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# APPLICATIONS OF MEASURES OF PHYSICAL FORCE, SPECIAL MEANS AND WEAPON, TO CONVICTS, IMPRISONED

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In article the question of application of measures of physical force is considered, Special means and weapon to convicts, imprisoned.

The types of suppressive measures applied to imprisoned convicts are determined and their characteristics are made.

It is established that the significance of evaluating tactical and tactic data of the indicated measures in stipulated by a number of circumstances connected with necessity of:

a) defining action efficiency of different suppressive measures and their potential opportunities to cease offences, committing of which is a ground for their application;

b) establishing a specific type of suppressive measure which can be applied in this or that situation, that is, colony personnel actions adequacy in these cases;

c) substantiating preventive influence of different suppressive measures applied to imprisoned convicts, demonstrating them to the offender, as a way of intimidation before their direct applying to the offender;

d) determining the consequences of applying specific suppressive measures in the form of certain harm to offender's health, life, dignity and property, aimed at their minimizing and substantiating the priority of preventive activity on the indicated research subject;

e) bringing the order and practice of applying suppressive measures determined in law to imprisoned convicts to better international experience, and also to international law requirements.

***Keywords****: measures of physical force, special means, measures of appeasement, convicts, staff of penitentiary institutions, criminal offenses.*

## ЗАСТОСУВАННЯ ЗАХОДІВ ФІЗИЧНОЇ СИЛИ, СПЕЦІАЛЬНИХ ЗАСОБІВ ТА ЗБРОЇ ДО ЗАСУДЖЕНИХ, УВ'ЯЗНЕНИХ

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У статті розглянуто питання застосування заходів фізичної сили, спеціальних засобів і зброї до засуджених, позбавлених волі.

Визначено види заходів вгамування, що застосовуються до засуджених, позбавлених волі, та здійснена їх характеристика.

Встановлено, що важливість оцінки тактико-тактичних даних зазначених заходів обумовлена рядом обставин, пов'язаних з необхідністю:

а) визначення ефективності дії тих чи інших заходів вгамування та їх потенційних можливостей щодо припинення правопорушень, вчинення яких є правовою підставою для їх застосування;

б) встановлення конкретного виду заходу вгамівного характеру, який може бути застосований у тій чи іншій ситуації, тобто адекватності дій персоналу колоній у таких випадках;

в) обґрунтування запобіжності впливу тих чи інших заходів вгамування, що застосовуються до засуджених, позбавлених волі, при їх демонстрації правопорушнику як засобів залякування перед безпосереднім їх застосуванням до правопорушника;

г) визначення наслідків застосування конкретних засобів вгамування у виді певної шкоди для здоров'я, життя, честі, гідності та майна правопорушника з метою їх мінімізації та обґрунтування пріоритетності запобіжної діяльності по означеному предмету дослідження;

ґ) приведення порядку та практики застосування визначених у законі заходів вгамування до засуджених у місцях позбавлення волі до кращого міжнародного досвіду, а також до вимог міжнародного права.

***Ключові слова:*** *заходи фізичної сили, спеціальні засоби, заходи вгамування, засуджені, персонал установ виконання покарань, кримінальне правопорушення.*

## APLICAREA MĂSURILOR DE FORȚĂ FIZICĂ, MIJLOACE ȘI ARME SPECIALE PENTRU CONDAMNAȚII ÎNCHIȘI

Articolul are în vedere problema aplicării unor măsuri de forță fizică, mijloace speciale și arme pentru condamnații închiși.

Tipurile de măsuri de pacifiere aplicate condamnaților lipsiți de libertate au fost identificate și caracterizate.

S-a stabilit că importanța evaluării datelor tactice ale acestor măsuri se datorează mai multor circumstanțe legate de necesitatea:

a) determinarea eficienței anumitor măsuri de restricționare și de a opri infracțiunile, a căror folosirea este baza legală pentru aplicarea lor;

b) stabilirea unui tip specific de măsură cu caracter de restricție, care poate fi aplicat într-o situație dată, adică aplicarea acțiunilor personalului coloniilor în astfel de cazuri;

c) fundamentarea precauției influenței anumitor măsuri de restricție aplicate condamnaților privati de libertate în timpul demonstrației lor către infractor ca mijloc de intimidare înainte de aplicarea lor directă contravenientului;

d) determinarea consecințelor folosirii unor mijloace specifice de atac, sub forma unor daune aduse sănătății, vieții, onoarei, demnității și proprietății infractorului, în vederea reducerii la minimum a acestora și a justificării priorității activităților preventive pe această temă;

e) aducerea procedurii și practicilor de aplicare a măsurilor de recurs specificate în lege condamnaților din locurile de închisoare la cea mai bună experiență internațională, precum și la cerințele dreptului internațional.

