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## BASES FOR RELEASING JUVENILES FROM CRIMINAL LIABILITY

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### ABSTRACT

*This article examines the aspects of exemption from liability juveniles in the theory of criminal law of the Republic of Uzbekistan and other countries. Explains the concept of exemption from criminal liability of juveniles. In this article, the author recommends a clear definition of his mental and physical development in juvenile delinquency and the influence of adults on him. She argued that the release of juveniles was a right, not a duty, of the courts and law enforcement agencies. Exemption of juveniles from liability is divided into general and special types. In the Republic of Kazakhstan, the Russian Federation, the Republic of Moldova and the Republic of Belarus, the grounds for the imposition of coercive measures on juveniles are different. It offers new coercive measures on the experience of other countries. She concludes, based on this, social organizations (institutions) and families of juveniles who have committed crimes should help to monitor, correct their mistakes, promote healthy development and become a full member of society. The concept of the basis for the release of juveniles from liability highlights the problems and provides new suggestions for its solution.*

**KEYWORDS:** *Exemption From Criminal Liability Of Juveniles, Humanism, Bailiff, Criminal Repression, Social Danger, Criminal Repression, Prosecution, Parent's Substitute, The Interagency Commission On Juvenile Affairs.*

### I. INTRODUCTION

Approved by the Decree of the President of the Republic of Uzbekistan dated February 7, 2017 "On the Strategy for further development of the Republic of Uzbekistan", strategy of actions on five priority directions of development of the Republic of Uzbekistan for 2017-2021 Priority II is called "Ensuring the rule of law and reforming the judiciary", Paragraph 2.3 sets out the priorities for "Improving administrative, criminal, civil and economic legislation". [1]

Section 6 of the Criminal Code of the Republic of Uzbekistan is called the Features of juvenile liability, and chapter XVI is entitled "Exemption from Liability or Punishment". Under paragraph 1 of the decision which adopted September 15, 2000 year, Plenum of the Supreme Court of the Republic of Uzbekistan on Juvenile Delinquency in the case of juvenile delinquency, carefully examine the facts to be proved, thorough and objective examination, a correct assessment of the set of facts and evidence, taking into account the degree of social danger of the act and the identity of the defendant to make full use of the features and privileges provided by law in accordance with the principles of justice and humanity.

Article 9 of the law of the Republic of Uzbekistan which adopted on 29<sup>th</sup> September 2010 year "On prevention of juvenile lack of control and offenses" information on interdepartmental commissions on juvenile affairs. Interdepartmental commissions on juvenile affairs within their competence: implements measures to prevent juvenile delinquency and offenses, ensures the protection of their rights, freedoms and legitimate interests.[2];

## II. METHODOLOGY

As components of the methodology, the author used general scientific methods, which involve the study of all phenomena and processes in their development, interconnection and interdependence, as well as special methods. In particular, the methods of dialectical materialism, system analysis, analysis and synthesis, logical, historical, comparative-legal, formal-legal used.

## III. DISCUSSION

A juvenile is a person who has reached the age of 14 but has not reached the age of 18 at the time of the commission of a socially dangerous act.[3]

Personality traits of juvenile offenders, characteristics of their criminal behavior taking into account the specifics of the legal status of juveniles, the current criminal law stems from the possibility of achieving the objectives of criminal liability primarily through the use of special services. The institute of exemption from criminal liability provides for less severe criminal measures, which have a special place for juveniles. Exemption of juveniles from criminal liability embodies the principles of humanity, justice, reduction of criminal repression.

Use of the institute of release from criminal liability for juveniles, in particular, to influence them without the use of criminal investigations. (not to drastically change the living conditions of juveniles when there is a possibility of while maintaining a positive family, study, work, and environment that has a positive impact on the juvenile).[4]The commission of a crime by a juvenile indicates shortcomings in his upbringing, moral and legal development. This crime can negatively affect the future of the juvenile and determine the nature of his relationship with the criminal law. Juvenile delinquency is greatly influenced by negative social processes and events in society. Juveniles are more susceptible to external factors than adults.

According to Y.N. Ermolovich, the features of criminal liability of juveniles can be distinguished as follows:

1) juvenile delinquency is recognized as a mitigating circumstance;

2) in sentencing juveniles, in addition to general circumstances, life and upbringing, level of mental development, other characteristics, as well as the influence of adults are taken into account;

3) The possibility of applying special grounds for exemption from criminal liability for juveniles who have committed low-risk and less serious crimes;

In determining the age of a juvenile, the last day of the year in which the crime was committed is considered. When determining the age, it is necessary to choose the minimum age given by the experts. According to I. Mukhacheva, "In determining the age of onset of criminal liability, the legislature should take into account all juveniles between the ages of 14 and 18, the importance of their actions (inaction), their ability to understand and manage social risks. However, juveniles of the same age in the document often have different physical and mental development. At the same time, physical and psychological indicators, legal consciousness (understanding and think of the prohibitions in criminal law) may not correspond to the generally accepted characteristics of juveniles. At the same age, the development of brain structures, the formation of functional systems, the formation of ethical guidelines and the system of legal consciousness may be different in different juveniles.[5]

The Criminal Code provides for coercive measures. The Criminal Code stipulates that a juvenile who has committed less serious crime may be released from criminal liability if it is recognized that its correction may be carried out through coercive measures.

