

DOI <https://doi.org/10.24144/2663-5399.2025.1.11>
UDC 341.231.14:343.8](100)

EUROPEAN REGIONAL STANDARDS AND RECOMMENDATIONS ON PROBATION

Inga Demianchneko,

*Leading Inspector of Poltava District Sector №. 2
of the State Institution “Probation Center” in Poltava Region,
PhD student of the Department of International Law
Yaroslav Mudryi National Law University
<https://orcid.org/0009-0005-4960-3923>
Researcher ID: NZN-5853-2025
i.o.demianchenko@ukr.net*

Summary

This article explores the institutional and normative mechanisms of probation at the European regional level, focusing on their alignment with international legal standards. The aim is to identify specific features of regional probation systems, taking into account international human rights instruments and their practical implementation. The study employs a comprehensive methodological approach. The descriptive method is used to outline the content of international documents related to probation. The formal-logical method helps clarify the structure and meaning of legal provisions. The axiological method highlights the value and significance of European regional standards and recommendations. Legal analysis and synthesis are applied to examine the practices of regional human rights institutions and to identify institutional and legal mechanisms relevant to probation. The research finds that regional human rights protection systems incorporate key probation standards, particularly the rights to humane treatment and dignity. These standards are generally consistent with universal international instruments. The European system is the most advanced, with the European Court of Human Rights and the Council of Europe providing a clear legal and practical framework for probation policies and practices. Their recommendations significantly influence national legal systems. Regional probation standards play a critical role in shaping effective and humane criminal justice policies. The European model, with its structured recommendations and legal interpretations, offers a robust framework for integrating probation into national systems. These recommendations should be recognized as essential components of broader international probation standards. For Ukraine, prioritizing the implementation of these recommendations is crucial to advancing legal reforms and aligning with European practices.

Key words: regional standards, human rights and freedoms, probation, execution of court sentences, criminal justice, justice.

1. Introduction

In legal terms, probation is a legal institution that governs the application of a set of probation measures to individuals held criminally liable. Essentially, probation is an alternative form of punishment, which involves the imposition of specific obligations and restrictions on the convicted person aimed at fostering awareness of unlawful behavior and promoting rehabilitation. International legal standards of probation exist at both the universal and regional levels. The majority of scholars in international law identify three primary regional human rights protection systems: the European, Inter-American, and African systems. However, other approaches to the classification of regional mechanisms in this field also exist in academic discourse. For Ukraine the most

relevant and important European regional system. However, each of these systems is characterized by specific historical, legal, economic, social, and cultural features, which shape the approaches to enshrining human rights and freedoms. Regional mechanisms are considered a significant achievement of modern international law, as they incorporate key normative and institutional elements of probation within the mentioned regional systems and are implemented into national legal frameworks. Given the dynamic development of the international legal institution of probation, the study of the legal nature of regional-level probation standards remains relevant for many countries, including Ukraine. This is evidenced by the country's ongoing efforts to ensure proper legal regulation of this institution.

In scholarly literature, the international human rights protection system is studied across several dimensions. According to I. M. Ryzhenko and O. M. Demianiuk, there are – first, the global level – represented by international organizations that safeguard human rights globally; second, the regional level – represented by regional human rights protection systems; and third, the national level – focused on the guarantee and protection of human rights within individual states (Риженко, Демянюк, 2019, p. 146). This approach is widely recognized in the academic community as it comprehensively reflects the influence of international legal standards both globally and nationally.

K. P. Vladovska and V. S. Tysovska emphasize that regional standards, in particular, represent the core achievements of international human rights law and more comprehensively reflect the specific context of each region (Владовська, Тисовська, 2020). At the same time, we consider it appropriate to point out that not only binding regional standards but also non-binding regional instruments («soft law») constitute important components of international law. Regional-level probation standards are typically the result of cooperation between groups of states in the field of criminal justice and include both normative mechanisms and soft-law instruments. Moreover, the number of soft-law acts far exceeds that of binding standards. Therefore, a comprehensive approach should be taken to probation regulation, considering both normative and recommendatory documents at the regional level.

The French researcher Charlotte Piveteau notes that treaties generally have an open-textured character and their provisions are concise, which is precisely why “soft law” plays a key role in “developing, refining, and clarifying standards, more precisely defining their meaning and the scope of states’ obligations” (Piveteau, 2021). In this context, regional probation standards and recommendations reflect the specific functioning of probation within a particular group of states. They do not adhere to a strict hierarchical structure and significantly expand the content of normative provisions.

