

LEGAL REGULATION OF RELEASE OF MINORS FROM PUNISHMENT AND FROM SERVICE OF PUNISHMENT: FOREIGN EXPERIENCE, ADMINISTRATIVE AND CRIMINAL ASPECT

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Abstrak: Tujuan dari penelitian ini adalah untuk mengungkap peraturan hukum seputar pembebasan anak di bawah umur dari hukuman dan pelaksanaan hukuman. Fokus utamanya adalah menyelidiki upaya negara-negara Eropa dalam menetapkan undang-undang yang efektif untuk mencegah kejahatan yang dilakukan oleh orang dewasa dan untuk menciptakan kondisi baru bagi rehabilitasi anak di bawah umur yang terlibat dalam kegiatan kriminal. Landasan metodologis penelitian ini adalah metode dialektis pengetahuan ilmiah. Melalui penerapan metode ini, penelitian mempertimbangkan aspek hukum, fungsional, organisasi, dan prosedur dalam mengatur pembebasan anak di bawah umur dari layanan pemidanaan dan pemidanaan. Penelitian ini menganalisis ciri-ciri umum dan kekhasan pengaturan hukum tindakan pemaksaan yang bersifat pendidikan di beberapa negara Eropa, seperti Jerman, Belanda, Swiss, Lithuania, Inggris, dan lain-lain. Ditemukan bahwa sejumlah besar negara, dalam ketentuan hukum pidananya, mengatur individualisasi dan pembedaan tanggung jawab pidana anak di bawah umur, tergantung pada berbagai faktor seperti usia, kepribadian pelaku, dan tingkat keparahan kejahatan.

Kata kunci: peraturan hukum, pembebasan, anak di bawah umur, hukuman, pelayanan hukuman, pengalaman luar negeri, aspek administrasi, aspek pidana

Abstract: The aim of this research is to unveil the legal regulations surrounding the release of minors from punishment and the execution of penalties. The primary focus is on investigating the efforts of European countries in establishing effective laws to prevent crimes committed by adults and to create new conditions for the rehabilitation of minors involved in criminal activities. The methodological foundation of this research is the dialectical method of scientific knowledge. Through the application of this method, the research considers the legal, functional, organizational, and procedural aspects of regulating the release of minors from punishment and punishment services. The research analyzed the general features and peculiarities of the legal regulation of coercive measures of an educational nature in several European countries, such as Germany, the Netherlands, Switzerland, Lithuania, the United Kingdom, and others. It was found that a large number of countries, in the provisions of their criminal laws, provide for the individualization and differentiation of criminal responsibility of minors, depending on various factors such as age, personality of the offender, and severity of the crime.

Key words: legal regulation, release, minors, punishment, service of punishment, foreign experience, administrative aspect, criminal aspect.



INTRODUCTION

Today, one of the priority tasks for Ukraine is joining the European Community, and this requires the state to comply with certain requirements and standards of a EU member state. One of such requirements consists in ensuring respect for children's rights and complete implementation of the tasks of introducing juvenile justice. The introduction of the "juvenile justice" system presupposes introduction of a number of changes and additions to the current legislation, including bringing changes to the Criminal Code of Ukraine.

Development of the specified changes and additions should be carried out on a proven platform at both the legislative level and the law enforcement level. Since Ukraine does not have such a platform today, it is appropriate to turn to the experience of those countries that have already developed their own standards and rules for the legislative regulation of juvenile criminal law relations. Poland is one of these countries.

Every civilized state strives to improve its national legislation and to make this legislation, on the one hand, humane and on the other hand, able to fulfill its main task: ensuring protection of human and citizen's rights and freedoms. However, national legislation cannot exist without implementation of international norms and without exchange of experience with foreign countries.

Today, development of Ukraine, as a European state takes place in conditions of globalization of legislation, including globalization of criminal legislation. Taking this into account, in recent years there has been an active discussion among scientists about ways to improve the priority direction in criminal legislation - the institution of juvenile justice which has successfully existed in foreign countries, including Poland, for the past ten years. The international arena requires full compliance with the norms set forth in UN legal acts on the criminal responsibility of minors, which has already been successfully implemented in Poland, whose ally Ukraine is.

