

Social and Preventive Impact of Other Criminal Measures

Elena Valeryevna Provodina^a and Oksana Yuryevna Krasovskaya^b

Saratov State Law Academy, Criminal and Criminal Executive Law Department, Saratov, Russia

Keywords: Social prevention, other criminal measures, security measures, criminal mechanisms, crime.

Abstract: The institution of other criminal measures (security measures) is intended to influence the perpetrators, as well as vulnerable persons inclined to commit socially dangerous acts, in order to prevent the misdoing. The research of this institution in the aspect of its social prevention meets the modern needs of society, since it allows the implementation of criminal preventive mechanisms, taking into account the needs of the social nature of a person. The goal of the research is to identify the features of social prevention, formed by the use of other criminal measures, and the task is to research the social aspects of the criminal mechanism for protecting the interests of the individual, society and the state. The work used scientific methods of comparative legal and structural analysis, as well as generalization and social analysis, which made it possible to identify and substantiate the content of social prevention implemented by the criminal preventive mechanism as a combination of legal and social phenomena. Such a prioritization in the light of changing social relations contributes to a correct assessment of all legislatively provided means of impact and contributes to an increase in the preventive potential and applied criminal mechanisms, which determines the practical and theoretical significance of the research.

1 INTRODUCTION

Changes in public relations entail regular updating of the entire legislative framework, despite the fact that “For companies, it is important that the strategies used in their operations are bound by the ethical standards of stakeholders, which are law, policies and procedures, as well as moral standards of employees. In fact, the law is defined for society as a whole of actions that are permissible or not. It merely establishes the minimum standard of behavior» (Gheraia, 2019).

In conditions when “the environmental and social consequences of human economic activity have been receiving growing attention” (Escher and Brzustewicz, 2020), “... special attention should be paid to the mechanisms that guarantee the exact implementation of the requirements of the legal and regulatory framework” (Provodina, 2020), appropriate adaptation of the means and methods of social management is required. The mechanisms intended to influence the person committed a socially dangerous act should no longer

be based on the rigidity and severity of the measures applied, but should be based on an assessment of human nature, and be within the legal boundaries.

At the same time, the state is called upon to ensure compliance with legislation (Sergeenko, 2020). So, the Criminal Code of the Russian Federation already has such an institution - other criminal measures, known to foreign legislation as security measures. Its content is fully consistent with modern trends in the society development, when imprisonment in foreign studies has long been considered an extreme and not the most effective measure (Bottoms, 2004), and domestic scientists insist on a broader application of its measures as an alternative to imprisonment (Zvonov, 2020). “The era of physical coercion in Western European criminal legislation is gradually giving way to the era of coercion of a different kind: rather not mental, but psychological and physiological, but not in terms of effect on the convict's psyche due to the severity of the measures taken, but in terms of the influence on consciousness, which does not have choice under the implemented methods. And if in domestic law this is negligible (although it is only a matter of time), then the West

^a  <https://orcid.org/0000-0002-0683-7317>

^b  <https://orcid.org/0000-0001-9792-8849>

(in its most progressive variations) has been actively experimenting in this direction for a long time” (Bavsun, 2020). The development of biotechnologies, the focusing in governance of society on the person consciousness actualizes the research of this institution with regard to the peculiarities of its social nature, which make it possible to achieve real retention of an individual from committing new socially dangerous acts in the vein of modern needs of society.

The social nature of other criminal measures is determined by a special type of social prevention, implemented within this mechanism, based simultaneously on two factors: legal and social. Where the legal one is associated with the application of the means and provisions provided for by the Criminal Law, and the social one - with the economy of repressive measures noted in science (Minyazeva, 2016). This economy of repressiveness makes it possible to exert a preventive effect on a person who has committed a socially dangerous act, keeping him from committing new socially dangerous acts and minimizing harmful, negative consequences (occurring in the event of a punishment) that determine his social status and in many respects further opportunities for self-realization in society.

The prevention of criminal encroachments on the legally protected interests of the individual, society and the state in the information world presupposes, first of all, the correction of the system of values that contributed to their fulfillment. Therefore, such "... the prevention is necessary in order to minimize the level of crime that will occur" (Wibowo, 2020), due to which it is important that the means used can affect human consciousness without resorting to extreme methods unnecessarily, forming the opposite result.

