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On the Concept of “Release from Legal Liability” and its Legal Interpretation

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ABSTRACT

The article analyzes the concept, essence and content of exemption from legal liability, the views of legal scholars and judicial practice from a scientific and theoretical point of view. The author of the article also puts forward his scientific interpretation of terms and concepts from the point of view of today's legal practice in Uzbekistan.

Keywords:

legal liability, exemption from legal liability, judicial practice, law enforcement, law enforcement practice

In nowadays Uzbekistan the concept and idea of “release from legal liability” is closely related to the goal of creating a democratic state of law, deepening judicial and legal reforms, liberalizing the system of criminal penalties, ensuring human rights and freedoms, and building a society in which the individual is recognized as a high value. In this regard, the theoretical scientific analysis of legal liability and exemption from it is extremely important.

Exemption from legal liability is a complex multifaceted legal phenomenon in modern judicial science. Exemption from legal liability is inextricably linked with such phenomena as state coercion, social and legal responsibility. In the scientific analysis of the institution of exemption from legal liability, it is important, first of all, to clarify the content and nature of legal liability.

Legal responsibility is one of the main means of ensuring state functions. This is the application of coercive measures of the state in relation to the offender within the framework of the sanctions provided for by the rule of law, in which the guilty person has certain rights

(personal, property, and etc.) as they are deprived from.

As scholar V.N. Stasko believes legal responsibility, that the obligation of individuals and legal entities arising from the commission of an offense entails negative consequences for them of a personal and property nature, specified in the sanctions of legal norms [1; – P.179-181]. The legal scholar Yu.A. Krokchina, on the other hand, interprets legal liability as legal relations arising between the state and the person who committed the offense, on the basis of legislation and aimed at imposing obligations of a personal and material nature on the guilty person, as well as protected [2; – 492].

Academician V.S. Nersesyants noted that legal responsibility is a measure of legal coercion imposed on the offender in the appropriate procedural and legal order by an authorized state body or official, provided for by the sanction of a violated legal norm for a committed offense. Legal liability is considered unfavorable for the offender for the offense (action or inaction) with its legal consequences. It has a compulsory legal nature, is determined by the competent authorities acting in

accordance with the law, and, if necessary, is carried out through coercive measures of the state [3; – P. 523].

On the other hand, law professor M.N. Marchenko understands that legal responsibility is the application of a state measure of coercion or punishment of a person who has committed an offense in order to restore the violated law and order in relation to offenders. Legal liability for an offense is the most relevant subject of the discipline of jurisprudence. Without a regularly established system of legal responsibility, law cannot fulfill the social task assigned to it, becoming a useless phenomenon, unnecessary to society [4; – P. 627].

However, professor V.V. Lazarev considers legal responsibility in a broad philosophical and narrow sense. In a broad sense, legal responsibility is interpreted in terms of a person's attitude to society and the state, to other persons, the fulfillment of certain requirements by a citizen, his understanding and correct understanding of his obligations (duty) to society, the state and other persons.

In a narrow or special legal sense, legal responsibility is understood as the opposite effect of the state (situation) on the committed offense. In this sense, legal responsibility is understood as the deprivation of a person of state power provided by law for a committed offense [5; – P. 240-241].

According to professor O.E. Leist, the legal responsibility is a legal relationship that arises between the offender and state bodies. The main issues that must be resolved within the framework of these relations are the presence or non-existence of a sign of an offense, the need for the application of punishment and the establishment of specific duties within its framework, the restriction of the rights of the person guilty of the offense, etc.

Uzbek professor Z.M. Islamov argues that legal responsibility is a complex, multifaceted legal phenomenon. In his opinion, legal responsibility is the obligation of an individual to experience certain restrictions that have the essence of state power for a committed offense [6; – P. 899].

