

Analysis Of Criminal And Criminal-Procedural Legislation Of Foreign Countries Regulating Proceedings Up To Trial For Crimes Of Violation Of Statute Rules Of Relationships Between Non Subordinate Military Servants

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Annotation: Through this article, you can learn about the analysis and specifics of the norms that regulate the conduct of proceedings before the court in connection with the crime of violation of the charter provisions regarding the interaction between military personnel who are not subordinate to each other in the criminal and criminal-procedural legislation of foreign countries. The analysis of the norms regulating the conduct of proceedings before the court regarding the crime of violation of the charter provisions regarding the mutual relations between military personnel who are not subordinate to each other in the criminal and criminal-procedural legislation of foreign countries is aimed at improving the criminal legislation.

Key words: non-subordinate serviceman, statutory provisions, objective party, routine humiliation, military surveillance, command surveillance.

Introduction

The reforms implemented in all spheres in our country are, first of all, ensuring the rights and freedoms of citizens enshrined in the Constitution and laws of the Republic of Uzbekistan, a democratic legal state based on our national values and aimed at establishing a free civil society. From this point of view, the reforms carried out in our country created the need to form a new legal basis in the life of the state and society, to ensure the rights and liberties of citizens and consistent compliance with the law.

At this point, it should be noted that among the fundamental reforms being carried out in our country, criminal legislation was also reformed. As the first among the countries of the Commonwealth of Independent States, at the 16th session of the Supreme Council of the Republic of Uzbekistan on September 22, 1994, the Criminal and Criminal Procedure Codes of the Republic of Uzbekistan were adopted and entered into legal force on April 1, 1995.

The above-mentioned norms regulating the proceedings before the court regarding the violation of the charter provisions regarding the mutual relations between non-subordinate military personnel have their own characteristics in the criminal and criminal-procedural legislation of foreign countries.

When analyzing the norms of criminal and criminal procedural legislation of the Central Asian republics, the punishment measures applied to military personnel, investigative bodies, application of precautionary measures and other procedural measures do not differ much from the legislation of our country.

Discussion And Results

The advanced criminal procedural practice of the Republic of Kazakhstan has been bearing fruit for many years. The separate procedure for handling crimes committed by military personnel is defined in the Criminal Procedure Code of the Republic of Kazakhstan, which is fundamentally different from that of other countries. In contrast to the separate proceedings established in the JPK of the Republic of Uzbekistan, the proceedings in the JPK of the Republic of Kazakhstan on military crimes, on crimes against women, on crimes committed by recidivist criminals and on appeals are conducted separately. According to Article 323 of the Criminal Code of the Republic of Kazakhstan, proceedings on crimes committed by military personnel are conducted by military prosecutors and military police bodies. In addition, among the preventive measures applied to servicemen who have committed a crime in Kazakhstan, there is a preventive measure of command surveillance, in which servicemen serve on the basis of surveillance in a separate order. In the event that the serviceman's term of service has expired, the command surveillance will be changed to a more severe prison

measure if the serviceman does not violate the requirements of the preventive measure by the prosecutor conducting the investigation. This practice, i.e. applying more severe precautions to military personnel, had a positive effect on the crime rates of this group.

Among the countries of Central Asia, the military criminal legislation of Uzbekistan is closer to the military criminal legislation of the Republic of Kazakhstan. The structural structure of Article 440 of the Criminal Code of the Republic of Kazakhstan is similar to Article 285 of the Criminal Code of the Republic of Uzbekistan. However, normative decision No. 6 of the Supreme Court of the Republic of Kazakhstan dated October 28, 2005 "On judicial practice on military crimes" dated September 15, 2000 of the Plenum of the Supreme Court of the Republic of Uzbekistan "On judicial practice on hearing cases related to crimes against the order of military service" dated September 15, 2000 It is quite different from decision No. 23. Because, in the criminal legislation of other countries, the importance of qualification through non-repetitive aspects, that is, repeated crimes of military personnel, time of military service, and other norms is defined. In the decision of the Plenum of the Supreme Court of the Republic of Uzbekistan "On judicial practice regarding the consideration of cases related to crimes against the order of military service" dated September 15, 2000 No. 23, from when a military serviceman can become the subject of this crime, from when his military service ends, this crime is repeated in the case of the qualification process, what circumstances should be taken into account, what are the aggravating and mitigating circumstances, and many other terms and concepts are not defined, so there is a misunderstanding and a legal gap in these cases. Bridging these gaps is the main task before us.

Crime of the Republics of Turkmenistan and Tajikistan

and any serviceman who commits a crime under criminal procedure law shall be dismissed from military service. Tajik military legislation pays particular attention to the issue of compensation for material damage. If a military serviceman is discharged from military service as a result of committing a crime, all expenses incurred are military service covered by tchi. In this country, crimes of violating the provisions of the charter regarding mutual relations between military personnel who are not subordinate to each other are committed in a large number, but procedurally, they are not considered in a separate order. The investigation of the crime under investigation is carried out by the prosecutor's office and, although the law provides for precautionary measures against military personnel, command surveillance is rarely used. The reason for this is determined by the existence of the order of dismissal from military service of military personnel who have committed a crime.

