



## EXEMPTION OF CRIMINAL LIABILITY IN CONNECTION WITH THE EXPIRATION OF THE PERIOD

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<p><b>Received:</b> 26<sup>th</sup> January 2021 <b>Accepted:</b> 7<sup>th</sup> February 2021 <b>Published:</b> 21<sup>st</sup> February 2021</p>	<p>This article examines the aspects of exemption from liability due to the expiration of the term in the theory of criminal law of the Republic of Uzbekistan. In this article, the author explores a new interpretation of the term of exemption in cases where the offender is hiding from the court and investigation in the sense of exemption due to the expiration of the term. Explains the concept of exemption due to the expiration of time. Interprets the passage of time continuing crimes, crimes committed with participation, crimes related to the suspension of the term, life imprisonment. It offers new deadlines based on the experience of other countries in terms of timing. The importance of overdue release focuses on some aspects of the application of the Republic of Uzbekistan by the courts and law enforcement agencies. Exemption from liability due to the expiration of the term concludes that the expiration of the term should not be interrupted if the new crime was committed through negligence. She concludes that offenders cannot pose a threat to society for the rest of their lives, so release from liability due to the expiration of a term is an important form of release from liability.</p>

**Keywords:** Exemption from criminal liability in connection with expiration of term, continuing crimes, participants of crime, instigator, social danger, life imprisonment, sentence, interrupting of term, hiding from court and law enforcement agencies.

### 1. INTRODUCTION

Approved by the Decree of the President of the Republic of Uzbekistan dated February 7, 2017 "On the Strategy for further development of the Republic of Uzbekistan", strategy of actions on five priority directions of development of the Republic of Uzbekistan for 2017-2021 Priority II is called "Ensuring the rule of law and reforming the judiciary", Paragraph 2.3 sets out the priorities for "Improving administrative, criminal, civil and economic legislation". [1]

Section 5 of the Criminal Code of the Republic of Uzbekistan is entitled "Exemption from Liability and Punishment" and Chapter 12 is entitled "Types of Exemption from Liability". It contains 4 items. Exemption from criminal liability due to the expiration of the term of prosecution (Article 64), exemption from liability for an act or loss of social security of a person (Article 65), release from liability on the grounds that the perpetrator has practically repented of his actions (Article 66), exemption from criminal liability in connection with reconciliation (article 66<sup>1</sup>), exemption from liability due to illness (Article 67), exemption from liability on the basis of an amnesty act (Article 68).

The issue of exemption from liability is also reflected in the speeches of the President of the Republic of Uzbekistan. The President of the Republic of Uzbekistan Shavkat Mirziyoyev in his Address to the Parliament-Oliy Majlis stated that "persons who have committed a crime of violation of customs legislation for the first time, but have paid the fees, should be released from criminal liability. [2]

According to the State Program for the implementation of the Action Strategy for 2017-2021 in the "Year of Active Entrepreneurship, Support of Innovative Ideas and Technologies", the reduction of the term of release from criminal liability due to the expiration of the term of criminal liability provided. [3]

Exemption from liability due to the expiration of time is in accordance with the principles of humanity as a form of release from liability. Because individuals should not escape punishment for the rest of their lives. Article 7 of the Criminal Code of the Republic of Uzbekistan states that "Punishment and other measures of legal effect shall not be intended for the purpose of physical torture or humiliation of human dignity. A person who has committed a crime should be punished morally and should be punished or other legal action should be taken to prevent him from committing a new crime. Severe penalties may be imposed only if the intended purpose of the punishment cannot be achieved by applying lighter measures provided for in the relevant articles of the Special Part of this Code. [4]

## 2.METHODOLOGY

As components of the methodology, the author used general scientific methods, which involve the study of all phenomena and processes in their development, interconnection and interdependence, as well as special methods. In particular, the methods of dialectical materialism, system analysis, analysis and synthesis, logical, historical, comparative-legal, formal-legal were used .