For a long time, the Republic of Poland has remained an example of a state with a high level of social and legal security. Many years of experience and support of the European Community members have provided the country with one of the leading places on the international arena. Juvenile criminal policy in Poland is developing in accordance with today's requirements, and this is the result of professional rule-making work, as well as of implementation of legal norms.

Therefore, in view of the above, taking into account the historical similarity of Polish and Ukrainian society, the legal mentalities of the mentioned states and the fact that Poland has been a member of the EU for a long time, and for Ukraine a place in the EU is a priority, we believe that a comparative criminal law study of Polish legislation and Ukrainian legislation will provide an opportunity not only to compare the legal acts of the specified European countries, but also to generalize domestic and foreign practice regarding administration of justice in relation to minors and improvement of juvenile criminal policy in the states.¹ The review of the main institutions of juvenile criminal policy in Poland and Ukraine will provide an opportunity to compare the levels of development

¹ Dymko, I., Muradian, A., Manzhula, A., Rudkovskiy, O., Leheza, Ye. "Integrated approach to the development of the effectiveness function of quality control of metal products".. *Eastern European Journal of Enterprise Technologies*. 6/3 (90). (2017). 26-34. doi: 10.15587/1729-4061.2017.119500.

of criminal legislation in these states and to borrow the experience of rule-making, because the European legal culture is a leading world acquisition that was formed over centuries.

When researching the problems of scientific understanding of the legal doctrine and criminal legislation of foreign countries, M.I. Khavroniuk noted that the Ukrainian criminal law doctrine exists and develops taking into account the known achievements of the foreign criminal law doctrine, correct and erroneous decisions of the criminal law policy and provisions of the criminal legislation of other states; novelties in Ukrainian criminal legislation often appear under the influence of proven provisions of the legislation of other states or based on the results of scientific research performed by foreign scientists; criminal law norms in Ukraine are applied taking into account to a certain extent how similar norms are applied in other states².

So, for example, P.V. Khryapinsky believes that release of minors from criminal punishment and from service of such punishment reflects the privileged legal status of persons who committed a crime under the age of 18 in criminal legislation. Instead, the huge potential of criminal law means for stimulating rehabilitation of minors, forming their stable law-abiding behavior and the value attitude of “not committing new crimes” is not fully used. The modern model of the incentive norm in criminal legislation should have a clear focus on specific socially useful behavior of minors in the post-criminal, penitentiary period¹⁰⁶.³ At the same time, the last two rights go beyond purely environmental rights. However, attention of our research will be directed specifically to the constitutional environmental rights enshrined in Article 50 of the Fundamental Law of Ukraine.⁴

The purpose of the research is to reveal legal regulation of release of minors from punishment and from service of punishment.

To achieve the purpose, the author set the following tasks:

1. To reveal the interpretation of the concept of release of minors from punishment and content of this concept.
2. To reveal the foreign experience of releasing minors from punishment.

METHOD

The methodological basis of the research is represented as a comprehensive approach, which involves the use of general scientific, general scientific, interdisciplinary and special legal methods of studying human rights to an environment safe for life and health in legal doctrine, international law, national legislation and legal practice..

The comparative legal (comparative) method in the science of criminal law is used

² Havronyuk M. I. “Scientific understanding of legal doctrine and criminal legislation of foreign countries.” *Bulletin of the Criminal Law Association of Ukraine*. No. 1. (2013). 298-307.

³ Leheza, Ye. O., Filatov, V., Varava, V., Halunko, V., Kartsyhin, D. “Scientific and practical analysis of administrative jurisdiction in the light of adoption of the new code of administrative procedure of Ukraine.” *Journal of Legal, Ethical and Regulatory Issues*. Vol. 22, Issue 5. (2019). 1-8. Retrieved from <https://www.abacademies.org/articles/scientific-and-practical-analysis-of-administrative-jurisdiction-in-the-light-of-adoption-of-the-new-code-of-administrative-proced-8634.html>

⁴ Leheza, Y., Shcherbyna, Bogdan. Leheza, Yulia. Pushkina, Olena & Marchenko O. “Features of Applying the Right to Suspension or Complete/ Partial Refusal to Fulfill a Duty in Case of Non-Fulfilment of the Counter Duty by the Other Party According to the Civil Legislation of Ukraine.” *Revista Jurídica Portucalense*, (2023). 340–359. Retrieved from <https://revistas.rcaap.pt/juridica/article/view/29662>

to determine the content and essence of criminal law norms and institutions, characteristics of the criminal policy of the state or interstate groups, legislation of which is being studied, in order to identify the general essential features and characteristics of the dogma of law and regularities of its development for the further determination of possible areas of improvement of the criminal legislation of Ukraine and practice of its application⁵.

