
Some Features of Principles Penitentiary Code: Reality and Prospects

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Abstract: *The article considers the peculiarities of the principles of the Criminal Executive Code of the Republic of Uzbekistan and the CIS countries. In conclusion, the author puts forward proposals for the modernization of the principles of the Criminal Executive Code. In particular specific articles of the Criminal Executive Code.*

Key words: penitentiary code, the principles of modernization, legality, justice, humanism, democracy, differentiation, individualization Penitentiary.

In the general theory of law principles are seen as the guiding ideology, the basic assumptions of the legal system. Those with regulatory properties, they are indispensable for the formation of industry legislation, its institutions.

Establishing the principles of criminal executive law has important methodological and practical significance. The clarification of the principles allows us to understand the problem faced by the State authorities in the exercise of punishment associated with the correctional influence, being the means and methods by which the goals are achieved punishment, gives the desired direction penal legislation and its practical application. Identify principles criminally-executive right to promote education of employees of penal institutions in a spirit of strict adherence to the rule of law, a proper understanding of the tasks and the nature of the activities of these organs of the state, contributes to more efficient use of resources, methods and forms of correcting convicted.

Principles of penal legislation of the Republic of Uzbekistan are listed in Article 6 of the Code, which shows the close relationship of the principles of legality, fairness, humanism, democracy, differentiation

and individualization of the sentence, the rational use of coercive means and incentive law-abiding behavior of convicted persons, and at the same time their own deep content, turn, affects the formation of concrete institutions and norms of penal law.

The Penal Enforcement Code for the first time in this industry legislation enshrined 7 the basic principles that have not found their place in the labor law, and only in the CTI 1970 were declared some of its principles. These include the principle of legality (FLC article 10) individualization of the penal principle (FLC article 7). Thus, system performance, and principles of serving the sentence in a labor law has not been formed, they are reflected only individual aspects mentioned principles.

The principles of the penal correction: the legislation reflected the general principles of law, the principles of areas of law governing the fight against crime, as well as the principles of this branch of law. Together, they are, first, determine the content of penal legislation; Second, determine the priority directions of development of this branch of legislation and science; third, provided by the system of legal regulation of social relations arising from the enforcement of sentences;

Fourth, they reflect the general requirements for the treatment of prisoners, which are enshrined in international instruments, and finally, fifth, ensure the implementation of the constitutional principles of national legislation regulating the sphere of combating crime.

In contrast to the current Criminal Code, which is not only determined by a system of principles of this branch of legislation, but also formulated their content (articles .3-10), in CEC they only. In our view, given the novelty and importance of the principles of penal legislation Republic of Uzbekistan, you must place them in the Criminal Enforcement Code and to formulate individual articles of their content, as is done in the Criminal and Criminal Procedure Codes of the Republic of Uzbekistan.

The principle of legality was in its consolidation articles 14 and 15 Constitution of the Republic. Uzbekistan, as well as in a number of international acts. In the penal law, this principle is expressed in the rule of law regulating the execution of punishment, and its priority over other normative legal acts. Thus, in Article 1 of the FLC stated that penal legislation is based on the Constitution of the Republic of Uzbekistan, the FLC, as well as adopted in compliance with it other legislative acts¹. The principle of legality is a precise and strict observance of the penal law institutions and bodies executing punishment of personnel of these institutions, public authorities and management, officials, all the organizations cooperating with the institutions and bodies executing punishment individuals. The principle of legality is also implemented in Articles 16-17 FLC establishing the system

and forms of control over the activities of the institutions and bodies enforcing sentences.

The principle of justice expresses the attitude to social phenomena or actions of people from the state, society and the individual.

The principle of justice in this article involves the connection of punishment with corrective action. This means that to achieve the goals and objectives of the penal legislation should be actively used all means of correction provided by law. They provide isolation of the convict from society for a crime, on the one hand, obliged to form a convicted law-abiding behavior, respect for the individual, society, labor, norms and traditions of human coexistence, including preventing the commission of crimes, on the other hand.

