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# DEPRIVATION OF CERTAIN RIGHTS IN FOREIGN COUNTRIES

**Abrorbek Mamajanov**

Independent researcher of Tashkent State University of Law Uzbekistan

## Abstract

Deprivation of a certain right is a measure of conditional punishment, the essence of which is not only the removal of the convicted person from performing certain duties, but also the deprivation of his right to hold certain positions or engage in certain activities during the period established by the sentence. Article 45 of the Criminal Code of the Republic of Uzbekistan establishes that the deprivation of a person of a certain right consists in prohibiting the perpetrator from holding a particular position at enterprises, institutions or organizations, or engaging in one or another activity during the period appointed by the court. Deprivation of a certain right has a preventive character, pronounced as a measure of punishment. The application of this punishment is mainly due to the need to prevent the re-commission of these crimes by persons who have committed crimes related to the abuse of available opportunities in connection with their position or activities. This article highlights the specifics of punishment for deprivation of a certain right in the criminal legislation of foreign countries.

**Keywords** Deprivation of a certain right, criminal punishment, deprivation of liberty, crime, criminal liability.

## INTRODUCTION

The issues of non-parole punishment as well as the use of other measures are becoming more and more clearly international-legal in many countries due to the increasing relevance of the problems associated with the excessive number of convicts in penitentiary institutions.

The VIII UN Congress on crime prevention (Havana, 1990) specifically focused on seeking alternatives to separate prisoners from society. A set of basic principles was adopted by this Congress to encourage the use of non-parole measures as well as the minimum standard provisions of UN non-parole penalties (Tokyo rules) [1, 48 p.].

At the 68th plenary session on 14 December 1990, the UN General Assembly recommended that the Tokyo regulations be applied and implemented at the national level, taking into account the political, economic, social and cultural conditions and

traditions of each country. Under these provisions, " the criminal justice system must provide for comprehensive measures not related to deprivation of Liberty" [2, p.173].

A similar regional document is the European regulations for the application of State sanctions and measures (in an alternative way to deprivation of Liberty), which are devoted to the criminal justice measures adopted by the committee of Ministers of the Member Countries of the Council of Europe in 1992 [3, p.123.]. The committee of Ministers of the Council of Europe recommended the use of "mass punishments and measures of influence", given that it is an important tool in the fight against crime and helps to avoid the negative consequences of imprisonment.

Both of these international legal acts (European rules and Tokyo rules) regulate the use of measures not related to deprivation of Liberty.

The United Nations Convention Against Corruption provides for the establishment of procedures by

which a public official accused of committing a crime recognized under this convention may be duly transferred, temporarily suspended from performing duty duties, or transferred to another position by the relevant body, given the need to amam the principle of presumption of innocence [4].

The Convention on combating bribes of foreign states to officials in the implementation of international business agreements provides for civil or administrative punitive measures applied to legal entities for the act of bribing a foreign official [5]. In particular, an example can be the temporary or permanent exclusion from among the participants in public procurement or the ban on engaging in other commercial activities.

The International Covenant on civil and political rights of the UN General Assembly of 1966 provides for equal guarantee of citizens and the possibility of equal rights to public service, as well as the right of the state to Special Duties and special responsibility [6]. This right may be associated with some restrictions, but they must be established by law.

As we can see, in recent decades, the trend of World criminal policy has been associated with expanding the use of penalties that are not related to the separation of a convict from society.

This affected not only the public relations sector, but also the sports sector. For example, Article 10 of the International Anti-Doping Code" sanctions against certain persons " includes provisions on the following types of punishment: cancellation and disqualification of the results of sporting events.

A.A.Aryamov argued that according to the degree of severity of liability measures applied to athletes, they should be deprived of awards, deprived of honorary titles/legal statuses (Article 48 of RF JK, article 45a of GFR JK), prohibited from engaging in certain activities (Article 47 of RF JK, Article 11 of France JK 131-6, article 131-28, article 131-34, article 131-39, Article 2, Article 70 of GFR JK, article swesaria is fully compliant with criminal types of punishment such as JK Article 54, Dutch JK Article 28 Section 1 Paragraph 5). Thus, the measures used by the organizers in relation to offenders, identified

in terms of international law and national law of many states, belong to the "field of criminal law" and are a type of institutional and alternative forms of resolution of a criminal law dispute [7, 101 P.].

In addition to the concept of punishment, the concept of "security measures" is also known in the criminal law of modern foreign countries. Such a "double" system of legal consequences of an act is typical for the Criminal Code of many European countries (Austria, Germany, Switzerland). These measures are primarily aimed at preventive purposes. Unlike punishment, security measures do not aim to intimidate, but rather to eliminate the "dangerous state" of an individual who has committed or has not committed a socially dangerous act but may have committed it. The purpose of prevention, carried out with security measures, is achieved by neutralizing the individual or re-establishing his morality. The application of security measures cannot be limited to a clearly defined period, such as the application of punishment. This makes it possible to change the period of application of security measures in the direction of decline or growth, taking into account the maximum level established in accordance with the development of the "dangerous state" of the individual. According to representatives of the school" new social protection", security measures do not abolish the classic system of criminal law, but are an integral part of it.