Prevention, as a social phenomenon formed within the criminal preventive mechanism associated with the use of other criminal measures, the object of its influence is the consciousness and will of the person in terms of the properties that contribute to antisocial behavior. The specificity of keeping an individual from committing new socially dangerous acts, as a result of other measures mechanism, is characterized by a moderate effect on consciousness and will, requiring specific adjustments, since "... a person, being a bearer of consciousness and will, "passes" any objective factors through these properties inherent to him by the definition. Consequently, for some people this or that social factor may be decisive (i.e., capable of serving as a reason for their behavior), for other individuals it may not be of fundamental importance" (Razgildiev, 2020). It follows from the above that when choosing

options for behavior, the decisive importance belongs to personal properties and qualities, which means that in the conditions of an actually committed act of antisocial behavior, it is these properties that should be and are subject to social prevention through criminal mechanisms with the use of other measures. This vision of the social aspects of criminal law is backed by the scientific association of criminal behavior with social disorder (Kaur, 2017) and as antisocial behavior in need of treatment (Prevention and Treatment of Anti-Social Behaviour, 1943).

The scientifically substantiated relationship of behavioral features and human individuality (Prevention and Treatment of Anti-Social Behavior, 1943) proves that the consciousness and will of the individual should be subject to imperative preventive action only in a separate part of it, the established properties and qualities, passing through which the factors existing in objective reality, contribute to the destructive behavior.

It seems that, taking into account the above judgments, the object of prevention, formed through the functioning of the mechanism of other criminal measures, is consciousness in terms of the properties responsible for destructive behavior and in need of moderate correction. In addition, the object of the presented type of prevention as part of a social phenomenon should be attributed to social aspects. The need for strictly differentiated solutions on the way to achieving the tasks of criminal legislation requires a subtle psychological correction of the existing values of an individual who has committed an antisocial act (misconduct), which is not always possible to achieve through the use of such severe measures as punishment.

The peculiarity of the presented type of prevention is determined by the specifics of the flaw in the person's properties, which manifested itself outside, i.e., revealed itself as the fact of a complete encroachment on the benefits protected by law.

Such a need predetermines the analysis of legislative provisions not only in terms of their legal structures and compliance with legal techniques, but as a phenomenon that directly affects a person, addressed to his consciousness and will, and ultimately forms a social result. Only the exceptional appropriateness of the selected measures of state coercion (and not the fact of their application) contributes to its achievement. And in this sense, the presence of the institution of other criminal measures in the criminal legislation, combining imperativeness and moderate repressiveness, are capable of exerting the necessary degree of influence on the properties of consciousness of an individual who has committed a

socially dangerous act. Only in this case, preventive criminal mechanisms will fulfill their social function and work for the future and prevention of criminality and crimes, and not be a measure of banal retaliation, which corresponds to the vein of the society development concept.

Wherefore, the goal of this work is to identify the features of social prevention, formed through the functioning of a preventive mechanism with the use of other criminal measures in the context of modern development of society.

According to the set goal of the work, its tasks are to research the social aspects of the criminal mechanism for protecting the interests of the individual, society and the state, formed through the use of other criminal measures that constitute its social nature, which corresponds to the concept of a "model of social prevention".

2 MATERIALS AND METHODS

The materials for a robust analysis of the topic were data referenced to the nature of law and established the relationship between social behavior of people and legal regulations (Gheraia, 2019; Escher, 2020), where, among other positive legislative provisions, special attention is paid to the analysis of mechanisms that guarantee their observance (Provodina, 2020). In addition, the views of both domestic and foreign researchers on the effectiveness of imprisonment and alternative options for its use were analyzed (Bottoms, 2004; Zvonov, 2020). In the context of intensive scientific and technological progress, the works of the authors devoted to the analysis of the legal ideas of modern society, taking place in the comparative plane of Russian and foreign law enforcement practice, have a noticeable value (Bavsun, 2020).

The basis for assessing the social nature of the institution of other criminal measures was the research of domestic Russian scientists (Minyazeva, 2016).

In view of the study of the social prevention problem, formed by criminal means, the works that raise the issues of preventive impact and its aspects were analyzed. (Wibowo, 2020; Razgildiev, 2020; Kaur, 2017).

In solving argumentative issues related to the practical significance and functioning of social prevention, performed by other criminal measures, the authors' researches on the problem of the need for special knowledge in a wide range of sciences, including psychiatry, psychology, psychogenetics,

etc., were assisted. (Rossinskaya, 2001; Ovchinsky, 2005).

A special contribution to the author's research conclusions was made by works on the logic of risk management (Tagarev, 2020).

When developing the provisions obtained as a result of the research, well-known scientific methods were widely used: comparative legal analysis, the method of structural analysis, generalization and social analysis.