***Cuvinte-cheie:*** *măsuri de forță fizică, mijloace speciale, măsuri de atac, condamnați, personalul instituțiilor penitenciare, infracțiune.*

**Setting objectives.** The purpose of this scientific article is consideration of a question of application of measures of physical force, special means and weapon to convicts, imprisoned and also formation on this basis of the corresponding conclusions.

**Analysis of recent research and publications**. The carried out in the course of current study analysis of the scientific literature and regulatory and legal acts concerning the content of the activity, which is related to the application of preventive measures to convicted, who were held in places of deprivation of liberty showed that scientists such as: K. A. Avtukhov, Ye. Yu. Barash, Yu. V. Baulin, V. V. Holina, B. M. Holovkin, O. H. Kolb, V. Ya. Konopelskiy, I. M. Kopotun, A. V. Savchenko, A. Kh. Stepaniuk and others.

**Presenting main material.** The given research results showed, that the list and the order of applying physical influence measures, special means and weapon to offenders in Ukraine including imprisoned convicts had two distinct periods of normative legal establishment, namely:

a) since 1991 till 2017, when this conception was generally regulated by the Resolution of Council of Ministers of the USSR of February 27, 1991, №49, which approved the Rules of applying special means for protecting public order [10];

в) since 2017 till present the mentioned activity is regulated by the resolution of Council of Ukraine of December 20, 2017, №1024, which cancelled the Resolution of Council of Ministers of the USSU of February 27, 1991, №49 and approved the List and Rules of applying special means by military men of the National Guard when performing official tasks [16].

At the same time, it is worth stating that in comparison with the previous resolution of the Government (1991) in 2017 the resolution without any reason reduced the amount of subjects who have the right to apply special means when performing official tasks, but granted such a right to military men of the National Guard of Ukraine.

Such illogical approach is obvious, as at the same time when the Cabinet of Ministers of Ukraine adopted the resolution of December 22, 2017, №1024, the Law of Ukraine "On the National Police" [4]: "On State Criminal Executive Service of Ukraine" [13]; Criminal Executive Code of Ukraine and other laws concerning the activity of law-enforcement bodies established in our country were and are valid nowadays [12].

Paragraph 5 of the resolution of the Plenum of the Supreme Court of Ukraine of June 6, 1992, №8 "On applying legislation by courts providing for liability for infringement upon life, health, dignity and property of judges and law-enforcement officers" says, that beside judges, military men and members of public formation for public order protection law-enforcement officers also can be victims of crime, which is specified in p.1, art.2 of the Law of Ukraine of December 23, 1993 "On state protection of court and law-enforcement officials" [15, p.101].

Proceeding from above-mentioned, it would be logical to change the title of the resolution of the Cabinet of Ministers of December 27, 2017, №1024 and state it in a new edition – "On approving the List and Rules of applying physical force, special means and weapon for public order protection", which will enable to involve other law-enforcement bodies in this

activity (and legalize it), taking into consideration, that the laws determining their legal status and powers, give the right to apply measures of physical influence, special means and weapon to offenders.

Moreover, according to hierarchy of normative legal acts, established in art.8 of the Constitution of Ukraine, laws have higher legal force, then resolutions of the Cabinet of Ministers of Ukraine, that's why changing the title of the mentioned Government's resolution is indisputable.

Within the context of the subject content in the given research, and the task realization concerning improving legal mechanism of applying suppressing measures, determined in law, to imprisoned convicts, other differences between the resolutions of the Government of Ukraine in 1991 and 2017 are striking, namely:

1) the Rules and List of 1991 determine 17 special means that could be applied for public order protection (part II "List of special means"), also service dogs can be used for public order protection.

But in the Rules of 2017 the number of such special means is reduced to 15, including service dogs and horses, which were in the List approved by the Cabinet of Ministers of Ukraine.

