

## **Issues of imposing punishment in the form of compulsory community service on minors in some foreign countries**

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**Abstract:** This article discusses the general principles of sentencing, the criminal basis of some foreign countries, juveniles, the circumstances that aggravate and aggravate the punishment of physical labor in foreign countries, their specific features and its provision. There is also a detailed procedure for imposing penalties on minors in some foreign countries, where there are cases of personal punishment and theft of minors.

**Keywords:** crime, punishment, foreign state, mitigating and aggravating circumstances, sentencing of juveniles.

The laws of different countries have a special set of norms that provide for the legal status of young people. Any developed democratic state strives to create good socio-economic conditions for the well-being of its citizens, trying to protect society from negative phenomena such as crime. This is primarily reflected in the fight against juvenile delinquency, including through criminal justice.

The criminal law of most states sets a minimum age limit for criminal prosecution of minors. Minors who have not reached this age but have been found guilty of a crime are in need of social assistance rather than being prosecuted.

At present, the supreme authorities of the state pay great attention to improving the criminal law in the fight against juvenile delinquency, the development of rules for the development and effectiveness of legislation, as well as their definition. In this regard, the study of best practices in foreign legislation on the imposition of penalties on minors, the application of non-custodial measures, as well as the application of coercive measures of an educational nature to minors remains a requirement of today.

The criminal law of some foreign countries has some similarities and differences to the national criminal law.

The type of punishment in the form of compulsory public works of educational significance is provided for in the legislation of a number of foreign countries, including in France "public works" and in Spain "public works". Also in Denmark, the Netherlands and Norway, this punishment is called "public works".

Compulsory public work is classified differently in the legislation of foreign countries. In particular, in the Netherlands, Russia and Azerbaijan, compulsory community service is the main type of punishment. In Spain, this type of punishment is used as both a primary and an additional punishment.

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In some states, compulsory community service is used not as a type of criminal punishment, but as an obligation of probationers or as a specific element of punishment.

One of the peculiarities of public works in the Netherlands, Spain, France and Lithuania is that this type of punishment is not mandatory and is determined at the request and consent of the convict.

In some foreign countries, the law provides for a list of persons to whom public works may not be applied. In particular, it does not apply to the following persons:

to persons under the age of sixteen (Belarus), to persons under the age of seventeen (United Kingdom) [1];

- pregnant women (Azerbaijan, Belarus, Georgia, Ukraine) and other cases.

In some countries, public works can also be applied to minors (Azerbaijan, Belarus, Lithuania, Ukraine).

The legislation of foreign countries sets the terms of public work to be performed within a day or a week, depending on the age of the minor. In particular, in Azerbaijan and Georgia, persons under the age of fifteen are entitled to two hours of public works per day, in Azerbaijan to persons aged fifteen to sixteen to three hours per day, in Georgia to persons aged fifteen to eighteen to three hours per day, and in Ukraine from sixteen to eighteen years. to individuals no more than three hours a day and in Belarus no more than three hours a day and no more than three days a week.

• In some countries, "expulsion from the justice system" is the use of a different, alternative way of dealing with a juvenile delinquency, with the conditional exclusion of children in conflict with the law and the avoidance of sentencing or prosecution. When a child is removed from the justice system, a plan is developed and agreed upon by the parties that outlines what he or she must do to cover the damage he or she has caused. As part of the eviction plan, the child may be required to take one or more of the following actions:

- Apologize to the victim;
- Write an essay on the consequences of the crime he committed;
- fulfillment of curfew or other conditions related to conduct;
- Return stolen items or repair damage;
- Compensation to the victim for damages;
- Carrying out community service work for a specified number of hours;
- peer learning or participating in a master-student program;
- Participate in Life Skills or other similar development programs;
- Participate in educational or vocational training programs;
- Participate in individual, group and or family counseling meetings;
- Complete a treatment program to get rid of drug or alcohol addiction [2].

Depending on the legal system, the decision to expel a child from the justice system can be made by the Department of Internal Affairs (police), the prosecutor's office, or or a judge (judge). In countries where there is a common law system (UK, Canada, Australia, New Zealand), the right to make a decision to exclude a child from the justice system is usually left to the police.

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Exclusion from the justice system usually applies to children who have committed a law for the first time and who have committed a non-socially dangerous offense, such as theft, property damage, harassment, minor bodily injury, and disturbing public order. Today, more and more countries are applying measures to exclude children from the justice system who have committed crimes of moderate social risk, as well as children who have committed some recidivism [3].

