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## Institute of Conditional Early Release from Punishment in the Republic of Kazakhstan and its Significance in the Rehabilitation of Convicts

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### Abstract

*The article addresses an urgent and practically significant issue. Conditional early release from serving a sentence is considered in the article as an opportunity for the state to correct individuals who have committed a crime and have been sentenced to imprisonment for shorter periods than those specified in the court's verdict. The authors discuss the provisions of conditional early release from serving a sentence enshrined in the Criminal Code, the Code of Criminal Procedure, and the Penal Code of the Republic of Kazakhstan. The article outlines the possibilities of applying conditional early release from serving a sentence in the Republic of Kazakhstan as an instrument for achieving the goals of punishment. An analysis of statistical data on conditional early releases from serving a sentence for the period from 2015 to 2022 in Kazakhstan is provided. Based on the analysis of materials from law enforcement practice, the authors demonstrate the effectiveness of achieving the goals of criminal punishment, the enhancement of which is linked to the opportunities provided by the application of the institution of conditional early release from serving a sentence in the Republic of Kazakhstan. Using the example of granting conditional early release by the Republic of Kazakhstan to criminals serving sentences in places of deprivation of liberty, the authors illustrate the potential of law enforcement processes, which, in their opinion, are only utilized at 35-40 percent. The tasks of law enforcement processes regarding convicts during the execution of sentences, according to the authors, should ensure their rehabilitation and reintegration into normal life. The authors believe that attention should be increased in the Republic of Kazakhstan towards conditional early release as an effective tool for rehabilitating convicts and reducing the number of incarcerated individuals, and its procedures and conditions should be revised. The conclusions and recommendations for improving the implementation of conditional early release in the Republic of Kazakhstan are novel, well-founded, and relevant.*

**Keywords:** *punishment, goals of punishment, effectiveness of punishment, probation, conditional early release, probationary supervision.*

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## **Main Provisions**

Conditional early release from serving a sentence in the Republic of Kazakhstan is one of the important and effective legal instruments for the state to implement measures for correcting convicts and combating crime.

This institution of criminal law is an inter-legal institution because it goes beyond the scope of criminal law (Article 72 of the Criminal Code of the Republic of Kazakhstan) [1, pp. 58-61] and covers criminal procedural law (Article 480 of the Criminal Procedure Code of the Republic of Kazakhstan) [2, pp. 289-291] and penal law (Articles 161 and 162 of the Penal Code of the Republic of Kazakhstan) [3, pp. 88-90].

Since criminal law is the basic branch of law for other related branches such as criminal procedural law and penal law, it defines the content of conditional early release from serving a sentence. To disclose the content of the research topic, the authors studied criminological, criminal law aspects, and penal aspects of the application of the institution of conditional early release from serving a sentence regarding individuals serving sentences in correctional facilities.

The aim of the study is to formulate and justify a set of theoretical conclusions and recommendations for improving the measures for the application of conditional early release in the Republic of Kazakhstan.

To achieve this goal, the authors set the following objectives:

- Provide a general criminological characteristic of the application of conditional early release in the Republic of Kazakhstan, highlighting its strengths and weaknesses;
- To reveal the content of conditional early release as an effective tool for rehabilitating convicts;
- To examine the existing problems in the application of conditional early release in the Republic of Kazakhstan in the process of executing sentences and interpreting norms in criminal and penal legislation of the Republic of Kazakhstan;
- To assess the law enforcement practice regarding the application of conditional early release in the execution of criminal sentences against individuals who have committed criminal offenses and have been sentenced to imprisonment;
- To compare foreign practices of conditional early release and consider the possibilities of implementing them into domestic legislation;

To propose measures for improving the current criminal and penal legislation of the Republic of Kazakhstan in terms of the application of conditional early release.

The object of the conducted research includes legal and social relations regarding the application of conditional early release in the Republic of Kazakhstan.

The subject of the research encompasses the grounds and procedure for applying conditional early release in the Republic of Kazakhstan, as well as the activities of law enforcement agencies in this sphere.