A famous Uzbek professor H.T. Odilqoriyev analyzing this phenomenon, argues that legal responsibility is, on the one hand, the responsibility of citizens and officials for full compliance with the requirements of the legal norm established by the state, and on the other hand, the legal relationship between the state and the person who violates the right, in which the guilty a person is deprived of certain rights and Legal responsibility is the application by the state of coercive measures based on sanctions provided for by the rules of law in relation to the offender, in which the guilty person is deprived of certain rights (personal, property, organizational, etc.) [7; – P. 540].

It is worthy to note that the definitions given to the above legal liability, although the form of the opinions differ, the essence of the content is practically indistinguishable. That is, in each of the presented points of view, special emphasis is placed on the fact that legal liability is a coercive measure imposed by the state in relation to the offender.

Here we should be point out that while understanding the concept of legal liability, it is also important to clearly know the purpose and functional tasks of bringing to legal liability. The goal is the result expected from the implementation of a certain activity. Sh.S. Samotshenko and M.Kh. Farukhshin argue that the prosecution has two goals, regardless of what area it concerns: firstly, the protection of law enforcement agencies, and secondly, the education of citizens, that is, correction and re-education [8; – P. 758].

In law enforcement practice, a situation arises when a number of punishments do not correspond to the severity of the offense committed, when applying measures of responsibility, external and internal factors influencing the commission of the offense are not taken into account. The lower level of legal awareness and legal culture exacerbates these situations.

According to the Information Service of the Supreme Court of the Republic of Uzbekistan, in the first half of 2022, criminal courts considered 29,783 criminal cases against 38,077 people. Of these, 468 people were acquitted and rehabilitated, the number of those

convicted was 28,736 people, of which 8,929 people were sentenced to imprisonment and 19,070 were sentenced to other types of punishment, and 737 people were sentenced to parole. Among those convicted, 25,564 are men, 5,945 are women, 11,695 are young people, the youth (including 971 of the underaged), and 854 are over 60 years of age [9].

4,263 people were released from places of deprivation of liberty in the courtroom in connection with the imposition of punishments not related to deprivation of liberty, 12,184 were released on parole from serving their sentences, 4,595 were replaced with a light sentence, and in relation to 6,707 person substances, unjustified by the preliminary investigation, were excluded from the charge or reclassified. 310 persons (youth, women, etc.) were sentenced to non-custodial sentences on the basis of letters of guarantee.

As a result of the effective use of the "reconciliation" institute, 7,785 persons were released from criminal liability. 4,238 persons who delivered 633 billion UZS that compensated for material damage exceeding soums were sentenced to non-custodial sentences.

5,320 criminal cases against 7,233 persons were reviewed by the criminal trial panels of regional and equivalent courts in the appeal procedure. Decisions issued by lower courts against 526 persons were canceled and court decisions issued against 2,165 persons were changed.

The Collegium of the Supreme Court for Criminal Cases of the Republic of Uzbekistan considered 3,172 criminal cases against 3,441 people on cassation. Decisions made by lower courts against 553 people were overturned, and judgments made against 275 people were changed. Also, 105 criminal cases against 119 people were re-examined in the cassation instance. Decisions made against 69 people were reversed, and court decisions made against 42 people were changed [10].

It is important to pay attention that the concepts unique for the science of jurisprudence, enshrined in the legislation, have not been formed, the regulatory framework related to exemption from legal liability (except

for criminal law) has not been clarified, in addition, the lack of a program of action for public authorities if there are grounds for the application of this institution, the effective use of the this institute under study does not allow.

Bringing a person to responsibility for a committed act or imposing penalties on him does not always give a positive result. The repeated commission of an offense by one subject can serve as evidence of this. In addition, there are negative aspects of the execution of certain types of punishment or imprisonment.

Such shortcomings make it necessary to clarify the legal nature of exemption from liability, which is considered an integral part of legal liability, its role and purpose in the legal system of modern Uzbekistan.