## 3.DISCUSSION

Let's look at the type of exemption from criminal liability in connection of expiration of period (Article 64 of the Criminal Code). Exemption from criminal liability due to the expiration of the term of prosecution has a special place:

- 1) its application is obligatory or not obligatory for law enforcement agencies;
- 2) the application of this type of exemption is not always related to the identification of the individual and his or her level of social risk.

The essence of exemption from criminal liability due to the expiration of the term is the expiration of the term, that the person has not been prosecuted for the crime he has committed and that the period of time established by law has elapsed from the date of the crime.

There are two positions of the authors in the release from criminal liability due to the expiration of the statute of limitations:

- 1) loss of social security of the person who has committed a certain act, but his punishment;
- 2) the person who committed the crime has lost his social danger and therefore it is not expedient to bring him to criminal responsibility.[5]

There are a number of time limits for exemption from criminal liability due to the expiration of the statute of limitations. These are: suspension, reinstatement, total term, and for which crimes the term does not apply. A number of scholars have argued that criminal prosecution after a significant period of time is considered unfair because it reduces a person's danger to society, turning unjustified action into punishment. According to Artyushina, prosecution after the expiration of the term of imprisonment is contrary to the principles of criminal law and criminal law policy of the country. Exemption from liability is an institution of criminal law, a person can not pose a threat to society for life.

In many cases, people regret it when they have committed a crime, but instead want to go back in time and never do it again. So their behavior changes over time and over time.

According to V. Maltsev, the release of a person from liability for the expiration of the term is mainly based on the loss of a person who once committed a crime, which is a public threat.

If there is no such loss, and the public danger of the individual increases with each new crime, then there is essentially no basis for exempting him from criminal liability, even for a crime committed long ago.

Such freedom, the author writes, contradicts the duties of criminal law, violates the rights and interests of victims. [6]

Indeed, the fact that a person commits a repeat offense indicates that he or she has not regretted the consequences of his or her initial crime and that his or her behavior has not changed for the better. Exempting such individuals from public prosecution poses a threat to society.

Exemption from criminal liability in connection with the expiration of the period of liability is considered to be an objective expiration of a certain period of time, not when a person regrets his actions, complains about the act. According to O. Artyushina, the reason for acquittal and non-application of sanctions in accordance with the principle of justice is not the fact of the crime, but the positive assessment of the perpetrator, his social approval, the commission of the crime, the next positive behavior is not the fact that the period set by the legislature has expired. [7]

A person who is absconding from the court and investigation is involved as a suspect or accused in a crime, hiding from the application of a measure of detention is a person who has been subjected to a search warrant by law enforcement agencies in a particular region or the whole country.[8]

According to Kabulov, the law defines two types of expiration of term:

- differential term;
- universal (general) term.[9]

As a general rule, release from criminal liability due to the expiration of the term is an unconditional obligation of the court.

Objectively, the expiration of the period after the initiation of a criminal case on the basis of a natural disaster, emergency and other circumstances, if the offender is not hidden from the court and the investigation, obliges the court to release the perpetrator.

Consequently, the court is not sufficient to exempt a person from liability (not legally defined - formal, practical, ethical - the danger to society, the circumstances of the crime and the social risk of the offender, the circumstances of the crime, the characteristics of the offender) , socially significant, materially), even if it concludes that it is obliged to release the offender. Among the grounds for prosecution in the theory of criminal law, as well as between the execution of a conviction, are: the disappearance of the social danger of the act committed, the inexpediency of criminal prosecution after a certain period of time, procedural circumstances, the principle of humanism. [10] According to M. A. Mahmudova, the basis of the institution of the term of criminal liability is the

disappearance of a significant reduction (weakening) of the social risk of the perpetrator after a certain period of time. Because a person does not pose a social danger during the commission of a crime for an indefinite period of time. Also, the basis for the term in the conviction of the court is the loss of social security of the convicted person after a certain period of time from the date of entry into force of the judgment.

