

УДК 343.9

V. V. Holina,

Doctor of Legal Sciences, Professor,
Associate Member, National Academy
of Legal Sciences of Ukraine

CRIMINOLOGICAL POLICY OF THE STATE: PRESENT AND FUTURE

In the scientific article the theoretical and practical questions of criminological policy are researched, the list of its essential features is given, the author's definition of criminological policy is given. In addition, it is emphasized that the methods of preventive impact are the basis of criminological strategies and theory of crime prevention is the scientific base of the criminological policy. Prospects of the further development of criminological policy in Ukraine is described.

Key words: *criminological policy, criminological strategies, crime prevention.*

Criminological policy is one of the levels of State policy in combatting criminality. It must note at once that in foreign and in Ukrainian doctrinal writings there are virtually no theoretical studies devoted to criminological policy. Most often it is considered as an element of the integral aggregate of directions of combatting criminality and as a separate element of a broad understanding of criminal policy.

In the works of leading Russian and Ukrainian criminalists (D. A. Dril (1885), I. Ia. Foinitskii (1889), and M. I. Chubynskyi (1905), and others) criminal policy is analyzed solely on the conceptual plane as a branch of criminal law science which, unlike dogmatic science, that is, criminal law, elaborated its recommendations for practice on the basis of studying the etiology of criminality, the state thereof, effectiveness of law-application activity, and so on¹. Chubynskyi wrote that criminal policy is a scientific discipline which should illuminate the path of the criminal legislator² and consists of three orientations for combatting

¹ I. N. Danshyn, «Кримінальна політика: за і проти» [Criminal Policy: For and Against], Право України [Law of Ukraine], no. 8 (1992), p. 31.

² М. Р. Chubynskyi Очерки уголовной политики (понятие, история и основные проблемы уголовной политики, как составного элемента науки уголовного права) [Survey of Criminal Policy (Concept, History, and Basic Problems of Criminal Policy as Constituent Element of Science of Criminal Law)]

criminality: criminal legislation prevention policy, and policy of repressions (chastisement policy).

A similar notion of criminal policy, but under a different name and with certain textual additions, is shared by some Ukrainian criminologists. The phrase "criminal policy" they use as a generalizing term of a specific orientation of State policy in the sphere of combatting criminality, and as a general theory of combatting criminality consisting of four or more elements. Criminal policy is defined as activity of the State and general public which arises from objective natural laws of the development of society, is provided for and substantiated in scientific theories, law, and legal practice, and consists of the selection of a strategy, principal orientations, and various social and legal grounds, forms, means, and methods of overcoming criminality and preventing crimes; the establishment and realization in compliance with respective procedures of criminal responsibility; the reform of convicted persons. This policy represents a system of four elements in functional dependence with one another and interaction between themselves: (1) criminal law policy; (2) judicial and criminal procedure policy; (3) penal; and also (4) criminological policy³.

In our view, criminal policy is highly diverse in content. It includes the collection of criminological information and forecasting on the basis thereof of trends in the development of criminality as a whole and individual types thereof; the development of State general social and special criminological programs for combatting them; and the establishment of the grounds for criminal responsibility and stimulating positive legal responsibility, and also the timely and substantiated criminalization and decriminalization, penalization and depenalization of unlawful acts; and the forming of law enforcement and law-application agencies, determination of their competence and forms of activity, creation of conditions for the effectuation thereof with results; and correctional-educational work with

(Kharkov, 1905), p. 85.

³ *Chubynskyi*, Курс уголовной политики [Course of Criminal Policy] (2d ed.; St. Petersburg, 2011), p. 52.

persons drawn into the orbit of criminality, and so on⁴. Belkin and, after him, Zelenetskyi included within the subject-matter of the general theory of combatting criminality also branches of knowledge such as legal statistics, theory of operational-search activity, criminalistics, theory of administration, and others⁵.