Besides, the List of 2017 includes such special means that are partly absent in the List of 1991: a) electroshock devices of contact and contact-remote action (in 1991 it was only electroshock devices); b) means of mobility restriction (chains, nets for binding, etc. (in 1991- handcuffs); c) means and devices of restricting access to a certain territory (protective barriers, turnstiles) (in 1991 – absent at all); d) barriers of forced transport stop (in 1991 – device for forced motor transport stop "Ezh-M"); e) means of acoustic and microwave influence (in 1991 – means of providing special operations); f) special marking and forcing means (in 1991 – absent); g) other means;

2) the Rules and List of 1991 had distinct classification of special means (in 2017-absent), namely: a) means of individual protection; b) means of active defense; c) means of providing special operations; d) devices for unlocking rooms seized by offenders.

Besides, the List of 1991 distinctly names the types of each special means that could be used for public order protection, which, unfortunately, the List of 2017 lacks (except for some: rubber and plastic clubs, electroshock devices and service dogs);

3) the Rules of 1991 told about the List of special means (in 2017 – separate supplements to the resolution of the Cabinet of Ministers of Ukraine determine the List and Rules of special means);

4) in the Rules of 1991 special part III defined the peculiarities of applying the means of active defense and providing special operations (in 2017 – p.8 of the Rules specified general rules of applying special means);

5) other differences, used in the given work as additional arguments for elaborating scientifically substantiated measures aimed at improving legal principles of colony personnel activity when applying measures of physical influence, special means and weapon to imprisoned convicts.

Proceeding from the results of comparative legal analysis of the above mentioned resolutions of the Cabinet of Ministers of Ukraine, it would be worth supplementing art.106 of CEC of Ukraine with part 13 of the following content:

"The List of special means and the rules of their application, are determined by the Cabinet of Ministers of Ukraine".

Besides, taking normative legal approaches used in resolutions of the Government of Ukraine in 1991 and 2017 into consideration, special means applied to imprisoned convicts can be classified in the following way (the criterion of influence on a person lies in the basis):

a) measures of psychological influence (demonstrating special means determined in the List to an offender (or a group of such people) without applying to convicts 9they can include the means squads of security and supervision departments in bodies and PEI are equipped with (rubber and plastic clubs; chains; electroshock devices, etc.));

b) preventive measures (applied in convoy; for suppressing riots; preventing infliction of damage to surrounding or themselves by convicts; etc, (physical force, straitjacket, etc.)

c) measures of direct individual influence on an offender (applied by colony personnel in cases, determined in art.106 of CEC of Ukraine (depending on the situations arisen, - any special means or weapon);

d) measures taken during special operations in colonies (for example, in case of introducing the regime of special conditions in these PEI (art.105 of CEC) (light and noise grenades, water cannons; armored vehicles, etc.).

If the criterion of meaningful purpose is laid in the basis, special means applied to imprisoned convicts, can be classified in such a way:

1) means of individual protection (helmets, bullet-proof vests, shockproof and armour shields, etc.);

2) means of active defense (rubber and plastic clubs; chains; electroshock devices; hand gas grenades; sprays with tear gas and irritating drugs, etc.);

3) means of providing special operations (water cannons, light and noise grenades; cartridges with rubber bullet; backpack sets, etc.);

4) means for unlocking rooms seized by offenders (small-size blasting devices; devices for forced room unlocking, etc.)

If the criterion of normative certainty is used for classification, special means applied to imprisoned convicts can be divided into: a) means provided for colony personnel (bullet-proof vests; chains; rubber and plastic clubs, etc.); b) means in service with special subdivisions of SCES of Ukraine (means for conducting special operations); c) means used by other law-enforcement bodies involved in suppressing imprisoned convicts, in the manner prescribed in art.105 and p.6 art.106 of CEC of Ukraine (according to provision standards established for officials of National Police and military men of National Guard of Ukraine).

Scientific sources can give some other classification groups of special means applied to offenders [5, p.474-477].

Proceeding from this, it should be stated that scientific classification of suppressing means is of both theoretical and practical significance.

So, its theoretical importance consists in the fact that in such a way knowledge limits are widened about the essence and content of physical force measures, special means and weapon applied to offenders, that are established in law, as well as their role and place in legal mechanism of law-enforcement bodies in any democratic state for ensuring protection of personal rights and legal interests, of society and state and, on the whole, law and order in it.

