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ACTUAL PROBLEMS OF THE IMPLEMENTATION OF PUNISHMENT - THE APPOINTMENT OF PUNISHMENT

One of the components of the formation of a law-governed state is the updating and improvement of criminal legal measures for responding to a crime, among which the criminal punishment is important, from which the successful application of crime-fighting depends on the correct application. Appointment of a punishment is

the final stage of criminal proceedings. In deciding on a conviction and imposing a punishment, the court always resolves two issues:

1) the first is related to the qualification of the crime in the relevant article (part of the article) of the Criminal Code of Ukraine; 2) the second - with the imposition of punishment within the scope of the sanction of the article of the CC, under which a qualified act guilty, taking into account the relevant provisions of the General Part of the Criminal Code. Appointing a person with a punishment that will be necessary and sufficient to correct it and prevent new crimes is one of the most important and important tasks of judges in their enforcement practice.

Understanding punishment for the theory of criminal law is primarily connected with the study of its significance in terms of expression, legal consolidation and implementation of criminal policy of the state. This is especially the case with the resocialization of persons serving sentences in places of detention and the prevention of recidivism. Criminal punishment as a special form of state coercion affects not only the person of the convict and his immediate environment, but also certain social processes. The civilized world offers a new model of attitude to criminals, which is, in particular, to limit the use of criminal punishment. However, despite the fact that Ukraine has chosen the path of democratic development, the idea that active counteraction to crime should be inextricably linked with the severity of criminal punishment remains the dominant feature of public justice. It can lead to negative consequences, in particular, to an increase in the number of convicts, which in turn will contribute to the criminalization of society. In general, criminal punishment is a form of state condemnation (condemnation) of a person convicted of a crime and consists in the deprivation and restrictions of the rights and freedoms of the convicted person, imposed by a court sentence in accordance with the current legislation, provided by law. The punishment has the following features: 1) punishment is a measure of state coercion;

2) the punishment is imposed on behalf of the state and solely on the verdict of the court; 3) punishment is imposed only for the

commission of a crime; 4) punishment applies only to a person who has been found guilty of a crime; 5) punishment is to provide for the restriction of the rights and freedoms of the convicted person; 6) punishment entails conviction.

The punishment aims at restoring social justice, reforming the convicts, and also preventing the commission of new crimes by both convicted persons and others. Art. 51 of the Criminal Code of Ukraine provides for a list of penalties that can be applied to persons guilty of committing crimes. This list is exhaustive and consists of 12 types of punishment. In the Criminal Code of Ukraine, the legislator refers to the purpose of punishing the punishment of a convicted person and his correction, preventing the commission of a new crime as a convict, and other persons, and in the CPC of Ukraine - the correction and re-socialization of convicts. The analysis of criminal and criminal-enforcement legislation gives grounds to assert that the purposes of punishment, in its appointment and execution, and the course of work, are essentially the same. However, the final result for criminal-executive law is not only the correction of the person, but also its social reaptation - re-socialization. In KVN, there is no indication of such a purpose as a punishment, which the author believes is entirely justified. With regard to general and special prevention, in Art. 1 The Criminal Code of Ukraine for preventing the commission of new crimes is mentioned only as a task of the criminal-executive legislation. The dissertation explains that most of the norms of the CPC are aimed at achieving the goal of resocialization and adaptation of the former perpetrator to life in society, which, in turn, makes it impossible for him to commit a new crime.

Appointment of a punishment is the election of a court at the time of the conviction of a specific measure of punishment to a person convicted of committing a crime. The principles of the appointment of punishment include: legality, justice, humanism, differentiation and individualization of punishment. The general principles of the appointment of a punishment are a set of rules (requirements) envisaged by the criminal law, which guides the court

in every criminal case in the process of issuing a conviction provides for the implementation of the principles of the institute of sentencing and the election of a sentenced fair punishment.

According to Art. 65 of the Criminal Code of Ukraine, the general principles for the imposition of a punishment are that the court imposes a punishment: a) within the limits established in the sanction of the article (sanctions of part of the article) of the Special Part of the Criminal Code of Ukraine, which provides for responsibility for the committed crime; b) in accordance with the provisions of the General Part of the Criminal Code of Ukraine; c) taking into account the degree of gravity of the crime committed, the person guilty and circumstances that mitigate and aggravating the punishment. The special rules for imposing a sentence are the rules for imposing a sentence: 1) in the presence of circumstances that mitigate the punishment; 2) milder than the law stipulated for the committed crime; 3) for an uncontested crime and for a crime committed in complicity; 4) in the aggregate of crimes; 5) in the aggregate of sentences.

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