

CHAPTER 5

APPLICATION OF CRIMINAL PUNITIVE MEASURES IN UKRAINE: KEY TRENDS

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INTRODUCTION

One of the major factors affecting the criminal situation in the country is the State's response to crimes through criminal punitive measures applied by the courts against those who committed them. Criminal law as one of social regulation elements contains clear parameters for State interference in forming and functioning of the social relations system. Since criminal liability is the strictest form of responding to the commission of offenses, the State policy in establishment and application of criminal legal regulations should be based on clearly defined principles. Comprehensive examination of crime as both mass and individual phenomenon determines application of different means and methods of combating it by the State and society. However, the process of neutralization, eradication, prevention of crime and its causes is founded on compulsion necessary in the fight against crime, unavoidable and absolutely undesirable phenomenon of public life. Punishment is a special form of State compulsion, for that reason, the law distinguishes it from other means of criminal law, such as compulsory medical or educational measures.

Nowadays, the dynamic processes of reforming criminal law and changes in the national criminal legal policy determine the relevance of the issue of criminal-legal punitive measures and its retrenchment. Scientists insist on a fundamental change in criminal law, which means the domination of the punitive measure retrenchment, replacement of criminal law measures upon personal behaviour by other legal means and more frequent application of restorative justice means¹. However, the study of the issue of criminal punishment, its purpose is impossible without

¹ 1. Kulikov Ye. A. *Kategoriia mery i printsipy prava* [Category measures and principles of law] / Ye. A. Kulikov. *Izvestiia Altaiskogo gosudarstvennogo universiteta*, no. 2 (2). Barnaul, 2013. Pp. 125-128. (in Ukrainian)

2. Khrolenok O. Yu. *Pravovi osnovy systematyzatsii pokaran v Ukraini* [Legal basis for systematization of punishments in Ukraine] (Dissertation Abstract of Candidate of Juridical Sciences (PhD) in speciality 12.00.08 Criminal Law and Criminology; Criminal and Executive Law). / O. Yu. Khrolenok. H.S. Skovorody National Pedagogical University. Kh., 2016. 16 p. (Accessed April 05, 2019) (in Ukrainian)

consideration of previous experience in the development of the judicial system, criminology, criminal law and justice system.

In criminology, it is universally acknowledged that the efficient practice of imposing criminal penalties, their high inevitability, punishment measures conformity with the public danger of the committed encroachments have a deterrent effect both on the behaviour of those who committed the crime and on the behaviour of the rest of the population.

Accordingly, the shortcomings in criminal punishment application to persons who committed crimes affect negatively the crime situation of in the country.

To assess the impact of shortcomings in criminal punishment application on the criminal situation in Ukraine, the authors summarize and analyze the data from the statistical report on the number of persons convicted, acquitted, whose cases are dismissed, insane, in whose respect it is provided to apply compulsory medical measures, and types of criminal punishment (Form 6), approved by the Order of the State Judicial Administration of Ukraine no. 153 of November 14, 2012², in agreement with the State Statistics Committee of Ukraine in Ukraine. The results of the analysis of these data for 2004 -2018 are as follows.

5.1. Convicted persons

The most common indicator of criminal punitive measures application in the country is the number of persons, in whose respect judgements (rulings) have taken legal effect (Fig. 1). Figure 1 illustrates that in 2005-2006, the number of persons, in whose respect judgements (rulings) have taken legal effect, decreased from 231003 to 188180. During the next six years, it fluctuated slightly and amounted up to 184040. Since 2013, due to a significant reduction in this indicator, the number of these persons was 93955 in 2016, that is, 2 times less than in 2012. Over last two years of the period analysed, the number of these persons increased up to 97426 in 2017 (+ 3.7% compared to the previous year), and in 2018, remained at the same level and was 96863 (-0.6%).

² Pro zatverdzhennia form zvitnosti pro stan sudymosti ta sklad zasudzhenykh [On approval of forms of reporting on the status of convictions and the composition of convicts] (Order of the State Judicial Administration of Ukraine no. 153 of November 14, 2012). Retrieved from <https://zakon.rada.gov.ua/rada/show/v0153750-12/sp:max25> (Accessed April 05, 2019) (in Ukrainian)

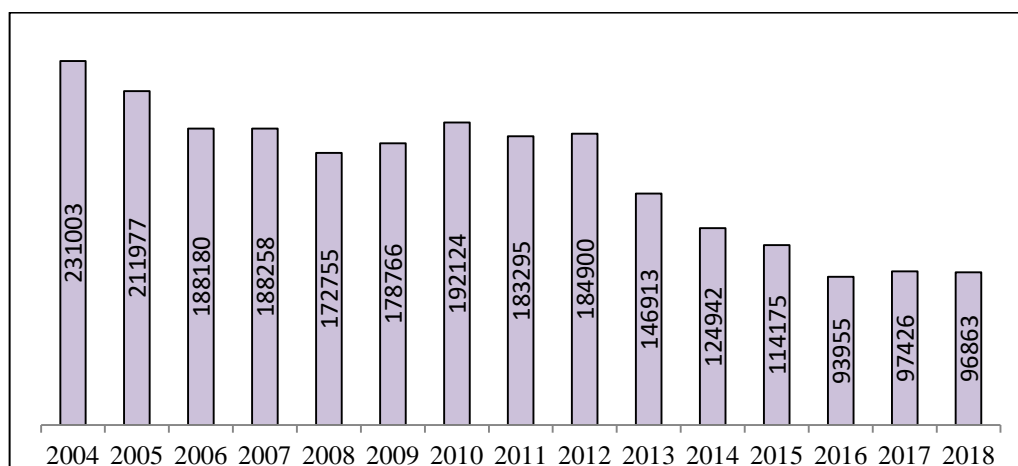


Fig. 1. The trend in the number of persons, who committed crimes, in whose respect judgements (rulings) took legal effect, in 2004–2018

All persons, in whose respect judgements (rulings) have taken legal effect, are classified into two large groups: persons who were convicted and those who were not convicted.

During the period under review, the convicted persons constituted an absolute majority (on average 83.4%) of the number of persons, in whose respect judgements (rulings) had taken legal effect. By 2015, this figure fluctuated slightly, but over the last three years it decreased and amounted to 76.0% in 2018 (Fig. 2).

