

Economic and psychological aspect of legal support of probation

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Abstract. The relevance of the study is conditioned upon the necessity of wider implementation of sentences alternative to imprisonment. It is largely connected to the international commitments that Ukraine has made in the process of European integration. The purpose of the study is to determine the economic and psychological conditions for the functioning of the legal institution of probation. The research uses dialectical, comparative legal, systemic, Aristotelian, structural and functional methods. The research defines the concept of probation as a system of supervisory and social and educational measures for convicts who have been sentenced to a non-custodial criminal sentence. The author presents the stages of implementation of the probation institute in Ukraine and explains the essence of probation, its types and functions. The author identifies the socio-psychological advantages of such an institution and substantiates the economic feasibility of probation supervision as compared to other punishments. It is established that the introduction of this institution provides several benefits for the State, society and the offender. The author outlines the benefits for the state in terms of reducing the number of prisoners; reducing the crime rate; compliance with international standards; and economic benefits. The benefits to society are identified, which include the fair administration of justice and the protection of the community from recidivism. In addition, attention is devoted to the benefits for the offender, namely, the opportunity to change without being imprisoned, preservation of human relations, housing and work. It is substantiated that in the current circumstances, the introduction of probation supervision is a necessity conditioned upon economic expediency and the possibility of administering justice more humanely. The results of the research can be used for implementation in the area of regulation, and for writing monographs, scientific researches, dissertations, drafting abstracts, and preparing reports at scientific conferences

Keywords: correction, punishment, alternative punishment, humane justice, proceedings

Introduction

The birth of the institution of probation in the 19th century was caused by social and cultural prerequisites based on the ideas of humanism. The ground for this was the thesis that prisons are unable to release criminals as full-fledged members of society from penitentiary institutions. The ground for this were the theses that prisons are unable to release criminals as full-fledged members of society from penitentiary institutions.

The term “probation” is not new in the legal field (translated from Latin, – “to put under supervision” or “to test”). However, as a scientific concept, the treatment of criminals is a relatively new phenomenon.

Most countries in the world nowadays are moving from a well-established list of sanctions to a set of measures to influence the offender. These are by no means included in the concept of “punishment”, but rather a system of specific penalties, restrictions, conditions, obligations and duties. It is a transitional process from “execution of punishment” to “management (governance) of the application of punishment”.

Probation is a system of social, educational and supervisory measures implemented by a court decision and according to the law on the application of specific types of non-custodial criminal penalties to convicted persons (Law of Ukraine “On Probation”, 2015). The purpose of probation

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can be defined as the correction of convicts, prevention of recidivism of criminal offences by offenders, and provision of the court with characteristics of persons accused of criminal offences to determine a specific measure of responsibility for each person. It, in turn, establishes the conditions for the safety and security of society.

The relevance of the study is the necessity of scientific analysis of the legal foundation for probation in reforming the public administration system and increasing the effectiveness of combating crime. In Ukraine, the wider use of probation is caused by difficult economic conditions, which are particularly acute during the period of military operations.

Several scholars have devoted their works to the development of the criminal-executive and administrative-legal principles of probation, and political and economic support of the activities of public authorities. I.G. Bogatyrev (2005) was one of the first in Ukraine to substantiate the essence of the concept of “criminal punishments not involving deprivation of liberty”, proposed periodisation and classification of such punishments in Ukraine, analysed current problems in this area and suggested ways to solve them. V.M. Dremin (2007) reviewed the foreign and international experience of the probation institute, focusing in particular on the specific features of the functioning of the Inner London probation service, and suggested adopting the successful practice of Western countries to improve the Ukrainian criminal justice system. S.F. Denisov (2010) raised the problem of probation in connection with the practice of preventing youth crime. The researcher examined the key areas of prevention of youth criminogenic behaviour in the European Union and suggested ways to use foreign experience in Ukraine. I.S. Alekseev (2015) analysed the main provisions of the Law of Ukraine “On Probation” (2015), in particular, noted the importance of such an innovation as an independent social study of the accused, which is designed to determine the risk of re-committing a crime and the possibility of correction without imprisonment.