A fair opinion was expressed by V. O. Navrotsky that despite the textual and substantive differences in the texts of criminal laws of different states (which in certain periods are strengthened), the specific law enforcement decisions and fundamental theoretical provisions generated by them remain the same.⁶

A comparative study concerning problems of releasing minors from punishment and from service of punishment will allow not only to get acquainted with a variety of legal interpretations, legal concepts and concepts of juvenile policy abroad, but will also provide an opportunity to better understand and improve one's own national legislation, which needs urgent changes in the part related to the institution of juvenile justice, to introduce new norms that would regulate certain issues concerning release of minors from punishment and to make changes to the existing ones. Comparative law is intended to play a huge role in the renewal of legal science and in the development of a new international law that would meet the conditions of the modern world.

The methodology of comparative research is somewhat different from other methods of research. This difference lies in the fact that the purpose of comparative research, first of all, is to improve one's own legislation by using the experience of more developed countries, and therefore the criminal law analysis of national legislation should be conducted through the prism of foreign legislation, that is, by comparing and superimposing one legislation on another one, which will allow not only to draw parallels between doctrinal and normative interpretation, but also to adopt positive experience and refrain from legislative mistakes. Therefore, the methodology of comparative research requires application of principles and categories which will give us an opportunity to build a logical system of knowledge of the global legal space.

The basis of comparative research consists in the method of comparison (comparison of something in order to identify similarities and differences). The comparative method is a method of determining something unknown by comparing it with something known or a method of finding out (revealing) qualities and features of a phenomenon by comparing it with other qualities or features of another phenomenon; a method of establishing regularities by comparing objects at different times. Any scientific comparison is a peculiar phenomenon, the unity of three moments: Firstly, it is a logical method of cognition; secondly, it is a process, that is, a special form of cognitive activity; thirdly, it is a special cognitive result, knowledge of a certain content and level⁷. The comparative method is a method of: a) determining of the unknown by means of its comparison with the known; b) finding out qualities or properties of a phenomenon by

⁵ Tulyakov V. A. "Comparative method in the science of criminal law." *Bulletin of the Criminal Law Association of Ukraine*. No. 1. (2014). 29-45.

⁶ Navrotsky V. "Criminal law of Ukraine in the era of globalization Geopolitics of Ukraine: history and modernity." 2. (2010). 134-141.

⁷ Nazimko E. S. "The Institute of Juvenile Punishment in the Criminal Law of Ukraine (an essay on research methodology)." Donetsk: Knowledge, (2014). 209-210.

comparing it with other qualities or properties or with the qualities or properties of another phenomenon; c) establishing regularities by comparing objects at different times, comparing their qualities in the past with the same qualities in the present state in order to establish changes or trends of development.

Any comparative study cannot be conducted without application of the historical method of cognition, since it is the very one method that provides an opportunity to follow formation and development of the researched institution in selected countries, to establish reasons, factors and conditions that contributed to its emergence, to identify similarities and differences between the genesis of the same institution in different countries.

The comparative-historical method makes it possible to reveal the essence of the studied phenomena in those cases when it is not obvious, on the basis of already available facts. In addition, the comparative-historical method provides an opportunity to go beyond the phenomena under study and, on the basis of analogies, make broad historical generalizations and draw parallels. And, finally, this method allows application of all other scientific methods.

