



## Application Of Imprisonment In Criminal Law: Foreign Experience

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### ABSTRACT

This article examines the use of punishment in the form of imprisonment in the legislation of foreign countries.

This article analyzes the role of imprisonment in the criminal justice system of some foreign countries, as well as its application to the crime committed, the terms and conditions of imprisonment. The issues of development and implementation of the most effective, but at the same time promising methods and techniques of influencing convicts serving sentences in foreign countries are analyzed.

### KEYWORDS

Offense, crime, corpus delicti, criminal liability, punishment, punishment system, types of punishment, imprisonment, colonies, prison.

### INTRODUCTION

In recent years, the country has undergone extensive institutional reforms in the judicial

sphere, the implementation of international human rights obligations, the creation of

favorable conditions for prisoners and detainees, regardless of their political and religious views, their rights and freedoms. comprehensive measures have been taken to respect their freedoms, honor and dignity.

Currently, the Concept of Improving the Legislation Enforcing the Penal Code, including the further humanization of the conditions of detention in prisons, is being implemented, and work is underway to develop a new version of the Criminal Procedure Code of the Republic of Uzbekistan. In particular, the specialized penal colony No. 19 of the Ministry of Internal Affairs of the Republic of Karakalpakstan, located in Jaslyk fortress, Kungrad district of the Republic of Karakalpakstan, was abolished. The Electoral Code of the Republic of Uzbekistan abolished the restriction on the participation in elections of persons detained in places of imprisonment for the commission of minor socially dangerous crimes.

### THE MAIN RESULTS AND FINDINGS

The Decree of the President of the Republic of Uzbekistan No. PF-6155 of February 3, 2021 provides for the reduction of address-colonies from 2021.<sup>2</sup>

At the beginning of the years of independence, our country began to pay attention to the liberalization of punishment. Imprisonment has a special place in the penal system of criminal law, as it deals with the isolation of a person from society, restriction of liberty, deprivation of certain rights and the

application of coercive measures by the state. A person deprived of liberty is not only deprived of his liberty, but also deprived of the right to free labor and choice of profession, and to be engaged in forced labor. Therefore, imprisonment is generally considered to be one of the most negative forms of punishment.

At the same time, there are positive aspects to imprisonment, which serve to isolate, keep under strict control, and rehabilitate individuals who pose a threat to the individual, the state, and society. Therefore, it is not possible to completely abolish the penalty of imprisonment. Only by improving the type of punishment and increasing its effectiveness in reducing crime can we achieve positive results.

Before conducting research on the penitentiary system in Uzbekistan and its improvement, we need to study the penitentiary system in developed countries and their specific features.

The world experience shows that in many foreign countries the issues of development and implementation of the most effective, at the same time, promising methods and techniques of influencing the convicts serving their sentences are solved differently.

On this basis, we can learn from the positive experience of developed countries and implement it in our national legislation.

If we analyze the penal system of the **French** state and the penalties associated with imprisonment, we can see that the penal

<sup>1</sup> Resolution of the President of the Republic of Uzbekistan dated August 2, 2019 No PP-4414 "On the termination of the specialized penal colony No 19 of the Ministry of Internal Affairs of the Republic of Karakalpakstan."

<sup>2</sup> Decree of the President of the Republic of Uzbekistan No. PP-6155 of February 3, 2021 "On the state program for the implementation of the action strategy in five priority areas of development of the Republic of Uzbekistan in 2017-2021 in the "Year of Youth Support and Health".

system in France is very different from the penal system in our country.

The French Penal Code divides penalties into two types. They set separate penalties for high-risk crimes and non-high-risk offenses, but both types of penalties include imprisonment.

In particular, Article 131-1 of the French Criminal Code provides for a system of penalties for high-risk crimes, which include:

- 1) Life imprisonment or life imprisonment;
- 2) Imprisonment for up to thirty years;
- 3) Imprisonment for up to twenty years;
- 4) Imprisonment for up to fifteen years;
- 5) Imprisonment for grave crimes may not be less than 10 years.<sup>3</sup>

In addition to imprisonment, a court may impose a fine.

Article 131-3 of the Criminal Code lists the types of penalties for less serious crimes:

- 1) Imprisonment;
- 2) Fine;
- 3) Daily fine;
- 4) Unpaid public work;
- 5) Deprivation of a certain right.

The following article of the Code specifies the terms of imprisonment that may be imposed for crimes that do not pose a serious threat to society:

- Not more than ten years;
- Not more than seven years;
- Not more than five years;
- Not more than three years;

- Not more than two years;
- Not more than one year;
- Imprisonment for a term not exceeding six months.<sup>4</sup>

The peculiarity of the penitentiary system in this country is that it is divided into two depending on the social risk of the crime and the term of imprisonment is clearly defined.

