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IMPROVING THE LEGAL FRAMEWORK FOR EXEMPTION FROM PUNISHMENT AND CRIMINAL LIABILITY

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ABSTRACT

This scientific article studies the problems and grounds for exemption from liability and exemption from punishment in criminal law, based on the study of national and foreign legislation, and the scientific works of scientists. Proposals and recommendations for our national legislation are developed.

KEYWORDS

Criminal liability, imposition of punishment, release from liability, release from punishment, types of release from punishment, conditional release.

INTRODUCTION

In Uzbekistan, special attention is paid to the improvement of legal legislation as a priority of reform in the democratization of society and modernization of countries. In particular, in his Message to the Oliy Majlis of the President of the

Republic of Uzbekistan Shavkat Mirziyoyev said: In Uzbekistan, special attention is paid to the improvement of criminal legislation as a priority of reforms to democratize society and modernize the country. In particular, in his Address to the Oliy Majlis, the President of the Republic of Uzbekistan Shavkat Mirziyoyev said: “We pay special attention to the

exclusion and liberalization of certain crimes, the transformation of criminal penalties from a humanitarian point of view. To do this, it is necessary to adopt and implement the Concept for the Development of Criminal and Criminal Procedure Legislation for 2018-2022. Decree of the President of the Republic of Uzbekistan “On measures to radically improve the system of criminal and criminal procedure legislation” No. PP-3723 dated May 14, 2018, defines the main directions for improving criminal and criminal procedure legislation. One such objective is “to expand incentives, including mitigation of punishment or exemption from criminal liability or impunity.

It is known that Chapter XIII of the General Part of the Criminal Code of the Republic of Uzbekistan is devoted to “Types of impunity” and includes the following types of impunity;

- 1) release from punishment in connection with the expiration of the term for the execution of punishment; (Article 69);
- 2) release of a person from punishment in connection with the loss of a socially dangerous character (Article 70);
- 3) release the offender from punishment based on sincere repentance (Article 71);
- 4) probationary period (Article 72);
- 5) parole (Article 73);
- 6) mitigation of punishment to a milder one (Article 74);
- 7) release from punishment due to illness or disability (Article 75);
- 8) release from punishment based on an act of amnesty or pardon (Article 76).

According to Rustamboev, exemption from punishment is the refusal of the state to impose punishment or execution of punishment on a person

convicted of a crime, if there are grounds and conditions provided for by criminal law. Chapter XIII of the Criminal Code provides for various types of impunity. These types of impunity can be conditional or unconditional.

According to Mukimova, impunity is similar to sentencing by a court.

Thus, release from punishment involves the implementation of criminal liability with full or partial release of the convicted person from serving the sentence imposed by the court. That is, a person convicted of a crime and sentenced by the court to a certain type of punishment is released from punishment or cannot serve the punishment (for example, the convict's illness, disability, expiration of the sentence) or expediency. for example, the sincere repentance of the convict). Exemption from punishment can be noted as an expression of such a humanitarian principle as exemption from criminal liability.

Exemption from criminal liability is the refusal of law enforcement agencies to prosecute, on behalf of the state, a person who subsequently lost his former social security due to several circumstances provided for by criminal law.

According to Mukimova, exemption from criminal liability in its legal content means the release of a criminal from all legal consequences of a crime, punishment and limitation of a criminal record, the refusal of a court to recognize a citizen as a criminal on behalf of the state.

It can be seen that exemption from criminal liability and exemption from criminal punishment are not the same concepts. In particular, exemption from criminal liability means that a person accused of committing a

crime is not exempt from criminal liability. Release from punishment involves the imposition of punishment on persons convicted of a crime, with subsequent release from punishment or release from punishment after serving a certain part of the punishment.

MATERIALS AND METHODS

There are also special signs of impunity, which include the following: extends to persons who have committed a crime, whose guilt is fully proven by the relevant investigative documents, as well as those convicted of a crime who confessed to their deed or are unable to serve their sentence.

However, it can be said that in the theory of criminal law there is no single idea of the grounds and conditions for exemption from criminal liability. Especially, A. Naumov pays special attention to this issue and emphasizes that the perpetrator should be released from criminal liability only if he is not socially dangerous and that such a characterization of a person is an essential condition for release. Indeed, an important role in the release of a person from criminal liability is played by the fact that he is not socially dangerous. However, in our opinion, this is only one element of the basis for this institution's application. After all, the fact that only one person is not socially dangerous cannot be a basis for releasing a person from criminal liability.

In particular, N.F. According to Kuznetsova, each norm of the criminal law provides for exemption from liability, as well as each condition is the basis for exemption from criminal liability.

The General and Special parts of the current Criminal Code of the Republic of Uzbekistan establish the grounds and conditions for exemption from criminal

liability. According to him, the regulatory grounds for exemption from criminal liability are divided into general or special, or rather, separate regulatory grounds, depending on the location. It should be noted, however, that a person accused of a crime is released from criminal liability if it is concluded that it is inappropriate to bring him to justice, provided that he does not pose a serious threat to society. In case of release from punishment, the convict is released from criminal punishment if he concludes that the punishment imposed by the court can be attributed to serving the actual punishment or that serving the remaining part of the punishment is inappropriate.

The components of the institution of exemption from criminal liability - types of exemption from criminal liability, an analysis of their past, the present state will allow them to be improved in the future.

