



SOME ISSUES OF DISMISSAL OF CRIMINAL CASES IN CONNECTION WITH THE EXPIRATION OF THE LIMITATION PERIOD FOR CRIMINAL RESPONSIBILITY

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Article history:	Abstract:
Received: November 10 th 2022 Accepted: December 6 th 2022 Published: January 6 th 2023	In this article, at the stage of implementation of the judicial and legal reform, the institution of exemption from criminal liability due to the expiration of the statute of limitations for bringing to the responsibility based on criminal and criminal procedure legislation, the procedure, conditions for terminating a criminal case on this basis and the features of its application are studied. At the same time, this article provides evidence-based opinions and comments on some of the problems that may arise when a criminal case is terminated due to the expiration of the statute of limitations for prosecution and their solution. Based on the results of the analysis, relevant proposals and recommendations were developed to improve the procedure for terminating a criminal case due to the expiration of the statute of limitations as a basis for terminating a criminal case without resolving the issue of guilt.
Keywords: guilty, responsibility, release from liability, termination of a criminal case, rehabilitation, termination of a criminal case on non-rehabilitation grounds, term of bringing to responsibility	

INTRODUCTION

One of the important issues is the reliable protection of the rights, freedoms and legitimate interests of the individual in the implementation of judicial and legal reforms. In the process of implementing these reforms, the improvement of the norms of criminal and Criminal Procedure legislation is becoming relevant. The concept of improving the criminal and Criminal Procedure legislation of the Republic of Uzbekistan, approved by the decree of the president of the Republic of Uzbekistan dated May 14, 2018 №. 3723 [1] also provides for the improvement of certain institutions in the legislation, including the expansion of norms establishing conditions for the release of a person from criminal liability or punishment.

Accordingly, in this article, we will touch on non-rehabilitative grounds, including the peculiarities of the termination of a criminal case due to the fact that the term of bringing a person to justice has passed, as well as some problems that arise in the process of its application.

MATERIALS AND METHODS

Although the issue of terminating the criminal case is defined in the legislation, due to the concept of this institution and problems arising in practice, this research mainly uses the method of comparative legal analysis. At the same time, observation, generalization, induction, and deduction methods were used.

RESEARCH RESULTS

In connection with this, the release due to the expiration of the term from responsibility is called the release on a non-rehabilitative (not justifying the person) basis. In this case, there is no legal basis for the involvement of a person in criminal punishment based on certain circumstances and conditions: the expiration of the term of bringing him to justice, the fact that the guilty person practically regrets his act, the culprit's illness, the act or the person's loss of social danger, etc [2, Б. 586].

Article 84 of the code of Criminal Procedure of the Republic of Uzbekistan provides for 13 grounds for the termination of a criminal case on non-rehabilitative grounds [3, Б. 110].

One of these grounds is the state of expiration of the term of bringing a person to justice. Scientists have put forward various opinions on the issue of the term of prosecution.

M.H. Rustambaev's opinion that the term of criminal liability is the expiration of the deadlines established by law from the moment the crime is committed to the moment the sentence enters into legal force, after which the person who committed the crime must be released from criminal liability in the presence of appropriate conditions [4, P. 162].

A similar opinion was put forward by V.D. Borisova, and the term criminal prosecution means the



passage of a certain period established by law, as well as the absence of responsibility for the crime committed by a person. [5, C. 109].

It is the passage of the term of the prosecution that can serve as the basis for the release of a person from criminal liability. In this case, the termination of a criminal case on this basis is associated with the norms of material law. The reason is that it is not possible to regulate the problematic situations that occur in law enforcement practice with exactly one branch or branch of Law (material or procedural) (Criminal and Criminal Procedure).

Therefore, the problems that arise in practice and the norms of material and procedural law that regulate these relations for their solution should be studied comprehensively.

In this regard, some authors also thought that the research of law enforcement practice cannot be carried out within the framework of just one branch of law, for which the branches of law that regulate the relations found in practice should be studied fully. Criminal and Criminal Procedural Law are areas that require a comprehensive study of the relationship [6, B. 44].

