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Legal implication convictions

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LEGAL IMPLICATION CONVICTIONS

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ABSTRACT

The article analyzes the legal consequences of conviction, that conviction can not be represented by a judge, notary, legal experts, attorneys, prosecutors, security, police.

Not be elected deputy of the Verkhovna Rada of Ukraine, the Verkhovna Rada of the Autonomous Republic of Crimea citizen who has been convicted of a premeditated crime.

KEYWORDS

criminal record, the legal consequences, the person, the crime, the law, the Constitution of Ukraine, the personal nature of the conviction, the consequences of criminal law

STATEMENT OF THE PROBLEM

A person is recognized as having a criminal record, the date of entry into force of a conviction until maturity or withdrawal criminal record.

Record is the legal significance of the masses in the case of a new crime, and in other cases stipulated by laws of Ukraine.

Persons convicted by a court without punishment or exempted from punishment or those who have served their sentences for acts crime and punishment which the law eliminated recognized as not having a criminal record.

Individuals who have been rehabilitated are recognized as not having a criminal record.

Terms and record the legal consequences are determined separately for each crime. When committing more crimes conviction there for each of them, that person may have multiple convictions. However, they can vary in duration and legal content.

under sentence before the current law. In the complete decriminalization of the offense convictions canceled. This follows from Part 2 of Art . 74, which provides for exemption from punishment imposed by the court in the case of removal of criminality act and expressly indicated in Part Art. 88. If in accordance with Part Of Art. 74 designed convicted penalty exceeding sanction the new law is reduced to the maximum limit established by this Act , the record is calculated according to the sentence imposed under the new law.

The basis of criminal record is a conviction of a crime by a court of Ukraine. However, according to Art. 9 the judgment of a foreign country can be taken into account if the person has been convicted of an offense committed outside Ukraine, and again committed a crime on the territory of Ukraine . But a conviction arising from a conviction by a court of a foreign country, only in Ukraine entails penal consequences, right under Part 2 of Art. 9.

ANALYSIS OF RECENT RESEARCH

If the law eliminates or mitigates the punishment for the act, it entails a corresponding change in the conviction of a person who was

THE PURPOSE OF THIS PAPER

Is to study the establishment and legal consequences of conviction.

THE MAIN MATERIAL

The personal nature of the record is that it does not affect the issues of criminal justice those who commit the crime of complicity with tried (including with Art. 29). The same conviction shall not affect the legal status of all other citizens. Institute convictions dedicated section XIII of the General Part of the Criminal Code (Articles 88-91). Upon entry into force of a conviction of perpetrators are intended punishment (including the dismissal of his serving on probation) in it there is a state record . This condition is completed in some random sentence (expiration test), and in most cases it continues after sentence, to a certain prescribed by law strokiv.Otzhe, the term record consists of: a) the period of time from the sentence in force and prior to its execution, and b) the period of the sentence, and c) the time interval from sentence (or exemption from the continued serving) and the time of removal or expunging criminal records of the court.

The feasibility of the institute criminal record due to the need to consolidate the objectives of punishment in the first place – special and general crime prevention.

Conviction has legal significance in the case of a new crime , as well as in other cases stipulated by laws of Ukraine (Part 2 of Art . 88 CC).

A person has a criminal record, exposed certain limitations of civil law and administrative law issues (ie. General legal consequences) that are designed to help prevent new crimes and have some coercive influence. These effects are unconditional in nature, as a result of coming edicts of the law or a court decision.