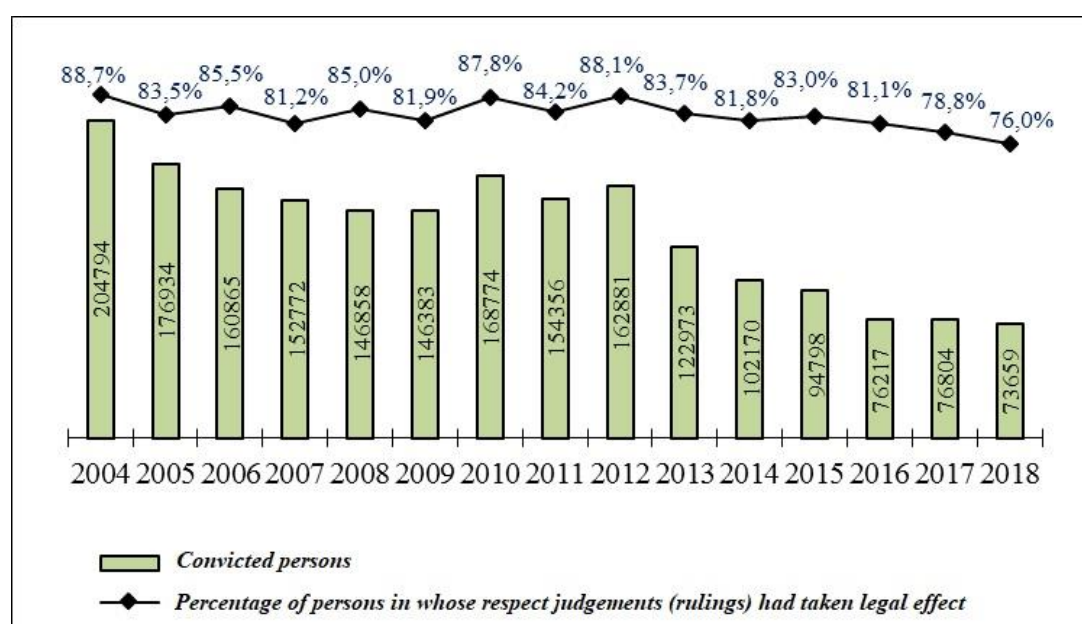


Fig. 2. The trend in the number of convicted persons in 2004–2018

In 2004, the number of convicted persons was 204794. During 2005-2009, this indicator has a trend for a marked decrease, resulting in 146383 convicted persons in 2009 (-25.8% compared to 2004 rate). During the next three years of the period studied, there was a fluctuation in the number of convicted persons toward growth, then toward decrease. In 2010, the increase of the indicator was up to 168774 (+ 15.3% compared to the indicator of the previous year), probably due to a significant increase in the number of registered offenses and identified persons, who committed them, in 2009-2010. Over the next two years, its fluctuations were relatively insignificant (in 2011, -8.5%; in 2012, + 5.5%), and in 2013-2016, the number of convicted persons decreased to 76217, which is 2.1 times lower than the level of 2012. In 2017, the number of convicted persons remained at the level of the previous year (+ 0.8%), and in 2018, it decreased by 4.1% and amounted up to 73659.

The structure of convicted persons, according to the types of crimes they have committed, is of interest. In the course of the analysis, the focus was on the types of crimes for which, on average for the period under review, at least 1% of all criminals were convicted. The average total percentage of persons convicted of these crimes amounted up to 86.7% of all convicted persons.

In 2004-2018, the majority of convicts were those who committed theft. The average percentage of people convicted of this type of crime was 35.3%, but during the period under review, it changed significantly. In 2004-2008, this indicator was constantly decreasing and amounted up to 19.7% in the last year of this period, which is 2 times less than in 2004. In 2009, a percentage of convicted thieves among all convicts increased up to 22.4%, and in 2010, up to 36.2%, due to a significant reduction of the maximum amount of property obtained by theft, fraud and misappropriation, embezzlement or malversation of property by abuse of office (Article 51, the CAO) in 2009³, the excess of which made these acts a crime. In subsequent years, this indicator has been increasing steadily with a corresponding decrease in a percentage of those who was convicted of other crimes. In 2018, persons committed this crime were 46.2% of all convicts.

The next largest percentage is the group of persons convicted of illegal production, making, purchasing, storage, transportation or sending of narcotic drugs, psychotropic substances or their analogues without the

³ Kodeks Ukrainy pro administratyvni pravoporushennia [Code of Ukraine on Administrative Offenses] (Entered into force on June 1, 1985 by the Resolution of the Verkhovna Rada of the USSR no. 8073-X of December 07, 1984). *Vidomosti Verkhovnoi Rady URSR [Bulletin of the Verkhovna Rada of the USSR]*, no. 51, Art. 1122. (in Ukrainian)

purpose of selling. During the period under review, they averaged up to 11.3% of all convicts. In contrast to thieves, a percentage of persons convicted of this crime increased up to 2009 (in 2004, 10.8%; in 2009, 14.4%). In 2010-2015, this indicator decreased up to 8.6%, in 2016, it was 9.2%, and in 2017-2018, it exceeded 11%.

The average percentage of convicts for robbery among all persons, whom the court convicted of crimes, was 7%. Over the first 4 years of the period under review, their percentage increased from 6.4% to 9.4%. In 2008-2014, the trend was regressive, this indicator decreased to 5.2%, the next three years remained at this level, and in 2018, it was 4.8%.

During the period under review, on average, 3.7% were persons convicted of the illegal handling of weapons, ammunition or explosives. During 2005-2009, this indicator increased from 2.9% to 4.6%; for the period until 2016, inclusively, it was reducing up to 2.7%; in the last two years, it increased and was 3.9% in 2018.

Persons, convicted of a number of types of crimes, were from 2% to 3% of all convicts. They are those who were convicted of hooliganism (2.9%); avoidance of paying child support (2.8%); illegal production, making, purchasing, storage, transportation or sending of narcotic drugs, psychotropic substances or their analogues, and violation of rules related to traffic or driving safety by persons that drives any vehicle (2.7% each); fraud (2.4%); misappropriation of a vehicle (2.1%); intentional grave bodily injury (2.0%); intentional medium gravity bodily injury and robbery (1.9% each). On average, a little more than one percent of all convicts were those who committed planting or growing of the white poppy or hemp; misappropriation, embezzlement or malversation of property by abuse of office; forgery of documents, seals, stamps and letterheads, their sale, use of forged documents and intentional homicide.

It should be noted that a significant increase in the number of persons convicted of intentional minor bodily harm was in 2013-2018. Whereas in 2004-2012, it was about 1% of all convicts, in 2013, it grew up to 6.2%, and in 2014, up to 6.8%. Such increase is due to the implementation of more complete registration and recording of encroachments of this type that has been started since 2013, resulting in the immediate increase of such crimes at 42 times. In the past four years, a percentage of people convicted of this crime has been decreasing steadily, but remains significant (in 2018, 3.8%).

The correlation between the type of crime committed by convicted persons and identified perpetrators is of special interest. Table 1 provides relevant and quite indicative data for 2004 and 2018.