## **Introduction**

The application of conditional early release from serving a sentence has significant scientific,

legal, and practical importance. Notably, this issue became the subject of research due to a request from the leadership of the Almaty Academy of the Ministry of Internal Affairs of the Republic of Kazakhstan named after M. Yesbulatov, from the leadership of the Committee of the Penal System of the Ministry of Internal Affairs of the Republic of Kazakhstan, and was included in the Research Plan of the Almaty Academy of the Ministry of Internal Affairs of the Republic of Kazakhstan named after M. Yesbulatov for 2023, which is being implemented jointly with the staff of the Committee of the Penal System of the Ministry of Internal Affairs of the Republic of Kazakhstan.

During the research conducted within the specified topic, the authors of the article were able to study the social and legal essence of the institution of conditional early release from serving a sentence, which is an important and effective tool in combating crime, to see its aspects that are invisible to the ordinary eye, to analyze the essence of this institution, the compliance of the grounds and procedure for its implementation as stipulated in criminal legislation with modern requirements and actual circumstances, the effectiveness of criminal punishment upon its early termination, and also to offer their vision for the further development and improvement of this important institution of criminal law.

The institution of conditional early release from serving a sentence contributes to the implementation of the dual-vector principle of criminal policy, which was announced in the previously effective Concept of Legal Policy of the Republic of Kazakhstan for the period from 2009 to 2020. [4] Its essence lies in demonstrating humanity towards individuals who have committed minor and moderate crimes for the first time, as well as socially vulnerable groups of the population - pregnant women and single women with dependent minors, minors, elderly people, and in toughening criminal responsibility for individuals guilty of committing serious and especially serious crimes, evading criminal prosecution, as well as in case of recidivism.

However, despite the apparent clarity on this issue, the questions of general and specific prevention in criminal legislation, ensuring the individualization of criminal punishment, are still not sufficiently effective at present. In our view, the task of the state is to, on the one hand, ensure the inevitability of punishment for committed crimes, and on the other hand, to make this punishment as fair and effective as possible, minimizing the social consequences both for the convicted individual and for the state as a whole.

Currently, the content of the dual-vector criminal policy has not changed; on the contrary, new target objectives for its implementation have emerged, formulated in the Addresses to the people of Kazakhstan by the President of the Republic of Kazakhstan K.-J.K. Tokayev for the years 2019, 2020, 2021, and 2022.

The role of criminal law was succinctly described in section 4.10 of the approved Presidential Decree of the Republic of Kazakhstan dated October 15, 2021, No. 674 "Concept of Legal Policy of the Republic of Kazakhstan until 2030".

## **Materials and Methods**

The methodological basis of the conducted research consists of modern legal doctrine, the dialectical-materialistic method of cognition, as well as specific scientific methods: historical, logical, comparative legal, systemic-structural, concrete-sociological, statistical, historical, and methods of analysis and synthesis.

The methodological basis of the research consists of the fundamental principles of legal

science, interpreted with regard to the topic under consideration in the article in accordance with the general scientific principles and methods of constructing theoretical and applied research.

In the process of writing the article, the authors relied on generally accepted fundamental principles of general legal theory, works on constitutional, criminal, and criminal-executive law, and criminology.

Special attention was paid by the authors of the article to the overall analysis of the application of conditional early release in the Republic of Kazakhstan for the years 2015-2022.

The study covered the current Criminal Code of the Republic of Kazakhstan, the Penal Code of the Republic of Kazakhstan, the Criminal Procedure Code of the Republic of Kazakhstan, and other laws of the Republic of Kazakhstan regulating the issues of conditional early release in the Republic of Kazakhstan.

The work also utilized foundational international legal acts regulating the issues of combating corruption and corrupt offenses.

The author team studied the statistical reports on the application of conditional early release by the Committee of the Penal System of the Ministry of Internal Affairs of the Republic of Kazakhstan for the period from 2015 to 2022, as well as the results of a survey of 200 convicts serving sentences of imprisonment and 200 employees of the Penal System of the Republic of Kazakhstan.

## **Results**

The essence of conditional early release from serving a sentence lies in the early termination of the court-imposed punishment of imprisonment or restraint of liberty, provided that the individual has served the actual term of punishment prescribed by Part 3 of Article 72 of the Criminal Code of the Republic of Kazakhstan [1, pp. 58-61] and has undergone rehabilitation.

