

**Actual problems of criminal law,
criminal procedure and criminalistics**

Materials of scientific conference

«East West» Association for Advanced Studies and Higher Education GmbH

**Vienna
2016**

**Actual problems of criminal law,
criminal procedure and criminalistics**

Materials of scientific conference

ISBN 978-3-903115-04-0

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This collection contains materials of scientific conference "Actual problems of criminal law, criminal procedure and criminalistics". The works are aimed at addressing problems such as the modern criminal policy, combating transnational organized crime and corruption, the development of criminal procedure legislation, to ensure the effective investigation of crimes.

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Typeset in Berling by Ziegler Buchdruckerei, Linz, Austria.

Printed by «East West» Association for Advanced Studies and Higher Education GmbH, Vienna, Austria on acid-free paper.

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relationship" in their mutual transitions into each other.

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Actual problems of the application of compulsory educational measures to minors

Abstract. In recent years, crimes committed by juveniles, occupy a very important place. The dynamics of their commission is characterized by a growth trend that is having a negative impact on the state of crime in general.

Keywords: underage, criminal process, detention, preliminary inquiry.

Entry humanity in the XXI century has marked a substantive crime control problem as to narrow national and global level. Especially alarming manifestations of criminological characteristics of crime among minors, in connection with which the international community is constantly concerned with the exploration and development of adequate, but, in turn, humane and effective measures and struggle with this dangerous phenomenon.

Problems combat juvenile delinquency, as well as issues of criminal responsibility and the application of compulsory educational measures, discussed in numerous works of scientists, lawyers. However, many important issues, including the general theoretical and applied research concerning the criminological aspects remain insufficiently investigated [1, p.106].

In cases of crimes of minors special importance is attached to the educational rather than punitive justice exposed, and therefore seems to be promising in the development of legislation on juvenile crimes extension is not criminal enforcement measures on that orient the norms of international law. In order to provide greater flexibility and avoid possible imprisonment in correctional facilities by the competent authority should have in the resolution of the case wide set of interventions. Such measures, which can be combined with each other, are: a) Care, guidance and supervision; b) testing; c) Resolution on the work for the benefit of society; d) Financial penalties, compensation and restitution; e) Intermediate treatment and other measures; e) the decision to participate in group counseling and similar activities; g)

Orders concerning foster care, living communities or other educational measures, etc.

A common reason for the use of any compulsory measures of educational influence is the recognition that the correction can be achieved by the application of compulsory educational measures. The court in this case must take into account the nature and degree of social danger of the crime and the identity of the perpetrator, their living conditions and education, the level of mental development and other personal characteristics, etc. The same criteria are set by the criminal law and the determination of a minor penalty. Consequently, the decision to apply compulsory educational measures will be taken as and subject to domestic law-belief, in particular the court. In addressing this issue the court should take into account that the application of these measures by the legal nature can not pursue all the objectives of punishment and criminal liability. The most important purpose of the application of compulsory educational measures is to correct minor, since it is to this end, with the possibility of achieving it without imposing punishment, the law envisages the release of the minor from criminal liability [2, p.27].

The content of compulsory educational measures are twofold. On the one hand, they are educational, based on its core - a warning, transfer under supervision of parents, reparation of damages, limitation of leisure. On the other hand, are coercive, as appointed by the court. Forced measures of educational influence can be applied to minors, regardless of what time he commits a crime. They can be used in the commission of a new crime under existing probation, after repayment of earlier convictions for the crime, and so on.

Exemption from criminal liability, if there are grounds and conditions specified in the law, it is possible at any stage of the proceedings. If can be achieved without the use of punishment, the investigator with the investigative body consent of the head, as well as an investigator with the consent of the prosecutor has the right to terminate the criminal proceedings and initiate before the court a request for the application of the preliminary investigation of the criminal case

of minor or moderate severity is determined that the correction of a minor to juvenile defendant forced measures of educational influence.

If the minor committed the crimes and at least one of them is a serious or very serious, exemption from criminal liability with the use of compulsory educational measures is impossible, both in general and for certain crimes within the totality and belonging to the category of crimes of minor or moderate severity. Some authors propose to extend the possibility of applying educational measures to cases of committing a teenager for the first time a serious crime without the use of violence, but such an extension of the cases of possible application of educational measures to the exemption from criminal liability is unjustified and contrary to the logic of the criminal law of the separation of the cases of exemption from criminal responsibility and punishment.

As a general rule the finding of commission of an offense can only be entered into legal force of a court sentence. When applied to a minor educational measures may be an exception to the general principle, therefore, special attention is paid to the establishment of the fact of the crime. Application of the rules for exemption from criminal liability is inappropriate for those minors who do not recognize his guilt in committing a crime, because the realization of the incorrectness of his behavior and the desire to correct is one of the essential conditions to suggest the ability to patch without criminal punishment [3, p. 102].

The question of the possibility of a minor correction by applying compulsory educational measures also depends on the establishment of a variety of circumstances relating to the identity of the perpetrator and his crime. The possibility of a minor correction can be set based on the nature and severity of the particular offense, the motives behind it, the guilty person, their living conditions and education and other circumstances. In the application of compulsory educational measures to juvenile courts take into account the following factors: the identity of a juvenile offender, the positive behavior of the minor to commit a crime and his behavior after the

...committing a crime for the first time; the motive of the crime; remorse; no criminal record; compensation for damage; a confession, a confession, active assistance in solving the crime. The choice of educational measures shall be based on the motives of crimes committed by juveniles, their behavior after the offense, as well as taking into account whether or not these measures to them previously used and which ones.

A formal approach to the regulation of the law species and the application of compulsory educational measures already in the theoretical analysis raises many questions regarding the effectiveness and appropriateness of these measures in the form in which they are currently assigned to the criminal law. This fact demonstrates the need for further improvement of this institution.

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Positive experience of functioning of penal institutions of Norway and possibility of its use in the Republic of Kazakhstan

Abstract. In article questions of an order and a condition of serving of punishment in modern prisons of Norway and indicators of a standard of living in penal institutions on the basis of the international standards of the address with the condemned are considered.

Keywords: the foreign experience of penal systems, the international relations condemned, prisons of Norway, serving of punishments, resocialization and adaptation the condemned, European penitentiary rules.

The tendency of studying not only theoretical questions, but also practical experience in part of the solution of problems of the right was outlined in modern science of law. The special attention is paid to foreign experience of penal systems, their legal basis and implementation of the existing European convention "About Protection of Human

Rights and Fundamental Freedoms" (Rome, on November 4, 1950).

Modern development of the international relations testifies that execution of punishments in penal institutions of the Republic of Kazakhstan is based on the principles of legality and prevention of humiliation of human dignity. It is confirmed