

FOREIGN EXPERIENCE IN IMPLEMENTING PUBLIC POLICY ON PREVENTING JUVENILE DELINQUENCY

ЗАРУБІЖНИЙ ДОСВІД ЗДІЙСНЕННЯ ПУБЛІЧНОЇ ПОЛІТИКИ ЩОДО ПОПЕРЕДЖЕННЯ ДИТЯЧОЇ ЗЛОЧИННОСТІ

In the global context, the issue of preventing juvenile delinquency is becoming increasingly relevant. The article is devoted to the study of current international trends in the prevention of juvenile delinquency and the prospects for applying international experience to the domestic public administration practice of preventing juvenile delinquency. By analysing effective strategies and innovative approaches, the article aims to identify prospects for adapting these methods to Ukrainian realities. The study can serve as a basis for the development and implementation of effective national policy measures to prevent child delinquency. The purpose of the article is to identify the key components of successful initiatives and their potential for adaptation to the Ukrainian context. The article examines the existing practices and strategies implemented by countries with a high level of effectiveness in preventing child crime. Key aspects such as social and educational programmes, interaction between law enforcement agencies and the community, and the use of innovative technologies are considered. Examples of successful initiatives and their potential for adaptation in the context of national realities are analysed. The experience of preventing juvenile delinquency in the UK, France, Sweden, the USA and Japan is considered. The impact of juvenile justice, prevention programmes and local juvenile centres are examined on the example of these countries. Attention is focused on the factors of effectiveness of prevention activities. Considering the issues of prevention and avoidance of administrative offences committed by minors, the author emphasises that it is important to recognise the desirability of using programme-targeted regulation. Ukraine also has a positive experience of implementing various programmes, including those aimed at preventing juvenile delinquency. Thus, it is impossible to reject international experience, however, with regard to the prevention and deterrence of juvenile delinquency in Ukraine, the emphasis should be placed mainly on addressing specific problematic aspects of prevention in the country, taking measures that take into account the specifics of Ukrainian society. Therefore, the results of this study can serve as a basis for developing effective strategies and measures of national policy in Ukraine to prevent juvenile delinquency and ensure the safety of the younger generation. The author identifies promising areas that can be adapted and used to improve public policy on the prevention of juvenile delinquency in Ukraine.

Key words: delinquent behaviour, juvenile delinquency, juvenile offences, prevention, juvenile justice.

У світовому контексті питання попередження дитячої злочинності стає дедалі актуальнішим. Статтю присвячено дослі-

дженню сучасних міжнародних тенденцій попередження дитячої злочинності та перспектив застосування міжнародного досвіду у вітчизняну публічно управлінську практику попередження дитячої злочинності. Аналізуючи ефективні стратегії та інноваційні підходи, стаття спрямована на виявлення перспектив для адаптації цих методик в українських реаліях. Дослідження може слугувати основою для розроблення та впровадження ефективних заходів національної політики щодо попередження дитячої злочинності. Мета статті полягає в ідентифікації ключових компонентів успішних ініціатив та їхнього потенціалу для адаптації в українських реаліях. Стаття вивчає вже існуючі практики та стратегії, впроваджені країнами з високим рівнем ефективності у попередженні дитячої злочинності. Розглядаються ключові аспекти, такі як соціально-освітні програми, взаємодія між правоохоронними органами та громадою, а також використання інноваційних технологій. Аналізуються приклади успішних ініціатив та їхній потенціал для адаптації в контексті вітчизняних реалій. Розглянуто досвід запобігання правопорушень неповнолітніми у Великобританії, Франції, Швеції, США та Японії. На прикладі цих країн розглянуто вплив ювенальної юстиції, програм превентивної діяльності, локальних центрів у справах неповнолітніх. Акцентовано увагу на чинниках ефективності профілактичної діяльності. Розглядаючи питання запобігання та уникнення адміністративних правопорушень, вчинених неповнолітніми, автором наголошено, що важливо визнати бажаність використання програмно-цільового регулювання. Україна також має позитивний досвід реалізації різних програм, включаючи ті, що спрямовані на запобігання правопорушень, вчинених неповнолітніми. Таким чином, неможливо відкинути міжнародний досвід, втім, стосовно запобігання та стримування правопорушень неповнолітніми в Україні, акцент доречно зробити, переважно, на вирішенні конкретних проблемних аспектів профілактики в країні, вживаючи заходів, які враховують специфіку українського суспільства. Отже, результати цього дослідження можуть слугувати основою для розробки ефективних стратегій та заходів національної політики в Україні щодо попередження дитячої злочинності та забезпечення безпеки молодого покоління. Автором визначено перспективні напрями, які можуть бути адаптовані та використані для удосконалення публічної політики щодо попередження дитячої злочинності в Україні.

