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IMPLEMENTATION OF THE RULE OF LAW PRINCIPLE IN THE PRACTICE OF UKRAINE: CONCEPT, STRATIFICATION AND ECONOMIC JUSTIFICATION

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Abstract. The *subject* of the study is the segmental manifestation of the rule of law principle and its elements in the activities of justice authorities, courts and public associations, taking into account the economic basis of its influence. The *purpose of the study* is to examine the forms of manifestation of the rule of law principle and its individual elements in the activities of justice and court authorities, to clarify the role of the public in its practical application, and to identify opportunities for its economic support. *Methodology.* The study used general scientific and special methods of scientific knowledge: the method of system analysis, the dialectical method, the formal logical method, the structural and functional method, as well as a number of empirical methods. In particular, the method of comparison was used to determine the transformation of penitentiary bodies and their transformation into penitentiary justice bodies. The *results* of the study demonstrated the need for: qualitative consideration of the aspect of ensuring the correction of a convicted person after serving his or her sentence; involvement of representatives of civil society institutions in the resocialisation processes; and identification of potential ways to implement effective reforms that can increase the efficiency and fairness of the judiciary. *Conclusion.* The article reveals the relationship between the transformation of the penal system into the penitentiary system and the implementation of the rule of law in this area and its comprehensive enforcement. It is noted that the criminal executive system takes into account the aspect of ensuring the serving of sentences, and in the penitentiary system, which operates under the rule of law, the authors additionally identifies such a qualitative component as ensuring the correction of a convicted person after serving his/her sentence and his/her resocialisation. It was found that the economic rationale for the transformation of the judiciary based on the rule of law consists in reducing the costs of: court functioning due to the possibility of digitalization of the preparatory stages before the court hearing and the holding of court hearings in videoconference mode; reducing costs for the court apparatus through optimization of its functions; reducing the number of court cases due to active mediation and other possible options for resolving disputes peacefully, etc. It is noted that justice in judicial proceedings means not only formal compliance with the law, but also the exercise of rights and freedoms of individuals with due regard for equality, objectivity and impartiality. The authors prove that non-governmental organisations are an important institution capable of promoting the principle of justice as an integral element of the rule of law, since they ensure the right to apply to court and the right to protection of members and third parties. The role of the public in shaping the economic basis for reforms and the proper functioning of state bodies was also highlighted. It is noted that national legislation needs to be amended in terms of granting NGOs the right to apply to court in the interests of third parties, in particular, in cases where a person is unable to protect his or her rights for valid reasons. The study analyses the fundamental provisions on economic support for the implementation of the rule of law in various spheres of public relations.

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1. Introduction

Regardless of the object of legal influence, regulatory subjects should be defined by law, and the boundaries of their activities should be outlined. The sphere of justice and the activities of the bodies that institutionally represent it are no exception. At the same time, the delineation of the subject matter of jurisdiction and competence of the judiciary depends on a combination of factors, such as the type of martial law regime, globalisation processes or the adaptation of national legislation to the standards of the European Union. Currently, any changes in the activities of the administrative apparatus, regardless of its field of competence, are mediated by the need to implement the principles of the rule of law and good governance. On the other hand, it can be said that at present the activity of state bodies does not fully correspond to the principles of humanism and respect for human rights and freedoms. In particular, it concerns the activity of the system of bodies in the field of execution of criminal penalties and pre-trial detention. This is manifested in the following: inconsistency in the subordination of penal institutions to the generally accepted approach to the functioning of the central bodies of executive power; confirmation of unsatisfactory conditions of detention of convicted and remand prisoners; low motivation of the staff of penal institutions. The situation became particularly acute following the introduction of martial law in Ukraine.

A separate aspect of the implementation of the rule of law is the material support for the innovations that accompany it in practice. Finding possible investments and minimising the costs of reforming the current vertical of state authorities is key to achieving the desired result.

The segmental manifestation of the rule of law and its elements is also reflected in the judicial system through the prism of comprehensive implementation and application of the principles of justice, which is manifested in terms of ensuring equal access to court, objectivity of court decisions, transparency of procedural rules and independence of the judiciary. The category of "justice" is intended to form the basis of the rule of law and, as a principle, should be an integral part of any legal system that strives for democracy and human rights.

