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Principles in air criminal law

The notion of principles of sentencing, which influence the appointment of lawful and fair punishment, is analyzed. Their importance and practical application in the correction of personality behavior are highlighted.

Sentencing is an important and responsible part of the court's work in assessing and resolving criminal cases. The imposition of a legal and just sentence depends to some extent on respecting the principles of sentencing. There is no consensus on the principles of belief, but we recommend paying attention to what we have chosen to emphasize.

1. The principle of the legality of the sentence. Yu. M. Groshevy notes that the legality of the sentence should be understood as respect for the laws of criminal procedure in investigations, trials, and sentencing, as well as the correct application of criminal and other laws for deciding on the qualification of criminal offenses and compensation for sanctions. The legality of the sentence is linked not only to the activities of the court, but also to the organs of the investigative procedure. Therefore, in order to impose a legal sanction, all criminal justice authorities must act solely on the basis of the law, and the judgment resulting from joint proceedings must be lawful [1, p. 114].

2. The principle of certainty of punishment in a court sentence. The principle follows from the principle of legality of punishment, which stipulates that in order to impose punishment on a person who has committed a crime, the court must objectively examine all the case files and then conclude on the nature and degree of public danger of the crime. The certainty of punishment in a court sentence means that the type, amount, and term of punishment applied to the guilty person must be determined in accordance with the requirements of the law. When imposing an additional penalty of deprivation of the right to hold certain positions or carry out certain activities, the court must clearly state in the sentence those specific positions the right to embrace the convicted person or the specific type of activity to which he/she is deprived.

3. The principle of validity of the sentence and the obligation to justify it in the sentence. Analysis of the legality and validity of the verdict of the court, M.S. Strogovich declares these as there are two necessary and organically related properties of the sentence. The validity of the judgment means that the court must take into account not only the circumstances of the offense and the guilt of the defendant, but also the degree of public emergency of the offender, the characteristics of the culprit, and the mitigating and aggravating circumstances. The validity of the sentence pronounced by the court is contained in the motivational part of the sentence [2, p. 23].

4. The principle of the humanism of punishment is revealed mainly in part 3, Article 50 of the Criminal Code of Ukraine, which states that the purpose of punishment is not to cause physical suffering or deterioration of human dignity, the state seeks to remove the person who committed the crime to society [3].

5. The principle of democracy, although not in full, is manifested in criminal law in various forms of participation of representatives of public associations and individuals in sentencing, its execution. The principle of democracy is characterized by the participation of various social groups in the fight against crime. For example, Art. 47 "Exemption from criminal liability in connection with the transfer of a person on bail" of the Criminal Code of Ukraine provides for the possibility of exemption from criminal liability in connection with the transfer of the perpetrator to the re-education of the team.

6. The principle of economy of coercive measures of criminal law is closely linked to the principle of humanism and justice. This principle is reflected in part 2, Article 65 of the Criminal Code, which stipulates that a person who has committed a criminal offense should be punished with a penalty necessary and sufficient to correct it and prevent further criminal offenses. However, an analysis of the case law on sentencing shows that courts don't always use it in sentencing [3].

7. The principle of the individualization of the sentence occupies a special place, because the very appointment of any type of additional sentence individualizes the application of the sentence in general. Some researchers believe that the individualization of the punishment means choosing the degree of guilt of the punishment, taking into account the nature and degree of public danger of the crime, which is determined by the interaction of the person and the environment [4, p. 123]. This principle guarantees the most effective impact on each offender depending on the nature and degree of public danger of the crime he has committed.

8. The principle of fairness of the imposition of additional punishment. It should be noted that this principle is often included in the generalizing principles of criminal law, which accumulate other important principles. The essence of this principle is that the measure of additional punishment should proportionally depend on the nature and degree of public danger of the committed crime and the people, who committed it. In other words, this principle exists in order to ensure relative proportionality, ie a reasonable correspondence between the crime committed and the punishment imposed. It should be noted that this principle takes a real form in the law enforcement activities of the court. Thus, in order to ensure the adequacy of punishment, the court may impose additional punishment for a serious and especially serious crime in the form of deprivation of military service, special rank, or qualification class, although the articles of the Special Part of the Criminal Code do not provide for this type of punishment [5, p. 65].

Conclusions

Summarizing the above, we can conclude that the principles of condemnation constitute an interconnected and interdependent system. These constitutional provisions stipulate that the whole process of state punishment must be aimed both at protecting society from criminal interference and at preserving the identity of the

perpetrator, improving it, and returning to justice in society. Therefore, the correction of convicted persons is considered the main objective of the sanction and is fully in line with the constitutional provisions.

References

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