The issue of the possibility of exemption of a juvenile from criminal liability with the use of coercive measures shall be considered only if there are no grounds for exemption from criminal liability under Articles 64, 65, 66, 66<sup>1</sup>, 67 of the Criminal Code of the Republic of Uzbekistan is used. In fact, when deciding whether to release a juvenile from criminal liability on general or special grounds, general grounds are given priority.

In general, this rule is consistent with the principles of differentiation and individualization of criminal liability and this rule applies to juveniles who, for the first time after the commission of a crime, have committed a low-risk or less serious crime and have shown themselves to be positive.(Articles 64, 65, 66, 66<sup>1</sup>, 67, 68 of the Criminal Code).[6]

The main differences between the general and specific grounds for the release of juveniles from criminal liability are as follows. First, the general grounds for exemption from criminal liability are unconditional, exemption from criminal liability with the use of coercive measures is conditional. Current criminal law and criminal procedural law clearly defines the status and binding nature of the measures under consideration.

However, the exemption of juveniles from criminal liability or punishment through the use of coercive measures in the literature, even if all the necessary conditions are in place, is not an obligation for law enforcement, but a right of law enforcement agencies. The conclusion that coercive measures can be used to rehabilitate a juvenile is prognostic, but based on factual data. Determining this possibility depends on assessing the juvenile's subsequent behavior. It is important to legally release juveniles from criminal liability.

First, the release of a juvenile who has committed a crime from criminal liability, expresses his condemnation of his criminal conduct by the state and the state's humanitarian policy in the fight against juvenile delinquency.

Second, exemption applies to juveniles (criminal coercion, punishment, and sentencing). Based on this, the social organizations (institutions) that committed the crime and the families of the juveniles were involved in the monitoring, to help her correct her mistakes, grow up healthy, and become a full member of society.[7]

Wider protection of the rights of juveniles, their age, their specific physiological and intellectual development, their ability to understand the nature of their behavior, their age, their specific physiological and intellectual development, their ability to understand the nature of their behavior the ability to understand the nature of one's actions, to re-educate young people who have committed crimes in light of their place in society, wider application of the principle of humanity to them, increase the effectiveness of sanctions, prosecution of adults and consideration of the reduction of criminal liability and impunity in connection with the expiration of the term of imprisonment, it is worthwhile to study foreign experience in this area, including the criminal law of the Commonwealth of Independent States.[8]

Article 87 of the Criminal Code of the Republic of Uzbekistan is called exemption from liability or punishment "It's the first time a juvenile has committed a low-risk crime, if the characteristics of the act committed taking into account the identity of the perpetrator and other circumstances of the case, and concluding that it can be corrected without penalty may be released from liability and the case may be referred to the Interdepartmental Commission on Juvenile Affairs".

On this basis, only the coexistence of each of these conditions can release a juvenile from criminal liability.

The provisions of Article 87 of the Criminal Code apply only in such cases, not at the time of the crime but may be applied even if the person under the age of 18 at the time the relevant decision is made or the decision (ruling) on release from liability is issued. In the same case, Article 87 of the Criminal Code when there are grounds for exemption from liability specified in Part 1 but if the defendant turns 18 at the time of the decision (ruling), the issue of release of such person from liability shall be resolved on general grounds in accordance with Articles 64-68 of the Criminal Code. Submitting the materials to the Interagency Commission on Juvenile Affairs for consideration exemption from liability for a crime committed only on one condition that is, the act is committed for the first time by a juvenile and is allowed only if it does not pose a threat to society.