Well-known criminologists and contemporary researchers of criminal policy incline towards this position. In their view, policy in the sphere of combatting criminality is realized in the activity law enforcement agencies on the basis of norms of individual branches of law, each of which has its own specific nature, and leaves a certain imprint on the forms and methods of effectuation. Therefore, on the theoretical plane this provides a basis for singling out policy in the sphere of combatting criminality as an integral socio-regulatory system of the individual subsystems, or elements, thereof — criminal law, criminal procedure, penal, and criminological policies⁶. Somewhat transcending realities, Fris defines policy in the sphere of the struggle against criminality as a general line already developed by the Ukrainian State which determines the basic orientations, purposes, and means of impact on criminality, the paths of forming criminal, criminal procedure, and penal legislation, regulation of the practice of the application thereof, and also developing and realizing measures directed towards the prevention of crimes⁷. And this in conditions when discussions are proceeding in Ukraine with regard to renewal of the Criminal Code of Ukraine and the Penal Code had not yet been

⁴ *Danshyn*, «Кримінальна політика: за і проти» [Criminal Policy: For and Against], *Право України* [Law of Ukraine], no. 8 (1992), p. 30. An analogous position is taken by A. N. Korobeev, A. V. Uss, Iu. V. Holik, S. S. Boskholov, M. M. Melnyk, O. M. Lytvak. See A. N. Korobeev, et al., *Уголовно-правовая политика: тенденции и перспективы* [Criminal Law Policy: Trends and Prospects] (Krasnoarsk, 1991), p. 7; S. S. Boskholov, *Основы уголовной политики: Криминологический, уголовно-правовой и информационный аспекты* [Fundamental Principles of Criminal Policy: Criminological, Criminal Law, and Informational Aspects] (Moscow, 1999), p. 32; M. I. Melnyk, *Антикримінологенна політика* [Anti-Criminogenic Policy], *Енциклопедія сучасної України* [Encyclopedia of Modern Ukraine] (Kyiv, 2001), I, pp. 547-548; O. M. Lytvak, *Державний вплив на злочинність. Кримінально-правове дослідження* [State Impact on Criminality. Criminal Law Study] (Kyiv, 2000), p. 54; and others.

⁵ R. S. Belkin, *Курс советской криминалистики* [Course of Soviet Criminalistics] (Moscow, 1997), I, pp. 73-74; V. S. Zelenetskyi, *Общая теория борьбы с преступностью* [General Theory of Combatting Criminality] (Kharkov, 1994), I, pp. 75-76.

⁶ A. P. Zakaliuk, *Курс сучасної криминології: теорія і практика* [Course of Contemporary Ukrainian Criminology: Theory and Practice] (Kyiv, 2007), III, p. 382; P. L. Frys, *Нарис історії кримінально-правової політики України* [Outline History of Criminal Law Policy of Ukraine] (Kyiv, 2005), pp. 8-9.

⁷ Frys, *Нарис історії кримінально-правової політики України* [Outline History of Criminal Law Policy of Ukraine] (Kyiv, 2005), pp. 10-11.

adopted requires certain changes of penal legislation and the practice of its realization, and there is no theoretical elaboration of the fundamental principles of criminological policy, and so on. Moreover, as noted in doctrinal writings, the practice of State policy of a specific historical society as a special element of social reality is limited and constantly must be interlinked with cognitive-theoretical activity, which through certain scientific knowledge influences social practice in general and certain political relations in individual spheres of the life of society in particular. Only the dialectical interaction of theory and practice are a prerequisite for their success⁸.

There are individual statements, however, of scholars that criminal law, and the more so criminal policy, should be autonomous orientations in combatting criminality by means of repression in the State because criminal policy is incompatible with real democracy and human rights. The planned counteraction against criminality they link with criminological policy (A. F. Zelinskyi). Some scholars believe that criminological policy is a scientifically-substantiated strategy and tactics for the prevention of criminality when the assistance of systems of prophylactic measures of a special criminological character, and also by means of averting specific crimes and the elimination thereof. Unlike criminal policy, criminological policy does not provide for the publication and application of criminal laws. Prevention always has an active, assertive character, but is orientated not towards repression, but towards a reduction of the sphere of the application of measures of coercion. A policy of the prevention of crimes is realized on the basis of criminological forecasting and planning by taking into account the social and economic situation, which is constantly changing. Other researchers imagine criminological policy as a system which interrupts links (a) of the forming and functioning of criminogenic processes in society; (b) between these processes and forming of the personality, and (c) between the person and the

⁸ V. V. Denisov, «Проблема диалектического единства теории и практики в контексте современной эпохи» [Problem of Dialectical Unity of Theory and Practice in the Context of the Modern Epoch], *Философия и общество* [Philosophy and Society], no. 2 (2002), pp. 74-88.

situation of committing a crime⁹.

