

## THE CONCEPT OF SENTENCING FOR MULTIPLE CONVICTIONS IN CRIMINAL LAW

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**Abstract:** The state policy implemented in the criminal legislation of the Republic of Uzbekistan is primarily aimed at the fair protection of the interests of each person on the basis of the law. This scientific article provides information on the concept of imposing punishment for multiple convictions in criminal law. In addition, the article describes a number of legal reforms carried out in the field of criminal legislation after the independence years.

**Keywords:** reforms, criminal legislation, Oliy Majlis of the Republic of Uzbekistan, Codes on Crime, Criminal Procedure and Administrative Responsibility, Criminal Code of the Republic of Uzbekistan, Supreme Court, convict.

All reforms in the social, economic and political spheres implemented in the Republic of Uzbekistan are, by their nature, aimed at comprehensively ensuring human interests. In particular, the state policy implemented in criminal legislation, for the first time, aims to fairly protect the interests of each person on the basis of the law.

In Uzbekistan, in the conditions of state independence, a number of legal reforms have been carried out in the field of criminal legislation over the short period of time that has passed, and these reforms, as mentioned above, are based solely on the principle of justice. At the same time, the punishment applied as a measure of influence to deter a person from committing a criminal offense takes into account the nature and degree of social danger of the crime, the cause of the act, the nature and amount of the harm caused, the identity of the perpetrator, as well as mitigating and aggravating circumstances. It should be emphasized that the transition to a new socio-economic level requires the improvement of criminal legislation. Because it is important to end any criminal activity that occurs during the transition. Therefore, the state policy in the criminal-legal direction, first of all, constantly defines the measures for timely identification and elimination of negative situations that arise in the society.

The fact that our country has created broad opportunities for the transition from a strong state to a strong civil society paves the way for the improvement of legal relations in criminal law in accordance with the interests of society. That is why in June 2000, a program was adopted to liberalize and deepen the process of reforms in the political, economic and spiritual spheres of our society. In accordance with this program, the issue of liberalizing the judicial and legal system was considered at the sixth session of the Oliy Majlis of the second convocation of the Republic of Uzbekistan, held on August 29, 2001. As our First President I.A. Karimov emphasized in his report on the topic "Justice is the rule of law" at this session: "First of all, we need to ensure the strengthening and practical application of such principles of justice and humanity of the legislation by reducing the repressive nature of punishment and deprivation of liberty." [1]

In all aspects of our society, including in accordance with the program of liberalization of the judicial and legal system, a number of additions and amendments were made to the Criminal, Criminal Procedure and Administrative Liability Codes by the Law of August 29, 2001, which was a serious step towards liberalizing criminal and criminal procedure laws and the Law on Administrative Liability, as well as issues of criminal punishment and its imposition.

The adoption of new rules on the classification of crimes is one of the most important aspects of the liberalization carried out in this area. In connection with the establishment of a new procedure for classifying crimes, the range of socially dangerous and less serious crimes has expanded, and broad opportunities have been created for the application of penalties not related to deprivation of liberty in imposing punishment. In this regard, the introduction of the concept of exemption from criminal liability (Article 66) into the Criminal Code has led to a further expansion of the scope of exemption from liability. At the same time, the voluntary compensation for the damage caused and the non-imprisonment of the guilty party in the case of compensation for the damage caused in the amount of three times the amount were a serious step towards humanizing criminal legislation and introducing the application of punishment on the basis of democracy. These additions and amendments to the Criminal Code made it possible to liberalize the punishments imposed on persons found guilty of committing a crime.

