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## ENFORCEMENT OF ADMINISTRATIVE DETENTION PROBLEMS AND THEIR SOLUTIONS

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### ABSTRACT

The results of studies show that the organization of the execution of the administrative detention sentence is a set of legal, organizational-administrative and material-technical measures defined in the laws and regulations related to the enforcement of the administrative detention sentence. That is, it means the measures that are implemented in the period from the time of the decision of the authorized entities on administrative detention to the end of the term of detention and the release of the person.

### KEYWORDS

According to the analysis, there are many problems in this direction in the practice of law enforcement, and this situation has a serious impact on ensuring the inevitability of punishment, as well as guaranteeing the rights and legal interests of a person.

### INTRODUCTION

In accordance with Article 19 of the Law of the Republic of Uzbekistan "On the Procedure for Serving Administrative Imprisonment", in special cases, i.e. the death of a close relative or a serious illness threatening the life of a close relative, an event that caused considerable material damage to the person under administrative detention or his family it is established that he may be allowed to leave the territory of the special reception area within the Republic of Uzbekistan for one day without taking into account the travel time (up to two days).

Today, the analysis of the practice of the internal affairs bodies on the execution of the administrative prison sentence shows that there is a need to expand the scope of the reasons for the departure of a person from the territory of the special reception area. In particular, in some cases there are requirements related to the participation of a person under administrative detention in the entrance exams to a higher educational institution or in the final state

exams for graduation from a higher educational institution.

The importance of these situations is explained by the fact that the above type of exams are held once a year, the inability to participate in them will lead to a number of negative situations in the future (inability to enter or complete studies) seriously affecting the social and mental state of a person, causing distrust in the state and society, and personal future. can cause apathy, as well as negative changes in behavior.

In the sociological research conducted to study the attitude of law enforcement experts to the analyzed problem, "Which of the following cases do you think can be the basis for the temporary departure of persons under administrative detention from the special reception area?" when asked the question, 64.2% of the respondents - passing the entrance exams to the higher education institution or the final state exams; 58.1 percent - the need to fulfill civil or other financial obligations; 68.7 percent meant the cases of the spouse being pregnant or the person being the sole breadwinner.

Therefore, in our opinion, it is appropriate to include additions to Article 19 of the Law, which stipulates that participation in the entrance exams to higher educational institutions or the passing of the final state exams is one of the reasons for leaving the special reception area.

It is known that the type of punishment in the form of administrative detention is carried out by the internal affairs bodies in special reception rooms designed for keeping persons under administrative detention. A special reception is a special institution for the reception and storage of persons under administrative detention, belonging to the system of internal affairs bodies. They are the Ministry of Internal Affairs of the

Republic of Karakalpakstan, the Ministry of Internal Affairs of Tashkent city and Tashkent region, and the Ministry of Internal Affairs of the regions.

According to Clause 8 of the Regulation "On Special Reception Rooms for Reception and Detention of Administratively Detained Persons", approved by Resolution No. 734 of the Cabinet of Ministers of the Republic of Uzbekistan on September 18, 2017, the following are the main tasks of a special reception room:

- organization of receiving and keeping persons under administrative detention;
- protection of the rights, freedoms and legal interests of persons under administrative detention, as well as organization of fulfillment of the obligations assigned to them;
- implementation of measures aimed at social protection of persons under administrative detention;
- collection of storage costs from persons under administrative detention.

As can be seen from the analysis of these tasks, the administration of the special reception hall is responsible for organizing the entry-exit regime of the persons under administrative detention to the territory of the special reception hall, and the observance of the rules of the internal order of the special reception hall.

The studies show that the persons who have been administratively detained under Articles 194, 195 of the Criminal Code of the Republic of Uzbekistan (failing to fulfill the legal requirements of an employee of the internal affairs bodies, resisting the employees of the internal affairs bodies to perform their duties) in most cases do not fulfill the legal requirements of the staff of the special reception. This, in turn, has a negative

impact on the behavior of other persons kept in the special reception, and leads to deliberate non-compliance with the rules of the internal procedure established in the institution.

However, at present, the number of persons who have committed the offenses provided for in the articles of the Criminal Code of the Republic of Uzbekistan analyzed above is too small. For example, 9.1 percent of the total number of persons detained in administrative detention during the period 2019-2022 committed offenses under Articles 194 and 195 of the Criminal Code (see Appendix 3).

Persons under administrative detention must comply with the requirements of personal hygiene and sanitation, which are specified in the model agenda of the Special Reception approved by Annex 1 to the rules of internal order of special receptions intended for the reception and storage of persons under administrative detention. It is established that the cells should be cleaned from 6.00 to 8.00 in the morning.

However, in practice, in most cases, the duty of cleaning special reception cells and other rooms is not fulfilled by the persons detained in administrative detention. The legal requirements of the special reception staff regarding the fulfillment of this obligation will not be fulfilled.

The main reason for this is the presence of conflicts and various conflicts in our current legislation. In particular, in the first part of Article 26 of the Law of the Republic of Uzbekistan "On the Procedure for Administrative Detention", to involve the imprisoned persons in unpaid physical work related to the improvement of sanitary and hygiene in special reception rooms, household conditions, beautification of the territory of the internal affairs body or the special reception area. It is prescribed to obtain their consent.

At the same time, the fourth paragraph of the first part of Article 28 of this Law envisages the application of the disciplinary measure of "extraordinary involvement in unpaid physical work" against persons detained in administrative detention who have violated the rules of the internal order in a special reception. creates mutual conflict. As a result, there are problems with the extra-ordinary involvement of administrative detainees in unpaid physical work as a measure of disciplinary punishment.

