PROBLEMS OF NATIONAL PUBLIC AND PRIVATE LAW

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PRISON REFORM IN UKRAINE: SOME ANALYTICAL NOTES AND RECOMMENDATIONS

On 18 May, 2016, the Ministry of Justice of Ukraine abolished the State Penitentiary Service of Ukraine (the SPS) as a central executive body. The Government decided: 1) to abolish the State Penitentiary Service and put all tasks and functions of state prison and probation policy on the Ministry of Justice; 2) to provide that the Ministry of Justice of Ukraine would be the successor of the State Penitentiary Service of Ukraine in sphere of the public prison and probation policy.
The reform had led to radical and sometimes unexpected changes in the public administration of the penitentiary system of Ukraine. The question is whether these changes would leas to positive results. The prison reform of February - May 2016 (taken as a whole, and on the example of certain areas) has more than sufficient reasons to be evaluated critically, and sometimes extremely critically.
This paper is focused on research of different directions of the prison reform announced by the Ministry of Justice in 2016.
Key words: prison system, probation service, prison and probation reform, public administration of the penitentiary system of Ukraine, Ministry of Justice of Ukraine, State Penitentiary Service of Ukraine, prison privatization, juvenile probation centers, recommendations for reform.

Introduction

At the end of 2015, the Ministry of Justice of Ukraine has declared 2016 as the Year of the prison reform.

We can not say that such messages were something new. Almost ten years ago, the Ministry of Justice of Ukraine also emphasized that "the Minister of Justice had defined the prison reform as one of the top priorities for 2009".

Nevertheless, on 10 February, 2016, at the joint board of the Ministry of Interior of Ukraine and the Ministry of Justice of Ukraine the latter presented new prison reform.

The new penitentiary reform aims at total reduction of the central apparatus of the State Penitentiary Service of Ukraine (the SPS), creation of five inter-regional administrations of the prison service instead of traditional regional administrations, building of new pre-trial prisons instead of old establishments, fundamental changes in the prison industry. The most important aspect of the penitentiary reform was taking over by the Ministry of Justice of full responsibility for national prison and probation policy in Ukraine.

On 18 May, 2016, the Ministry of Justice abolished the State Penitentiary Service (the SPS) as a central executive body because, on the Ministry of Justice's opinion, the SPS as a central executive body had not managed to solve a number of systemic problems of the prison system or which, what is more important, had been created by the SPS.

Thus, the Government decided: 1) to abolish the State Penitentiary Service and put all tasks and functions of state prison and probation policy on the Ministry of Justice; 2) to provide that the Ministry of Justice of Ukraine would be the successor of the State Penitentiary Service of Ukraine in sphere of the public prison and probation policy.

On 27 May, 2016, the mentioned above statements were used as a basis for Action Plan of the Government of Ukraine for 2016 (concerning prison reform).

Taking into account the fact that the Ministry of Justice before and after the reform was responsible for prison and probation policy, in this article we aim at making the preliminary analysis of this policy of the Ministry of Justice of Ukraine, taking into account documents published in February - May 2016.

Rapidly having abolished the SPS, the Ministry of Justice did not presented a clear, transparent and consistent strategy of the prison reform, as well as financial, economic, sociological and criminological justification for each direction of reform.

Given this fact, we will use as a basis for our analysis the official presentation of the Ministry of Justice on prison reform, presented on February 10, 2016 during the joint board of Ministry of Internal Affairs and Ministry of Justice.

Problems which are to be solved within the new prison and probation policy

According to the MoJ presentation on 10.02.2016, this prison and probation reform was related to the following problems: 1) prison standards have not been changed for the last 75 years; 2) the structure of the prison administration had not been changed throughout the period of Ukraine's independence; 3) the number of prisoners in Ukraine was drastically reduced (due to the new Criminal Procedural Code and "the Savchenko Law"); 4) emergency status of some prisons and detention centers.

Taking this interpretation of the Ministry of Justice of the most urgent and pressing problems of the national prison system into account, we would like to indicate our position on these matters:

1. "Prison standards have not changed for the last 75 years"

The declaration of the immutability of "prison standards" from 1941 is deprived of historical accuracy and legal certainty. The thesis of "1941" as the starting date in the history of Soviet prison is very incomprehensible and no reasoned.

Of course, this historical question is not essential in the context of the prison reform. However, why has the prison reform started with this myth, especially given that the Ministry of Justice continues to emphasize on this thesis?

Perhaps this benchmark, to which the reform timed, was 2 February, 1941, when the Peoples' Commissariat of Internal Affairs was divided into two Commissariats (Internal Affairs and State Security) and when L.Beria was appointed as the Commissar of Internal Affairs and V.Merkulov was appointed as the Commissar of State Security. On the same day, L.Beria was appointed as Deputy Chairman of the Council of Peoples' Commissars and tasked to oversee Commissariats of internal affairs, state security, forestry, nonferrous metals, oil industry and the annual fleet. It was about creating a sort of industrial giant, which was based on unlimited use of slave labor of prisoners.

Considering that one of the priorities of the prison reform, according to the MoJ presentation, is "improving operational efficiency of prison industry by creating a single production holding", the latest version may explain the priorities of the Ministry of Justice, which, from its words, strives to move away from "the GULAG's legacy".

Perhaps the authors of the MoJ presentation meant the beginning of 1929 and took as a basis the example of a bright business project of Naftaly Frenkel. In this case, the experience of this proponent of slave prison labor will be useful to study the organization of the holding.

As far as we are talking about this historical and legal maze, one aspect is much more important: in any case, using the term of "prison standards" by the Ministry of Justice is more than inappropriate. The category of "national prison standards" was unknown in the Soviet Union. Even now, we do not have such a definition.

2. "The structure of public administration of the prison system has not been changed for the last 75 years"

Mentioned above thesis is also historically incorrect and legally ill-founded. During the period of Ukrainian independence, the structure of public administration of the prison system has repeatedly changed - from the Department of Corrections of the Ministry of Interior to the State Penitentiary Service. Having pointed this out, we should not focus more on this moment. It is enough to say that rising of this pure declaration up to the level of the urgent problem, which motivated the prison reform, is at least inappropriate.

3. Reducing of prison population

This problem, which also allegedly led to the prison reform, is even more controversial. Typically, reducing of prison population is often seen as a strategic goal of the prison reform in many states, not as a

problem that demands the reform itself. The need for closing of some large institutions because of reducing of prison population is a problem that requires an entirely different approach to identify and resolve.

Moreover, reducing of prison population in conditions of radical (and sometimes quite controversial) police reform and very low crime detection rates in the transition period of the police reform could be changed with the increase in crime, appropriate response of the police in the form "tougher on crime" and with a new filling of prisons, which had been previously closed.

For example, the Head of the National Police recognizes the significant growth of recorded crimes against property.

Moreover, the Prosecution Office and the Ministry of Interior criticized "the Savchenko Law". They prove the unreasonableness of the application of this Law to those who committed serious and very serious crimes. According to the MP Anton Heraschenko, the Parliament may consider abolition "the Savchenko Law" in September 2016.