In this article, we aim to comprehensively characterize the legal nature and specific features of institutional and normative mechanisms at the regional level, including recommendations in the field of probation, through an in-depth analysis of international instruments and institutional practices. Achieving this objective is possible through a legal study of the implementation of international legal standards of probation at the regional european level.

2. European regional system for the protection of human rights and freedoms

The european regional system for the protection of human rights and freedoms is considered the most influential set of normative and functional mechanisms safeguarding human rights. The adoption of the European Convention on Human Rights (1950) is viewed as the starting point in shaping regional international probation standards, as it enshrines the prohibition of torture (Article 3) and the principle of no punishment without law (Article 7).

Although probation is not explicitly mentioned in the Convention, its underlying principles provide a legal foundation for probation as part of the criminal justice system. The additional protocols to the Convention are also significant. Protocol № 6 (1983) and Protocol № 13 (2002) abolished the death penalty, while Protocol № 7 (1984) guarantees the right to appeal in criminal matters (Art. 2) and the right not to be tried or punished twice (Art. 4).

To monitor compliance, the European Court of Human Rights (ECtHR) was established. This institution interprets the Convention and determines whether human rights violations have occurred. The Convention holds significant value for international criminal justice, with the ECtHR consistently emphasizing punishment aligned with the principles of rehabilitation and humanity.

This perspective supports the development of probation as an alternative to imprisonment that complies with human rights standards. The ECtHR has also addressed cases involving inadequate prison conditions—such as overcrowding and poor sanitation—which further underline the need for alternative sanctions. Relevant cases include *Rivni v. Greece* (№ 28524/95, 2001, §75), *Saleymanovich v. Italy* (№ 22635/03, 2009, §51), and *Neshkov and Others v. Bulgaria* (№ 36925/10 et al., 2014, §228)¹.

Alternatives to imprisonment, including probation, help reduce prison overcrowding and enhance the effectiveness of criminal justice by promoting individualized sentencing, offender rehabilitation, and recidivism prevention. This aligns with international legal standards, which urge states to use imprisonment only as a last resort when less severe measures are inadequate.

Several ECtHR cases indirectly demonstrate that individuals subject to probation or conditional release must have access to adequate procedural safeguards when challenging decisions that affect their liberty. In this regard, the Court assessed the actions of national authorities in *Waite v. the United Kingdom* (№ 53236/99,

¹ See cases: 1) Case of Peers v. Greece. (2001). European Court of Human Rights. [in English]. Retrieved June 14, 2025, from <https://hudoc.echr.coe.int/eng?i=001-59413> 2) Case of Sulejmanovic v. Italy. (2009). Strasbourg: European Court of Human Rights. [in English]. Retrieved June 14, 2025, from <https://hudoc.echr.coe.int/eng?i=001-93564> 3) Case of Neshkov and Others v. Bulgaria. (2015). Strasbourg: European Court of Human Rights. [in English]. Retrieved June 14, 2025, from <https://hudoc.echr.coe.int/eng?i=001-150771>

2002), examining the offender's release from prison based on the level of threat posed to society (*Waite v. the United Kingdom*, ECtHR, 2002, §68).

A similar conclusion was reached in *Leger v. France* (№ 19324/02, 2006), where the applicant contested the conditions of his detention and the lack of effective judicial review during his suspended sentence. Additionally, judge Mularoni, in a dissenting opinion, highlighted the importance of considering the probation officer's assessment of the offender's rehabilitation (*Leger v. France*, ECtHR, 2006). In *Külekci v. Austria* (№ 30441/09, 2017), the ECtHR evaluated repeated criminal behavior. The case concerned the deportation of an individual, with the Court noting that violent offenses can justify such a measure. Although integration is an important factor, it must be balanced against the seriousness of the crimes (*Külekci v. Austria*, ECtHR, §48–49). In *T. v. the United Kingdom* (№ 24724/94, 1999), the Court examined the treatment of minors in criminal proceedings, particularly whether holding children criminally responsible for actions committed at the age of ten constituted inhuman or degrading treatment. Although no violation was found, Judge Lord Reed, in his dissenting opinion, stressed the importance of rehabilitation and reintegration – core elements of probation (*T. v. the United Kingdom*, ECtHR, 1999). Finally, in *Vinter and Others v. the United Kingdom* (№ 66069/09, 130/10, 3896/10, 2013), the Court emphasized that all punishments must serve a rehabilitative purpose, reinforcing the importance of alternative forms of punishment, such as probation.

