

The effectiveness of punishment and alternative measures of influence in the context of water resources management in the national economy

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Abstract: One of the important strategic goals of the reform of the Criminal justice system (penal enforcement system) the priority of the modern state is the development of institutions that execute punishments without isolation from society. The realization of this goal involves the solution of a complex of legal, organizational, correctional and market-economic tasks. However, it is crucial to change the punitive policy of the state in the direction of its liberalization in relation to persons who have committed minor offenses. The need to humanize the punitive policy of the state is predetermined by the fact that the punishment in the form of imprisonment places a heavy burden on the state budget, the economic development of the state and entails the rupture of social ties of convicts, generates criminalization of society and in the field of ecological development.

Keywords: punishment, responsibility, differentiation, punishment, probation, public censure, preventive measures, sentence, Interpol, market, market conditions, sphere of economic activity, ecology, water resources, trans boundary waters.

Introduction.

Issues related to the effectiveness of the execution of criminal punishment constantly attract the attention of scientists. The first research in this area was carried out in the 60s of the last century. Despite the seeming simplicity of the problem, its true content is ambiguous. Researchers, as a rule, use a general and very wide category of "effectiveness of punishment," and the definition of the concept of "effectiveness of execution of criminal punishment" remains undeveloped. At the same time, such concepts as "the effectiveness of sentencing", "the effectiveness of criminal law regulation", "the effectiveness of the use of punishment" and "the effectiveness of the execution of punishment" are not distinguished [1]. Also, until now, signs of the effectiveness of the execution of criminal punishment have not been determined. The punishment is applied to restore social justice, as well as to correct the convicted person and prevent the commission of new crimes by both convicted and other persons.

Based on the principle of justice, the economy of criminal repression and humanism, the legislator seeks to limit the scope of criminal coercion and provides for the possibility of releasing perpetrators from criminal punishment through alternative measures of influence in cases where the provision of these goals can be carried out without using punitive measures.

These considerations determine the socio-political appointment of the institution of criminal punishment and alternative measures of influence, which does not contradict the principle of its

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inevitability of the offense [2]. It is the use of alternative measures of influence, because if the subject has not committed a crime, then he cannot be criminally liable, exempt from it.

In other words, when released from criminal punishment, the fact that the subject has committed a crime is stated, i.e. in such situations, a negative moral, political and legal assessment of the criminal behavior of the subject is preserved, exempted from criminal punishment using alternative measures of influence. Thus, the effectiveness of the application of criminal penalties and alternative measures of influence is a non-rehabilitating basis and in fact means the recognition of the person's guilt.

However, the statement of these provisions is not enough to understand the exemption from criminal punishment through alternative measures of influence. This can only be done on the basis of the idea of a criminal law relationship that arises between the state and the person who committed the crime. The state, as a subject of criminal law relations, has the right to subject the person who committed the crime to criminal liability and punishment. At the same time, the guilty person has the right to apply to him exactly the measures of responsibility that are provided for by law for the act he committed. At the same time, the state should see something more in the offender than the offender. It should see in it a part of the state, a citizen of the state [3].

Based on this, the state in the norms of criminal law grants the competent authorities the authority, if there are grounds provided by law, not to subject persons who have committed a crime to criminal liability. When applying alternative measures of influence or exemption from criminal punishment, criminal law relations are terminated.

Methods.

The dialectical method of cognition and a systematic approach to the study of legal phenomena are adopted as a methodological basis. Also, the methodology of research in the complex consists of: certain legal and organizational aspects of the development of the institute of criminal punishment and alternative measures of influence, the state of scientific developments in this area, as well as promising areas for improving the institute, which provides for types of exemption from criminal punishment. This approach allows: firstly, to consider, as a complex developing systemic education of the institution of the application of criminal punishment and alternative measures of influence on criminals in general and its types in particular: secondly, to develop a mechanism for its improvement, taking into account internal and external characteristics [4].

