



INSTITUTE OF EXEMPTION FROM PUNISHMENT IN THE CRIMINAL LAW OF UZBEKISTAN: CONCEPT, SIGNS, TYPES

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Article history:	Abstract:
Received: 3 rd August 2022 Accepted: 3 rd September 2022 Published: 7 th October 2022	<p>In this article, the author expressed some comments on the concept, symptoms, legal basis and types of the Institute for the release from punishment in accordance with the criminal legislation of the Republic of Uzbekistan.</p> <p>The author also stated that some experts believe that exemption from punishment depends on the act and differs depending on the circumstances that depend on the person, gave them examples. In particular, exemption from punishment due to circumstances related to the act resulted in types of exemption from punishment on the basis of an act of amnesty or pardon, as well as exemption from punishment due to the fact that the term of execution has expired.</p>
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In the theory of criminal law, there is no unanimous opinion on the concept of the institution of exemption from punishment. In theory, exemption from punishment is understood as the refusal to impose a full or partial punishment on a person, as well as the use of certain restrictions and prohibitions based on the nature of punishment.

For a more complete and correct formulation of the concept of the institution of exemption from punishment, it is necessary to clarify its specific signs. Accordingly, it should be said that the exemption from punishment consists of the sum of criminal legal and criminal executive legal norms. In this sense, exemption from punishment is to give the individual the opportunity not to be punished in whole or in part, which is expressed in the refusal of the state to apply punishment or continue its execution. It can be applied only if a thorough assessment is given of the degree and nature of the social danger of a criminal act, as well as the degree of social danger of the person who committed the crime [1].

Exemption from punishment is determined by the impossibility of its execution (illness of the convicted person, incapacity for work, the expiration of the term for the execution of the sentence) or inexpediency (sincere regret of the convicted person) [2].

Since finding guilty of committing a crime and assigning punishment to it is the exclusive authority of the court, exemption from punishment is carried out only by the court.

Some scholars distinguish the following two grounds for exemption from punishment:

– cases when it is possible to morally correct a convicted person even without Real and full fulfillment of the assigned punishment (early conditional release from serving the sentence, exemption from punishment due to the expiration of the term of execution of the sentence, replacement with a lighter punishment, etc.);

– situations in which it is impossible to morally correct a convicted person for some objective reason (exemption from punishment due to illness) [3].

These, in our opinion, differ in the presence of the right or obligation of the court to release the convicted person from punishment. Accordingly, the grounds for exemption from punishment are divided into two: 1) compulsory – exemption from punishment the obligation of the court, and 2) elective – exemption from punishment is also divided into types that are considered the right of the court. In "exemption from compulsory punishment", it is mainly understood as an early conditional exemption from serving a sentence; exemption from punishment due to illness; exemption from punishment due to the expiration of the term of execution. According to the listed grounds, exemption from punishment falls under the obligation of the judge. Because, on these grounds, when freeing a convicted person from punishment,

various objective reasons are taken into account – the fact that he served a certain part of the sentence, as a result of illness, the term of execution of the sentence has passed.

And the exemption from punishment on facultative grounds is considered the right of the judge, which is carried out taking into account the state of the convicted person.

Similarly, the grounds for exemption from punishment are also divided into conditional and unconditional types. Its conditional type differs depending on the further behavior of the defendant in terms of whether it is possible or not to cancel the assigned punishment.

The classification of exemption from punishment into types is necessary for a comprehensive revision of the nature of its right, existing criminal legal signs, features of social assignment. In addition, the application of the institution of exemption from punishment is explained by the fact that it is not advisable to apply punishment, despite the fact that it is the principle of minimization of criminal repression, the application of the principles of humanism and justice, the inevitability of punishment for each crime [3].

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.

M.H.Rustamboev explains the exemption from punishment in whole, in part and in the so-called mixed types of punishment exemption [2].

In full exemption from punishment, the convicted person does not enter to serve the punishment established by the court sentence. It is assumed that the sentence does not provide for the release from serving one or another part of the assigned punishment, but for the execution of some part of this punishment of the convicted person.

Partial exemption from punishment is expressed in the release from punishment during the period of its serving or in the replacement of the part of the punishment that has not been served with a lighter one. To the category of these types of exemption from punishment is conditional early release from serving a sentence; it is characteristic to replace punishment with a lighter one.

In partial exemption from punishment, the convicted person begins to serve the sentence established in the sentence, serving a certain part of it. After serving a certain part of the punishment, taking into account the positive side of his behavior during this period, his active participation in public affairs and other features, the court exempts him from serving the unfulfilled part of the punishment assigned to him, and also replaces one type of punishment with a lighter punishment, which is higher in the penal system established.

Also, a mixed type of exemption from punishment incorporated full and partial exemption from punishment, which includes exemption from punishment caused by illness or loss of ability to work; exemption from punishment based on an amnesty act or pardon.

In addition, the general basis for exemption from punishment is also divided into subjective, objective, mixed types.

