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PENALTIES NOT RELATED TO IMPRISONMENT IN THE CRIMINAL LEGISLATION OF UZBEKISTAN: CONCEPT, SYSTEM, SPECIFIC ASPECTS

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Abstract
In this article, the author covered the concept, system, specific aspects general of penalties not related to imprisonment according to the criminal legislation of Uzbekistan. The author notes that the system of non-parole-related penalties continues to develop all over the world at the present time. Among them, fines, public works (including correctional work) are especially widely used. It should be noted that the task of developing a system of punishments in which criminal law is not associated with deprivation of Liberty is of urgent importance for Uzbekistan, which is constantly reforming the judicial system. As the main directions of the criminal justice policy implemented in Uzbekistan, the revision of types of crimes according to the level of social danger, the transfer of many serious or extreme crimes established in the criminal law into a category of crimes of greater social risk and less severe severity, the relaxation of the conditions for applying criminal liability measures to persons who first committed, it can be seen in expanding the scope and capabilities of the basis for the application of types of punishment that are not related to the separation of the convicted from society, in improving the procedure for the enforcement of these criminal justice measures.

Keywords penalty, non-parole-related penalties technologies, reforming the judicial system, types of punishment, application of punishment, criminal liability measures.

INTRODUCTION

A number of large-scale measures are being taken to bring to a new level the construction of a democratic legal state and the formation of a fair civil society in New Uzbekistan, the foundations of the right to future reforms are being created.

As Sh.Mirziyoev – President Of The Republic Of Uzbekistan noted, "about 400 integrated laws passed in the past period, together with the legal regulation of all spheres of our life, serve to ensure the rights and interests of citizens[1].

The system of non-parole-related penalties continues to develop all over the world at the present time. Among them, fines, public works (including correctional work) are especially widely used. It should be noted that the task of developing a system of punishments in which criminal law is not associated with deprivation of Liberty is of urgent importance for Uzbekistan, which is constantly reforming the judicial system [2].

As the main directions of the criminal justice policy implemented in Uzbekistan, the revision of types of crimes according to the level of social danger, the transfer of many serious or extreme crimes established in the criminal law into a category of crimes of greater social risk and less severe severity, the relaxation of the conditions for applying criminal liability measures to persons who first committed, it can be seen in expanding the scope and capabilities of the basis for the application of types of punishment that are not

related to the separation of the convicted from society, in improving the procedure for the enforcement of these criminal justice measures.

In turn, in addition to facilitating punishment, it is also required to pay great attention to the issue of achieving the possibility of influencing the offender, as occurs when a person is deprived of his freedom by applying non-parole-related punishments.

Still, since punishments for crimes consist of a specific system, this system covers subsystems that have their own "private" goals and principles of formation, interconnected from the inside. The type of punishment enshrined in criminal law is a primary element of the penal system, and it will be methodologically correct to start the study by identifying the elements that determine its integrity.

According to the opinion recognized in the legal literature, a type of punishment is understood as a punishment defined in criminal law, which enters the system of punishments as a key structural element, has its own name, special content, signs and properties that allow it to be distinguished from other types of punishment. "Type of punishment" is a complex concept in its structure and content. A certain type of punishment is manifested in practice in different forms (small types). Researchers of this issue apply various concepts to describe the complex structural structure of types of punishment. K.A.Sich applies the types and scheme of crimes by analogy with criminal objects[3]. A.L.Svetinovich proposes to distinguish the system of punishments and, accordingly, their types, depending on what values and restrictions (discrimination)of the interests of the individual are aimed at. According to this criterion, it distinguishes: punishments that limit or deprive freedom; types of punishment that limit property rights; punishments that have a spiritual effect[4]. Describing the system of punishments, Naumov proposes to reduce the number of types of punishment, relying on foreign experience, leaving the death penalty for manslaughter only in cases of deprivation of Liberty, fines and aggravating punishment. At the same time, it allows for the existence of other types of punishment (correctional work, delay in the execution of punishment and other measures used in judicial practice), as long as all of them apply to imprisonment or fines as alternative penalties[4].

Thus, it would be methodologically correct to treat types of punishment not related to imprisonment for a crime as a subsystem of the general system of punishments. Like any system, the subsystem of alternative penalties for a crime has its own signs:

- penalties for a crime are formed on the basis of general principles and goals within the framework of the general system;
- reflects the principle of humanism of penalties for a crime;
- represents the principle of saving criminal repression;
- alternative punishments can only be applied to less severe and moderately severe crimes;
- has a systematic structure and formation principles;
- especially actively promotes the implementation of the principle of differentiation and individualization of punishment;
- particularly fully reflects the connection of criminal law and the system of penalties with international standards in this area.

General principles of the system of penalties for crimes, enshrined by law, include: legality (Article 4 of the CC); equality of citizens before the law(Article 5 of the CC); democratism (Article 6 CC); humanitarian (Article 7 CC); Justice(Article 8 CC); responsibility for guilt(Article 9 CC); inevitability of responsibility (Article 10 CC).