In other words, the state makes a kind of concession to the convicted individual by reducing the actual term of imprisonment or restriction of liberty, thereby allowing them to return to normal life as quickly as possible.

It should be noted that conditional early release is not provided for all types of punishments but only for individuals sentenced by court to such types of punishment as restriction of liberty and imprisonment, which are the most severe forms of punishment associated with temporary or sometimes lifelong deprivation of liberty.

Let us provide statistics on the application of conditional early release from serving a sentence in the Republic of Kazakhstan. In 2015, according to the Committee of the Penal System of the Ministry of Internal Affairs of the Republic of Kazakhstan, the number of individuals conditionally released from serving a sentence was 5674, in 2016 - 4632, in 2017 - 2786, in 2018 - 3962, in 2019 - 2993, in 2020 - 2256, in 2021 - 2217, and in 2022 - 2689.

However, there is another set of statistics indicating the insufficient effectiveness of conditional early release in law enforcement practice. For instance, in 2015, out of those serving sentences, 13025 formally fell under conditional early release, 9480 requests for conditional early release were submitted to court, 8718 requests were reviewed, 5268 were granted, 3052 were denied,

and 398 remained unchanged. In 2016, the numbers were as follows: 8553 formally fell under conditional early release, 7137 requests were submitted, 6730 requests were reviewed, 4284 were granted, 2068 were denied, and 378 remained unchanged. This trend continued in subsequent years.

Therefore, we consider it expedient to activate the institute of conditional early release from serving a sentence, which, according to paragraph 3 of Part 1 of Article 161 of the Penal Code of the Republic of Kazakhstan, is one of the grounds for release from serving a sentence.

Considering the foreign experience in applying conditional early release, it could be possible to direct all those released under conditional early release to problematic regions of the Republic of Kazakhstan, as was done in England in the 18th-19th centuries, providing them with housing or land for construction, allowing them to start a new life while contributing to the country's development.

To achieve this, changes are necessary in the current criminal and penal legislation of the Republic of Kazakhstan, as well as a new State policy in the development of the industrial sector and agriculture of the Republic of Kazakhstan (creation of demand-driven industries near each correctional facility, as was the case in the former USSR, Food program). The penal system of the Republic of Kazakhstan, alongside civil society, could participate in the implementation of this policy for the benefit of the convicted individuals themselves and for the development and strengthening of the industrial and construction sector, food security, and agricultural potential of our country and other beneficial and necessary areas.

It is not accidental that significant attention was paid to the development of criminal legislation of the Republic of Kazakhstan and its punishment institute in the address from September 1, 2022, by the President of the country, K.K. Tokayev, who noted the need to revise the Criminal and Criminal Procedure Codes, to get rid of everything that does not effectively work or hinders justice.

As we can see, there is ample room for action, as demonstrated by the example of a criminal law institution such as conditional early release from serving a sentence.

## **Discussion**

The institution of conditional early release from serving a sentence is a manifestation of the state's humanity towards individuals who have committed criminal offenses, convicted for their actions, and pursues several objectives: first, to create more acceptable conditions for correcting convicts; second, the early cessation of active intervention in convicts' lives by criminal justice; third, the reintegration of convicts into normal life; fourth, the reduction of the country's prison population.

It has been proven by scientists and the practical application of punishment execution that the confinement of a convicted person in isolation, in a correctional facility during the serving of a sentence, not only ensures the realization of the goals of criminal punishment stipulated in part 2 of article 39 of the Criminal Code of the Republic of Kazakhstan (punishment is applied for the purpose of restoring social justice, as well as correcting the convict and preventing the commission of new criminal offenses by both the convict and others. Punishment does not aim to inflict physical suffering or humiliate human dignity) but also has its undesirable social consequences.

For example, the renowned scientist V.N. Kudryavtsev has drawn attention to the paradox that individuals placed in correctional facilities for committing crimes and to reform themselves often commit new, sometimes equally serious crimes in these places. According to the cited scientist, this fact once again indicates the ineffectiveness and impotence of reforming criminals through isolation from society. Furthermore, V.N. Kudryavtsev points out that the strategy of isolating criminals from society is becoming obsolete.