Ключові слова: делінквентна поведінка, дитяча злочинність, правопорушення неповнолітніх, превенція, ювенальна юстиція.

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Malko N.O.

PhD student at the Department of Law National Security and European Integration Educational and Scientific Institute «Institute of Public Administration» of V.N. Karazin Kharkiv National University

Problem statement. The implementation of public policy aimed at preventing juvenile delinquency is informed by international experience.

The significance of this research lies in the acute necessity, prevalent today, for the development and subsequent implementation of

effectively operationalized preventive measures. These measures are intended to preserve and cultivate valuable insights, taking into account the peculiarities of contemporary state and societal development. The practices of addressing juvenile delinquency in foreign countries cannot be disregarded.

Before an effective legislative model can be developed in such combat, consideration should be given not only to Ukrainian practice based on legal principles but also to the practices of foreign states where the preventive work has shown positive dynamics. For instance, in several countries (Denmark, Sweden, the United Kingdom), over the last decade, the prevention and deterrence of juvenile offenses have become an integral part of state policy. This foreign experience can only be characterized positively because it demonstrates the fact that preventing and deterring juvenile misconduct is one of the essential directions in fulfilling state functions.

Analysis of recent research and publications. Various aspects of preventing juvenile delinquency have been addressed by V. Vodnik, V. Holina, V. Yemelianova, A. Yosypiv, O. Maksymenko, K. Muranenko, O. Pakhomova, P. Petryk, N. Slyvotska A. Uzhytchak and others.

The **purpose** of the article is to summarise global trends and best foreign practices in the prevention of juvenile delinquency with a view to adapting and implementing them in domestic practice.

Results of the study. International norms and practices of dispensing justice concerning juveniles, along with minimizing criminal repressive methods, require “reducing the necessity of legal intervention and achieving effective fair and humane treatment of the minor in conflict with the law” [9]. The criminal policy of many foreign states is based on the premise that juvenile offenders require a special approach and specific influences, which are carried out within the framework of juvenile justice. The latter one is a complex and multi-faceted phenomenon encompassing several components. These include the activities of specialized courts handling cases of juvenile misconduct and crimes committed by minors, as well as the presence of special legislative acts regulating the specifics of criminal liability for juveniles and the application of penalties and other measures of criminal-law character.

Analyzing the degree of state legal regulation of prevention issues in these countries and in Ukraine, it can be argued that the prevention of offenses committed by minors is one of the main directions of state policy in many foreign countries. The basis for such a conclusion is a combination of legislative acts regulating prevention issues, their quantity, and a content.

It should be noted that the preventive work carried out by a large number of prevention entities both in Ukraine and in foreign countries is based on universally recognized norms of international law, including: the Universal Declaration on the Survival, Protection, and Development of Children, the Declaration of the Rights of the Child, the European Convention on the Exercise of Children's Rights (ETS No. 160), the United Nations Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), the Guiding Principles on Action for Children in the Criminal Justice System and the United Nations Guidelines for the Prevention of Juvenile Delinquency.

With regard to the current legislation of Ukraine in the field of preventing and deterring administrative offenses committed by adolescents, it unfortunately exhibits certain gaps and contradictions in the aspect of legal regulation of the analyzed issues. Therefore, it is believed that it requires the development because there is a pressing need to introduce necessary changes and amendments, and even adopt a relevant regulatory legal act that regulates the issues of combating administrative offenses committed by individuals under the age of 18.

The purpose of such “intervention” in the lives of adolescents is primarily to prevent them from committing further offenses and crimes through various restraining actions (rehabilitation, the correct psychological approach, etc.).

