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## PROBLEMS OF EXECUTION OF ADDITIONAL PUNISHMENTS IN THE APPOINTMENT OF PUNISHMENT

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### ABSTRACT

The task of building a legal democratic state and forming a free civil society based on the development of a market economy enshrined in the Constitution of the Republic of Uzbekistan, it presupposes the need to develop the economic and socio-political spheres of our country, to further deepen reforms and the need to make certain amendments to the legislative sphere. Criminal punishment is established through criminal legislation in accordance with the will of the people of Uzbekistan. The inevitability of responsibility for crime is a specific way of influencing social processes in society by criminal law, which, in turn, regulates the morality of the individual. Therefore, this article will discuss the appointment of punishment and the factors affecting it. In particular, the problems of execution of additional penalties are mentioned in the appointment of a penalty.

### KEYWORDS

Criminology, Crime, Punishment, factors, problems, Constitution, Republic of Uzbekistan.

### INTRODUCTION

On February 3, 2006, the plenum of the Supreme Court of the Republic of Uzbekistan made a decision “on the practice of judicial punishment for crimes” [1]. In accordance with this decision, the followings should be taken into account:

\*it was recommended that the courts also discuss the issue of applying the appropriate additional punishment along with the main one at the time of

sentencing due to the fact that additional penalties are of great importance in preventing the commission of new crimes.

\*If the law in which a criminal act is being qualified establishes the mandatory appointment of additional punishment, it can not be applied only in the presence of circumstances provided for by Article 57 of the Criminal Code, such a decision must be justified in a sentence with reference to this article [2].

\*The convicted person does not hold a career or engage in a type of activity associated with the commission of a crime is not an obstacle to the application of additional punishment at the time of sentencing.

\*In the case of a person convicted of committing several crimes, the additional type and amount of punishment should be assigned separately for each act, as in the case of the main punishment, and then permanently on the set of crimes. If an additional penalty is not assigned for a crime that is part of the crime set, it cannot be applied under the crime set.

In accordance with Article 42 of the Criminal Code of the Republic of Uzbekistan, punishment is a coercive measure applied by judicial judgment on behalf of the state in relation to a person convicted of committing a crime and consists in depriving or limiting the convicted person of certain rights and freedoms provided for by law [2].

Punishment is one of the important measures used by the state in the implementation of the functions of Crime Control and criminal law, that is, in the protection of criminal aggression directed against a person, his rights and freedoms, the interests of society and the state, property, natural environment, peace, safety of humanity, as well as in the Prevention of crimes, The rights and interests of citizens are protected from criminal encroachments of persons of anti-social behavior with the help of criminal punishment [7].

The punishment assigned for a crime depends on the degree of social danger of the crime committed. Article 15 of the Criminal Code of the Republic of Uzbekistan provides for the reduction of crimes to the level of social danger, and the higher the level of social danger

of the committed crime, the more severe the punishment will be accordingly given [2].

From the above, we can conclude that criminal punishment is represented by the following signs, and these signs are distinguished from other measures of coercion of the state:

\*the penalty for a person accused of committing a crime is appointed on behalf of the state; [6]

\* the degree of criminal punishment to the person in absentia is high, and the scope of deprivation or restriction of certain rights of the person will be wide;

\*criminal punishment is assigned only to persons accused of committing a crime;

\*criminal punishment is assigned only if the verdict of the court is known;

\*criminal punishment is assigned for the purposes provided for in Part 2 of Article 42 of the Criminal Code;

\*the criminal penalty causes the conviction [5, 47-51].

Thus, criminal punishment cannot be the main means of combating crime, but it is an important tool in protecting a person, his rights and freedoms, the interests of society and the state, property, natural environment, peace, the safety of mankind from the encroachment of individual persons or a group of individuals.

The appointment of only a court on behalf of the state of criminal punishment is a constitutional provision, and Article 26 of the Constitution of the Republic of Uzbekistan states that "the case of each person accused of committing a crime is not considered guilty until the court is considered in a legal manner, publicly, and his guilt is determined." Also, Article 12 of the Code

of Criminal Procedure of the Republic of Uzbekistan states that "in accordance with the Constitution of the Republic of Uzbekistan, justice in criminal cases is carried out only by the court."

Criminal punishment is assigned only to persons who are criminally prosecuted. Punishments may be imposed on persons who are criminally prosecuted, as well as they may be exempted from liability or punishment. Accordingly, both the exemption from liability or punishment or the appointment of punishment are decided by the court (except for amnesty and pardon, since these types of exemption from liability and punishment are only within the competence of the president of the Republic of Uzbekistan and the Senate of the Supreme Assembly) [4].