An illustrative case is *Valeriu and Nicolae Roșca v. Moldova* (№ 41704/02, 2009), in which three officers were convicted of ill-treatment of the applicants and sentenced to three years of imprisonment, along with a two-year ban from working in law enforcement. The ECtHR examined how national courts imposed punishment and stated clearly that it is for the national courts sentencing an offender to determine the punishment they consider most appropriate to ensure the educational and preventive effect of a conviction (*Valeriu and Nicolae Roșca v. Moldova*, ECtHR, §72). However, in this case, the national courts suspended the custodial sentence and imposed a one-year probation period. The ECtHR noted that the courts failed to mention a number of clearly applicable aggravating factors. In particular, none of the officers showed any sign of remorse, denying throughout the proceedings

that any ill-treatment had occurred (*Valeriu and Nicolae Roșca v. Moldova*, ECtHR, §72). This case highlights the importance of properly applying probation measures, with due consideration of both aggravating and mitigating circumstances, as well as the offender's potential for rehabilitation without imprisonment. Additional relevant elements concerning probation are indirectly addressed in the following cases: *Weeks v. the United Kingdom* (№ 9787/82, 1987); *Thynne, Wilson and Gunnell v. the United Kingdom* (№ 11787/85, 11978/86, 12009/86, 1990); *Paul and Audrey Edwards v. the United Kingdom* (№ 46477/99, 2002); *Ezeh and Connors v. the United Kingdom* (№ 39665/98 and 40086/98, 2003); and *M. G. v. Lithuania* (№ 6406/21, 2024)¹.

The ECtHR, through its judgments, indirectly assesses the impact of probation measures on offender behavior when interpreting the circumstances of a case and applying the provisions of the European Convention on Human Rights. This demonstrates a new perspective on probation – not only as a tool for enforcing punishment with a focus on reintegration, but also as a means of realizing the fundamental rights and freedoms of individuals with the status of convicted persons. During the execution of alternative sanctions, these rights and freedoms are often subject to certain restrictions. This raises the question of how to balance the interests of society – which expects that offenders serve a fair sentence – with the individual need for offender rehabilitation.

3. European Soft Law Instruments in Probation

An important role in shaping regional-level international legal standards of probation is played by the Committee of Ministers of the Council of Europe. This body is considered one of the most productive, having adopted a number of instruments directly addressing the functioning of probation systems. In particular, the Committee provided a comprehensive conceptual definition of probation in Recommendation CM/Rec(2010)1 on the Council of Europe Probation Rules, adopted on 20 January 2010. It stated that probation refers to the implementation in the community of sanctions and measures defined by law and imposed on offenders (Committee of Ministers, 2010). This interpretation allows for a broad understanding of probation as a set of specific sanctions and measures, which may vary across countries. However, the overall goal remains the same: reducing reoffending by establishing positive relationships with offenders for

¹ See cases: 1. Case of *Weeks v. The United Kingdom*. (1987). Strasbourg: European Court of Human Rights. [in English]. Retrieved June 14, 2025, from <https://hudoc.echr.coe.int/?i=001-57594> 2. Case of *Thynne, Wilson and Gell v. The United Kingdom*. (1990). Strasbourg: European Court of Human Rights. [in English]. Retrieved June 14, 2025, from <https://hudoc.echr.coe.int/?i=001-57646> 3. Case of *Paul and Audrey Edwards v. The United Kingdom*. (2002). Strasbourg: European Court of Human Rights. [in English]. Retrieved June 14, 2025, from <https://hudoc.echr.coe.int/?i=001-60323> 4. Case of *Ezeh and Connors v. The United Kingdom*. (2003). Strasbourg: European Court of Human Rights. [in English]. Retrieved June 14, 2025, from <https://hudoc.echr.coe.int/?i=001-60608> 5. Case of *M.G. v. Lithuania*. (2024). Strasbourg: European Court of Human Rights. [in English]. Retrieved June 14, 2025, from <https://hudoc.echr.coe.int/?i=001-231083>

supervision, guidance, assistance, and successful social reintegration.

The recommendations adopted by the Committee of Ministers possess the following features¹. First, by nature, regional treaties and mechanisms are territorially limited, hence their designation as «regional.» This applies equally to probation recommendations, which are aimed at European countries only. Second, such recommendations are largely of an orientational character. They do not provide mandatory guidelines but offer general principles without targeting a specific state. Third, these acts are not legally binding; rather, they represent proposals or calls to action for states to behave in a certain way in a given legal context, not rigid legal prescriptions.