For example, in the United Kingdom, there are courts for cases involving juveniles, which have certain peculiarities. Cases involving juvenile offenders are typically heard separately from other cases, usually in the morning. Moreover, each such case is considered individually and separately from cases of co-offenders (if any) of the crime, and the legal representatives of the juvenile must be present at the court hearing (this norm is also adopted in Ukraine). In the United Kingdom, such courts also have probation services, whose duties include crucial functions such as studying the personality of the young offender, supervision, and further guidance for the minor [13]. However, such a juvenile justice system has only been implemented in the administrative territories of the United Kingdom and Northern Ireland; attempts to create a similar system (specifically, a special court for juvenile cases) in Scotland have not been successful.

In addition to juvenile courts, the United Kingdom is also characterized by the abundance of legislative acts aimed at protecting and safeguarding the rights of children, including:

- The “Children and Young Persons Act”;
- General instructions regarding the placement of children;
- Rules for placing children in foster care;

– National Standards in the United Kingdom for the organization of foster care.

First and foremost, attention should be given to the 1998 law “Crime and Disorder Act”, the adoption of which was a response to the extraordinary increase in the level of juvenile delinquency in England and Wales from 1989 to 1992. According to this law, a magistrate may issue an “antisocial behavior order” against a juvenile, which entails imposing certain obligations on the minor [7]. The restrictions or duties stipulated by the order are considered as punitive measures. Additionally, the mentioned law grants the court the authority to issue a “parenting order”, allowing it to impose additional responsibilities on parents whose children exhibit antisocial behavior, to monitor the behavior of the minor and prevent them from committing offenses or crimes. Also noteworthy is the measure of detaining truant schoolchildren, which allows any police officer to detain a schoolchild who is absent from school without valid reasons during school hours and transport them back to school or home. In England, the issuance of warnings to juvenile delinquents is also widely practiced. This measure allows minors to avoid criminal responsibility, as the principle of preventive influence is one of the priorities in England. Consequently, the English authorities pay close attention to the implementation of early prevention programs for juvenile delinquency, targeting both minors and their parents (various courses, educational programs, etc.), fully funded by the state.

The state juvenile justice system, which actively operates, is noteworthy, albeit not without controversy. It cannot be denied that England takes a leading position in resolving issues related to the protection of the lives, rights, and freedoms of children, as the state addressed these problems more than 20 years earlier than Ukraine.

Although the practice of law enforcement in matters related to the removal of children from families is far from perfect, it is important to emphasize how much attention the state pays to the issue. Judicial authorities have often attempted to protect the interests of children rather than specifying the norms for child removal. However, in this case, the focus should be on the quality of implementing norms within the framework of juvenile justice. Not always the seemingly positive intention of removing a child from a family brings benefits to both the child and their family.

The juvenile justice system is also highly developed in Sweden, where a vast body of legislative acts on children, including those related to delinquency prevention, is in force. Moreover, Sweden can be regarded as a leader in state regulation of socially correct upbringing of minors since in 1979, Sweden became the world's first country to

ban physical punishment of children and declared such punishment a crime [6].

Decades later, in 1989, Sweden became one of the first countries to sign the UN Convention on the Rights of the Child, and a bit later, in 1993, Sweden established a special ombudsman institution. The purpose of this institution was the protection of children's rights. Furthermore, Sweden should be considered as an example not only because of its legal framework but also due to the presence of numerous organizations: BRIS (“Children's Rights in Society”), Friends, Save the Children Sweden, to which adolescents (including children) can turn for assistance when needed, actively engaging in the socialization of adolescents with deviant behavior to prevent them from committing offenses and crimes.

Another interesting practice in the field of child protection is found in France, which developed its system for protecting the rights and legitimate interests of children starting in 1945. This system has both organizational and legal aspects. Based on the content of certain legislative acts, the primary task of ensuring the protection of a child's rights lies primarily with their parents. For instance, the Civil Code of France stipulates that “...parental rights belong to the father and mother to protect the child's interests regarding their safety, health, and moral upbringing. They have the right and responsibility to protect the child, monitor their behavior, and be involved in their upbringing...” [4]. Furthermore, these exceptional rights cannot be transferred to third parties, and even parents cannot waive them.