This means that an individual is less likely to pose a threat to society for the rest of his or her life. If at the beginning of the calculation of the expiration date, the time of the occurrence of criminal liability was clearly defined in both the current criminal law and the previous one as the date of the crime, it became difficult to calculate its final time. Part 1 of Article 64 of the Criminal Code of the Republic of Uzbekistan also stipulates the expiration of the term as the date of the crime. Completion times vary depending on the nature of the offense. Although the expiration of the term of criminal prosecution is closely related to the expiration of criminal liability, they are fundamentally different in that criminal liability is waived by an amnesty act or when a criminal case is dismissed, if the conviction expires, the period of criminal liability shall be calculated from the moment the crime is committed until the sentence enters into force. This period is calculated the expiration of the period from the date of the crime until the entry into force of the judgment.

By the date of the crime, it is necessary to understand the time when the act (omission) on which the crime took place or the criminal consequence occurred. No criminal consequence is required to find these crimes completed. The period of criminal liability in a crime of a formal nature is calculated from the time of the commission of the act constituting the objective aspect of the crime. (e.g. slander). In material crimes, the crime is considered to have been committed from the moment of the criminal consequence. (For example, intentional infliction of grievous bodily harm). Any crime begins with the commission of a socially dangerous act. The social danger of a person is expressed in the criminal act (inaction). A person is considered socially dangerous from the moment of committing a crime. The level of social danger of a crime depends not only on the nature of the crime, but also on its consequences.

According to Article 64 of the Criminal Code, in the real aggregate of crimes, when a person commits various acts through separate actions, the term of criminal liability is calculated separately for each criminal act. According to the fourth part of 64 article, Criminal Code of the Republic of Uzbekistan the expiration of the term for criminal prosecution shall be interrupted for a previous serious or very serious crime for which a new intentional crime was committed.

In this case, the time limits for prosecution shall be restored from the time the new crime was committed.[11] In material crimes, the day of the consequence is the end of the crime, and the expiration date begins on this day. (for example, premeditated murder). In crimes of a formal nature, a socially dangerous act (action or omission) is considered committed and expires from the date of the commission of (e.g., violation of the inviolability of the residence of citizens).

According to Professor Z.S.Zaripov, the investigation of crimes committed many years ago as a basis for exemption from liability shows that it is difficult to solve, that is, over time, the traces of crime disappear, witnesses forgets the obvious facts, the individual evidence loses its validity, and so on, all of which make it so difficult to investigate the case that finding the truth becomes too complicated and sometimes impossible. Of course, the timely detection of crimes and the punishment of those who commit them will greatly ease the tasks of the preliminary investigation and the judiciary. Because if you investigate after a few years, it will be much harder to gather evidence and find out the truth. In this case, some of the evidence is really lost, and the witnesses forget the necessary part of the story. However, not all of the above are grounds for liability.

Because the terms of prosecution are determined not by the complexity of the crime and the length of time after the crime, but by its social danger. The social danger of the individual is an objective real fact. Under criminal law, a person who commits a crime is considered socially dangerous. If he has not committed a crime, it is self-evident that he is not a social danger.

When a new crime is committed within the period of prosecution and execution of punishment provided for in Articles 64 and 69 of the Criminal Code of the Republic of Uzbekistan, the expiration of these periods shall be suspended. This means that if the perpetrator does not commit a new crime within a certain period of time, he will be released from criminal liability and punishment under the criminal law or on the basis of the expiration of the term of execution of the sentence. [12]

The fact that the person has not committed a new crime over time, which means that his behavior has changed for the better and leads to his release from liability. A new intentional crime means that his rights have changed for the worse, and the term expires.

According to the concept put forward by N.I.Zagorodnikov, criminal liability is a real application of the criminal law by the court to the perpetrator, and part of the criminal liability includes the imposition of punishment by the court.

Criminal liability always implies a negative assessment of the offender's conduct, the imposition of one of the state's coercive measures. Therefore, issues related to the length of criminal liability should be resolved in accordance with the criminal law. Article 64 of the Criminal Code of the Republic of Uzbekistan deals with the term of criminal liability, which stipulates that the prosecution must be carried out in accordance with the requirements of criminal law.