The issue of probation is considered in detail in the works of Ukrainian researcher D.V. Yagunov (2007; 2011), in particular, in his work “Probation service: Concept, principles of activity, organisational structure” the principles of the probation service are considered. V.O. Merkulova and O.A. Gritenko (2019) defined the concept of the category “probation”. S.V. Siomin (2014) analysed the issues of the State Penitentiary Service of Ukraine and considered the European Probation Rules in the context of the modernisation of the Ukrainian penitentiary system; S.I. Simakova and O.H. Melnyk (2019) explored probation as a mechanism of international experience in working with offenders; R. Basenko *et al.* (2021) devoted the research to the coverage of theoretical and practical aspects of the development of the probation institute in the Ukrainian and European legal and socio-cultural space; N. Perepichka (2019) identified areas for improving the legislation governing the probation institution in Ukraine.

However, although some problems of the probation institute have already been the subject of scientific research, there has been no comprehensive study of the economic and psychological aspects of legal support for probation.

The purpose of the research is to determine the economic and psychological aspects of legal support for probation. According to the defined purpose, the following tasks have been set: to determine the stages of implementation of the

probation institute in Ukraine; to identify the essence of probation, its types and functions; to identify the social and psychological benefits of this institute; to substantiate the economic feasibility of probation in comparison with other punishments.

Materials and Methods

The methodological foundation of the research was general scientific and special methods.

The dialectical method of cognition is the methodological foundation of the research. Through it, the problems of probation are analysed in their interconnection and interdependence, integrity, dynamics and comprehensiveness. Using the comparative legal method was determined by the nature and scope of the subject of the research. It was used to compare the analysis of Ukraine’s previous and current experience in the functioning and organisation of the probation institution. The systematic method was used to explore the components of probation, and to identify the mutual influences and interrelationships of the types of probation procedures on the offender. The author uses historical and legal methods to analyse the evolution of the probation institution and trends in legal regulation. The author uses the Aristotelian method to define the main concepts in this area of relations (probation, pre-trial probation, post-trial probation, and probation programme). The structural-functional method was used to determine the role and place of the probation service in the mechanism of bringing offenders to justice.

Results and Discussion

The emergence of probation in the 19th century was caused by specific social and cultural preconditions of historical development. During this period, European states began to introduce quite new institutions for the 19th century, such as suspended sentences and supervised release (O’Brien, 1998). At the beginning of the 20th century, two main forms of probation were established in the legislation: Anglo-American and Franco-Belgian. The common and distinctive features of these forms of probation were determined by the types of the historical development of the national law of the state. Currently, probation is introduced in the legislation of the vast majority of countries around the world that are interested in reintegrating convicts into society (Albrecht & van Kalmthout, 2002). As research by foreign scholars demonstrates, the criminogenic impact of prisons on the financial and social side raises doubts about using prisons as a means of rehabilitation (Wodahl *et al.*, 2015).

Reforms in the penitentiary sector began to be based on the ideas of humanism. It was based on the thesis that prisons are unable to release criminals as full-fledged members of society from penitentiary institutions. The ground for this were the theses that prisons are unable to release criminals as full-fledged members of society from penitentiary institutions. Due to the inability to solve the main task of criminal punishment, which is the correction and social rehabilitation of offenders, and the general increase in the number of prisoners, criminal policy has been heavily criticised by international institutions.

An important incentive for the introduction of probation was the approximation of Ukrainian justice to international standards, and the introduction of a new system of criminal law measures inherent in a democratic society.

Thus, when deciding on the application of the probation procedure, Polish legislators obliged judges to adhere

to the principle of proportionality, which involves consideration of the circumstances of the offence, and the characteristics of the perpetrator. This individualises the probation programme (Pietryka & Ploszka, 2015). The probation programme in the Republic of Latvia is implemented in specific target groups. However, there are exceptional cases of applying for the programme on an individual basis (Latvian Valsts probācijas dienests..., 2020).

Probation is a system of supervision and social and educational measures. Such measures should be applied according to the law. The ground for such application is a court decision. For convicts sentenced to a non-custodial criminal sentence, approximation to international standards of Ukrainian justice was a prerequisite for the establishment of the probation institution. It, in turn, resulted in the introduction of a new democratic system of criminal law measures.

The probation service has become the institution that implements alternative non-custodial sentences and implements probation supervision (Driomin, 2007). Such supervision involves behavioural control and the implementation of a social and individual psychological assistance plan. The probation service applies educational and preventive measures based on an assessment of the offender's requirements and the risk of reoffending. In addition, the probation officer conducts preventive and educational work.