Therefore, for the termination of a criminal case in the case of "expiration of the term of bringing a person to justice", special attention is paid to the norms established by the criminal law, including the deadlines for bringing him to justice. Because in this case, the norms of material law and procedural law dictate each other.

In the legal literature, the grounds for the termination of a criminal case are divided into types, depending on the branch of law, according to material and legal grounds, as well as procedural and legal ones [7, B. 65].

ANALYSIS OF RESEARCH RESULTS

The state of expiration of the term of bringing a person to justice belongs to the type of termination of a criminal case, which is classified according to material and legal grounds. As a legal basis, we can cite Article 64 of the Criminal Code of the Republic of Uzbekistan. This article sets out the conditions for the release of a person from liability for a crime in connection with the expiration of the term of bringing him to justice.

On this basis, there are several specific features of the termination of a criminal case, as well as several requirements. These can include:

first of all, it is required to release a person from liability on this basis and pass a certain period for the termination of a criminal case. In this case, the following deadlines are established for the release of a person from liability:

a) two years – when committing a crime that does not pose a great public danger;

b) four years – when committing a less serious crime;

d) eight years – when committing a serious crime;

e) fourteen years – when committing a particularly serious crime.

secondly, the fact that the timing of the calculation of the term of prosecution is established. In this case, the term of prosecution begins on the day of the commission of the crime and is calculated in the interval from the day the sentence entered into legal force.

By the day of committing a crime, it is necessary to understand the time when the act (inaction), which is part of the objective side of the crime, was performed and a criminal consequence occurred [8, B. 588].

This fixed term is imperative, it does not have the possibility of reducing or multiplying. At the same time, a person cannot be held liable if ten years have passed since the date of the commission of a crime that is not socially dangerous or not very serious, and twenty-five years have passed since the date of the commission of a serious or extremely serious crime. This established norm, based on the goals of punishment, means that it is not advisable to prosecute persons who committed it after a long period of passage, regardless of the degree of severity of the crime.

thirdly, the term prosecution is established based on the nature of crimes and the degree of social danger. In this case, the establishment of the same term for all categories of crimes is considered contrary to the principle of Justice.

According to criminal law, the punishment imposed on a person should be fair, be appointed individually in each case, and be proportional to the nature of the crimes and the degree of social danger, the mitigating and aggravating circumstances of the punishment. [9, B.119].

The nature of the social danger of a crime is determined by the object of aggression (human life and health, property, public safety), the form of guilt, in which category the criminal act is included in the law (Article 15 of Criminal Code). The degree of social danger of a crime (the degree and stages of the implementation of the criminal intent are the method of committing the crime, the amount of damage or the severity of the consequences caused, the role of the defendant in the crime committed in the participation) is determined by the circumstances of the commission of the act. [10].

fourth, the question of applying the term of prosecution for certain categories of crimes is decided by the court. In this case, concerning the person who committed the crime provided for by the appointment of a life imprisonment sentence, the question of



applying the deadlines for bringing to justice is within the competence of the court.

For reference: *criminal law provides for punishment in the form of life imprisonment for 2 categories of crimes, that is, for intentional homicide in aggravating circumstances (the second part of Article 97 of the Criminal Code) and terrorism (the third part of Article 155 of the Criminal Code).*

It should be noted separately that the current legislative acts do not provide clear criteria for the application or non-application of the issue of the expiration of the period for bringing to justice by the court. This indicates that the human factor has been preserved in the release and application of responsibility on this basis.

fifth, the term of prosecution for certain categories of crimes does not apply. In this case, these terms are not applied mainly to crimes against peace and Human Security (articles 150-157 of the JK, the first part of Article 158, the third and fourth parts of Article 159, articles 160, 161 and 244²).

According to the norms of international law, regardless of the time of the commission of an act, the rule of expiration of the term of prosecution does not apply to war criminals, persons who committed crimes against peace and human security, regardless of whether it was committed during war or peace [11], as well as apartheid [12] and genocide [13].

The rules established in these international documents provide for bringing to justice persons who have committed these crimes, regardless of the rule of expiration of the period in bringing guilty persons to the justice and applying punitive measures to them.

sixth, the termination of a criminal case on this basis can be carried out both at the stage of pre-trial proceedings and the judicial stage.