Honesty speaking, reducing of prison population is a phenomenon, which can be found in some European countries. Therefore, it is natural that governments in these countries have put forward proposals to close certain prisons.

For example, the British government set a goal to close some Victorian prisons (Pentonville (1816), Brixton (1820) and Reading (1844)). At the same time, the Government plans building of nine new prisons. However, this policy is based on detailed and transparent economic calculations, which demonstrate the savings after closing these Victorian prisons.

In Sweden, the Government closed four prisons for sentenced offenders and one pre-trial prison.

In the Netherlands, the crime rate drops every year. During the period of 2011 - 2015, the number of prisoners has decreased by 27%. Therefore, the prisons are closed due to "achievement of the required level of safety on the streets". 19 prisons have been closed due to lack of prisoners who could fill them. In addition, the government plans closing five more prisons. Moreover, in order to use existing prisons, the Netherlands imported on contract basis 240 Norwegian prisoners and 300 Belgian prisoners.

However, the above examples are more the exception than the rule. Since 2004, the world prison population increased by 10%. Most European countries do not provide examples of artificial reducing of prison population, as was the case in Ukraine. In contrast, they provide examples of increase in the prison population or examples of absence of a sharp decrease in the prison population.

For example, in England and Wales, despite the fact that 85 thousand persons have been imprisoned over the last six years (every year), the government, however, decided to build new prisons (even taking into account that that the incarceration rate decreased from 152 to 149 prisoners per 100 thousand of national population). This is partly because the English prisons are overcrowded by 11% compared with the certified normal accommodation. According to the British Ministry of Justice, total prison population will reach 90 thousand in 2020-2021.

In France, 67 thousand prisoners were imprisoned at the beginning of 2016 (99 prisoners per 100 thousand of national population). In 2014, the French prisons were filled with 73 thousand prisoners (114 prisoners per 100 thousand of national population). There was a certain decrease in the number of prison population. Nevertheless, in 2011, 63 thousand persons were imprisoned (99 prisoners per 100 thousand of national population).

Germany has demonstrated a trend of reducing of the incarceration rate for the period of last six years (85 prisoners per 100 thousand of national population in 2010, 82 prisoners – in 2012, 76 prisoners – in 2014, 76 prisoners – in 2016). However, taking into account these quantitative and qualitative indicators, Germany does not show such a radical reduction in the number of prisoners as we have in Ukraine.

In Italy, prison population has not decreased for the period of the last two years, and even increased in relative terms.

Norway provides an example of the gradual increase in the prison population for last years (from 2,5 thousand to 3,7 thousand). Norway also shows increasing of incarceration rate in relative terms (from 57 to 72 prisoners per 100 thousand of national population).

In Belgium, prison population has been the same for 6 years. The same can be said for Scotland, Northern Ireland, Romania, Portugal, Bulgaria, and the Czech Republic.

In Hungary, the incarceration rate increased from 163 to 183 in the last decade.

In Serbia, the incarceration rate in the last decade increased from 107 to 142.

In contrary, the following countries show the examples of reducing of incarceration rates in recent years:

- Spain (2010 - 165 prisoners, 2016 - 133 prisoners);
- Poland (2010 - 210 prisoners, 2016 - 188 prisoners);
- Sweden (2010 - 74 prisoners, 2016 - 53 prisoners);
- Latvia (2010 - 333 prisoners, 2016 - 224 inmates);
- Lithuania (2010 - 315 prisoners, 2016 - 254 prisoners).

As far as Ukraine is concerned, it, even having reduced the prison population, still occupies the 6th place in Europe and 26th place in the world. As far as the incarceration rate is concerned, Ukraine occupies 16th place in Europe.

Turning to trends of crime in Ukraine, we need to conduct in-depth study of how many prisons may be needed in the future.

That is why we need a comprehensive study of all the factors, which would give a clear answer to the questions:

1) whether we should close even old prisons;
2) which prisons we should close in first turn.

The problem could be solved by closing several institutions (in real need):

1) only after public debates;
2) subject to predictions about a possible increase of prison population;
3) in accordance with provisions of the Articles 6 and 8 of the European Convention on Human Rights.

In any case, the Ministry of Justice of Ukraine should provide the society and experts with detailed and transparent study, which would point out the unprofitable and most inefficient prisons, which, therefore, subject to closure.

British experts reasonably believe that “closure of unprofitable prisons is the right step, but without a coherent strategy to reduce the prison population it will make the problem of overcrowding of prisons even worse”.

As an example, we can cite the English prison of Reading. In 2013, the government announced the closure of this prison but two years later it decided to preserve it in case of increasing of prison population. We think that the Ukrainian government should consider these examples before making decisions about the mass closure of prisons.

Therefore, closing prisons only because of the current decrease in prison population (if we correctly understood the official position of the Ministry of Justice of Ukraine) is not really a problem that could cause the radical prison reforms associated with the liquidation of the SPS (even if such reduction has a significant character).

4. Poor conditions in some prisons.

We can immediately determine that this problem is most prudent and reasonable of all the tasks, which, according to the MoJ presentation, seems to have caused the prison reform (more details on this reform issue we will discuss later).

Nevertheless, we doubt whether poor conditions in some prisons became a real reason, which led to liquidation of more or less constant structure of prison administration (taking into account not transparent mechanism of such liquidation).

Therefore, there were significant errors at the stage of defining the problem (problems), which allegedly demanded the prison reform.

Of the four issues on which decision on the radical prison reform was adopted (taking into account the MoJ presentation), the priority deserved only one.

The rest can be attributed to declarations or proposals without sufficient justification.

Other identified “problems”

In the MoJ presentation, some real problems of the Ukrainian prison system were also presented in another section of the presentation (the chapter of “Priorities of reform”).

System analysis of the MoJ presentation gives grounds to determine more realistic “problems” that the Ministry of Justice directly or indirectly identified as such, including:

1) the absence of an effective probation service, which would finally overcome seemingly high reoffending rate among those who were sentenced to community punishments;

2) extreme militarization of the prison system in the broadest sense, which allegedly has a negative impact on social and psychological work with prisoners and the public in many institutions and quality of social adaptation of prisoners after serving the sentence;

3) extreme conservative and reactionary style of thinking of most of prison officers (who, according to the Ministry of Justice, are extremely corrupt), which, in turn, eliminates "fresh blood" of progressive-minded people in the penitentiary service and brakes all possible reforms;

4) inefficient prison administration through extreme bureaucracy at the central office and regional offices.

In addition, the Governmental Plan of Priority Actions for 2016 (adopted on 27.05.2016, № 418-р) aims at solving a single complex problem, which, on the MoJ opinion, led to the prison reform of 2016, namely, "The State Criminal-Executive Service is a closed militarized system, which is committed to the isolation of detainees and prisoners, not to correction of them".

It is interesting to point out that the Governmental Plan 2016 says nothing about probation and community punishments. This is a big surprise taking into account the importance of probation, on which the MoJ made a special emphasis in its presentation.