The criminal and criminal-procedural legislation of the Russian Federation is of particular importance among the foreign experiences regarding the crime studied within the framework of the research. Punishment measures, terms of punishment, actions towards the objectively selected objective have their own characteristics. Perfection of this crime norm can be attributed to the fact that this crime is often committed in Tsarist Russia, the USSR, and even today in Russia, as well as the fact that the crime norm was developed based on many years of practical experience.

The investigation is conducted by military district attorneys and, as a precaution, command surveillance is used in almost all cases.

According to Article 30 of the Criminal Procedure Code of Russia, the issue of general or separate prosecution of crimes committed by military servicemen or citizens undergoing military training is decided by the decision of the judge of the military district court based on the presentation of the district prosecutor.

The Criminal Procedure Code of Russia does not have separate norms for proceedings in a separate order, and no other procedure for proceedings in a separate order is defined. Only through some norms, he gave the discretion of the court to consider the case in a separate order.

Russian scientist A. Mikhalaev emphasized that the rate of committing military crimes in Russia is higher than in other countries, analyzed in his scientific work the need to develop a separate procedure for handling the cases of military servicemen, and added a separate rule on the procedure for handling the cases of military personnel to the Criminal Procedure Code of Russia. emphasized.

Russian scientist E. Sachenov agrees with the opinion of A. Mikhalaev and emphasizes that it is necessary to conduct the case separately not only in relation to military crimes, but in all other criminal cases. According to A. Sachenov, considering the case in a separate order creates a basis for legal, fair and high-

quality management. In our opinion, these opinions are correct, and it is necessary to develop specific criteria for handling the case in a separate order and include it in the criminal procedural code.

In the criminal-procedural codes of Azerbaijan, Belarus and a number of other countries, proceedings on crimes committed by military personnel are carried out in a general manner, there are no specific criteria for a separate procedure, and the proceedings on these crimes are conducted by military police bodies and general supervision is carried out by prosecutors. is increased. The precautions applied to military personnel in these countries differ from the laws of other countries. The Code of Criminal Procedure of Azerbaijan has a norm of preventive measures applied to military personnel, which stipulates the use of preventive measures of military guarantee, military surveillance, military team control, and commander's surveillance. Belarusian criminal-procedural legislation widely uses this practice when the above norm is not met.

In the countries of Germany, Sweden, and Turkey, the regulation of this crime, unlike other countries, is not regulated by the criminal and criminal-procedural codes, but by the "War Crimes" code. This code includes all crimes committed by military personnel and the process of procedural regulation of these crimes. This, in turn, means that crimes of this category are treated in a separate order, and that special skills are required in the treatment of these types of crimes. As advanced experience of these countries, not only the code mentioned above, but also the experiences of military lawyers, which are not found in many countries, have their own characteristics. Military lawyers serve as the main factor in the legality and fair determination of responsibility in the criminal proceedings for violation of the statutory provisions regarding the interaction between military personnel who are not subordinate to each other. According to the Turkish Code of Military Crimes, a special procedure for compensation of damages caused as a result of the crime is established, and this experience is also of special importance. Turkey is based on the principle of severity in the application of punishment and precautionary measures to military personnel. Command surveillance used as a precautionary measure is subject to surveillance and control separately, as well as the attachment of weapons to this serviceman, It is strictly forbidden to carry out work and other important tasks.

In the Japanese state, unlike the historical stage of development, it is characterized by the abandonment of measures of responsibility for this crime. Two years after World War II, a new Japanese constitution came into force, prohibiting the country from having an army through constitutional norms. Also, Japan was denied the right to use military force as a means of resolving international conflicts. However, in 1991-1992, Japan felt the need for self-defense, conscripts were drafted into the army, and the Ministry of Defense was established in 2007. According to the Japanese Criminal Code, military personnel are only liable if they cause material damage to the army. All other illegal actions will be considered in general. In these cases, the regulation of procedural processes is regulated not by codes, but by separate laws. For example, the law "Criminal proceedings against Japanese military personnel" regulates the process of procedurally handling of crimes committed by military personnel. War crimes investigations are carried out by police investigators. Imprisonment as a precautionary measure under the above Act is an effective punishment.

According to the criminal procedure law of the USA, crimes of military servicemen not arising from their official duties (causing physical injuries, rough treatment, humiliation, slander, insults, etc.) are considered in a general manner. Crimes resulting from the performance of duty (destruction of military property, disobedience of command, robbery of military property, etc.) are investigated by military prosecutors with special knowledge. Although there are many cases of illegal behavior of military personnel among themselves, these actions do not qualify as war crimes. In the US, there is no special protective order against military personnel, but collateral protection is often used in many cases. Some states of the USA (Florida, Texas, Guam, Virginia, Colorado) have separate laws that regulate the qualification and procedural processes of crimes committed by military personnel. This country also has an institute of military lawyers, which performs the task of defending military personnel at any stage of criminal proceedings.