The sanctions section of the French Code also sets out the terms of imprisonment, which do not specify the number of years as defined in the Criminal Code of the Republic of Uzbekistan.

For example, French criminal law provides for ten years' imprisonment and a fine of 1,000,000 francs for bribery or trafficking under the influence of private individuals. According to our Criminal Code, it is punishable by a fine of fifty to one hundred times the basic calculation amount, or restriction of liberty for two to five years, or imprisonment for up to five years.<sup>5</sup>

In our view, French law precludes the imposition of a fixed term of imprisonment for a particular crime, and in judicial practice, the imposition of different lengths of imprisonment by different judges for the same type of crime. The French penal system is characterized by its rigidity.

In addition, France has a wide range of opportunities for resocialization and education of low-risk offenders. Under the French Penal Code, a court may allow a convict to serve a partial sentence in a criminal case that could

<sup>3</sup> Article 131-1 of the Criminal Code of the French Republic. // <https://www.legislationline.org/>.

<sup>4</sup> Article 131-4 of the Criminal Code of the French Republic. // <https://www.legislationline.org/>.

<sup>5</sup> Article 211 of the Criminal Code of the Republic of Uzbekistan dated September 22, 1994 // National Database of Legislation, March 26, 2020, No. 03/20/613/0362. // <https://www.lex.uz/>.

result in up to one year in prison. To do this, a person must indicate the need for his professional activity, continuation of the educational process, internship or temporary work related to resocialization, family circumstances as a basis for serving the sentence in semi-custody. .

According to Articles 132-26 of the French Penal Code, convicts who are allowed to serve their sentences in semi-custody are required to visit court-ordered penitentiaries when they are not performing their duties for the above activities.<sup>6</sup>

Under French law, these rules are closer to those of convicts serving sentences in penal colonies, but we can see that there are more benefits in the French state.

As for the penal system of the Federal Republic of Germany, the only form of imprisonment was introduced in the German Criminal Code on 1 April 1979 under Article 4 of the First Law on Criminal Law Reform. Prior to that, the German state provided for various forms of deprivation of liberty, including imprisonment, imprisonment, arrest, and imprisonment.<sup>7</sup>

Currently, according to Article 38 of the German Criminal Code, imprisonment is divided into two types: term and indefinite. The maximum term of imprisonment is 15 years and the minimum is one month.<sup>8</sup>

Even if the accused commits several crimes, the total term of imprisonment should not exceed 15 years. This provision of the German Criminal Code differs from the provisions of the

Criminal Code of the Republic of Uzbekistan, as the Criminal Code of the Republic of Uzbekistan stipulates that the maximum term of imprisonment may be 20 years for a set of crimes.

The Federal Republic of Germany also carries a sentence of life imprisonment, which may be imposed for the following crimes:

- Preparation for aggressive warfare;
- Treason;
- Betrayal of the motherland
- Murder;
- Aggression that resulted in the death of the victim;

"It's too heavy."

- Genocide.

In the German state, the person and his right to life are considered the highest value, because genocide and life imprisonment for murder cannot be replaced by any other alternative punishment.

This means that the number of crimes punishable by life imprisonment in Germany is slightly higher than the number of crimes punishable by life imprisonment in the Republic of Uzbekistan.

Life imprisonment may not be imposed on a person under the age of eighteen, and in some cases on a person who is psychologically or mentally immature, until the age of twenty-one.

<sup>6</sup> Article 131-26 of the Criminal Code of the French Republic. // <https://www.legislationline.org/>.

<sup>7</sup> Criminal law of foreign countries. A common part. Tutorial / Under. Ed. And with the pre. I. D. Kozochkin. - M.: Omega-L. 2003. p. 400.

<sup>8</sup> Criminal Code of the Federal Republic of Germany. // <https://constitutions.ru/>.

In Germany, persons sentenced to life imprisonment may be released on parole. To do so, they must have served at least fifteen years of life imprisonment, have not seriously violated the rules, and have behaved appropriately.

It should be noted that in Germany, almost all life sentences are granted on parole. The reason is that the decision of the German Constitutional Court does not allow convicts to be given a suspended sentence, which is contrary to the constitutional rights of citizens.<sup>9</sup>

One of the peculiarities of the Russian state penitentiary system is that it carries both the death penalty and life imprisonment.

The death penalty can be imposed in Russia only for the most serious crimes involving the loss of life.

The death penalty

- Women;
- Persons who have committed a crime under the age of eighteen;
- Cannot be assigned to persons over sixty-five years of age before sentencing.