In short, we have formulated those "problems" that the Ministry of Justice identified as those, which allegedly demanded to be solved.

Goals of the proclaimed prison reform (according to the presentation of the Ministry of Justice)

According to the MoJ presentation, which we take as a basis the analysis of proclaimed prison reform, these goals are:

1. Optimization of public administration of the Ukrainian prison system, human resource upgrade at all levels (from central office to local prisons) and raising salaries of prison officers:

- on the central level - reducing personnel by 30%, increasing the average salary by 50%;
- in regional offices - reducing personnel by 45%, increasing the average salary by 50%;
- in penal institutions - increasing the average salary by 50% without reducing in personnel.

2. Development of new prison legislation according to some "European standards" (not identified by the Ministry of Justice);

3. Improving the operational efficiency of prison enterprises by creating a single production holding, procurement through *the Prozorro* system.

4. Construction of new pre-trial prisons in major cities of Ukraine under the scheme of public-private partnership:

- moving pre-trial prisons outside the cities (the first cities are Kyiv, Odessa, Lviv, Chernivtsi) and construction of modern pre-trial prisons according to certain rules of the EU (not identified by the Ministry of Justice);
- increasing the financial motivation of prisoners, who work at prison enterprises, and increasing the number of prisoners involved in prison work starting from 17% (to the unknown parameter).

Taking into account mentioned above issues, which had been identified as a "problems" by the MoJ, and summarizing the list of tasks of reform, we should express our opinion that it looks like points of a certain imperative order, not a document that identifies some areas of reform.

Let us try, however, to answer some questions that derive directly from mentioned above goals, which had been shaped by the MoJ in its presentation.

1. Evaluation of alternatives: Had been other alternatives considered before a decision on reform was made?

The answer is "no".

The next logical question: "Why have other alternatives had been rejected?" remains unanswered. The MoJ had considered only exclusive concept of reform set out in the MoJ presentation.

2. Effectiveness: what outcome (results) the MoJ policy sought to achieve to reform the national prison system?

Taking into account the MoJ presentation, let us think over all planned goals of the Ministry of Justice in the light of certain evaluation criteria:

2.1) establishing an effective and sustainable national model of probation;

2.2) demilitarizing the national prison system;

2.3) attracting new people to prison and probation services;

2.4) optimizing the prison administration both on national and regional levels;

2.5) developing new laws according to "European standards";

2.6) building new pre-trial prisons and transfer of old prisons outside the cities;

2.7) increasing operational efficiency of prison enterprises by creating a single production holding, increasing incentives for prisoners to work in the prison manufactures, increasing the number of prisoners involved in prison work.

Every component of this comprehensive policy could assess in the light of the following criteria:

- effectiveness;
- efficiency;
- unexpected results;
- impact on relevant target groups;
- technical feasibility;
- social feasibility;
- acceptability.

Taking into account mentioned above criteria, let us give a brief analysis of each direction of declared prison reform.

2.1. Establishing effective and sustainable national model of probation;

Effectiveness:

Creation of an effective and efficient probation service according to the Western examples and standards was declared as a priority of the probation reform. We expect from the new "full-scale" probation service, above all, further securing our society by reducing reoffending rates.

As a guide for the future of probation services in Ukraine, the Ministry of Justice provided examples of pilot probation centers created by the Canadian partner (private consulting company «AGRITeam Canada»). The first center was opened in Melitopol, were then Ivano-Frankivsk and Mariupol. In Zaporizhia, similar center was opened on 09.01.2015, in L'viv – on 06.01.2016. The next one is to be in Kyiv.

According to the MoJ presentation, reoffending rate among young offenders after they were supervised in these centers is 4%.

According to other information of the Ministry of Justice on the same issues, reoffending rate is 2%.

On 18.07.2016, at the press conference on the results of the implementation of juvenile probation project, the MoJ declared reoffending rate in 1%.

AGRITeam Canada in Ukraine shows the reoffending rate in 0.86% (only 3 children committed new crimes from those, who had been involved in the Project)

The full and clear picture of reoffending is currently unknown. We can note that only one child committed a new crime in Melitopol in 2013.

The SPS also keeps silence about the results of activities of the juvenile centers.

However, at the same time, speaking of the quantitative performance of the centers for juvenile, it should be emphasized that in 2012 the Melitopol center worked with 30 children, in 2013 – with 10 children, in 2014 – with 14 children, in 2015 – with 10 children. Thus, social workers in the Melitopol center for juveniles assisted 64 children for the period of 2012 - 2015.

In 2013, the Ivano-Frankivsk center for juveniles assisted to six children.

At the same time, reoffending rate in "ordinary" criminal-executive inspections ranged from 1% to 1.45% (an average of 1.2%).

We can give a reasonable assumption that the SPS to a large extent artificially hides real reoffending rate after "ordinary" criminal executive inspections. However, even multiplying theses figures even on five, it turns out that reoffending rate in obviously expensive pilot regions is not much different from those regions which were not covered by the pilot project with the appropriate budget and professionals in juvenile justice.

It would be interesting to know that in California (USA) up to 30% probation clients committed new crimes (1964).

In England and Wales, 56% of offenders sentenced to alternative punishments, committed new crimes and were re-sentenced again within 2 years (1999). In 2010, 34% of offenders sentenced to community sentences, community orders or suspended sentence orders, committed new crimes within 12 months.

In Ireland, about 34% offenders on probation and 30% of offenders sentenced to community service committed new crimes within 2 years. Accordingly, 42% and 38% of these offenders committed new crimes within 3 years (2008). 48% and 58% from these offenders respectively were under the age of 18 years (the latest indicator seems to be important for evaluation of activities of the Ukrainian model probation centers).

A conclusion seems to be obvious. If we have such low reoffending rates among offenders sentenced to community punishments, perhaps, the European countries should adopt the Ukrainian experience, not vice versa? In any case, this discussion is impossible without clear and sufficient starting data, which has been provided neither by the Ministry of Justice nor by the SPS.

Even now, the Ministry of Justice has not provided the society and experts with a concrete model of probation service, which is to be implemented in Ukraine. Meanwhile, this issue is extremely important for full understanding of perspectives of reforming of the Ukrainian prison system.

One thing is clear: opposition of "the Soviet bureaucratic" criminal-executive inspections to "the European full-scale and multifunctional" probation services demands of two things: 1) stop using of stigmatizing and populist declarations; 2) clarify a specific model of probation service, which is to be implemented in Ukraine.

Efficiency:

As of today, we do not know the financial value of one-day probation in the pilot probation center, as well as one day of supervision made by ordinary criminal executive inspections.

In addition, unfortunately, we do not know statistics concerning activities of criminal-executive inspections in Ukraine (except the number of supervised offenders).

However, given the lack of any financial performance of probation centers and "ordinary" criminal-executive inspections, the mere creation of "the full-scale" probation service with obviously complex functions and sophisticated methods of risk and needs assessment will be a difficult task.

We should understand that any reform requires adequate financial support. Therefore, we have to hypothesize a significant rise of the price of probation services compared to modern criminal-executive inspection.