One can hardly enter into a polemic with certain aspects of the statements of the scholars. One need merely note that, first, criminal law policy has always existed in any State. The many-centuries history of mankind is testimony to this, including today. The statement of the German criminalist, F. von Liszt, has not lost its topicality, according to whom the best criminal policy is the best social policy. Second, criminological policy also exists. It is, using the words of Montesquieu, the spirit of the social policy of the State. Third, criminological policy is a broader concept than the prevention of criminality. A criminological policy is a distinctive ideology under whose influence the forms, tasks, and content of the activity of the State in the sphere of non-repressive orientation of combatting criminality are developed.

A criminological policy is thus an integral part of State domestic social policy which, in accordance with the 1996 Constitution of Ukraine and knowledge integrated by criminological science, determines the basic methodological foundations and ways by which the State is guided when effectuating non-repressive counteracting of criminality and manifestations thereof. Criminological policy acts as the unity of:

- the State conception of counteracting criminality expressed in respective directive acts (laws, decrees, edicts of the President of Ukraine, programs, plans) and so on;
- the scientific criminological theory of the prevention of criminality;
- a special type of activity the State, agencies thereof, general public directed towards the effective counteracting of criminality as a social phenomenon and individual varieties thereof.

⁹ P. L. Fryz, Теоретические основы предупреждения преступности. Нарис історії кримінально-правової політики України [Theoretical Foundations of the Prevention of Criminality: Outline History of Criminal Law Policy of Ukraine] (Moscow, 1977), p. 31; S. Iu. Lukashevich, Сучасна політика держави щодо протидії злочинності [Contemporary Policy Against Criminality], in V. Ia. Tatsyi (ed.), Проблеми законності [Problems of Legality] (Kharkov, 2007), vol. 88, p. 151.

Criminological policy, consequently, is not only the aggregate of planned measures but also, speaking figuratively, an ideological generator which enhances a safe "tension" in society, forms a social tolerance and respect for social values, and accumulates so-called "social capital" (public order, confidence, honor, and others). In the words of Babaev, whereas criminal policy combats evil, punishing for evil, criminological policy introduces good, teaching good¹⁰.

Terminology and Conception

The term "conception" is understood as a system of views or concepts concerning particular phenomena; a means of the consideration of any phenomena or understanding of something; a leading theoretical principle or normative formula¹¹. A conception is a doctrine proper in which political will of the State, its intentions and decisive actions, are set out transparently and precisely. Power is the basic, organizational, and regulatory-controlling commencement of policy. Power, undoubtedly, represents a means of effectuating policy. Therefore, a conception of non-repressive counteracting of criminality should emanate as a directive act from the highest authoritative structures by which all agencies of power, administration, and self-government are guided from the top downwards. The content of a conception of criminological policy may be various but, it seems, it is essential to follow a determined structure of text, which enables the basic provisions and intentions of power to be set out.

The obligatory sections of a Conception of criminological policy (if it is created as a separate directive act) should be as follows:

— determination of the problem for whose resolution the Conception is directed. The acuteness of the problem should be noted. The modern understanding of the nature of criminality and manifestations thereof and social destructiveness of this phenomenon, the

¹⁰ М. М. Бабаев, «О соотношении уголовной и криминологической политики» [On the Correlation of Criminal and Criminological Policy], in Проблемы социологии уголовного права [Problems of Sociology of Criminal Law] (Moscow, 1982), p. 12.

¹¹ / V. Lekhin, S. M. Lokshina, et al. (eds.), Словарь иностранных слов [Dictionary of Foreign Words] (6th ed.; Moscow, 1964), pp. 225, 311.

existence in the State of real means of impact and the results thereof, the level of resource provision, the sources thereof, the objective and subjective obstacles on the path of increasing the effectiveness of the system of counteracting criminality, and others. This important section should be maximally candid socially;

– an analysis of the causes of problems arising and a substantiation of the need to adopt the particular Conception in order to resolve them. It is desirable to openly name the basic causes and conditions of certain trends of criminality and those negative socio-psychological phenomena which generate this or active promote the manifestations thereof;

