



COMPLETION AND DISMISSAL OF CONVICTION LEGAL BASIS AND OBJECTIVE ASPECTS

Shakhzoda Rustamova, 3rd year student of the Law Faculty of Samarkand State University named after Sharof Rashidov

Academic supervisor: Department Head of Special Legal Sciences of Samarkand State University

Associate Professor Davlat Kurbanov

Article history:	Abstract:
Received: 17 th May 2024 Accepted: 14 th June 2024	Chapter 14, articles 78, 79 of the general part of the Criminal Code of the Republic of Uzbekistan are the legal bases of the provisions on criminal convictions, as well as the articles on "Completion of the criminal record" and "Removal of the criminal record". differences and the legal significance of conviction and its objective elements are highlighted. The issues of calculating terms are revealed and the statistical data of female and male representatives are introduced today.

Keywords: Conviction, Convicted men, women, minors, completion of conviction, removal.

As progress is being made, many people may have misunderstandings about the difference between the completion of a conviction and the removal of a conviction. It is very appropriate to pay attention to the dynamics of statistical data during the period up to now.

Convicted men were 31,332 in 2018, 24,492 in 2019, 24,972 in 2020, 39,970 in 2021, and 25,564 in the first half of 2022. If we pay attention to the number of convicted women in 2018, 4374 in 2019, 3111 in 2019, 3027 in 2020, 5040 in 2021, and 3172 in the first half of 2022. As for minors, we can see that they organized 713 in 2018, 497 in 2019, 499 in 2020, 1152 in 2021, and 971 in the first half of 2022. This numbers also show that the percentage of juveniles convicted in recent years is increasing.¹

Conviction is a legal status resulting from the fact that a person has been convicted of a crime. Conviction is related to the full term of the sentence imposed by the court and the terms specified by law after the sentence has been served.²

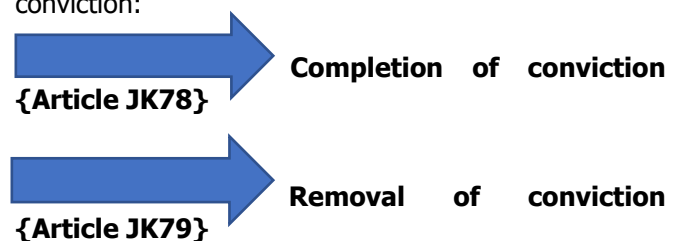
The criminal-legal consequences of a conviction may arise in cases where a new crime is committed by a person whose conviction has not been completed and not removed.

General legal consequences of conviction are manifested in the following:

- restrictions on engaging in certain positions, professions and activities;
 - restrictions on dealing with certain objects;

- Restrictions on Law Enforcement Employment;
 - restrictions related to the protection of the rights and interests of minors, citizens, for example: guardianship, sponsorship, etc.
- Some barriers to public service
 - certain restrictions on engaging in activities that require high security requirements, for example: hunting, state secrets, expertise, etc.

The criminal legislation of the Republic of Uzbekistan provides for two different ways of canceling a conviction:



On the other hand, due to the expiration of the term of the conviction or the removal of the conviction, all its legal consequences are null and void. Let's reveal the general characteristics of these terms, which is the essence of the article.

Completion of a criminal record is a process related to the expiration of the terms specified by law, taking into account certain types of punishments and terms. means termination based on a court decision.

¹ The main indicators of the results of the activity of criminal courts in 2018-2021 and the first half of 2022.
[//https://stat.sud.uz./file/2022/07-pdf](https://stat.sud.uz./file/2022/07-pdf).

² Criminal law (General part) "Criminal Law", Samarkand - 2023. Muqumova Muslima Ziyodullayevna (textbook for students of higher educational institutions)



Due to the fact that issues arise in judicial practice regarding the application of the legislation on the completion and removal of In accordance with Article 17 of the Law on ", the Plenum of the Supreme Court of the Republic of Uzbekistan decides: ³

1. It should be explained to the courts that conviction is the legal status of a person resulting from the imposition of a sentence on him by a court sentence, and it is manifested in the occurrence of certain negative consequences of a criminal-legal and general legal nature in relation to this person.