Otherwise, the probation reform will be narrowed to extreme formal approach and changing of signboards on buildings – from "criminal-executive inspection" to "probation service".

The success, which was achieved by the Canadian partner, is worthy of deep attention to spread this experience on national level. The question is about the price of such services.

Prison and probation reform requires at least some common sense and financial calculations made in advance. We should clearly understand what Ukraine might allow at this stage of its economic development.

In our previous publications, we repeatedly emphasized that all of the features that characterized probation services in the USA and European countries, may be such that Ukraine cannot afford. We should be realistic in our calculations on the subject what model of probation service we can allow for Ukraine from economical point of view.

We should remember that even in England, which is considered to be the motherland of probation, the model of probation service became less rehabilitative and less social-welfarist partly because of financial constraints. Instead, the probation concept has become more control-based and punitive.

Generally speaking, we can conclude that the MoJ presentation, as well as other governmental sources says nothing about the costs of such services. Therefore, it becomes difficult to evaluate not only the issues of effectiveness of the Ukrainian probation reform but also issues of efficiency.

Unexpected results:

The probation reform does not have any negative effects or risks, except risks that future probation in content will not differ from modern criminal-executive inspections. Risks may be also concerned with increasing in the cost of probation services in comparison with the results, where first place will be reoffending rates.

Impact on relevant target groups:

The introduction of the national "full-scale" probation service with functions, which are typical for the European countries, will have positive impact on relevant target groups in society (excluding the risk of extreme formalization of the function of pre-trial reports and work with clients on probation).

Technical feasibility:

Given the lack of any financial and economic indicators and opacity of the atmosphere around the creation of a probation service, we can seriously think about the risk of technical infeasibility of the project. At least, the Ministry of Justice has not provided even minimal evidence to the contrary.

In this context, special attention should be paid to the fact that the Law of Ukraine "On probation" had made a special warning concerning introduction of the national probation service.

According to the Law, the probation system is to be established with some restrictions taking into account available financial resources of State and local budgets and Budget of the Social Insurance Fund of Ukraine (according to the Law № 928-VIII of 25.12.2015).

Social feasibility:

Under conditions of appropriate staffing and appropriate training of probation officers, the probation reform can be approved as a socially feasible.

Acceptability:

It is expected that a new probation policy will be positively perceived by all stakeholders in the society.

CONCLUDING REMARKS:

New Ukrainian probation policy is socially attractive and obviously socially needed. However, this policy is based on fragmentary information, the absence of statistics and criminological research. Therefore, such a policy, subject to cost-benefit analysis, is not tenable.

The idea of probation has always been and remains extremely social and criminological attractive. Unfortunately, myths and declarations among the policy, absence of any research, data on re-offending rates and financial costs, almost the same indicators in pilot and other regions stubbornly hints the fact that the idea of the Ukrainian model of probation has a risk to stay in the form of an alternative "no change".

Having status of a developer of the national probation policy, the Ministry of Justice should clearly answer the specific questions, avoiding populist declarations:

1) What is the fundamental practical difference between the Ukrainian criminal-executive inspections and "full-scale" probation services (except, of course, function of pre-trial reports)?

2) Will the Ministry of Justice able to implement the "full-scaled" national probation service through the Ukrainian budget without permanent financial assistance of the Western donors?

3) How many staff do we need for implementing of the "full-scale" probation service?

4) What is factual difference in reoffending rates in pilot probation areas and areas, which are covered with "ordinary" criminal-executive inspections?

5) Should the Ukrainian probation service carry out the function of mediation (if so, how will it increase the number of probation staff)?

6) Should the Ukrainian probation service carry out the function of supervision over offenders conditionally released from prisons (if so, how it will increase the number of staff of probation staff)?

7) Should the Ukrainian probation service carry out the function of assisting to victims of crimes (if so, how it will increase the number of staff of probation staff)?

8) What are requirements for pre-trial reports?

9) Should we have a broad specialization of probation officers?

10) What are requirements for candidates for positions of probation officers?

There could be also other questions and answers.

In this context, we can only repeat the conclusions that we have formulated a few years ago concerning creating a national model of probation. Nowadays, they remain the same.

In short, the probation reform in Ukraine is in danger because of these factors: 1) excessive surrounding of the probation concept with myths; 2) excessive surrounding of the aims of criminal punishment with myths; 3) excessive formalization of the probation concept. These factors, unfortunately, are reflected in the MoJ presentation.

For the purposes of shaping of the national probation policy, we can recall that probation should be a realistic alternative to imprisonment. Probation is not a magic wand, which has miraculously impact on every offender. Probation is just only a method of treatment that can apply to the offenders who are not so dangerous for the society but at the same time who need some sort of strict control.

The probation policy should reduce the financial burden on the prison system. It should also meet demands of efficiency and effectiveness.

2.2. Demilitarization of the penitentiary system

Effectiveness:

Demilitarization of the penitentiary system in its simplest form (as "deprivation of uniform and epaulets") is probably the easiest (and at the same time or the worst) outcome that can be achieved. The question is about forms and limits of the demilitarization process.

We cannot agree with the assumption of the Ministry of Justice that changing of uniform of prison officers from green to gray or blue and replacing of stars on epaulets with other symbols will magically affect the dynamic security in institutions and indicators of "healthy prison".

The question is exactly how this "stripping" will influence relevant target groups. There are no convincing data, facts, information, research results and opinion polls etc. Unfortunately, the Ministry of Justice has not showed this.

Efficiency:

Demilitarization as the direction of the prison reform generally meets the requirements of efficiency. Moreover, prison manufactures could receive more orders for tailoring of new uniform and related paraphernalia during the first period of this reform. However, this efficiency directly relates to consequences that can be negative because of the security regime and discipline issues.

Unexpected results:

Prison officers stress on the need to preserve certain elements of military discipline, which, on their opinion, does not contradict the idea of offender rehabilitation.

Being a "total institution" (*Irving Goffman*) and a "complete and austere institution" (*Michel Foucault*), any prison cannot exist without the military discipline, as well as paramilitary elements in the work of the prison staff. Uniforms for prison staff (not of military sample, as well as not green), some militarized personnel training and other paramilitary symbols in any circumstances constitute integral elements of prison life and are necessary to ensure a safe environment in prison.

Impact on relevant target groups:

The Ministry of Justice should provide additional analysis on this issue. The analysis will require specifying of the nature notion of "demilitarization", forms and limits of its implementation.

Technical feasibility:

The Ministry of Justice should provide additional analysis on this issue. The analysis will require specifying of the nature notion of "demilitarization", forms and limits of its implementation.

Social feasibility:

The Ministry of Justice should provide additional analysis on this issue. The analysis will require specifying of the nature notion of "demilitarization", forms and limits of its implementation.

Acceptability:

The policy of demilitarization has a risk of aversion on the part of practitioners of the prison service because of social, economic and psychological factors. That could be if prison staff is not provided with adequate social and economic guarantees (salaries, pensions, security etc.). Furthermore, formal demilitarization implemented in the simplest forms can cause rejection even by the prisoners themselves.