– the purpose of the Conception. The purpose of a Conception is the creation of a legal base and determination of scientifically-substantiated complexes, and organizational-administrative ways for the development of existing and the introduction of additional measures of counteracting criminality which enable, for example, the level to be materially reduced in the future and the structure weakened of all criminality and individual manifestations thereof, the security of citizens to be enhanced, and the protection of their rights, freedoms, and legal interests;

— the location of the optimal variant of resolving the problem on the basis of a comparative analysis of proposed possible variants. Reference may be to the improvement of the existing system of non-repressive counteracting of criminality, the administration and coordination thereof, or the reformation of the system in the direction of a principled renewal of approaches to the preventive impact on criminality. Of the existing variants, the conceptual is that whose fulfillment the State and its institutes are in a position to ensure. Combatting criminality, especially the prevention thereof, cannot have an opportunistic voluntarist character (as was true before) or create an imitation image of such combatting, as sometimes happens now (for example, combatting corruption);

— the principles, strategy, and methods of resolving problems.

A principle is the basic point of departure for some theory, doctrine, and so on; a guiding idea, a basic rule of activity; a conviction intime, view of things which determines a norm of behavior; requirements from which there is no derogation¹². In criminological doctrinal writings the question relating to principles of criminological policy are not specially considered, although some remarks exist on this matter. There are relegated to principles of criminological policy: the planning and precise coordination of combatting criminality on various levels; the priority significance of criminological-preventive activity; active participation of the general public in combatting criminality; combining measures of State and public impact; humanity¹³. Among the principles or requirements with regard to organization and administration of the process of preventing criminality, and also the measures of prevention, are: democracy, humanity, legality, conformity of criminological policy to other elements of policy in the sphere of struggle against criminality, preference for prophylactic means over means of criminal repression, advisability, adequacy of prophylactic means to the criminogenic situation, substantiation, economic advisability, radicalness, scientific nature and progressive-ness, completeness and differential, reality, and concreteness¹⁴.

The said principles hardly concern only criminological policy. Moreover, the multiplicity of guiding ideas weakens their significance. Those principles should be singled out in a Conception which, first, reflect the genuine nature of criminological policy and its tasks and designation or function; second, serve as "through" orientators for the organization, functioning, and development of a non-repressive system of counteracting criminality and concentrated reflection of the aggregate thereof¹⁵. These principles are specialization, reality, democracy,

¹² See V. A. *Hatseliuk*, Реализация принципов уголовного права Украины: проблемы и перспективы [Realization of the Principles of the Criminal Law of Ukraine: Problems and Prospects] (Lugansk, 2003), p. 78.

¹³ *Danshyn*, «Кримінальна політика: за і проти» [Criminal Policy: For and Against], Право України [Law of Ukraine], no. 8 (1992), p. 30.

¹⁴ V. V. *Holina* (ed.), Кримінологія. Загальна та Особлива частини [Criminology. General and Special Parts] (2d rev. ed.; Kharkov, 2009), pp. 78-80.

¹⁵ / A. *Divailov*, Преступность и уголовная политика (актуальные проблемы борьбы с преступностью) [Criminality and Criminal Policy (Topical Problems of Combatting Criminality)] (Baku, 1990), p. 142.

legality, scientific substantiation, and resource provision. We disclose the content of each of them.

The principle of specialization, or professionalization, consists in the fact that, first, the theory and practice of counteracting criminality require special, including profound, criminological knowledge, vocational training for work in the sphere of preventing criminality; second, the effectuation of the conceptual foundations of non-regressive counteraction of criminality require personnel provision; third, the varieties of operational activity of subject of the prevention of criminality place on the agenda the issue of the complex of specific criminological knowledge, skills, and know-how¹⁶.

Reality is a principle, the taking into account of which enables economically and politically advisable measures to be developed for the prevention with existing resource provision under the particular conditions of the place, time, and other circumstances, and also to count on factual measures and possibilities of the State and its subjects in combatting criminality, correlate ancillary economic and other social phenomena with the realization of measures and anticipated consequences. Consequently, the principle of reality guarantees the validity and implementability of the measures.

Democracy as a principle means the active participation of broad strata of the population and associations thereof in the realization of measures of the State to combat criminality because, as is emphasized in international documents, to achieve positive results is possible only in interaction with the efforts of a civil society, the population, and individual citizens which ensures glasnost, transparency, and control over the effectuation of State criminological policy in Ukraine.