Subjective types of punishment include such situations as a person's positive behavior after the commission of a crime, exemplary behavior, honest attitude to work and study, fulfillment of the requirements of the established procedure for types of punishment, assertion of guilt on the neck, active assistance in the disclosure of a crime and compensation for the damage caused, that is, exemption from punishment. They include the release of a person from punishment in connection with the loss of the nature of social danger established by the criminal law, his release from punishment in connection with the fact that the guilty person practically regrets his act, conditional conviction; pre-term release from serving the sentence; grounds for replacing punishment with a lighter one.

The objective basis for exemption from punishment arises due to changes in nature and society. They will be given exemption from punishment in connection with the expiration of the term of execution; an example will be the grounds for exemption from punishment due to illness or loss of ability to work. While the mixed type includes objective and subjective factors, and the objective, societal change is the acceptance of an amnesty act, subjective pardon is a mixed type of exemption from punishment based on an amnesty act or pardon due to the fact that the person has served a certain period of punishment and has been released from punishment due to positive behavior [4].

The basics of exemption from punishment are also distinguished by specialists, depending on the act and depending on the person.

Exemption from punishment according to circumstances related to the Act includes the grounds for exemption from punishment in connection with the expiration of the term of execution of the sentence, as well as on the basis of an amnesty act or pardon.

Circumstances related to the person include: exemption from punishment in connection with the loss of a person's social danger trait; conditional conviction; early conditional release from serving the sentence; replacement of

punishment with a mild one; exemption from punishment caused by illness or loss of ability to work; exemption from punishment in connection with the fact that the guilty person sincerely regrets.

Referring to the grounds for exemption from punishment according to circumstances that depend on the person, it should be said that the exemption from punishment in connection with the loss of the social danger of the individual is the basis of the Criminal Code Article 70 establishes that a person who committed a crime can free him from punishment if the circumstances have changed by the time the case is being tried, or if the person is recognized as having lost his social danger by showing himself with exemplary behavior, an honest attitude to work or study.

This rule, in contrast to the types of exemption from liability provided for by Article 65 of the Criminal Code, is conditioned by the fact that at the time of the trial of the case, the circumstances have changed or the person who committed the crime showed himself with exemplary behavior, an honest attitude to work or study [5].

According to this article, the following two conditions must be met for exemption from punishment:

- if the circumstances have changed at the time of the trial of the case;
- it is necessary to prove that the behavior of the person who committed the crime has changed to the exemplary side, is being in an honest monastery for work or study.

In separate courts, they decide that the change in regulatory legal acts in the field of criminal law decriminalizes the act. It can be added that the only decriminalizing thing about the act in the event is the adoption of a law that cancels the act as a crime, but it has not yet come into force. Only in this case can a person be released from punishment that the act committed has lost its social danger due to changes in circumstances [6].

And in the case of exemption from punishment in connection with the fact that the perpetrator practically regrets his act, the fact that a person shows activity under the above conditions after committing a previously not high social risk or not very serious crime in participation means that a person can be released from punishment for previously committed crimes [5].

In a conditional sentence, it is established that one of the penalties for imprisonment in relation to a person, sending to a disciplinary unit, restriction on service or correctional work is assigned, but does not pass it.

According to the legislation of the Republic of Uzbekistan, conditional conviction is a type of "exemption from punishment". However, in the criminal legislation of some CIS countries, this circumstance is indicated in the structure of the chapter on the appointment of punishment [7]. Based on this, it is considered a misconception that conditional conviction is viewed as a kind of exemption from punishment.

Conditional conviction as the next type of exemption from punishment (Article 72 of CC) is. Conditional conviction of the Criminal Code Defined in Article 72. Conditional conviction means imposing a punishment on a person and convicting him without Real execution. In a conditional sentence, a specific punishment is assigned to the convicted person and a probationary period is established, and during the probationary period the condition for the execution of the assigned Real punishment in case of violation of the conditions of the trial is imposed [5].

Conditional conviction for mixed types of punishment exemption (Article 72 of CC), conditional release ahead of schedule from serving the sentence (Article 73 of CC) includes the replacement of punishment with a mild one (Article 74 of CC). Because, these types of exemption from punishment are also exempt from punishment according to the circumstances that depend on the individual and depend on the act.

When judging by Article 72 of CC, the judge, instead of one of the penalties specified in Part 1 of this article, appoints a probationary period from 1 to three years and imposes certain obligations. According to paragraph 35 of the resolution of the plenum of the Supreme Court of the Republic of Uzbekistan dated February 3, 2006 No. 1 "On the practice of imposing punishment for a crime by the courts" in accordance with part six of Article 72 of the CC, if the conditionally convicted person does not fulfill the obligations imposed on him by the, he has the right to decide on the execution of the punishment established in the sentence [8]. At the same time, taking into account the nature of the committed offense and certain circumstances, information about the personality of the convicted person and his behavior during the probationary period, the court may decide to leave the conditional sentence in full.

The probationary period will be successful if the convicted person, in accordance with this rule, timely fulfills the obligations imposed on him by the court during the probationary period. In case of non-fulfillment of the obligations imposed, the punishment established in the sentence will be, for example, imprisonment, correctional labor, sending to the disciplinary part, serving restriction penalties on the service.

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