In accordance with Article 77 of the Criminal Code (hereinafter referred to as the Criminal Code), the status of conviction shall continue from the date of entry into force of the court sentence on which the punishment was imposed until it is completed or removed.

2. It should be noted that there are cases in which a person is considered unconvicted in the criminal law. In particular, a person is considered unconvicted in the following cases, if:

if a conviction was issued without a penalty (Articles 70, 71, 76 of the Civil Code) or the person was released from the main and additional punishment at the same time by the court of the first, appeal, cassation instance (Articles 69, 75, 76 of the Civil Code);

(The second paragraph of paragraph 2 is edited by Resolution No. 9 of the Plenum of the Supreme Court of the Republic of Uzbekistan dated May 14, 2022)

if coercive medical measures were used (Article 94 of the Civil Code).

A person who has been released from criminal liability on the following grounds is also considered unconvicted:

in connection with the expiration of the term of prosecution (Article 64 of the Civil Code);

in connection with the fact that the act or the person has lost his social danger (Article 65 of the Civil Code);

in connection with the fact that the guilty person has actually repented of his act (Article 66 of the Criminal Code);

due to the fact that the person who committed the crime reconciled with the victim (Article 66-1 of the Criminal Code);

due to the illness of the person who committed the crime (Article 67 of the Civil Code);

in connection with the application of the amnesty act (Article 68 of the Civil Code).

3. The criminal-legal consequences of the state of conviction arise from the commission of a new crime by

a person whose conviction has not been completed and not removed and is expressed in the following:

Conviction is a condition that affects the qualification of a crime in a number of cases, i.e. increases criminal responsibility;

the conviction in certain cases is the basis for the recognition of a person as a very dangerous recidivist (Article 34 of the Criminal Code);

conviction is important for determining the type of penal colony, if the person has previously served a prison sentence (Article 50 of the Criminal Code);

conviction is recognized as an aggravating circumstance (Article 56 of the Criminal Code);

in cases where a new crime is committed by a person who is serving a sentence for a previously committed crime, the conviction causes stricter rules to be applied when determining the punishment according to the set of sentences (Article 60 of the Criminal Code);

The existence of an incomplete and unremoved criminal record is based on certain grounds, for example, the fact that the culprit has actually repented of his act (Article 66 of the Criminal Code), and in special cases (when there is a criminal record for serious and extremely serious crimes), the person who committed the crime has reconciled with the victim (Article 66-1 of the Criminal Code) prevents the release from criminal liability.

The criminal-legal consequence of conviction is also manifested in the existence of a prohibition in the material law to apply measures such as exemption from punishment (Article 71 of the Criminal Code), conditional sentencing (Article 72 of the Criminal Code), and the use of coercive measures against minors (Article 87 of the Criminal Code).

4. Let the attention of the courts be drawn to the fact that the law provides for only two ways of ending the state of conviction - its completion and removal (fourth part of Article 77 of the Criminal Code).

Completion of the state of conviction means that all consequences related to the fact of a person's conviction will automatically (spontaneously) end as a result of the expiration of the periods provided for in Article 78 of the Criminal Code, depending on the type and duration of the punishment. In such cases, at the request of the convicted person, his heir, legal representative or lawyer, the court in the place of residence of the convicted person will issue a certificate confirming the fact that there is no criminal record. The basis for this is the reference of the information center of the internal affairs bodies submitted to the court by

³ **Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan "On judicial practice on the application of the legislation on the**

completion and removal of convictions" Tashkent city, September 18, 2015 No. 13



the interested person and the documents confirming the fact that the sentence has been served (executed).⁴

The legal consequences of the removal of a conviction shall be subject to a court decision until the expiration of the terms established by law for the termination of the conviction.

