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CERTAIN ASPECTS OF LESSER PUNISHMENTS IN THE CRIMINAL LAW OF THE REPUBLIC OF UZBEKISTAN

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ABSTRACT

The sanction specifies a certain kind of punishment for offences. Meanwhile, the Criminal Code provides for "Lesser punishment" when conditions exist that significantly lower the degree of social danger associated with the offense, in accordance with the principle of humanism in our legal system. This rule, which is a clear illustration of the humanitarian concept, is found in many countries' criminal codes. The unique characteristics of imposing a reduced sentence are explained thoroughly in the article.

KEYWORDS

Justice principle, lighter punishment, disposition, sanction, humanitarian principle.

INTRODUCTION

Assigning a fair punishment for a crime is an essential assurance of the implementation of the principle of justice of the Criminal Code and criminal justice system.

The punishment specified in the relevant article of the Special Part of the Criminal Code should be imposed to criminals in accordance with the general principles of sentencing, as stated in the Criminal Code of the Republic of Uzbekistan. Article 57 of the Criminal Code

mentions that sometimes for the crime provided in the Special Part of the Criminal Code, a lesser punishment than the minimum punishment or a lighter punishment not provided in this article may be imposed. The main aspect of this article can be explained by the fact that the legislative body, while creating the provisions of the Special Part of the Criminal Code, cannot fully explain all the circumstances, aggravating and mitigating aspects of the situations that may occur in

it. Therefore, even when the court imposes the sanction's lightest penalty, the punishment may still be severe for the offender and, in this scenario, may not be in compliance with the goals highlighted in Article 42 of the Criminal Code.

This exception was included in the law in order to liberalize the imposition of punishment based on the humanitarian principle. It is essential to note that while a lighter punishment that is not indicated in the sanction of the applicable article of the Special Part of the Criminal Code may be implemented, the application of a greater punishment that is not mentioned in the sanction is strictly prohibited.

According to M.H. Rustambayev, Article 57 of the Criminal Code only allows the application of a lighter sentence when there are two legal justifications. These are:

- 1) In cases that seriously reduce the level of social danger of the committed crime;
- 2) In special cases ;

Which instances, then, are considered to significantly lower the crime's level of societal danger?

A.S. In accordance with part 3 of Article 57 of the Criminal Code, Yakubov claims that situations that collectively reflect the offender's behavior and character, the extent and severity of his guilt, his behavior both before and after the crime was committed, the reasons for the crime's commission, and the circumstances that made it possible to commit the crime can all be regarded as situations that significantly lower the level of social danger .

The existence of these reasons gives the court the possibility to apply a lighter punishment. Absence of

one of the cited justifications also restricts the application of this article to the court.

In addition, this article provides for two methods of imposing a lighter sentence on the defendant, namely:

- 1) Imposing a punishment that is less severe than the minimum punishment stated in the sanction;
- 2) Assigning a lighter type of punishment ;

Based on the above, we will consider some necessary aspects of imposing a lighter sentence.

Imposing a punishment less than the minimum punishment provided for in the sanction means mitigation of the punishment. For example, in accordance with the first part of Article 110 of the Criminal Code, a person who commits the crime of "Torture" shall be fined from fifty to one hundred times the amount of the base calculation, or up to three hundred and sixty hours of compulsory community service, or up to two years of correctional work, or restriction of freedom from one to three years, or three shall be punished by deprivation of liberty up to . According to this article, the court may impose a lesser punishment on the defendant than the minimum punishment (fifty times of the basic calculation amount). However, the minimum amount provided for this type of punishment in the General part of the Criminal Code, that is, the minimum amount of the fine provided for in Article 44 of the Criminal Code, should not be less than five times the amount of the base calculation.

Whereas instead of the form of punishment provided by the article employed by the court, the guilty may be assigned a punishment that is less severe than the other types of punishment mentioned in Article 43 of the Criminal Code. In such a case, the amount of the

type of punishment selected by the court must be less than the scope provided for in the article of the Criminal Code's General Part. If the applicable article's penalties section provides for a lesser sort of punishment that the judge may impose, the court may impose a penalty without considering Article 57.