CONCLUDING REMARKS:

Demilitarization requires prisons to be under the responsibility of public authorities, separate from military, police or criminal investigation services.

Therefore, "demilitarization" cannot be narrowed only to changing of color of the uniform of the prison staff. Because of the lack of certainty of the concept of "demilitarization", it is very difficult to respond to questions about possible alternatives to this policy.

On the other hand, from the point of view of the OSCE, demilitarization does not mean necessarily a loss of discipline or other advantages that usually are linked with a military structure and organization. Moreover, the staff should still wear uniforms and keep their benefits.

Therefore, taking into account the contextual vacuum of this direction of this prison reform, an alternative "no change" occupies the first place.

2.3. Attracting "new people to the system"

Effectiveness:

The policy of attracting "new people to the system" looks good *in principle*. Any system is capable to conservative trends. Therefore, any system needs "new people" time to time. This problem becomes even more important when we talk about conservative and not transparent penitentiary system.

The problem is that the penitentiary reform of the Ministry of Justice, unfortunately, was not only aimed at attracting “new people”, but also at discrediting of the “old” prison staff.

At least, rare public discussions on the prison reform, which have taken place after the elimination of the SPS, were concerned with rather unethical and unsubstantiated statements of politicians about the “total corruption” among prison officers. According to the Minister of Justice, the first thing, which prompted the Ministry of Justice of Ukraine to carry out this penitentiary reform, was unclear to the Minister the nature of expenditure for the SPS.

At the same time, under the provisions of the Directive on the State Penitentiary Service of Ukraine, the Minister of Justice has had the full right to require from the Head of the SPS any report, including the financial costs the penitentiary system.

In addition, the Minister of Justice for more than a long time had powers to appoint the heads and the deputy heads of structural subdivisions of the SPS, heads and deputy heads of the SPS regional administrations.

We can recall that even the latest top managers of the SPS were appointed with approval made by the current Minister of Justice (orders of the Cabinet of Minister on 08.09.2015 №№ 955 and 956).

So even from this position, discussions about “reactionary staff thinking” were unreasonable given the fact that the Minister of Justice controlled all levers of impact on the staff policy.

Despite numerous and obvious cases of ill-treatment in the Ukrainian prisons, the rhetoric about «a virus of Sovietism», «an empire of evil and corruption», «insatiable and almost uncontrolled system», «corruption schemes in the penitentiary system», «a slave system», «torturers in uniform», «the GULAG methods of treatment», «the GULAG's legacy», «colonial state-owned enterprises» are unacceptable for high ranked public officials, especially if, as we have proved, these declarations are based on very subjective interpretation of the history of the Soviet prison system. Meanwhile, the official position of the Ministry of Justice is of populist nature. Unfortunately, this extreme formal populism was the engine of the last penitentiary reform.

Efficiency:

The price of the policy of “prison-personnel renewal” is difficult to calculate. On 24.06.2016, the Ministry of Justice announced competitions on the relevant positions in the prison and probation departments of the Ministry of Justice. We will come to this issue again after the official results will be made public.

Social feasibility and possible unexpected results:

Taking as an example the results of the last prosecution reform in Ukraine, we can point at the open competitions on the positions of prosecutors. We can recall that in majority of cases the “old” prosecutors have occupied these “old” positions even after open competitions had been conducted. The “outside” lawyers did not go to the contests. As a result, the “old” prosecutors filled this vacuum.

The social appeal of work in the prosecutor's office is much more than in prison. So the policy of “prison-personnel renewal” has a profound risk to turn into a farce. As for work in the central office of the Ministry of Justice, even after the most transparent and fair competitions for positions in the central office, the “system” can hardly be represented by “bureaucrats” from the central office rather than “soldiers” from local prisons. Corruption risks in the contests also deserve a special attention.

Impact on relevant target groups:

Grounded awaiting preservation of those “people in the system” even after “prison-personnel renewal”, we can hypothesize that compared to present situation a significant impact on relevant target groups will not happen.

Technical feasibility:

The policy of “prison-personnel renewal” is implemented primarily on formal grounds because the main positions in the “system” are likely to remain at the same officials, which are currently working on the same positions.

Acceptability:

The prison staff and even prisoners will perceive the policy of discrediting of «old staff» negatively. This policy could upset the balance in prisons and lead to certain violations in the sphere of security.

CONCLUDING REMARKS:

The policy of “prison-personnel renewal” is implemented under the influence of stigmatization of “old” prison staff. This policy is in risk to remain in the form of an alternative “no change”. More concrete conclusions will be made only on the results of contests for the positions in the Ministry of Justice, which

took place in June 2016. The results will provide full information on people who won competitions and who will start playing key roles in the renewed prison service and will demonstrate specific examples of the upgrade.

2.4. Optimization of central and regional offices of the penitentiary service

Effectiveness:

The MoJ presentation pays enough attention to the issues of optimization of central and regional offices of the penitentiary service. The prison reform is about reduction of employees of regional units by 45% while increasing the number of prisoners per unit staff.

In addition, the MoJ presentation had envisaged creating of five inter-regional administrations of the penitentiary service (South-Eastern, North Eastern, Southern, Central, West). However, six such administrations were established after the elimination of the SPS (the list has been expanded by the Central-Western administration).

Efficiency:

The efficiency of the policy of centralization of the prison system can be evaluated after the final steps of the prison reform.

The Ministry of Justice should demonstrate convincing evidence of real savings by reducing unnecessary bureaucracy, as well as increased payments for the prison staff.

Unexpected results:

It is quite difficult to predict unexpected results of this policy.

There could be issues of defining the boundaries of autonomy of prison governors of and accountability mechanisms for prison governors, who will have more powers.

There could be also questions concerning, for example, rapid reaction of inter-regional prison administrations on unforeseen events in prisons (for example, incomprehensible conflict in Irpin Correctional Center, which took place on 20.07.2016 or disturbances in the Prison № 9 (Poltava region)).

Impact on relevant target groups:

Analysis of the impact on relevant target groups requires a more detailed investigation with regard to criminological indicators, reoffending rates and other sociological research.

Technical and Social feasibility:

The issues of technical and social feasibility could be discussed after appointments of new public officials and presentation of increased salaries for them.

Acceptability:

This policy direction remains unsupported by prison service staff and trade unions.

CONCLUDING REMARKS:

Evaluation of such direction of the prison reform as "reducing bureaucracy" and "increasing motivation by increasing salaries" can be evaluated over a particular period after finalizing competitions for the positions in the Ministry of Justice and, what is most importantly, after the actual payments of increased salaries to prison staff (as it was declared by the Ministry of Justice).

2.5. Developing new prison and probation legislation in accordance with the European standards

The Ministry of Justice of Ukraine has a duty of shaping the prison and probation policy. Therefore, it is not reasonable to analyze a statutory function of the Ministry of Justice as a new policy direction.

