



Legal measures applied for crimes and administrative offences

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Abstract: This article provides a comparative - legal analysis of measures of legal impact for crimes and administrative offences. In particular, it shows the similarity and difference of measures of legal impact in the form of deprivation of a certain (special) right applied for violation of traffic safety rules, provided by the Criminal Code and the Code of Administrative Responsibility of the Republic of Uzbekistan, points out the existing contradictions and gaps in the legislation, in this regard, proposals for their elimination are given.

Keywords: Measures of legal impact, Criminal Code, Code of Administrative Responsibility, crime, administrative offence, punishment, administrative penalty, fine, deprivation of a certain right, deprivation of a special right, deprivation of the right to drive a vehicle.

Introduction: Strengthening of the economy of our state, growth of material well-being of citizens is directly related to the development of the automobile industry, increase of motor transport. Therefore, special attention is paid to road safety issues. President of the Republic of Uzbekistan Sh. Mirziyoyev at a conference call on 20 October 2023 once again drew attention of responsible persons to the need to take appropriate measures on these issues, pointing out that only recently 4200 people, mostly young people, have died as a result of road accidents.

One of the methods of ensuring road safety is strict observance of the principle of inevitability of responsibility for committing crimes and offences related to the violation of traffic rules.

According to the article 20 of the Constitution of the Republic of Uzbekistan, the measures of legal impact on the individual applied by State bodies must be based on the principle of proportionality and must be sufficient to

achieve the objectives set out in the law.

Under current legislation, liability for violations of traffic safety rules or the operation of vehicles is established, depending on the severity of the socially dangerous consequences, by the relevant articles of the Criminal Code and the Code of Administrative Responsibility of the Republic of Uzbekistan.

The most frequently applied measure of legal action for violations of traffic safety rules or the operation of vehicles is the penalty of deprivation of a certain right under article 45 of the Criminal Code and the administrative penalty of deprivation of a special right under article 28 of the Code of Administrative Responsibility of the Republic of Uzbekistan.

The analysis of these measures of legal impact for committing identical offences provided for by various legal acts shows the presence of common features and properties, although there are certain differences.

The application of punishment in the form of deprivation of a certain right and administrative penalty in the form of deprivation of a special right is mainly aimed at preventing the continuation of unlawful actions related to driving a vehicle and preventing the perpetrator from committing new offences.

Under article 45 of the Criminal Code, the penalty of deprivation of a certain right is a mixed type of punishment, i.e. it may be applied as either a basic or an additional punishment, and both the basic and additional punishments are identical in their content, the only difference being the length of the punishment and the procedure for serving it. A similar rule is set out in article 24 of the Code of Administrative Responsibility, according to which an administrative penalty in the form of deprivation of a special right (the right to drive vehicles) may be applied as both a main and an additional administrative penalty.

Under article 81 of the Criminal Code, the penalty of deprivation of a certain right is not applicable to persons who have committed offences before reaching the age of 18. Article 28 of the Administrative Liability Code restricts the imposition of administrative penalties on persons who use vehicles because of a disability, except in the case of certain offences (driving while intoxicated, running a prohibited traffic signal, repeated or substantial excessive speeding).

Administrative penalty in the form of deprivation of a special right shall be appointed for the term from fifteen days up to three years. Criminal punishment in the form of deprivation of a certain right as the basic punishment shall be appointed within the term established by the sanction of article of the Especial

part of the Criminal Code, but not less than one year and not more than five years. As an additional punishment deprivation of a certain right can be appointed by court irrespective of whether it is specified in the sanction of the article, for the term from one year up to three years.

Deprivation of a certain right as a basic punishment is not interchangeable, i.e. the law does not provide for its replacement by another, stricter type of basic punishment in the case of evasion from serving the sentence. At the same time, being a stricter type of punishment in relation to a fine, it may be replaced by a fine by the court on the basis of article 57 of the Criminal Code. According to Article 33 of the Code on Administrative Responsibility, an administrative penalty in the form of deprivation of a special right may be imposed below the lowest limit established by the sanction of the article or instead of this type of administrative penalty to apply another, more lenient penalty, which this article does not provide for.

A person sentenced to deprivation of the right to drive a motor vehicle as an additional penalty may be released on parole from serving his sentence under article 74 of the Criminal Code and article 164, paragraph 4, of the Penal Enforcement Code. The law does not provide for conditional early release from serving the sentence of a person sentenced to deprivation of a certain right as a basic sentence.

A person deprived of a special right may have the period of administrative punishment reduced in accordance with Article 343 of the Code of Administrative Responsibility.

The penalty of deprivation of a certain right is not specific. The law does not establish a specific position or a specific activity that is prohibited, referring this to the competence of the court. Article 28 of the Code of Administrative Responsibility as an administrative penalty in the form of deprivation of a special right specifically defines deprivation of a special right as deprivation of the right to drive vehicles.

Article 45 of the Criminal Code does not provide for legal consequences for evasion of serving a sentence of deprivation of a certain right.

However, the effectiveness of achieving the goals of punishment is directly related to the liability for evasion or repeated commission of identical offences.

Thus, V. Malkov notes that administrative prejudice and repeated offences are important means of criminalisation and decriminalisation of acts, allowing a flexible response to changes in the public danger of certain actions.

Article 135, paragraph 3, of the Code of Administrative Responsibility provides for liability for driving vehicles

by persons deprived of this right. Administrative liability under this article arises irrespective of whether the deprivation of the right to drive a vehicle has been imposed on a person as a criminal penalty or as an administrative penalty.

Article 2612 of the Criminal Code provides for administrative prejudice in the form of criminal liability for the driving of a vehicle by a person deprived of the right to drive, committed after the imposition of an administrative penalty for the same act.

These circumstances indicate the presence of common features and attributes of criminal punishment and administrative offence in the form of deprivation of a certain right.

At the same time, the presence of common features of these measures of legal influence can create certain difficulties in addressing issues related to the execution of administrative penalty and criminal punishment. Thus, the law does not provide for the procedure for imposition of final punishment to a person sentenced to punishment in the form of deprivation of the right to drive a vehicle in the presence of an unexecuted administrative penalty in the form of deprivation of the right to drive a vehicle. Obviously, under such circumstances, an administrative penalty imposed for committing an administrative offence may remain unexecuted.

The same is the case in cases of committing an administrative offence by a person who has not served the punishment imposed on him by a court sentence in the form of deprivation of the right to drive a vehicle. If the court comes to the conclusion that it is necessary to impose on him an administrative penalty in the form of deprivation of the right to drive a vehicle, it will not be able to determine to him the procedure for calculating the period of the imposed administrative penalty. Since the law does not provide rules for combining identical measures of legal impact established by the Criminal Code and the Code on Administrative Responsibility, one of the measures of legal impact may remain unexecuted.

At the same time, article 138 of the Constitution stipulates that the acts of the judiciary are binding on all State bodies and other organisations, officials and citizens.

A court decision on an administrative offence is a judicial act and, in accordance with article 138 of the Constitution, is subject to compulsory enforcement. In this connection, we believe that it is necessary to make appropriate amendments to the legislative acts establishing the procedure for combining identical measures of legal effect provided for in the Criminal Code and the Code of Administrative Responsibility of

the Republic of Uzbekistan.

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