is aimed at committing corruptible and other criminal offences in the sphere of punishment execution of Ukraine. The crime notion is given in art.11 of CC of Ukraine, and crime classification (minor, average, felony and grave) – in art.12 of the same Code. Then the stages of crime committing are defined in art.13-15 of CC, each of them contains criminal responsibility (art.16 of CC), if the person guilty of committing a crime on the stage of its preparation or of attempt does not refuse voluntarily (art.17 of CC). It appears that even with formed intention (stimulus) of committing corruptible or other criminal offence the person cannot realize it either because of the reason that didn’t depend on him (art.15 of CC) or of his own will (art.17 of CC).

5. Illegal intention to commit corruptible or other criminal offence in the sphere of punishment execution of Ukraine became the result of guilty person’s inner direct reason. A person’s criminal motivation, that is, practical activity, subjects of which are motives: their emerging, forming, realization in intention and decision to commit a crime is such a reason (*Zakalyuk A. P., 2008, p. 291*). As practice and results of special criminological researches (168) prove, criminal motivation (exactly intention) isn’t formed at once. In the context of antisocial and socially dangerous (not criminal) motivation a person gets motives referring to the matters belonging to main conditions of society’s vital functions and mainly through intentions and high probability to use criminally forbidden means and forms of activity concerning these motives realization, motivation of the latter passes through criminal stage when criminal motivation has not been formed yet, but is only criminally oriented. Scientists call such orientation and motivation criminogenic (*Zakalyuk A. P., 2008, p. 291*). It is just the content of direct reason of committing corruptible and other criminal offences by any person, including the sphere of punishment execution of Ukraine.

6. A person’s illegal intention to commit corruptible or other criminal offence in the sphere of punishment execution of Ukraine expresses his personal attitude to the object the socially dangerous, illegal and punishable action is aimed at. Again, as practice affirms, criminal motivation can be different or completely absent in different types of crimes (*Zakalyuk A. P., 2008, p. 291*). At the same time, motives also have different level of formation, intensity, firmness, different limit of awareness by a person and influence which motives make for the desire of their realization. These personal elements of motive formation process to commit a certain crime together with a socially important object chosen and with the way of satisfying the motive determine its social danger, probability of motivation criminal character (*Zakalyuk A. P., 2008, p. 291*). But motivation is criminal if it produces committing deliberate crimes, if a person understood socially dangerous character of his action (acts or omission); expected its social dangerous consequences and wished them to appear (p.2 art.24 CC – express

malice), or if a person understood socially dangerous character of his action (acts or omission); expected its dangerous consequences, though did not wish but surmised consciously their coming (implied malice (p.3 art.24 CC)). At the same time, criminal motivation (intention) is narrowed in crimes committed by inadvertence (art.25 CC) (a guilty person did not wish the socially dangerous consequences to come, but surmised them consciously or had to surmise) (*Zakalyuk A. P., 2008, p. 292*). Besides, there is lack of criminogenic motivation (criminal intention), as well as conscious motive in the so called impulsive crimes when the behavior goes out of control or consciousness under the influence of different circumstances (alcoholic and narcotic drunkenness, strong emotion or other emotional disorder, mental aberration within incrimination (art.19 CC) and limited incrimination (art.20 CC), and others) (*Zakalyuk A. P., 2008, p. 292-293*). Along with this, it should be remembered that a person's psychical attitude towards realizing illegal intention must correlate to the estimation of social danger, illegality and punishability of committing the action (acts or omission), which are main and necessary features of any crime (art.11 CC). Social danger in the criminal law theory implies objective ability of the crime to do harm or make a threat of doing harm to the objects of criminal and legal protection. Illegality means that socially dangerous action becomes a crime only if it is provided for by law about criminal responsibility, if it contradicts the norm of criminal law and breaks its ban or instructions. Punishability is a criminal and legal repression for committing a crime defined in Law on criminal responsibility.

7. Illegal intention to commit corruptible and other criminal offense in the sphere of punishment execution is formed in a guilty person as a result of influencing certain external negative conditions, way of life and a particular life situation. A.P.Zakaliuk divided the following influences of conditions of ways of life: a) the influence of society's way of life on the whole; b) the influence of its criminal social communities; c) the influence of small groups (micro-environment); d) the influence of individuals (*Zakalyuk A. P., 2008, p. 294*). He is convinced society's way of life can influence criminal orientation and motivation formation directly or indirectly through the way of life of separate social groups (*Zakalyuk A. P., 2008, p. 294*). It was above mentioned about the conditions connected with way of life of social groups (*Zakalyuk A. P., 2008, p. 295-296*), as well as about influence on forming criminogenic motivation and other elements of way of life (family, social groups, everyday, leisure environment, criminal groups, etc.). As A.P.Zakaliuk remarked, these conditions are realized through deeds, behavior of certain people of appropriate environment, especially influential, 'experienced', informal authorities, distinguished out of already convicted people. Besides, the facts of conciliatory attitude towards such people, fawning over them, supporting 'traditions' in the criminal surrounding have strong criminogenic influence (*Zakalyuk A. P., 2008, p. 296*). Moreover, communication with such people, following their customs and traditions often speed up criminogenic motivation, forming the motive of a crime (*Zakalyuk A. P., 2008, p. 296*). Besides different forms and conditions of way of life in different social groups and social roles some other phenomena of social reality including specific life situation influence criminogenic motivation. In this connection A.P.Zakaliuk made a conclusion that a criminologist takes interest in a specific life situation, in which a person's antisocial direction, its intensity, acquiring socially dangerous features, criminogenic orientation and motivation, transformation of the latter into criminal one, and finally into crime committing motive are formed (*Zakalyuk A. P., 2008, p. 301*).

So, on the whole, such is the content of the notion “motive of committing corruptible and other criminal offences in the sphere of punishment execution of Ukraine”, which made up the basis of the given monographic research. Theoretical significance of this conception explained in this work consists in the fact that in such a way the limits of scientific knowledge about the motives of criminal behavior of certain social groups (here – in the sphere of punishment execution) are broadened, also doctrinal principles of forming and classifying criminal motivation and motives of illegal activity of the indicated subject categories are deduced. Practical significance of the investigated conception consists in the fact that the problems not regulated in the law but faced in life are defined in this work, they are worth taking into account while organizing preventive activity, connected with committing corruptible and other criminal offences in the sphere of punishment execution of Ukraine because of this or that motive, with neutralizing, blocking, eliminating direct or indirect determinants of the indicated types of crimes.

The results of anonymous survey conducted in the course of our research prove the marked problems to be available. So, 15 respondents among PEI personnel answered the question “Have you been victims of the crimes committed by the people of colony’s staff?” positively, (it is 4% of all survey participants); 346 respondents answered negatively (89%); 27 people answered “partially” (7%). Convicts gave the following answers: 25 respondents answered ‘yes’ (it is 7% of all survey participants), 264 respondents said ‘no’ (66%); 107 people said ‘partially’ (27%) (*Borovyk A. V., Kolb O. H. 2019, 360 p.*).

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