

# RETHINKING THE CONCEPT OF "CRIME PREVENTION IN THE CUSTOMS SPHERE"

## REPENSAR O CONCEITO DE "PREVENÇÃO DO CRIME NA ESFERA ADUANEIRA"\*

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Abstract: There is always a tendency in law that there is no way a society can exist without a crime commission, as a society without crime is like a human being without blood. Even though the crime commission has become a common phenomenon in a given society, its reduction and prevention are very imperative for the interest and well-being of the society. Every society that is regulated by a legitimate setup has the responsibility in ensuring the peace and security of this society by taking relevant measures in reducing the rate of crime committed in that society. The problem we face here remains that even though with all the laudable efforts of the various law enforcement agencies and organs in Ukraine, it is still practically difficult and impossible in preventing crime commissions in the country, there still exists a continuous increase rate of crimes committed in the country. This constant increase in crime commission has provoked a doubt in the mind of many as the customary objective of the society is that of crime prevention. In answering this critical controversy that has surrounded the state of Ukraine as to problem affecting the prevention of crime it will be proper for us to examine some of those justifications posed that have made it difficult for the State of Ukraine and other law enforcement officials in combating and preventing crimes in the country. It is therefore this backdrop that we think something needs to be done by the State of Ukraine to use all the appropriate measures in ensuring security and social order in the society.

Keywords: Prevention. Crime. Social phenomenon. Prevention. Organizational. Legal measures.

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Resumo: Há sempre uma tendência na lei de que não há como uma sociedade existir sem uma comissão de crime, pois uma sociedade sem crime é como um ser humano sem sangue. Mesmo que a comissão de crime tenha se tornado um fenômeno comum em uma dada sociedade, sua redução e prevenção são muito imperativas para o interesse e bem-estar da sociedade. Toda sociedade que é regulada por um esquema legítimo tem a responsabilidade de garantir a paz e a segurança desta sociedade, tomando medidas relevantes para reduzir a taxa de crimes cometidos nesta sociedade. O problema que enfrentamos aqui continua sendo que, mesmo com todos os esforços louváveis das diversas agências e órgãos de aplicação da lei na Ucrânia, ainda é praticamente difícil e impossível impedir as comissões de crimes no país, ainda existe um aumento contínuo da taxa de crimes cometidos no país. Este constante aumento das comissões de crimes tem provocado uma dúvida na mente de muitos, pois o objetivo habitual da sociedade é o da prevenção do crime. Ao responder a esta controvérsia crítica que tem cercado o estado da Ucrânia quanto aos problemas que afetam a prevenção do crime, será apropriado examinarmos algumas das justificativas apresentadas que dificultaram o estado da Ucrânia e outros oficiais da lei no combate e prevenção dos crimes no país. Portanto, é neste contexto que pensamos que algo precisa ser feito pelo Estado da Ucrânia para utilizar todas as medidas apropriadas para garantir a segurança e a ordem social na sociedade.

Palavras-chave: Prevenção. Criminalidade. Fenômeno social. Prevenção. Organizacional. Medidas legais.

## 1. INTRODUCTION

Organized crime in general, and in the customs sphere in particular, is a differentiated phenomenon that negatively affects the development of the economic component of Ukraine. Significant regional differences are due to geography, political structure, and historical heritage.

Strategies of crime prevention aim to modification of the social environment in terms of reducing the crime rate, which can be achieved by solving numerous social problems, such as social inequality, low education level, poor employment opportunities, discrimination, poverty, and social exclusion. Existing governmental documents that focus on the aforementioned areas serve as the basis for analysis of the current situation in the field of prevention of crime in connection with the formulation of crime policy (Jere, Meško, Kanduč, 2011).

In several states that are at the stage of an unstable transition to democracy, the issue of organized crime's influence on state affairs has become global, because of the traditional methods of law enforcement agencies, anti-corruption campaigns, institutional purges (lustrations), and reforms are no longer effective (BUSOL, 2019). At the same time, solving problems in this area requires conducting comprehensive research on theoretical issues related to the prevention of crime in the customs sphere. Moreover, taking into account modern social, economic, and political transformations, crime is being transformed and changed, which necessitates a change in approaches to preventing this negative

phenomenon. Thus, rethinking the concept of crime prevention in the customs sphere is an urgent need today, as its clear understanding should be based on the development of appropriate government programs to prevent and combat crime in the customs sphere.