Table 1

Classification of convicted persons and persons, who committed crimes detected by the Internal Affairs Bodies, according to the type of crime committed in Ukraine in 2004 and 2018 (in %)

Types of crimes	2004		2018	
	Percentage of all identified perpetrators	Percentage of all convicted persons	Percentage of all identified perpetrators	Percentage of all convicted persons
	(in %)	(in %)	(in %)	(in %)
Theft	36,3	39,3	44	46,2
Illegal production, making, purchasing, storage, transportation or sending of narcotic drugs, psychotropic substances or their analogues without the purpose of selling	11,6	10,8	9,7	11,6
Robbery	5,8	6,4	4,7	4,8
Illegal handling of weapons, ammunition or explosives	3,3	2,9	4,3	3,9
Violation of rules related to traffic or driving safety by persons that drives any vehicle	2,8	2	2,9	2,8
Fraud	1,7	1,3	3,1	2,5
Misappropriation of a vehicle	1,7	2,2	1,7	2
Intentional grave bodily injury	2	2,2	1,4	1,4
Hooliganism	4,7	4,2	1,5	1,2
Forgery of documents, seals, stamps and letterheads, their sale, use of forged documents	1,2	1,1	1,4	1
Planting or growing of the white poppy or hemp		2,1	1,1	0,9
Robbery with extreme violence	2,1	2,2	1,2	0,8
Avoidance of paying child support	2,9	2,7	1	0,8
Illegal production, making, purchasing, storage, transportation or sending of narcotic drugs, psychotropic substances or their analogues	3	2,9	0,9	0,8
Intentional medium gravity bodily injury	2,5	2,1	1,5	0,7
Intentional homicide	1,5	1,2	0,9	0,6
Misappropriation, embezzlement or malversation of property by abuse of office	1,6	1,2	0,6	0,5

The table illustrates that comparable structures were generally similar in these years. Significant changes that occurred in the structure of identified individuals by types of crimes caused analogous changes in the structure of convicts. However, some differences are to be addressed. By the essence of these differences, the most common crimes can be divided into 3 groups.

The first group is offenses, in relation to which a percentage of convicted persons is higher than a percentage of detected persons who have committed them. This is typical of theft and robbery. Percentage of those who committed these crimes among convicted persons is higher than among detected offenders, which testifies to the trend of the courts to be more rigorous towards those who committed such acts, the strive to bring such persons to real criminal liability.

The second group are crimes, in relation to which a percentage of convicts is less than a percentage of detected persons who committed them. This group includes persons who committed hooliganism; violation of rules related to traffic or driving safety by persons that drive any vehicle; illegal handling of weapons, ammunition or explosives; intentional medium bodily injury; intentional homicide; fraud; forgery of documents, seals, stamps and letterheads, their sale, use of forged documents; misappropriation, embezzlement or malversation of property by abuse of office. Persons who have committed such acts are discharged from criminal liability more frequently; accordingly, the convicted are relatively fewer than detected.

The third group is persons, who committed criminal acts, with regard to which the correlation between a percentage of convicts among all convicted persons and a percentage of persons detected and accused of committing these crimes among all detected criminals has changed for the period under review. Thus, in 2004, a percentage of persons convicted of illegal production, making, purchasing, storage, transportation, sending or selling of narcotic drugs, psychotropic substances or their analogues was less than a percentage of criminals detected, while in 2018, the former became larger than the latter. On the contrary, a percentage of convicts for robbery with extreme violence at the beginning of the period under review exceeded a percentage of detected offenders, while at the end of this period it became lower.

According to the Criminal Code of Ukraine (hereinafter – the CC)⁴, the entire set of persons convicted is divided into persons subject to different punishments and persons released from punishment. Figure 3 illustrates the correlation of these categories of convicts during the period under review.

The most obvious changes in criminal punitive measures application by courts during the period under review can be illustrated by comparing a percentages of the two categories of persons mentioned among all persons convicted of committing crimes.

In 2004, persons sentenced to punishment were 38.1% of all convicted persons, and those who were released from it amounted up to 61.9%. In subsequent years, a percentage of persons sentenced to service of punishment trended upwards, as a result, exceeding a percentage of persons released from it after 2008. In 2018, 56.8% of all convicted persons were sentenced to punishment, and 43.2% were released from it.

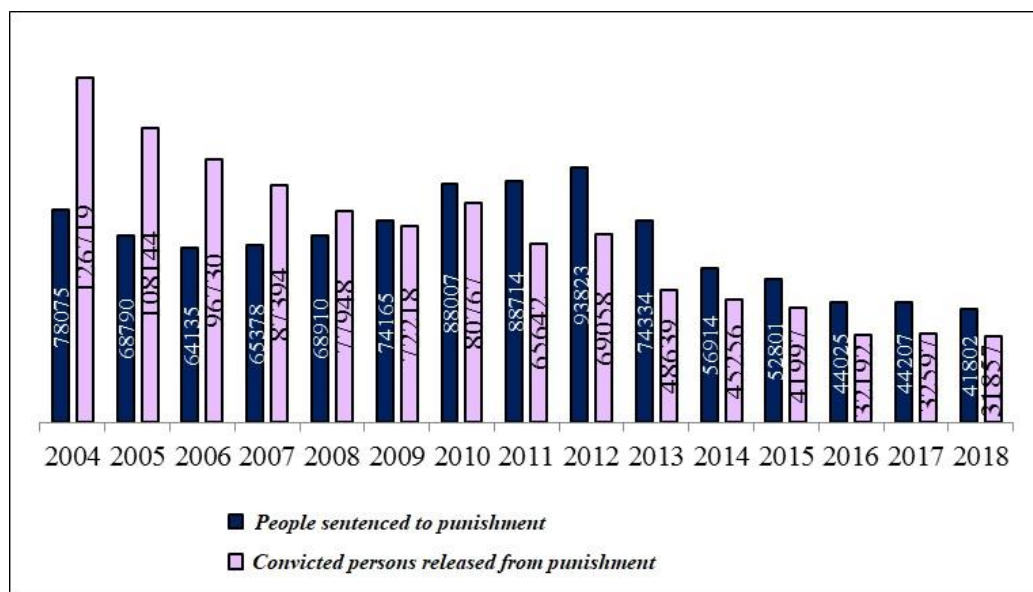


Fig. 3. The trend in the number of convicted persons, in whose respect different punishments are enforced, and persons released from punishment, in 2004–2018

⁴ Kryminalnyi kodeks Ukrainy [Criminal Code of Ukraine] (Law of Ukraine no. 2341-III of 05 April 2001). *Vidomosti Verkhovnoii Rady Ukrainy [Bulletin of the Verkhovna Rada of Ukraine]*, no. 25-26, 2001. Art. 131. (in Ukrainian)

The trend of the number of these categories of convicted persons was significantly different.

At the beginning of the period under review, 78075 people were convicted, in whose respect different punishments are enforced. Due to their decrease in 2005-2006, 64135 persons were registered in the last year of this period. During the next six years, the number of people in this category increased, consequently, in 2012, it was 93823, that is, 1.5 times more than in 2006. In 2013-2018, according to the change in the general trend of convicting criminals, the number of persons sentenced to service of punishment decreased 2.2 times compared to the 2012 indicator and was 41802 in the last year of the period under review.