It is important to remember that minors, due to their undeveloped mental capacity and awareness, cannot simply refuse, for example, an offer to try alcoholic beverages when such an offer comes directly from their parents. Therefore, France's positive practice indicates that the state is concerned about such situations, as evidenced by the implementation of organizational or legal measures only in such cases. The goal of France's legislation in this area is to preventatively protect children within the framework of “organizational protection” and safeguard their rights and life interests within the framework of “legal protection”.

In the first case, when families themselves recognize the problems they face and consent to assistance from prevention agencies. The second case concerns incidents where there is evidence of a dangerous situation for the child, including the commission of a criminal offense against the child.

In France, the primary document regulating the specifics of juvenile criminal responsibility and the application of penalties and other measures of a criminal law nature is Ordinance No. 45-174 of February 2, 1945, regarding offenses committed

by minors. This ordinance establishes that the upbringing (resocialization) of a minor who has committed an offense is more important than criminal sanctions and recognizes the right of juvenile offenders to education. The purpose of this law is to integrate young people into society, with their upbringing being supervised by correctional administrative services, which is a particular area of activity for the Ministry of Justice. It aims to prioritize the upbringing of minors over punishment. The court generally applies judicial protection, assistance, supervision, and education measures to minors, rather than penalties (Article 122-8) [10].

The Criminal Code of France stipulates that minors found guilty of committing criminal acts are subject to social assistance measures, supervision measures, and compulsory educational measures under conditions established by special law [1]. In France, a diverse range of forms and methods of educational influence on young offenders is employed, believing that this approach helps them discover themselves and find their place in life.

Juvenile justice in France encompasses all stages of justice, from investigation to the execution of educational measures or monitoring of juvenile offenders. The juvenile prosecutor is informed by the police of the arrest of a minor who has committed an offense. The prosecutor meets with the minor and communicates with the juvenile judge to decide on the further fate of the adolescent: whether to remove them from the family, place them under educational supervision, or temporarily detain them. All interrogations are recorded on video camera, and the presence of a lawyer is mandatory. At this informational stage, the judge invites the minor to their office, talks to them, and examines their life circumstances. For this purpose, the court has a special educational service (Service de la protection judiciaire de la jeunesse). Thus, within the Ministry of Justice, there are two structures: juvenile courts and the special educational service (SES), which implements the judge's decisions.

Educators visit homes, meet adolescents and their parents, and the adolescent attends a day center. Mandatory social support is provided only when the adolescent comes into contact with the justice system for the first time. If the adolescent resists educational measures, more severe sanctions, including imprisonment, may be applied. It is crucial to determine the effectiveness of educational measures before the judge makes a final decision. When ordering preliminary detention, the judge can, where it is possible, maintain family ties, including cohabitation. The judge can apply the following influence measures: supervision

over the minor, placement in a facility for minors, or imprisonment.

If the educational measures entail returning to parents, reprimands, compensation for damages, guardianship, educational guardianship, court-ordered protection, placement in an institution, etc., the Juvenile Judge should take all necessary actions to avoid punishment. Educational services at the court monitor the implementation of educational measures in an open environment (when the adolescent remains with their family but is placed under guardianship). They also provide supervision in cases of imprisonment and offer consultations to minors and their families.

It should be noted that many foreign countries use various forms and methods, including program regulation, in preventive activities. An example of such work can be the "Legal Education Program" developed by law enforcement officers in the state of Florida for use in both public and private schools.

The main objectives of the Program are as follows:

- Familiarize student-minors with criminal law norms and norms of responsibility for delinquent behavior;
- Instill in children intolerance for committing crimes and offenses;
- Familiarize minors with the values that have developed in society [5].

As part of the conducted work, minors are shown video segments with examples of the application of influence measures to offenders, and law-abiding behavior is promoted. In the United States, for example, there is a juvenile crime prevention program in which adolescents visit correctional facilities. Similar measures are taken to psychologically influence adolescents who have not yet embarked on a criminal path but have already exhibited deviant behavior (i.e., tendencies to commit offenses and crimes).