3 RESULTS AND DISCUSSION

Social prevention is an integral part of the criminal mechanism formed by other measures, aimed directly at correcting the properties of consciousness that contribute to the choice of deviant behavior. In terms of its content, social prevention is a manifestation of the social essence of the specified criminal mechanism, that is, its content is formed not by legal, criminal elements, but concerns the social aspects of their implementation. This refers to a direct impact on the value system of an individual who has committed a socially dangerous act, usually requiring moderate adjustment. In this regard, the possibility of using responsibility mechanisms formed by security measures that are less repressive and allow avoiding the more severe consequences of criminal impacts, speaks of the high moral ideals manifestation that meet the needs of modern society and the social human essence.

In this regard, for the full implementation of criminal mechanisms in line with their provision of the criminal legislation tasks, their application should meet the following requirements:

- the formed model of the preventive impact of antisocial behavior, performed by other criminal measures, is a specific direction of prevention provided within the imperative branch of law, and is a manifestation of the social essence of the criminal preventive mechanism, which corresponds to the ideas about its social aspects;
- the content of the model under consideration is not the elements of the criminal mechanism, but its aspects, characterized as the properties of an individual, in combination with social factors that contribute to the choice of antisocial behavior and objectively needing moderate correction;
- in this regard, the concept of a social model of prevention performed within the criminal mechanisms is as follows: this is the directed

impact of the actual circumstances (i.e., tense social climate) resulting from the application of security measures (other criminal measures) in relation to an individual who has committed a socially dangerous act, to the properties and qualities that have formed in him, which contributed to the commitment of a socially dangerous behavioral act;

- the specificity of the formed properties of an individual determines the use of non-specific criminal protective mechanisms (compositions) formed within the criminal legislation that provide for specific types of punishments in sanctions, but forces the law enforcement body to turn to other criminal measures that differ in nature and principles of impact from the said institution.

The research draws attention to the need to mobilize law enforcement practice, taking into account the full legislative potential. The proposed approach, based on the social aspects of legal phenomena, such as criminal mechanisms formed through other criminal measures, based on the application of which is the identification and assessment of specific personality traits that contribute, under the prevailing circumstances, to the commission of socially dangerous acts requiring usually a moderate correction. At the same time, the implementation of the proposed approach in practice may encounter some difficulties; another problem arises: "... Research is needed using special legal knowledge that the investigator and the court do not possess" (Rossinskaya, 2001). However, statements by Russian criminologists about the inadmissibility of ignoring the results of the biotechnological revolution, about the need for criminologists to master the latest knowledge in the field of psychiatry, psychology, psychogenetics and other natural sciences (Ovchinsky, 2005) testifies that the problem extends far beyond the boundaries of jurisprudence and, when appropriate measures are prescribed, requires special knowledge in the listed areas. Which leads to a rethinking of the mainstay of human nature understanding, including his criminal behavior (Ovchinsky, 2005) and the formation of a meaningful approach to the legal constructions implementation, taking into account social aspects, the criminally social danger of a person, determined under the identifying properties that contribute to the commission of a socially dangerous act, with the aim of their further correction through a corresponding choice of measures for this, can increase the branch of law opportunities in the field of crime prevention. The public danger of a person who has committed an

unlawful act is always accompanied by the risks of its repeated commission. The risks are due to the vulnerability of human consciousness. In the light of the concept of the society development, "... the logic of risk management... is to reduce the likelihood of occurrence of concrete hazard (where possible) and to limit its consequences through eliminating vulnerabilities..." (Tagarev, 2020).

In this case, we are talking about the danger of committing a new antisocial behavioral act due to the vulnerability of part of the properties of human consciousness under the social circumstances. Wherefore, when choosing preventive measures, one should proceed from the fact that "First, the information, analysis, and evaluation of hazards, vulnerabilities, and risks are the key factors of crisis management decision... Second, measures to put the hazards, vulnerabilities, and risks under maximum possible control are or should be undertaken throughout all preparatory and operational functional areas, with the overall aim to strengthen the community resilience" (Tagarev, 2020). With regard to the problem under consideration, this means that the main factors in choosing the means of state response should be the analysis and assessment of personality traits that cause the risks of repeated antisocial behavior, and it is also necessary to be aware of the full range of criminal means and methods in order to establish control and strengthen social sustainability. Only the combination of these requirements will provide an appropriate choice of criminal measures aimed at strengthening social and behavioral resilience.