Against this background, an important issue is to analyse the current state of affairs in terms of the segmental manifestation of the principle of the rule of law and its elements in the activity of the judicial system, and to identify possible ways of implementing effective reforms that can increase the efficiency and fairness of the judiciary. It is also important to identify the factors that have a direct impact on the level of citizens' confidence in the legal system and their feeling that their legal rights and interests are protected.

The establishment of the principle of the rule of law and its elements in the activities of judicial bodies and the judicial system is not possible without the participation of the public in these processes. And it is the civil society institute that is called upon to exercise public control over the activities of state bodies, local self-government bodies, the functioning of the judicial system, to carry out a review of normative legal acts, and to play an auxiliary and advisory role. Therefore, it is important to identify and highlight the institutional capacity of civil society to apply the principle of the rule of law in the activities of judicial bodies and the judicial system.

2. Bodies of Penitentiary Justice in the Conditions of Implementation of the Rule of Law Principle

The implementation of the principle of the rule of law was studied such domestic and foreign scientists as: V. B. Averyanov, I. G. Bogatyrev, A. V. Kirilyuk, V. V. Kovalenko, V. K. Kolpakov, O. V. Kuzmenko, R. S. Melnyk, G. O. Radov, O. P. Hamkhodera, S. Ya. Farenyuk, D. V. Yagunov and others.

However, the conditions for applying the rule of law principle in the activities of state institutions in general and the judiciary in particular are not well understood in science, which makes the chosen research topic relevant.

The status characteristics of the penitentiary bodies are revealed in the works of G. O. Radov (1997: 11), where the penitentiary system is interpreted as a complete, functionally integrated formation of authorised subjects of state administration, local self-government, civil society institutions and their coordinated actions to ensure the resocialisation of convicts.

That is, the researchers took a subjective approach to interpreting the concept of the penitentiary system.

The functional purpose of the penitentiary justice bodies is revealed in the conclusions of O. Shkuta (2016: 81). The researcher focused on a personality-oriented approach to influencing a convict, which affects his or her motivational sphere. On this basis, the category "penitentiary system" implies qualitative differences from the category "penal system", since the

sphere of execution of sentences shows stable trends of qualitative transformation.

E. Aizpurua and M. Rogan (2021) drew attention to the role of civil society institutions in the observance of human rights in prisons. Scholars have emphasised the need to create independent forms of oversight of penitentiary institutions and to empower them with the powers necessary to carry out their work. The issue of human rights protection as an element of the rule of law in penitentiary institutions was studied in the works of Sophie van der Valk S., Rogan M. (2021). The need to balance considerations of security and dignity, as well as the lack of openness to the outside world, make the implementation of human rights principles particularly important in the penal environment. International human rights law has increasingly emphasised the importance of external oversight of penal institutions as a means of preventing torture and ill-treatment and, more generally, of protecting fundamental rights.

Relevant questions, in particular, were asked by such scientists as T. Bazil, M. Bratasyuk, E. Stolyarov, G. Stolyarova, M. Yakovenko and others. In this study, the term "penitentiary institutions" will be used to refer to those state institutions that were formed as penitentiary bodies and function as proper subjects of public administration in the context of the rule of law in the state. The obviousness of the above features does not negate the need to disclose their content.

The classification of penitentiary institutions as penitentiary bodies indicates the main functional purpose of penitentiary bodies as penal authorities. An analysis of the provisions of the criminal executive legislation allows to distinguish the system of penitentiary institutions, which consists of: 1) the central executive body that implements the state policy in the field of execution of criminal sentences and probation, its territorial administration bodies, authorised probation bodies; 2) territorial penal institutions (detention centres, penal institutions, special educational institutions, pre-trial detention centres); 3) bodies with specific powers in the field of execution of criminal sentences (state executive service bodies, military units, guardhouses, disciplinary battalions) (The Criminal Executive Code of Ukraine, 2023).

The relevant criminal executive legislation identifies: 1) the central executive body that implements the state policy in the field of execution of criminal sentences; 2) territorial governing bodies; 3) criminal executive inspectorates, penal institutions, pre-trial detention centres, paramilitary units; 4) educational institutions, healthcare facilities, enterprises of penal institutions, other enterprises, institutions and organisations established to ensure the fulfilment of the tasks of the criminal executive servic (The Law of Ukraine "On the State Penitentiary Service of Ukraine", 2005).