This principle permeates the entire PEC (articles 8-13). Thus, in cases where the convicted person demonstrates its proactive stance to the correction, the norms of the Code is fairly evaluated and leads to facilitation of punishment (Articles 44,102,104,126,157); At the same time, if the convicted person does not want to embark on the path of correction, violate the detention regime, the criminal-executive legislation provides for enforcement of disciplinary standards and preventive action (part 2 articles 13, 44, 69-74, 105-112 and etc.).

The principle of humanism fleshed out in a number of articles of the FLC in particular, in Article 8 emphasizes that the convicted person has the right "to health care, including medical care as an outpatient and inpatient settings, depending on the medical findings; to social security. «In Part 2 of Article 62 states that "... mode provides the realization of the rights and legitimate interests of convicts ...; security prisoners» Tasks humane treatment of convicted persons

¹ Commentary to the Criminal Executive Code of Republic Uzbekistan. - T. Justice. P. 25-27. 2000.

specified in such standards as the right of convicted persons to travel outside institutions (st.82), on a date (article 76), telephone (article 77), to legal aid (article 10) and etc...

The principle of democracy is also reflected in the organization of the process of correcting the convicts², outdoor activities of institutions and bodies, penal, monitoring of their activities by the state authorities, judicial, institutional control and public prosecutor's supervision, primarily in involving the public in educational work with convicts³.

This principle is enshrined in Part 2 of Art. 7 FLC Uzbekistan, in which one of the basic means of correction of convicts related social impact on them.

The principle of differentiation and individualization of the sentence is a reflection of the principles of inter-sectoral legislative branches of regulating the fight against crime – differentiation and individualization of responsibility and social justice.

Differentiation of the sentence means that different categories of convicts according to the nature of public danger and gravity of the crimes, the behavior during the punishment applied coercive measures and restrictions on the rights in the various volumes This principle, in particular, is reflected in Article 45. Establishes the types of correctional institutions, which should contain different categories of convicts, and the various conditions of serving the sentence (chapter 17-23) - in Article 61, defining the grounds for changing the conditions of detention in relation to the behavior in the direction of

² Line item academic commentary to the Criminal-enforcement Code. Under red.prof. A.Ya.Grishko. M.: "Ileksa". 2006.

³ G.Abdumajidov The principles of the criminal-executive legislation. Comments on the Criminal Procedural Code. - Tashkent. Law. 2007. p.13.

improvement in order to encourage or tightening.

It should also be noted that educational work with convicts also differentially organized: taking into account the type of institution of the sentence and the conditions of detention and, of course, taking into account the peculiarities of the convicted person (part.4 art.97).

The principle of individualization of punishment execution is based on a thorough study of personality and individual characteristics of the convicted person's behavior.

For example, in Part 3 of Article 7, in which established the principle called, determined that the correction means are applied taking into account the type of punishment, the nature and degree of social danger of the crime committed, the personality and behavior of the convict. In part 3 st.97 FLC noted that educational work is also carried out in the individual form.

In article 6 FLC Republic of Uzbekistan provided the principle of rational use of coercive means and incentive law-abiding behavior of prisoners. In our opinion, this principle has a legal construction flaws and poorly formulated. It appears that this principle could be fixed in FLC Republic of Uzbekistan as follows: "... the rational use of coercive measures, the means of correction of convicts and promote their law-abiding behavior ..." that means savings of repression, the choice of coercive measures and correction means in the enforcement of sentences with a minimum content of punitive⁴.

Viewed principle is one of the industries. This principle is enshrined in the

⁴ Commentary to the Criminal Executive Code of the Russian Federation. Pod.red.prof.Zubkov AI M.: INFRA. M. Norma, 1997.-P.16.

rules establishing the responsibility of the convicted (Part 2 of Articles 13, 32, etc.), base, terms and conditions applying to them penalties (Articles 44, 105, 106-112, 126, 127, 158, 159). In applying these measures, the law requires to take into account the circumstances of the breach, the convicted person and his previous behavior.

