THE APPLICATION OF THE PRINCIPLE OF JUSTICE TO CRIMINAL LAW, AS WELL AS THE CONDITIONS FOR THE FAIR DETERMINATION OF THE AMOUNT OF PENALTIES

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Annotation. This article is devoted to the analysis of the application of the principle of justice to criminal law. Based on the study of foreign experience and scientific and theoretical views, the main problems of applying the principle of justice to criminal law were investigated. Based on the results of the analysis, relevant conclusions were drawn and proposals were developed.

Keywords: the principle of justice, criminal law, sentencing, law, sanction

The principle of justice, enshrined in criminal law norms, is particularly evident in judicial practice during the process of sentencing for a crime. In this sense, when imposing punishment, establishing its magnitude and intervals based on the principle of justice is of utmost practical importance.

It goes without saying that "responsibility and criminal liability cannot be arbitrary or unlimited"[1], "it is carried out only on the grounds established within the framework of criminal law"[2]. "The court's activity in imposing punishment is based on the law. Strict adherence to criminal law, i.e., the requirements of the general and special parts of criminal law, accurate assessment of the criminal actions of the accused, and strict observance of the sanctions established by law are mandatory conditions necessary for the court to correctly impose punishment"[3].

A fair determination of the limits of punishment amounts is understood as the determination of the punishment provided for by criminal law sanctions in relation to a person found guilty by the court, based on the requirements of the principle of justice, as established in Article 8 of the Criminal Code of the Republic of Uzbekistan.

"The imposition of a fair punishment is the main tool in combating crime and serves to correct the accused, prevent them from committing crimes, as well as for general and special prevention. Additionally, it should be noted that unconditional compliance with legal requirements when applying criminal punishments is one of the most important tasks of justice, and only the fair application of punishment serves as a guarantee for the development of democratic institutions in the field of human rights"[4].

Regarding the implementation of the principle of justice in establishing the limit of punishment sizes for a crime, it can be said that "when formulating and applying criminal law sanctions, justice should perform two functions: a) establish the upper limit of punishment that can be considered appropriate for the crime; b) influence the establishment of the lower limit of the sanction"[5].

A fair coordination of punishment limits should be carried out taking into account the nature and degree of social danger of the crime, the circumstances of its commission, and the personality of the perpetrator[6].

Some authors completely reject both the possibility of reconciling the nature and degree of social danger of unrelated crimes and the possibility of comparative assessment of crime and punishment in ensuring the correspondence between crime and punishment. As a result, it is concluded that just punishment is expedient punishment[7].

In our opinion, it is inappropriate to compare the complexity of understanding certain phenomena and the impossibility of fully comprehending or comparing them. There is no accurate data on the degree of comparative severity of various crimes or the required ratio between the corresponding crime and the amount of punishment imposed for it. In general, such assessments and comparisons are carried out in one way or another, both in criminal law and in judicial practice.

Firstly, in the current criminal legislation, all crimes are classified according to their severity (Article 15 of the Criminal Code of the Republic of Uzbekistan). This classification is not created by the legislator without reason; it is based on society's value system.

Secondly, types of punishments are also classified in the system of penalties according to their severity (Article 43 of the Criminal Code of the Republic of Uzbekistan).

Thirdly, as the level of social danger of a crime increases, the severity of punishment should undoubtedly increase as well.

This raises the question of to what extent penalties should be increased or reduced, as well as the relationship between penalties for various crimes.

First and foremost, the legislator, based on the general characteristics of the nature and degree of public danger of the corresponding type of offense, should determine the most severe type of punishment and its maximum amount (in other words, the upper limit) that can be considered appropriate for this type of crime. Accordingly, the upper limits of punishments for other crimes are established. The second task is then to determine the minimum punishment, its lower limit.

It is also necessary to consider the issue of determining the average penalty amount in achieving the research goal.

In this case, it implies measuring the degree of public danger of a particular crime and, accordingly, establishing the average coefficient for the severity of a particular type of punishment in the sanction. The average punishment itself is an indicator of the average level of public danger of a particular crime, while each crime is defined by law taking into account the average, overall level of public danger[8].

Determining the average amount of punishment in the sanction is necessary because 1) it serves as a legal criterion for the nature and degree of social danger of a particular type of crime in the sanction; 2) it helps to assess the significance of typical characteristics of the crime type and compare them; 3) it is presented by the court as an approximate amount of punishment to rely on when individualizing the sentence.