Given the existing terminological differences in the definition of the system of entities that ensure the execution of sentences, it is possible to state that the institutional component of the penal system is not regulated.

The transformation of penitentiary bodies and their transformation into penitentiary justice bodies is mediated by the implementation of the rule of law principle, which establishes the requirement to function as proper subjects of public administration. This will be manifested in the following.

Firstly, the aspect of ensuring the correction of a convicted person after serving his/her sentence and his/her resocialisation should be taken into account qualitatively. Secondly, the regulatory influence, defined in quantitative terms, should be exercised by public authorities with the involvement of representatives of civil society institutions. This will be achieved, among other things, through the activities of supervisory commissions and supervisory boards established by local state administrations in the territory where penal institutions are located. Supervisory commissions will include representatives of public and/or charitable organisations, executive authorities, local governments, enterprises, institutions and organisations regardless of ownership, and individuals, while boards of trustees will include citizens from among representatives of public organisations, executive authorities, local governments, enterprises, institutions and organisations regardless of ownership and citizens (The Resolution of the Cabinet of Ministers of Ukraine "On Approval of Regulations on Supervisory Commissions and Boards of Trustees of Special Educational Institutions", 2004).

A manifestation of the quantitative expansion of the penitentiary system is the involvement of academic institutions and NGOs in their work to exercise effective managerial influence on this area of social relations. The thesis that the entities authorised to regulate social relations in the field of the penitentiary system, in addition to bodies and institutions for the execution of punishments, should also include representatives of civil society institutions that exercise public control over the observance of the rights of convicts during the execution of criminal punishments, carry out social and educational work through the activities of citizens' associations, is supported by the following arguments. The mass media, religious and charitable organisations, individuals, as well as observation commissions and guardianship councils, play a role in the socialisation of convicts and their correction. This is justified by the idea of the functioning of the penitentiary system in Ukraine, and not the criminal-executive system. Furthermore, the relevant legislation requires that the principle of the rule of law be taken into account.

The Constitutional Court also stressed the importance of taking into account the rule of law in the activities of state bodies, including those authorised in the field of

execution of sentences. Hence, in view of the content of Article 8 of the Constitution of Ukraine, the rule of law is interpreted as a mechanism for ensuring control over the use of power by the state and protecting individuals from arbitrariness of state power. Accordingly, the rule of law is a normative ideal to which every legal system should aspire in the context of its fundamental components: the principle of legality, the principle of separation of state power, the principle of people's sovereignty, the principle of democracy, the Thus, the rule of law means that penitentiary authorities are limited in their actions by pre-regulated and announced rules that make it possible to predict the measures that will be applied in specific legal relations, and, accordingly, the subject of law enforcement can anticipate and plan their actions and count on the expected result (The Decision of the Constitutional Court of Ukraine in the case on the constitutional petition of 62 MPs of Ukraine regarding compliance with the Constitution of Ukraine (constitutionality) of the Decree of the President of Ukraine "On Early Termination of Powers of the Verkhovna Rada of Ukraine and Calling Early Elections" dated 20.06.2019, 2019).

In order to ensure that the restriction of the subjects of power is controlled in democratic formations, civil society institutions are vested with certain powers and involved in the performance of power and administrative functions, with the aim, first of all, of ensuring human and civil rights and freedoms.

In the process of transforming the penal system into a penitentiary system, it is also important to take into account the concept of rationality of the economic component. For example, it is currently common for persons held in pre-trial detention centres to complain to the courts about inadequate conditions of detention in pre-trial detention centres, and then, after exhausting all national protection mechanisms, apply to the ECtHR. In its turn, the ECtHR awards compensation payments to the applicant in case of a positive decision. In view of this, it is expedient and rational to immediately allocate millions of compensation payments, which have been accumulating for years, to create proper conditions, which, on the one hand, will have a positive economic result, and on the other hand, will contribute to the creation of proper conditions in pre-trial detention centres that will fully comply with the normatively established state of human rights.