2.6. Construction of new modern prisons and the transfer of old prison outside the cities

Effectiveness:

Construction of new pre-trial prisons is certainly a valid and important area of the prison reform. Pre-trial prisons in Odessa and Kiev, which had been built more than 100 years ago, is convincing evidence that the Ukrainian prison system really needs for new pre-trial prisons.

Therefore, urgent closure of old pre-trial prisons and opening new ones is more than essential from the perspective of preventing of keeping prisoners in conditions, which constitute inhuman treatment according to the ECHR case law.

However, closure of other institutions, which should take place in accordance with declared priorities of the Ministry of Justice, causes certain questions about the validity of such steps from the perspective of protection of human rights.

For example, according to the Order of the Cabinet of Ministers of Ukraine № 1066 (adopted on 10.7.2015 p.), the Government agreed to the proposal of the State Penitentiary Service to close the Chernivtsi Pre-trial Prison №33 "due to poor conditions of detention and location of the prison in close proximity to the historic center of the city".

A well-known NGO "Donetsk Memorial" in its report "Respect for the Rights of Prisoners – 2015" stated the following issue: "the Chernivtsi Pre-trial Prison is an institution with quite good conditions of detention. Its closure was extremely inappropriate. Probably, the main factor for this Governmental decision was a hidden interest of some actors to the land in the center of the city".

The Ombudsman expressed mostly the same opinion: "According to the results of the monitoring visit of representatives of the National Preventive Mechanism together with the NGOs, held in November 2015, conditions of detention in the Chernivtsi Pre-trial Prison are among the best in comparison with other similar establishments in Ukraine, including the Kyiv, Lviv and Odessa pre-trial prisons. For example, conditions of detention in the Dnipro Pre-trial Prison are much worse as compared with the Chernivtsi Pre-trial Prison. Nevertheless, the Dnipro Pre-trial Prison did not even get into the list of priority institutions".

According to the report the Center for Information on Human Rights, the Chernivtsi Pre-trial Prison was the best of all in the prison system: "This Pre-trial would be a good example for other institutions in Ukraine.

Indeed, it is currently unknown which officials and on what basis concluded on the "emergency state" of the Chernivtsi Pre-trial Prison. In 2013, prosecutors inspected this prison. In September 2014, the supervisory committee checked Chernivtsi Pre-trial Prison and found conditions in the Prison acceptable to inmates, which, as noted, was due to substantial decrease in the number of prisoners. A special video report reflects these conclusions.

The Chernivtsi Pre-trial Prison cannot be evaluated at "solid five" on a five-point scale because it was built long ago. The question is concerned with another moment. A specially authorized commission composed of sanitary doctors and architects has never adopted any official act, which would state that the Chernivtsi Pre-trial Prison could not be used any more for medical reasons or reasons concerned with security or safety. At least, the Ministry of Justice has not published such a document.

The formal reason of closing the prison in Chernivtsi was that, in the words of the Minister of Justice, "a prison cannot be located in the center of the city". The Mayor of Chernivtsi presented similar arguments. Consequently, emergency state of the prison was not reflected in the official position of the Ministry of Justice.

In addition, the prison officers disagree with this decision for reasons, which seem to be rational: "The nearest pre-trial prison is located in Chertkov. It is almost a hundred kilometers from Chernivtsi. Imagine a suspect detained in our region. The investigator should conduct investigation. This means that the investigator must go to Chertkov, spend a few hours on the road and extra money for gasoline. There are hundreds of prisoners in the area. Now calculate approximately how much additional budget we need to allocate each year for investigations. As a result, crime detection rates decrease".

The Ombudsman and the Ukraine Helsinki Foundation for Human Rights had made a joint statement on the same occasion. They stated that transfer of pre-trial prisons from big cities could violate the right to a fair trial. Investigators will have to go for the investigation to other regions, what will decelerate the investigation and delay the whole process. As a result, this situation will create conditions for a violation of Article 6 of the European Convention on human rights due to noncompliance with reasonable time of investigation and trial.

Some publications also appeared in the Internet because of contradictions and opacity. They pointed out that the only reason for closing the Chernivtsi Pre-trial Prison was an attempt to create a downtown hotel in the same building. Of course, we cannot take this version as a basis due to lack of material evidence. Law enforcement bodies should consider this issue. However, the lack of transparency provides grounds for some reasonable suspicion despite the fact that city officials assured that they would build a cultural and artistic complex in the center of the city.

Continuing this topic, we can point at the Cherkassy Pre-trial Prison as an example of this contradictory policy of the Ministry of Justice. The Cherkassy Pre-trial Prison was built in 1913. It is located directly in the center of the regional center. However, no official from the Ministry of Justice has paid attention to the issue of closing of the Cherkassy Pre-trial Prison, perhaps, in the light of the investment unattractiveness.

Efficiency:

This direction of the prison reform was declared as urgent. However, it does not remove from the agenda the need to make a clear and full account of the Ministry of Justice on the reasons for closure of pre-trial prisons supported with the presentation of documents, which would be signed by responsible experts concerning the impossibility of further use of these prisons.

In addition, there is an urgent need for clear and full account on the results of choosing of service provider within the scheme of public-private partnership.

In this context, it is worth mentioning the Lukianivska Pre-trial Prison, which is certainly a symbol of reform of the national prison system.

The Ministry of Justice conceal from the public that this is not about building a new prison. It is about transformation of the old Irpin Correctional Center №132 (built in 1944), located in the village Kotsyubynske near Kyiv. In addition, there are some plans to build six new corps. A renewed prison will be designated for keeping 2300 prisoners. The price of the project is evaluated in 350 million UAH.

However, we think not only mentioned above issues are important. The distance between the new pre-trial prison built at the correctional center №132 and courts of Kyiv will be:

- Pechersky District Court - more than 20 kilometers;
- Shevchenkivsky District Court (first building) - more than 10 km;
- Shevchenkivsky District Court (second building) - more than 18 km;
- Darnytsky District Court - more than 32 km;
- Holosiyvsky District Court - more than 22 km;
- Podilsky District Court - more than 16 km;
- Dniprovsky District Court - more than 32 km;
- Desnyansky District Court - more than 22 km;
- Obolonsky district court - more than 14 km;
- Svyatoshinsky District Court - more than 11 km;
- Solomyansky District Court - more than 18 km;

These distances within the capital will mean that time for bringing prisoners to court and back to pre-trial prison will doubled (if not triple).

Accordingly, the Ministry of Justice should calculate the following issues:

- material expenditures for fuel for prison vehicles;
- waste of time in case of postponing of court hearings taking into account traffic jams on this road;
- need to ensure better conditions of detention during transportation of prisoners to court and the back to pre-trial prison for longer distances;
- more time and energy resources spent by defense lawyers, investigators and prosecutors during their visit to this prison located outside of Kyiv, as well as material expenditures for fuel (it is also about motivation to work of prosecutors, investigators and defense lawyers).

All these issues must be considered when building a new prison in the capital.

The Ministry of Justice has declared that this approach is based on managerial principles. Meanwhile, the Ministry of Justice has not even expressed its official assessment of this project.