Thus, a person having a criminal record is an obstacle to its occupation of certain positions and engage in certain activities. Conviction does not allow the person to be a judge, notary , legal experts, attorneys, prosecutors , security , police and others. Not be elected deputy of the Verkhovna Rada of Ukraine, the Verkhovna Rada of the Autonomous Republic of Crimea citizen who has been convicted of a premeditated crime. Individuals who have a criminal record for theft, bribery and other acquisitive crime, can not be registered as entrepreneurs, can not act as co-

founders of the business, and take in entrepreneurial companies and their unions (associations) managerial positions and positions related from liability. For certain categories of persons who have a criminal record after serving a sentence of imprisonment under the law of 1 December 1994 "On the administrative supervision of persons released from prison" tribunal established administrative control, which is associated with certain restrictions their rights and freedoms. Along with general legal consequences of a person who has been convicted, may face the consequences of criminal law related to this condition. But they are conditional, that occur only in cases where the person being able to record commits a new crime. So the possibility of these effects is an important factor for zapobihalnym impact on a person has a criminal record . For example, in the articles of the Criminal Code criminal record for similar crimes are aggravating circumstances. For example, violation of the order of scrap metal (Art. 213 CC) would qualify under Part 2 of this Article, if committed by a person previously convicted of an offense under this Article.

Record is also part of a broader concept, which is the repetition of the crime. Making identical (and in some cases, homogeneous) an offense in the presence of previous conviction for a similar offense is a kind of repetition, which is also in many cases aggravating factor. For example, if repeated (including the presence and convictions) legalization (laundering) of proceeds from crime qualifies under Part 2 of Art. 209 of the Criminal Code. Commission of the offense by the person again and recidivism is a circumstance aggravating (Section 1 Part 1, Art . 67 CC). Committing the crime in the presence of conviction for an offense committed before, under certain conditions, extends the onset of formal legal basis for parole from punishment (Article 81 CC) or replacing the unserved part of a more lenient punishment (Article 82 CC).

Criminal record makes it impossible to apply to the person excluding criminal responsibility (Article 45-48 of the Criminal Code). Record is associated with punishment (including the dismissal of his serving on probation). Therefore, a person convicted by a court without punishment or exempted from punishment or

those who have served their sentences for acts crime and punishment which the law removed , and have been rehabilitated , are recognized as not having a criminal record (Part 3, Article 4 . 88 CC).

Analysis of the Criminal Code of Ukraine states that the law provides for criminal records as a fact with which are associated the most severe criminal consequences for a person who, having a criminal record, again commits an offense. For example: a) recidivism, the most dangerous kind of plurality acknowledged committing a new intentional crime by a person who has been convicted of an intentional crime (Article 34), and b) the offense may be considered again if the first conviction for the offense has not been canceled or withdrawn (Part 4 of Art. 32) , c) the repetition of crime and recidivism is a circumstance aggravating (Section 1, Part 1, Art. 67) , d) conviction usually preclude the use of the person who committed a new offense privileged institutions of criminal law, such as exemption from criminal responsibility (article 45 – 47), d) in many articles of the Criminal Code provides for criminal records or qualifying as particularly aggravating circumstances. For example, bullying is particularly skilled when it is committed by a person who has been convicted of disorderly conduct (Part 3. 296).

For the list of criminal legal constraints sufficiently indicates the importance of the Institute convictions in criminal law.

According to Part 1, Art. 88 of the Criminal Code a person is recognized as having a criminal record from the date of entry into force of a conviction until maturity or withdrawal criminal record.

So convictions include: 1) the term of the sentence, and 2) in cases provided by law for a specified period after the sentence.

Obviously, during this time the person who has been convicted, right, can significantly change its conditions of life, behavior. Therefore, the legislator provides for the termination of a criminal record and, thus, the termination of the related constraints.