Additionally, the application of the penalty of deprivation of particular rights is stated as an additional punishment in a variety of sections of the Criminal Code. However, if there are grounds specified in Article 57 of the Criminal Code, the court may not impose further punishment. For example, in Article 206 of the Criminal Code, it is mandatory to inflict a penalty of restriction of certain rights as an additional punishment for the offense of "Irresponsibility towards the profession". Yet, as previously stated, the court may not impose further punishment based on Article 57.

According to the decree of the Plenum of the Supreme Court of the Republic of Uzbekistan "On the practice of sentencing crimes by the courts", when the courts impose a lighter punishment using Article 57, not only the motive and purpose of the person at the time of committing the crime, the guilt form and degree, but also the person of the guilty party, his role in the commission of the crime and his behavior during and after the commission of the crime, and the conditions that led to the commission of the crime.

As noted above, in order to apply Article 57, there must be special circumstances that seriously reduce the level of social danger. Therefore, the courts, justifying the decision made by the court in the sentence, can recognize some mitigating circumstances and their combination as such circumstances (for example, full compensation of material damage, serious illness of the defendant or his parents, their inability to work,

absence of a parent or child of the criminal, his senility, his active participation in solving a crime committed by a group of persons, the illegal behavior of the victim that motivated the commission of the crime, the victim's reconciliation with the defendant, etc.).

If a person is sentenced under many articles or sections of the Criminal Code, Article 57 of the Criminal Code must be applied at the sentence for individual offenses, not after the punishment for the whole of the offences.

According to Plenum decree of the Supreme Court of the Republic of Uzbekistan "On some issues of the application of the Law on the Liberalization of Punishments to economic crimes," Article 57 of the Criminal Code can also be applied to Economic Crimes. In such cases, the fact that the guilty individual covers at least half of the harm caused by the crime might be regarded a significant decrease in punishment.

At this point, if we examine international legislation and pay attention to the Criminal Code of Russian Federation, we can notice that the following regulation is established in Article 64 of this Code:

"When there are special circumstances related to the purpose and motives of the crime, the role of the perpetrator, his actions during or after the commission of the crime, and other circumstances that significantly reduce the level of social danger of the crime, as well as a participant in a group crime in case of active assistance in uncovering this crime, the punishment may be less than the minimum limit provided for in the relevant article of the Special Part of the Criminal Code, or a lighter punishment may be imposed by the court"

This norm defined in the Criminal Code of the Russian Federation is closer to the norm in our legislation. In

addition, the Criminal Code of the Russian Federation specifies three grounds for imposing a lighter sentence. They are:

- 1) Assigning the minimum punishment provided for in the relevant article of the Special Part of the Criminal Code;
- 2) assigning a lighter type of punishment, although it is not provided for in the article of the Special Part of the Criminal Code;
- 3) Not applying an additional type of punishment; (If it is intended as a mandatory punishment).

In addition, in accordance with Article 59 of the Criminal Code of the Republic of Azerbaijan, when mitigating circumstances provided for in Article 62 of this Code are found, the court has the right to impose a lighter punishment than the punishment prescribed by law for a specific crime, taking into account the circumstances of the crime.

Based on the above, we can conclude that we can effectively protect the society from criminal attacks, correct and re-educate the convicted only by imposing a reasonable and fair punishment. In this regard, it is not an exaggeration to claim that the fact that our Criminal Code imposes a lesser penalty than what is authorized by law is a significant factor in the liberalization of sanctions and legislation. When imposing punishment under Article 57 of the Criminal Code, not only the motive and purpose of the person at the time of committing the crime, the form and degree of guilt, but also the identity of the criminal, his role among the participants in the crime, behavior during or after the commission of the crime character, the reasons for committing the crime, and the circumstances that led to it, should be considered.

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