Other principles of the penal system have also been proposed in the discipline of criminal law, and among them are the following:

– the principle of the established nature of each type of punishment (provides for the determination of penalties with a clear indication of their amounts and deadlines, the impossibility of making indefinite judgments);

– the principle of recovery (in the event of a judicial

error during the application of the sentence, the damage caused is covered by the court);

– the principle of austerity in the organization of the system of types of punishment;

– the principle of accounting for historical traditions and spiritual and religious views of the people in the organization of the system of punishments [5].

As we can see, the problem of the principles of the penal system has not found its only interpretation, both in science and in law. As for the question of setting the principles of the system of alternative punishments for crime, today it is practically not covered in the theory of criminal law. The principles of alternative punishments are partially reflected in international documents strengthening the standards in this area. Among them is the principle of adequacy and completeness of alternative types of punishment for crimes; the principle of depenalization and decriminalization of the system of penalties for a large number of types of crimes in states[6].

These principles allow states to differentiate penalties for a crime, on the one hand, the punishment being imposed, taking into account a large number of factors – and on the other-to replace penalties for a crime with other measures of influence lying outside the scope of criminal jurisdiction, which are considered the first step towards decriminalization or depenalization of a large number of acts requires the creation of an opportunity-generating system [7].

In our opinion, the following principles should lie in the system of punishments that are not related to imprisonment for a crime and be strengthened by law in the future:

– the principle of adequacy and completeness of alternative types of penalties for a crime. This principle allows courts to more effectively apply penalties that are not related to separation from society, at the same time expanding the range of acts and individuals who committed them;

– promote the depenalization and decriminalization of the system of penalties for less serious crimes;

– compilation of alternative punishment stairs according to the criterion of interference in the personal life of the convicted person;

– compliance with the principle of justice within the framework of a small system of alternative punishments for crime.

Article 43 of the Criminal Code of the Republic of Uzbekistan provides for 7 main types of punishment that are not related to imprisonment: fines; deprivation of a certain right; correctional work; restriction on service; sending to a disciplinary part, mandatory public works and restriction on freedom.

In the Criminal Code of the Republic of Uzbekistan of 1994, a number of types of punishment provided for by Article 21 of the Criminal Code of the UzSSR of 1959 are excluded from the criminal law-the issuance of public permission, confiscation of property, the obligation to compensate for the damage caused and dismissal from duty.

Alternatively, new types of alternative punishments appeared: mandatory public works and restriction on freedom. In general, the criminal punishment system is characterized by such an irregularity as the system of sanctions of the norms of the special part, which makes it difficult to impose a fair punishment. At the moment, the entitlement is limited in the application of the lightest types of punishment, while the law does not create serious obstacles when choosing the penalty for deprivation of liberty as a measure of state coercion.

The formation of a punishment system on the principle of "light to heavy" is a very abstract and not very sufficient direction in choosing the lightest punishment. In addition, modern criminal justice ideology does not provide a full-fledged scientific and practical basis for the structure of criminal justice sanctions and their application.

In current criminal law, there is a much wider list of penalties that are not related to separation from society, but this list has systemic disadvantages. Scientists rightfully believe that there is a difference between the repressive effect of certain types of punishment and its role in the general hierarchy of the punishment system; the fact that penalties are

not a mutual alternative or this inconsistency; the expansion of penalties that limit the labor rights of citizens; emphasizes the existence of competition and other problems between separate types of penalties, as well as punishments and other measures of criminal justice nature [8].

In our opinion, in Article 43 of the Criminal Code, it is necessary to create an internally consistent system of penalties that are not related to imprisonment. The system of penalties not related to deprivation of liberty should consist of a set of types of punishment that are not related to separation from society, but have the ability to morally correct and preventive properties to replace it in accordance with the social danger of the act and the personality of the perpetrator of the crime, and to carry out the general goals of punishment.

Comparing the repressive potential of punishments not associated with various types of deprivation of liberty allows us to conclude that the restriction of freedom is the most light of them in practice. In the list of penalties provided for by Article 43 of the Criminal Code of Uzbekistan, the restriction of freedom officially stands after the restriction on service. However, the punitive potential of restriction of freedom is much less.

In place of the conclusion, it should be said that the current criminal law provides for two types of correctional work with different punitive potential.

The correctional work carried out in the main workplace of the convicted person is much lighter in terms of its repressive effect than the work performed in other places, which, in agreement with criminal-executive inspectorates, are determined by the local authorities.

For example, the performance of correctional work, which is not at the main place of work of the convicted person, can be organized in the same urban Enterprises (Housing departments and District Improvement plants) as mandatory work, where the salary is at the level of the subsistence minimum.

Taking into account deductions from wages established in the court decision (from 5 to 20 percent), compensation for damage to the victim and other mandatory payments, the income of the convicted person often does not allow self-feeding. As a result, many convicts deliberately avoid serving correctional labor sentences and put them above their prison sentence [9]. The practice of performing correctional work in the main workplace of the convicted person also does not seem ideal [10]. The fact is that many employers dismiss defendants immediately after sentencing[11], and those local self-governing bodies and criminal-executive inspectorates are forced to deal with his case.

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