It should be noted that in recent years more resources have been allocated to the penitentiary system of Ukraine than in previous years (including assistance from foreign partners in various forms). Staff training is carried out on a regular basis. Expert assistance from practitioners of penitentiary systems in Western countries is provided, which cannot be overestimated in terms of changing the mentality of Ukrainian penitentiary officials (Yagunov, 2020). Thus, economic support for the implementation of the rule of law principle in reforming the penitentiary system may include the following areas: reduction of the number of people in prisons; improvement of living conditions; optimisation of the activities of state enterprises (attracting investment, implementation and development of grant programmes, renewal of production equipment, introduction of new technologies, etc.); optimisation of the number of employees of penitentiary institutions to the actual required standard; establishment of the work of the Head Department of the State Criminal Executive Service of Ukraine as the body responsible for the material support of the penitentiary system in accordance with the principles of transparency, etc.

Therefore, in the context of the rule of law, the penal system is transformed into a penitentiary system due to the gradual improvement of the enforcement of sentences and the correction of convicts after serving their sentences. At the same time, the penal system takes into account the aspect of ensuring the serving of sentences, while the penitentiary system, which operates under the rule of law, additionally distinguishes such a qualitative component as ensuring the correction of convicts after serving their sentences and their resocialisation.

3. Justice as an Element of the Rule of Law Principle in Court Activity

Any principles, including the principles of law, are the product of human activity, the result of which they operate and the interests of which they satisfy. Principles are social phenomena both by origin and content: their emergence is conditioned by the needs of social development and they reflect the laws of social life. "The main sources of these principles are politics, economics, morality, ideology, and social life." (Kolodiy, 2012: 43) As is known, in accordance with Article 8 of the Constitution of Ukraine, the principle of the rule of law is recognised and applied in Ukraine. At the same time, one of the main fundamental elements of this principle is legal certainty, according to which legal provisions must be clear, unambiguous and unequivocal, as otherwise they cannot ensure their uniform application and do not exclude unlimited interpretation in law enforcement practice. This was pointed out by the Constitutional Court of Ukraine in its respective dated 22.09.2005 No. 5-rp (The Decision of the Constitutional Court of Ukraine in the case on the constitutional petition of 51 MPs of Ukraine on compliance with the Constitution of Ukraine (constitutionality) of provisions of Article 92, paragraph 6 of Section X "Transitional Provisions" of the Land Code of Ukraine (case on permanent use of land plots) 2005), dated 29.06.2010 No. 17-рп

(The Decision of the Constitutional Court of Ukraine in the case on the constitutional petition of the Ukrainian Parliament Commissioner for Human Rights on the compliance with the Constitution of Ukraine (constitutionality) of the eighth paragraph of part one, paragraph 5 of Article 11 of the Law of Ukraine "On Police", 2010), and dated 11.10.2011 No. 10-рп (The Decision of the Constitutional Court of Ukraine in the case on the constitutional petition of 50 MPs of Ukraine regarding the compliance of certain provisions of Article 263 of the Code of Administrative Offences and paragraph 5 of part 1 of Article 11 of the Law of Ukraine "On Police" with the Constitution of Ukraine (case on the terms of administrative detention), 2011).

The rule of law is a universal principle and concept that requires all citizens, including the government, to obey the law. It is the foundation of a democratic society where rights and obligations are defined and protected by law. The need for universal respect for and enforcement of the rule of law at the national and international levels was recognised by all UN member states in 2005 at the World Summit (Final document of the World Summit: General Assembly Resolution No. A/RES/60/1, 2005). As stated in the preamble and Article 2 of the Treaty on European Union, the rule of law is one of the fundamental values shared by the European Union and its members (Treaty establishing the European Community, 2005). The main structural elements of the rule of law are fairness, legality, impartiality, transparency and independence of the judiciary.

In this study, the focus will be on a more detailed analysis of fairness as an element of the rule of law and its impact on the judiciary. To begin with, justice is a multifaceted concept whose meaning varies depending on the context in which it is used. In the broadest sense, justice is defined as the equal and fair treatment of people in society, where people get what they "deserve". This may be based on moral, ethical, legal, religious or other principles that define what is "deserved" (Margaret, 2021:736).

According to the Merriam-Webster Dictionary, fairness has several definitions, in particular, it can be based on the objective resolution of conflicts between parties for the purpose of deserved reward or punishment, as well as the application of laws. In addition, fairness can be defined as the quality of being honest, impartial, or just (Merriam-Webster Dictionary).

