

# STATE, STRUCTURE AND DYNAMICS OF ECONOMIC CRIME IN THE PENITENTIARY SPHERE OF UKRAINE

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**Abstract.** The article is devoted to a comprehensive study of the status, structure and dynamics of economic crime in the penitentiary system of Ukraine. The study revealed that this type of crime is most often committed in medium-security penitentiaries (52.5%), pre-trial detention centres (30.0%) and correctional centres (10.3%). The study of the dynamics of crime in the penitentiary sphere showed that it fluctuates and has remained relatively stable over the past five years. The study of the causes and conditions of criminal behaviour in the penitentiary system showed that they can be divided into subjective (internal) and objective (external). Based on this, the authors have identified three main internal features related to the issue of determining criminal behaviour: criminogenic motivation, antisocial attitudes in a person's mind and a certain life situation. The authors argue that the main reason for committing criminal offences by the administration and staff of penal institutions of the SPS of Ukraine is the thirst for illegal profit, the development of which is influenced by various factors of both external and internal nature. A special role in this criminal process is played by the professional deformation of the administration and staff of penal institutions. The main reasons for latent crime in the penitentiary sphere are: the secrecy of penitentiary institutions from society; the presence of professional and organised crime in the penitentiary sphere; low legal awareness of prisoners; lack of proper material and technical support; and the reluctance of prisoners themselves to report facts of criminal offences they know.

**Keywords:** penitentiary crime, prevention of penitentiary crime, economic crime, penitentiary sphere, correction of convicts, resocialisation of convicts, penitentiary institutions, convicts, imprisonment.

**JEL Classification:** K10, K15

## 1. Introduction

Crime has always been and remains one of the central problems of criminological science, its systemic principle. Despite the fact that a large number of approaches, concepts of understanding and defining crime have been formed, it is safe to say that the national doctrine has not yet developed a single recognised and relevant vision of its nature in the ontological palette (Lutsiuk, 2022).

One of the paradoxes of any penal system is that a convicted and isolated person, unwilling to take the path of correction and return to society as a full member, repeatedly violates the norms of criminal law prohibitions, commits new crimes, and in many cases, as the research shows, serious and particularly serious crimes, sometimes even more

serious than the one or those for which he or she is serving a sentence (Arifkhodzhaieva, 2022).

Prior to Ukraine's declaration of independence, criminological science defined the concept of crime using only statistical methods, as a set of criminal offences committed over a certain period of time in society.

The majority of domestic scholars adhere to the view that crime is a manifestation of an individual's intrinsic propensity to perpetrate criminal acts. Consequently, crime can be defined as "the capacity of a person, social institution, society, individual country, or global society to engage in acts that endanger others, which is reflected in the interconnection of criminal acts and their underlying causes, is amenable to quantitative analysis, and gives

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rise to the establishment of criminal law prohibitions" (Lutsiuk, 2022).

A proper study of any crime is impossible without finding new approaches to determining its quantitative and qualitative indicators, which makes it necessary to constantly monitor statistical data, which in turn provides society with a realistic picture of the state, structure and dynamics of crime in the penitentiary sphere.

There are currently 103 penitentiary institutions, pre-trial detention centres, correctional and educational colonies and correctional centres on the territory controlled by Ukraine (12 penitentiary institutions, 15 pre-trial detention centres, 65 correctional colonies, 1 educational colony, 10 correctional centres).

In addition, 3 de-occupied institutions do not hold persons (Kherson Oblast), and 13 (Zaporizhzhia – 6, Kharkiv – 3, Donetsk – 3, Mykolaiv – 1) evacuated convicts and arrested persons to other institutions.

Currently, convicted and arrested persons are actually held in 87 institutions. Of the 11 institutions occupied after 24.02.2022, 7 remain occupied (Kherson – 1 (CF), Luhansk – 1 (SIZO), Zaporizhzhia – 3 (DC – 1, CF – 2), Donetsk – 2 (SIZO – 1, CF – 1)).

In addition, the SPS of Ukraine operates 51 sections for the detention of prisoners of war, located in almost every region of Ukraine, and 1 camp in the west of the country (camp Zakhid-1, which holds 637 people).

