



 Research Article

APPOINTMENT OF COMPULSORY COMMUNITY WORK AND DETERMINATION OF VENUE

Submission Date: February 01, 2024, **Accepted Date:** February 06, 2024,

Published Date: February 11, 2024

Crossref doi: <https://doi.org/10.37547/ijasr-04-02-03>

Journal Website:
<http://sciencebring.com/index.php/ijasr>

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ABSTRACT

In the article, the concept of compulsory community service defined in Article 451 of the Criminal Code of the Republic of Uzbekistan, the purpose of this punishment and the grounds for applying this punishment are mentioned. Also, in this article, in addition to the appointment of mandatory public works, the order of sitting and sitting places were scientifically analyzed, and the author gave his opinions and comments on this.

KEYWORDS

Crime, mandatory community service, punishment, law, criminal responsibility, convict, court, deed, offender, correction.

INTRODUCTION

Currently, a lot of work is being done to liberalize the penal system of the criminal law of the Republic of Uzbekistan. In this field, various normative documents are being developed and put into practice. One such law is "On Amendments and Additions to Certain

Legislations of the Republic of Uzbekistan in Connection with the Adoption of Additional Measures to Ensure Guarantees of Reliable Protection of Citizens' Rights and Freedoms", adopted by the Legislative Chamber on March 17,

2017, and approved by the Senate on March 28, 2017. is the law.

In accordance with Clause 4 of Article 3 of this law, the penalty "Compulsory community service" was introduced into the criminal code. Accordingly, Article 451 of the Criminal Code was added.

The objective need to comprehensively expand the use of non-custodial punishments led to the implementation of the international reform of the penal system. It is based on a number of international legal documents, in particular, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, as well as other international documents on human rights, and the need to humanize the criminal punishment system arises from them[1].

"Compulsory community service consists of forcing a prisoner to perform unpaid useful community service. If the prisoner is working or studying, compulsory community service is performed during free time from work or study.

Places (facilities) where convicts can perform compulsory community service and the type of compulsory community service are determined by the bodies controlling the execution of this sentence.

Compulsory community service is appointed for a period of one hundred and twenty to four hundred and eighty hours and is performed no more than four hours a day for six months, and in the case of circumstances beyond the control of

the convict, no more than four hours a day for a period of up to one year.

Compulsory community service is not applied to persons who have reached retirement age, persons under the age of sixteen, pregnant women, women with children under the age of three, disabled persons of the first and second groups, military personnel, foreign citizens and persons who do not live permanently in the Republic of Uzbekistan.

If the convict evades serving the sentence, the court replaces the unexpired term of compulsory community service with a punishment in the form of restriction of freedom or deprivation of liberty, calculating four hours of compulsory community service as equal to one day of restriction of liberty or deprivation of liberty. The time of evasion of the sentence shall not be added to the term of the sentence" [1].

The basis for execution of a sentence in the form of compulsory community service is a legally binding judgment of the court.

If the legally binding sentence of the court is the basis for the execution of the mandatory community service sentence, the procedure for its execution is approved by the Cabinet of Ministers of the Republic of Uzbekistan dated May 8, 2018, No. 346 "Regulation on the organization of the execution of the sentence in the form of mandatory community service and approval of the list of types of mandatory community service" on" is carried out on the basis of the procedure established in the regulation "On the procedure

for organizing the execution of a sentence in the form of compulsory community service".

According to this statute, Compulsory community service consists of the compulsory involvement of a prisoner in performing unpaid useful community work. If the prisoner has a permanent place of work or study, compulsory community service is performed during free time from work or study.

When this type of punishment is assigned to a prisoner by the court, its execution is carried out by the inspection of the execution of punishments of the internal affairs bodies of the place where the prisoner lives.

"This type of punishment is considered a relatively young institution of criminal law, and until now there are a number of shortcomings in its interpretation in practice" [2]. One of the shortcomings of this type is seen in the problems that arise with the place of permanent or temporary registration and residence of the convict in determining the place of serving the sentence. For example, a prisoner may be temporarily registered in one area, but permanently reside in another, and this is what creates difficulties for the supervising authority in assigning a place of punishment to the prisoner.

Places (objects) where a convict can serve a sentence of compulsory community service and specific types of compulsory community service are determined by the local executive authorities and the inspectorate in the area where the convict lives, according to the above-mentioned regulation.

