

Execution of punishments regarding juvenile convicts in the Republic of Belarus. Features of reformation of juvenile offenders

Ivinskaya Darya,

*Senior Lecturer at the International Law Department
in Yanka Kupala State University of Grodno, Republic of Belarus*

In accordance with the Criminal Code (hereinafter - CC) in the Republic of Belarus one of the conditions for criminal liability is to reach a certain age. As a general rule, criminal liability begins at the age of sixteen. However, the CC of the Republic of Belarus indicates a number of cases in which person who committed acts prohibited by the legislation, between the ages of fourteen and sixteen years, becomes subject to criminal liability. According to the CC of the Republic of Belarus, a person under the age of fourteen is not subjected to criminal liability. Crimes for which criminal liability comes at age of fourteen:

- 1) murder (Article 139);
- 2) manslaughter (Article 144);
- 3) intentional infliction of serious bodily injury (Article 147);
- 4) intentional infliction of less serious bodily injury (Article 149);
- 5) rape (Article 166);
- 6) violent acts of sexual character (Article 167);
- 7) kidnapping (Article 182);
- 8) theft (Article 205);
- 9) robbery (Article 206);
- 10) robbery with violence (Article 207);
- 11) extortion (Article 208);
- 12) theft through the use of computer technology (Article 212);
- 13) hijacking of a vehicle or a small size vessel (Article 214);
- 14) intentional destruction or damage of property (Article 218, para. 2 and 3);
- 15) hostage taking (Article 291);
- 16) theft of firearms, ammunition or explosives (Article 294);
- 17) deliberate destruction of a vehicle or means of communication (Article 309);
- 18) theft of narcotic drugs, psychotropic substances, their precursors and analogues (Article 327);
- 19) illicit trafficking of narcotic drugs, psychotropic substances, their precursors or analogues (para. 2-5 of Article 328);
- 20) hooliganism (Article 339);
- 21) knowingly false danger message (Article 340);
- 22) desecration of constructions and damage to property (Article 341);
- 23) escape from a correctional institution that carries out the punishment of imprisonment, or from arrest house or from custody (Article 413);
- 24) evasion of serving punishment of custodial restraint (Article 415).

However, there is also an exception to these rules. If it is determined that due to a mental underdevelopment not associated with a mental disorder (disease), during the time of committing a socially dangerous act, a minor who had reached the age provided by special part of the CC of the Republic Belarus was not able to recognize the actual nature or public danger of the act committed by him/her, he/she will not be recognized as a subject to criminal liability.

Despite the fact that the general age limit of criminal liability is the age of sixteen, the punishment for all minors will have a less repressive impact. A minor is a person that on the day of committing a crime has not reached the age of eighteen years. To such a person, the following penalties may be applied:

- 1) community service;
- 2) fine;
- 3) deprivation of the right to engage in certain activities;
- 4) correctional labor;
- 5) arrest;
- 6) restriction of freedom;
- 7) imprisonment.

Community service can be imposed to a convict who has reached the age of sixteen on the day of sentencing, for a period of 30 to 180 hours and such work consists of performing work that is feasible for such a person. The duration of this type of punishment cannot exceed three hours a day and three days a week. Community service is served in the time free from studies or main work time by convicts receiving education or having a permanent job.

A fine is imposed to a person who has committed a crime under the age of eighteen years, if he/she has independent earnings or property, in the amount not exceeding twenty times the size of the base rate set on the day of sentencing (base rate equals 25,50 Belarusian rubles from 1st of January 2019, approximately equal to 10 euro), and for the acquisitive crime - a hundred-fold of such base rate. The court, upon the proposal of the body entrusted with the execution of the sentence, can replace the fine with community service or compulsory educational measures in case of impossibility of collecting the fine in the absence of evasion from paying it.

Deprivation of the right to engage in certain activities is imposed to a person who has reached the age of sixteen on the day of sentencing, for a period of one to three years.

Correctional labor shall be imposed to a person who has reached the age of sixteen on the day of sentencing, for a period of two months to one year at the place of work. From the salary of the convicted person sentenced to correctional labor, a deduction is made to the state's income in the amount established by the court sentence in the range from five to fifteen percent.