Legality is the main principle of a rule-of-law State. All provisions of the Conception should have a legal basis. A provision is obligatory in the Convention

¹⁶ S. Gerasimov, «Предупреждение преступности: теория, опыт, проблемы» [Prevention of Criminality: Theory, Experience, Problems], Законность [Legality], no. 2 (2002), p. 5.

under which any measures of prevention activity are linked with definite (significant or insignificant) limitations of freedom and rights and legal interests of the person. But these limitations are impossible without legislative regulation. Thus, at the conceptual level the principle of legality means that the system of non-repressive counteracting of criminality should be regulated in a certain way. Moreover, a law on the prevention of criminality has not yet been adopted in Ukraine.

The principle of scientific substantiation provides for the development and embodiment of strategies for the prevention of criminality and individual manifestations thereof with the use of the most recent achievements of science, technology, and positive experience of foreign countries. This principle, embodied in a Conception of criminological policy, aims scholars and specialist practitioners towards the constant "invention of the wheel", that is, improvement of traditional and stable quests for new measures and means for counteracting crimes¹⁷.

Resource provision for the prevention of criminality is a principle of any practical activity, and the more so prevention, which is impossible effectively to effectuate without proper financial, personnel, material-technical, informational, and other provision. Ignoring this principle in practice transforms the very best conception into vocal intentions without consequences¹⁸. In recent decades not one of the complex programs for combatting criminality has been completely fulfilled. The basic reasons for this are the shortage of funds; frequent change of executives of agencies of power and administration, adoption of new normative acts contrary to earlier ones, which makes the fulfillment of previously adopted plans, programs, and conceptions senseless. That is why, although no one denies in words the need for resource provision, little attention in reality is devoted to this.

¹⁷ Conception for Reform of Scientific and Scientific-Technical Activity in the System of Law Enforcement Agencies, confirmed by Regulation of the Cabinet of Ministers of Ukraine, 16 November 2002, No. 649-р. Офіційний вісник України [Official Herald of Ukraine] (2002), no. 47, item 2170.

¹⁸ *G. M. Minkovskii*, «Концепция проекта федерального закона «Об основах предупреждения преступлений» [Conception of Draft Federal Law "On the Fundamental Principles of the Prevention of Crimes"], Государство и право [State and Law], no. 3 (1998), p. 48.

Strategy is a means for achieving a purpose¹⁹, the art of combatting criminality or individual manifestations thereof, the choice of a decisive orientation(s) for achieving previously contemplated aims²⁰. In a more elaborate conceptual form, the strategy of combatting criminality may be defined as a branch of State activity in which the promising questions of the theory and practice of the organization and future strategic planning are realized, preventive measures are effectuated, the natural law of preventive activity are researched, the effectiveness and subsequent long-term criminological forecasting are evaluated²¹. The said principles, and possibly others, underlie strategies. The essence and character of criminological strategies are determined on the basis thereof. Strategy cannot go outside the principles, which are protected by the State²². In our view, the following are the conceptual strategies of a criminological policy.

The best criminological policy is a well-thought out social policy orientated towards the person and his requirements and interests. If a person, his life and health, honor and dignity, inviolability and security are deemed in Ukraine to be the highest social value (Article 3, 1996 Constitution of Ukraine), only thanks to a reasonable social policy does this benefit of man actually become positively significant criminologically.

The creation and development on the contemporary level of a specific, flexible, democratic system of preventing criminality provides for a reduction of the practical opportunities to commit crimes, resolve adaptation issues, educational and informational work among the population, operational interference in crisis situations, involvement of the general public in prevention activity, assistance to victims of crimes, and others. In his time, the American sociologist Shure wrote

¹⁹ S. V. Borodin, *Борьба с преступностью: теоретическая модель комплексной программы* [Combating Criminality: Theoretical Model of a Complex Program], (M6scow, 1990), p. 13.

²⁰ A. I. Dolgova (ed.), *Криминология* [Criminology] (2d ed.; Moscow, 2002), p. 416.

²¹ V. N. Burlakov and B. V. Volzhenkin (eds.), *Современные проблемы и стратегии борьбы с преступностью* [Contemporary Problems and Strategies of Combatting Criminality] (St. Petersburg, 2005), p. 477.