The functional purpose of the probation service is to support the execution of non-custodial sentences, apply educational measures to convicts, and assist in the social rehabilitation of persons serving these sentences and those released on parole or under an act of pardon or amnesty.

The initial stage of reforming the penal system in Ukraine was the introduction of alternative sentences to imprisonment. In addition, the adoption of the Law of Ukraine "On Probation" on February 5, 2015, was crucial. The purpose of this law is to regulate activities related to the application of probation in Ukraine as a system of social, educational and supervisory measures for persons who are brought to criminal responsibility and those who are already serving a criminal sentence by a court decision (Law of Ukraine "On Probation", 2015). This law provided for the establishment of a probation service with all effective functions.

The introduction of probation bodies occurred through the reorganisation of the Criminal Executive Inspectorate, which ensured the execution of non-custodial sentences within the State Penitentiary Service of Ukraine. It allowed for a significant reduction in the cost of establishing the probation body, as the staff and material resources of the criminal executive inspection were available. In countries such as Canada, Sweden, Georgia, Norway, and Denmark, probation agencies, like in Ukraine, are part of the penitentiary service, while retaining a specific autonomy (Denisov, 2010).

According to the adopted law, the list of powers of the probation service was significantly expanded compared to the functions performed by the criminal executive inspection. Thus, according to the Law of Ukraine "On Probation", probation should perform the following functions: to execute punishment in the form of deprivation of the right to engage in specific activities or hold relevant positions, correctional and community service; to monitor the behaviour of persons released from serving a sentence with probation; to monitor the behaviour of women with children under the age of three and pregnant women released from serving a sentence; to prepare a pre-trial report on the accused; to execute some

punishments not related to deprivation of liberty; to perform social and educational work with convicts; to send persons sentenced to restriction of liberty to correctional centers to serve their sentences; to implement a probation programme for persons released from serving a sentence on probation; to conduct measures to prepare for the release of a person serving a sentence of imprisonment for a fixed term or restriction of liberty; to implement other measures designed to reform convicts and prevent them from committing recidivism (Law of Ukraine "On Probation", 2015).

According to the legislation, the Criminal Executive Inspectorate for penalties alternative to imprisonment (correctional labour, community service, prohibition to hold specific positions and engage in some activities, release from punishment with probation) performed mainly a control function (Bohatyrov, 2005). As for individual preventive work, it was the responsibility of units of the internal affairs bodies, while social work was performed voluntarily by social policy bodies.

Currently, the probation service implements alternative sentences not involving imprisonment and conducts probation supervision, which includes behavioural control and a plan for individual psychological and social assistance, educational and preventive measures based on an assessment of the risk of recidivism and the needs of the offender. A probation officer, not an internal affairs body, performs educational and preventive work.

The current model of probation in Ukraine provides for the following types of probation: pre-trial, which is implemented during court proceedings; supervisory, which is implemented in the process of executing a sentencing alternative to imprisonment; penitentiary, which is applied during the period of preparation for the release of persons sentenced to imprisonment for a specific term (Law of Ukraine "On Probation", 2015).

Before the introduction of probation, the identity of the offender during the court investigation and after the sentence was passed was explored mainly for control and identification purposes. The personal needs and problems of the person who caused the criminal offence were not explored, and accordingly, no assistance was provided to resolve these issues (Yanchuk & Novokhatnia, 2019).

This problem is intended to be solved by pre-trial probation, which provides the court with organised information that describes the offender (Demura, 2019). It is done to allow the court to decide on the extent of the person's liability.

The law allows for the involvement of volunteers in supervised probation to supervise convicts and conduct social and educational work with them. A probation volunteer can be an individual who has reached the age of eighteen and is authorised by the probation authority to perform specific tasks related to probation on a voluntary and free-of-charge basis. The convicts with whom volunteers are involved have the right to choose the forms of volunteer assistance in the field of probation and to demand the replacement of the volunteer assigned to them (Order of the Ministry of Justice of Ukraine No. 98/5..., 2017).

It is important that, by the court decision, probation programmes with psycho-correctional content (e.g., overcoming bad habits, aggressive behaviour, psychological problems) or social rehabilitation programmes (acquiring positive social skills) are applied to a person released from serving a sentence with probation.

The task of probation programmes is to implement a set of measures necessary to correct the social behaviour of probationers (or its manifestations) and to develop socially favourable personality changes that can be objectively verified (Resolution of the Cabinet of Ministers of Ukraine No. 24..., 2017).