We can see that this procedure produces two different situations. First of all, serving this sentence in the place of residence of the convict brings him several conveniences. That is, it prevents excessive costs and time spent. But we can also see negative aspects through this. In practice, there are also cases of allowing acquaintances of prisoners who have been sentenced to this type of punishment.

As mentioned above, the convict is attracted to an organization or body to serve the sentence through the hiring of the inspectorate.

This employer organization or body must send a response to the inspection within three days about the adopted decision. The following should be taken into account when engaging a prisoner in compulsory community service:

If the convict has the skills to perform a work activity that corresponds to the list of types of compulsory community service, his work skills, the type of crime committed by the convict, the convict has work and (or) study - the main work and (or) study schedule, his aspects such as age and health status, accessibility of the workplace to the use of transport.

If the type of punishment in the form of compulsory community service is imposed on a minor prisoner, the work they perform should be within the reach of minors, i.e. they should be able to do so, and in addition, it should make it possible for the prisoner to develop useful life skills and knowledge.

Currently, there are no unanimous principles on the issue of applying mandatory community service to a prisoner. In this place, the Russian scientist Borodina listed a number of principles in his scientific works. These are:

1. compulsory community service should be as effective as any other type of work;
2. must not violate the criminal law in order to achieve efficiency in compulsory work;
3. public works must be public in nature;
4. public works should not endanger the life and health of the prisoner;
5. the convict should be given the right to choose one of the types of work presented under this sentence [3].

In our view, the fifth principle presented by Borodina can have a negative effect on the achievement of the intended purpose of the punishment.

In practice, cases of evasion of these punishments occur when persons found guilty of committing crimes are sentenced to punishments that are not related to deprivation of liberty. A convict is considered to be evading serving a sentence in the form of compulsory community service in the following cases:

one, the convict does not report to the inspection at the place of residence within ten days from the time the sentence of the court comes into force, as well as hiding in order to avoid serving the sentence;

secondly, after the convict receives a written warning, although there are no circumstances beyond his control, here it should be taken into account that there may be reasons for such circumstances beyond his control, such as poor health, not participating in compulsory community service more than twice in a month (here in the year not a calendar month, but a one-month period from the day of violation of labor discipline, that is, from the day of non-attendance of compulsory public works without good reason)

third, after receiving a written warning, violating the rules of the internal work order of the organization (body) at the place (facility) of compulsory public work more than three times during a month (in this case, the violation of the rules of the work order is understood as: being late for work, coming to work drunk; arbitrarily stopping work; prematurely leaving the place of punishment during working hours; willful failure to fulfill approved norms and production tasks; willful violation of the rules of technical safety and industrial sanitation; violation of public order during work and causing material damage to the organization during the performance of labor obligations);

fourth, the convict's unjustified refusal to start work within the period specified in the inspection order;

fifth, not informing the inspectorate about the change of residence.

In order for the convict not to commit violations of the above procedure, the inspectorate that ensures the execution of the sentence warns him

in writing in accordance with the law about the consequences of the violation of the order and conditions of serving the sentence by the convict.

If the convict refuses to serve the sentence in the form of compulsory community service, in accordance with Article 451 of the Criminal Code, if the convict is a minor, according to Article 821 of the Criminal Code, the inspectorate that ensures the execution of the sentence will send a proposal to the court to replace the compulsory community service with another type of punishment.

After submission, the Court replaces the unexpired period of compulsory community service with a punishment in the form of restriction of liberty or deprivation of liberty, calculating four hours of compulsory community service equal to one day of restriction of liberty or deprivation of liberty. The time of evading the sentence of the convict is not added to the time of the sentence.

In practice, there are cases of people who have been sentenced to mandatory community service and are hiding to avoid the punishment. In such cases, i.e., when the prisoner's whereabouts are unknown, the inspectorate sends a report to the court to issue a search warrant against him. The time during which the convict evades serving the sentence shall not be added to the term of the sentence. The search for persons evading the execution of the sentence is carried out by the internal affairs bodies according to the judge's decision.

When introducing this punishment into the criminal code, the legislator took into account another aspect, that if the convict loses his ability to work or reaches retirement age during the period of serving the sentence of compulsory community service, as well as if women serving such a sentence are given pregnancy or maternity leave during the period of serving the sentence, according to Article 75 of the Criminal Code is exempted from passing. Because this punishment cannot be applied to this category of persons.

As for the terms of serving the sentence in the form of compulsory community service, the term of serving this sentence is calculated by the hours during which the convict spends compulsory community service, and compulsory community service is assigned for a period of one hundred and twenty to four hundred and eighty hours.