Due to the soft law nature of these documents, the Council of Europe lacks an oversight body to monitor compliance with these recommendations. This complicates the evaluation of their actual implementation. A specific issue affecting these probation recommendations is the absence of any institutional control mechanisms. Unlike binding international treaties that provide for monitoring or reporting bodies, probation recommendations depend entirely on the political will of states. A change in a country's political or legal priorities, or a decline in focus on probation, carries no legal consequences or procedural responses – raising concerns about the effectiveness of such international legal standards.

4. Other European Regional Normative and Enforcement Mechanisms

Among regional instruments relevant to the functioning of the probation system is the *European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment* (1987). This Convention reaffirms the prohibition of torture and inhuman or degrading treatment or punishment (Council of Europe, 1987). According to Article 1, it established the *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or*

Punishment (CPT), tasked with visiting places of detention to assess how persons deprived of their liberty are treated, and to strengthen their protection where necessary.

Although primarily focused on custodial settings, the CPT's activities also indirectly touch upon probation-related issues, particularly when assessing broader penal policy. For instance, in its *34th General Report (2024)*, the CPT highlighted the urgent need to reconsider penal execution systems and explore comparative European strategies for tackling prison overcrowding and associated challenges (CPT, 2024, p. 14). As probation offers a non-custodial alternative, it plays a humanitarian role in reducing pressure on penitentiary systems while promoting a more individualized, socially integrative approach that mitigates reoffending – particularly by addressing the needs of vulnerable groups (e.g., women, minors) through tailored interventions.

Additionally, the *Council for Penological Co-operation* (PC-CP), a consultative body under the Council of Europe's *European Committee on Crime Problems*, supports work in this area. According to Rob Canton, the practical experience of the PC-CP members – especially in prison and probation management – adds authority to their views and ensures complex technical issues are properly addressed (Canton, 2019, p. 5). However, it should be emphasized that this body does not directly develop or adopt probation standards. Its role is limited to expert support and advisory contributions.

5. The Influence of EU Law on Regional Probation Standards

To deepen the analysis of European regional probation standards and recommendations, it is essential to consider the supranational legal system of the European Union (EU), comprising 27 Member States. A foundational provision is the prohibition of torture and inhuman or degrading treatment or punishment, enshrined in Article 3 of the *Charter of Fundamental Rights of the EU* (2012/C 326/02).

¹ This list includes, but is not limited to, the following: 1. Resolution (70)1 on the Practical Organization of Supervision and Post-Penitentiary Care of Probationers and Conditional Releasees, adopted on 26 January 1970; 2. Recommendation CM/Rec(99)19 concerning mediation in penal matters, adopted on 15 September 1999; 3. Recommendation CM/Rec(99)22 concerning prison overcrowding and the increase in prison populations, adopted on 30 September 1999; 4. Recommendation CM/Rec(2003)22 on conditional early release, adopted on 24 September 2003; 5. Recommendation CM/Rec(2006)2 on the European Prison Rules, adopted on 11 January 2006; 6. Recommendation CM/Rec(2006)8 on assistance to victims of crime, adopted on 14 June 2006; 7. Recommendation CM/Rec(2008)11 on European Rules for juvenile offenders subject to sanctions or measures, adopted on 5 November 2008; 8. Recommendation CM/Rec(2010)1 on the Council of Europe Probation Rules, adopted on 20 January 2010; 9. Recommendation CM/Rec(2017)3 on community sanctions and measures, adopted on 22 March 2017; 10. Recommendation CM/Rec(97)12 on staff involved in the implementation of sanctions and measures, adopted on 10 September 1997; 11. Recommendation CM/Rec(2014)4 on electronic monitoring, adopted on 19 February 2014; 12. Guidelines for Prison and Probation Services on Radicalisation and Violent Extremism, adopted on 2 December 2015; 13. Recommendation CM/Rec(2018)8 on restorative justice in criminal matters, adopted on 3 October 2018; 14. Recommendation R(97)12 of the Committee of Ministers on staff involved in the implementation of sanctions and measures, covering recruitment, selection, education, training, and continuing professional development of penitentiary and probation staff, adopted on 25 April 1997; 15. Recommendation CM/Rec(2024)5 of the Committee of Ministers on the ethical and organisational aspects of the use of artificial intelligence and related digital technologies by prison and probation services, adopted on 9 October 2024.