## 2. PURPOSE AND OBJECTIVES OF THE STUDY

The purpose of the article is to offer the author's definition of the concept of "crime prevention in the customs sphere". To achieve this goal, it is necessary to solve the following tasks: *firstly*, to reveal the general theoretical content of the concept "prevention"; *secondly*, to find out the content of the category "crime prevention in the customs sphere". The problem here is not just in identifying the rationale behind the need for crime prevention, but to look at those measures that have been used by the State of Ukraine in ensuring that crimes are being combated at all levels. Having the ambition and mindset of preventing or combating crimes is one thing, using the available measures in preventing them is the other. It is therefore the responsibility of all the State agents in Ukraine to prevent the crimes in question.

## 3. METHODOLOGY

To solve the tasks, during the writing of the article the author used a set of modern methods of scientific knowledge (general and special), which allowed them to understand the essence of such a legal phenomenon as crime prevention in the customs sphere. In particular, the analysis of the concept of "crime prevention in the customs sphere" as a complex multifaceted phenomenon was based on the philosophical method of materialist dialectics.

The terminological approach was useful in analyzing the etymological meaning of the definition of "crime prevention in the customs sphere." This allowed the author to substantiate the thesis that the concept of "crime prevention in the customs sphere" is most appropriate to interpret in a broad and narrow sense.

The system-structural method allowed us to note that the prevention of crime in the customs sphere is aimed at those factors that potentially or lead to the manifestation of crime in society as a complex phenomenon or its types.

The comparative legal method and logical-legal methods allowed to formulate the author's vision of the concept of "crime prevention in the customs sphere", in particular, it was decided to interpret it in a broad and narrow sense.

#### 4. RESULTS AND DISCUSSION

**4.1. Historical aspects of crime prevention.** From the very beginning of the formation and further development of the state, as a political form of organization of society in certain territories, crime has become one of the largest negative phenomena that the development of the social system. As long as the state exists, so many negative processes and phenomena exist that produce crime, cause its existence and c, and contribute to the commission of crimes in various spheres of society.

With the development of trade between the states, the so-called crime in the customs sphere appears and develops rapidly, as customs officials have the opportunity to illegally enrich their sites. There is a high demand from the administration and customs officials for illegal sources of income, as well as the offer of illegal benefits from the declarants who want to "save" on mandatory customs payments. That is why, as L. T. Goloviychuk (2013) stresses, one of the areas of combating crime is its prevention, which allows for ensuring in society, security, and stability of society as a whole, respect for the rights and freedoms of citizens in all spheres of life. Criminological prevention (warning) is a multilevel system of the state, the public, and other measures aimed at eliminating the causes and conditions of crime, various negative factors that produce such causes and conditions, as well as limiting the possibility of committing new crimes.

Crime prevention has a long history of development, in particular, Plato expressed the view that the commission of criminal acts - is a manifestation of disharmony, bad inclinations of people, and the demand for the perfection of the law, which does not deter the individual from crime. Therefore, the goal is to make a person become virtuous, loving, and justice. In this he be, lived and there is prevention. To combat crime, according to Aristotle, society must fight against corrupt morals, customs, and h, habits of people that are contrary to reason (Babanin, 2019). Later, the ideas of preventing and combating crime found expression in the works of thinkers of the XVII-XIXries: T. More, J.-J. Rousseau, T. Campanella, J. Meller, J. Bentham, Ch. Montesquieu, C. Beccaria, C. Saint-Simon, Ch. Fourier, R. Owen, and many others. In particular, Montesquieu's famous treatise "The Spirit of the Laws" substantiated the view that a wise legislator cares less about punishing crimes than about preventing them, and he does this by improving the morality of society.

According to the teachings of J. Bentham, set out in his work "Basic Fundamentals of the Criminal Code", all means of crime prevention should be reduced to influencing people's propensity, teaching them to follow the "logic of will", "reject the flow of dangerous desires" and direct "propensity for entertainment that best suits the common good" (Kurilo, Mikhailov, 2006).

Crime prevention has long figured prominently in the scholarly and applied traditions of criminology. That crime prevention is a unique social and environmental strategy for reducing crime and is distinct from crime control or punishment. A more current perspective sees crime prevention as the full range of techniques, from prenatal home visits to prison sentences, defined more by its outcome - the prevention of a future criminal event - than its character or approach (Welsh, Pfeffer, 2013).

#### ***4.2. Scientific points of view on the understanding of the concept of "crime prevention" and crime prevention in the customs sphere***

A rather broad approach to the interpretation of the concept of "prevention" has generated a lot of scientific disputes about its synonymous relationship with other categories, including prevention (prophylaxis). This opinion has its logic, because, for example, the word "prophylaxis" is translated as prevention, as well as in the form of the verb to protect or prevent.