The draft French penal code of 1934 provided for a developed system of security measures used in conjunction with the penal system. However, this was not enacted by the French criminal law. But despite the formal rejection of the category of" security measures", it actually survives in the current French penal code of 1992. For example, the closure of an institution that is open to the public or that it uses, where violations of the Drug Use Act are allowed.

In Germany, the Legislature defined a clear terminological difference between punishment (Strafen)and security measures (Massnamen) [8, p.165]. It does not include security measures in the penal system and distinguishes them from additional punishments and additional consequences. These measures represent an

independent group of norms United in Chapter 6 of the German Criminal Code, called "security measures and amendments", which contains not only this system of measures, but also rules that determine the specifics of these legal consequences [9, p.3].].

The main purpose of these measures is the principle of conformity, which consists in the implementation of corrective and security measures in accordance with the "perfect person or expected behavior from him and the level of danger arising from him" established by §62 of the Criminal Code of the GFR. Guilt will not be the basis for the appointment of security measures. The main criterion is the risk of individuals determined by life and way of thinking.

Along with punishment, moral correction and security measures are negative consequences of violations. In parallel with the punishment system, they are aimed primarily at the implementation of special Prevention. These measures apply both to convicts and to mentally ill persons of "dangerous character".

The sequence of enforcement of these measures is determined by the court. They can be performed before or after punishment. In addition, if special circumstances are the basis for waiting for the effective implementation of the purpose of this measure in this way, these measures can be conditionally delayed.

Security measures were first introduced in German criminal law by the Nazi common criminals act of 20 February 1933. After that, the system of security measures in the legislation was constantly expanding.

In the criminal law of different countries, deprivation of a certain right is not only as a criminal punishment for crimes and misconduct, but also has various legal features, such as "criminal consequences", "security measures". The target load of the type of punishment in question, the basis for its appointment, the duration, procedure for calculating them, as well as the conditions for execution and the scope of actions provided for by it are not always the same.

In many foreign countries, the measure is

presented as a punishment for a crime (often as an additional type of punishment). It should be noted that the criminal law of many foreign countries is characterized by a clear definition of punishment and the absence of its goals. As a rule, legislation provides for a system of penalties (often other criminal legal measures) that can be assigned for committing a criminal act.

Each country's criminal law has its own system and classification of criminal justice measures. Such a classification of penalties determines the procedure for their appointment. As the main punishment, the deprivation of a certain right is provided for in the criminal codes of France, Spain, Bulgaria.

The deprivation of the right to occupy certain positions and engage in certain activities is widely used in foreign countries as measures of state coercion - as additional punishment or additional legal consequences of committing a crime, and is rightfully recognized as the most effective method.

The criminal codes of European states include the following prohibitions:

Prohibition of driving a vehicle, deprivation of a permit granting the right to drive a vehicle (Criminal Code of the GFR);

deprivation of the right to hold office, to be elected and to vote (GFR Criminal Code);

Prohibition of professional activities (GFR Criminal Code);

removal from office (Austrian criminal code;

Deprivation of civil rights (Austrian criminal code) prohibiting the rights to serve in the Royal Army forever or for a certain period of time (rights to military service) [10, p.67];

deprivation of civil rights, deprivation of the right to vote on social issues (Norwegian Criminal Code) [11, P.38];

deprivation of scientific degrees, titles, state powers, deprivation of the right to perform public functions, work in public positions or perform public duties, deprivation of the right to be elected; participation as a jury of khakams, carrying weapons, participation in the Civil Guard and the

Prohibition of service in the army (Belgian criminal code) [12, 53-b.].

Under U.S. federal law, individuals convicted of corruption crimes are permanently denied the right to hold certain positions or work in specific areas for, for example, bribery [13, p.45].

The CIS Model Criminal Code [14] understands that the deprivation of the right to hold certain positions or engage in certain activities means "prohibiting or engaging in certain activities to occupy positions in the civil service, local self-government bodies, enterprises of any form of property or public associations."

According to Article 50 of the Criminal Code of the Republic of Kazakhstan [15], for committing corrupt crimes, deprivation of the right to occupy certain positions or engage in certain activities is mandatory, in the civil service, in the court and local self-government bodies, in the National Bank of the Republic of Kazakhstan and its offices, in state organizations with a share of State, enterprises with a shareholder state consist of a lifetime ban on holding certain positions in their subsidiaries.