Stressing the mentioned above issues, we should also point at the position of the World Bank on issues of public-private partnership: “The creation of new prisons without real perspective of prison reform conceal the danger of the growth of the prison population. There is an urgent need to ensure prevention of abuse of employees of private prisons”.

It was said about classic private prisons. Nevertheless, similar reservations should be made on the process of alienation and old prisons and building new ones.

Unexpected results:

There are huge corruption risks as at the close of the old pre-trial prisons as well as in projects to build new prisons.

The MoJ presentation does not contain concrete mechanism of public-private partnership. A database of potential investors had to be presented in March - April 2016. Unfortunately, on 19.07.2016 the Ministry of Justice reported “it has only contacted representatives of potential investors”.

Information on stages, timing, mechanisms and personalities of future public-private partnership agreements is extremely opaque and vague, except for some scattered articles on the Internet: “In November 2015, the Minister of Justice said there was a plot for the construction of pre-trial prison capacity

of 1000 people in Irpin. The Minister defined the duration of construction in 9 months. The cost of building was not declared".

As noted, building of this prison, which is located outside the city, can raise an issue of violation of Articles 6 and 8 of the European Convention on Human Rights.

In addition, old prisons are of historical value what will raise a question of their preservation as historical monuments.

Impact on relevant target groups:

The policy will have a positive impact on all stakeholders (staff, prisoners, relatives of prisoners, advocates, prosecutors) under condition of providing of appropriate infrastructure that will exclude violations of rights stated in Articles 6 and 8 of the European Convention on Human Rights.

Technical feasibility:

The question of technical feasibility could be discussed under the condition of full disclosure by the Ministry of Justice of information on procedures of implementation of relevant projects.

Considering the absence of experience of creating modern panoptic prisons, which are shown in the MoJ presentation, there will be a problem with attracting of enough expensive international experts. That, in its turn, will lead to increasing of price of the project. Attention should be also paid to the fact that the Lukyanivsky Pre-trial Prison is officially defined as an object of cultural heritage that makes impossible its destruction.

Special attention is also worthy a question of the cost of the project. The price of a new pre-trial prison, which must be built by modern European standards in village Kotsyubynske, will constitute almost 14 million USD. A project of this new pre-trial prison is designed for almost 2300 prisoners. By the way, a project of a new pre-trial prison in Chernivtsi was evaluated in 6 million USD.

At the same time a new prison in the USA costs from 98 to 162 million USD (depending on the security level, number of seats and other factors). We should make a special note that such a price refers to prisons designed for the keeping from 900 to 1200 prisoners.

The Canadian experience shows an example of building of a new prison for 1000 prisoners where the price can reach almost 500 million dollars.

A new super-prison for 2 thousand prisoners in Wrexham (North Wales) could cost 250 million for taxpayers. The prison is to be open in 2017. This prison is intended to replace several other prisons, which, it their turn, should be closed. British economists estimate that, despite the high cost of this prison project, a new prison will save more than 20 million pounds per year and provide better rehabilitation services. Contractors of concrete directions of work have already known.

In Ireland, the new prison, which will be built, is nearly 45 million euro.

Therefore, these examples raise questions about the real financial justification of the project of the new prison.

Unfortunately, having announced construction of new prisons in our country, the Ministry of Justice of Ukraine does not provide such calculations.

The Ministry of Justice also presents an absolutely fantastic duration of works over constructing the new pre-trial prison near Kyiv.

Social feasibility:

This issue can be discussed subject to publication by the Ministry of Justice detailed information on costs, conditions and procedures for the implementation of relevant prison projects.

Acceptability:

This direction of the prison reform is acceptable only under conditions of neutralizing the corruption component.

CONCLUDING REMARKS:

Construction of new pre-trial prisons is an acute need for the Ukrainian prison system. Therefore, it requires urgent steps to implement this idea.

However, this direction of the prison reform has extremely high corruption risks associated with the lease of land in the centers of large cities and corruption schemes on building of new prisons. All this aspects require ensuring maximum transparency in the process of building new pre-trial prisons.

On the other hand, need for building of new pre-trial prisons was not the problem that had required the elimination of the whole structure of public administration of the penitentiary system.

2.7. Increasing efficiency of prison companies by creating a single production holding. Increasing the number of prisoners involved in the prison labor by increasing motivation

Effectiveness:

This direction of the prison reform – aims at increasing the number of prisoners involved into the prison labor (from 17% to unspecified parameter). Plans to achieve these results are quite ambitious because, according to the MoJ presentation, the profitability of enterprises of the Ukrainian prison system is not very high (data for the first nine months of 2015):

- Agricultural production – +17.4%;
- Tailoring – +3.9%;
- Building materials – +3.3%;
- Wood industry – +0.5%;
- Recycling of waste – +0.2%;
- Household chemicals – -0.1%;
- Production of heat – -0.5%;
- Metal products – -0,5%.

As for the ambitious plans, it is reasonable to recall that the US prison industry is trying to reach the figure of 25% of employed prisoners.

The European countries show approximately the same performance.

In 2000, 37% of the French prisoners were involved into the prison labor. As of today, this figure does not exceed 28%.

In Greece, the figure is 42%, in Italy – 20%, in Poland – 30% (including unpaid works), in Latvia – 18%.

We can guess that the achieving the level of about 25% prisoners involved into the prison labor can be a realistic benchmark for the Ukrainian prison policy. In any case, we have to analyze the realities of prison labor and the current economic situation in Ukraine.

Efficiency:

The issue of efficiency is questionable due to lack of detailed information.

Unexpected results:

There is an obvious risk that achieving profits from the prison labor will dominate over the interests of prison labor as a tool of offender rehabilitation. In addition, "an issue of the prison labor is one of the least regulated and corruptive in prison environment".

Impact on relevant target groups:

The impact could be considered as positive (if prison labor will be really seen as a tool of offender rehabilitation, not as a mean of achieving profit from the prison labor).

Technical feasibility:

This issue is questionable due to lack of detailed information.

Social feasibility:

This issue is questionable due to lack of detailed information.

Acceptability:

This issue is questionable due to lack of detailed information.

CONCLUDING REMARKS:

Increasing efficiency of prison companies by creating a single production holding and increasing the number of prisoners involved into prison work is obviously problematic area of reform of the Ukrainian prison system.

There are some factors, which do not allow applying the same principles, which exist in "free society", to the management of prison industrial complexes. They have very old industrial equipment, disproportionate tax burden, constant movement of prisoners in the prison (the issue of leakage of qualification), impact of the criminal subculture and other.

Moreover, we should keep in mind that industrial success in prisons can hide attempts of some politicians and businessmen to widen the scope of application of imprisonment as a penalty and reduce alternatives to imprisonment.

3. Will the new prison policy reach the objectives? (Instead of conclusions)

Of course, we should take the prison reform, which had been conducted by the Ministry of Justice in February - May 2016, as a fact and as a reality.

The reform had led to radical and sometimes unexpected changes in the public administration of the penitentiary system of Ukraine. The question is whether these changes would lead to positive results.