This approach, which emerged at the beginning of the 20th century, became even more important towards the end of the century. Measures that have come to replace existing penalties include the elimination of criminal prosecution, as well as the fight against crime.

This trend is also reflected in international documents. The idea of out-of-court settlement of criminal disputes was supported, for example, by the Committee of Ministers of the member states of the Council of Europe. The Committee has issued a formal recommendation outlining the main models for conciliation between parties to a dispute. Many countries around the world have begun to implement the use alternative measures of criminal liability.

In the legal literature, there are two main models of alternative measures used in the field of justice in foreign countries in criminal cases. First, it is the Dutch-Belgian model. The model providing for

exemption from criminal liability is that if the perpetrator voluntarily agrees to contribute a certain amount of money to the state treasury in each specific case, then the investigating authorities (prosecutor's office, police) refrain from bringing the perpetrator to criminal liability.

This model, which arose in Belgium in 1935, was supposed to contribute to the exclusion from the trial of petty economic crimes if the defendant confessed his guilt. This liberation institute was founded in Belgium in 1984.

From now on, this measure applied to any criminal offense punishable by imprisonment for up to five years. These norms were allowed to be applied in the pre-trial period of criminal proceedings. According to him, the prosecutor's office determines the amount of money to be paid within the limits established by law, the payment period. He then sends an invitation to the guilty party to pay that amount. If the accused refuses to pay such an amount to the state treasury, the criminal prosecution continues in the usual manner.

This practice in the Netherlands is almost no different from the rules in Belgium. The difference is that in this state it will be possible to pay compensation for crimes punishable by imprisonment for up to six years. The institute is used in almost a third of all criminal cases in the Netherlands.

The second model of alternative methods is called mediation in the criminal law of foreign states, which manifests itself in simple and complex versions. The essence of mediation is that if the defendant agrees to pay damages, he will be obliged to mediate in the reconciliation of the victim with the accused. According to domestic legal literature, an important aspect of the mediation system is that such an

authorized person should not be passive in the reconciliation of the parties, but should take an active position in resolving a criminal dispute through conciliation.

In Belgium, the principle of mediation applies to all criminal cases punishable by up to twenty years' imprisonment. A criminal case may be terminated if the accused commits the following actions: compensation for harm, treatment, community service, and vocational training.

RESULT AND DISCUSSION

Mediation is now available in one form or another in Germany, Austria, Portugal, France, and many other countries. Many foreign countries are searching for many alternative options for exemption from criminal liability. This is an important tool for facilitating the work of the investigative and judicial system, preventing overcrowding in places of execution of sentences.

Exemption from criminal punishment can be divided into two groups: The first group includes types of complete exemption from serving a criminal sentence. These include 1) release from punishment in connection with the expiration of the term of punishment (Article 69); 2) release of a person from punishment in connection with the loss of a socially dangerous character (Article 70); 3) release of the offender from punishment based on sincere repentance (Article 71); 4) probationary period (Article 72). In these types of impunity, the court delivers a guilty verdict. That is, he pronounces a sentence and then decides not to carry out the sentence, considering it inappropriate to carry out the prescribed punishment. The second group of exemptions may include types of exemption from the remaining part of the punishment imposed by the

court. These include: 1) parole (Article 73); 2) mitigation of punishment to a milder one (Article 74); 3) release from punishment due to illness or disability (Article 75); 4) release from punishment based on a pardon (Article 76); 5) exemption from liability and punishment under the act of amnesty. It is known that criminal punishment is appointed only by the court. Accordingly, exemption from punishment is also carried out only by the court.

Thus, the release may be granted if the convicted person comes to the conclusion that the convicted person can be brought up without serving a sentence, or that serving the remainder of the sentence is inappropriate.

If you pay attention to the experience of foreign countries in studying the institution of impunity, which is not in our legislation, in particular, according to articles 92-93 of the Criminal Code of the Russian Federation, there is an institution of release or probation. According to our criminal law, as an institution for releasing a minor from punishment, the court must consider the issue of applying coercive measures to him as a release from punishment. One can directly say that it would be expedient to consider the issue of the application of coercive measures to minors if it were included in a separate article.

CONCLUSION

There is also an institution of impunity under article 94 of the Criminal Code of the Republic of Belarus, which provides for the punishment of a person who has committed a crime of minor public danger, fire, natural disaster, serious illness, or death of a single able-bodied family member or other emergencies. At the same time, the release of a convicted person from punishment can be recognized as a humane principle due to the absence of other dependents during the

execution of punishment, fire, natural disaster, serious illness, or death of the only able-bodied family member.

In addition, article 93 of the Criminal Code of the Republic of Moldova, is dedicated to the release of minors from punishment. It has been established that minors convicted of crimes of minor gravity, less grave, and grave crimes can be released from punishment by the court if it is established that the goals of punishment can be achieved through the use of coercive measures. There is also an institution of atonement under article 91, which provides for the elimination of offenses and compensation for the harm caused by the crime if the offender was not acquitted of the previous offense.

Having studied the above-mentioned norms of the law and the opinion of scientists, we conclude that a separate article provides for the release of minors from the punishment imposed on them by a separate article. Secondly, the norms of exemption from criminal liability are proposed in connection with the achievement of a mediative agreement on criminal and criminal procedure legislation. It is also advisable to include an article on the early release of a person serving a sentence in connection with emergencies, i.e. leaving the dependents of the convict without a guardian.

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