An arrest is imposed to a person who has committed a crime under the age of eighteen years, for a period of one to two months.

Restraint of liberty is imposed to a person who has committed a crime under the age of eighteen years, for a period of six months to three years. A person under the age of eighteen years on the day of sentencing is imposed the restraint of liberty without being sent to an open correctional institution. A person who has reached the age of eighteen years on the day of sentencing can be imposed with or without being sent to an open correctional institution.

A person who has committed a crime under the age of eighteen for the first time and that does not represent great public danger, is not sentenced to imprisonment. For a person who has committed a crime under the age of eighteen years, the term of imprisonment may not exceed:

- 1) for a less serious crime - three years;
- 2) for a serious crime - seven years;
- 3) for a particularly serious crime - ten years;
- 4) for a particularly serious crime accompanied with deliberate encroachment on a person's life or drug trafficking, psychotropic substances, their precursors or analogues – twelve years old.

A person who has not attained eighteen years of age on the day of sentencing shall be sentenced to imprisonment in a young offenders' institution called «educational colony». A person who has committed a crime under the age of eighteen years old and has reached the age of eighteen years on the day of sentencing shall be sentenced to imprisonment in a correctional colony under general regime.

While serving a sentence, the same whole range of measures for convicts is applied for juvenile convicts, as for persons who have reached the age of eighteen. The Penitentiary Code (hereinafter - PC) of the Republic of Belarus names the following means of achieving the goals of criminal liability: the

established procedure for the execution and serving of punishment and other measures of criminal liability (regime), educational work, socially useful work, education of convicts (studding process), social impact. The purposes of the application of punishment and other measures of criminal liability by the PC of the Republic of Belarus are the correction of convicts (formation of their readiness to lead a law-abiding way of life) and the prevention of crime, both convicted and other people.

In our opinion, means of correcting the convicts applied to minors are more productive and more effective in relation to this group of individuals. Since minors are more prone to any kind of impact. Correction of juvenile convicts is achieved by applying to them the established procedure for the execution and serving of punishment and other measures of criminal liability, that is, the regime of the educational colony. Persons who have not attained the age of eighteen are serving sentences in juvenile correctional facility – educational colony. Convicted persons who have reached the age of eighteen by a motivated decision of the head of the educational colony agreed with the commission on juvenile affairs can be left in the educational colony till the age of twenty one.

If in the process of judicial review will be established that correction of a minor (that does not pose a great public danger or is for the first time convicted of a less serious crime) convicted of a crime, is possible without criminal punishment, the court may issue a conviction and to impose compulsory educational measures on such a person instead of punishment. The court may apply the following compulsory educational measures, such as, for example: a warning, consisting in explaining to a minor the consequences of re-committing crimes stipulated by the CC of the Republic of Belarus; an obligation to public apologize to the victim by the form determined by the court; imposing the obligation to compensate by his/her own money or to eliminate the damage caused by on the minor who has reached the age of fifteen by the day of sentencing (in case the minor has independent earnings and the amount of damage does not exceed his average monthly earnings (income)). And this is not an exhaustive list of the educational impact applicable to juvenile convicts.

The educational process (learning process) in an educational colony is organized and carried out in conjunction with educational (upbringing) work. In order to increase the effectiveness of the educational impact on convicts and to assist the administration of an educational colony, parent committees consisting of parents and other relatives of convicts may be established in an educational colony.

Minor convicts are brought to work in accordance with the labor legislation of the Republic of Belarus. The basic rules governing the work of juvenile convicts are enshrined in the Labor Code of the Republic of Belarus.

A person under the age of eighteen committing a crime for the first time, can be released from criminal liability under the supervision of parents (or persons replacing them), at their request. This applies if the crime does not represent great public danger, or is a less serious crime and the analyses of the crime, information about the minor and other circumstances shows that correction of a minor is possible without bringing him to criminal liability.

All written above shows that such means of correction of convicted as educational work, receiving education (teaching/learning process), as well as social impact, are of paramount importance in achieving the goals of criminal liability for minors criminals.