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THE CONCEPT, SYSTEM, SOCIO-LEGAL ESSENCE OF EXEMPTION FROM PUNISHMENT IN THE CRIMINAL LEGISLATION OF UZBEKISTAN

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ABSTRACT

In this article, the author made some comments on the concept, signs, legal foundations and types of the institution of exemption from punishment in accordance with the criminal legislation of the Republic of Uzbekistan. Also, some experts stated that the exemption from punishment differs according to the circumstances that depend on the act and depend on the person, giving examples to them. In particular, in connection with the fact that the exemption from punishment for circumstances related to the act has passed the term of execution of the sentence, the amnesty provided for the types of exemption from punishment on the basis of an act or pardon.

According to author the main type of exemption from punishment under National Criminal Law includes the grounds for exemption from punishment without serving a certain part of the convicted punishment. They are exempted from punishment in connection with the expiration of the term of execution of the sentence; exemption from punishment in connection with the loss of a person's social danger character; exemption from punishment in connection with the fact that the guilty person sincerely regretted it; conditional conviction; exemption from punishment due to illness or loss of ability to work is characteristic.

And as types of exemption from additional punishment, it is understood that the convicted person, starting to serve the sentence, is released from punishment on certain conditions after serving a certain part of the assigned punishment. It is characteristic of them, early conditional release from serving the sentence; replacement of punishment with a mild one; exemption from punishment on the basis of an amnesty act or pardon.

KEYWORDS

Grounds for exemption from punishment, probationary period, formal and material grounds for exemption from punishment, exemplary behavior, honest attitude to work, types of exemption from additional punishment.

INTRODUCTION

Liberalization and improvement of criminal law in order to ensure reliable protection of a person, his rights and freedoms, legitimate interests is considered one of the priority tasks in Criminal Legal Policy. The reforms in our country today are of great importance for raising human dignity, protecting human rights and freedoms through criminal legal means.

Also in the development strategy of New Uzbekistan for 2022-2026 "... it was established that the further increase in the effectiveness of the protection of dignity and freedom of citizens in the processes of combating a new type of crime will be consistently continued as a priority [1].

In Criminal Law, Crime and punishment are the most central concepts. In criminal law, criminal punishment is defined as a coercive measure that applies to the guilty by a court sentence, providing for the deprivation of a convicted person of certain rights and freedoms or their restriction. It is used in order to morally correct the convicted person, prevent him from continuing criminal activity, and prevent the convicted person, as well as other persons, from committing a new crime.

MATERIALS AND METHODS

The concept of exemption from criminal punishment and its distinctive features study, analysis of the norms of legislation providing for this situation. For this, methods of scientific cognition were used, such as

analysis, historical-comparative method, abstraction and comparison.

RESULTS OF RESEARCH

The deprivation of a person of certain rights and freedoms in the appointment of punishment in relation to the person who committed the crime does not imply the infliction of suffering in relation to the person [2], however, some scientists believe that the goal pursued from him will be achieved only when the punishment forces the guilty person to spiritual suffering [3]. M.Rustambaev emphasizes that punishment should be expressed in the deprivation or restriction of certain rights, and that such deprivation or restriction should only be in accordance with criminal law [4].

The goals of punishment are the final result that the state seeks to achieve through the application of punishment [4], it also appears as a function of criminal executive legislation.

18th century Italian lawyer Ch.Beccaria spoke about this '...it is only necessary to apply such punishment that it is... let the most powerful influence on the spirit of people and cause the least suffering to the body of the criminal' [5].

Criminal punishment and its passage, like a criminal act, is seen as a social phenomenon. In this regard, we fully support Usmonaliev's opinion that even after the expiration of a certain part of the term of punishment, the property of social danger of the individual disappears, the early achievement of the intended

purpose from punishment does not make it necessary to continue serving the sentence [6]. Because, according to the above grounds, the exemption from punishment corresponds to the content of the humanitarian principle of criminal law.

This institution consists in the complete or partial release of the guilty person from the punishment imposed by the conviction of the court, in the release of the guilty person from the legal consequence(s) of committing a crime, in the period of serving the sentence, stimulating socially useful behavior.

As Rustamboev reasonably noted, criminal law serves not only as the appointment of punishment for the crimes committed, but also the application of incentive norms in relation to the person for positively characterized acts that seriously reduce the social danger of the crime committed [7]. This opinion is supported by another scientist, who explains that incentive norms are one of the special functions of criminal law [8].

Exemption from criminal punishment is understood as the release of a person from the execution of an act in court in the content of which an indictment is made, and the convicted person from the imposition of punishment or the serving of the assigned punishment, as well as the continuation of the serving punishment. However, it is applied not in cases where it is determined that a person has no guilt in committing a crime, sharply different from the imposition of an acquittal sentence, but in relation to the guilty (convicted), for whom the guilt of this institution has been proven and confessed to his deed.