While the Charter has the status of primary EU law, probation-specific legal frameworks are governed by *Council Framework Decisions*, which Member States are obliged to transpose into national law.

The *Council Framework Decision 2008/909/JHA* of 27 November 2008 concerns the mutual recognition of judgments imposing custodial sentences for enforcement within the EU. Its objective is to promote social rehabilitation by enabling a sentence to be served in the Member State of residence (Art. 3). Although the Court of Justice of the EU (CJEU) has not directly addressed probation in this context, it has emphasized safeguarding fundamental rights when enforcing foreign judgments (e.g., *Jeremy F. v. Prime Minister*, C-168/13 PPU, §32, 34). A key principle in this framework is that enforcement in the executing state must support the social rehabilitation of the offender (Recital 9). This aligns with probation's rehabilitative goal—facilitating reintegration without imprisonment through multifactorial, individualized support.

The *Council Framework Decision 2008/947/JHA* further regulates probation in the EU by promoting mutual recognition of probation decisions and alternative sanctions. It allows Member States, other than the sentencing state, to supervise compliance with probation measures, enhancing security and protecting offenders' rights (Art. 1). It defines a specific list of measures such as informing authorities of residence changes, complying with conduct instructions, avoiding certain contacts, compensating victims, community service, therapy, and rehabilitation (Art. 4) (Council Framework Decision, 2008).

This framework aims to support the rehabilitation of offenders; protect victims and society and to enable cross-border enforcement of non-custodial sanctions. While this harmonized approach helps unify probation systems across the EU, practical challenges persist. For example, Spanish courts have reportedly avoided applying this framework due to the limited transnational enforceability of some probation measures. Moreover, the framework lacks strict enforcement mechanisms, relying mainly on inter-state communication, which may hinder its practical effectiveness and reduce accountability.

Lastly, the *Council Framework Decision 2009/829/JHA* introduces mutual recognition of supervision measures as alternatives to pre-trial detention. Although it does not directly regulate probation, it conceptually supports its philosophy – encouraging non-custodial measures and reinforcing probation services' role during pre-trial phases (Art. 2). It forms part of the EU's broader efforts to humanize criminal justice and facilitate intra-EU mobility (Council Framework Decision 2009/829/JHA, 2009).

The EU Council Framework Decisions illustrate a unified understanding of the content and purpose of probation within the EU's supranational legal system. Firstly, they share a common goal – enabling the mutual recognition and execution of non-custodial sanctions across Member States. Secondly, these instruments confirm that probation serves both the rehabilitation of offenders and the protection of victims of crime. Thirdly, from a legal form perspective, Framework Decisions are binding upon Member States as to the results to be achieved, while leaving them the freedom to choose the means and methods of implementation. Their adoption signifies recognition of probation as a pan-European legal instrument. For example, if a probation order is issued in one Member State, others are obliged to recognize and execute it. This enhances cross-border cooperation in criminal justice through information sharing and coordinated supervision of individuals under probation. However, a major shortcoming is the absence of enforcement mechanisms to hold states accountable for non-compliance with probation-related judicial decisions. In conclusion, these EU Framework Decisions aim to harmonize probation-related practices, thereby improving legal coherence and consistency among Member States.

6. Conclusions

Therefore, the European regional system for the protection of human rights guarantees the right to humane treatment and respect for the dignity of individuals subject to criminal sanctions. These principles are enshrined both in general legal instruments and in those protecting specific categories of persons. Among international legal frameworks, the European system stands out as the most developed and comprehensive in regulating probation, offering a range of interconnected, structured, and value-based legal and policy documents, interpreted by human rights institutions.

These provisions establish a common understanding of the aims and functions of probation in Europe and form a solid foundation for national-level implementation. This is particularly important for Ukraine as it aligns its legislation with European standards. The ECtHR, through its interpretations, has underscored the need to ensure access to adequate procedural safeguards, including in the context of probation. These conclusions can be incorporated into national sentencing and enforcement practices.

We argue that probation-related recommendations should be viewed as an integral part of international probation standards in a broad sense, as they influence the development of concrete supranational mechanisms in this field. Ukraine should pay special attention to such soft-law instruments and enhance their implementation within the domestic legal system—an essential step in its path toward EU accession.