Basically means termination. In order to remove the conviction, the person's impeccable behavior after serving the sentence (no administrative punishment or disciplinary action was applied to him), a public association, a citizen's self-governing body, a team or the individual himself is provided for in the first, second and third parts of Article 79 of the Civil Code. a petition filed after the expiration of the time limits may be the basis. In addition to the judicial procedure, the law provides for the possibility of removing a conviction through an act of amnesty or pardon.

Completion of a conviction and its removal in accordance with the law is a condition that excludes a set of crimes, repetition and recidivism.

5. From the moment the conviction is completed or removed, the person is considered unconvicted, and the fact of the crime committed by this person and all legal consequences related to the conviction for him are strictly and unconditionally nullified.

Courts must distinguish the expungement of a conviction from the rehabilitation of a person. When a person is rehabilitated, the state recognizes that he was wrongly convicted of a crime. When the conviction is removed, the fact that a person has committed a crime is not denied, but only a decision is made to prematurely terminate the consequences of criminal prosecution.

6. In accordance with the second part of Article 13 of the Criminal Code, a law that cancels the criminality of an act, reduces the punishment or otherwise improves the situation of a person has retroactive force.

In this regard, if a law is passed that abolishes the criminality of an act committed by a person during the period of inquiry, preliminary investigation, case being considered in court, or the person is serving a sentence, in this case, the person is released from criminal responsibility and punishment, and from the moment the law abolishing the criminality of the act comes into force is considered unconvicted. This provision is also applied to persons who have served their sentence but have a criminal record.

7. In accordance with the law, the calculation of the terms of completion or removal of the conviction

(Articles 78, 80 of the Criminal Code) begins from the day of completion of the main and additional punishments or the end of the probationary period. For example, in the case of sentencing to a disciplinary unit, deprivation of the right to occupy a certain position or engage in a certain activity as an addition to the punishments of deprivation of liberty, this punishment is applied to the entire period of serving the listed main punishments, and the terms of completion or removal of the criminal record are an additional punishment. is counted from the time of passing⁵

8. The criminal status of a person sentenced to a fine or correctional work and changed to another type of punishment ends with the expiration of the period indicated in paragraphs "g, d, ye, j" of Article 78 of the Criminal Code. In this case, the term of conviction shall be counted from the date of serving the type of punishment determined in accordance with the third part of Article 44 of the Criminal Code or the fourth part of Article 46 of the Criminal Code in accordance with the third part of Article 80 of the Criminal Code.

9. In accordance with the second part of Article 80 of the Criminal Code, when deciding the issue of the completion of the conviction of a person who has been released on parole from places of deprivation of liberty before the term, as well as the sentence has been replaced by a lighter one (Articles 73, 74 of the Criminal Code), the sentence shall not be determined by the court, but it is necessary to proceed from the period of punishment actually served until the moment of release from places of deprivation of liberty. In this case, the term of completion of the conviction is calculated from the moment when Article 73 of the Civil Code is applied to a person who has been released on parole from places of deprivation of liberty, and to a person whose sentence has been replaced by a lighter one - from the moment of serving a lighter sentence determined in accordance with Article 74 of the Civil Code.

The procedure for calculating the completion of the conviction established in Article 80 of the Criminal Code (from the time of completion of the sentence or release from serving the sentence based on the length of the sentence actually served) is also applied to persons whose sentences have been reduced based on the new legal norm, which provides for a lighter sentence.

10. Courts should take into account that the fourth part of Article 80 of the Criminal Code defines the provisions

⁴ (The second paragraph of paragraph 4 is edited by the decision of the Plenum of the Supreme Court of the Republic of Uzbekistan No. 31 of November 20, 2023

⁵ (Paragraph 7 in the version of the decision of the Plenum of the Supreme Court of the Republic of Uzbekistan No. 16 of May 19, 2018)



on the termination of the criminal record when the period ending the criminal record is suspended.

In cases where a person who has served a sentence commits a crime again before the term of the conviction has expired, the term of the conviction will be suspended.