Criminal legal consequences of conviction. Criminal legal consequences of conviction is that the record is:

1) can act as aggravating circumstances in the commission of a new crime . CC aggravating importance to record only identical or uniform crime (for example, Part 2 of Art. 331). Conviction is a qualifying value in the case where the law provides for increased responsibility for the crime again because repetition covers a conviction. The law recognizes a form of repetition conviction (§ 4.32). If the record is not expressly provided for by law as aggravating circumstances , it is in the classification of the offense is not considered;

2) is taken into account in the recognition of recidivism (Art. 34);

3) an obstacle to exemption from criminal liability due to effective confession (Art. 45), the reconciliation of the offender and the victim (Article 46), the transfer of bail (Article 47), changing circumstances (Article 48);

4) is taken into account in determining whether there is a flow interruption of the limitation period for criminal liability (part of Art. 49);

5) is taken into account when choosing certain types of punishment (Part 2 of Art . 62), and during the term of serving certain punishments creates grounds for special restrictions on prisoners (Part 2 of Art. 58);

6) as one of the features that characterize the identity of the perpetrator is taken into account in accordance with the general principles of sentencing (Section Part 1 of Art. 65), as well as exemption from punishment due to illness (Part 2 of Art. 84);

7) for an intentional crime (as it is by a kind of repetition and recurrence of crimes) acts as a circumstance aggravating when sentencing (Section 1, Art. 67), although it may not be considered in sentencing on the grounds set out in Part Part 2 and 4. 67;

8) as a general rule , a ground for refusing to appoint more lenient sentence than provided by law (Art. 69);

9) may be grounds for denial of release from probation (Part 1 of Art. 75);

10) crimes against the Peace and Security of Mankind , under Art. century. 437-439 and Part 1 of Art . 442, is the reason for non-use of prescription fulfillment conviction (§ 6 of Art. 80);

11) is taken into account in the determination of the mandatory sentence that should actually be served by at parole from punishment (Section 2 pm PT . 81 , § § 2 of Art. 107), as well as replacement not served by a more lenient punishment part (Section 2, part 4. 82).

Thus, the criminal consequences of conviction lies in the fact that it is taken into account when addressing a number of issues related to the qualifications of the offense, sentencing and execution.

Zahalnopravovi consequences. Zahalnopravovi consequences of conviction are as diverse constraints imposed by law on persons with outstanding unwithdrawn or conviction, including:

1) a ban on taking certain positions . In some cases, such a ban is set regardless of the type of crime for which there is a conviction in the other - takes into account only the conviction for premeditated crimes or some kind of crime. Thus , a person who has been convicted of any offense shall be: judges, prosecutors, investigators, lawyers, forensic experts, a notary public, a member of the High Council of Justice, law enforcement officers . Lack of conviction for premeditated crime is a condition of the positions : Chairman and member of the Central Election Commission, the staff of the Department of State Security Service, People's Deputy of Ukraine. Some positions may hold the person in which there is no conviction for certain crimes: positions in the state apparatus can not hold people who have a criminal record incompatible with holding office, the Tax Inspectorate shall be a person who has been convicted of a lucrative crime;

2) Restrictions on business activities. Persons who court banned engage in certain activities can not be registered as entrepreneurs with the right to the activity in question deadline set by a court verdict, persons with previous convictions for acquisitive crime, can not be registered as entrepreneurs, to act as co-founders of the business, hold in entrepreneurial companies and their unions (associations) leadership positions and positions related to liability;

3) restrictions on access to state secrets (if any conviction for a serious crime), which, in

turn, is the condition of occupation of certain positions;

4) restrictions on travel abroad of the citizen Ukraine and limitations of the citizenship of Ukraine (concerning persons convicted of Ukraine to prison for committing a felony);

5) increasing the minimum amount of bail;

6) limitations associated with the use of administrative supervision;

7) denial of the right to receive certain benefits. Thus, in case of conviction for the offense ceased paying civil servant, provided by law;

8) Limitation on use of amnesty (amnesty does not apply specifically to individuals, who: have two or more convictions for serious crimes, convicted of racketeering, murder with aggravating circumstances, some other crimes);

9) the ban on recruitment for military service in peacetime (for persons who have been sentenced to imprisonment).

CONCLUSION

The basis of conviction is convicted purpose of punishment. Lack of reason means that the record is not there, and the recognition of such legal grounds to void shall result in immediate termination of all legal consequences of the imposition of penalties, including those regarding criminal record.

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