The penitentiary environment that has formed in correctional facilities, despite the noble goals of criminal executive legislation enshrined in part 1 of article 4 of the Criminal Executive Code of the Republic of Kazakhstan (restoring social justice, correcting convicts, preventing the commission of new criminal offenses by convicts and others), negatively affects any individual.

This mechanism of negative impact on the convict's personality is revealed by the well-known scientist G.F. Khokhryakov, who notes that a prisoner, doomed to be among his own kind - those who, like him, suffer humiliation due to loss of status. He cannot leave prison and attempt to enter a respected group in a new place and gain authority in it, as sometimes do free people who have experienced failure and start a new life in a different environment.

In addition to social isolation, the process of serving a sentence in the form of imprisonment leads to the rupture of social ties, the criminalization of the convict, the degradation of their personality, and much more.

Therefore, legal practitioners cannot ignore the social, sociological, psychological, psychophysiological, biological, psychological, philosophical factors closely related to the serving of criminal sentences and the doctrine of punishment, as there is a whole layer of new, not fully understood, and sometimes invisible legal relationships in the field of punishment execution.

For example, scientists have proven that serving a sentence in the form of imprisonment for more than seven years is not advisable, as after this period, undesirable and irreversible processes occur with the convict's personality. Starting from the loss of social ties and ending with the complete degradation of the individual and, in the worst case, their criminalization.

Moreover, if we pay attention to the unjustifiably long terms of imprisonment in Kazakhstan, which, according to part 3 of article 46 of the Criminal Code of the Republic of Kazakhstan for the year 2014, are set for a term from six months to fifteen years, and for particularly serious crimes - up to twenty years or life imprisonment. And in cases of partial or complete accumulation of terms of imprisonment when sentencing for multiple crimes and in cases provided for by part five of article 71 and part five of article 77 of the Criminal Code of the Republic of Kazakhstan, the maximum term of imprisonment cannot exceed twenty-five years for the accumulation of crimes, and in the case of cumulative sentences, no more than 30 years.

As we can see, in such legal conditions for the imposition of imprisonment established by the legislator in the Criminal Code of the Republic of Kazakhstan, it is difficult to overestimate the practical importance and relevance of the institution of conditional early release from serving a sentence.

The history of the emergence of this institution of criminal law is also of interest, which, according to scientists, has quite deep roots.

According to the well-known Soviet scientist N.D. Durmanov, elements of conditional early release appeared in the 18th century in Austrian legislation. "The patent of Emperor Joseph II



in 1788, for example, proposed to release prisoners whose behavior would be good and who showed the prospect of solid reform upon the expiration of half the term."

As noted by V.A. Avdeev, conditional early release (CER) emerged in the 1820s in the practice of implementing English penal transportation. The introduction of CER, according to the cited scientist, contributed, firstly, to the colonization of territories, secondly, to increased labor productivity of exiled persons, and thirdly, to stimulating law-abiding behavior among the specified category of convicts.

Another scientist, P.V. Teplyashin, noted that the British government, having resolved the issue of transporting the convict population to Australia, did not show further concern for their fate.

However, according to the cited scientist, settlement management, aiming to enhance the educational impact of punishment, was empowered to release convicts from confinement in these settlements, transfer them to private hands, and then give them a so-called release ticket until the expiration of the main term of the sentence, i.e., to grant the right to reside within the prescribed territory under certain conditions (in 1789, the first exile received land ownership).

The above can be considered the earliest act of early release of a convict from punishment.

Furthermore, as noted by P.V. Teplyashin, prisoners in settlements could count on early release in two cases: a) for good behavior; b) upon serving a certain portion of the sentence imposed by the verdict.

In the case of good behavior, the convict could be allocated a plot of land for cultivation. This measure was implemented only within the colony's territory, and it was prohibited for the convict to go beyond its bounds. Neither before nor after was exile as reformatory as it was at the end of the first quarter of the 19th century.

If we take, for example, the modern criminal legislation of Germany, as noted by I.A. Yurchenko, the grounds for conditional release from criminal liability and punishment (in the case of conditional early release from serving a sentence - highlighted by us) in the German Criminal Code (paragraphs 57-57b of the German Criminal Code) for imprisonment are established under certain conditions: a) two-thirds of the imposed sentence must have been served, but not less than two months; b) the application of such release must correspond to the interests of public safety; c) the convict has consented to such release.