As of 01.01.23, 44,598 people were held in the penitentiary institutions of the SPS (as of 01.12.2022 – 43,296 people): (Vinnytsia – 2605, Khmelnytskyi – 1819, Chernivtsi – 854, Volhynia – 700, Zakarpattia – 480, Ivano-Frankivsk – 1011, Lviv – 2344, Rivne – 1944, Ternopil – 701, Zhytomyr – 3608, Kyiv – 4043, Cherkasy – 991, Chernihiv – 765, Dnipro – 6615, Donetsk – 0, Zaporizhzhia – 1015, Kropyvnytskyi – 1512, Mykolaiv – 2220, Odesa – 2070, Kherson – 0, Luhansk – 0, Poltava – 1974, Sumy – 1332, Kharkiv – 5358).

The practice of the penitentiary sphere shows that the punitive and correctional process does not have a positive impact on some convicts, and they, unwilling to give up their anti-social views and habits, in certain situations commit criminal offences again.

Despite the martial law, unfortunately, these statistics have not only worsened, but have also become extremely dangerous for society. Thus, as of December 1, 2023, due to the proper interaction of the operational units of the National Police and the State Emergency Service, 3654 crimes were solved, during which 26 weapons, more than 1,300 rounds of ammunition and 1.4 kg of explosives were seized. In most cases, the channels of supply are not identified by the officers, and law enforcement agencies must provide a proper legal assessment of such actions.

The study found that among the prohibited items that get into penitentiary institutions on a daily basis,

the main ones are: money; mobile phones; alcoholic beverages; narcotic drugs, psychotropic substances, their analogues or precursors.

In the penitentiary sphere, sharp objects and moonshine or brew are usually made by prisoners themselves.

The analysis has shown that prison staff play a significant role in the flow of prohibited items into prisons. And the worst part is that the heads of some penitentiary institutions simply ignore the requirements to properly block the channels of supply of prohibited items to convicts. Operational units of penitentiary institutions and pre-trial detention centres also do not pay due attention to this issue. According to the internal research of the SPS of Ukraine, prison staff generally conceal information about the presence of prohibited items in penitentiary institutions and do not include them in official statistics, which is a form of latent crime (Shkuta, 2022).

The above is also confirmed by information from the Office of the Prosecutor General, which emphasises the need to stop the practice of concealing criminal offences related to the seizure of items and substances prohibited by law from convicts from official records (Lutsiuk, 2022).

The reasons for the infiltration of prohibited items into penal institutions are diverse and primarily depend not only on the inefficiency of the staff of penal institutions of the SPS of Ukraine in blocking the channels of inflow of prohibited items, but also often on deliberate criminal actions of the staff of penal institutions aimed at obtaining illegal benefits.

The analysis of statistical data showed that the majority of criminal offences are committed in medium security correctional facilities (52.5%), followed by pre-trial detention centres (30.0%) and correctional centres (10.3%). The average percentage of crime in maximum security correctional facilities is 4.9%, in minimum security correctional facilities with general conditions of detention – 2%, and in minimum security correctional facilities with light conditions of detention – 0.6%.

Given that according to the available statistics for 2019-2022, not a single case of a criminal offence was registered in correctional colonies, it can be concluded that criminal offences are not typical for convicts serving their sentences in correctional colonies. At the same time, it should be noted that one should not forget about latent crime.

## 2. Literature Review

The methodological basis for the study of the criminal-executive principles of correction of persons sentenced to imprisonment in Ukraine is the work of such national and foreign scholars as: K. A. Avtukhov, Y. M. Antonyan, A. I. Bogatyrev, I. G. Bogatyrev,

O. I. Bogatyrev, V. V. Golina, B. M. Golovkin, O. A. Hrytenko, V. K. Hryshchuk, I. M. Danshin, T. A. Denisova, O. M. Dzhuzha, V. M. Dremyn, O. I. Ivankov, V. V. Kovalenko, I. Kolb, O. Kolb, I. Kopotun, O. Krasnokutskyi, A. Kolodchyna, O. Lysodid, V. Luneyev, L. Mostepanyuk, P. Mykhailenko, Y. Orel, M. Puzyrev, G. Radov, M. Romanov, O. Starkov, A. Kh. Stepanyuk, O. T. Ustyuzhaninova, P. L. Fries, O. V. Khoroshun, S. V. Tsaryuk, V. B. Shabanov, O. O. Shkuta, and others.

Although the scientific achievements of these scientists and some other specialists contain a number of systematic provisions and conclusions that directly or indirectly relate to economic crime in the penitentiary sphere and create methodological prerequisites for its effective study in today's realities, however, as shown by the analysis of the results of scientific works available in the field of criminal executive law, the problems of correction of persons sentenced to imprisonment, international and national legislation, problems of functioning of bodies and institutions of execution of criminal penalties.