Among juvenile offenders, there are often gifted adolescents. In the United States, federal internment facilities are organized for talented criminals. These facilities house counterfeiters who created difficult-to-detect counterfeit dollar bills using computers and color printers, hackers who managed to breach complex security systems of American and international banks, and skilled producers of plastic cards for ATMs, among others. In federal internment facilities for talented criminals, the best professors in America conduct lectures. For example, Bill Gates, the chairman of Microsoft, delivers lectures to adolescents who committed "computer" crimes [3].

After completing three years of education at the internment facility, graduates are offered employment at the Pentagon under a contract.

Thus, delinquent gifted minors are redirected towards serving the interests of the state rather than undermining its principles.

Throughout the USA, the UK, Canada, and many European countries, the prevention of delinquency often involves the formation of contracts that regulate the exchange of positive incentives between two or more parties and establish clear norms of interaction during the pre-delinquent behavior stage. These contracts can be between a parent and a child, a teacher and a child. However, the effectiveness of such contracts is greatest when they are integrated into a multi-component prevention program [8]. This method of preventing delinquency gives no results if parents have lost control over the child or if the teacher lacks authority over the adolescent.

The most effective programs are those integrated into the school curriculum, encompassing not only pre-delinquents but also children with ordinary adaptive behavior. For example, American school programs include the study of the principles of the justice system. In the state of Arizona, classes are conducted in the form of a mock trial. Methodological recommendations have been developed, outlining the roles of a police officer working in the school, a counselor, and the students themselves. Among the students, roles are distributed, such as police officers, lawyers, prosecutors, witnesses, jurors, judges, journalists, and court secretaries. The accused is usually played by a police officer whom the students have never seen before. The school police officer oversees the role-play. The preparation for this activity takes from 3 to 5 weeks, but the investment in time is justified. Students who study the basics of the justice system using this method have a much deeper understanding of the material than those who learn this subject from a textbook [11].

In Los Angeles, there is a program where adolescents with pre-delinquent behavior visit correctional facilities. Adolescents visit a police station, pre-detention cells, a prison for juvenile offenders, and a morgue. The impressions received from such "tours" have a restraining effect and create a desire not to end up there. Parents of adolescents give a written consent for their child to participate in such a program [12].

In Japan, local centers for juvenile affairs have been created and successfully operating since 1980 in small towns and villages, numbering around six hundred in total. Each center provides assistance to adolescents who find themselves in difficult life situations, warning against wrong impulsive decisions. The activities of the staff at these centers are aimed at identifying children and adolescents who are avoiding schooling [2].

To achieve this, staff members take turns patrolling in civilian clothing and observe adolescents in the streets, in gaming arcades, cinemas, supermarkets, and so on. They must learn. By talking to such adolescents to determine the reason for their absence from school, the staff member decides what action to take: to return them to classes, to bring them to their parents, or to detain them for further investigation.

One of the functions of the center's staff is to provide necessary assistance to parents in the form of recommendations on raising adolescents. Voluntary police assistants are involved in such city patrols. The combined efforts of the police, schools, and the community give positive results.

Western scholars Andrews, Bonta, and Hodgson [8] conducted an analysis of existing programs for preventing delinquent behavior among adolescents. Three factors that may prove crucial for achieving successful results are the location of preventive interventions, targets, and change models. The first factor (locations) is related to successful educational activities that involve systematic work rather than conducting another campaign. It is within schools where socio-pedagogical technologies oriented towards individual delinquency prevention are introduced, making preventive work with adolescents highly effective. The second factor of effectiveness is the selection of the correct goal for preventive intervention, which requires the involvement of professionals in psychology, pedagogy, and medicine. Identifying the endogenous causes of delinquency is usually beyond the capacity of law enforcement officials, so prevention primarily takes into account external socio-economic factors, the connection of which with the commission of a specific type of crime may be very weak.

An issue of paramount importance is the change model, which is the third factor of prevention success. The change model should underlie such work and be based on the theory of criminal behavior. It should focus on characteristics that are likely to mediate criminal behavior, such as personality traits.