Probation should be designed for prevention, according to human rights activists, and people in prison should be taught to defend their rights by appealing to government agencies, rather than the way it frequently happens: through mass protests, self-injury, and hunger strikes (Furman, 2016).

In addition, probation officers perform their activities in closed institutions. They implement measures to prepare convicts for release, coordinating these measures with probation units at the place of residence of the convict after release or at the location of social adaptation institutions for released prisoners. In this way, a system of effective social support for released prisoners is being developed, starting with prisons (Aleksieiev, 2015).

According to its functional purpose, the probation service should apply educational measures to convicts, provide support for the execution of non-custodial sentences, and assist in the social rehabilitation of persons serving these sentences, and those released on parole or under an act of pardon or amnesty.

The main purpose of the post-trial area is to prevent repeat criminal offences, facilitate the offender's reintegration into society, and protect society.

One of the main activities of law enforcement agencies is to prevent recidivism. Recidivism is an indicator of the real inefficiency of the correctional system. In addition, they express growing distrust of it and, unfortunately, new victims.

An effective probation service can reduce recidivism and, as a result, significantly protect society. Thus, the main vector of work with offenders should be the introduction of a resocialisation policy of the correctional system.

The advantage of probation is manifested both in the humanity of the justice system and in its socio-economic feasibility. Thus, if the offender remains in society, the possibilities of their actual correction increase, the necessary social ties are preserved (establishment of a family unit), work is maintained (compensation for victims, development of the country's economy), and the adverse influence of other convicts in prisons is prevented (preservation of law and order).

Probation is an alternative to imprisonment. It establishes the preconditions for unloading prisons and saving money on the maintenance of offenders. Probation is possible during the trial, and after the sentence is passed, which is applied without isolation from society. It provides for monitoring the performance of duties imposed by the court. Specialists work with probationers to psychologically prepare them for a life where they do not have to commit offences. Such specialists should comprehensively analyse the needs of offenders, their problems, apply certain means of motivational influence to each offender, closely monitor changes and the person's condition, and promote change. It is a very complex system of changing the offender's worldview and reorienting their values.

In addition, a person who has committed an offence has the opportunity to change both external circumstances, such as the meaning and purpose of their life, and internal beliefs, all internal components, namely everything that is the core of their personality, their inner world.

From an economic standpoint, the budgetary burden of probation is less costly for the state than the maintenance of penitentiary institutions (staff, infrastructure, and maintenance of prisoners). An example is Finland, Sweden, Romania and Estonia, where the cost of organising probation per person is ten to eleven times less than the cost per prisoner (Aleksieiev, 2015). Thus, it is not difficult to calculate the benefits, considering that in European countries, only a quarter of the total number of offenders are imprisoned, while the rest are on probation. The appropriateness of probation is evident in the ratio of staff to offenders: while staff and prisoners are almost equal, the ratio of probation staff to offenders is twenty times higher.

Crucially, as a result of probation, a decent, full-fledged person returns to society, working, paying taxes, not violating the law, and starting a family. In addition, this system is more cost-effective compared to the huge costs of providing for each offender's imprisonment.

The main purpose of probation is to protect society, prevent repeat criminal offences, and reintegrate offenders into social life (Telefanko, 2018).

It is both the humanity of the justice system and the socio-economic feasibility of probation that demonstrate the benefits of probation. Thus, if the offender is left in society, the necessary social ties (family, friendships) remain, and the possibility of their real correction increases. Having a job provides an opportunity to compensate victims. In addition, the prevention of adverse influence in prisons and the unlawful influence of other convicts should be considered.

If examining the institution of probation from the economic standpoint, the budgetary burden for the state of these bodies is less costly than the maintenance of prisons. The ratio of the number of staff to offenders demonstrates the feasibility of probation. In prisons, the number of staff and prisoners is almost the same. In the case of the ratio of probation staff to offenders, the number of offenders exceeds twenty times.

In current conditions, the implementation of probation is a necessity. This institution is an economic advantage for society, as it is less costly to maintain than penitentiary institutions. In addition, a significant possibility of preventing the recurrence of criminal offences is identified, and a moral component is added, which allows for achieving the purpose of criminal policy by more humane means. The introduction of the probation institution was the result of the launch of a new system of criminal law measures inherent in a democratic society. In addition, this process is connected with the approximation of Ukrainian justice to international standards. Currently, in Ukraine, as in many countries around the world, there are non-custodial penalties for those who have committed offences that do not pose a threat to human life and health.