Thus, the understanding of justice may vary depending on the cultural, philosophical or legal context in which the concept is applied.

Fairness in justice is understood as the right of everyone to a fair and impartial hearing. This includes equal access to court, the right to choose a lawyer, the right to a fair trial and the exclusion of any discrimination. The Constitution of Ukraine does not separately define the principles of judicial proceedings and, accordingly, the principles relating to justice. At the same time, such principles are disclosed in the decisions of the Constitutional Court of Ukraine, which considers justice to be a constitutional principle of judicial proceedings. According to the decision of the Constitutional Court of Ukraine of 2 November 2004 No. 15-рп/2004 in the case of providing a constitutional opinion in the case of a court imposing a lighter sentence, it is stated that justice is one of the basic principles of law, which is crucial in defining it as a "regulator" of social relations, a universal dimension of law. Usually, justice is seen as a property of law, which is expressed, in particular, in the equal legal scale of behaviour and in the proportionality of legal liability to the offence committed.

In the field of law enforcement, justice is manifested, in particular, in the equality of all before the law, the correspondence of the crime and punishment, the goals of the legislator and the means chosen to achieve them (The Decision of the Constitutional Court of Ukraine in the case on the constitutional petition of the Supreme Court of Ukraine on the compliance of (constitutionality) of the provisions of of Article 69 of the Criminal Code of Ukraine (case on imposition of a lighter sentence by a court), 2004).

The decision of the Constitutional Court of Ukraine of October 11, 2005, No. 8-рп/2005 in the case of the level of pension and monthly lifetime allowance states that the activities of law-making and law enforcement bodies should be carried out in accordance with the principle of justice (The Decision of the Constitutional Court of Ukraine in the case on the constitutional petition of the Supreme Court of Ukraine on the constitutionality of the provisions of part three of Article 120 (constitutionality) of the provisions of part 3 of Article 120, part 6 of Article 234, part 3 of Article 236 of the Criminal Procedure Code of Ukraine (case on consideration by the court of certain decisions of the investigator and prosecutor), 2003).

Justice is the foundation of the rule of law, as without a guarantee of a fair trial, there can be no confidence in the legal system. Unfair trials can lead to human rights violations and undermine the legitimacy of the government.

The practical application of the principle of fairness in judicial proceedings can be viewed through several key aspects aimed, in particular, at ensuring equality, transparency and impartiality in the process of resolving legal disputes:

1) Equal access to justice (the manifestation of justice reflects the requirement to create conditions for equal access to the judicial system for everyone without discrimination on any grounds; accessibility of court procedures, the opportunity to receive qualified legal assistance and to apply to the court in a language that is understandable to the person);

2) transparency of procedural rules in court proceedings (manifestation of justice through the clarity and transparency of procedural rules, which allows participants in the court process to accurately understand their rights and obligations). At the same time, transparency of procedures helps to reduce corruption and increase trust in justice);
3) impartiality of judges and jurors (the key to fair justice is the neutrality and objectivity of the judiciary. Judges should avoid any conflicts of interest and ensure that each case is considered impartially);
4) application of the principle of reasonable doubt (of particular importance in criminal proceedings, where it means that the accused is presumed innocent until proven guilty "beyond reasonable doubt". This is a fundamental principle that protects a person from being wrongfully convicted);
5) fair punishment and restoration of rights (means that justice in the judicial process is not limited to establishing guilt or innocence, but also to ensuring the adequacy of the punishment. It also includes the restoration of victims' rights and the rehabilitation of convicted persons).

In this context, the justice system must be able to deal with cases not only in accordance with the law, but also fairly, based on the principles of fairness and impartiality. This includes ensuring the right to a fair trial, the right to defence and an objective hearing without discrimination.

The transparency of the judicial process, the accessibility of the judicial system to citizens and the availability of mechanisms for review and appeal of judicial decisions are important for the realisation of justice. Continuous training of judges and other members of the judiciary is also important.

In practice, the principle of fairness requires courts to ensure a fair and effective trial. This includes proper observance of procedural rules, accessibility of court decisions and their compliance with the laws and moral principles of society.