In connection with the implementation of the regulatory function of criminal law in the scientific environment, the question of the effectiveness of criminal punishment is constantly raised. It is known that scientists-economists, through the use of technical knowledge and developed production methods, can predict possible errors, financial losses, and assess the production potential of a particular enterprise. However, the nature of social relations arising in connection with the commission of crimes is completely different and it is very difficult to foresee the possible results of the application of criminal punishment. Therefore, in recent years, experts in the field of criminal law, criminology and penal law have published a number of studies regarding the criteria and indicators of the effectiveness of criminal punishment.

Analysis of modern criminal statistics allows us to say that the indicated problem does not lose its relevance. So, in 2022, 852,506 persons who committed crimes were identified, while 492,107 (57.7%) previously committed crimes, in 2021 this ratio was 884 661 - 504 416 (57%), in 2020 - 931 107 - 525 475 (56.4%), in 2019 - 967 103 - 541 541 (56%), in 2018 - 1 015 875 - 548 382 (54%), in 2017 - 1 075 333 - 556 914 (52%) [5]. In 2017, 144.6 thousand convicts were held in correctional colonies, who were sentenced to imprisonment three or more times, in 2022 this figure was 152.8 thousand [6]. At first glance, the indicator increased slightly, but it should be borne in mind that in 2017 718.1 thousand convicts were serving sentences in correctional colonies, and in 2022 - 405.8 thousand convicts. Thus, it can be argued that those

who have previously committed crimes in most cases commit them again, and those who have served their sentences in places of imprisonment are not afraid to be in them again. At the same time, statistics indicate that in recent years the number of these persons has only increased.

Based on the above, it seems necessary to consider the concept of the effectiveness of the execution of criminal punishment. The definition of this concept will make it possible to further develop criteria for assessing effectiveness, highlight factors that affect the effectiveness of the execution of punishment, as well as formulate proposals aimed at improving the specified process.

Results

During the research the analysis of the scientific points of view concerning such concepts as the effectiveness of criminal penalty, efficiency of criminal norm and efficiency of execution of criminal penalty is carried out, the author's concept of efficiency of execution of criminal penalty is formulated. The practical importance of a research is the fact that the conclusions formulated in article, offers and recommendations supplement science of criminal law with new knowledge of the sphere of the pre-judicial judicial activity connected with ensuring normal functioning of a system of criminal proceedings and also promote formation of bases of existence about efficiency of institute of application of the criminal penalty which isn't connected with deprivation of freedom and alternative corrective actions.

Discussion

The main purpose of the article is to fill the gap in the theory of penitentiary law regarding the concept of the effectiveness of the execution of criminal punishment. The following tasks are indicated: the formulation of the author's concept of the effectiveness of the execution of criminal punishment and the definition of its features. The law rightly notes the fact that if the goal of placing in penitentiary institutions of all perpetrators, "...society will be destroyed. We will never be able to find the means and human resources that will be required to achieve this goal" [7]. Alternatives can count on the support of society and the state, not only due to the need for humane treatment of offenders, but about and in order to protect society from criminalization, inevitable in the conditions of mass practice of punishment in the form of imprisonment, ensuring its safety and social well-being.

The transformation of penitentiary inspections into probation services, which has been outlined in Kazakhstan, and the prospects for the formation of a national probation model are inseparable from legal, methodological and practical support for the development and application of alternatives to punishment in the form of deprivation of liberty.

Conceptually, alternative measures should be considered as non-custodial punishments ("narrow" understanding of these measures as non-penitentiary sanctions). In the "broad" - alternatives are criminal-legal means of non-punitive content, different from the classical institution In this regard; some authors note that alternatives are not just an independent institution, but a whole method of criminal law regulation and overcoming of criminal conflicts.

