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Research Article

TYPES AND PRACTICE OF APPLICATION OF COERCIVE MEASURES OF EDUCATIONAL INFLUENCE

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ABSTRACT

This article provides a legislative analysis of extra-punishment coercive measures applied to minors, their application and their legal consequences. Information about the types of coercive measures applied to minors, their importance, role and difference from punishment, as well as information about the work of bodies applying coercive measures.

KEYWORDS

A coercive measure, juvenile, crimes, restriction, criminal liability, punishment.

Introduction

To minors can be applied as general provisions on exemption from liability or punishment provided for by Art. 64-76 of the Criminal Code, as well as the specific ones provided for in Art. 87 of the Criminal Code and regulating exemption from liability or punishment with the use of coercive measures of educational influence [1.p. 319.]. In accordance with part 2 of Article 87 of the Criminal Code of the Republic of Uzbekistan, a minor who has committed a less serious crime, for which punishment is provided in the form of imprisonment for a period of no more than five

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years, or who has committed a crime repeatedly that does not pose a great public danger, if there are grounds provided for in part one of this article, the court is obliged to discuss the issue of releasing him from punishment and applying a coercive measure. The court is also obliged to discuss the expediency of using coercive measures instead of punishment in case of a significant lag in the age development of a minor, depriving him of the ability to fully realize the significance of the committed act [2].

I must say that the above list has the properties of the system. In particular, it is exhaustive and is not subject to extensive interpretation, and the mura indicated in it are arranged in sequence from less strict to more strict. In this regard, the appointment of a strict coercive measure to a minor is possible only on condition that the milder of the methods of influence provided for by law on a person under the age of 18 will be ineffective. In each such case, the court's decision on the application of one or another mura must necessarily be motivated [3. p. 328-329.].

Compulsory measures of educational influence are a special type of state coercion applied to minors who have committed crimes. The system of compulsory measures of an educational nature differs significantly from the system of measures of criminal punishment due to the shift of the center of gravity towards not punitive, but educational means [4].

The release of a minor from criminal liability with the use of coercive measures of educational influence is not an obligation, but the right of judicial and investigative bodies. At the same time, in each specific case, the possibility of applying coercive measures of educational influence should be considered by the court, and in the case of sentencing, it should be justified why the use of coercive measures of educational influence is impractical [5. p. 14.].

The Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan "On judicial practice in cases of juvenile crimes" dated September 15, 2000 No. 21 provides for the obligation to objectively assess the criminal actions of minors when passing a sentence, and discuss the application of articles 72 or 87 of the Criminal Code to them. It is also established that when deciding on the sentencing of minors, the court should discuss, first of all, the possibility of applying a non-custodial sentence, taking into account the nature, degree of public danger of the crime committed, personal data and circumstances mitigating and aggravating the punishment. [6].

Article 88 of the Criminal Code of the Republic of Uzbekistan establishes the following coercive measures applied to minors:

the assignment of the obligation to apologize to the victim in a form determined by the court. According to article 195 of the Penal Enforcement Code, an apology to the victim is made by minors orally or in writing, publicly or individually. The place, time and procedure for making an apology are determined by the court. A corresponding document is drawn up on the execution of a

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compulsory measure in the form of an obligation to apologize;

compensation or elimination of the damage caused by their own means or labor is made by a minor in accordance with the procedure and terms established by the court. On the basis of article 196 of the Penal Enforcement Code on the execution of a compulsory measure in the form of imposing an obligation to compensate or eliminate the damage caused by their own means or labor, an appropriate document is drawn up;

placement of a minor in a special educational institution.

The terms and conditions of stay of minors in special educational institutions are determined by the legislation of the Republic of Uzbekistan. According to article 197 of the Penal Enforcement Code of the Republic of Uzbekistan, minors are placed in special educational institutions of public education bodies in accordance with the procedure established by law. The procedure and conditions for the stay of minors in educational institutions, the organization of the educational process and educational impact are determined by the Ministry of Public Education of the Republic of Uzbekistan [7].

The imposition of the obligation to apologize to the victim in the form determined by the court is the mildest of the coercive measures provided for in article 88 of the Criminal Code. This compulsory measure consists in the recognition by a minor of his guilt for what he has done. remorse for the harm caused to the victim and appealing to him for forgiveness. As a rule, this

compulsory measure is assigned to a minor when he has committed an act involving moral harm. violation of public order. Basically, when applying this measure, no harm is caused to the life, health or property of the victim.

Paragraph "b" of part 1 of Article 88 of the Criminal Code of the Republic of Uzbekistan provides for such a type of coercive measure as the imposition of an obligation to compensate or eliminate the damage caused. As we know, the imposition of the obligation to compensate or eliminate the damage caused is applied only if the minor has reached the age of 16. When appointing the measure in question, the court must establish the possibility of actual application only to the person who is guilty of the deed. When applying this measure, the court carefully analyzes the property status of the minor, the presence of his work skills, the desire to compensate or eliminate the damage caused. At the same time, when assessing the property status, attention is also drawn to the presence of independent income for a person. The establishment of working capacity is mandatory due to the fact that the obligation to eliminate the damage caused by their work can in no case be imposed on an incapacitated person. For this reason, the court is either obliged to compensate for the damage caused, or to appoint other coercive measures.

It should be noted that compensation for the damage caused is carried out only at the expense of the minor's own funds or own labor, since it is not allowed to use funds or assistance of other persons in compensation for harm.