As for practical importance of the given classification, more specific conditions are created for making adequate decision by an official of SCES personnel about applying (or avoiding) this or that suppressing measure to an offender.

At the same time, it forms additional assessment criteria concerning legality of a law-enforcement official's act and its correlation with consequences of applying the corresponding suppressing measure to an imprisoned convict.

On the whole, generalizing the information concerning the measure of physical influence, special means and weapon, determined in law (in art.106 of CEC of Ukraine, in particular), their content can be defined in such a way:

"Suppressive measures applied to imprisoned convicts are measures of psychological and physical influence, established in law, which are taken by bodies and PEI personnel to deal with an offender in confinement, aimed at stopping the illegal acts, committing of which is the legal and actual reason for their application" [6, p.120-126].

So, the system-forming features making up the content of the defined concept are as follows:

1. Suppressing measures established in law.

The importance and necessity of this feature is obvious and is based on requirements of p.14 art.92 of the Constitution of Ukraine, according to which the activity of bodies and PEI is defined only by law.

Proceeding from art.106 of CEC, one of the types of criminal executive activity is applying measures of physical influence, special means, a straitjacket and weapon to imprisoned convicts in cases, defined in law [7, p.181- 185].

Although it should be mentioned, that the Constitutional Court of Ukraine in its resolution of July 9, 1998, №12-pn/98 (a case about interpretation of the term "legislation") explained, that the legislation of Ukraine, besides the Constitution of Ukraine, included: resolutions of the Supreme Rada of Ukraine; international treaties, agreed by the Supreme Rada of Ukraine; decrees of the President of Ukraine; resolutions and decrees of the Cabinet of Ministers of Ukraine [21].

Taking the above-mentioned into consideration, legislative acts regulating the problem of applying suppressive measures to imprisoned convicts, should include the resolution of the Cabinet of Ministers of December 20, 2017, №1024 "On approval of the list and rules of applying special means by military men when performing official tasks" [16], who are involved in protecting and ensuring law and order in PEI, according to art.105 and p.6 art.106 of CEC of Ukraine.

At the same time approving the order of applying physical force, special means and weapon to imprisoned convicts in normative legal by-laws, namely: Instruction on convicts protection organization in closed criminal executive institutions, educational colonies and IIW; Instruction on the order of supervising convicts' security of safety and isolation; PEI IOR; etc. – cannot be considered the normative approach corresponding to the resolution content of the Constitutional Court of Ukraine, which was spoken about before.

Such a conclusion proceeds from the content of art.8 of the constitution of Ukraine, where the principle of law supremacy is defined, and it is based on the provisions of p.1 of the Plenum resolution of the Supreme Court of November 1, 1996, №9 "On applying the Constitution of Ukraine for administering justice", according to which this principle is one of priorities when justice is administered [14, p.136].

Especially, p.2 of the given resolution says that courts considering specific cases have to assess the content of any law or other normative legal act from point of view of its conformity to the Constitution, and in all necessary situations to use the Constitution as an act of direct action [14, p.136].

The importance of approving legal grounds of applying suppressive measures to imprisoned convicts in law, not in other normative legal acts, can be discussed taking analogy requirements (conformity, similarity, etc. [1, p.39]) into consideration, namely: provisions of p.2 art.42 of CC of Ukraine, saying that an order or instruction is legal if they are issued by the corresponding person in an appropriate manner and within his powers, don't contradict current legislation in essence and are not related to violation of constitutional rights and freedoms of a person and citizen.

As far as suppressive measures applied to offenders are concerned, their list is defined in the resolution of the Cabinet of Ministers of Ukraine of December 20, 2017, №1024 "On approving the list and rules of applying special means by military men of the National Guard when performing official tasks" [16].

Measures of psychic and physical influence.

In this case the question is about applying psychic and physical violence to imprisoned convicts.

For all that, as it is stated in p.4 of Plenum resolution of the Supreme Court of Ukraine of June 26, 1992, №8 "On applying legislation by courts that provides for liability for encroachment on life, health, dignity and property of judges and law-enforcement officers" lawful applying physical influence, special means or weapon by law-enforcement officer to an offender excludes liability for damage [15, p.101].

Scientific literature explains violence as applying force for achieving something, forceful influence on somebody or something [2, p.401]. Legal sources distinguish psychic and physical violence.