²² A. M. Goloshchapov, «Конституционные основы становления государственно-правовой стратегии Российской Федерации» [Constitutional Foundations of the Origin of the State Law Strategy of the Russian Federation], *Государство и право* [State and Law], no. 11 (2005), p. 98.

that now it is essential to direct the resources and energy used to combat crime with different specialized correctional and other repressive programs and fundamental long-term programs intended for the permanent "elimination of the socio-economic diseases of our society"²³.

The strategy for counteractions so-called "background" phenomena, by which in criminology are understood the aggregate of immoral, destructive manifestations contrary to generally-accepted norms of behavior and organically linked with criminality because they determine one another and entail social degradation of the person and certain groups of the population. Desocialization, which is one of the consequences of "background" phenomena, concerns not only individual persons, but also the morality and culture of all of society (juvenile and adult delinquency, drug addiction, toximania, drunkenness and alcoholism, prostitution, a negative attitude towards social values, vagrancy, leading a parasitic way of life, victimization, criminal subculture, sects, and others). The State cannot be considered to be a democratic and rule-of-law country so long as these phenomena exist and are widespread. The introduction of strict socio-legal control over them does not mean a return to totalitarianism, as some believe.

The strategy of security includes organizational orientations (recording, control, strict compliance with special rules) and a situational warning of the commission of crimes (creation of obstacles to the commission of individual types of crimes, reduction of the advantage of committing crimes, and so on)²⁴.

We have named examples merely of certain strategies of a conception of criminological policy. When creating specific strategies, one should proceed from the criminogenic situation, quantitative and qualitative indicators of criminality, development of a theory of the prevention of criminality, recording the degree of

²³ *E. Shure*, Наше преступное общество. Социальные и правовые источники преступности в Америке [Our Criminal Society. Social and Legal Sources of Crime in America] (Moscow, 1977), p. 171.

²⁴ *V. N. Kudriavtsev*, Стратегия борьбы с преступностью [Strategy of Combatting Criminality] (Moscow, 2003), pp. 340-343; *Kudriavtsev*, «Стратегия борьбы с преступностью в России» [Strategy of Combatting Criminality in Russia], in Организованная преступность, терроризм и коррупция [Organized Crime/Terrorism, and Corruption] (Moscow, 2003), IV, pp. 116-121.

resource provision, and so on.

Methods of preventive impact are the focal point of criminological strategies. In this context the term "method" is used as a means of action, influence. By a method of strategy is understood a scientifically-formulated means of preventive impact on criminological phenomena or objects. Strictly speaking, the method of a strategy is a distinctive attempt, scientifically-substantiated, real, legal, specific approach, even an invention, to achieve the purposes of a strategy(ies). Methods may have a social, legal, communicative, psychogenic, or other character²⁵.

Anticipated results of introducing conceptual provisions and strategies of criminological policy and evaluation thereof. One may consider several variants of the results of effectuating a strategy and evaluation of criminological policies.

First variant. As a consequence of particular socio-political circumstances, criminological policy and the conceptual provisions and strategies thereof remained in general not introduced. There are many examples of this.

Second variant. The purposes of provisions and strategies realized of criminological policy are not fully achieved as a consequence of objective or subjective causes and conditions, but the ways and methods of resolving a problem(s) were correctly selected. The conception requires an adjustment, changes, additions, additional appropriations, and so on.

Third variant. The predicted purposes of planning were achieved, the numerical and qualitative indicators of criminality, "background" phenomena, and criminogenic potential of society were materially reduced or weakened, the security and guarantees of the protection of the rights, freedoms, and legal interests of citizens were enhanced. Having regard to positive results, the dynamic of the criminological situation in Ukraine, region, or territorial segment, a conception and

²⁵ V. V. Holina, «Научные подходы к деятельности по предупреждению преступности» [Scientific Approaches to Activity for the Prevention of Criminality], in V. Ia. Tatsyi (ed.), Проблемы законности [Problems of Legality], vol. 31, pp. 127-136; Holina Попередження тяжких насильницьких злочинів проти життя й здоров'я особи [Prevention of Grave Violent Crimes against Human Life and Health] (Kharkov, 1997), pp. 36-38.

strategy of criminological policy are developed and introduced.