Taken together, these circumstances point to the need and possibility of considering the state, structure and dynamics of economic crime in the penitentiary sphere of Ukraine as part of an independent study.

### 3. Materials and Methods

The analysis of the state and methodology of scientific research has shown that there is an insufficient study of the raised problem, which is manifested in the almost complete absence of modern fundamental scientific research by domestic scientists on the problems of economic crime in the penitentiary sphere of Ukraine.

According to the rightful statement of domestic scholars, the value and uniqueness of each research work in a particular area depends on the correct choice of specific research methods, clarification of their essence and significance. In this regard, the latter is relevant for any science, since its development increases the importance of the forms, methods and means of knowledge used by this science.

The research methods were chosen taking into account the purpose and objectives of the study, its object and subject matter. In conducting the research, the authors used modern methods of scientific knowledge, in particular: dialectical; historical and legal; formal and logical; logical and legal; comparative and legal; statistical and sociological methods.

### 4. Results and Discussion

At the current stage of state-building in Ukraine, society is paying considerable attention to issues related to the crime situation in the country, the

state of countering criminal offences, preventing the criminalisation of society, and neutralising negative trends in this process. First of all, it is about extraordinary problems that are directly related to the national security of Ukraine, the security of its citizens, the protection of constitutional rights and freedoms, law and order in the country. In this context, the issue of preventive activities is particularly pressing, as it is currently complex and contradictory in nature, and its consequences are ambiguous due to the processes of organisational reform and radical changes in social relations. Consequently, ensuring internal stability, law and order, and legality in the system and its mechanisms has become a crucial priority, as this is the foundation of national security (Dmytrenko, 2022).

At all stages of its development, crime within the penitentiary system has consistently exerted a destructive influence. It is regrettable that the modern penitentiary institutions of the Ministry of Justice of Ukraine continue to demonstrate ineffectiveness in addressing criminal offenses perpetrated by both convicts and prison staff (Shkuta, 2022).

The results of the study show that the most common group in the structure of latent crime in the penitentiary sphere is criminal offences against property.

Among the key negative factors of criminal offences against prisoners' property in the penitentiary sphere that affect the latency of such crime are: failure by prisoners to report the fact of a criminal offence against their property; misappropriation of prisoners' property in favour of another prisoner, including for debts; seizure of prisoners' property by fraud, etc.

This position was further confirmed by the results of the surveys, which revealed that, according to 42.6% of the respondents from among the staff of penitentiary institutions, criminal offences against property, of which 62.4% in the penitentiary sector are fraud, should be considered as crimes that are not reflected in the state records of criminal offences and their perpetrators for various reasons (Arkusha, 2019).

In just 11 months of 2023, the Criminal Investigation Department documented 588 frauds committed by persons serving sentences in 26 penal institutions. The total amount of damage caused by such persons is 3,635,901 UAH. Of these, 56 episodes of criminal activity committed as part of 25 organised groups were documented (Shkuta, 2022).

A further significant issue is that the majority of the information that facilitates the commission of criminal offences by fraudsters is readily accessible. To illustrate, the mobile phones utilised by perpetrators of criminal activities, ostensibly as bank employees, to extort money from victims under the pretext of familial or commercial emergencies, are particularly prevalent.

The documentation of fraud is a challenging endeavour due to the fact that fraudsters frequently

change SIM cards and mobile phones, and utilise IP telephony, which impedes the process of establishing the location of subscriber terminals. Furthermore, the process of establishing an altered chain of IP addresses when documenting fraud through phishing sites is inherently time-consuming.

The fact that prisoners have the right to use information technology in the penitentiary sphere, both mobile phones and computers, through the use of mobile "Internet connection" in the vast majority of cases, has led to the emergence and active spread of cybercrime in the penitentiary sphere.

Despite the fact that the Criminal Code of Ukraine establishes criminal liability for the use of electronic computers, systems and computer networks and telecommunication networks, prisoners in the penitentiary sector are now actively using information technology.

Unfortunately, since the introduction of amendments and additions to the Criminal Code of Ukraine aimed at expanding the rights of convicts in this area, the initiation of criminal cases for cybercrime committed by convicts in the penitentiary sphere is a rather rare phenomenon, which once again proves the significant latency of cybercrime in the penitentiary sphere.