Thus, in p.8 of Plenum resolution of the Supreme Court of Ukraine of June 6, 1992, №8 violence means delivering blows, battery, inflicting bodily harm, threat of applying violence means expressions or actions about person's intentions to apply violence [15, p.103-104].

P.8 of Plenum resolution of the Supreme Court of Ukraine of February 7, 2003, №2 "On court practice in cases about crimes against person's life and health" tells about violence with extreme cruelty (p.4 p.2 art.115 of CC), when a victim is subjected to special physical, psychic or moral suffering [17, p.204], and p.28 tells about cruel treatment meaning ruthless, brutal actions which subjected victims to physical or psychic suffering (tortures, systematical inflicting bodily harm, battery, deprivation of food, water, clothes, dwelling, etc.) [17, p. 212].

P.5 of Plenum resolution of the Supreme Court of Ukraine of December 11, 2009, №10 "On court practice in cases about crimes against property" tells about other kinds of violence (violence that is not dangerous for a victim's life or health and violence dangerous for a person's life or health) [18, p. 428].

Thus, violence that is not dangerous for a victim's life or health means deliberate infliction of trivial bodily harm, which did not cause short-term health disorder or slight disability, as well as committing other acts of violence (striking a blow, battery, unlawful imprisonment) provided they were not dangerous for life or health at the moment of infliction.

Violence dangerous for life or health (art.187, p.3, p. 189 of CC) is deliberate infliction of trivial bodily harm to a victim, causing short-term health disorder or slight disability, average or severe bodily harm, and other acts of violence, which did not result in the indicated consequences, but were dangerous for life or health at the moment of committing them.

They include violence causing loss of consciousness, or being a torture, pressing the neck, dropping from a height, applying special instruments [18, p. 429].

Proceeding from this, it should be admitted, that violence measures applied by SCES personnel to imprisoned convicts mustn't have unlawfulness features, mentioned above, namely: infliction of bodily harm or victim's death cannot be deliberate and exceed the limits of necessary defense or detention of a criminal.

Here belongs deliberate infliction of grave bodily harm to the person who encroaches, which evidently does not correspond to encroachment danger or defense situation or criminal detention situation, all this proceeds from the content of p.4 of Plenum resolution of the Supreme Court of Ukraine of April 26, 2002, №1 "On court practice in cases about necessary defense" [19, p. 170].

As far as psychic violence is concerned, in legal literature where crimes against property are classified, it means any threat (intimidation with words, gestures, weapon demonstration, etc.) aimed at the fact that a victim should have an impression, that the threat will be realized if he counteracts the person who expressed it or does not fulfill his requirements [18, p.430].

Taking this into consideration, psychic violence that can be applied by bodies and PEI personnel may have the nature and content of violence, mentioned above, on condition that the limits of necessary defense and criminal detention are observed (art.36, 38 of CC of Ukraine).

3. Suppressive measures can be applied only by SCES personnel and other people involved in this activity according to law (p.6 art.106 of CEC).

Art. 14 of Law of Ukraine "On State criminal executive service of Ukraine" determines an exclusive list of people referring to personnel category of bodies and punishment execution institutions.

It should be taken into consideration that such category includes a person who does not only meet the requirements for SCES personnel (art.16 of Law), but began to exercise his powers after issuing the corresponding order of employment he got acquainted with under the receipt; after written acquaintance with functional responsibilities and other formal requirements, determined in normative legal acts concerning the sphere of his activity.

Such additional requirements proceeding from the content of p.81.1 of EPR include:

- successful passing exams by bodies and PEI personnel concerning the knowledge of international and regional documents and norms in the sphere of human rights, especially European Convention on Human Rights and European Convention on Preventing tortures or cruel degrading treatment or punishment;
- studying the practice of applying European Penitentiary Rules (EPR).

At the same time, it should be stated that every person who is legally in PEI, has the right to necessary defense, including application of any objects, except for those determined only for SCES personnel and attached forces (art.105 and p.6 art.106 of CEC).

4. Suppressing measures are applied only to the people kept in the places of confinement.

Such people include convicts imprisoned for a certain term, whose sentence was validated (art.532 of CEC) and was enforced (art.535 of CEC) according to requirements of criminal executive legislation of Ukraine (art. 86-99 of CEC).