In foreign countries, the issue of the responsibility of convicts for avoiding punishment is solved in different ways: 1) in a direct sentence, the court determines the type and amount of punishment for which the initial sentence is commuted in case of escape from convicts; 2) replacing the sentence with a more severe one; 3) a mixed method; 4) establishing an independent composition of].

The General part of the Criminal Code of the Republic of Poland [17] provides for a separate criminal liability for failure to comply with the Prohibition established by the court (Article 244), as well as a fine for this crime, restriction of freedom for up to a year or imprisonment.

For violation of the ban on professional activity, criminal liability is established under Article 294 of the Criminal Code of Switzerland (Swiss criminal law provides for such a ban as an additional punishment), the Sanskrit of this article provides for punishment in the form of arrest or a fine.

The criminal law of the Republic of Lithuania establishes liability in the form of a fine or arrest

for evading the execution of punishments (except confiscation of property) that are not related to imprisonment (Article 243 of the Criminal Code of the Republic of Lithuania).

In the Criminal Code of France, any sanctions are called punishments and are classified into basic and additional, criminal, morally corrective and police types. Deprivation of a driver's license as the main type of punishment for committing a crime, prohibiting hunting, issuing checks, etc. k. provided for (Section 131-6 of the French penal code).

The French Criminal Code includes, among additional penalties for crimes and misconduct, a series of sanctions that "result in the Prohibition, deprivation, seizure of any right or any right" [18, p.82].].

Articles 434-40 and 434-41 of the French Criminal Code provide for liability for evasion of punishment in the form of a ban on professional or social activities, deprivation of a driver's license, possession of weapons or prohibition of carrying. Such acts were punishable by up to two years in prison and a fine.

The current German criminal law provides for a ban on driving a vehicle as an additional punishment.

At the same time, the Criminal Code of the Federal Republic of Germany defines "additional consequences" (Article 45 of the Criminal Code), which are considered an independent type of punishment. They apply to the convicted person in the sentence without a special appointment (i.e. independently). Similar measures are also found in the criminal codes of Austria and Spain.

Criminal Code of the Federal Republic of Germany [19, p.304] under § 145 (c), a person may be criminalized and sentenced to up to a year in prison or fined in the event of a violation of the enforcement of the Professional Activities Prohibition measure.

According to Article 145 of the Dutch criminal code, a person exercising the right in question is punishable by up to six months in prison or a 3-category fine, despite being deprived by a court order.

In accordance with Article 306 of the Criminal Code of the Republic of Azerbaijan [20]: deliberate evasion of a decision, sentence, verdict or decision of a court entered into legal force is punishable by a fine of one thousand times the conditional financial unit or mandatory public works of 160 to 200 hours or correctional work for up to two years or

Thus, the presence of punishment in the criminal law of the Republic of Uzbekistan in the form of deprivation of the right to hold certain positions or engage in certain activities is quite consistent with foreign law, since these rights can be removed from a person who has long abused the rights granted to him from official or other activities.

The study of the issue of deprivation of the right to hold certain positions and engage in certain activities in foreign law allows you to formulate the following conclusions:

1. Unlike the criminal law of the Republic of Uzbekistan, which provides only for the punishment of deprivation of a certain right (to occupy certain positions or deprive of the right to engage in certain activities), the criminal codes of foreign countries provide for the right to occupy certain positions, engage in certain activities or professions, elect and be elected, etc. k. related criminal justice measures (basic or additional types of punishment, moral recovery and security measures, criminal justice measures, etc. k.) referring to an expanded list of.

2. There is a clear similarity with administrative and criminal punishment (disqualification, deprivation of the right to engage in certain activities) in terms of sanctions imposed by the WADA (World Anti-Doping Agency) on anti-doping violators. In this case, these measures are a type of extrajudicial repression, which are appointed without consent and without the participation of the person to be held accountable.

3. The peculiarity of these measures under the legislation of Azerbaijan is that the limitation and limitation period are manifested in the long term in relation to the legislation of Uzbekistan, the maximum period of deprivation of certain rights is ten years, and in some cases a lifetime.

4. Deprivation of the right to drive vehicles as a form of prohibition is prescribed in most criminal codes of European countries: in Germany as an additional punishment, moral correction and security measure; in Italy - as an additional punishment; in England - as a measure of a criminal-legal nature; in Spain - as a special security measure, etc.k.

5. In the Criminal Code of the United Kingdom, even if it is not provided for by the sanction of a criminal law, deprivation of the right to engage in certain activities can be used as an alternative to the penalty of imprisonment.

6. In most of the criminal codes of foreign countries, the Legislature establishes a ban on professional activities and a ban on certain activities that are not related to the profession, granting them the status of independent punishment.

7. The question of answering the state to the facts of evasion of the convicted person from serving the appointed sentence is solved in different ways: the presence of an independent composition of the crime; its replacement with a more stolen type of punishment for evasion of serving it; the determination of the type and amount of the sentence exchanged for evasion of the execution of the original

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