Generally, in legal science, *legal responsibility* differs in two meanings, namely responsibility in a positive sense and types of negative (retrospective) responsibility [11; – P.83].

The term *legal responsibility* in a positive sense is a person's sense of responsibility, awareness of one's place in society, one's role in social development and participation in society's affairs, as well as activities on this basis. Responsibility in relation to the rule of law and the requirements of legislation enters the field as a moral and political regulator of the movement of people. Responsibility in a positive sense is responsibility for non-violation of the requirements of the rule of law [11; – P. 538].

Since the second half of the 20th Century, under the influence of philosophical and moral teachings, a view of the problem of legal responsibility has arisen not only from a negative point of view, but also from an active positive point of view. From a positive point of view, responsibility is understood as a person's understanding of his duty to society, a separate group, family, understanding the essence of his/her personal behavior, their coordination with the obligations imposed by social ties.

The term *Legal liability in a retrospective sense* is a liability committed by a person, which manifests itself in the form of an unlawful act, deprivation of certain rights for violating the requirements of the law, passing punishment. Responsibility in this sense is the responsibility

imposed for the commission of an act that is contrary to law and harmful to the interests of society [6; – P. 898].

In this regard, in our opinion, when studying legal liability, it is advisable to study it separately from the two above values. Because their current mechanisms and, accordingly, their functions in the system of exemption from liability are also manifested at different levels and manifestations.

The term *legal responsibility in a positive sense* is one of the most important elements of the rule of law and involves the stimulation of subjects of law through legal privileges. In our opinion, this institution should be approached with its own methods and criteria, as opposed to legal liability in a negative sense. Because legal responsibility in a positive sense is expressed in the commission of positive, socially useful behavior from the subjective side. At the same time, actions performed in accordance with the law are carried out by the subject in order to achieve certain results.

Even in our opinion, exemption from legal liability has the character of legal incentives in the form of non-punishment. A legal incentive is a measure of legal support for positive behavior in voluntary behavior, which results in consequences that are acceptable to the subject. As an international scholar A.V. Malko points out that *“legal incentives are based on voluntary actions that are acceptable to society and the state; expressed as a manifestation of legal support; necessary, mutually beneficial, directly opposite interests for the state and society, as well as an encouraging subject, are not only motivated to take positive actions, but are also removed from actions that are contrary to society, contrary to law; the act of law enforcement by the competent authorities is carried out in the process of acceptance”* [12; – P. 164-166].

An exemption from legal liability will have all of the aforementioned features. The difference is that the object of support is good behavior, there will be no legitimate behavior associated with excessive performance by the subject of his obligations. However, such behavior is considered acceptable to society and the state.

The institution of the “exemption from legal liability” (positive aspect) is an element of state legal policy and is a mechanism for legal incentives for the behavior of subjects of law. It pursues a certain socially significant result and contributes to the achievement of the goals of the state and civil society. On this issue, professor A.V. Malko argues: *“encouragement encourages a person to high-quality and efficient work not only through an interest in achieving the desired result, but also indirectly keeps him from committing illegal, law-abiding behavior in front of society”* [12; – P. 166].

This concept will apply to all kinds of exemptions from legal liability, i.e. positive and negative (retrospective) types. Scholar S.A. Avakyan believes that in the relations of state power it is natural to establish someone else's responsibility to someone else, which gives one person the right to ask another how he fulfills his official obligations [13; – P. 92]. This situation is an exemplary case of positive responsibility.

In conclusion, here we clarify that the institution of exemption from legal liability – retrospectively appears as a complex set that regulates the goals, principles, foundations, conditions, limits, forms, processes, stages of legal liability, as well as decision-making on exemption from legal liability. Each of these elements occupies an independent position in the system of the institution of exemption from legal liability.

Thus, exemption from legal liability is an important, cross-sectoral and complex systemic component of the institution of legal liability. Exemption from legal liability arises as an integral system that interacts with each other, has components.

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