Based on these considerations, N.I. Zagorodnikov argues that the person involved as a defendant is not yet considered criminally liable, and that only a procedural relationship has been established, not a criminal legal

relationship. If we assume that criminal liability begins on the day a person is prosecuted as a perpetrator, the commencement of the limitation period will depend on the speed of the investigative bodies. So, it is necessary to determine the issue of criminal liability. Criminal liability indicates that a person has been notified by public authorities that a crime has been committed and that one of the punitive measures is inevitable. It should be noted that the determination of the date of the crime is important not only in the application of the terms of criminal liability, but also in the application of other legal norms. For example, in the case of amnesty, the issue is resolved on the basis of the time of the crime and the date of the crime. If the criminal act was committed before the adoption of the amnesty act, but its consequences occurred after the adoption of the amnesty act, the person who committed the act may not be released from criminal liability.

The calculation of time limits for criminal prosecution of participants in crime is also a topical issue. In general, the above considerations also apply to the perpetrators. The content of the concept of criminal liability cannot be disclosed solely on the basis of substantive criminal law or only on the basis of criminal procedure legislation. If criminal prosecution consists of a conviction, then it must be acknowledged that this right belongs only to the court. However, the investigation and prosecution authorities also have the power to prosecute.

If criminal prosecution was a criminal offense as a defendant, there would be no need to set a time limit in substantive law. The concept of criminal liability encompasses the time from the date of the crime until the judgment is legally valid. Such notions of criminal liability allow to eliminate difficulties in the implementation of deadlines in practice, to prevent unresolved conflicts between criminal and criminal procedure legislation. Criminal prosecution means that the courts and law enforcement agencies are involved in the proceedings and that the perpetrator participates in all these proceedings and is punished or not punished at all.

The general rule for calculating a time limit is that the time limit begins at zero hours on the day following the crime and ends at zero hours on the last day of the period. Determining the date of a crime in the Soviet legal literature posed a certain difficulty in the early days of calculating the expiration date.

In the theory of criminal law, since the composition of the crime is divided into formal and material according to the structure of the objective party, the concept of "day of the crime" can be understood as the day of the act itself (inaction) and the day of all the elements of the crime. Attention should be paid to accuracy in calculating time. To be fair, every day is based on accuracy. From the day following the day on which the criminal act was committed or the consequence occurred, the calculation is included in the basis of the exact calculation.

Consider the issue of participation. Determining the starting point for a deadline can be difficult for law enforcement officers and for crimes involving participation. The time limit is the same for the participants, and for each of them it starts from the date of the crime. It is more difficult to determine the beginning of the calculation of the period by participating in the distribution of roles. In the literature of criminal law, there is a view that the calculation of the time limit for participants varies depending on the task performed at the time of commencement, and the date of the crime for each partner should be decided separately, depending on the nature of his criminal activity. The calculation of time for participants should begin at the end of their actions, not at the end of the performer's actions.

When a crime is committed by more than one person, the time must be calculated separately for each of them. Because the difference between the actions of each of them can be long. In the case of a burglary, the witness may have encouraged the person to commit the crime several years ago. The organizer may have prepared all the necessary grounds for the theft long before the action. For example, he may have planned where to open the warehouse door, where to escape, and seen the necessary conditions. Indeed, although the actions of participants and performers are interdependent, they are performed independently, often at different times. The social danger of each of these individuals is determined only by the actions inherent in them. According to Article 67 of the Criminal Code of the Russian Federation, the type of participation can only affect the punitive measures, but does not affect the expiration of the term. Otherwise, the organizer, the instigator, and the accomplice may find themselves in a more comfortable position than the executor, because their actions are primary and begin earlier.