Referring to the provisions of the current criminal legislation of the Republic of Kazakhstan allows us to note that there is a system of institutional alternative measures for criminal law influence, among which are: 1) punishments not related to deprivation of liberty; 2) and other criminal law measures, the content of which is not disclosed at the legislative level. They include all types of exemption from criminal liability and punishment; 3) a special "unnamed" group of measures of influence is formed by measures security (for example, a criminal record, compulsory medical measures). However, the definition of "security measures", which has long been known to European criminal law, is neither in Kazakhstan nor in other states of the CIS legitimation at the legislative level has not received [8]. Today, the NCB of Interpol in the Republic of Kazakhstan, in accordance with the legislation, within its powers, takes measures to enhance the interaction of Kazakhstani law enforcement agencies with the United Nations, the

Shanghai Cooperation Organization, Europol and other international organizations and law enforcement institutions [9].

It should be noted that further expansion of the scope of alternative measures of influence should be considered in the following context: 1) humane measures of influence, their "compatibility" with the protection of human rights; 2) socio-criminological conditionality, i.e. the presence of socio-criminological grounds for the application; 3) the effectiveness of measures, manifested, in particular, in low the level of non-penitentiary recidivism; 4) ensuring the safety of society, since for many citizens a positive attitude towards punishment in form of deprivation of liberty is determined by the notion that control in the conditions of isolation of the offender from society allows eliminate its criminal danger [10]. These representations, no matter how illusory in some cases they are (the isolation of the perpetrator of thefts and his "acquaintance" with the specifics of penitentiary institutions can return to society much more about dangerous offender, ready to commit robberies and robberies), they cannot be ignored. In order for the population to support the practice of alternative measures, it must be sure that offenders left at large are under the control of the state and the risk of committing new crimes on their part is minimal.

In other words, all types of alternative criminal legal means available in the legislation of the Republic of Kazakhstan, it is advisable to be valued in terms of the effectiveness of post-criminal control and the creation of real opportunities for the resocialization of convicts. True to refer to the current non-penitentiary sanctions provided for by the criminal legislation of the Republic of Kazakhstan. of these sanctions, the content of the punishment is directly related, which, according to part 1 of article 38 of the Criminal Code of the Republic of Kazakhstan, "... consists in the deprivations or restrictions of rights and freedoms provided for by this Code." Also, according to Article 59 of the Criminal Code of the Kyrgyz Republic, which states that "punishment for a crime is one of the types of coercive measures of criminal law, is applied by a court verdict to a person recognized guilty of committing a crime, and consists in the restriction of the rights and freedoms of the convict provided for by this Code, imposing and him certain duties" [11].

Conclusion

The effectiveness of the execution of criminal punishment is the ability of the penitentiary system to achieve the goals of criminal punishment in accordance with the current legislation and social expectations, reflecting the optimality of the application of repressive and corrective measures, the material and financial resources used. The execution of a criminal punishment becomes effective when it has the following features: 1) the balance of punitive and corrective effects; 2) progressiveness of punishment execution; 3) the focus of the execution of punishment on state needs and social needs; 4) compliance of the execution of punishment with the level of social and economic development of the state; 5) regulation of the execution of punishment; 6) variability and individuality of corrective measures of influence on the convict.

Thus, the effectiveness of the execution of criminal punishment is the ability of the penitentiary system to achieve the goals of criminal punishment in accordance with current legislation and social expectations, reflecting the optimal application of repressive and correctional measures, used material and financial resources.

The study of the effectiveness of the execution of criminal punishment and the optimality of the forms of its impact on persons who have committed crimes remains one of the urgent tasks of criminal law. Only through effective execution can we talk about the degree of achievement of the goals of criminal punishment and the implementation of the necessary impact on public consciousness. At the same time, problems and miscalculations in the process of execution of punishment negatively affect the public mood; they question the entire previous procedure, contributing to the discrediting of state structures. Therefore, at present, it is necessary to further study the identified problematic issues, penitentiary science should propose theoretical

and methodological solutions, develop criteria, and determine indicators that allow judging the degree of effectiveness of the execution of punishment.

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