In Kazakh customary law, there was no institution of conditional early release from serving a sentence because, considering the settled way of life of the Kazakhs, there was no such form of punishment as imprisonment, and accordingly, there were no prisons.

Thus, the well-known Kazakhstani scholar T.M. Kulteleyev noted that among the punishments introduced by the Ulozheniye of Khan Tauke before Kazakhstan's accession to Russia, there were such types of punishment as:

1. Death penalty.
2. Corporal punishments.
3. Shaming punishments.
4. Kun (ransom).
5. Aip (fine).
6. Enslavement.
7. Handing over the offender to serve the victim.
8. Handing over the offender to the discretion of the victim or their relative.

9. Confiscation of all property from the offender.
10. Banishment from the community.

The absence of imprisonment in Kazakh customary law as a form of punishment is also noted by the well-known Kazakhstani scholar, Doctor of Historical Sciences E. Abil, according to whom in the 15th-18th centuries in the customary law of the Kazakhs, the following types of punishment, known as "jaza," were distinguished:

1. Death penalty;
2. Corporal and shaming punishments;
3. Kun;
4. Aiyp;
5. Handing over the guilty party to the victim;
6. Banishment from the community. [14, p. 111]

The leading Kazakhstani scholar in the field of criminal executive law, Professor A.B. Skakov, provides a much broader understanding of the content of conditional early release from serving a sentence, linking it to a progressive system of punishment.

According to A.B. Skakov, the specificity of the legal nature of conditional early release as an element of a progressive system lies precisely in the fact that the punishment has not yet been served. [15, p. 99]

It is difficult not to agree with this position of the Kazakhstani scholar, as the state, by applying or proposing to apply this institution, provided that the convicts have served a portion of the mandatory sentence prescribed by the Criminal Code of the Republic of Kazakhstan for each category of convicts, conditioned on their good behavior, stimulates and shortens not only the process of serving the sentence by reducing it but also creates favorable conditions for the rehabilitation of the convict and prevents the occurrence of negative consequences of punishment enforcement.

The institution of conditional early release from serving a sentence in Kazakhstan emerged after Kazakhstan's accession to Russia.

The history of the institution of conditional early release in Russia begins with the establishment of the "Society for the Care of Prisons" in 1819, created in imitation of the British Bible Society. In 1831, based on the Charter of the Society, the Prison Regulations were created, regulating the enforcement of imprisonment. [16, p. 139]

After the victory of the Great October Socialist Revolution in 1917, the Soviet state legislatively provided for the release of reformed criminals before the expiration of the term determined by the court's verdict from the first months of its formation.

As noted by S.Ya. Ulitsky, the first legislative act regulating the issues of conditional early release in the Soviet state was Decree No. 2 "On the Court" of March 7, 1918, according to which Article 32 established that "all persons sentenced by the verdicts of the people's court are granted the right to petition the local people's court at the place of residence of the applicant for conditional or early release, as well as for pardon or restoration of rights." This Decree, thus, provided the right to request conditional early release to all guilty parties in crimes under the jurisdiction of the people's court, except for those sentenced by the revolutionary tribunal. [17, p. 22]



As pointed out by M.N. Gernet and A.N. Traynin, after the adoption of the Criminal and Criminal Procedure Codes of the RSFSR in 1922, in accordance with Articles 52-55 of the Criminal Code of 1922, conditional early release was applied to persons sentenced to imprisonment and forced labor. Conditional early release involved either complete release from serving the sentence or transfer to forced labor without imprisonment for the remaining term of the sentence or part of it. [18, p. 133]

Moreover, as noted by the cited authors, the basis for applying conditional early release from serving a sentence under the Criminal Code of 1922 was the reformation of the convict, manifested in compliance with the rules of behavior in correctional labor institutions (regime of correctional institutions), in the desire to work and learn. The formal condition for the application of conditional early release was the serving of not less than half of the sentence imposed by the court's verdict. The initiative or the right to initiate proceedings on conditional early release belonged to the convict, as well as to the close relatives of the convict, organizations, institutions, and officials. The decision on conditional early release was made by the court that issued the verdict (Article 53 of the Criminal Code of 1922). [18, p. 133]