The court does not foresee the impact of the assigned punishment on the convicted person, how long the future serving of criminal punishment will affect his

moral recovery, mental state, how long it will take for the convicted person to achieve the intended goal of punishment or for the work or study of the convicted person, engage in socially useful labor, lead an honest lifestyle. Even for this reason, as a rule, exemption from punishment applies to the convicted person who is serving the sentence. This is how its different aspect from the institution of exemption from criminal liability is manifested.

The fact that the convicted person has lost the nature of social danger during the period of serving the sentence means that the goal pursued by the punishment has been achieved, in which it will not be advisable for him to continue serving the sentence.

In these aspects, in criminal law, the legislator established the following eight types of exemption from punishment:

- exemption from punishment in connection with the expiration of the term of execution;
- release of a person from punishment in connection with the loss of the property of social danger;
- exemption from punishment in connection with the fact that the guilty person practically regretted his act;
- conditional judgment;
- early conditional release from serving the sentence;
- replacing punishment with a lighter one;
- exemption from punishment due to illness or loss of ability to work;
- exemption from punishment on the basis of an amnesty act or pardon.

On the basis of this list, the differentiation of types of exemption from punishment indicates the legal nature of this institution [9]. In support of this opinion, we believe that this situation also represents the competition of justice and humanitarian principles of criminal law.

Scientists also classify the types of exemption from punishment according to some aspects. In particular, Usmonaliev explains the release of criminal punishment as full and partial types.

Types of full exemption from serving criminal punishment:

- exemption from punishment in connection with the expiration of the term of execution of the sentence (Article 69);
- release of a person from punishment in connection with the loss of the property of social danger (Article 70);
- release of the guilty person from punishment in connection with his sincere regret (Article 71);
- conditional judgment (Article 72).

In this classification, the court makes a decision not to execute it due to the fact that a criminal punishment is imposed by the indictment and the execution of the assigned punishment by the convicted person is not in accordance with the purpose of the punishment.

As types of exemption from the unfulfilled part of the punishment imposed by the court, the following are cited:

- early conditional release from serving the sentence (Article 73);

- replacement of punishment with mild (Article 74);
- exemption from punishment due to illness or loss of ability to work (Article 75);
- exemption from punishment on the basis of pardon (Article 76);
- through an amnesty act can release from both liability and punishment.

Rustamboev also interprets a mixed type, in addition to a complete and partial form of exemption from punishment. According to him, a mixed type of exemption from punishment includes exemption from punishment (Article 75) as a result of illness or loss of ability to work, and on the basis of an amnesty act or pardon (Article 76). They also include exemption from full and partial punishment [10].

Some scientists also distinguish between subjective, objective, mixed types of the general basis for exemption from punishment.

Subjective types of exemption from punishment include such situations as a person's positive behavior after the commission of a crime, exemplary behavior, honest attitude to work and study, fulfilling the requirements of the established procedure for the types of punishment, making an order to bear the guilt, actively contributing to the disclosure of the crime and compensating for the damage caused.

The sum of the second condition with one condition forms the objective side of the grounds for exemption from punishment. Subjective and objective conditions are significant for making decisions by the court. These conditions are: a) compensation for the damage caused b) coercion to harm c) committed as a result of severe conditions d) sincere regret for guilty own guilt

e) the expiration of the term of execution of the sentence f) early termination (replacement) of punishment g) public impact measure h) educational measure j) medical measure k) conditional sentence measure [11].

The objective basis for exemption from punishment arises due to changes in nature and society. An example of them is the exemption from punishment (Article 69) in connection with the expiration of the term of execution of the sentence; the grounds for exemption from punishment (Article 75) caused by illness or loss of ability to work. While the mixed type includes objective and subjective factors, and the objective, societal change is that an amnesty act is adopted, subjective pardon is a mixed type of exemption from punishment based on an amnesty act or pardon (Article 76) due to the fact that a person has served a certain period of punishment and has been released from punishment due to positive behavior.

Some scholars propose to classify exemption from punishment and classify them into types such as exemption from punishment according to the person and the circumstances that depend on the act.

This includes exemption from punishment according to circumstances related to the Act (Article 69) in connection with the expiration of the term of execution of the sentence; exemption from punishment on the basis of an amnesty act or pardon (Article 76).

And according to circumstances related to the person, exemption from punishment in connection with the loss of the nature of the person's social danger (Article 70); conditional sentence (Article 72); conditional release before serving the sentence; (Article 73) replacement of punishment with a mild one (Article

74); exemption from punishment due to illness or loss of ability to work (Article 75).

In addition to the above, it is controversial that incentive norms provided for by the sanction of certain norms in a special part of criminal law are considered a form or method of exemption from punishment.

Looking at this situation, initially, a number of articles of the Criminal Code (180, 181, 184, 185, etc.) were established by the law of the Republic of Uzbekistan 'On some additions and amendments to the Criminal Code' of August 20, 1999.) in the event that the material damage caused is covered in a three-time amount, the punishment in the imprisonment sect is filled with the section on non-application.