The trend of the number of convicts, released from punishment, had a different character. During nearly all the period under review, the number of these persons was decreasing (with the exception of 2010 and 2012), subsequently, in 2016, 32192 convicts were released from punishment, that is, 3.9 times less than in 2004 (126719). A significant decrease in the number of both persons sentenced to punishment and persons released from it in 2013-2018 was due to a substantial overall decrease in the number of persons, whose criminal cases were referred to the court.

5.2. Persons who have not been convicted

In turn, persons who have not been convicted are divided into persons in whose respect cases have been closed; insane persons' subject to compulsory medical measures and acquitted persons.

During the period under review, persons, in whose respect cases were closed, on average, amounted up to 15.8% among persons, in whose respect judgements (rulings) have taken legal effect. The trend of the number of these individuals was rather specific during the period under review (Fig. 4).

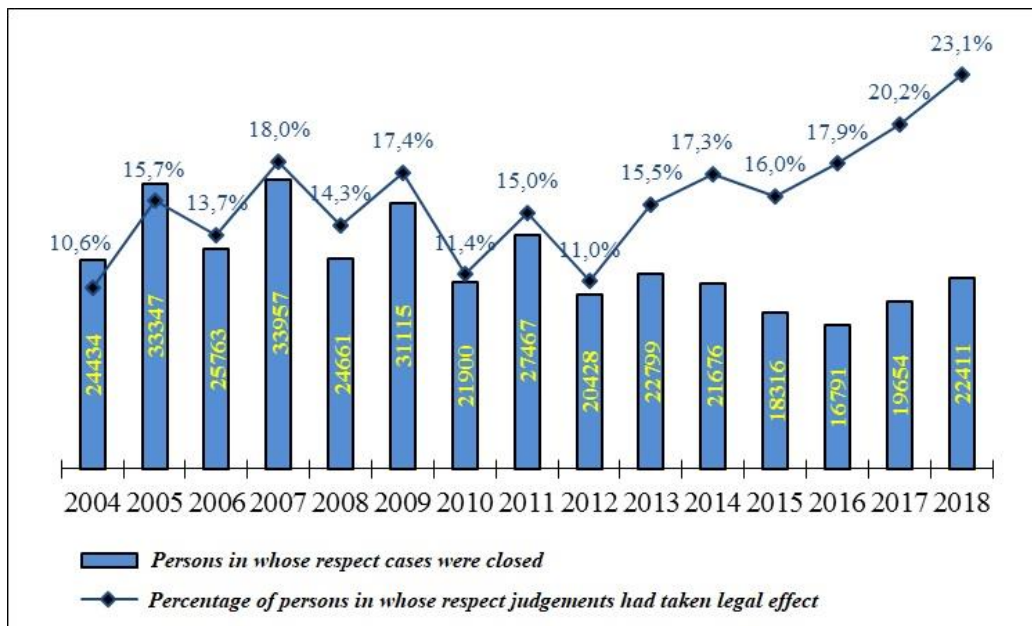


Fig. 4. The trend in the number of persons, in whose respect criminal proceedings were closed in 2004–2018

In 2004-2016, their numbers fluctuated frequently, years of increase changed years of decrease, at the significant pace both of them. In the final year of the period under review, indicator reduction was 8.3% and amounted up to 16791. Such significant fluctuations relate to the application of the laws of Ukraine on amnesty in certain years that provided for the closure of criminal proceedings (cases) in respect of a large number of persons.

In turn, persons of the category under consideration are divided into groups, according to grounds for closure of criminal proceedings.

The first of these grounds is the absence of occurrence and elements of criminal offence or unreliable evidence of the prosecution. During the period under review, the number of persons, whose criminal proceedings were closed on this ground, varied greatly (Fig. 5). In 2004, 284 such persons were registered; in the subsequent years, their number increased up to 1389, which is 4.9 times more than in the previous year. In 2007, the number of people of this category decreased significantly (almost 3.1 times) and was 201. In subsequent years, under certain fluctuations, the number of persons, in whose respect criminal proceedings (cases) were closed on this ground, trended downwards. In 2018-2009, they were about

100; in 2010, 64; in 2012, the sharp increase of this indicator reached 175 (2.6 times), and in subsequent years, there was a constant decrease. Only a few such persons per year were registered in 2015-2017, and in 2018, this indicator was removed from the statistical report at all.

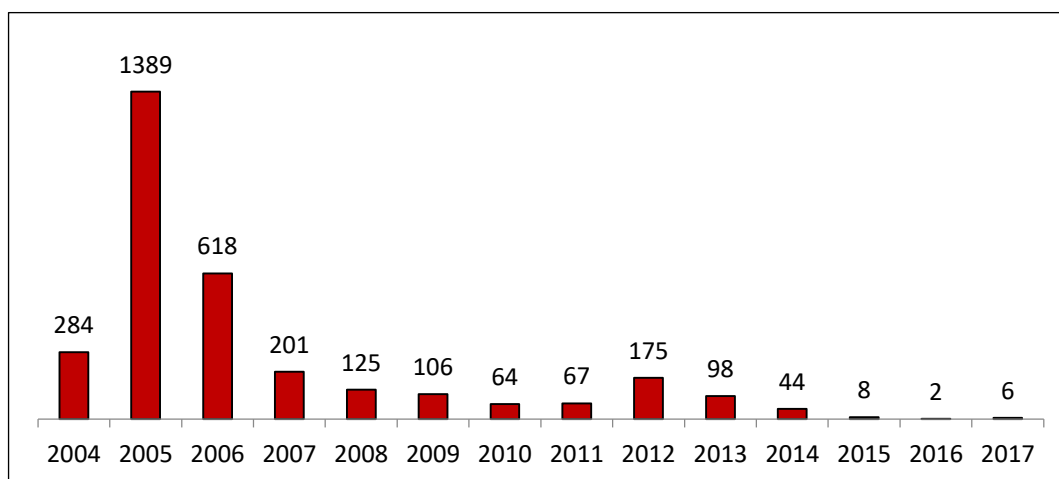


Fig. 5. The trend in the number of persons, in whose respect criminal proceedings were closed on grounds of the absence of occurrence and elements of crime or unreliable evidence of the prosecution in 2004–2018

Percentage of the total number of persons, in whose respect criminal proceedings were closed, was insignificant. It was the highest in 2005 (4.2%), and in subsequent years, it was less than a percentage.