At the same time, when committing the actions said in p.1 art 106 of CEC by other people who are legally in correctional colonies (art. 22-25 and art.110 of CEC), the personnel have no right to apply physical force, special means and weapon, but to take measures that constitute the content of necessary defense (art.36 of CC).

In such cases only policemen (art.42-46 of Law of Ukraine "On National Police") or military men of the National Guard of Ukraine (art.15-19 of Law of Ukraine "On National Guard of Ukraine") have the right to take suppressive measures.

5. Suppressive measures are taken only against the convict who committed the offences determined in p.1 art 106 of CEC, as a reason for their application.

In jurisprudence an offence means socially dangerous or harmful, illegal action committed by delictual subject (physical or juridical person), for which legal responsibility is provided for [11, p.451].

Within the context of the theme investigated applying measures of physical influence, special means and weapon to imprisoned convicts is possible only when the offences mentioned in p.1 art.106 of CEC are committed.

If SCES personnel don't follow this requirement the court will not qualify it as exceeding official powers (p.5 of Plenum resolution of the Supreme Court of Ukraine of December 26, 2003, №15 "On court practice in cases about exceeding power or official authority" [20, p.255].

6. The purpose of applying suppressive measures is determined in p.1 art.106 of CEC, namely: a) stopping unlawful encroachment (physical resistance; malicious non-compliance with legal requirements; manifestations of riots, etc.) mentioned in this article; b) preventing an offender from inflicting harm to surrounding or himself.

The latter is connected with the fact that inflicting harm to himself, including suicide, is considered in law practice as one of forms of avoiding to serve a sentence in prison for a certain term (art.390 of CC) and refers to prohibitions determined in p.4 art 107 of CEC of Ukraine.

7. There must be legal and actual grounds for applying physical influence, special means and weapon to imprisoned convicts.

Scientists understand legal grounds as regulating public relations by rules of law [9, p. 146].

Within the context of the problem studied legal grounds of applying suppressing measures to imprisoned convicts by colony personnel are enshrined in: CEC (art.105, 106); special laws ("On State criminal executive service of Ukraine"; "On National police"; "On National Guard of Ukraine"); departmental normative legal acts (PEI IOR, Instructions on organization of protection and supervision in correctional and educational colonies; etc.)

Scientists suggest that SCES personnel should understand actual grounds as real behavior of offenders in the situations, determined in law as legal grounds for applying suppressing measures to them [9, p.146].

For all that a significant number of researchers of this problem prove in their works that actual grounds of applying suppressing measures provided by law are priority in all situations except for those, when an offender made a real inevitable threat in the current

situation of defending person's life or health [3, p. 10-11].

It is worth stating that the previous and other system-forming features of the conception investigated in this work should be considered as an interacting complex, on the ground of which social legal essence and content of suppressing measures, applied to imprisoned convicts, can be fully and thoroughly clarified.

In spite of all this, theoretical importance of the conception formulated in the given research consists in the fact, that on the doctrinal level knowledge limits are widened about social component of such legal category as applying suppressive measures in the sphere of punishment execution of Ukraine, that is, as a circumstance which doesn't exclude criminal actions of the people who have the right to apply them, but is socially useful in the context of ensuring law and order in the places of confinement and of preventing socially dangerous consequences of unlawful actions of offenders among convicts in correctional and educational colonies [8, p. 18-32].

Practical significance of the conception consists in the fact that scientifically substantiated algorithm of SCES personnel actions is formulated in it, in the cases when legal and actual grounds of applying physical force, special means, a straitjacket and weapon to imprisoned convicts arise.

Moreover, it is proved that such activity must be based on the principles of legitimacy, humanity and justice, and also actual grounds for applying suppressing measures to offenders in correctional and educational colonies.

As it is established at the scientific level, with another approach such actions of law-enforcement officers can be qualified by court as: torture; exceeding necessary defense limits; exceeding official powers and other circumstances qualified as criminal action.

**Conclusions.** So, exact and full clarification of the essence and content of correctional and educational colony personnel activity connected with applying suppressive measures provided for by law to the people serving a sentence in the indicated PEI, and also distinct determining action algorithm in it will enable to reduce committing unlawful actions by SCES personnel and to prevent more socially dangerous consequences for the sphere of punishment execution in cases of exceeding official powers by these persons.

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