Consequently, the statute of limitations will be common to all participants. The initial period of the period is calculated correctly from the moment of execution of the criminal plan of the participants, from the day of the commission of the crime they commit a crime related to the implementation of organizational activities, instigating and assisting. [13]

To determine the beginning of the expiration of the term, it is necessary to determine the time of the end of the ongoing crime in the presence of ongoing crimes. In the scientific literature, most authors rightly argue that it is necessary to determine the legal and factual end date of ongoing crimes. Legal termination shall be effected from the moment when all the signs of the completed crime appear in the action of the person. (e.g., there is a legal end to the said offense from the beginning of the illegal possession of the weapon). The actual termination of a continuing offense can vary greatly with the legal termination of the offense. The factual termination means the termination of the criminal status of the person, which is the essence of the crime, which is a specific feature of this ongoing crime. The de facto termination of a continuing crime may be made at the will of the person who committed it or in circumstances beyond his control. [14]

Determining the initial period of limitation in connection with ongoing crimes has its own characteristics. In the past, even in the former Soviet Union, there were norms governing recidivism. One of the legal sources determining the calculation of the expiration date for persistent crimes is the decision of the Plenum of the Supreme

Court of the USSR of March 4, 1929 (as amended by the Plenum decision of March 14, 1963) "Conditions for application of the term and amnesty for protracted and ongoing crimes is the decision

Paragraph 5 of the ruling stipulates that the limitation period for ongoing crimes may begin before the date of the last act. The calculation of the delay is unreasonably covered by the delay for all subsequent actions. Serious difficulties for law enforcement officers can arise as a result of setting the date of an ongoing crime. According to Article 4 of the Decree of the Plenum of the Supreme Court of the USSR of March 4, 1929, "the expiration of the term of criminal prosecution for continuing crimes shall be considered voluntary or from the moment of their termination. (voluntary performance of duties, confession, arrest by the authorities)

The waiver of the statute of limitations has become a loophole in the law that prevents criminals from being given a fair punishment, only the imposition of a penalty for a new crime if the time limit for prosecuting a previous crime at the time the new crime is committed if passed; It should be borne in mind that a newly committed crime can be committed both intentionally or through negligence. For persons who have committed a crime through negligence, the presence of criminogenic characteristics of the person who committed the intentional crime is characteristic.

If we turn to criminological research, "the majority of offenders who have committed a crime out of negligence have a relatively positive (or neutral) social and moral orientation (87%), which can be considered as a low category of their social risk index.[15]

According to international law, regardless of the time of the act, the rules for the transition of the term of imprisonment to war criminals, the rules for the transfer of the term of imprisonment to war criminals, whether committed in time of war or peace, in accordance with the Charter of the Nuremberg International Military Tribunal, does not apply to those who have committed crimes against the peace and security of humanity, as well as to apartheid and genocide. Not all of the above-mentioned international instruments recognize the expiration of the time limit for prosecuting and punishing offenders. [16]

#### 4.CONCLUSION:

The type of exemption due to the expiration of the term is now important in law enforcement practice. This is because the exemption is in line with the principle of humanity, which, through its application, frees the judiciary and the investigative bodies from excessive processes and excessive expenditures of the state budget. Prevents individuals from hiding from the courts and law enforcement for the rest of their lives. Based on the above, I would like to suggest the following. First, Part 3 of Article 64 of the Criminal Code of the Republic of Uzbekistan (exemption from liability due to the expiration of the term of prosecution) should be supplemented with the following words. "Exemption from liability for evasion of court and investigation may be proposed for release after the following periods:

for crimes of low social risk, two years for evasion of investigation or trial, if not related to imprisonment;  
three years of imprisonment in case of evasion of investigation or trial for a less serious crime;  
six years for evading investigation or trial for a felony  
for evasion of investigation or trial for a felony - ten years  
twenty-five years for evading investigation or trial for very serious crimes"

Second, Article 64 (1) of the Criminal Code provides for "exemption from criminal liability in connection with the expiration of the term of imprisonment (a) Three years from the date of the commission of a less serious crime should be replaced by a sentence "a) two years from the date of commission of a less serious crime", based on the fact that this period is almost two years in most CIS countries.

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