From a theoretical point of view, the problems of liberalization of criminal punishments have been expressed in the researches of a number of legal scholars. Accordingly, according to a number of scholars, criminal punishment is a coercive measure used by the court and on behalf of the state as a general and special measure to prevent crimes against the person who committed the crime.[2] A number of other authors believe that punishment is a negative assessment of the criminal and his activities by the state, depriving the criminal of one or another of his interests.[3] According to S. Dementiev, punishment is a special coercive measure that is carried out in accordance with the procedure established by law against a person guilty of committing a crime and by depriving him of certain rights or imposing certain restrictions.[4] Also, as stated in Article 42 of the Criminal Code of the Republic of Uzbekistan, punishment is recognized as a coercive measure applied on behalf of the state and by a court verdict to a person found guilty of committing a crime and consisting in depriving the convicted person of certain rights and freedoms provided for by law or restricting them. At the same time, some authors express the opinion that "... punishment is a measure that has the character of setting an example for the public. Punishment is a measure of coercive response to the criminal behavior of a certain person, consisting in violating the prohibitions and failing to follow the instructions established by the criminal law, adopted by the state to protect the rights and interests of the individual, society and the state." [5]

It is clear from these definitions of criminal penalties that there is currently no single opinion on the concept of criminal punishment. In our opinion, the definition given in Article 42 of the Criminal Code corresponds to its content and essence.

Article 43 of the Criminal Code of the Republic of Uzbekistan provides a strict list of criminal penalties, which are provided for in the sanctions of the articles of the Special Part of the Criminal Code. When imposing a penalty on a person accused of committing a crime, the court shall impose only the penalty provided for in the sanctions of the article or articles under which the offender's actions are qualified. If, due to the circumstances of the case, it is impossible to impose the penalty provided for in the sanctions of the article under which the offender's actions are qualified, the court may, by referring to Article 57 of the Criminal Code, impose a lighter penalty than that provided for in Article 43 of the Criminal Code, subject to the rules for imposing a lighter penalty than that provided for by law.

The issue of imposing a sentence is a very important part of judicial activity, and the imposed sentence must correspond to its purpose. That is, as established in Article 42 of the Criminal Code, the sentence is applied with the aim of morally correcting the convicted person, preventing him from continuing his criminal activity, and preventing the commission of a crime

by the convicted person or by other persons. If the actions of the person guilty of committing a crime are qualified by one article of the Criminal Code, no significant problems arise in the issue of imposing a sentence, that is, the actions of the guilty person are subject to one of the penalties provided for by the sanction of the qualified article. A legitimate question arises as to how the issue of imposing a sentence is resolved if the guilty person is charged with several articles of the Special Part of the Criminal Code or, after being sentenced for one crime, commits a new crime, that is, if several sentences are passed. With this in mind, Article 59 of the Criminal Code describes in detail the rules for imposing punishment for several crimes, and Article 60 for imposing punishment for several sentences. The issue of sentencing for multiple convictions requires a comprehensive approach, and based on that, we will try to analyze the rules for sentencing for multiple convictions below.

As stated in Article 60 of the Criminal Code of the Republic of Uzbekistan, "If a convicted person, after having been sentenced, commits a new crime without having served the full sentence, the court shall add the unserved term of the previous sentence to the term of the sentence imposed under the new sentence in whole or in part." This rule of imposing a sentence for multiple sentences corresponds to the concept of a recidivism crime as stipulated in Article 34 of the Criminal Code of the Republic of Uzbekistan. Therefore, as stated in Article 34 of the Criminal Code, a person who has been convicted of a previously committed intentional crime and then commits a new intentional crime is considered a recidivism crime. However, if we compare and analyze the concepts of a recidivism crime in Article 34 of the Criminal Code and Article 60 of the Criminal Code of the Republic of Uzbekistan, the concept of a recidivism crime in Article 34 only implies the commission of a new intentional crime after being convicted of an intentional crime. Article 60 of the Criminal Code of the Republic of Uzbekistan defines the concept of multiple convictions as the imposition of a penalty for any (intentional or negligent) crime after the sentence has been passed. Thus, the concept of multiple convictions is broader than the concept of a recidivism crime. However, despite this, the concept of multiple convictions also falls within the scope of the concept of committing multiple crimes. In addition, there are specific rules for imposing a penalty for a recidivism crime and multiple convictions.