Role of Theory

A theory of the prevention of criminality is the scientific base for a criminological policy. The basic provisions of this theory have been adequately elaborated in the works of foreign and Ukrainian criminologists. It should be noted that the entire history of world experience with combatting criminality and numerous scholarly studies convincingly show that to finally overcome criminality and those phenomena which generate and facilitate this is impossible. Strictly speaking, the history of the development of State and law have not created those socio-political, economic, cultural-educational, and moral conditions under which the overcoming of criminality, or more precisely, the criminogenic potential of members of society, a manifestation of which is criminality, would have become a reality. The failure to resolve this global problem by means of the historically-created model of primarily repressive or chastisement impact on criminality is attracting attention for an energetic search for the effective introduction of another long-known model of counteracting criminality — the prevention thereof, which (except for certain elements) no country has applied.

Socio-economic stability in the State (or even in States), the growth in a country of the social potential "of the very best social policy", the positive dynamic of international cooperation, stability of legislation regulating all spheres of life, and others are obligatory prerequisites for the prevention of criminality. Globalization, inter alia, should facilitate the extension of positive standards. Now the "wise legislator" tries to combine a repressive moderation with reinforced prophylactic pressure. The time has come, as noted in doctrinal sources, when criminology is being transformed from an "alerting" science²⁶ into a social science capable of resolving and genuinely taking a powerful part in the introduction of its

²⁶ / . / . *Karpets*, *Современные проблемы уголовного права и криминологии* [Contemporary Problems of Criminal Law and Criminology] (Moscow, 1976), p. 136

ideas into combatting criminality²⁷, which also is occurring in Ukraine (creation of scientific research institutes for criminology, developing and introducing complex programs for the prevention of criminality, fruitful work of the Coordination Bureau for Problems of Criminology of the National Academy of Legal Sciences of Ukraine, and others). The Conception for the Development of Criminological Science in Ukraine at the Outset of the XXI Century, elaborated by the Coordination Bureau for Problems of Criminology, is promising. This Conception should serve as the base for the development of respective problems and tasks of the science of criminology and, in significant measure, of criminological practice for the near future²⁸.

The theory of prevention of criminality conceptually substantiates these important propositions: (1) prevention of criminality — the chief orientation of combatting it; (2) constitutional foundation for the prevention of criminality is a social, democratic, rule-of-law State; (3) prevention of criminality is understood as the aggregate of general social and special criminological types of activity of the State, society, and the general public; (4) the purpose of the system of preventing criminality in the near future is a material reduction in the structural mitigation of the level and character of criminality.

The theory of the prevention of criminality is the quintessence, the product of the development of the entire Ukrainian science of criminology. Therefore, the criminological policy of Ukraine should be based on the most recent Ukrainian and foreign achievements²⁹.

²⁷ E. E. Raska, Криминологическая профилактика преступлений. Теоретические и методические аспекты [Criminological Prevention of Crimes. Theoretical and Methodological Aspects] (Moscow, 1988), p. 5 (abstract diss, doctor iurid. nauk).

²⁸ A. P. Zakaliuk, «Концептуальні проблеми української кримінології (до розроблення Концепції розвитку кримінологічної науки в Україні на початку XXI століття)» [Conceptual Problems of Ukrainian Criminology (On the Drafting of the Conception for the Development of Criminological Science in Ukraine at the Beginning of the XXI Century)], Право України [Law of Ukraine], no. 9 (2001), pp. 9-20; «Концепція розвитку кримінологічної науки в Україні на початку століття» [Conception for the Development of Criminological Science in Ukraine at the Beginning of the XXI Century], Інформаційний бюлетень [Information Bulletin], no. 9 (2007), pp. 4-29.

²⁹ For example, the Edict of the President of Ukraine of 26 February 2007 "On the Statute on the Inter-Departmental Scientific Research Center for Problems of the Struggle against Organized Crime" provided: the working out of scientifically- substantiated proposals for combatting organized crime, methods recommendations