The person who received criminal punishment was considered convicted. Conviction produces both general and criminal justice consequences. The legal consequences of a conviction are found to be a recidivism if the person commits a crime again during the period of his / her conviction. According to the Article 77 of the Criminal Code of the Republic of Uzbekistan, a person is considered to have been convicted from the date of the legal entry into force of the sentencing conviction [2]. When a person commits a new offence during his / her term of trial, his / her conviction will also affect the qualification and, accordingly, the punishment of his / her newly committed offence.

All penalties provided for in Criminal Law (Article 43 of the Criminal Code) are divided into two types, namely basic and additional ones.

Basic penalties. In accordance with Part 1 of Article 3 of the criminal code, fines, deprivation of a certain right,

correctional work, maintenance, imprisonment, sending to a disciplinary part, imprisonment, long-term imprisonment and life imprisonment are the main types of punishment. Only one of these types of punishment can be applied to the person who committed the crime.

Additional punishment is such a punishment, which is not applied independently, but is prescribed in combination with some basic punishment. In law, only one type of punishment, that is, the deprivation of a military or special title, is included in the additional type of punishment. Additional penalties are of an auxiliary nature, allowing the court to individualize the punishment appropriate to the severity of the crime committed and achieve a general and special coercive effect.

In accordance with Article 43 of the Criminal Code, deprivation of a military or special title can be applied only as an additional punishment, when the culprit commits only a serious or extremely serious crime (Article 52 of the Criminal Code [2].

Military or special titles include military as well as equivalent titles, category ranks, academic ranks, scientific titles, special or honorary titles, orders, medals and labels.

According to Part 2 of Article 52 of the Criminal Code, a person who has a military or special title or the award of the Republic of Uzbekistan can be deprived of such a title or award by a judicial verdict when convicted of a serious or very serious crime [2].

In accordance with Part 7 of Article 59 of the Criminal Code, the main punishment assigned as a set of crimes can also be assigned by the court, adding additional penalties assigned for certain crimes. In this case, the court must appoint both the main and additional

punishment separately under each article, and then on the set of crimes. In this case, the term of the indefinite appointment of an additional penalty in the history of deprivation of a certain right should not exceed the maximum period provided for by Article 45 of the Criminal Code [2].

The procedure established by law for the appointment of punishment for committing several crimes gives the court a wide range of opportunities for Responsibility and individualization of punishment. For example, a person is intimidated by Murder (Criminal Code Section 112. - a fine of up to twenty-five times the minimum monthly wage, or imprisonment for up to a year of correctional labor or up to six months) and unlawful possession of weapons, ammunition, explosives or blasting devices (Criminal Code Section 248 (1p). - punishable by a fine of up to fifty times the minimum wage or imprisonment of up to six months or imprisonment of up to five years). For the first crime, the court imposed a penalty in the form of imprisonment for up to six months; for the second – in the form of imprisonment for five years. Using the principle of covering a lighter sentence with a more severe one, the court commits a definitive sentence of five years imprisonment.

In accordance with Part 3 of Article 59 of the Criminal Code, the main punishment assigned as a set of crimes, the court may also impose additional penalties provided for by the articles of the General part of the Criminal Code, which are assigned for certain crimes [2].

In this case, the court must appoint both the main and additional punishment separately under each article, and then on the set of crimes.

In the case of a person who is found guilty of several crimes, the additional type and amount of punishment should be assigned separately for each act, as in the case of the main punishment, and then permanently on the set of crimes. If the additional penalty is included in the set of crimes, which is not assigned for a single crime, it cannot be applied under the set of crimes.

Therefore, when prescribing additional penalties, its proportionality with the main penalty is taken into account. It should also be mentioned that additional types of punishment apply only to persons in the military sphere. Therefore, it is clear that the execution of an additional type of punishment will cause a number of problems. Because, the fact that individuals serving in the military field commit crimes alone leads to a very ferocious situation. For this reason, the enforcement of additional penalties during the imposition of penalties will aggravate the situation.

### CONCLUSION

Taking into account the above information, it can be concluded that the main emphasis is placed on matters of punishment in criminal law, as well as in the theory of criminal law. This is due to the special place of criminal punishment in the fight against crime. There has always been friction between scholars, practitioners, about the criminal punishment assigned to persons accused of committing a crime, various opinions have been expressed regarding the concept of “punishment” and the aim and also many studies have been carried out on this issue. While punishment is not decisive in the fight against crime, it is important in its prevention and reduction. The imposition of punishment in the appropriate order for the crime committed is important in the peace of this people. Therefore, the article provided full information on the appointment of punishment. Further details were also

discussed about the problems of execution of additional penalties.

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