A similar situation is also provided for in the Criminal Code of the Russian Federation (Article 68) in the rules for imposing a penalty for a recidivism crime. Accordingly, theoretical rules for imposing a penalty for a recidivism crime have been developed in the criminal law of the Russian Federation.[6]

In our opinion, since Article 34 of the Criminal Code of the Republic of Uzbekistan provides for the concept of a recidivism crime, it would be expedient to develop the rules for imposing punishment for a recidivism crime and provide them in a separate article.

Article 59 of the Criminal Code of the Republic of Uzbekistan sets out the rules for imposing punishment for committing several crimes, and Article 60 of this Code sets out the rules for imposing punishment for several sentences. It is important to correctly understand the concepts established in these articles.

As is known, the determination of the punishment for crimes committed after a person is charged or after a new crime is committed, as well as in situations where the sentence under the first sentence has entered into legal force, creates an environment for a correct understanding of the issue. In legal literature, there are various debates on the possibility of reaching a clear theoretical solution to this issue. However, this problem is not addressed in the legislation. Article 60 of the Criminal Code of the Republic of Uzbekistan states that "If a convicted person

commits a new crime after the sentence has been passed, without having served the full sentence, the court shall add the term of the sentence imposed under the new sentence in full or in part.” It is clear from this content of the legal norm that for a crime committed before the sentence is passed, that is, before the sentence is passed, as stated in Article 59 of the Criminal Code of the Republic of Uzbekistan, “If after the sentence is passed in the case, it is established that the convicted person is guilty of another crime before the sentence was passed in the first case, the sentence shall be imposed in the same manner. In this case, the term of the sentence imposed by the court as a set of crimes shall be added to the term of the sentence imposed by the court as a set of crimes.” It is clear that the imposition of a sentence in such cases is peculiar. For example, if a group of individuals commits a crime and the case is being heard in court, and another member of the group is dissatisfied with the answer given by one of the group members to the questions asked by the court and commits the crime of hitting his partner, causing bodily harm, the punishment will be imposed as a sum of crimes. If such an act is committed after the verdict is read, the provisions of Article 60 of the Criminal Code apply, and the rules for imposing punishment for multiple sentences apply. Thus, the threshold for the issue of repeated commission of a crime and considering the sum of crimes as multiple sentences is the time of the announcement of the verdict.

The rules for applying punishment for multiple sentences apply in the following cases:

1. If a new crime is committed after the sentence is passed against the convict;
2. If a new crime is committed before the main and additional punishments under the first sentence are fully served;
3. If a person is sentenced to a conditional sentence and a new crime is committed during the probationary period;
4. If a person is released on parole before the end of the sentence, but a new crime is committed during this period;
5. If the court has decided to replace the unserved part of the sentence with a lighter punishment for persons sentenced to deprivation of liberty or correctional labor, and a new crime is committed during the serving of the lighter punishment;
6. A person released from punishment on the basis of an amnesty act or pardon under Article 76 of the Criminal Code of the Republic of Uzbekistan, if he intentionally commits a new crime during the unserved part of the punishment (if the crime was committed through negligence, he shall be liable only for the crime committed through negligence);
7. If a person intentionally commits a crime before the expiration of the term for the execution of the punishment provided for in Article 69 of the Criminal Code of the Republic of Uzbekistan (if the crime was committed through negligence, the expiration of the terms shall be counted separately), punishment shall be imposed on several sentences.[7]

In accordance with Article 87 of the Criminal Code of the Republic of Uzbekistan, if a minor is released from punishment with the application of coercive measures, the question arises whether it is necessary to impose a punishment in accordance with the provisions of Article 60 of the Criminal Code if the minor commits a new crime during the period of application of the coercive measure. There is no clear opinion on this issue either in the law or in criminal law. Also, no clear explanation has been given in the decisions of the Plenum of the Supreme Court on this issue. The Plenum of the Supreme Court of the former USSR of December 3, 1976 “On the application of laws by courts in cases of minors and the judicial practice of involving minors in crimes and other anti-social activities” also did not provide a clear explanation in this regard.