Regarding the application of active repentance as the ground for the closure of criminal proceedings (Figure 6), the situation differs. In 2005-2010, significant annual fluctuations occur in the number of persons, in whose respect criminal proceedings were closed on grounds of active repentance, whereas the pace towards increase in certain years was higher than a downward trend. In 2004, 2713 persons of this category were registered; in 2005, 2000 (-26.3%); in 2006, 3027 (+51.4%); in 2007, 2715 (-10.3%); in 2008, 3384 (+24,6%), that is, the lowest indicator of the period under review; in 2009, 2904 (-14,2%); and in 2010, 3186 (+9,7%). In subsequent six years, this indicator was decreasing significantly and in 2016, was 1072, that is, 3 times less than in 2010. Whereas, during the last two years of the period under review the number of persons of this category increased up to 1420 (+32.5%) and 1811 (+27,5%).

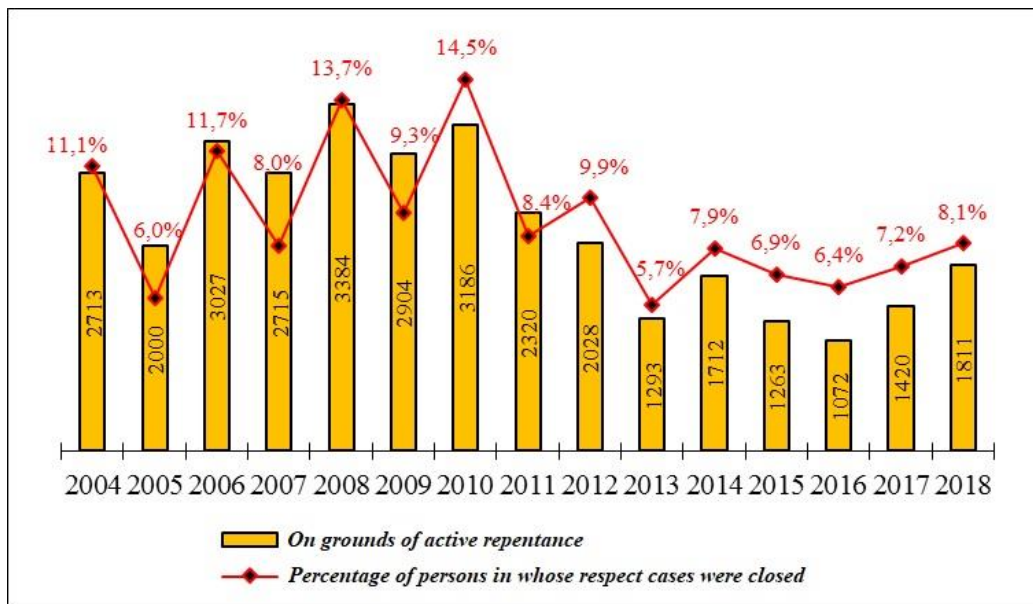


Fig. 6. The trend in the number of persons, in whose respect criminal proceedings were closed by court on grounds of active repentant, in 2004–2018

For all persons, in whose respect criminal proceedings were closed, their percentage fluctuated from 6% in 2005 and 2013 to 15% in 2010, whereas in 2018 it was 8.1%.

According to the data, defendants and their lawyers are more active in using this possibility to avoid conviction. The closure of criminal proceedings on this ground can be regarded as one of the manifestations of State criminal policy humanization.

A noticeable part of criminal proceedings was closed on grounds of conciliation between the perpetrator and the victim (Fig. 7). During 2004–2008, the number of these persons fluctuated from 4500 to 5000, and in 2009–2012, from 3000 to 4000. In 2013, the number of these persons increased 2,2 times at once and amounted up to 7636 persons, in 2014, it decreased up to 5226 (–31,6%), during the last four years of the period under review, the number of these persons was 3000.

For all persons, in whose respect criminal proceedings (cases) were closed, average percentage of persons, in whose respect criminal proceedings were closed due to conciliation between the perpetrator and the victim, was 17.6%. During these years, this indicator fluctuated significantly (in 2004, 19.3%; in 2011, 11.0%; in 2013, 33.5%), and during 2014–2018, it was decreasing and amounted up to 13.3% in 2018.

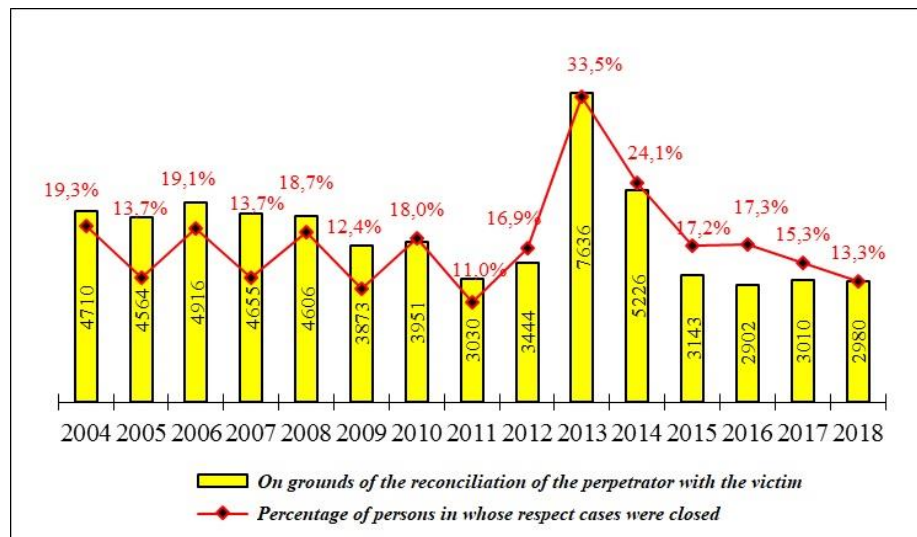


Fig. 7. The trend in the number of persons, in whose respect criminal proceedings were closed by court on grounds of reconciliation between the perpetrator and the victim in 2004–2018

The number of persons, in whose respect cases were closed due to a change of situation, in 2004, amounted up to 5568; in 2006, 5840; and in subsequent years, it was mostly decreasing and in 2017, amounted up to 422 persons (14 times reduction). In the last year of the period under review, only 471 persons on this category were registered (Fig. 8).