Conclusions. Summarizing the analysis of foreign experience in preventing delinquent behavior, several promising directions that can be adapted and used in domestic work with delinquent adolescents can be identified. The first direction is the implementation of new socio-pedagogical and socio-psychological technologies that have proven their capability and effectiveness over many decades. The second direction involves identifying gifted delinquents, developing their abilities, and redirecting their personal meanings. The third direction is early socio-pedagogical prevention of delinquent behavior

in children from disadvantaged families. The fourth direction is educating special subjects in the prevention system, both within law enforcement agencies and outside of them but with the involvement of the police. Therefore, when considering the issue of preventing and averting administrative offenses committed by minors, it is essential to acknowledge the desirability of using program-target regulation, as it is nearly impossible to codify the entire spectrum of relationships between adolescents and society that can lead to deviant behavior as legal norms. This approach is vital for both entities involved in preventive activities and minors who serve as the objects of preventive influence, as it provides essential guidance for their activities and functioning, which is particularly important for the implementation of “non-legal” forms of prevention.

Ukraine also has positive experience in implementing various programs, including programs for preventing offenses committed by underage individuals. Thus, it is undeniable that international experience should be taken into account. Still, concerning the prevention and deterrence of minor offenses in Ukraine, the focus should be mainly on addressing the specific problematic aspects of prevention in our country, taking actions that consider the specificity of Ukrainian society.

REFERENCES:

1. Кримінальний кодекс Французької Республіки. Київ : ОВК. 2019. 348 с.
2. Попова Ю. С. Досвід Японії у профілактиці правопорушень серед неповнолітніх. *Сучасний науково-педагогічний дискурс окреслення і вирішення соціальних питань: XXIII Всеукраїнська науково-практична конференція: тез. доп., м. Миколаїв, 20 листопада 2020 р. ЧНУ ім. Петра Могили. Миколаїв. 2020. С. 50–53.*
3. Савіна Н.Н. Іноземний досвід запобігання деліквентної поведінки підлітків. *Освіта і наука*. 2008. № 3 (51). С. 75–83.
4. Захватаєв В. Н. Цивільний кодекс Франції (Кодекс Наполеона); Передмова; пров. з франц., Додатки В. Н. Захватаєв. Київ : Алерта, 2016. 1156 с.
5. Щербинський К.С. Зарубіжний досвід протидії злочинності неповнолітніх. *Сучасна європейська поліцейстика та можливості її використання в діяльності Національної поліції України* : зб. тез доп. учасників міжнар. наук.-практ. конф. (м. Харків, 11 квіт. 2019 р.). МВС України, Харків. нац. ун-т внутр. справ. Харків : ХНУВС, 2019. С. 260-262.
6. Children in Sweden. URL: <https://sweden.se/society/children-and-young-people-in-sweden/> (Last accessed: 05.10.2023)
7. Crime and Disorder Act 1998. URL: <https://www.legislation.gov.uk/ukpga/1998/37/contents> (Last accessed: 05.10.2023)
8. Farrington D.P., Loeber R., Van Kammen W.B. Long-term criminal outcomes of hyperactivity-impulsivity-attention-deficit and conduct problems in childhood. *Straight and devious pathways from childhood to adulthood* / Eds. Robins L.N., M. Rutter. Cambridge: Cambridge University Press, 1990. P. 62–81.
9. Minimum Rules for the Administration of Juvenile Justice (Beijing Rules). URL: https://www.un.org/ru/documents/decl_conv/conventions/beijing_rules.shtml (Last accessed: 05.10.2023)
10. Ordonnance N 45-174 du 2 février 1945 relative à l'enfance délinquante. URL: <http://www.legifrance.gouv.fr> (Last accessed: 05.10.2023)
11. Skinner B.F. A matter of consequences. N.Y. 1983. 441 p.
12. Tremblay R. E., Craig W. M. Developmental crime prevention. *Building a safer society: Strategic approaches to crime prevention* / Eds. Tonry M., Farrington D.P. Chicago : The University of Chicago Press, 1995. P. 151–236.
13. Young Witness Initiative. URL: <https://www.cps.gov.uk/youth-crime> (Last accessed: 05.10.2023)