Then, on December 25, 1958, the Law "On the Approval of the Fundamentals of Criminal Legislation of the USSR and Union Republics" was adopted, according to which, under Article 44, persons sentenced to imprisonment, conditionally sentenced to imprisonment with compulsory labor, exile, deportation, corrective labor, or sent to a disciplinary battalion, as well as persons conditionally released from places of deprivation of liberty with compulsory labor in accordance with Articles 44-2 of these Fundamentals, except for persons listed in Article 44-1 of these Fundamentals, may be subject to conditional early release from punishment or replacement of the unexecuted part of the punishment with a milder punishment.

Conditional early release from punishment or replacement of the unexecuted part of the punishment with a milder punishment may be applied to a convict only if they have demonstrated their reformation through exemplary behavior and honest work attitude. [19, pp. 19-20]

Correspondingly, based on the Fundamentals of Criminal Legislation of the USSR, the Criminal Code of the Kazakh SSR was adopted in 1959, in which Article 46 "Conditional Early Release" stipulated provisions for conditional early release.

Thus, Article 46 of the Criminal Code of the Kazakh SSR noted that conditional early release from punishment or replacement of the unexecuted part of the punishment with a milder punishment may be applied to persons sentenced to imprisonment, conditionally sentenced to imprisonment with compulsory labor, exile, deportation, corrective labor, or sent to a disciplinary battalion, or to educational-labor correctional facilities, as well as to persons conditionally released from places of deprivation of liberty with compulsory labor in accordance with Article 46-2 of this Code, except for persons listed in Article 46-1 of this Code, provided they have not fully served the sentence imposed by the court. Conditional early release from punishment or replacement of the unexecuted part of the punishment with a milder punishment may be applied to a convict only if they have demonstrated their reformation through exemplary behavior and honest work attitude. [20, pp. 50]

Article 46 of the Criminal Code of the Kazakh SSR also specified the procedure for applying conditional early release from punishment to convicted persons. [20, pp. 50-53]

Then, with the acquisition of sovereignty by the Republic of Kazakhstan in 1991, the provision

on conditional early release found its consolidation in the Criminal Code of the Republic of Kazakhstan in 1997 in Article 70 "Conditional Early Release from Serving a Sentence," which stated that a person serving corrective labor, military service restriction, freedom restriction, or imprisonment may be conditionally released from serving the sentence imposed by the court if they have demonstrated law-abiding behavior, conscientious work (or study), active participation in self-organized activities and educational events, taking measures to compensate for the damage caused by the crime, and do not require full serving of the sentence imposed by the court. The person may be fully or partially released from serving an additional type of punishment. [21, p. 27].

As we can see, the Criminal Code of the Republic of Kazakhstan (RK) of 1997 partially retained some continuity regarding conditional early release from serving a sentence compared to the Criminal Code of the Kazakh SSR of 1959. Specifically, in the expanded list of types of punishments for which conditional early release from serving a sentence was provided.

Exceptions were made for types of punishments that were in the Criminal Code of the Kazakh SSR, such as conditional imprisonment with compulsory labor, exile, deportation, or placement in educational-labor correctional facilities.

The interpretation of conditional early release from serving a sentence changed, as it began to be considered independently rather than together with the substitution of punishment with a milder form of punishment as in the Criminal Code of the Kazakh SSR, and the conditions for applying conditional early release from serving a sentence.

Thus, according to Article 70(3) of the Criminal Code of the Republic of Kazakhstan (RK) of 1997, conditional early release may be applied only after the convict has served:

- a) not less than one-third of the sentence imposed for a crime of minor or moderate severity;
- b) not less than half of the sentence imposed for a serious crime; c) not less than two-thirds of the sentence imposed for an especially serious crime; d) not less than three-quarters of the sentence imposed for crimes specified in points c), d) of the third part, and the fourth part of Article 120, and points c), g) of the third part, and the fourth part of Article 121 of this Code;
- e) not less than three-quarters of the sentence imposed for a crime committed as part of an organized group, criminal association (criminal organization), transnational organized group, transnational criminal association (transnational criminal organization), or stable armed group (gang). The actual term of imprisonment served by the convict cannot be less than six months.