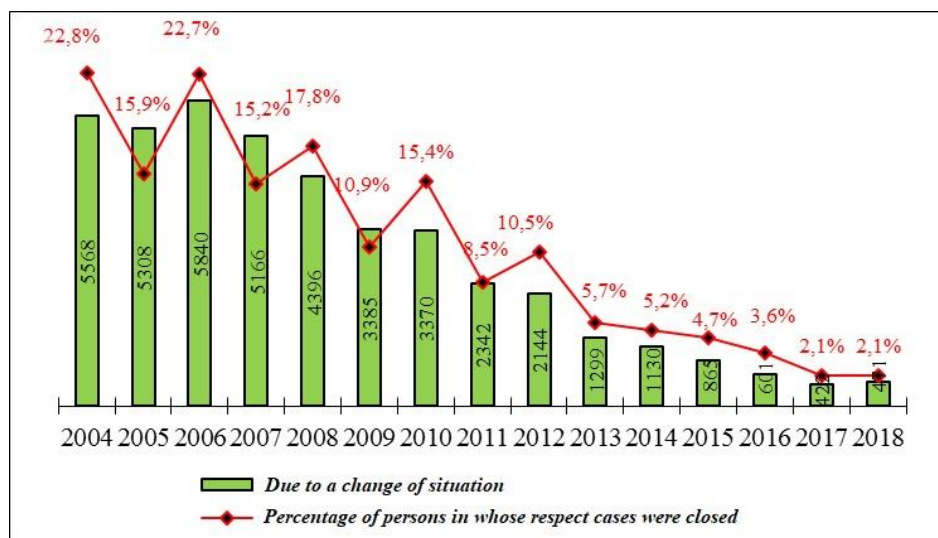


Fig. 8. The trend in the number of persons, in whose respect criminal proceedings were closed by court due to a change of situation in 2004–2018

For all persons, in whose respect criminal proceedings were closed, a percentage of persons of this category reduced from 22.8% in 2004 to 2.1% in 2018. Therefore, the courts have substantially limited the practice for the closure of criminal proceedings on these grounds.

The trend in the number of persons, in whose respect cases were closed in view of admission by bail, was similar. During 2004-2008, their number was stable (Fig. 9), averaging 2262, with minimal annual deviations from this indicator. In subsequent years, the number of persons of this category fluctuated significantly, whereas, an upwards trend prevailed. Consequently, in 2018, 367 persons were admitted by bail, that is, 6.2 times less than the 2004 indicator. For all criminals, in whose respect criminal proceedings were closed, average percentage of these persons was 5.7%. During 2004–2010, this indicator fluctuated from 7 to 9%; and in subsequent years, there was a downwards trend; and it was 1.6% in the last year of the period under review.

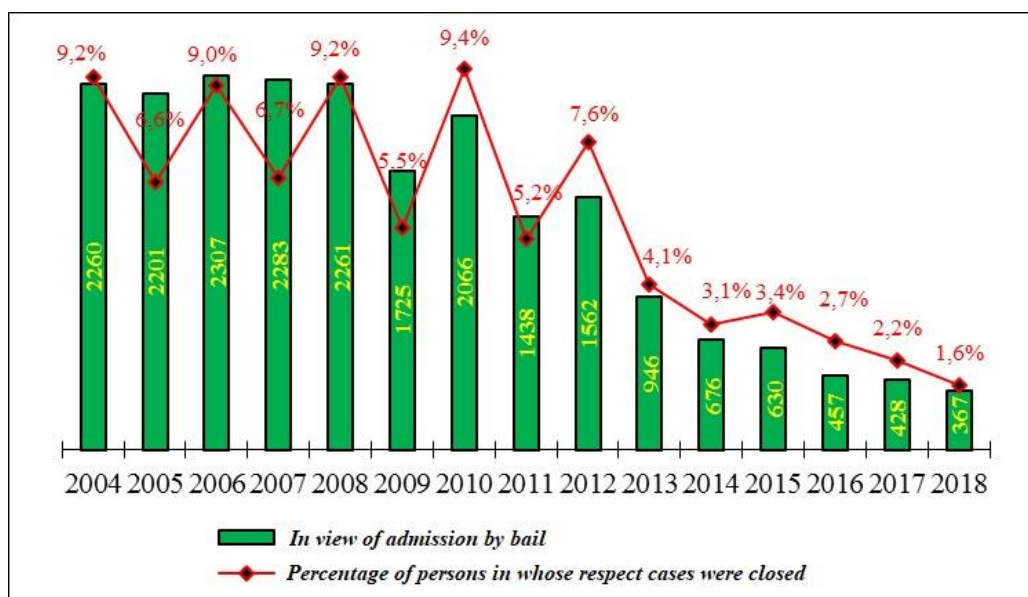


Fig. 9. The trend in the number of persons, in whose respect criminal proceedings were closed by court in view of admission by bail in Ukraine in 2004–2018

Moreover, court decisions on closure of criminal proceedings (cases) were taken in connection with **the death of the defendant** (on average, 1399 persons during the period under consideration, for all persons, in whose respect criminal proceedings were closed, average percentage was 5,8%) (Fig. 10).

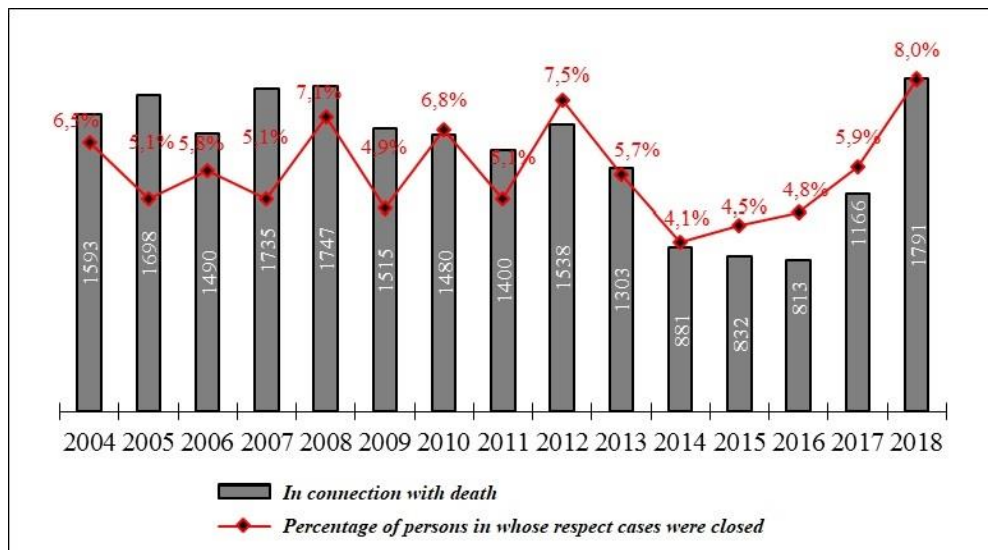


Fig. 10. The trend in the number of persons, in whose respect criminal proceedings were closed by court in connection with their death in 2004–2018

The most common ground for closure of criminal proceeding was an **amnesty** in individual years the period under review (Fig. 11).