- Georgia was the first to introduce the concept of exclusion from the justice system in the 2015 Code of Juvenile Justice. According to him, the prosecutor's office has the right to expel children from the justice system who do not pose a high social risk and have committed serious crimes without taking them to court. To do this, the following conditions must be met:

- Sufficient evidence that the child has committed a less serious or more serious crime;

- The child has no previous convictions;

- The child has not previously participated in the expulsion from the justice system and the mediation program;

- The child confesses to the crime;

- In the opinion of the prosecutor and taking into account the need to ensure the best interests of the child, the public is not interested in the initiation of criminal proceedings or the continuation of the initiated criminal proceedings;

- The child and his / her legal representative have given their written consent to the application of the measure of exclusion from the justice system.

If the child fulfills his or her obligations under the eviction agreement, the prosecutor will suspend the criminal investigation or dismiss the criminal case. If the child fails to fulfill his or her obligations, the prosecutor cancels the removal from the justice system and reopens the criminal case [4].

- "Exclusion from the justice system" is different from "non-custodial punishment" or "compulsory disciplinary measures":

- Exclusion from the justice system is a "voluntary" measure, based on the principle that children are free to take responsibility for their behavior and agree to certain measures. This measure can be applied only if the child confesses to the crime he has committed and agrees to all the conditions of the plan to expel him from the justice system.

- Expulsion from the justice system is an unofficial measure, as a result of which no records of violations are made or the child is not registered as a criminal.

- Expulsion from the justice system is a community-based measure that does not involve any deprivation of liberty or placement in a boarding school [5].

Exclusion from the justice system is used in the United States, Croatia, Australia's New South Wales, Austria, Northern Iceland, Tajikistan, Kazakhstan, Azerbaijan, Kosovo, Georgia, Slovenia, the Netherlands and other countries.

The advantage of "exclusion from the justice system" is that it is faster and more effective than other measures in correcting the child's misbehavior and preventing the re-offending. An international study found that about a quarter of boys commit an

offense at least once during adolescence. Approximately 80 percent of children in this group are low-risk offenders who, as they grow older, abandon these behaviors with no or minimal intervention from others. For such children, arrest and warning or other type of interference is usually sufficient to ensure that they abandon their bad behavior in the future. Evidence analysis suggests that in most cases this may be more counterproductive than expected - in other words, the deeper a child is brought into the criminal justice system, the more likely he or she is to identify himself or herself as a criminal and therefore re-offend. ekan. This is due to:

- Bringing him to trial can confirm the deviant personality of the teenager, both in his own eyes and in the eyes of others, and therefore lead him to progress instead of limiting his actions in this direction;
- Children are beginning to be "vaccinated" against the criminal justice system. They begin to act in a way that is characteristic of a person with the label of "lawlessness," and their behavior also changes according to that label;
- Children in the criminal justice system are more likely to be infected by the behavior of other, more experienced offenders, especially if they have been remanded in custody;
- Children can take court proceedings as a "sign of prestige" for themselves and try to further enhance their "rebellious" reputation [6].

For juvenile offenders with a low level of risk, the measure of exclusion from the justice system is a relatively more effective, relatively less stigmatizing alternative measure that has been found to lower recidivism rates:

A comprehensive analysis of juvenile justice programs in the United States found that the removal of offenders from the justice system and their reorientation to correctional programs and interpersonal communication programs led to a 40 percent reduction in recidivism [7].

A study in the Australian state of New South Wales found that children who were expelled from the justice system and sent to rehabilitative justice were at risk of re-offending, according to the children who were sent to court.

It was found to be 15-20% lower[8]. In the Australian state of Canberra, it was found that the number of cases of recidivism decreased by 38% compared to their peers[9].

In Croatia, 35-45% of juvenile offenders' cases are removed from the justice system by prosecutors. When evaluating the effectiveness of mediation between the offender and the victim, it was found that only 9.7 per cent of such offenders re-offended and most of them were drug-related offenders. This is significantly lower than the average rate of recidivism among juveniles - about 30% [10].

On the benefits of exclusion from the justice system for society:

increases public safety by reducing recidivism;

ensures the participation of the child's family and community in the child's social rehabilitation;

promotes social development, conflict resolution and peacebuilding through the use of restorative justice approaches;

can allow victims to express their opinions and pay more attention to the needs of victims throughout the process;

promotes compensation for the damage caused and promotes reconciliation between the child, his or her family and the victim [11].

Based on the experience of developed countries, we think it is appropriate to introduce a measure for minors in the form of "exclusion from the justice system." This would give children another chance to feel responsible for their actions and to correct their behavior.

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