Also, the death penalty may be imposed on a person transferred to a Russian state by a foreign state for criminal prosecution under an international treaty if the person cannot be sentenced to death in the country where the crime was committed, or for other reasons. in cases where the death penalty cannot be imposed on that person, the death penalty shall not be imposed.

The death penalty is the second part of Article 105 of the Russian Criminal Code, ie "murder", Article 277 - "Assassination of a statesman or public figure", Article 295 - "Assassination of a public official conducting a preliminary investigation or justice" Article 317 "Assassination of a law enforcement officer", and Article 357 "Genocide".

The important point is that despite the existence of the death penalty in the Criminal Code of this country, the Russian Constitutional Court ruled on November 19, 2019, according to which no court in the Russian state will impose the death penalty from now on. can not judge.

Russia's penal code has a different name for imprisonment. This state has a fixed term of imprisonment and life imprisonment. Logically, the term "deprivation of liberty" does not fully explain the nature of punishment. According to the criminal law of the Republic of Uzbekistan, a person can be sentenced to one to twenty years in prison and up to twenty-five years for certain types of crimes.

This means that a person who commits a crime can be sentenced to a term of imprisonment by a court. Therefore, the addition of the word "term" to the name of the sentence determines the nature of the sentence. Otherwise, there may be uncertainties as to whether a person will be sentenced to life imprisonment or a fixed term.

In Russia, a person can be sentenced to a term of imprisonment of two months to twenty years.

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<sup>9</sup> Criminal Code of the Federal Republic of Germany.  
// <https://constitutions.ru/>.

The term of imprisonment for a certain period of time imposed on a convict may exceed twenty years. A convict may be sentenced to a term of imprisonment of up to twenty-five years, in part or in full, for crimes committed, and up to thirty years for several convictions.

The terms of imprisonment in Russia do not differ much from the sentences in the Uzbek penitentiary system.

In the Russian penal system, life imprisonment is imposed for crimes against life, public health, public interest and safety, as well as sexual inviolability of a person under the age of fourteen.

Lifetime imprisonment may not be imposed on women, offenders under the age of eighteen, or men over the age of sixty.

There is a special institution in the criminal law of foreign countries, which is a reduction of the term of imprisonment imposed by a court.

For example, in the United States (except California), a prison sentence imposed by a court may vary depending on the convict's behavior. Through the "good behavior" of the convict, his sentence will be reduced.

This institution is also mentioned in the criminal law of the French state. In France, too, a prisoner's "good behavior" is a key determinant. The term of imprisonment imposed on a convict may be reduced by a judge, taking into account the opinion of the administration of penitentiary institutions, in the following ways: can be shortened to seven days.

In England, after the abolition of corporal punishment in 1948, the only punishment associated with imprisonment was imprisonment, with a minimum of one day and

a maximum of twenty-five years. forms. Life imprisonment is also used in the **United Kingdom**.

Significantly, the law does not specify the length of imprisonment in the UK, depending on the severity of the crime. For example, Uzbek law provides for five to ten years in prison for serious crimes, but the UK does not have such a rule. As a result, in the United Kingdom, there are standards of punishment for crimes of different gravity. In the legal literature, they are called "tariff system". But judges may also not follow this tariff system because it does not have the character of a normative document.

In Belarus, the term of imprisonment is relatively shorter than in other CIS countries. Article 57 of the Criminal Code of Belarus stipulates imprisonment for a term of six months to twelve years.

Imprisonment for the most serious crimes is from twelve to fifteen years, if the most serious crime is intentional assassination, trafficking in narcotic drugs, psychotropic substances or their analogues, as well as , may be sentenced to a term not exceeding twenty-five years in crimes against the State.

Imprisonment for crimes committed through negligence may not exceed ten years.

The types and terms of punishment imposed on minors in Belarus also differ from the types and terms of punishment imposed on minors.

In particular, a person who has committed a crime for the first time before the age of eighteen may not be sentenced to imprisonment if his actions do not pose a threat to society.



The penalty of imprisonment imposed on a minor may not exceed the following terms:

- 1) For a less serious crime - three years;
- 2) For serious crimes - seven years;
- 3) For extremely serious crimes - ten years;
- 4) If the most serious crimes are related to premeditated murder, trafficking in narcotic drugs, psychotropic substances and their precursors and analogues - twelve years.

## CONCLUSION

From the above analysis we can see that mainly in the states of the Romano-Germanic legal system, the terms of imprisonment are clearly defined, the longest and shortest terms that can be imposed according to the severity of the crime.

In contrast, in the Anglo-Saxon legal system, the term of imprisonment was not clearly defined, but the court was given a wider range of options for determining the term.

Also, in the penitentiary system of some states, there is a sentence of life imprisonment and the death penalty.

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