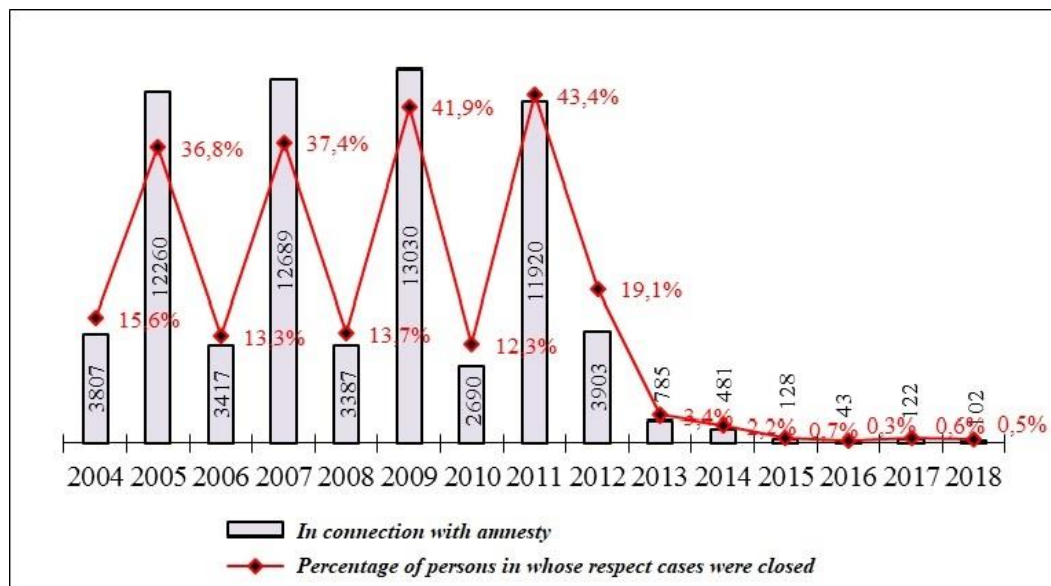


Fig. 11. The trend in the number of persons, in whose respect criminal proceedings (cases) were closed by court in connection with amnesty in Ukraine in 2004–2018

Evidently, this indicator was changing significantly in different years. Thus, in 2004, 2006, 2008, 2010, 2012, their number fluctuated from 2690 to 3903, whereas for all persons, in whose respect criminal proceedings were closed, their percentage amounted from 12 to 19%. In 2005, 2007, 2009 and 2011, when the amnesty was declared in Ukraine, the number of persons in this group amounted up to 12260, 12689, 13030 and 11920, respectively, and their percentage was 36-43%. These fluctuations are due to different lists of categories of persons, in whose respect the amnesty is applicable, provided for by the laws of Ukraine on amnesty for different years, as a result, the number of pardoned persons changed significantly from year to year.

Since 2013, no large-scale amnesty has taken place in the country, the number of these persons was decreasing. Consequently, in 2016, only 43 persons of this category were registered; in 2017 and 2018, 122 and 102 persons were registered respectively.

During 2004–2018, the number of persons, in whose respect criminal proceedings (cases) were closed due to imposing compulsory educational measures on an underage person, amounted up to 421, on average, whereas for all persons, in whose respect criminal proceedings were closed, their percentage amounted 1.7%. In 2014, the number of these persons decreased 9.2 times (62) at once, and in subsequent years, closure of criminal proceedings on this ground stopped. This reduction occurred within a more general trend to limit significantly the application of criminal measures against underage persons.

The individual category is persons, in whose respect cases have been closed on other grounds⁵. This may be the expiration of the period of limitations; entry into force of the law, which eliminates criminal liability for an act committed by a person; the existence of a sentence on the same legal prosecution that has come into legal effect, or a court ruling on the closure of criminal proceeding on the same accusation; the refusal of the victim, and in cases specified by the CPC of Ukraine, his/her representative, from the accusation in criminal proceedings in the format of private accusation; lack of consent of the State that has surrendered a person has been obtained concerning a criminal offence.

During 2005–2012, the number of these persons increased from 2767 to 4971, that is, 1.8 times; moreover, it increased evenly per year. In 2013,

⁵ Note: This indicator is according to the statistical reporting.

this indicator increased in 78.2% at once up to 8858, and in 2014, 29.4% more up to 11463. In 2015–2016, the number of persons of this category was constant, in 2017, increased up to 13080 (+20.0%), and in 2018, decreased 3.6 times up to 3590.

According to this trend, for all persons, in whose respect criminal proceedings were closed, average percentage of these persons in 2004–2010 was 14.2%, in subsequent six years, increased constantly and, in 2017, was more than 2/3 all persons, in whose respect criminal proceedings were closed, whereas in 2018, it reduced up to 16,0%.

Moreover, according to statistics, among persons, in whose respect judgements (rulings) have taken legal effect, but they are not convicted, there are two more categories, such as insane, subject to compulsory medical measures, and acquitted.

The number of insane persons, subject to compulsory medical measures, during 2004–2012 averaged 1105 and annual indicators were relatively stable (Fig. 12). During six years of the period under review, the downwards trend of this indicator to 653 (more than 2 times compared to the level of 2012) was due to general decrease in the number of persons, in whose respect criminal proceedings (cases) were considered by courts. On average, a percentage of these persons among all in whose respect judgements have taken legal effect, amounted up to 0,6%.

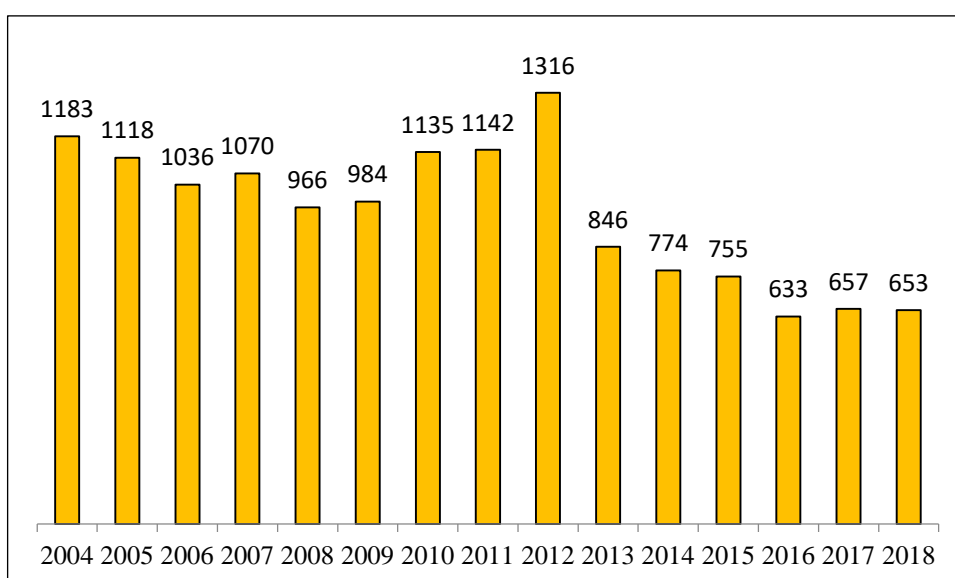


Fig. 12. The trend in the number of insane, subject to compulsory medical measures in 2004–2018

In the trend in the number of acquitted persons, there are two sub-periods (Fig. 13). In 2004–2007, the average number of these persons amounted up to 536, and their percentage among persons, in whose respect judgements had taken legal effect, amounted up to 0,26% on average. In 2008, this indicator decreased up to 270. Further, the number of these persons was fairly constant and averaged 302, and in 2018, the number of acquitted persons decreased to 140 (–55%). During the period under review, a percentage of acquitted persons among all persons, in whose respect judgements (rulings) had taken legal effect, was insignificant and averaged 0.2%.