If a person's previous conviction for a previous crime has been completed or removed in the prescribed manner or if the person has been released from criminal liability or punishment in accordance with Articles 64, 65, 66, 66<sup>1</sup>, 68, 69, 70, 71, 76, 87 of the Criminal Code the crime is found to have been committed for the first time. The issue of the expediency of releasing a juvenile who has committed a crime of low social risk can be resolved on the basis of a comprehensive study of the circumstances of the case and the identity of the accused. When referring to the features of the act committed in the content of part 1 of Article 87 of the Criminal Code characteristics of socially dangerous acts, aimed at harming this or that public relationship protected by criminal law and an understanding of how to obtain criminal intent (with or without

the use of force). However, there are other types of coercive measures in the criminal codes of some Commonwealth of Independent States: placement in an educational institution with a special regime of detention, an obligation to apologize to the victim (Article 84 of the Criminal Code of Kazakhstan); install test control (Article 84 of the Criminal Code of Kazakhstan), referral to special education and enlightenment programs (Article 105 of the Criminal Code of Ukraine) or medical and educational institution, forcing a juvenile to undergo a course of medical and psychological rehabilitation (Article 104 of the Moldovan Criminal Code). Belarusian criminal law is a general measure of educational impact on juveniles provides for the transfer of custody of the parents or their surrogates at their request, subject to the payment of a deposit in exchange for funds. (Article 118 of the Criminal Code of Belarus).

In accordance with the provisions of the Criminal Procedure Code of Moldova (Article 344-1) in respect of a person accused of committing a juvenile or less serious crime and a felony, prior to the appointment of a court hearing in respect of a juvenile; decides on the appointment of mediation or reconciliation of the parties sets a reasonable time to implement it. If reconciliation has taken place, hence, a mediation agreement is signed and the criminal investigation is terminated, otherwise the mediator draws a reasonable conclusion and submits it to the court. [9]

Terms and conditions of stay of juveniles in special educational institutions are determined by the legislation of the Republic of Uzbekistan. Terms and conditions of stay of juveniles in special educational institutions are determined by the legislation of the Republic of Uzbekistan. Compensation in the form of monetary compensation should be used with extreme caution to avoid committing a new property crime as a result of the juvenile's financial difficulties. Compensation for damages is made voluntarily through a bailiff. [10]

Article 83 of the Criminal Code of the Republic of Kazakhstan, adopted on July 3, 2014, is entitled "Exemption from liability and punishment." According to him, a juvenile who has committed a criminal offense or a less serious crime, or who has committed a moderate crime for the first time, can be prosecuted by a court if it is determined that it cannot be corrected without criminal prosecution, can be released. However, he may be subject to coercive measures. [11]

Article 89 of the Criminal Code of the Republic of Tajikistan, adopted on May 21, 1998, provides for exemption from liability through coercive measures. According to him, a juvenile who has committed a juvenile or moderate crime for the first time can be released from criminal liability if it is recognized that its correction can be carried out through the use of coercive measures. [12]

According to Article 118 of the Criminal Code of the Republic of Belarus of July 9, 1999 "A person under the age of eighteen who has committed a crime for the first time that does not pose a serious threat to the community or is less serious with the transfer of criminal liability under the supervision of parents or persons, their substitutes, at their request, if, on the specific nature of the crime committed, personal data and other circumstances of the case, the juvenile may be prosecuted may be released from liability if correction is possible without prosecution. A juvenile who has committed a crime may be placed under the supervision of his or her parents or guardians, subject to bail. The amount of the deposit is determined in the amount of ten to fifty times the basic amount, taking into account the financial situation of the parents. For crimes of low social risk and less serious, bail for crimes ranging from fifty to one hundred times the base

value is set on the day of announcement. If the person under surveillance has committed a new intentional crime within a year, the amount of the bail shall be transferred to the state.

#### IV. CONCLUSION:

The bases of exemption from criminal liability is now important in law enforcement practice. This is because the exemption is in line with the principle of humanity, which, through its application, frees the judiciary and the investigative bodies from excessive processes and excessive expenditures of the state budget. Prevents individuals from hiding from the courts and law enforcement for the rest of their lives. Based on the above, I would like to suggest the following. First, based on the experience of many CIS countries, Part 1 of Article 87 of the Criminal Code of the Republic of Uzbekistan should be amended as follows: A juvenile who has committed a crime of low social risk for the first time shall be released from liability if, taking into account the nature of the act committed, the identity of the perpetrator and other circumstances of the case, it can be corrected without penalty. However, coercive measures may be applied to him.

Article 88 of the Criminal Code of the Republic of Uzbekistan should be worded as follows. The following coercive measures are applied to juveniles:

- (a) an obligation to apologize to the victim in the form prescribed by the court
- (b) the obligation of a person who has reached the age of sixteen to pay or compensate for the damage caused at his own expense or by his own labor. This measure is applied if the damage does not exceed ten times the established basic calculation amount. In other cases, the damage is recovered in civil law
- (c) Placement of a juvenile in a special educational institution
- (g) Placement in an educational institution with a special regime of detention
- (d) Installation of test control
- (j) Medical and educational institution, forcing a juvenile to undergo a course of medical and psychological rehabilitation
- (f) The transfer of a single measure of educational effect to juveniles - the supervision of parents or guardians at their request, subject to the payment of a cash deposit.

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