In this case, if the deadlines for bringing the case to justice end at the stage of pre-trial proceedings, the criminal case is terminated according to the decision of the official of the investigating authority, the inquiry officer, the investigator or the prosecutor before the investigation.

If the term of prosecution ends at the time of the judicial investigation, then without resolving the issue of the person's guilt, the defendant is released from the courtroom without the appointment of punishment, and the criminal case is terminated based on the court's ruling.

If the end of the terms of prosecution is determined at the stage of filing a complaint or protesting in the appellate or Cassation procedure, the court issues a decision (ruling) on the termination of the case.

So, the time of completion of the criminal case depends not on the duration of the investigation or court proceedings, but on the deadlines established by

Article 64 of the Criminal Code, the passage of the deadlines established in this article will become the basis for the termination of the criminal case without resolving the issue of the person's guilt.

There are also some problematic cases in the termination of a criminal case in connection with the expiration of the term of prosecution. The legislation does not clearly define the issue of calculating the deadlines for bringing to justice for continuing crimes and long-term crimes. Various opinions have also been expressed on this issue by legal scholars.

In Particular, M. Rustambaev believes that the terms of criminal liability for continuing crimes and long-term crimes should be calculated at their guilty discretion or against their discretion from the time of completion [14, B. 593].

The term of criminal prosecution in continuing crimes begins to pass at the end of the last criminal act committed based on the sole oath of the guilty person.

When qualifying a long-term crime, it is necessary to take into account the time of the beginning of the crime from the time of the commission of the criminal act, and the time of the end of the crime, when the guilty person himself is directed to the termination of the crime or the occurrence of circumstances that cause the act to Determine the time of completion of this crime. From the moment the crime is complete, the term for criminal prosecution begins to exceed [15, B. 463].

Accordingly, it is advisable to clearly define in the current legislation the issue of calculating from what time the term of prosecution for continuing crimes and long-term crimes.

At the same time, views are put forward by most scientists regarding the extension of the term of prosecution for corruption crimes or the restriction of the expiration of the term as a whole.

For reference: *paragraph 6 of the Decree of the President of the Republic of Uzbekistan dated July 6, 2021, DP-6257 and paragraph 31 of the state Anti-Corruption Program for 2021-2022 stipulate a restriction on the application of mitigating norms in the criminal code concerning persons who committed crimes against corruption.*

Article 29 of the UN anti-corruption convention establishes a long statute of limitations for states to initiate proceedings against any criminal action recognized as a crime in the convention. It is noted that the person suspected of committing a crime determines a longer term for the claim in cases of evasion from justice or the possibility of stopping the continuation of the statute of limitations.

In addition, it can be seen that in some foreign countries, there is no application of the term of prosecution for corruption crimes or a longer period is established concerning other crimes. In particular, part



six of Article 62 of the Criminal Code of the Kyrgyz Republic does not apply to the passage of the deadlines for obtaining bribes and bringing them to justice for bribery by extortion [16].

Article 71 of the Criminal Code of the Republic of Kazakhstan notes longer periods of prosecution for corruption crimes against other crimes [17].

CONCLUSION

On the results of the analysis, in order to improve the termination of the criminal case in connection with the expiration of the term of prosecution, the following are proposed:

first of all, the current legislative acts do not specify from what time to calculate the terms of prosecution for continuing crimes and long-term crimes. In order to clarify this issue and form a single practice, it is proposed to calculate the term of bringing to justice from the date of the end of the crime for continuing crimes, and for long-term crimes-from the date of detection of these crimes.

secondly, in order to ensure the inevitability of responsibility for corruption crimes, it is proposed to set separate deadlines for exemption from liability for a crime in connection with the expiration of the term of bringing to justice.

third, it is advisable to reconsider the issue of compensation for damage in the event of termination of a criminal case due to the expiration of the term.

In conclusion, it can be said that improving the institution of termination of a criminal case in connection with the expiration of the term of prosecution serves to find solutions to the problems arising in the judicial investigation practice and to make a legal, justified, fair decision on the case.

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