Weekends and days when the prisoner is not busy with studies or main work shall be spent no more than four hours. The convict's working days and training days are two hours before or after work or study, and at the request of the convict, no more than four hours for six months, and up to one year in case of circumstances beyond the convict's control. The time of compulsory community service performed by the prisoner should not be less than twelve hours per week.

Compulsory community service is applied to workable minors in the period from sixty to two hundred forty hours, unlike adults. The time of compulsory community service performed by a juvenile prisoner should not exceed three hours

on weekends and days when the prisoner is not busy with studies or main work, and two hours on weekdays and days of training, but three days a week. Compulsory community service should be carried out taking into account that it does not harm the health and moral development of minors, and does not disrupt the educational process.

If we consider the grounds for the organization of compulsory community service, the basis for the execution of a sentence in the form of compulsory community service is the legally binding judgment of the court. In order to organize the work performed by the convict, based on the convict's work schedule at the main place of work and the work procedure of the organization at the place of serving the sentence, the responsible worker of the organization at the place of serving the sentence will draw up a monthly schedule of serving the sentence in the form of compulsory community service and fill out the work report of the convict.

Although the execution of the sentence of compulsory community service served by the convict is related to the labor law, it is not regulated by the labor law, the labor contract is not concluded with the convict, and it is not included in the employee account of the organization serving the sentence.

If it is not possible to control the amount of work performed by prisoners, they will not serve their sentence on weekends and holidays. The next annual work leave from the main place of work, educational and creative leave to the convict, as

well as study leave, do not suspend the execution of the sentence in the form of compulsory community service. Separately, it should be taken into account that the time of serving the sentence in the form of compulsory community service is not added to the length of service.

In order to organize and carry out compulsory community service, local executive authorities shall submit a list of places where convicts can serve their sentence in the form of compulsory community service in accordance with the list of types of compulsory community service, specifying the types and content of compulsory community service, to the inspection of punishment execution on a quarterly basis for approval. .

At the same time, they ensure the creation of the necessary conditions for prisoners to serve their sentence as compulsory community service, and they involve civil society institutions to exercise educational influence on prisoners and control their behavior. Convicts are not allowed to be involved in activities related to elimination of the consequences of accidents, natural disasters and other similar events.

As long as it is not allowed to involve the convicts in activities related to elimination of the consequences of accidents, natural disasters and other similar events, the list of cases in which they will be involved will be formed by the local executive bodies. Here we will also touch upon the types of compulsory public works.



"So, cities, districts, settlements, recreation areas, sports and children's playgrounds, historical-architectural monuments, cemeteries:

Laying and cleaning convict irrigation networks; cleaning areas, winter cleaning: sweeping or snow removal, snow removal, moving snow and ice; summer cleaning: sweeping areas and collecting garbage; manual cleaning of the courtyard area: wet sweeping and washing of the stairs, washing of the windows, sweeping and washing of the exit to the corridor; assembly of production areas; repair and construction of roads, swing bridges and bridges; greening of areas; carried out tree care, i.e. watering, shaping, mowing, additional feeding with organic and mineral fertilizers; works related to power supply facilities, i.e. construction and use of power networks; water supply facilities (construction and use of water pipeline networks); recreation areas, sports and children's playgrounds, historical-architectural monuments, beautification of cemeteries;

Construction and assembly works:

- construction of playgrounds and sports facilities, swimming pools, schools, hospitals and other facilities; Loading and unloading operations:

- unloading from wagons, cars;

- loading wagons, cars, working in warehouses.

Jobs in the health care system: Jobs for providing services to buildings and areas of hospitals and other medical institutions (janitors, sanitary workers, yard cleaners, gardeners, guards,

technical staff); Jobs in the public education system: Jobs for providing services to the buildings and territories of educational institutions (janitors, yard cleaners, gardeners, guards, technical staff);

Works in fruit and vegetable bases: Sorting and placing fruit and vegetable products in containers, fixing containers, loading, unloading; Seasonal work in the agro-industrial complex: Seasonal agricultural work (harvesting fruit and vegetables, picking cotton, weeding crops, preparing animal feed, feeding livestock, etc.); Work on the preparation and transfer of secondary raw materials: Waste paper, glass bottles, used tires, secondary polymers, secondary metal products, etc." [5].

Based on the above, it is necessary to expand the range of places where mandatory community service can be served. In addition, it is proposed to apply this type of punishment to full-time military servicemen and short-term military servicemen in accordance with the requirements of the military regulations.

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