In order to study the attitude of practitioners to the problem under analysis, they were asked the question: "In what cases do you think it is possible to involve persons under administrative detention in sanitary-hygiene, household cleaning and beautification work without their consent?" when asked the question, 73.8% of the respondents answered that – they are involved in such cases as a disciplinary measure. Also, another 22.4% of the participants noted that involvement in such work should not be allowed, and 3.8% noted that this issue should be resolved by the administration of a special reception.

Based on the above analysis, it is appropriate to supplement Article 26 of the Law with the following fourth part:

"Consent of persons under administrative detention is not required for engaging in unpaid physical work as a disciplinary measure."

The analysis of the results of the practice of law enforcement shows that today the degree of influence of certain disciplinary measures specified in Article 28 of the Law against persons who have violated the internal procedures of the special reception hall is insufficient. In particular, disciplinary measures such as "warning" or "deprivation of the right to talk by phone" applied to those who violated the internal

procedures of the special reception hall or committed various offenses do not have enough effect to prevent them from repeating negative behavior in the future. The reason is that the effectiveness of these measures is low and does not work as a powerful mechanism for correcting the morals of disciplinary officers..

The absence of effective disciplinary measures in the current legislation creates a sense of impunity for some administrative detainees. This, in turn, causes them not only to continue negative behavior in the special reception, but also to repeatedly commit administrative violations. In particular, according to the statistics of the Ministry of Internal Affairs of the Republic of Uzbekistan, in 2022, a total of 813 persons were repeatedly imprisoned administratively 3-4 times on average. .

At the same time, in the event of conflict between persons detained in administrative detention in a special reception area, there is a need to temporarily isolate the guilty person from other persons. Therefore, in our opinion, it is necessary to strengthen the disciplinary measures against the persons who deliberately violate these rules in order to ensure strict adherence to the internal order and behavior rules of the special reception centers by the persons under administrative detention.

First of all, the first part of Article 28 of the Law should be supplemented with the fifth paragraph, and it will be necessary to provide for a disciplinary measure in the form of one-day confinement in a solitary confinement cell. Also, in this norm, it is appropriate to specify the specific characteristics of the use of this measure of influence and the conditions of storage in the carcass.

Therefore, when studying advanced foreign experience in the field, the Procedural-Executive Code

of the Republic of Belarus on Administrative Offenses In the first part of Article 20.8, it is noted that the administration of the place of administrative detention has the right to involve the imprisoned person in unpaid work related to cleaning the institution and that the consent of the imprisoned persons is not required. Also, based on the fourth paragraph of the first part of Article 20.10 of this code, it is established that persons under administrative detention who have not fulfilled their obligations at the place of administrative detention may be placed in a cell for up to 5 days.

Also, in accordance with the first chapter, second paragraph of the order No. 504 of the Ministry of Internal Affairs of the Republic of Kazakhstan dated July 26, 2017 "On the organization of activities and approval of internal procedures of special institutions that ensure the execution of prison-style punishment", persons who have been put under administrative detention will serve their sentences in special institutions. In addition, the Criminal-Executive Code of the Republic of Kazakhstan The fourth part of Article 131 envisages the placement of administrative detainees who have violated internal procedures in special receptions in disciplinary isolation (disciplinary isolation) for up to 15 days.

The implementation of the above proposals in our national legislation serves to a certain extent to educate citizens who have been punished in the form of administrative detention for committing administrative offenses in the spirit of compliance with the Constitution and laws of the Republic of Uzbekistan.

For this, it is appropriate to state the first and second parts of Article 28 of the Law of the Republic of Uzbekistan on January 9, 2017 "On the Procedure for Administrative Detention" in the following version:

"The following disciplinary measures may be applied to persons who have been detained administratively and who have violated the requirements of this Law and the rules of the internal procedure:

warning;

deprivation of the right to further conversation by telephone;

extraordinary involvement in unpaid physical work;

placement in a single car.

Special receptions intended for keeping persons under administrative detention, who do not comply with the rules of the internal regime and who do not fulfill the obligations set at the place of punishment, may be placed in a cell for up to one day.

## REFERENCES

1. <https://itnan.ru/post.php?c=2&p=278214> (дата обращения: 10.10.2023 года).
2. <https://www.dw.com/ru/a-51408166> (Дата обращения 11.11 2023 года)
3. <https://knoema.com/atlas/topics/Crime-Statistics>
4. Матчанов А.А. Уголовно-процессуальные, криминалистические, оперативно-розыскные и экспертно-криминалистические аспекты деятельности органов внутренних дел по противодействию торговли людьми. Монография – Т.: Академия МВД Республики Узбекистан, 2016. – С.72.
5. Астанов И. Р. Жиноят ишлари бўйича махсус билимлардан фойдаланишнинг процессуал ва криминалистик жиҳатлари: Юрид. фанлар д-ри (DSc) дис. автореф. – Т., 2018. – 74 б.
6. Латышов И. В. Концептуальные основы судебно-баллистической диагностики:

- Автореф. дис. ... док. юрид. наук. – Волгоград – 2016. – С. 6.
7. Данилкин И.А. Проблемы совершенствования взаимодействия следственных и экспертно-криминалистических подразделений при расследовании преступлений (по материалам органов внутренних дел): Дис. ... канд. юрид. наук. – Волгоград, 2008. – С. 144.