The term "warning" means to anticipate, to do something before something happened, that is, it is generally identical to the concept of "prevention" (YURCHENKO, 2004). However, the most commonly used word today is "prevention", which combines all the concepts associated with "crime prevention", denoting activity for the prevention, prophylaxis, and prevention of crime. The introduction of this universal term has allowed foreign scholars to avoid the "struggle" of the terms "prevention", "prophylaxis", and "prevention" of offenses, which exists in the domestic legal literature until now (Vedernikova, 2001).

At the same time, there is an opposite scientific position, within which scientists argue the need to distinguish between the above terms. For example, in his dissertation, I. O. Panov (2015) draws attention to the fact that between the words "prevention" and "prophylaxis" there is a difference, which is that the former reflects the activity to prevent any phenomena, and the second - activity to prevent negative changes in phenomena. Instead, appealing to somewhat different terms, O. M Litvak (2001) and some other scholars suggest appropriate to combine these concepts with the term "prevention", and prophylaxis to call for measures to eliminate or neutralize criminogenic factors.

Thus, based solely on general etymological interpretations, it can be stated that *prevention is an active category that depicts a certain preventive function, in other words, the prevention of an event or activity of a certain object*. However, the close vocabulary of this term to the definitions of other words does not allow us to correctly assess their relationship and draw conclusions about their real relationship.

***In the context of the above, the question arises: what is the situation with the interpretation of the concept of "crime prevention"?***

Yu. D. Bluvshstein, M. I. Zirin and V. V. Romanov (1986) interpret crime prevention as a special type of social management designed to ensure the security of law enforcement values, which consists in developing and implementing a system of goals and eliminating the causes of crimes, conditions that contributed to their commission, as well as in a certain preventive effect on persons prone to unlawful behavior. According to O. Bandurka and O. Litvinov (2014, p. 10), crime prevention as a type of social practice and social value reflects a segment of public relations about and in connection with the fight against crime, therefore they (relationships), and not their shortcomings, are its object. Potential victims of criminal encroachments are a special object of crime prevention. This is the so-called victimological aspect of crime prevention.

To date, crime prevention has acquired several scientific interpretations. According to one approach, the term "prevention" or equivalent "warning" is defined as a complex, multilevel system of state bodies and public organizations that have an anti-criminogenic effect on social objects to prevent violations of criminal law and eliminate (neutralize) the factors that determine it. This position is supported by other researchers, who consider that crime prevention is not only a set of interrelated measures carried out by the subjects of prevention to combat crime and eradicate the causes of its occurrence but also a special area of social regulation, management of social processes associated with the implementation of crime reduction tasks (Dzhuzha, 2001). An opinion similar in general content, but different in certain features, is offered by A.P. Zakaliuk (2007, p. 324), who defines crime prevention as a kind of social prevention activity, the functional content and purpose of which is to prevent the determinants of crime and its manifestations, especially the causes and conditions of the latter, due to limitations, neutralization, and if possible - elimination of their action.

Crime prevention (prophylaxis) is a large set of measures to influence the causes, and conditions not only of crimes and other offenses, but also all social pathologies, various forms, and types of so-called behavioral disorders, including alcoholism, drug

addiction, prostitution, political, religious and other extremism, suicide and other things that violate not only legal but also moral and other forms of human coexistence (Alekseev, Gerasimov, 2001, p. 13).

V. V. Holina (2007) suggests another position in her works, proving: "Crime prevention is the implementation of economic, political, ideological, educational, legal and other measures to combat crime; this is an activity to identify and eliminate the causes of crime, certain types, and groups of crimes, specific crimes, to prevent the end of a crime at different stages of the formation of criminal behavior". The researcher believes that crime prevention is a social policy of the state aimed at overcoming criminogenically dangerous contradictions in public relations with the aim of their positive resolution and gradual displacement (the so-called general social prevention), as well as a special anticipatory practice of forming and implementation at different stages of criminal manifestations (special criminological prevention) (Holina, 2011, p. 16).

The practically oriented concept for crime prevention is offered in the works of A. F. Volobuev (2003, p. 4) and O. Kliuiev (2005, p. 100). Scholars argue that this is a system of actions aimed at preventing and avoiding the commission of offenses by a particular person at the stages of detection of intent or preparation for a crime. Prevention begins with the formation of a person's intent to commit a crime, the emergence of criminal intent, and continues to commit a crime. Prevention is carried out based on the results of operational and investigative activities or pre-trial investigations of crimes already committed.

