



THE ESSENCE OF THE STAGE OF PAROLE IN THE EXECUTION OF PUNISHMENT AND ITS THEORETICAL AND LEGAL ASPECTS

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Annotation: in this article, the author provides a legal explanation of the stage of punishment in which conditional early release from serving a sentence, the experience of foreign countries in this regard, the opinion of legal scholars, as well as the decision of the court that issued conditional early release from serving a sentence.

Keywords: parole, foreign experience, credits, court verdict, opinions of scientists, obligations.

The fundamental reforms being carried out in all spheres of society during the period of building a new Uzbekistan to glorify human dignity and ensure human rights also relate to the exemption from criminal punishment. The institute of early conditional release of persons from serving a positive sentence of a criminal nature is based on humanism in the field of combating crime in the Republic of Uzbekistan and is in accordance with international standards.

Understanding the legal essence of any institution includes defining the necessary conditions for its emergence, analyzing its legal content, defining the place and role of other legal institutions in the system, their similarities, differences, and relationships. The solution of these issues has not only theoretical but also practical significance, predetermining the limits and procedure for legislative regulation of the rules of its application.

The institution of parole is a means of rewarding convicts who have succeeded in proving their moral correction among convicts, as this institution significantly represents the criminal motivation of positive behavior enshrined in law and serves as a stimulus measure of a criminal-legal nature.[1]

Our observations indicate that most imprisoned prisoners, after serving a long sentence, do not change their behavior even when the time comes for their conditional early release from prison, because they do not strive for freedom due to the loss of their socially useful connections in society. This may also be due to the fact that they will not be expected in freedom and will not have a home to live in freedom. However, if they hope for freedom from someone, they can find the strength to improve themselves morally, and they will definitely change, but this is observed in a few cases.

Scientists have different views on which stage of punishment conditional early release from serving a sentence is. In particular, N.A. Belyaev,[2] M.A. Efimov[3] considers one of the methods of serving a sentence and the final part of the process of deprivation of liberty, A.A. Piontkovsky considers a special form of changing the sentence and reducing the term of punishment,[4] A.F. Siziy considers the subjective right of the convicted person, that is, actions aimed at achieving the goals and satisfying the interests of the person provided for by law.[5]

Partially agreeing with the opinions of the aforementioned scholars, the institution of parole includes, first and foremost, the method of coercion and persuasion, thereby expressing the principle of humanism. At the same time, the convicted person has a subjective right, which forces him to behave positively, and as a reward for this action, he is conditionally released from serving the sentence.

A conditional early release of the part of the sentence that has not been served by the convicted person frees the actual serving of the sentence on certain conditions. If the convicted person commits a new crime during the unexpired term, the punishment will move to the final stage, that is, in accordance with part 5 of Article 73 of the Criminal Code of the Republic of Uzbekistan, a person who has been conditionally released from serving a sentence prematurely, and who has committed a new crime intentionally during the unexpired part of the sentence, the court assigns a punishment by adding the previously unexpired term of the sentence to the term of the new sentence. In this regard, lawyer A.A. Sichev said that conditional early release from serving a sentence is a "credit of trust" for the convict for a certain period of time, during which he is given the opportunity to determine his fate by his actions, that is, the convict can be completely released from punishment or serve an unexpired term.[6] Of course, the part of the sentence not served by the convicted person, firstly, becomes a probationary period; secondly, the punishment loses its force not from the day the person is released from punishment, but from the day the probationary period ends. It is from this moment that the threat of actual execution of the unspent punishment ceases to be valid. Because if a person who has been conditionally released from serving a sentence successfully passes the test period, he will not serve the unexpired part of the sentence. This leads to the formation of a humanistic attitude towards the convicted person, a legal culture that influences their behavior and is based on their actions in accordance with the law. Scientists A.M. Nosenko,[7] A.F. Sisy,[8] consider conditional early release from serving a sentence to be a subjective right of the convicted person, as a result of a person's behavior aimed at using or not using this opportunity provided for by law. S.Ya. Ulitsky, on the other hand, assesses premature parole as a right of the convicted person, arising from the factors of moral correction and serving the part of punishment prescribed by law.

I.I. Yevtushenko describes "conditional early release of a convicted person from serving a sentence" as a condition for not committing a crime again during the unexpired part of the sentence after serving the prescribed part of the sentence imposed by the court and achieving the purpose of the sentence.[9] N.A. Struchkov considers "premature release from serving a sentence" to be an improved system of punishment,[10] while D.P. Vodyanikov and L.V. Kuznetsova consider it to be its final part.[11]

In our view, early parole is the transfer of the convicted person to the final stage without fully serving his sentence in connection with the loss of his social danger, based on certain requirements, that is, when the stated purpose of punishment is achieved, it means that the convicted person is released without serving the full term of punishment specified in the sentence, and it means that it is carried out based on the principles of humanity and differentiation and individualization in the legislation, the rational use of coercive means and the encouragement of law-abiding behavior of convicts.

The availability and sufficiency of material grounds for applying conditional early release of a convicted person from serving a sentence is determined only by a court decision.

Some literature concludes that changing the preliminary court decision with conditional early release from serving a sentence undermines its stability.

In particular, E.T. Borisov believes that changing the sentence by the court of first instance to a certain extent violates the stability of punishment, regardless of the reasons for which parole is applied.[12] I.D. Perlov, on the other hand, proposed that early parole not be included in the assessment of the sentence imposed by the court, but that the verdict of the preliminary court be changed by the higher court.[13] A.A. Sichev supported the opinion of I.D. Perlov, believing that changing the decision of the court of first instance that issued the verdict is only decided by the higher court, while the conditional early release of the convicted person from the unpaid punishment does not affect his stability.[13] D.V. Kaznacheeva expressed a sharp opinion on this issue, arguing that early parole cannot be a matter of changing the stability of the sentence, but rather is an amendment to the sentence.[14] I.D. Perlov[15] believes that society is interested in the effectiveness of punishment, and if the effect is achieved by reducing the sentence imposed by the court, then it does not violate the established sentence, but ensures its successful and fair execution. Yu.M. Tkachevsky, G. Kelina emphasized that the sentence does not change with conditional early release from serving the sentence.

In the practice of the United States and some European countries, the change of the court's guilty verdict with conditional early release from prison is decided by the Council for Conditional Release, an independent state body. However, if a person who has been conditionally released from serving a sentence by the parole board violates the conditions established after his release or commits a new crime, the courts, considering the case, decide to cancel the conditional release of the convicted person.

In our opinion, the decision on parole does not raise doubts about the legality and fairness of the verdict, as well as the amount of charges and punishment, although its application in practice affects the term of execution. The reason is that the law predetermines the possibility of amending the sentence by applying conditional early release from serving the sentence.

Partially agreeing with the opinions of the aforementioned scholars, early parole does not affect the stability of the sentence. Because, when serving a sentence, the court makes changes to the sentence in order to correct and mitigate the issue related to the imposition of punishment on the convicted person, not the issue related to the imposition of punishment on the convicted person. At the same time, conditional early release from punishment does not change the type and amount of punishment, but the sufficiency of the measures of influence applied to the convicted person during the execution of the sentence specified in the sentence, as well as the prognosis of moral correction of the convicted person and non-commission of a new crime in the future, indicates that there is no need for him to continue serving the sentence.

In turn, the consideration of parole by the court of first instance does not affect its stability, unless there is a question of aggravating the condition of the convicted person. According to the law, the issue of parole is resolved individually by the court at the location of the executive body where the convicted person is serving the sentence.

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