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Exemption From Criminal Liability Under The Criminal Legislation Of The Republic Of Uzbekistan

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ABSTRACT

The article reveals the content of the concept of «exemption from criminal liability», lists the grounds for the release of a person from criminal liability. Also, proposals and recommendations were developed for the development of theoretical and practical aspects of improving the institution of exemption from criminal liability.

KEYWORDS

Crime, public danger, criminal liability, exemption from criminal liability, court, investigator, prosecutor.

INTRODUCTION

In recent years, several decrees and resolutions have been adopted related to the further improvement of the judicial and legal sphere, strengthening measures to reliably protect the rights and legitimate interests of individuals and legal entities, and ensuring justice. The main purpose of this event is to further reform the judicial and legal system, ensure the true independence of the judiciary, as well as increase the authority of the court and the effectiveness of justice in society.

As you know, one of the main factors in the fight against crime is the established criminal liability for socially dangerous acts committed and its degree. However, the criminal law legislation of the Republic of Uzbekistan specifies not only punitive norms, but also norms for the release of a person from criminal liability.

Chapter XII of the General Part of the Criminal Code of the Republic of Uzbekistan lists the

grounds for releasing a person from criminal liability. They:

- 1) Exemption from criminal liability in connection with the expiration of the limitation period for bringing to responsibility (article 64);
- 2) Exemption from liability due to loss by an act or a person of public danger (article 65);
- 3) Release from responsibility in connection with the active repentance of the guilty person for what he did (article 66);
- 4) Exemption from criminal liability in connection with reconciliation (article 661);
- 5) Exemption from liability for illness (article 67);
- 6) Exemption from liability on the basis of an amnesty act (article 68);

According to the certainty and types of exemption from criminal liability:

- General (types provided for by the general part of the Criminal Code and applied to all crimes that have relevant circumstances and signs);
- Special (types provided for by a Special part of the Criminal Code and, as a rule, applicable only to specific crimes).

Today, on the above-mentioned grounds, not only a court can release a person from criminal liability, but also an investigator or prosecutor at the stage of preliminary investigation.

Exemption from criminal liability in connection with the expiration of the statute of limitations for bringing to responsibility. The expiration of the limitation period for bringing to criminal responsibility is understood as the expiration

of certain terms specified in the criminal law, from the moment of committing a crime until the court's verdict is passed or a decision is made to terminate the criminal case.

The expiration of these terms serves as the basis for the release of a person from criminal liability. The duration or brevity of the terms necessary for exemption from criminal liability determines the degree of public danger of the crime.

Article 64 of the Criminal Code provides for four types of expiration of terms that are the basis for exemption from criminal liability.

In addition, after the expiration of a special 25 - year period established by law, a person is released from criminal liability in any circumstances, including in cases of interruption or suspension of the period for concealing the person who committed the crime from the investigation or investigation, or the commission of a new intentional crime after the commission of a serious or especially serious crime.

The term of bringing to criminal responsibility for crimes of minor public danger is three years, i.e. after this period, the guilty person cannot be brought to criminal responsibility if the expiration of the term is suspended.

A person who has committed a less serious crime may be brought to criminal responsibility if 5 years have not passed after its commission.

The main conditions for term termination are:

- 1) Initiation of a criminal case on any fact and bringing a specific person to justice as an accused;

- 2) Evasion from the investigation and trial, i.e. evasion of the accused from the trial and investigation. Evasion from trial and investigation is understood as the actions of a person committed for the purpose of evading criminal responsibility and related to the search by the court, the investigative authorities of the accused in the relevant territories [].

The norms of international law provide that the rules for the expiration of the statute of limitations for bringing to justice, regardless of the time of the commission of the act, do not apply to war criminals, persons who have committed crimes against the peace and security of mankind, regardless of whether they were committed in wartime or peacetime in accordance with the Charter of the Nuremberg International Military Tribunal, as well as for apartheid and genocide. All the above-mentioned international documents do not recognize the rule of delay in bringing the perpetrators to justice and imposing penalties on them [].

Exemption from liability due to loss by an act or a person of public danger (Article 65 of the Code of Criminal Procedure). In this article, two independent, but similar in meaning and content, exemptions from criminal liability are indicated as the basis: 1) loss of public danger of an act due to a change in circumstances; 2) loss of public danger of a person due to a change in circumstances.

An act that is socially dangerous at the time of its commission in the first case subsequently loses this feature. In the second case, the person who committed a socially dangerous act no longer poses any public danger to society. In both cases, the nature of the public

danger of the act is lost as a result of a change in the conditions.

It is provided that a person who has committed a crime may be released from liability if it is established that the committed act or the person who committed the crime has lost the nature of its public danger due to a change in circumstances during the investigation or consideration of the case in court.

The fact that a person who has committed a crime has lost the nature of a public danger, due not only to the objective conditions of his life, but also to his behavior after committing a crime, as well as his exemplary behavior can also be expressed in his positive attitude to service and social duties.

Release from responsibility in connection with the active repentance of the guilty person for what he did (Article 66 of the Criminal Code). It should be noted that the release of the guilty person from responsibility on this basis is a new manifestation of the humane principle. By active repentance for what he has done, it should be understood that a person who has committed a minor crime for the first time, who does not pose a public danger, after committing a crime, voluntarily eliminated the harm caused by the crime, declared his innocence, sincerely repented and helped to solve the crime.

The basis for exemption from criminal liability in connection with active repentance is: 1) that the person has committed a crime for the first time; 2) that the public danger of the committed crime is great or less serious; 3) compensation for the damage caused; 4) confession; 5) sincere repentance of the guilty

person; 6) active assistance in solving the crime.