RESULTS AND DISCUSSIONS

Scientist E. Pysmenskyi notes that release from punishment and from service of punishment in general is a specific (ideally – atypical, exceptional, and in real life – the most common) form of the state’s response to crime. On the one hand, this type of measures (provided by the criminal law for influencing the behavior of a person who has committed a socially dangerous act) allows not to leave the crime out of consideration through convicting the guilty party for commission of this crime, and on the other hand, it allows to achieve the goal of punishment without its real or full execution.⁸

In Polish legislation, there is no single definition of either “juvenile justice” or juvenile policy. We believe that the concept of “juvenile justice” can be deduced from the provisions of the Law of the Republic “On the Procedure for Handling Cases of Minors”, which states that the provisions of the Law are applied during: 1) prevention and fight against demoralization - for persons under the age of 18, 2) criminal proceedings - for persons who committed a specified act at the age from 13 to 17, 3) conducting educational and correctional measures - in relation to persons to whom these measures were assigned, but for a period not longer than to those persons who have not reached the age of 21.⁹

Thus, Polish legislation defines juvenile justice as a set of measures aimed at preventing and combating juvenile delinquency. The concept of release of minors from

⁸ Pysmenskyi E. A. “Legal consequences of parole from serving a sentence.” *Journal of the Academy of Advocacy of Ukraine*. No. 4. (2011). 104-111.

⁹ Ustawa o postępowaniu w sprawach nieletnich z dnia 26 października 1982. Retrieved from http://prawo-nieruchomosci.krn.pl/Ustawa-o-postepowaniu-w-sprawach-nieletnich-1_2_432.html

punishment in criminal legislation is similar to the concept that applies to persons who have reached the age of possible criminal responsibility.¹⁰

This is evidenced by the provisions of the Criminal Code of Ukraine, which relate to the imposition of punishment on minors and release from such punishment on probation. Thus part 1 of Article 104 states that discharge from punishment on probation applies to minors pursuant to Articles 75 to 78 of the Criminal Code and subject to the provisions of this Article.¹¹

This is also confirmed by the provisions set out in the Resolution of the Plenum of the Supreme Court of Ukraine dated 16/04/2004 No. 5 “About the Practice of Applying the Laws of Ukraine on Juvenile Delinquency by the Courts of Ukraine”, paragraph 18 of this Resolution indicates that the release/discharge of minors from punishment on probation shall be applied on the same grounds as for adults (Articles 75-78 of the Criminal Code, taking into account the features specified in Article 104 of the Criminal Code). Such release is allowed only in case of conviction of a minor to deprivation of liberty (Part 2 of Article 104 of the Criminal Code).¹²

According to part 1 of Article 74 of the Criminal Code of Ukraine, release of a convicted person from punishment or further service of punishment, replacement of punishment with a milder one, as well as mitigation of the imposed punishment, except for release from punishment or mitigation of punishment on the basis of the law of Ukraine on amnesty or the act of pardon, can be applied only by the court in the cases provided for by the Code.¹³

Part 4 of the same norm states that a person who has committed a crime of minor or moderate severity may be released from punishment by a court verdict, if it is recognized that, taking into account impeccable behavior and a conscientious attitude to work, this person, for the time of consideration of the case in courts cannot be considered socially dangerous.¹⁴

The criminal legislation of the Republic of Poland and other normative legal acts of this country (relating to certain issues of criminal responsibility in general, and criminal responsibility of minors, in particular) do not provide a direct definition of release from punishment, however, based on certain norms of the Criminal Code of the Republic, it is possible to make a general conclusion that the Polish legislator understands the concept of “release from punishment” as the release of a person from the need to bear the punishment in full (which is provided for by the sanction of the corresponding norm) if this person, by his/her post-criminal behavior (reconciliation with the victim, elimination

¹⁰ Korneyev, M., Zolotukhina, L., Hryhorash, T., Leheza Ye., Hryhorash O., “The development of small business as a source of formation of local budget revenues in Ukraine.” *Investment. Management and Financial Innovations*. 15 (1). (2018). 132-140. DOI:10.21511/imfi.15(1).2018.12

¹¹ Criminal Code of Ukraine dated 04/05/2001 No. 2341-III: Retrieved from <http://zakon3.rada.gov.ua/laws/show/2341-14>.

¹² Collection of resolutions of the Plenum of the Supreme Court of Ukraine in criminal cases: 1963–2009. Kharkiv: Odyssey, 2010. 456..