The main determinants of the latency of cybercrime in the criminal justice system are its transnational nature due to the use of the Internet and the anonymity of network communication, which makes it difficult to identify the perpetrator. Another factor influencing the growth of cybercrime in the criminal justice system is the lack of personnel in the law enforcement system with the necessary expertise to solve this type of crime.

It is reasonable to concur with the viewpoint put forth by the aforementioned scholar, who also underscores that "latent crime among prisoners in the penitentiary sphere represents a distinct public threat". Firstly, it serves to reinforce the criminal subculture within penitentiary institutions; secondly, it contributes to the consolidation of the influence of negative groups on the conditions of incarceration; and thirdly, it engenders, particularly among first-time convicts, a sense of vulnerability in the face of those with a negative orientation (Lutsiuk, 2022).

The authors believe that the main reason for the growth of latent crime in the penitentiary sphere is the inadequate control of the administration of penitentiary institutions over the activities of convicts. Sometimes such actions are committed with the aim of obtaining an unlawful demand, which also plays a significant role in the system of latent crime in the penitentiary sphere.

The existence of latent crime in the penitentiary sphere contributes to the formation of a false idea

in society about the real statistics of such crime, its scale and public danger (Arkusha, 2019).

Unfortunately, the level of public awareness of new criminal offences committed by convicts in the penitentiary sphere remains extremely low, due to at least two factors: inadequate public control over the activities of the bodies and penitentiary institutions of the SPS of Ukraine and the secrecy of the penitentiary system from the public. In this regard, only the most high-profile crimes committed in the penitentiary sphere are made public through the media.

Underestimation of the problems of latent crime in the penitentiary sphere by both society in general and prison staff creates not only a false picture of its real level, but also makes it impossible to establish the extent of damage caused to society (Shkuta, 2020).

Failure to take into account latent crime in the penitentiary sphere in official statistical reporting leads to certain errors in its forecasting both among prisoners and among the staff of penitentiary institutions, as a result of which, due to incorrect calculation of methods, forces and means, planned measures aimed at preventing this type of crime usually do not achieve the desired result. One of the ways to resolve this situation is to reboot the activities of the operational units of the SPS of Ukraine aimed at detecting and properly documenting such criminal offences with the appropriate use of agent-operational methods and capabilities of operational services in the penitentiary sphere.

A socially dangerous problem that should be emphasised separately is the feeling of impunity of criminals who not only continue their criminal activities in prison, but also encourage other convicts to do so (Shkuta, 2022).

In view of the above, one should agree with the position of national scientist S. S. Miroshnychenko, who speaks of the need for the state to improve the mechanism of combating crime, optimising the integration links between its elements, such as goals, objectives, functions, methods of activity, through a comprehensive solution to the implementation of the rule of law, human and civil rights and freedoms (Shkuta, 2020).

In view of the above, it can be stated that the problem of reducing latent crime in the penitentiary sphere remains relevant and unresolved both for the science of criminal executive law and criminology, and for penitentiary practice in general.

Therefore, detecting latent crime in the penitentiary sphere is a rather difficult, but not insoluble task, the main role in which belongs to the administration of penitentiary institutions, as it has almost all the information about penitentiary crime in the penitentiary institution under its jurisdiction.

## 5. Conclusions

A study of the state, structure and dynamics of economic crime in the penitentiary sector conducted by the SPS of Ukraine showed that a significant number of criminal offences are committed, as a rule, in medium-security penal colonies (52.5%), pre-trial detention centres (30.0%) and correctional centres (10.3%).

The dynamics of crime in the penitentiary sector was characterised by wave-like fluctuations and remained relatively stable over the past five years.

Based on the results of the analysis of the causes and conditions of criminal offences in the penitentiary sphere, the authors divided them into subjective (internal) and objective (external). Based on this, there are three main internal features associated with the subject of determination of criminal behaviour,

namely: criminogenic motivation; anti-social attitudes in the mind of a person; and a certain life situation.

The main reason for the commission of criminal offences by the administration and staff of penal institutions of the SPS of Ukraine is the thirst for illegal profit, which is influenced by various factors, both external and internal. A special role in this criminal process is played by the professional deformation of the administration and staff of penal institutions.

As for the determinants of latent crime in the penitentiary sphere, the main ones are: the closeness of penitentiary institutions to society; the presence of professional and organised crime in the penitentiary sphere; low legal awareness of prisoners; lack of proper material and technical support; and the reluctance of prisoners to report facts of criminal offences they know.

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