The peculiarities of the activity of the State, agencies thereof, institutes, social groups, officials, and the general public to prevent criminality comprise the following:

first, this is a long-term, complex, stable, sometimes virtually useless counteraction against all social systems of the State by those phenomena which generate criminality and individual manifestations thereof;

second, the criminogenic determinants of criminality are concealed, ultimately, in society itself, people, therefore we refer to a kind of self-treatment, cleansing. The State and society must think over and adhere to those approaches to domestic and foreign policy which would exclude or reduce the criminogenic potential in society. To place this task solely on the power law enforcement and even law-application agencies is inconceivable. They are elements of the State system. That is why the implementation of criminological policy consists not in the formal declaration of its general provisions, but in strict control by the highest agencies of power from above to below over the actual constant embodiment of the conceptual provisions, ideas, strategies thereof in the practical preventive activity with determined results;

third, a peculiarity of the activity relating to non-repressive counteracting of criminality is linked with a rejection of haste, transforming such activity into a short-term campaign and extravagant promises. A change of the power structures should not influence the fulfillment of preventive measures if they are consistent with the principles of criminological policy. Some adjustments, certain changes, additions, are possible, but the effectuation of the policy itself should continue;

fourth, thus far a real result has not been ascertained from the introduction and proper resource provision for strategies and measures for the prevention of criminality, and it is impossible to determine the true achievements or failures of criminological policies. This is an axiom of the theory of the prevention of

for State agencies which combat organized crime; study and analysis of foreign experience of combatting organized crime with a view to the application thereof in Ukraine. Юридичний вісник України [Official Herald of Ukraine] (2007), no. 15, item 561.

criminality;

fifth, the activity for the prevention of criminality and criminological policy itself does not generate optimism in the criminal world. But, regrettably, ordinary citizens may not be interested in the effectuation thereof whose actions and life are capable, as a result of objective and subjective circumstances, of not being law-abiding.

No doubt there are other peculiarities of activity within the conception of criminological policy in Ukraine. What are the prospects for the further development of criminological policy in Ukraine?

There is serious interest in the State and a significant part of society to implement criminological policy, to which scientific, organizational-administrative, and informational measures attest, namely: the creation of scientific research institutions for criminology, the embodiment in the combatting of criminality of criminological forecasting and planning (conceptions, plans, complex programs), budget support for resource provision, and so on. One may hope that these trends will be continued and strengthened. Forms of participation of the general public in prevention activity will receive greater precise regulation in the near future. The reformation of law enforcement and law-application agencies and criminal procedure and penal legislation will further the stabilization of the situation in Ukraine and, consequently, the implementation of criminological policy.

In addition, placing on the agenda for State domestic policy the issue of reinforcing the criminological aspect in combatting criminality activizes lawmaking with respect to the adoption of laws on the prevention of criminality in Ukraine, victimological prevention, assistance to victims of violent crimes, and so on. The creation of new State and social structures, one way or another directed towards implementing criminological policy in Ukraine, is not precluded³⁰.

³⁰ *Iu. V. Truntsevskii*, «Национальная стратегия в борьбе с преступностью: зарубежный опыт (на примере полиции Литвы)» [National Strategy For Combatting Criminality: Foreign Experience (Example of the

Голина В. В. Кримінологічна політика держави: стан та перспективи

У науковій статті досліджуються теоретичні й практичні питання кримінологічної політики. Здійснюється узагальнення різних підходів щодо її розуміння, розкривається зміст. Виділяються істотні ознаки кримінологічної політики, а також дається авторське визначення цього поняття. Пропонується розробка Концепції нерепресивної протидії злочинності, її принципи та основні елементи змісту. Дається визначення поняттю стратегії запобігання злочинності та вказується на її зв'язок із кримінологічною політикою держави. У статті методи запобіжного впливу названі стрижнем кримінологічних стратегій. Виокремлюється три варіанти очікуваних результатів запровадження концептуальних положень й стратегій кримінологічної політики. Наголошено, що теорія запобігання злочинності є науковою базою кримінологічної політики. Названо перспективи подальшого розвитку кримінологічної політики в Україні.

Ключові слова: кримінологічна політика, кримінологічна стратегія, запобігання злочинності.

Голина В. В. Криминологическая политика государства: состояние и перспективы

В научной статье исследуются теоретические и практические вопросы криминологической политики, дается круг ее существенных признаков, предлагается авторское определение последней. Кроме этого, подчеркивается, что методы предупредительного воздействия – основа криминологических стратегий, а теория предупреждения преступности – научная база криминологической политики. Называются перспективы дальнейшего развития криминологической политики в Украине.

Ключевые слова: Криминологическая политика, криминологическая стратегия, предупреждение преступности.