A broad position on the content of crime prevention is given by V. M. Kudryavtsev and V. Ye. Yeminov (2006, p. 265-266), who studies the category as a system of measures and subjects implementing them, aimed at: "firstly, identifying and eliminating or weakening and neutralizing the causes of crime, its types, as well as the conditions that contribute to them; secondly, the identification and elimination of situations in certain territories or a certain environment that directly motivate or provoke the commission of crimes; thirdly, the identification of groups of increased criminal risk in the structure of the population and its reduction; fourthly, the identification of persons whose behavior indicates a real possibility of committing crimes, and the commission of a deterrent and corrective impact on them, and, if necessary, on their inner circle".

No less complex is the position of V. Kuts (2016), who concludes that the means of crime prevention is the prophylaxis of criminal offenses. It consists in neutralizing the criminogenic preconditions of a possible offense, or activities to eliminate and neutralize

the causes of its possible commission, as well as the conditions that contribute to this. When prophylaxis is not effective enough, there is a need to use a second means of avoiding - preventing criminal offenses. Prevention is a set of measures directly aimed at the consciousness of specific individuals or their groups who have criminal intentions, and plan to commit a crime. At the level of individual crime avoiding, prevention is manifested as informing the potential offender about the irrationality of the planned criminal offense. The main feature of this form of prevention is the presence of efforts applied to specific individuals who already intend to commit a crime. From the standpoint of criminal law, this means that the prevention of a crime is the activity of the subjects of prevention at the stage of detection of intent to commit it.

Thus, the interpretation of the concept of "crime prevention" in modern scientific and legal sources offers us a variety of views on this category, ranging from defining it as a socially important activity or a kind of social management to interpretations of much "easier", concise content, in which it is disclosed as a system of investigative, criminal procedural, organizational and other measures. At the same time, a relatively low percentage of scholars pay attention to the connection between crime prevention and such similar categories as avoiding, prophylaxis, or prevention.

The inconsistency and deep diversity of approaches to the definition of crime prevention are also determined by the lack of a proper legislative approach to its definition. The term "prevention" is found in many national regulations today, but it is not interpreted in any of them. A striking example is the Law of Ukraine № 1700-VII "On Prevention of Corruption" (October 14, 2014), the provisions of which appeal, but do not outline the meaning of the concept of "prevention of corruption" as a type of crime.

Customs crimes are a special and specific group of crimes, so the state is forced to find specific, adequate to these crimes measures (means, methods) to combat them. Customs crimes are a special specific group of crimes, so the state is forced to find specific, adequate to these crimes measures (means, methods) to combat them (DMYTRIV, 2018).

As B. M. Holovkin (2017? p. 285-286) noted, corruption crime in the customs sphere is a system of corruption crimes and crimes related to corruption committed by officials of the customs authorities of the State Fiscal Service of Ukraine when applying legislation on state customs affairs in relations with persons moving goods and vehicles across the customs border, as well as when interacting with other state bodies providing customs activity.



Therefore, corruption crime in the customs sphere is a system of corruption criminal offenses related to corruption committed by officials of customs bodies of the State Fiscal Service of Ukraine during the application of legislation on state customs in relations with persons moving goods and vehicles across the customs border, as well as interactions with other state bodies providing customs activity. The content of corruption crime consists of the illegal customs activity of authorized state bodies and their officials for personal and corporate selfish purposes (Rohatynska, 2022, p. 115).

Given the above, we can say that crime prevention in the customs sphere is aimed at those factors that potentially or lead to the manifestation of crime in society as a complex phenomenon or its types and forms. That is why there is no doubt that further improvement of methods and mechanisms for crime prevention in the customs sphere should be based on the introduction of information and other new technologies in the daily activity of both customs and law enforcement agencies in general. In particular, there is an urgent need to introduce automated information systems, technical means of recording information, computer geographic information systems, etc. Therefore, the introduction of automated models for crime prevention in the customs sphere should be a key aspect. The advantages of the automatically generated models are many, including the short time to produce such models, the variety of different models that can be generated for specific regions and periods of days, months, or years, and the graphical characteristic of such models that allow a fast analysis of them, as well as the use of large amounts of data, which are infeasible activities to be done by human experts (De Faria et al., 2018).

## 5. CONCLUSION

According to the results, the effectiveness of crime prevention in the customs sphere also depends on the harmonization of national legislation and the legislation of the European Union. In this direction, lawmakers should pay close attention to the construction and implementation of the rule of law, because it also depends on the effectiveness of combating crime.

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