¹³ Volobuieva, O. Leheza, Ye. Pervii, V. Plokhuta, Ye. Pichko, R. “Criminal and Administrative Legal Characteristics of Offenses in The Field of Countering Drug Trafficking: Insights from Ukraine.” *Yustisia*. Vol 12, No 3. (2023). 262-277. DOI: <https://doi.org/10.20961/yustisia.v12i3.79443>

¹⁴ Criminal Code of Ukraine dated 04/05/2001 No. 2341-III: Retrieved from <http://zakon3.rada.gov.ua/laws/show/2341-14>.

of the damage caused by the crime), conscientious attitude to work (especially when the role of the perpetrator in the commission of the crime was secondary, and the information provided by him/her contributed to the prevention commission of another crime) has proven his/her correctional rehabilitation, and also provided that if the person accused of committing an unintentional crime or his/her closest relative suffered serious damage in connection with the committed crime .¹⁵

According to §13, par. 2 of the German Juvenile Justice Act, the list of coercive measures includes: 1) warning; 2) instructions imposing obligations on the criminal; 3) arrest.¹⁶

Legislative acts of Germany create more possibilities for the use of educational measures for minors than for assigning punishment to offenders. The opinion of juvenile judge Edwin Pütz is also quite appropriate, he believes that the Law “On Juvenile Justice” contributes more to the education of juvenile delinquents than to punishing them.¹⁷

Along with the system of educational measures applied to minors in Germany, the experience of the Netherlands in relation to this researched problem is also interesting.¹⁸ Thus, the legislation of the Netherlands does not provide for such a concept as coercive measures of an educational nature and their types¹⁹. However, the Criminal Code of the Netherlands points to Article 74, the provisions of this article state that the prosecutor can terminate the case at the stage of pre-trial proceedings, with the exception of the situation when the sentence involves more than 6 years of imprisonment. In such situations, a minor offender may be assigned appropriate obligations: compensation for damages caused by criminal acts, involvement of the violator in community service, attendance at a training program for a period of 40 hours or more, but no more than for 3 months.²⁰

The legislation of Switzerland is also worth paying attention to. So, the criminal code of this state divides juvenile offenders into two groups: children from 7 to 15 years (Chapter 4, Part 1) and from 15 to 18 (Chapter 4, Part 2). According to the provisions of

¹⁵ Leheza, Yevhen. Pisotska, Karina. Dubenko, Oleksandr. Dakhno, Oleksandr. Sotskyi, Artur “The Essence of the Principles of Ukrainian Law in Modern Jurisprudence.” *Revista Jurídica Portucalense*, December, (2022). 342-363. DOI: [https://doi.org/10.34625/issn.2183-2705\(32\)2022.ic-15](https://doi.org/10.34625/issn.2183-2705(32)2022.ic-15)

¹⁶ Leheza, Ye. Shablysty, V. Aristova, I. V. Kravchenko, I. A. Korniakova, T. (2023). “Foreign Experience in Legal Regulation of Combating Crime in the Sphere of Trafficking of Narcotic Drugs, Psychotropic Substances, their Analogues and Precursors: Administrative and Criminal Aspect.” *Journal of Drug and Alcohol Research*. Vol. 12 . No. 4, 1-8. DOI: <https://doi.org/10.4303/JDAR/236240>

¹⁷ Pütz E. “A brief introduction to the practice of German juvenile criminal law and the use of arrest in North Rhine-Westphalia.” *Psychology and law*. 4. (2012). Retrieved from: <http://psyjournals.ru/psyandlaw/2012/n4/56615.shtml>

¹⁸ Smokov, Sergii M., Horoshko, Valentyna V., Korniienko, Maksym V. Medvedenko, Serhii V. (2022). Rule of Law as a Principle of Criminal Procedure (on materials of the European Court of Human Rights). *Pakistan Journal of Criminology*, 14(3), 37-46. Retrieved from: <http://www.pjcriminology.com/publications/rule-of-law-as-a->

¹⁹ Smokov, Sergii M., Horoshko, Valentyna V., Korniienko, Maksym V. Medvedenko, Serhii V. (2022). Rule of Law as a Principle of Criminal Procedure (on materials of the European Court of Human Rights). *Pakistan Journal of Criminology*, 14(3), 37-46. Retrieved from: <http://www.pjcriminology.com/publications/rule-of-law-as-a-principle-of-criminal-procedure-on-materials-of-the-european-court-of-human-rights/>

²⁰ Myroshnychenko N. "Some proposals for improving the legislation on measures of criminal-legal influence on minors. Legal impact on misconduct: current aspects." (2016). monograph. Mykolaiv. Ukraine.

this code, children under the age of 7 are not subject to its effect. Such criminal measures can be applied from the age of 7.