The economic justification for the transformation of the judiciary on the basis of the rule of law is to reduce the costs of: court functioning due to the possibility of digitising the preparatory stages for a court hearing and holding court hearings via video conference; reducing the costs of the court apparatus by optimising its functions; reducing the number of court cases due to the active implementation of mediation and other possible options for resolving disputes amicably, etc.

4. Implementation of the Right to Appeal by Civil Society Organisations as a Component of the Principle of Justice

The Institute of Public Society currently provides public control in all important areas of public life to one degree or another. The public also plays an important role in creating the economic basis for the implementation of reforms and the proper functioning of state bodies through grant projects and programmes. At the same time, the control function of the public sector has been transformed into an auxiliary function, which is manifested in the assistance of the state in the form of its bodies in the performance of functions and tasks. This should be done in accordance with fundamental principles, including the rule of law.

According to the case law of the Constitutional Court of Ukraine, the rule of law should be understood, in particular, as a mechanism for ensuring control over the use of state power and protecting people from arbitrary actions of state authorities.

The rule of law as a normative ideal to which every legal system should aspire and as a universal and inalienable principle of law should be considered, in particular, in the context of its fundamental components: the principle of legality, the principle of separation of state power, the principle of people's sovereignty, the principle of democracy, the principle of legal certainty, the principle of fair trial. Thus, the rule of law means that public authorities are limited in their actions by pre-regulated and announced rules that make it possible to foresee the measures to be applied in specific legal relations, and, accordingly, the subject of law enforcement can anticipate and plan their actions and rely on the expected result (The Decision of the Constitutional Court of Ukraine in the case on the constitutional petition of 62 MPs of Ukraine regarding compliance with the Constitution of Ukraine (constitutionality) of the Decree of the President of Ukraine "On Early Termination of Powers of the Verkhovna Rada of Ukraine and Calling Early Elections", 2019).

The principle of justice, as a component of the rule of law, guarantees that everyone will be heard and, if their rights are violated, they will be protected and restored.

Article 6 of the Convention for the Protection of Human Rights provides for the right to a fair trial. It guarantees everyone the opportunity to go to court to protect their violated rights, openness and publicity of court hearings, as well as fair and democratic selection of judges, and so forth (Convention for the Protection of Human Rights and Fundamental Freedoms, 1950).

Adherence to the constitutional principles of a social and legal state and the rule of law implies legislative regulation of social relations on the basis of fairness and proportionality, taking into account the state's obligation to ensure decent living conditions for every citizen of Ukraine (The Decision of the Constitutional Court of Ukraine in the case on the constitutional petitions of 49 MPs, 53 MPs and 56 MPs on the compliance with the Constitution of Ukraine (constitutionality) of paragraph 4 of

section VII "Final Provisions" of the Law of Ukraine "On the State Budget of Ukraine for 2011", 2011).

The legislation defines public associations as voluntary associations of individuals and/or legal entities under private law for the purpose of exercising and protecting rights and freedoms, satisfying public, including economic, social, cultural, environmental and other interests.

In modern Ukrainian society the process of formation of public organisations and their institutional development continues, the level of which allows to speak about strengthening of organisational capabilities to influence various spheres of society. As a rule, public organisations exercise public control over the activities of state and local authorities, their officials and employees. At the same time, the role of civil society and its institutions is much broader and more diverse than opposition to the state. The international experience of public organisations shows that the development of the institutional capacities of public organisations ensures stability and justice in society.

The main purpose of a public organisation is to coordinate various personal interests and demands of civil society, on the basis of which specific generally recognised goals and objectives of public organisations are developed. In this sense, public organisations in the field of protection of human rights and freedoms form a mechanism that meets human needs, provides solutions to important social needs and becomes a means of implementing the protection of human rights and freedoms (Mudrak, 2018: 44).

With the development of democratic processes and civil society institutions, the role of NGOs is increasing not only as a lever of influence on public authorities through public control, but also as an institution capable of protecting the rights and legitimate interests of citizens by applying to the court on their behalf. The importance of the possibility for a civic organisation to apply to court on behalf of a person who, due to social status, health, financial situation and other valid reasons, cannot protect their rights on their own is becoming particularly relevant.

Thus, the ECtHR's case law on representation by NGOs demonstrates the importance of the right to defence as a component of the principle of justice, especially in cases where a person cannot defend his or her rights on his or her own out of respect for the person.