Conclusions

Probation is a system of social, educational and supervisory measures. These measures must be applied according to the law based on a court decision. Probation can be introduced for convicts who have been sentenced to criminal punishment, but it is not associated with imprisonment.

The essence of probation is to establish supervision over the convicted person, who is subject to specific obligations and restrictions: to visit probation centres, meet periodically with a supervising officer, participate in certain activities, adhere to law-abiding behaviour, etc., but without isolation from society.

According to the authors, the activities of the probation institution should reflect a humane approach and the necessary support for the person who has committed a mistake rather than formal monitoring and supervision of such a person.

The probation service should be considered as a body that performs specific functions to encourage offenders to transform into law-abiding members of society, to implement supervision and effective control over such persons to reduce recidivism, and to develop skills that encourage offenders to maintain a positive lifestyle and social reintegration or integration.

Thus, the necessity of implementing probation in the current conditions is determined by the economic advantage for society, a significant opportunity to prevent the

recurrence of criminal offences and, in addition, the moral component, which allows achieving the purpose of criminal policy by the most humane means.

Thus, in Ukraine, the probation institution is an effective mechanism with high-quality performance indicators. However, its improvement remains an urgent issue. It can be implemented through further improvement of the existing types of probation, regulation of the concept of post-penitentiary adaptation in the current legislation and implementation of positive international experience. The areas of such improvement can include borrowing from the experience of the Republic of Latvia in conducting collective probation measures or the Republic of Poland in implementing the principle of proportionality in the application of probation.

References

- [1] Albrecht, H.-J., & van Kalmthout, A. (Eds.). (2002). *Community sanctions and measures in Europe and North America*. Freiburg im Breisgau: Edition Iuscrim.
- [2] Aleksieiev, I. (2015). Probation is a step towards the implementation of international standards in the field of justice. *Legal Newspaper*, 9. Retrieved from <https://yur-gazeta.com/dumka-eksperta/probaciya--krok-do-implementaciyi-mizhnarodnih-standartiv-u-sferi-yusticiyi.html>.
- [3] Basenko, R., Avanesian, H., & Kovalenko, V. (2021). Institutionalization of probation in the context of the humanistic and European integration potential of the Ukrainian legal system. *Entrepreneurship, Economy and Law*, 5, 203-208. doi: 10.32849/2663-5313/2021.5.33.
- [4] Bohatyrov, I.H. (2005). *Theory and practice of execution of punishments not related to deprivation of liberty by the criminal enforcement inspectorate*. Kyiv: Atika.
- [5] Demura, M.I. (2019). Some questions of the application of pre-trial probation in the criminal process of Ukraine. *Uzhhorod National University Herald. Series: Law*, 58 (Vol. 2), 133-136. doi: 10.32782/2307-3322.58-2.29.
- [6] Denisov, S.F. (2010). Problems of youth crime prevention in the states of the European Union. *State and Regions. Series: Law*, 3, 54-58
- [7] Driomin, V.M. (2007). Evolution of penalties in the context of preventive possibilities: From deprivation to probation. *Current Problems of the State and Law*, 32, 259-265.
- [8] Furman, I.M. (2016). *Prison reform: "Zone" of comfort*. Retrieved from https://protocol.ua/ua/tyuremnaya_reforma_zona_komforta/.
- [9] Latvijas Valsts probācijas dienesta oficiālā mājas lapa. (2020). Retrieved from <https://www.vpd.gov.lv/lv/valsts-probācijas-dienests>.
- [10] Law of Ukraine No. 160-VIII "On Probation". (2015, February). Retrieved from <https://zakon.rada.gov.ua/laws/show/160-19#top>.
- [11] Merkulova, V.O., & Gritenko, O.A. (2019). Interdisciplinary categories "reconciliation", "mediation", "probation", "restitution": Theoretical and legislative problems of difference. In *Challenges and prospects for the development of legal systems in Ukraine and EU countries: Comparative analysis* (pp. 219-236). Riga: Izdevniecība "Baltija Publishing". doi: 10.30525/978-9934-571-83-1-13.
- [12] O'Brien, P. (1998). The prison on the continent: Europe, 1865–1965. In N. Morris, & D.J. Rothman, *The Oxford history of the prison: The practice of punishment in Western society* (pp. 178-201). New York; Oxford: Oxford University Press.
- [13] Order of the Ministry of Justice of Ukraine No. 98/5 "On the Approval of the Regulation on the Organization of Activities of Probation Volunteers". (2017, January). Retrieved from <https://zakon.rada.gov.ua/laws/show/z0065-17#Text>.
- [14] Perepichka, N. (2019). Compliance of the probation institute in Ukraine with international law. *Scientific Journal of the National Academy of Internal Affairs*, 24(4), 134-144. doi: 10.33270/01191134.134.
- [15] Pietryka, A., & Ploszka, A. (2015). *Alternatives to prison in Europe. Poland*. Rome: Antigone Edizioni.
- [16] Resolution of the Cabinet of Ministers of Ukraine No. 24 "On Approval of the Procedure for the Development and Implementation of Probation Programs". (2017, January). Retrieved from <http://zakon2.rada.gov.ua/laws/show/24-2017-п#Text>.
- [17] Simakova, S.I., & Melnyk, O.H. (2019). Probation as a mechanism of the international experience of the right-approach. *Juridical Scientific and Electronic Journal*, 3, 235-237.
- [18] Siomin, S.V. (2014). European rules of probation and reform of the criminal enforcement system in Ukraine. *Strategic Priorities*, 2, 154-159.
- [19] Telefanko, B. (2018). Probation as a measure of criminal law influence on recidivism. *Entrepreneurship, Economy and Law*, 12, 295-298.
- [20] Wodahl, E.J., Boman, J.H., & Garland, B.E. (2015). Responding to probation and parole violations: Are jail sanctions more effective than community-based graduated sanctions? *Journal of Criminal Justice*, 43(3), 242-250. doi: 10.1016/j.jcrimjus.2015.04.010.