The Criminal Code of Switzerland states that minors between the ages of 7 and 15 may not be subject to criminal punishment or liability, but may be subject to educational measures.²¹

Returning to the legislation of Switzerland, their criminal code provides for application of such educational measures to offenders who have reached the age of seven, namely: referral to a suitable family or a suitable educational institution. Persons or guardians who will be entrusted with this duty must take care for such children responsibly and diligently. An interesting feature of such an event is that it has no specific time limits. The application of such measures ceases when the need for them ceases or the person reaches the age of 22 (Article 86 of the Criminal Code). Disciplinary punishments may also be applied to the violator in the event that it is not necessary to involve educational measures. These punishments include: announcement of reprimand, obligation to perform certain work, school detention from 1 to 6 part-time working days (Article 87). As for the second group (persons aged 15 to 18), appropriate educational measures are also applied to them. A special type of measure that can be applied only to this group of offenders, in addition to the already mentioned measures, consists in sending a teenager to an educational institution (Article 91).²² Also, the offender may be required to improve the level of his/her knowledge in the educational institution where he/she studies and to compensate for property damage.

The experience of Lithuania is quite effective. The criminal code of this country, namely chapter 11, provides for the possibility of applying coercive measures of an educational nature to minors in case of committing a criminal offense or exemption from criminal responsibility, but the code does not indicate the grounds for exempting offenders from responsibility and punishment. Also, Lithuanian legislation takes into account such an aspect as social maturity. In cases where it does not correspond to the age of the person, the court may apply educational measures to the violator who has already reached the age of 18, but is not yet 21, taking into account all the circumstances of the case and the nature of the committed criminal offense. So, Article 82 of the Criminal Code of Lithuania provides for a number of educational measures: warning; compensation or compensation for property damage; free educational works; transfer to the supervision and custody of parents or other individuals and legal entities entrusted with the duty of care for children; behavioral restrictions; sending to a special educational institution.²³

²¹ Matviichuk, Anatolii. Shcherbak, Viktor. Sirko, Viktoria. Malieieva, Hanna. Leheza, Yevhen. "Human principles of law as a universal normative framework: Principios humanos del derecho como marco normativo universal." *Cuestiones Políticas*, 40(75), (2022). 221-231. <https://doi.org/10.46398/cuestpol.4075.14>

²² Leheza, Y., Shcherbyna, Bogdan. Leheza, Yulia. Pushkina, Olena & Marchenko O. (2023). "Features of Applying the Right to Suspension or Complete/ Partial Refusal to Fulfill a Duty in Case of Non-Fulfillment of the Counter Duty by the Other Party According to the Civil Legislation of Ukraine." *Revista Jurídica Portucalense*, 340–359. Retrieved from <https://revistas.rcaap.pt/juridica/article/view/29662>

²³ Korniienko, M. Desyatnik, A. Didkivska, G. Leheza, Ye. Titarenko, O. (2023). Peculiarities of investigating criminal offenses related to illegal turnover of narcotic drugs, psychotropic substances, their analogues or precursors: criminal law aspect. *Khazarab Hukum*. Vol. 5. No. 3, 205-215 DOI: <https://doi.org/10.15575/kh.v5i3.31742>.

Let's dwell on these events in more detail. According to the Lithuanian legislation, a warning consists in explaining to the person the legal consequences that may occur if the crime is committed again. Reimbursement or compensation for property damage is possible only when the offender has his/her own income or can compensate for the damage with his/her own labor. This type of educational measures can be assigned for a period of 6 months to 3 years. A necessary condition for application of such a measure as transfer to the supervision and custody of parents or other natural or legal persons is the violator's own consent to this measure, and the voluntary consent of the persons to whom such a teenager is transferred should be also important.