During the period of its existence, the State Penitentiary Service of Ukraine, unfortunately, was unable to implement many chances in reforms on many issues. The State Penitentiary Service, despite the large experience and the sincere dedication of many officers, has not become a flagship of reforms.

On the other hand, the prison reform of February - May 2016 (taken as a whole, and on the example of certain areas) has more than sufficient reasons to be evaluated critically, and sometimes extremely critically.

Summarizing these points, we can recall that the SPS was only the "executor" of the national Ukrainian prison policy, which likely had to be shaped by the Ministry of Justice. "*Likely*" means that we have just few examples when the MoJ shaped the prison policy.

Therefore, the Ministry of Justice must share all victories and all failures of the State Penitentiary Service. At least, it is not fair to put the whole burden of responsibility for the SPS and allow the Ministry of Justice escaping its political and legal responsibility for low quality of the national Ukrainian prison policy.

Speaking of the latest prison reform, we should note the following remarks.

Of course, the public prison policy should be practically oriented. However, this does not mean that the policy may resemble a mixture of different theories and concepts. Unfortunately, new prison policy of the Ministry of Justice, which is currently being implemented, resembles a sort of ideological mix, where the focus is on communitarian theory with its intervention methods

There is a list of what we traditionally call rationales for punishment. That means that you cannot serve two gods. A combination of certain rationales is very explosive. The public policy should be individualized and rationally justified. Therefore, the Ministry of Justice should have been clearly point out its priority in justifying the rationales for punishments.

The current prison policy cannot ignore the experience of the Europe countries, which is extremely convincing in its brightness and sometimes in drama.

However, unfortunately, the prison reform is severely undermined by the complete absence of a sociological, criminological and incomplete financial justification for the Ukrainian prison reform, as well as a clear strategic document. The prison reform is also significantly undermined by historical errors and populist clichés. Unfortunately, we can conclude that the last prison reform as mostly aiming at changing structures, not at solving problems.

Turning to specific practical steps, which have already been implemented, it is necessary to stress the following problem.

The Governmental decision on abolishing the SPS was unexpected for majority of the prison officers. It is better to say it was not honest. The Governmental decision put them in a state of legal uncertainty and social insecurity. A sharp reaction of the SPS trade union is an evidence of such attitude. On the other hand, the absence of any response to the reform from the SPS top management says not in favor on the ability to carry out the declared reforms in the penitentiary system.

Distorted picture of problems of the Ukrainian prison system, which had stimulated the last prison reform, led to incorrect shaping of the goals of the reform. On the contrary, certain factual issues have been missed.

Undoubtedly, there is always a discrepancy between the stated objectives of a specific strategy and its application in practice. It is also clear that there are always some latent goals that officials are not inclined to disclose. However, the lack of information on the cost of such a reform in the current socio-economic conditions points at weak aspects of this prison reform. At the moment, we know nothing about specific areas of the reform, which urgently require financial transparency (examples of construction of new pre-trial prisons or the costs of establishing of a new probation service). As a result, the Ministry of Justice gave many examples of the same financial opacity, in which the State Penitentiary Service had been accused by the Ministry of Justice, and that the Ministry of Justice would wish to eliminate.

Prisons are not only a tool of social control. They are also big business. Privatization of prisons in any form provides great profits for those who are motivated by economic gains from prison. So the first that the Ministry of Justice should make is to provide a clear explanation on the mechanism of privatization of the Ukrainian prisons, as well as ensure transparency in the selling old pre-trial prisons and building new ones.

In addition, an acute shortage of sociological and criminological justification for the reform in general and in certain areas can hide deep challenges to security and real threat to the existence of a "healthy prison".

Excessive (sometimes unjustified) mythologization of the probation concept, which ignores the European international experience, and establishing of the national probation service under conditions of total financial secrecy also poses risks to real probation reform in Ukraine. Therefore, there is a risk that the probation system in Ukraine will become just a declaration.

Recommendations for further implementation of the penitentiary reform:

1. It is recommended to specify a more concrete model of a new prison policy with displaying this model in the strategic document.

2. It is recommended identifying and fixing concrete indicators of the prison reform for the whole system and separately for each prison or probation service - at the time of the reform, after it and for the future:

- reoffending rates after different punishments concerned with imprisonment;
- reoffending rates after probation and community punishments;
- mortality rate;
- number of suicides in prisons;
- number of escapes;
- number of rehabilitation programs in prisons;
- number of hours spent by prisoners in rehabilitation programs;
- number of hours during which of probation centers involved in rehabilitation programs;
- employment rate among prisoners released from prisons;
- number of prohibited items found in prisons;
- number of visits by human rights organizations to prisons;
- indicators of the staff turnover;
- number of officers prepared in universities of the prison system;
- number of prison officers who received training in training centers of the penitentiary system;
- number of prison and probation officers prosecuted for corruption offenses;
- number of prison and probation officers prosecuted for other offenses;
- other possible indicators.

3. It is recommended to develop a system of salaries of prison staff and probation services based on a comprehensive evaluation of performance of an individual prison or probation service.

4. It is recommended to clearly determine the forms and frequency of accounting of the Minister of Justice or Deputy Minister of Justice on penitentiary issues before the society with publication of documents signed by relevant officials.

5. It is recommended to develop a policy document of the Ministry of Justice on complaints of prisoners.

6. It is recommended to clearly identify political priorities of the national probation service (control, supervision, or clearly defined combination of both directions) and the basic principles of a particular model of probation service with financially and economically justified list of functions, which will be implemented by the probation service.

7. It is recommended to publish a list of probation programs that will be implemented by the national probation service, with the approximate costs of such programs and their funding sources at the national level.

8. It is recommended to identify the forms and limits of the process of demilitarization in the Ukrainian prison system.

9. It is recommended to prove and confirm that pre-trial prisons, which are located in the centers of large cities, cannot be rebuilt and used any more from the point of view of architectural safety and health standards. It is recommended then to publish the relevant acts (not about separate buildings but about whole pre-trial prisons).

10. If some corps of old pre-trial prisons can be rebuilt, it is recommended to study the possibility of full repair and subsequent use of such buildings.

11. Taking into account crime trends in Ukraine it is recommended to publish immediately on the official web-site of the Ministry of Justice a list of prisons to be closed due to the economic unreasonableness.

12. It is recommended ensuring transparency and to eliminate corruption risks in the process of alienating pre-trial prisons through continuous coverage of the current situation concerning disposal of old and construction of new pre-trial prisons in selected cities.

13. It is recommended to provide a full and transparent financial and economic argumentation concerning feasibility of building new prisons outside big cities and prove that this alternative is the best one for all criteria in the long term.

14. It is recommended to identify ways of ensuring accountability of prison directors and define new guidelines on control over prison governors, taking into account the announced decentralization of prison administration.

15. It is recommended identifying new ways and directions deepened cooperation with other agencies of the criminal justice system and civil society.

16. It is recommended to shape and to publish a new educational strategy in educational establishments in the prison system.

17. It is recommended to develop a policy document of the Ministry of Justice on the right to respect for private and family life in activities of the national probation service.