Bibliography:

1. **Риженко, І.М. & Демяннюк, О.М.** (2024). Загальна характеристика регіональних систем захисту прав людини. *Науковий вісник Міжнародного гуманітарного університету. Серія «Юриспруденція»*, 68, С. 145–148. URL: <https://vestnik-pravo.mgu.od.ua/archive/juspradenc68/30.pdf>.
2. **Владовська, К. & Тисовська, В.** (2019). Міжнародні та європейські стандарти захисту прав людини: до проблеми визначення поняття та класифікації. *Вісник Національної академії Державної прикордонної служби України. Серія: юридичні науки*, 4. URL: <https://periodica.nadpsu.edu.ua/index.php/legal/article/view/302>.
3. **Piveteau, C.** (2022). Between law and values: why soft law reinforces the hybrid nature of international human rights law. Implications philosophiques: espace de recherche et de diffusion. URL: https://www.implications-philosophiques.org/between-law-and-values-why-soft-law-reinforces-the-hybrid-nature-of-international-human-rights-law/?utm_source=chatgpt.com.
4. *Конвенція про захист прав людини і основоположних свобод (з протоколами)* (1950). URL: https://zakon.rada.gov.ua/laws/show/995_004#Text.
5. *Waite v. The United Kingdom*, 53236/99 (ECHR, 2002). URL: <https://hudoc.echr.coe.int/eng?i=001-60814>.
6. *Léger v. France*, 19324/02 (ECHR, 2006). URL: <https://hudoc.echr.coe.int/?i=001-73312>.
7. *Külekci v. Austria*, 30441/09 (ECHR, 2017). URL: <https://hudoc.echr.coe.int/?i=001-173769>.
8. *T. v. The United Kingdom*, 24724/94 (ECHR, 1999). URL: <https://hudoc.echr.coe.int/eng?i=001-58593>.
9. *Vinter and Others v. The United Kingdom*, 66069/09 (ECHR, 2013). URL: <https://hudoc.echr.coe.int/eng?i=002-7652>.
10. *Valeriu and Nicolae Rosca v. Moldova*, 41704/02 (ECHR, 2009). URL: <https://hudoc.echr.coe.int/eng?i=001-95259>.
11. *Recommendation CM/Rec(2010)1 of the Committee of Ministers to member states on the Council of Europe Probation Rules*. Strasbourg: Council of Europe. URL: <https://www.cep-probation.org/wp-content/uploads/2018/10/CoE-probation-rules-recommendation.pdf>.
12. *Європейська конвенція про запобігання катуванням чи нелюдському або такому, що принижує гідність, поводженню чи покаранню*: Рада Європи; Конвенція, Міжнародний документ від 26.11.1987. URL: https://zakon.rada.gov.ua/laws/show/995_068#Text.
13. *34th General Report of the CPT: Activities 2024* (1 January – 31 December 2024). European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. (2025). Strasbourg: Council of Europe. URL: <https://rm.coe.int/1680b57a68>.
14. Penological Council (PC-CP). Council of Europe. (n.d.). URL: <https://www.probation.gov.ua/пенологічна-рада-пс-ср>.
15. **Canton, R.** (2019). European Probation Rules. Academic Insights. HM Inspectorate of Probation. URL: <https://static1.squarespace.com/static/.../Academic%20Insights%20EU%20Probation%20Rules.pdf>.
16. *Charter of Fundamental Rights of the European Union*, 2012/C 326/02. (2012). Official Journal of the European Union. European Union. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>.
17. *Council Framework Decision 2008/909/JHA of 27 November 2008 on mutual recognition of judgments in criminal matters involving custodial sentences for enforcement within the EU*. Council of the European Union. (2008). Strasbourg: Official Journal of the EU. URL: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32008F0909>.
18. *Jeremy F. v. Premier ministre* (Case C-168/13 PPU, Second Chamber). Court of Justice of the European Union. (2013). Judgment of 30 May 2013, ECLI: EU:C:2013:358. Luxembourg: Court of Justice of the EU. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62013CJ0168..>
19. *Council Framework Decision 2008/947/JHA of 27 November 2008 on mutual recognition of judgments and probation decisions for supervision of probation measures and alternative sanctions*. Council of the European Union. (2008). Strasbourg: Official Journal of the EU. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32008F0947>.
20. **Montero Pérez de Tudela, E.** (2024). Underuse of Framework Decision 2008/947/JHA in the Spanish legal system: The case of conditional release. A forthcoming change in trend! *European Journal of Probation*, 16(1), 26–52. URL: <https://journals.sagepub.com/doi/10.1177/20662203241245968>.
21. *Council Framework Decision 2009/829/JHA of 23 October 2009 on mutual recognition of decisions on supervision measures as an alternative to provisional detention* (2009). Council of the European Union. Strasbourg: Official Journal of the EU. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32009F0829>.