When the period ending the conviction is suspended, the term of the conviction for the previously committed crime begins to run again after the person has served the sentence for the new crime, except for cases where the punishment for the new crime committed during the period of the conviction is more severe. In this case, the term of completion of the conviction is determined based on the term of the sentence imposed for the new crime.

11. According to the content of the criminal law, the term of completion of the conviction is directly related to the punishment, including the punishment imposed for several crimes (under a set of crimes or sentences). When imposing punishment on a person for a set of crimes or sentences (Articles 59, 60 of the Criminal Code), taking into account the severity of all the acts, the term of completion of the conviction should be calculated based on the type and duration of the punishment.

At the same time, if a different type of punishment is imposed by the court for a set of crimes or sentences, each of which is executed separately (the second part of Article 61 of the Criminal Code) if there is, the term of completion of the conviction is calculated based on the heavier term of punishment provided for in the penal system (Article 43 of the Criminal Code).

12. In accordance with the first part of Article 544 of the Code of Criminal Procedure, a petition for early removal of a conviction may be submitted to the district (city) court of the place of residence of the person who has served the sentence by a person with a conviction, his defender or legal representative, or by a public association or community.

When deciding on the issue of premature removal of a conviction, the court considers circumstances that confirm the law-abiding lifestyle of a person with a conviction (absence of a crime, behavior after release from punishment, positive descriptions of work and place of residence, presence of a directory of the information center of the internal affairs body, etc.).) needs to be determined.

In accordance with the fourth part of Article 544 of the Code of Criminal Procedure, a repeated request for early removal of a conviction may be filed after at least one

year has passed from the date of the decision to reject it.

The decision on early removal of the conviction should be sent to the court that issued the sentence and to the information center of the internal affairs bodies.

13. Let the attention of the courts be drawn to the fact that it is important to study the information about the person of the defendant in order to correctly calculate the terms of completion and removal of the criminal record. For this purpose, when appointing a case for hearing in court, the courts check the case files for the presence of references obtained from the information center of the internal affairs bodies, including the defendant's place of birth and permanent residence, previous sentences against the defendant, early parole, replacement of the sentence with a lighter one, etc. they should demand and carefully study the rulings.

At the time of sentencing, the courts must correctly reflect the information on the state of the defendant's conviction, following the explanations given in paragraph 15 of the decision of the Plenum of the Supreme Court of the Republic of Uzbekistan "On the Judgment" of May 23, 2014.

14. In order to improve the quality of justice, the courts of the Republic of Karakalpakstan, regional courts, Tashkent city courts, and the Military Court of the Republic of Uzbekistan periodically summarize the judicial practice on the application of the legislation on the completion and removal of convictions and eliminate the existing shortcomings as a result of the cases and materials. they should take measures aimed at ensuring thorough, comprehensive, complete and impartial review.⁶

In order to correctly calculate the terms of the completion and removal of the conviction, it is of great importance to study the personal information of the defendant. the received references, the documents on the judgments issued to the defendant relatively early, early parole, commutation of the sentence with a lighter one can also allow to draw an objective conclusion.

REFERENCES:

1. Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan "ON COURT PRACTICE ON THE APPLICATION OF THE LEGISLATION REGARDING THE COMPLETION AND DISMISSAL OF A CONVICTION" Tashkent city, September 18, 2015 No. 13. <https://lex.uz/ru/docs/-2793078>
2. Articles 77-80 of the Criminal Code of the Republic of Uzbekistan

⁶ (Paragraph 14 in the version of the decision of the Plenum of the Supreme Court of the Republic of Uzbekistan No. 9 of May 14, 2022)



3. <https://lex.uz/docs/-111453?ONDATE2=14.03.2022&action=compare>
4. Criminal law (General part) "Criminal Law", Samarkand - 2023. Muqumova Muslima Ziyodullayevna (Textbook for students of higher educational institutions) 503-511b.
5. Rustambayev M. Criminal law. General part general part textbook,-Tashkent 2019, p. 338-371.
6. Usmonaliyev M. Conviction and its legal consequences and problems of liberalization - Tashkent, 2005-60b.