Also, by the law of the Republic of Uzbekistan dated August 29, 2001 'On amendments and additions to the Criminal, Criminal procedural codes and Code of Administrative responsibility of the Republic of Uzbekistan in connection with the liberalization of criminal penalties' to several articles of the Criminal Code (167, 168, 170, etc.) the role of material damage caused is filled with the section on the non-application of punishment in the imprisonment sect in case of compensation.

In addition to these, a number of articles of a special part of the Criminal Code provide for exemption from punishment. In particular, the third part of Article 157 (treason); the fifth part of Article 159 (encroachment on the Constitutional Order of the Republic of Uzbekistan); the third part of Article 160 (espionage), etc. Exemption from punishment provided for in the articles of a special part of the Criminal Code, if there are conditions provided for by the same norm, can only be exempted from the punishment assigned to the crime specified in the same article.

In connection with the liberalization of the judicial and legal system, several articles of the special part of the Criminal Code were supplemented with a new content, in which it was established that when the material damage caused was compensated in the amount of three times, there was no restriction of freedom and the imposition of punishment in the field of imprisonment. For example, the fourth part of Article 132 (destruction, destruction or damage to monuments of history or culture);

The fourth part of Article 173 (intentional destruction of property or damage to it), etc. Also, a number of substances were supplemented with a part of the content that 'The punishment in the sect of deprivation of Liberty will not apply if the role of material damage caused is covered' [12].

The fact that the harm caused by a person in the event of damage to relations protected by the state is compensated by the guilty is a motivating factor for the fact that the person is not separated from society by the restriction of freedom in relation to him or the imposition of punishment in the sphere of deprivation of Liberty.

Exemption from punishment provided for in the articles of a special part of the criminal law, if there are conditions provided for by the same norm, can only be exempted from the punishment assigned to the crime specified in the same article.

Today, the Criminal Law of Uzbekistan contains an incentive norm on the release of a person from punishment in the event of compensation for material damage caused in the composition of 14 crimes.

Such refills included in the Criminal Code are explained by Usmonaliev not as exemption from liability or punishment, but as a new way to impose criminal

penalties [13]. In his opinion, if the guilty fulfills certain conditions, the court will not impose a more severe punishment, and the guilty person will not appoint a punishment for deprivation of Liberty provided for in the framework of the sanction of the norm in which the act was qualified, and will appoint another lighter type of punishment in the sanction.

However, Article 175 of the criminal law applied a stimulating norm on the release of a person from punishment in case of compensation in the amount of material damage tripled. Although there are alternative criminal penalties in the sanction of this norm, the compensation of material damage caused by the legislator means the complete release of the guilty person from punishment. Accordingly, it is controversial to agree with Usmonaliev that the application of incentive norms is a new way of assigning criminal punishment. It seems to us that this situation will belong to a mixed type of punishment exemption, which depends on the person.

CONCLUSION

In conclusion, it is important to note that in Uzbek criminal law, a distinction is theoretically made between full exemption from punishment on parole and partial exemption from punishment.

In full exemption from punishment, the court issues an indictment and, having established a punishment, judges the non-execution of the established punishment.

When the convicted person is partially released from punishment, he will serve only part of the punishment established by the court and will be released from the part that has not been served, or this part will be replaced with a lighter one.

Types of full exemption from punishment include:

1. Exemption from punishment in connection with the expiration of the term of execution of the sentence;
2. Release of a person from punishment in connection with the loss of the nature of social danger;
3. Exemption from punishment in connection with the fact that the guilty person sincerely regrets his guilt;
4. Conditional judgment.

And the types of partial exemption from punishment include:

1. Early conditional release;
2. Replacing punishment with a lighter one.

Exemption from punishment as a result of illness or loss of ability to work and exemption from punishment based on an amnesty act or pardon can be both full exemption from punishment and partial exemption from punishment, depending on the time and consequences of their application. There can be both a complete release from punishment and a partial release from punishment. there can be both a complete release from punishment and a partial release from punishment. Exemption from punishment as a result of illness or loss of ability to work and exemption from punishment based on an amnesty act or pardon can be both full exemption from punishment and partial exemption from punishment depending on the time of their application.

Based on the above, the socio-legal nature of the existence of the Institute of penal exemption in criminal law of the Republic of Uzbekistan is manifested in:

- encourages the convict to move faster to the path of an honest lifestyle;
- the widespread use of punishment is expressed in reducing the consumption of the state budget in the economic aspect, and in the social aspect in preventing the negative impact of the criminogenic situation in institutions of imprisonment on convicts;
- the widespread introduction of incentive norms in criminal law is consistent with the generally recognized rules and principles of international law, which, in turn, serves to ensure the interconnection of National Criminal Legal Policy with international legal policy.

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