In China, administrative and criminal cases are not separated from each other. Military crimes, like other crimes, are tried by regional prefects' courts and heads of district military departments. Between 1986 and 1999, as war crimes increased, so did the use of the death penalty for these crimes. According to the principle of "joint responsibility" in Chinese law, not only the participants but also their superiors are sentenced to death for illegal actions of military personnel against each other. Through such harsh punishments, the scale of war crimes in China has decreased dramatically. In China, some types of crimes (recidivist crimes, crimes endangering the peace, crimes causing the death of people, crimes committed by

minors) as well as crimes committed by military personnel are investigated by the investigators of the police investigation group established under the higher district courts. Military lawyers are recruited on behalf of military servicemen. Precautionary detention is used a lot.

India is one of the countries with the largest and most powerful army in the world. Accordingly, many illegal acts are committed among the servicemen of this army. The Code of Offenses and Criminal Procedure of India lays down the procedure for dealing with crimes committed by military personnel. According to it, if illegal actions are committed between military personnel who are not subordinate to each other, they will be subjected to a separate prison measure and kept separately. India

one of the specific features of the criminal procedural law is that in certain types of criminal cases, the proceedings against the victim and the accused are conducted separately, that is, not by one police investigator, but separate investigators are involved to investigate the participants of each crime. Although special knowledge is not required for police investigators, investigative actions and court costs are collected from both sides. In India, depending on the type of crime, the procedural terms of conducting criminal proceedings are determined, and the longest period, i.e. from one to five years, is conducted in the case of military personnel.

The number of war crimes in Saudi Arabia, UAE and Yemen has increased dramatically recently. Following the military unrest in Yemen alone

112 thousand people died. In these countries, responsibility for crimes is regulated on the basis of religious norms. The honor and dignity of military personnel is at the state level is protected. The investigation is carried out by individual investigators. According to the criminal law of these countries, if a military serviceman commits an act that causes the death of his partner due to his actions against the king during military service, he is sentenced to death. Investigators investigating war crimes are also guided by applicable law and religious norms. At the request of the victim, as well as religious lawyers, civil lawyers have the right to participate in the case. As a precaution, military community control is often used.

In Iraq and Syria, the number of war crimes is also increasing, despite the fact that the unrest has escalated. The atmosphere among military personnel is not good. According to statistics, more than 20 military personnel shoot each other in one day in Syria and Iraq. The issue of responsibility of the perpetrators of these actions is not specified in the legal documents. According to scientists, one of the main reasons for the weakening of these countries is the military

they are rude to each other. The non-existence of an investigation body for military crimes is explained by the fact that the act is not defined as a crime. In these countries, without dividing crimes into types, any separate category of crimes are carried out by the same body and in the same order. Procedural coercive measures and precautionary measures applied to other persons are also applied to military personnel.

Another country where wars are raging is Ukraine. More than 21,000 "war crimes" were committed in Ukraine during 6 months of 2022. Today's state of conflicting relations of the military to each other has increased 150 times compared to the peacetime. According to the information of the Ministry of Defense of Ukraine, the responsibility for the actions of military personnel against the king, if it is committed during the war, i.e. in an emergency, the punishment will be more severe than prescribed by the law. Law "On Criminal Liability of Military Servicemen of Ukraine" and the Criminal Code of Ukraine

According to Article 406, more than 20 actions contrary to the law were evaluated as rude actions of military personnel against each other, and military prosecutors conducted investigations. According to unofficial data, because of the impossibility of applying precautionary measures to military personnel for committing crimes, the indicators of committing military crimes are increasing and criminals are being deported to the "hotbeds of war".

Belgium and Moldova also have measures of responsibility for this crime, which are procedurally regulated. Criminal proceedings are carried out by the military police and military prosecutor's offices. In these countries, a military serviceman (accused) who has committed a crime has the right to choose a preventive measure, and they choose preventive measures with the same effect. The military police and military prosecutor's office may impose other restrictions on a military serviceman who has committed a crime than those specified in the selected precautionary measure (attachment of arms, enlistment, participation in military operations).

Conclusion

By applying the experiences of foreign countries to our national military-criminal law, we can create a more perfect criminal-procedural law. Studying the legislation of developed countries creates conditions for us to eliminate mistakes and shortcomings in the development of our legislation, and to give a legal correct assessment to legal conflicts.

Based on the above-mentioned advanced foreign experiences, it is necessary to increase the types of precautionary measures applied to military personnel, take special control of military personnel under command surveillance, and revise the restrictions imposed on them. In addition, the institute of military lawyers should be introduced in our country. The experiences of developed countries show that the participation of military lawyers has positive results. The main task before us is to develop separate forms of the procedure for crimes committed by military personnel based on foreign experiences. The military serviceman's choice of the limitations of precautionary measures is a means of ensuring human rights.

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