- [21] Yagunov, D.V. (2007). Probation service: Concept, principles of activity, organizational structure. *Restorative Justice in Ukraine*, 1, 60-64.
- [22] Yagunov, D.V. (2011). Probation philosophy: Transformation of views on the essence and goals of treatment of criminals (the period after the 1990s). *Actual Problems of Politics*, 41, 198-207.
- [23] Yanchuk, O., & Novokhatnia, K. (Eds.). (2019). *Results of a public opinion survey on the level of trust in authorized bodies on probation issues: Comparative analysis*. Kyiv.

Економіко-психологічний аспект правового забезпечення пробації

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Анотація. Актуальність дослідження зумовлена необхідністю ширшого впровадження видів покарань, альтернативних позбавленню волі. Це значною мірою пов'язано з тими міжнародними зобов'язаннями, які взяла на себе Україна в процесі європейської інтеграції. Мета дослідження – визначити економічні та психологічні умови функціонування правового інституту пробації. У роботі використано діалектичний, порівняльно-правовий, системний, формально-логічний та структурно-функціональний методи дослідження. У статті схарактеризовано поняття пробації як системи наглядових та соціально-виховних заходів щодо засуджених, яким призначено кримінальне покарання, не пов'язане з позбавленням волі. Представлено етапи впровадження інституту пробації в Україні, розкрито сутність пробації, її види та функції. Виявлено соціально-психологічні переваги такого інституту, обґрунтовано економічну доцільність пробаційного нагляду проти інших покарань. З'ясовано, що запровадження цієї інституції надає низку переваг для держави, суспільства та правопорушника. Окреслено переваги для держави, що проявляються в скороченні кількості ув'язнених осіб; зниженні рівня злочинності; дотриманні міжнародних стандартів, а також економічній вигоді. Визначено переваги для суспільства, які полягають у справедливому здійсненні правосуддя та убезпеченні громади від рецидивних злочинів. Звернено увагу й на переваги для правопорушника, а саме: можливість змінитися без перебування в місцях позбавлення волі, збереження людських стосунків, житла та роботи. Обґрунтовано, що в нинішніх умовах запровадження пробаційного нагляду – це необхідність, зумовлена економічною доцільністю та можливістю вершити правосуддя в більш гуманний спосіб. Результати дослідження можуть бути використані для впровадження в нормативно-правовій сфері, а також для написання монографій, наукових статей, дисертацій, складання рефератів, підготовки доповідей на наукових конференціях

Ключові слова: виправлення, покарання, альтернативне покарання, гуманне правосуддя, провадження