In our opinion, when releasing from punishment with the application of coercive measures, the minor is released from punishment at all. Accordingly, if a person commits a new crime during the period of application of a coercive measure, he should not be sentenced in accordance with Article 60 of the Criminal Code, but should be held liable for the subsequent crime.

There is a special procedure for imposing punishment on multiple convictions, and from the moment a person is sentenced for a specific crime until the main and additional punishments are served or, on the above grounds, if a person commits a new crime, the court imposes a punishment on the guilty person, applying the rules for imposing punishment on multiple convictions.

The criminal case of a person named A. was considered in the Samarkand City Court of Criminal Cases of the Samarkand Region and sentenced to imprisonment. According to the facts of the case, A. was sentenced to correctional labor for a period of two years, 20% of his salary was transferred to the state account, and the sentence was to be served at his place of work. After serving 1 year and 6 months of correctional labor, he committed a crime provided for in Part 2 of Article 266 of the Criminal Code of the Republic of Uzbekistan. The court sentenced A. to imprisonment for a period of 5 years for this crime, and replaced the remaining 6 months of correctional labor with 3 days of imprisonment in accordance with the rules established in Article 61 of the Criminal Code, and sentenced the guilty person to imprisonment for a period of 5 years and 2 months by adding up the sentences in full in accordance with the rules established in Article 60 of the Criminal Code.[8]

In our opinion, the court passed a sentence in accordance with all the rules for imposing a sentence on A.

The court assigned A. to a penal colony. However, A.'s initial correctional work was an intentional crime, that is, a crime provided for in Part 2 of Article 109 of the Criminal Code of the Republic of Uzbekistan. Usually, a penal colony of general regime should be assigned for an intentional crime. However, in our opinion, the court correctly determined the penal colony, since A. was not sentenced to imprisonment for his initial intentional crime, but to penal labor. Replacing penal labor with imprisonment did not result in a sentence, but in the transfer of penal labor to places of deprivation of liberty, based on the provisions of Article 60 of the Criminal Code of the Republic of Uzbekistan. Since the residential colony was a type of deprivation of liberty, the correctional work was converted into deprivation of liberty and added to the residential colony type.

This is also fully consistent with Article 60 of the Criminal Code of the Republic of Uzbekistan. According to this article, if a person has not yet served his sentence after being sentenced and the convicted person commits a new crime, the court shall add to the term of the sentence under the new sentence the term of the sentence not served under the previous sentence in full or in part. Accordingly, it can be said that the court complied with all the rules for imposing a sentence on A. under several sentences.

#### References:

1. Каримов И.А. Адолат-қонун устуворлигида. Халқ сўзи, 2001 йил 30 август сони.
2. Наташев А.Е., Стручков Н.А. Основы теории исправительно – трудового права. М.1067 с-32; Ной И.С. Вопросы теории наказания в Советском уголовном праве.



- Саратов, 1962, с-155; Беляев Н.А. Уголовного правовая политика и пути его реализации. Л.1973, с-14.
3. Шаргородский М.Д. Наказание, его цели и эффективность. Л.1973, с-12-13.
  4. Дементьев С.И. Лишение свободы. Уголовно правовые и исправительно Р трудовые аспекты. Ростов 1981, с-45.
  5. Ўзбекистон Республикаси Жиноят кодексига шарҳлар (42-модданинг шарҳи), Тошкент, Адолат, 1977 йил, 77-бет.
  6. Уголовное право Российской Федерации. Общая часть М. “Юрист”, 1999, с-391-392
  7. Бакунов П. Жиноят ҳуқуқида бир неча ҳукмлар юзасидан жазо тайинлаш (ўқув кўлланмаси), Тошкент, 2002 йил, 9-10-бетлар. Ўзбекистон Республикаси Олий суди Пленумининг “Судлар томонидан жиноят учун жазо тайинлаш амалиёти тўғрисида”ги Қарори. -2006 йил 3 февраль. -№1.
  8. Самарқанд вилояти жиноят ишлари бўйича Самарқанд шаҳар суди архивидан. 2023 йил