References:

1. **Ryzenko, I.M., & Demyanyuk, O.M.** (2024). Zahalna kharakterystyka rehionalnykh system zakhystu prav lyudyny [General characteristics of regional systems for human rights protection]. *Naukovyi visnyk Mizhnarodnoho humanitarnoho universytetu. Seriya «Yurysprudentsiya»*, 68, 145–148. Available from: <https://vestnik-pravo.mgu.od.ua/archive/juspradenc68/30.pdf> [in Ukrainian].
2. **Vladovska, K., & Tysovskaya, V.** (2019). Mizhnarodni ta yevropeyski standarty zakhystu prav

lyudyny: do problemy vyznachennya ponyattya ta klasyfikatsiyi [International and European standards of human rights protection: on the problem of definition and classification]. *Visnyk Natsionalnoyi akademiyi Derzhavnoyi pryboronnoi sluzhby Ukrayiny. Seriya: yurydychni nauky*, 4. Available from: <https://periodica.nadpsu.edu.ua/index.php/legal/article/view/302> [in Ukrainian].

3. **Piveteau, C.** (2022). Between law and values: why soft law reinforces the hybrid nature of international human rights law. Implications philosophiques: espace de recherche et de diffusion. Available from: https://www.implications-philosophiques.org/between-law-and-values-why-soft-law-reinforces-the-hybrid-nature-of-international-human-rights-law/?utm_source=chatgpt.com [in English].

4. Konventsia pro zakhyst prav lyudyny i osnovopolozhnykh svobod (z protokolamy) (1950). [Convention for the Protection of Human Rights and Fundamental Freedoms (with protocols)]. Available from: https://zakon.rada.gov.ua/laws/show/995_004#Text [in Ukrainian].

5. *Waite v. The United Kingdom*, 53236/99 (ECHR, 2002). URL: <https://hudoc.echr.coe.int/eng?i=001-60814> [in English].

6. *Légerv. France*, 19324/02 (ECHR, 2006). Available from: <https://hudoc.echr.coe.int/?i=001-73312> [in English].

7. *Külekei v. Austria*, 30441/09 (ECHR, 2017). Available from: <https://hudoc.echr.coe.int/?i=001-173769> [in English].

8. *T. v. The United Kingdom*, 24724/94 (ECHR, 1999). Available from: <https://hudoc.echr.coe.int/eng?i=001-58593> [in English].

9. *Vinter and Others v. The United Kingdom*, 66069/09 (ECHR, 2013). Available from: <https://hudoc.echr.coe.int/eng?i=002-7652> [in English].

10. *Valeriu and Nicolae Rosca v. Moldova*, 41704/02 (ECHR, 2009). Available from: <https://hudoc.echr.coe.int/eng?i=001-95259> [in English].

11. *Recommendation CM/Rec(2010)1 of the Committee of Ministers to member states on the Council of Europe Probation Rules*. Strasbourg: Council of Europe. Available from: <https://www.cep-probation.org/wp-content/uploads/2018/10/CoE-probation-rules-recommendation.pdf> [in English].

12. Yevropeyska konventsia pro zapobihannya katuvannyam chy nelyudskomu abo takomu, shcho prynyzhuje hidnist, povodzhennyyu chy pokarannyyu: Rada Yevropy; Konventsia, Mizhnarodnyi dokument vid 26.11.1987 [European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment: Council of Europe; Convention, International Document of 26.11.1987]. Available from: https://zakon.rada.gov.ua/laws/show/995_068#Text [in Ukrainian].

13. *34th General Report of the CPT: Activities 2024* (1 January – 31 December 2024). European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. (2025). Strasbourg: Council of Europe. URL: <https://rm.coe.int/1680b57a68> [in English].

14. Penological Council (PC-CP). Council of Europe. (n.d.). Available from: <https://www.probation.gov.ua/пенологічна-рада-рс-ср/>

15. **Canton, R.** (2019). European Probation Rules. Academic Insights. *HM Inspectorate of Probation*. Available from: <https://static1.squarespace.com/static/.../Academic%20Insights%20EU%20Probation%20Rules.pdf> [in English].

16. *Charter of Fundamental Rights of the European Union*, 2012/C 326/02. (2012). *Official Journal of the European Union*. European Union. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT> [in English].