A person serving a sentence of life imprisonment may be conditionally released if it is recognized by the court that they no longer require further imprisonment and have served at least twenty-five years of imprisonment. [21, pp. 27-28]

Additionally, a separate article 71 was provided in the Criminal Code of the Republic of Kazakhstan (RK) of 1997, addressing the substitution of the unexecuted part of the punishment with a milder form of punishment. [21, p. 28]

In the Criminal Code of the Republic of Kazakhstan (RK) of 2014, the procedure for conditional early release from serving a sentence underwent significant changes.

The number of types of punishments eligible for conditional early release was reduced to two: imprisonment and restriction of freedom.

According to Article 72(1) of the Criminal Code of the Republic of Kazakhstan (RK), a person

servicing a sentence of restriction of freedom or imprisonment may be conditionally released by the court after servicing the terms specified in the third, fourth, and fifth parts of this article, if the court finds that they do not require full servicing of the imposed punishment for their reformation.

A person servicing a sentence of restriction of freedom or imprisonment is subject to conditional early release after servicing the terms specified in the third, fourth, and fifth parts of this article, provided they have fully compensated for the damage caused by the crime and have not committed any deliberate violations of the established procedure for servicing the sentence. [1, pp. 58-59]

Also, in the Criminal Code of the Republic of Kazakhstan (RK) of 2014, conditions for applying conditional early release from servicing sentences for certain special categories of convicts were specified.

In Article 72, Part 1 of the Criminal Code of the Republic of Kazakhstan (RK), it is stipulated that a person servicing a term of imprisonment for a terrorist or extremist crime, not resulting in loss of life and not associated with the commission of an especially grave crime, may be conditionally released by the court after servicing the terms specified in Parts 3, 4, and 5 of this article if they actively assist in preventing, disclosing, or investigating terrorist or extremist crimes, exposing members of a terrorist or extremist group. [1, pp. 58-59]

Also, in Part 1 of Article 72 of the Criminal Code of the Republic of Kazakhstan, the procedure for conditional early release from servicing a sentence was established for pregnant women, women with young children, single fathers of young children, women aged fifty-eight and older, men aged sixty-three and older, persons with disabilities of the first or second group, servicing imprisonment for serious and especially serious corruption crimes. After servicing the terms specified in Parts 3 and 5 of this article, they may be conditionally released by the court.

A person servicing imprisonment for serious and especially serious corruption crimes, who has fulfilled all the conditions of a procedural cooperation agreement, may be conditionally released by the court after servicing the terms specified in Parts 3 and 5 of this article. The person may be fully or partially released from servicing an additional type of punishment. [1, pp. 58-59]

In the Criminal Code of the Republic of Kazakhstan of 2014, a general condition for the application of conditional early release from servicing a sentence was established - the actual term of imprisonment served by the convict.

Thus, in Part 3 of Article 72 of the Criminal Code of the Republic of Kazakhstan, conditional early release may be applied only after the convict has served:

1. not less than one-third of the sentence imposed for a minor or moderate crime;
2. not less than half of the sentence imposed for a serious crime;
3. not less than two-thirds of the sentence imposed for an especially serious crime; 3-1) not less than two-thirds of the remaining unserved sentence in cases where conditional early release was previously revoked under the grounds specified in paragraphs 1) and 2) of Part 7 of this article;
4. not less than three-quarters of the sentence imposed for crimes specified in points "v" and "d" of Part 3 and Part 4 of Article 120, points "v" and "g" of Part 3 and Part 4 of Article 121 of this Code;
5. not less than three-quarters of the sentence imposed for a crime committed as part of an organized group, criminal association (criminal organization), transnational organized group, transnational criminal association (transnational criminal organization), or a stable

armed group (gang). The actual term of imprisonment served by the convict cannot be less than six months. A person serving a life sentence may be conditionally released if it is recognized by the court that they do not need to continue serving the sentence and have actually served not less than twenty-five years of imprisonment. [1, pp. 59-60]

Additionally, in Part 4 of Article 72 of the Criminal Code of the Republic of Kazakhstan, the procedure for conditional early release from serving a sentence was established for pregnant women, women with young children, single fathers of young children, women aged fifty-eight and older, men aged sixty-three and older, persons with disabilities of the first or second group, serving imprisonment for serious and especially serious corruption crimes. After serving the terms specified in Parts 3 and 5 of this article, they may be conditionally released by the court after serving:

1. not less than one-fourth of the sentence imposed by the court for a minor or moderate crime;
2. not less than one-third of the sentence imposed by the court for a serious crime;
3. not less than half of the sentence imposed by the court for an especially serious crime not associated with an attempt on human life, as well as if conditional early release was previously revoked under the grounds specified in paragraphs 1) and 2) of Part 7 of this article;
4. not less than two-thirds of the sentence imposed by the court for an especially serious crime associated with an attempt on human life, as well as if conditional early release was previously revoked under the grounds specified in paragraph 3) of Part 7 of this article;
5. not less than one-fourth of the sentence imposed for a serious crime, or not less than one-third of the sentence imposed for an especially serious crime, in case the convict fulfills all the conditions of a procedural cooperation agreement. [1, pp. 59-60]

The procedure for conditional early release from serving a sentence for life imprisonment was slightly changed in the new Criminal Code of the Republic of Kazakhstan of 2014 compared to the Criminal Code of the Republic of Kazakhstan of 1997.

According to Part 6 of Article 72 of the Criminal Code of the Republic of Kazakhstan, a person serving life imprisonment may be conditionally released if the court recognizes that they do not need to continue serving the sentence and have actually served not less than twenty-five years of imprisonment. Additionally, this provision of the article was supplemented with a norm stating that if a person serving life imprisonment fulfills all the conditions of a procedural cooperation agreement, they may be conditionally released after serving not less than fifteen years of imprisonment. [1, pp. 59-60]

That is, we are talking about the possibility of reducing the actual term of serving a sentence for life imprisonment from twenty-five years to fifteen years, but on the condition that the convict fulfills the conditions of the procedural agreement concluded with them. [1, pp. 59-60]

## **Conclusion**

The study of the application of the institution of conditional early release from serving a sentence has allowed us to formulate the following conclusions and recommendations.

1. The institution of conditional early release is an important and effective tool in achieving the goals of criminal punishment and contributes to the more rapid and effective rehabilitation of convicts and their reintegration into normal life.
2. The institution of conditional early release contributes to the implementation of such an

important state task of the criminal policy in the country as reducing the number of "prison population" in the Republic of Kazakhstan.

3. The possibilities of the institution of conditional early release are implemented in practice, as shown by the statistics of sentence execution for the years 2015-2022, only by 35-40 percent, for various reasons of objective and subjective nature.
4. To increase the effectiveness of applying conditional early release, it is important to reduce the mandatory terms of serving a sentence, since the existing terms are unjustifiably high and negatively affect the acceleration of the rehabilitation process of convicts. If a convict has actively contributed to the administration in uncovering or preventing specific crimes, made proposals for improving the material and technical condition of the correctional facility or other actions, then the court, based on the recommendation of the administration, may grant the convict serving a sentence of imprisonment or restriction of freedom the right to conditional early release from serving the sentence. Such a replacement does not imply mass and mandatory release of all convicts. It only applies to those categories of convicts who have reformed and do not require further isolation. The proposed approach will incentivize convicts to reform and significantly reduce the prison population, while also increasing the accountability of correctional facility staff.
5. It is proposed to amend and supplement Part 3 of Article 72 of the Criminal Code of the Republic of Kazakhstan, which should be presented in the following version:
6. Conditional early release may be applied only after the convict has served:
  1. up to 1 year for a minor offense and up to 2 years for a moderate offense;
  2. up to 3 years for a serious offense;
  3. up to 4 years for an especially serious offense. 3.1 In special cases, when the convict has demonstrated a commitment to rehabilitation through their behavior (provided assistance to the administration: a) in uncovering a crime committed within or outside the correctional facility premises, b) in preventing acts of collective or individual disobedience of convicts, c) in preventing escape or other illegal actions, d) in generating profit for the facility through labor activities, and other cases), the court may, upon the recommendation of the correctional facility administration, apply conditional early release to the convict without taking into account the mandatory terms of sentence specified in Article 72 of the Criminal Code of the Republic of Kazakhstan.

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