CONCLUSION

Therefore, the institutions of juvenile and penal policy are interdependent, almost identical institutions, because penal policy embodies four spheres (criminal law one, criminal executive one, criminal procedural one and criminological one) and comprehensively it ensures the achievement of the goal of punishment and increasing effectiveness of such punishment.

Similarly, juvenile policy aims to apply or stand away from applying means of influence to a minor (specificity of the goals and means of coercive measures applied to a child).

A conclusion about the gradual formation of a separate type of legal responsibility - juvenile responsibility (measures of educational influence - for commission of an administrative offense, coercive measures of educational nature - for committing a crime, etc.), that is, juvenile policy is related to the criminal law field), selection and control over the implementation of means.

In view of the above, it can be concluded that release of a minor from punishment and from service of punishment is a means of juvenile criminal-legal influence, the essence of this influence consists in the provision by the state to a minor who committed a crime and who was found guilty of committing a crime by an indictment an ability for correctional rehabilitation without applying the punishment (provided that the minor repents of what he/she has committed, his/her behavior has proven his/her desire to be on the path of correction and (or) he/she has served a certain part of the assigned punishment).

Having conducted an analysis of the foreign experience of states on the release of minors from criminal responsibility and punishment with the use of coercive measures of an educational nature, we can conclude that in most European countries and states of the Anglo-Saxon legal family, punishment is used extremely rarely, only in cases where the appointment of educational measures is impossible.

In our opinion, Ukraine should adopt the experience of foreign countries and supplement its domestic legislation the grounds aimed at education of juvenile offenders, and not at their punishment.

REFERENCE

Collection of resolutions of the Plenum of the Supreme Court of Ukraine in criminal cases: 1963–2009. Kharkiv: Odyssey. (2010). 456.

- Criminal Code of Ukraine dated 04/05/2001 No. 2341-III: Retrieved from <http://zakon3.rada.gov.ua/laws/show/2341-14>.
- Dymko, I., Muradian, A., Manzhula, A., Rudkovskiy, O., Leheza, Ye. “Integrated approach to the development of the effectiveness function of quality control of metal products”.. *Eastern European Journal of Enterprise Technologies*. 6/3 (90). (2017). 26-34. doi: 10.15587/1729-4061.2017.119500.
- Havronyuk M. I. “Scientific understanding of legal doctrine and criminal legislation of foreign countries.” *Bulletin of the Criminal Law Association of Ukraine*. No. 1. (2013). 298-307.
- Korniienko, M. Desyatnik, A. Didkivska, G. Leheza, Ye. Titarenko, O. (2023). Peculiarities of investigating criminal offenses related to illegal turnover of narcotic drugs, psychotropic substances, their analogues or precursors: criminal law aspect. *Khazanah Hukum*. Vol. 5. No. 3, 205-215 DOI: <https://doi.org/10.15575/kh.v5i3.31742>.
- Korneyev, M., Zolotukhina, L., Hryhorash, T., Leheza Ye., Hryhorash O., “The development of small business as a source of formation of local budget revenues in Ukraine.” *Investment. Management and Financial Innovations*. 15 (1). (2018). 132-140. DOI:10.21511/imfi.15(1).2018.12
- Leheza, Y., Shcherbyna, Bogdan. Leheza, Yulia. Pushkina, Olena & Marchenko O. “Features of Applying the Right to Suspension or Complete/ Partial Refusal to Fulfill a Duty in Case of Non-Fulfilment of the Counter Duty by the Other Party According to the Civil Legislation of Ukraine.” *Revista Jurídica Portucalense*, (2023). 340–359. Retrieved from <https://revistas.rcaap.pt/juridica/article/view/29662>
- Leheza, Y., Shcherbyna, Bogdan. Leheza, Yulia. Pushkina, Olena & Marchenko O. (2023). “Features of Applying the Right to Suspension or Complete/ Partial Refusal to Fulfill a Duty in Case of Non-Fulfilment of the Counter Duty by the Other Party According to the Civil Legislation of Ukraine.” *Revista Jurídica Portucalense*, 340–359. Retrieved from <https://revistas.rcaap.pt/juridica/article/view/29662>
- Leheza, Ye. O., Filatov, V., Varava, V., Halunko, V., Kartsyhin, D. “Scientific and practical analysis of administrative jurisdiction in the light of adoption of the new code of administrative procedure of Ukraine.” *Journal of Legal, Ethical and Regulatory Issues*. Vol. 22, Issue 5. (2019). 1-8. Retrieved from <https://www.abacademies.org/articles/scientific-and-practical-analysis-of-administrative-jurisdiction-in-the-light-of-adoption-of-the-new-code-of-administrative-proced-8634.html>
- Leheza, Ye. Shablysty, V. Aristova, I. V. Kravchenko, I. A. Korniakova, T. (2023). “Foreign Experience in Legal Regulation of Combating Crime in the Sphere of Trafficking of Narcotic Drugs, Psychotropic Substances, their Analogues and Precursors: Administrative and Criminal Aspect. ” *Journal of Drug and Alcohol Research*. Vol. 12 . No. 4, 1-8. DOI: <https://doi.org/10.4303/JDAR/236240>
- Leheza, Yevhen. Pisotska, Karina. Dubenko, Oleksandr. Dakhno, Oleksandr. Sotskyi, Artur “The Essence of the Principles of Ukrainian Law in Modern Jurisprudence.” *Revista Jurídica Portucalense*, December, (2022). 342-363. DOI: [https://doi.org/10.34625/issn.2183-2705\(32\)2022.ic-15](https://doi.org/10.34625/issn.2183-2705(32)2022.ic-15)