17. *Council Framework Decision 2008/909/JHA of 27 November 2008 on mutual recognition of judgments in criminal matters involving custodial sentences for enforcement within the EU*. Council of the European Union. (2008). Strasbourg: Official Journal of the EU. URL: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32008F0909> [in English].

18. *Jeremy F. v. Premier ministre* (Case C-168/13 PPU, Second Chamber). Court of Justice of the European Union. (2013). Judgment of 30 May 2013, ECLI: EU:C:2013:358. Luxembourg: Court of Justice of the EU. Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62013CJ0168> [in English].

19. *Council Framework Decision 2008/947/JHA of 27 November 2008 on mutual recognition of judgments and probation decisions for supervision of probation measures and alternative sanctions*. Council of the European Union. (2008). Strasbourg: Official Journal of the EU. Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32008F0947> [in English].

20. **Montero Pérez de Tudela, E.** (2024). Underuse of Framework Decision 2008/947/JHA in the Spanish legal system: The case of conditional release. A forthcoming change in trend! *European Journal of Probation*, 16(1), 26–52. Available from: <https://journals.sagepub.com/doi/10.1177/20662203241245968> [in English].

21. *Council Framework Decision 2009/829/JHA of 23 October 2009 on mutual recognition of decisions on supervision measures as an alternative to provisional detention* (2009). Council of the European Union. Strasbourg: Official Journal of the EU. Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32009F0829> [in English].

ЄВРОПЕЙСЬКІ РЕГІОНАЛЬНІ СТАНДАРТИ ТА РЕКОМЕНДАЦІЇ У СФЕРІ ПРОБАЦІЇ

Інга Дем'янченко,

*провідний інспектор Полтавського районного сектору № 2
філії Державної установи «Центр пробації» в Полтавській області,
аспірантка 3 р. н. кафедри міжнародного права
Національного юридичного університету імені Ярослава Мудрого
ORCID: <https://orcid.org/0009-0005-4960-3923>
Researcher ID: NZN-5853-2025
i.o.demianchenko@ukr.net*

Анотація

Актуальність теми зумовлена зростанням ролі інституту пробації в системі кримінальної юстиції, зокрема в контексті впровадження гуманістичних підходів до покарання. У сучасних умовах особливої важливості набуває узгодження національної системи пробації з міжнародно-правовими стандартами, що визначають напрям розвитку ефективних та альтернативних до позбавлення волі заходів впливу на правопорушників. Мета статті полягає в тому, щоб комплексно охарактеризувати інституційні та нормативні механізми у сфері пробації регіонального європейського рівня та визначити їх особливості з урахуванням положень міжнародних актів та практики їх застосування. Для досягнення вказаної мети пропонується проаналізувати закріплення міжнародно-правових стандартів пробації у європейській регіональній системі захисту прав та свобод людини. У статті розкривається зміст положень регіональних актів, що визначають правове регулювання прав та свобод осіб до яких застосовуються покарання та інші заходи кримінально-правового характеру та надається їх інтерпретація під кутом втілення пробаційних заходів. Використано комплекс методів наукового пізнання, а саме описовий метод – для загальної характеристики положень міжнародних документів регіонального рівня у сфері пробації, щоб показати їх зовнішній прояв; формально-логічний метод – при встановленні змісту та особливостей правових положень викладених у джерелах; аксіологічний метод застосовано для підкреслення значення регіональних стандартів та рекомендацій у сфері пробації; методи правового аналізу та синтезу – для опрацювання практики правозахисних інституцій та встановленні особливостей інституційних та нормативних механізмів регіонального рівня, включно з рекомендаціями у сфері пробації. За результатами дослідження встановлено, що регіональні системи захисту прав людини закріплюють ключові стандарти пробації, зокрема право на гуманне поводження та повагу до гідності, переважно узгоджуючи свої положення з універсальними міжнародними актами. Найбільш розвинутою є європейська система, яка через практику ЄСПЛ і рекомендації Ради Європи формує орієнтири для законодавчого й практичного регулювання пробації на національному рівні. Доведено, що рекомендації у сфері пробації слід вважати невід'ємною складовою системи міжнародно-правових стандартів пробації у їх широкому розумінні, оскільки їх прийняття впливає на розробку конкретних наднаціональних механізмів у цій сфері. Україні слід звернути особливу увагу на відповідні рекомендаційні акти та посилювати їх імплементацію в національній правовій системі.

Ключові слова: регіональні стандарти, права і свободи людини, пробація, виконання судових рішень, кримінальне правосуддя, справедливість.