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It should be borne in mind that the imposition of the obligation to compensate or eliminate the damage caused is possible only on condition that the amount of the damage caused does not exceed 10 minimum wages.

In other cases, the damage is compensated in a civil procedure [8]. Compensation for damage does not prevent the application to a minor of other coercive measures provided for in Article 88 of the Criminal Code.

Paragraph "b" of Part 1 of Article 88 of the Criminal Code provides for the strictest compulsory measure - the placement of a minor in specialized educational institution, associated with significant restrictions on the freedom of communication of minors, the establishment of special requirements of the regime, study, organization of work or treatment. The use of ee is permissible only on the condition that it is impossible to educate a person under the age of 18 by assigning other measures to him, which must necessarily be motivated in the sentence with an indication of the specific circumstances of the case. The appointment is justified in relation to the guilty, out of control of the parents, or persons replacing them, or persons who should be isolated from the negative influence on them of the environment in which they were constantly [9. p.329-331].

At the same time, when choosing coercive measures for a minor, the following rules should also be taken into account. So, article 17 of the Rules Beijing establishes guidelines adjudication and the selection of measures of influence. When choosing measures of influence, the competent authority should be guided by the following principles:

- a) the measures of influence should always be commensurate not only with the circumstances and severity of the offense, but also with the situation and needs of the minor, as well as with the needs of society;
- b) decisions on the restriction of a minor's personal freedom should be made only after careful consideration of the issue and the restriction should be minimized as much as possible:
- c) a minor offender should not be deprived of his personal liberty unless he is found guilty of committing a serious act of violence against another person or of repeatedly committing other serious offenses, as well as in the absence of another appropriate measure of influence;
- d) when considering the case of a minor, the question of his or her well-being should serve as a determining factor [10].

It should be particularly noted that when deciding on the release of a minor from criminal liability and the use of coercive measures of educational retribution, not only the objective and subjective circumstances characterizing the criminal act and the personality of the minor are taken into account, but also the conditions of his life and upbringing, behavior before and after the commission of the crime and a number of other circumstances that may indicate the possibility of

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achieving goals of correction without criminal prosecution [11. p. 15.].

Resolution of the President of the Republic of Uzbekistan dated May 14, 2018 No. PP-3723 "On measures to radically improve the system of criminal and criminal procedure legislation" provides for the creation of an effective system of criminal and criminal procedure legislation [12].

To implement the tasks set, a draft Law of the Republic of Uzbekistan "On approval of the Criminal Code of the Republic of Uzbekistan" was developed. Along with the coercive measures enshrined in the current Criminal Code of the Republic of Uzbekistan, it is also proposed to increase the list of these measures and introduce a number of new provisions in the articles regulating the use of coercive measures. The concept of the Criminal Code provides for the expansion of the application of the transfer of for consideration materials bv the interdepartmental commission to the categories of crimes in part 1 of Article 87 of the Criminal Code, i.e., it is proposed to release minors from responsibility with the transfer of materials for consideration bv the interdepartmental commission on juvenile affairs, who for the first time committed a crime that does not pose a great public danger and a less serious crime.

Article 88 of the Criminal Code has been supplemented with new coercive measures, such as:

4) the obligation to regularly attend an educational institution;

- 5) participation in certain rehabilitation and counseling programs;
- 6) do not visit certain places;
- 7) do not communicate with certain persons.

The following new parts are also provided in this article:

At the same time, one of the coercive measures provided for in this article can be applied, or several can be applied.

The term of compulsory measures applied to minors should not exceed one year. With the exception of placement of a minor in a specialized educational institution.

Based on the above, I would like to emphasize that these additions to the list of coercive measures are educational in nature. In other words, these measures do not have the qualities of criminal punishment, they also do not carry punishment for what they have done [13]. Coercive measures are designed to bring to the consciousness of a minor a negative assessment of his behavior.

If a minor evades the execution of a compulsory measure imposed by a court verdict in the order of exemption from criminal punishment or instead of it according to Article 87 of the Criminal Code, a more severe compulsory measure or an appropriate criminal punishment may be applied to the person. At the same time, the court's ruling on the imposition of punishment in this case should be motivated by the impossibility of

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applying other coercive measures from among those specified in the law [14].

Summing up, it should be noted that coercive measures are of a dual nature. They can be used not only for exemption from criminal liability, but also for exemption from punishment. Thus, in order to re-educate a minor and prevent him from committing new crimes, coercive measures act as an alternative to punishment. It is worth noting that the use of coercive measures contributes to the upbringing of a minor who once committed a criminal act. Coercive measures should serve human development, finding their place in society. To this end, when applying coercive measures, first of all, data on the identity of the perpetrator and his living conditions are taken into account. We must not forget that coercive measures are a special form of State influence applied to a person who has committed a crime. Coercive measures are of an individual nature, their application consists in the legal restriction of the person who committed the crime, and are appointed only by the court. Currently, most foreign countries are characterized by a tendency to reduce coercive measures, that is, to expand the grounds for exemption from criminal liability or punishment of persons who do not need the execution of penalties, with the replacement of punishment by other measures of influence. Thus, the use of coercive measures, as well as the purpose of punishment, pursues the goal of correcting a minor and preventing him from committing new crimes. The application of coercive measures to a minor does not put a person in the position of a convicted person and

does not entail a criminal record. Also, they cannot be considered as a punishment.

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