Viewed principle implies purposeful educational influence on convicted persons, labor education, general education, vocational education and training. The principle of incentive law-abiding behavior of convicted enshrined in many provisions of the Code. First of all, the rules encourage convicts to comply with the order and conditions of serving the sentence, conscientious attitude to work (Articles 44, 102-104, 126, 157), changes in the conditions of detention of convicted persons (Article 61), the possibility of improving their conditions of serving punishment (Articles 113-135, 141-160).

It is necessary to consider the issue in the legislative consolidation of the principle of connections FLC Republic of Uzbekistan punishment with corrective action. Since the FLC Uzbekistan. Art. 2. One of the main tasks of penal legislation is to correct convicted. It should also be noted that the connection with the punishment of correctional influence is a complex of various educational tools: work, education, training, development of the initiative and more used to correct convicts and prevent them from committing new crimes. This principle is the industry⁵, for determining the characteristics of penal legislation⁶. Principle **connection with the punishment of correctional influence**, for

example, provided in Article 8 of the Criminal Enforcement Code. Article 6 of the Republic of Kazakhstan and the FLC. Based on the above, in our opinion, Article 6. FLC RU. must be supplemented and shall read as follows: «Criminal enforcement legislation is based on principles of legality, fairness, humanism, democracy, differentiation and individualization of punishment execution, **rational use of coercive measures, the means of correction of convicts and encouraging law-abiding behavior, the connection with the punishment of correctional influence**».

a) The principle of legality. Obligation to strict and rigorous enforcement of laws related to the execution of punishment: prisoners, staff of institutions and bodies enforcing sentences and other measures of criminal law, officials, institutions and organizations interacting with the system of execution of punishment. The grounds for the enforcement of sentences and the use of criminal law measures are different verdict, decision or ruling of the court, have entered into force.

b) The principle of justice. Coercive measures and promotion applied to convicted persons must be fair: they form a law-abiding behavior, respect for the individual, society, labor, norms and traditions of human coexistence.

b) The principle of humanism. The Republic of Uzbekistan shall respect and protect the rights, freedoms and legitimate interests of convicts, ensures the legality of the means of correcting them, their legal protection and personal safety in the execution of penalties, shall take measures aimed at returning society socially useful person.

r) The principle of democracy. State authorities and local self-government, judicial, departmental and procurator bodies supervise

⁵ Penal Code of the Russian Federation. Novosibirsk.: Sib. univ. Publishing House, 2006, P.18.

⁶ Criminal Executive Code of the Republic of Kazakhstan. Almaty.: Lawyer, 2011.-C.4.

the activities of institutions and bodies enforcing sentences. Public associations, governments and citizens groups involved in correcting convicted.

д) The principle of differentiation of the sentence. The various categories of convicted persons depending on the severity of the crimes, sex, age, behavior in the course of serving the sentence apply coercive measures and restrictions on rights in various quantities, as well as encouragement.

е) The principle of individualization of punishment. Educational work with prisoners held in individual form. Correction tools are used depending on the nature and degree of social danger of the crime committed, personality and behavior of the convict.

ж) The principle of rational use of coercive measures, the means of correction of convicts and promote their law-abiding behavior.

In the application of measures to sanction the convict is taken into account the circumstances of the breach, the convicted person and his conduct while serving their sentences. Educational influence should be targeted to carry convicts, labor education, general education, vocational education and training. To encourage law-abiding behavior of prisoners.

3) The principle of connection with the punishment of corrective action. The complex variety of means is used to correct convicts and prevent them from committing new crimes. Correctional effects on the convicted person is given a public danger and the nature of his crime, the type and term of punishment, the convicted person, his conduct while serving their sentences.