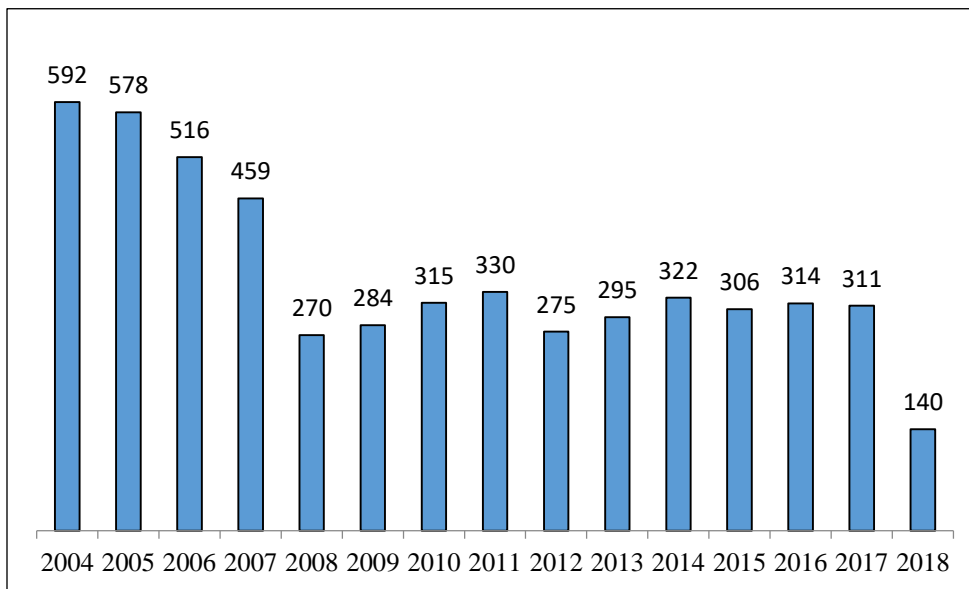


Fig. 13. The trend in the number of acquitted persons in 2004–2018

CONCLUSIONS

1. In 2005–2018, the number of persons, in whose respect judgements (rulings) had taken legal effect trended downwards. On average, 83.4% of them were convicted. Moreover, the number of convicted persons decreased, consequently, in the last year of the period under review, it was 2.4 times lower than at the beginning.

2. During much of the period under review, the scope of the criminal punitive measures in the country was reduced significantly. In 2004-2008, the number of convicted persons, who were not subjected to real criminal punishment, exceeded, indicating serious dysfunction in the criminal

justice system. Since 2005, a percentage of these persons has begun to decrease, whereas concerning offenders sentenced to punishment, to increase, but the trend to weaken the criminal punitive measures has not yet been fully remedied.

A significant reduction in the number of convicted persons was due to the implementation of humanization-oriented criminal policy by the courts of Ukraine, as well as a significant reduction in the activity of the pre-trial investigation bodies and operational units, the challenges of their efforts to comply performance with the regulations of the new Criminal Procedure Code of Ukraine.

This trend should not be assessed negatively in total. First, it is global, that is, it is common for most countries, in particular European ones. The direction chosen by Ukraine towards European standards requires compliance with this trend. Second, criminal policy humanization is a long process, the results of which can be objectively assessed only over a significant period. Undoubtedly, further monitoring of the practice of applying criminal punishments, in-depth study of its impact on the crime situation in the country should be provided.

3. During the period under review, most of criminals were convicted of thefts; illegal production, making, purchasing, storage, transportation or sending of narcotic drugs, psychotropic substances or their analogues without the purpose of selling; robbery and hooliganism. In general, the structure of convicted persons according to the types of crimes is consistent with the analogous structure of offenders identified by law enforcement bodies, nevertheless, differences were observed. A percentage of persons convicted of certain types of crimes among all convicts was higher than a percentage of detected persons who committed these crimes among all detected offenders, while concerning other crimes it was lower. It testifies to the trend of the courts to be more rigorous towards persons, who committed the most socially dangerous acts, the strive to bring them to real criminal liability

4. The reduction in the number of criminal proceedings closed by the courts in the absence of occurrence and elements of criminal offence enables to state improved preparation of criminal proceedings materials by law enforcement bodies during the last years, and the strengthening of control over the pre-trial investigation quality by both parties to criminal proceedings: the heads of investigation units, prosecutors and representatives of the defence. Moreover, a noticeable decrease in the

number of defendants, who were acquitted as a result of hearing in criminal proceedings, confirm this conclusion.

5. Over last years, parties to criminal proceedings began to apply the procedure of active repentance reconciliation for closure of criminal proceedings frequently, revealing courts' criminal policy humanization in the State. Reconciliation between the perpetrator and the victim as grounds for closure of criminal proceedings is applied more frequently due to its easier and less distressing procedure for the defendant.

6. A significant reduction in application by courts of closure of criminal proceedings in view of admission by bail reveals that this procedure of closure of the case does not meet modern social and economic conditions does not correspond to the modern socio-economic conditions of the public life and should be eliminated from the CC.

7. The statistics on the amnesty application in respect of persons, who committed crimes, suggests that this measure violates the normal procedure for conducting criminal proceedings in the country, the principle of equality of rights of citizens in the course of criminal proceedings by court, and reduces the preventive effect of criminal punishment. Therefore, further research of the appropriateness of preserving this institution in the legal system of Ukraine is advisable.

SUMMARY

In order to determine the efficiency of criminal punitive measures application, the study analyses the results of the statistical report on the number of persons, convicted, acquitted, persons, in whose respect cases have been closed, insane, subject to compulsory medical measures, as well as types of criminal punishment for 2004 –2018, according to which, the author reveals a significant reduction in the number of convicted persons; an increase in offenders convicted of thefts, illegal production, making, purchasing, storage, transportation or sending of narcotic drugs, psychotropic substances or their analogues without the purpose of selling; robbery and hooliganism; more frequent application of the procedure of active repentance reconciliation of the participants for closure of criminal proceedings and the reduction in the number of criminal proceedings closed by the courts in the absence of occurrence and elements of criminal offence that enables to state improved preparation of criminal proceedings materials by law enforcement bodies during the last years, and the strengthening of control over the pre-trial investigation quality by both

parties to criminal proceedings: the heads of investigation units, prosecutors and representatives of the defence.

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