4 CONCLUSIONS

Summarizing the results of the research, we conclude that the criminal mechanisms formed through the application of security measures harmoniously correspond to the needs of modern society, combine the corresponding requirements, the main of which is the presence of moral principles. The existence in the imperative law of an institution that combines rigor and humanity is a manifestation of high moral ideals: on the one hand, we are talking about the impact within the criminal and criminal procedure law, sufficient and necessary to achieve the tasks set, on the other hand, about loyal consequences as compared with punishment.

The knowledge gained makes it possible to characterize social prevention, implemented through criminal preventive mechanisms with the use of security measures, as an independent type of

prevention performed within the imperative industry. The peculiarity of social prevention forms a set of legal (the norms of the criminal law on other criminal measures and the provisions under and in accordance with which they are applied) and social (moderate repressive impact on the vulnerable properties of the consciousness of an individual subject to social circumstances to commit a crime) phenomena.

One of the foundations for building all the mechanisms that ensure the security of society in the context of its rapid development should be the ability to prevent, not respond to problems.

The risks of committing new socially dangerous acts due to the vulnerability of human consciousness should be taken into account when applying other criminal measures (security measures) in order to minimize them.

Based on the foregoing, in order to modernize and update the approach of law enforcement practice in the vein of compliance with the stated trends in the modern society development, taking into account biotechnological breakthroughs and the associated shift in emphasis towards methods of peremptory impact on human consciousness, in order to correctly assess the degree of its vulnerability, it is necessary to involve specialists of the appropriate profile in each case.

The formation of such an approach will allow to optimize social prevention, performed through security measures, and significantly increase the criminal preventive potential.

REFERENCES

- Gheraia, Z., Saadaoui, S., Abdelli, H.A., 2019. Business Ethics and Corporate Social Responsibility: Bridging the Concepts. *In Open Journal of Business and Management*. 7. pp. 2020–2029.
- Escher, I., Brzustewicz, P., 2020. Inter-Organizational Collaboration on Projects Supporting Sustainable Development Goals: The Company Perspective. *In Sustainability*. 12(12), pp. 4969.
- Provodina, E.V., Krasovskaya, O.Yu., Gerasimova, T.A., Predeus, Yu.V., Tserpento, D.P., 2020. Features of the formation of environmental protection mechanisms during the operation of objects of the electric power complex. *In IOP Conf. Ser.: Mater. Sci. Eng.* 976. pp. 012018.
- Sergeenko, Yu.S., Galkina, O.V., Zametina, T.V., Kombarova, E.V., Petrov, D.E., 2020. Digitalization of Safety in the Field of Labor Protection. *In IOP Conf. Ser.: Earth Environ. Sci.* 543. pp. 012001.
- Bottoms, A., Rex, S., Robinson, G., 2004. *In The book, Alternatives to Prison*. pp. 456 p.
- Zvonov, A.V., Savin, A.A., 2020. Improving the mechanism of using coercive medical measures associated with punishments without isolation from society: from sentencing to exemption from sentence. *In Russian Journal of Criminology*. 14(5). pp. 735–744.
- Bavsun, M.V., 2020. Problems of determining the contents of the subject and method of criminal law within the current concept of the development of public relations. *In Russian Journal of Criminology*. 14(4). pp. 570–580.
- Minyazeva, T.F., Serebrennikova, A.V., Abdikarim, A., 2016. Security Measures: Legislative Regulation in Russia and Abroad. *In Gaps in the Russian legislation*. 2. pp. 116–124.
- Wibowo, A.H., Oesman, T.I., 2020. The comparative analysis on the accuracy of k-NN, Naive Bayes, and Decision Tree Algorithms in predicting crimes and criminal actions in Sleman Regency. *In J. Phys.: Conf. Ser.* 1450. pp. 012076.
- Razgildiev, B.T., 2020. Problems of Crime Prevention Concept. *In Saratov State Law Academy Bulletin*. 5(136). pp. 194–201.
- Kaur, S., 2017. *In International Journal of Advanced Research in Computer Science*. 8. pp. 1336–1342.
- Prevention and Treatment of Anti-Social Behaviour. *In Nature*. 151. pp. 9–11.
- Rossinskaya, E.R., 2001. Special knowledge and modern problems of their use in legal proceedings. *In Journal of Russian Law*. 5. pp. 32–43.
- Ovchinsky, V.S., 2005. Criminology and Biotechnology. *In Journal of Russian Law*. 1(97). pp. 82–97.
- Ovchinsky, V.S., 2005. Criminology and Biotechnology. Moscow: Norma. pp. 192.
- Tagarev, T., Ratchev, V., 2020. A Taxonomy of Crisis Management Functions. *In Sustainability*. 12(12). pp. 5147.