In particular, in the decision "Center of Legal Resources on behalf of Valentin Câmpeanu v. Romania", the ECtHR defined the conditions under which public organisations can protect the interests of third parties. In this decision, the Court also stated that, in exceptional circumstances and taking into account the serious nature of the allegation, an NGO should be able to act as a representative of a person, despite the fact that it did not have a power of attorney on his behalf and that he had died before the application was filed (Center of Legal Resources on behalf of Valentin Câmpeanu v. Romania, 2014).

Current legislation does not provide for the unlimited right of a civic organisation to apply to court in the interests of third parties for the protection of their rights, in particular, civic organisations have the right to apply to court 1) to represent the interests of their members; 2) in their own interests; 3) in the interests of society.

At the same time, according to the decision of the Constitutional Court of Ukraine dated November 28, 2013 No. 12-рп/2013, a non-governmental organisation may defend in court the personal non-property and property rights of its members, as well as the rights and legally protected interests of other persons who have applied to it for such protection, only in the following cases: if such authority is provided for in its statutory documents, if the relevant law defines the right of a non-governmental organisation to apply to court for the protection of the rights and interests of other persons (The Decision of the Constitutional Court of Ukraine in the case on the constitutional appeal of the Association "House of Music Authors in Ukraine" regarding the official interpretation of the provisions of paragraph 7 of part 1 of Article 5 of the Law of Ukraine "On Court Fee" in relation to the provisions of paragraph "r" of part 1 of Article 49 of the Law of Ukraine "On Copyright and Related Rights", 2013). For example, judicial practice in administrative proceedings establishes that when deciding on the question of the right of public organisations to appeal to the court in the interests of other persons, the courts must consider the status of the public organisation and its founders, their direct interest in resolving the issue that is the subject of the dispute; the purpose of the public organisation and its direct connection with the subject of the dispute; whose interests are the subject of legal protection; whether these persons have applied to a public organisation for protection of their rights; the good faith of the actions of the public organisation applying to the court (The Decision of the Supreme Court dated March 31, 2021 in the case No. 640/21611/19, 2021).

Therefore, the national legislation needs to be amended to establish the possibility of NGOs to represent third parties in court and protect their rights and legitimate interests, especially in cases where a person is unable to protect his or her rights for valid reasons in terms of the importance of exercising the right to defence, the right to appeal to the court as part of the principle of justice.

5. Conclusions

The transformation of the criminal executive system into a penitentiary system and the implementation of the principle of the rule of law in this sphere and

its comprehensive provision have been revealed to be interrelated. It is observed that the aspect of ensuring the serving of the sentence is given significant consideration in the criminal-executive system, and in the penitentiary system, which functions under the rule of law principle, the qualitative aspect of ensuring the correction of the convicted person after serving the sentence and his resocialisation is additionally highlighted. The potential for cost savings in reforming the Ukrainian penitentiary system is explored.

It is found that economic support for the implementation of the rule of law principle in reforming the penitentiary system may include the following areas: reduction of the number of persons in prisons; improvement of living conditions; optimisation of the activities of state enterprises (attraction of investments, implementation and development of grant programmes, renewal of production equipment, introduction of the latest technologies, and so on); optimisation of the number of employees of penitentiary institutions to the actual required standard; establishment of the work of the Head Department of the State Criminal Executive Service of Ukraine as the body responsible for the material support of the penitentiary system in accordance with the principles of transparency, etc.

The principle of the rule of law and its primary element, the principle of justice, are considered in relation to the activity of courts. It was determined that the principle of justice is one of the fundamental principles of the judiciary, which is included in the broader context of the rule of law. The concept of justice in judicial proceedings encompasses not only the formal observance of laws but also the realisation of the rights and freedoms of individuals, with due consideration to the principles of equality, objectivity and dispassion.

The authors emphasise that the development of civil society and its institutions indicates the strengthening of the organisational capacity of NGOs to influence various spheres of life.

It was observed that public organisations play a pivotal role in the promotion of justice, as a fundamental aspect of the rule of law. They facilitate the implementation of the right to appeal to the court and the protection of members of the organisation and third parties. It is recommended that national legislation be amended to permit public organizations to appeal to the court on behalf of third parties, particularly in instances where the individual in question is unable to protect their rights for valid reasons.

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