The presence of these signs indicates that the guilty person really repents and admits his guilt, which is enough to release him from criminal responsibility. The absence of any of the above signs may not allow the criminal liability to be canceled, and in this case the punishment is only a mitigating circumstance.

The release of a person from criminal liability due to sincere repentance may be applied if this is provided for in the articles of the Special Part of the Criminal Code.

It is no exaggeration to say that the introduction of the institute of reconciliation is one of the most important areas of the policy of liberalizing criminal legislation. In general, this institution, reflecting the principle of humanism, that is, the mutual consent of the person who committed the crime and the victim, was widely used in the history of our statehood, that is, when the perpetrator paid compensation to the victim, the injured party had the right to forgive him and ask the judge to release the guilty from punishment.

The conditions for the termination of criminal cases against persons who have committed a minor crime and a less serious crime for the first time should be understood, firstly, reconciliation of the parties, and secondly, the commission by the debtor (a person exempt from criminal liability) of certain actions (transfer of property, performance of work, payment of money, etc.) in order to eliminate the damage caused by the crime in favor of the victim.

The release of the guilty person from criminal liability in connection with the reconciliation of

the parties is a right, not an obligation of the court. Accordingly, the court, taking into account the specific act of the suspect or accused and the characteristics of the individual, can terminate the criminal case, apply the institute of reconciliation only if there is no encroachment on the interests of citizens protected by criminal law (not only the victim) and society, the state as a whole .

Upon termination of a criminal case, it is necessary to make sure that the victim voluntarily refuses the claim, that is, that there is no physical or psychological pressure on him from the person who committed the crime for this.

Exemption from liability for illness (Article 67 Criminal Code) is one of the forms of exemption of a person who has committed a crime from criminal liability. According to the law, an act is considered a crime if, at the time of committing a socially dangerous act, a mentally retarded person suffers from a mental disorder to such an extent that he cannot control his actions and realize the consequences, and the relevant norms of the Criminal Code and the Code of Criminal Procedure are applied to such a person.

This article provides for the release of a person who has committed a crime from responsibility if, before the sentencing, he could not direct his actions and realize their significance, and also suffered from a mental illness. The criminal law recognizes the existence in this case of the only reason for exemption from criminal liability, namely, the mental illness of the person who committed the crime. On this basis, the release of a person from responsibility was caused by the inability of a mentally ill person to realize the significance of

his actions and their consequences and the deprivation of the ability to manage them.

The patient's inability to control his actions manifests itself: 1) that he is a source of danger to himself and others; 2) that he is in a helpless state, that is, unable to meet his basic life needs; 3) that the lack of psychiatric care for a person can lead to an aggravation, deterioration of his condition. The above condition applies equally to cases where it is impossible to realize the significance of bringing to responsibility.

Another independent type of exemption of a person from criminal liability is an exemption from liability on the basis of an amnesty act. In accordance with paragraph 10 of Article 80 of the Constitution of the Republic of Uzbekistan, the Senate of the Oliy Majlis, on the proposal of the President of the Republic, accepts documents on amnesty. Amnesty is the implementation of the principle of humanism in relation to persons who have committed crimes, as well as those serving sentences. Amnesty-releases a person from criminal liability or punishment without repealing the criminal law providing for responsibility for certain crimes, without questioning the validity and legality of the court verdict, replaces the punishment imposed on the guilty with a more lenient one or reduces the established terms, and also cancels the criminal record as a result of serving the sentence .

The amnesty act specifies the category of persons or all persons who are released from criminal liability or the imposed punishment, the terms of the sentence imposed by the court sentence are reduced. The legal force of the amnesty act applies either to a certain circle of persons (for example, women, minors

or persons over 60 years old), or to crimes of a certain type (for example, due to negligence, economic, etc.) is a normative document issued in relation to persons who have committed a crime. Despite the fact that none of the documents on the declaration of amnesty provides for the concept of «release from responsibility», it is in any case carried out by refusing to initiate a criminal case, terminating it during the preliminary investigation or terminating a criminal case without resolving the issue of guilt.

Certain rules stipulated in the amnesty resolutions do not apply to persons who acted as part of organized groups, committed particularly serious crimes, committed crimes related to the illegal trafficking of narcotic drugs on a particularly large scale, and persons recognized as repeat offenders of a particularly dangerous group.

In conclusion, we can say that in our country, also in connection with the liberalization of criminal legislation, significant changes were made to the classification of crimes, the rules for sentencing and serving sentences, the range of application of alternative types of punishment not related to deprivation of liberty was expanded, and “a positive factor in strengthening the rule of law was the introduction of one of the forms of justice – the institute of reconciliation” .

Currently, a new procedure and strict deadlines for the investigation of criminal cases, the detention of a person as a preventive measure, and the consideration of cases in court have been established. Especially in connection with the liberalization of criminal legislation, serious and especially serious types of crimes have sharply decreased. In 2020, there were 182

crimes per 100 thousand people in Uzbekistan. In 2017, this figure was 229. Let's compare the crime rate per 100 thousand people with the CIS countries.

In the Russian Federation, this figure is 1,393, in Belarus-1,800, in Armenia – 1,813, in Kazakhstan – 748, in Kyrgyzstan – 737, and in Tajikistan – 284.

According to the results of 2020, according to the order and security indicator of the World Organization for the Assessment of Human Rights, Uzbekistan ranked 11th among 128 states with 0.90 points. These facts are a clear proof that the liberalization of criminal law and the punitive system makes the principle of humanism and justice a priority in the appointment and application of punishment for crimes committed.

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