V.L. Chubarev contributed to the theory of measuring the correspondence between the level of social danger of crimes and the sum of punishments by proposing the use of quantitative research methods for this purpose. "Only the use of quantitative assessment methods can keep the 'stone scales' in the hands of the legislator, allowing for an approximate assessment of the severity of prohibited acts and the imposition of punishment for their commission within reasonable and fair limits"[9]. This legal scholar developed a methodology for measuring the level of social danger of crimes based on information about the perpetrators, and then, relying on a much larger set of criminal cases, compared the

measurement results with the punishments imposed by the courts. This method is based not on establishing punishment in criminal law, but on its application.

V.L. Chubaryev uses the concept of "medium sanction" in his research. The "average penalty" is determined by the intermediate value between the lower and upper limits of the punishment established by the criminal law. For example, if the punishment in the form of imprisonment is established for a period of two to six years, then the average penalty (in annual terms) will be four years. For this reason, it is probably more correct to say about the average amount of the fine.

Therefore, the average punishment size indicator helps in calculations to determine the magnitude of the imposed punishment in terms of its severity.

D.O. Khan-Mogomedov proposed using influence to quantify the degree of social danger of various types of crimes and, thus, to find the optimal sums of sanctions for them.

S.V. Borodin also proposes to use the possibilities of computing techniques as widely as possible to structure and systematize sanctions, noting that this allows to reduce to some extent the influence of the subjective factor in establishing sanctions in the law.

In accordance with these authors, we would like to emphasize that EVMs cannot fully cover all information and circumstances related to the work and the culprit in each specific case, that a person's fate is decided in this place, that each case can have separate and unique irreversible, colorful aspects. Furthermore, the computer is unable to assess the psychological, moral, and spiritual aspects of a criminal case. Therefore, we believe that when applying to the computer on this issue, it is necessary to determine the information necessary for the calculation as fully as possible.

Using the average values of fines established by law allows for a general understanding of the severity of penalties.

It should be noted that in cases specifically provided for by the criminal law, the limits of the sanctions are changed.

The size of the punishment established by law is influenced by:

1) the presence of certain circumstances that mitigate punishment, if there are no circumstances that aggravate punishment (Articles 55 and 56 of the Criminal Code);

2) the stage of the uncompleted crime (Article 58 of the Criminal Code);

3) repeated commission of a crime (Article 32 of the Criminal Code). The proportionality of the sums of different punishments in alternative sanctions is also one of the inevitable conditions for the fair determination of the sums of punishments.

That is, the problem of ensuring the correspondence of the amounts of various punishments to alternative sanctions must be solved at the level of criminal law.

In particular, the amount of fines and other types of punishment - imprisonment, correctional work, etc. should be agreed upon. Greater terms of more severe punishments should correspond to a larger fine, and vice versa.

A conditional relationship between different punishments can be established for a fair penalty for a crime in a certain amount (for example, ten minimum wages correspond to one month of imprisonment, etc.). After all, Article 61 of the Criminal Code establishes a conditional relationship between the terms of certain types of punishments and imprisonment to determine their duration by adding punishments.

Sanctions under Articles of the Criminal Code can be drawn up taking into account the same approach. For example, the greater the maximum punishment (time) in the sanction, the

greater the amount of alternative punishment proportional to this. In practice, this allows for a reduction in the likelihood of equal punishment for crimes of varying severity.

It should also be noted that in order to fairly establish the type of economic punishment - a fine in criminal law, it is very difficult to calculate its size. In this regard, the proposal put forward in the scientific literature to supplement the article of the criminal law defining the punishment in the form of a fine with the amount of a fine, in which two types of this punishment are indicated: 1) a fine calculated against the amount of damage caused by the crime; 2) a fine imposed on the amount of income illegally received as a result of a crime committed [12]. We believe that such measures would be fair in relation to crimes in the sphere of the economy.

The issue of fairly establishing the ranges of punishments is inextricably linked to the issue of the judge's ability to consider cases at his discretion.

It should be noted that all the sanctions of the Criminal Code of the Republic of Uzbekistan are relative-specific (with a certain interval in the amount of punishment). In order for the court to be able to take into account the degree of harmfulness of each sign of the criminal act and the crime as a whole, all criminal law norms of the current legislation provide for relatively specific sanctions, the range of which is quite wide. This is not only a positive breakthrough, but also a drawback based on the processing of legislation. It allows, on the one hand, to pass fair judgments taking into account all the circumstances of the case, and on the other hand, it allows unfair, less or more punishment.

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