- Matviichuk, Anatolii. Shcherbak, Viktor. Sirko, Viktoria. Malieieva, Hanna. Leheza, Yevhen.. "Human principles of law as a universal normative framework: Principios humanos del derecho como marco normativo universal." *Cuestiones Políticas*, 40(75), (2022). 221-231. <https://doi.org/10.46398/cuestpol.4075.14>
- Myroshnychenko N. "Some proposals for improving the legislation on measures of criminal-legal influence on minors. Legal impact on misconduct: current aspects." (2016). monograph. Mykolaiv. Ukraine.
- Navrotsky V. "Criminal law of Ukraine in the era of globalization Geopolitics of Ukraine: history and modernity." 2. (2010). 134-141.
- Nazimko E. S. "The Institute of Juvenile Punishment in the Criminal Law of Ukraine (an essay on research methodology)." Donetsk: Knowledge, (2014). 209-210..
- Pütz E. "A brief introduction to the practice of German juvenile criminal law and the use of arrest in North Rhine-Westphalia." *Psychology and law*. 4. (2012). Retrieved from: <http://psyjournals.ru/psyandlaw/2012/n4/56615.shtml>
- Pysmenskyi E. A. "Legal consequences of parole from serving a sentence. " *Journal of the Academy of Advocacy of Ukraine*. No. 4. (2011). 104-111.
- Smokov, Sergii M., Horoshko, Valentyna V., Korniienko, Maksym V. Medvedenko, Serhii V. (2022). Rule of Law as a Principle of Criminal Procedure (on materials of the European Court of Human Rights). *Pakistan Journal of Criminology*, 14(3), 37-46. Retrieved from: <http://www.pjcriminology.com/publications/rule-of-law-as-a-principle-of-criminal-procedure-on-materials-of-the-european-court-of-human-rights/>
- Tulyakov V. A. "Comparative method in the science of criminal law." *Bulletin of the Criminal Law Association of Ukraine*. No. 1. (2014). 29-45.
- Ustawa o postępowaniu w sprawach nieletnich z dnia 26 października 1982. Retrieved from http://prawo-nieruchomosci.krn.pl/Ustawa-o-postepowaniu-w-sprawach-nieletnich-1_2_432.html
- Volobuieva, O. Leheza, Ye. Pervii, V. Plokhuta, Ye. Pichko, R. "Criminal and Administrative Legal Characteristics of Offenses in The Field of Countering Drug Trafficking: Insights from Ukraine. " *Yustisia*. Vol 12, No 3. (2023). 262-277. DOI: <https://doi.org/10.20961/yustisia.v12i3.79443>