

Arrest as a Form of Punishment: Criminal Law and Criminal Executive Aspects Prosecutor Supervision

Dalmatov Kanatay^a, Maxatov Nurzhan^b, Akimbekova Saida^c, Userova Aigul^d, ^aDoctoral student of the Central Asian University, ^bDoctoral student of the Caspian University, ^cDoctor of Law, Associate Professor of the Caspian University, ^dDoctor PhD., Associate Professor of the Central Asian University, Email: dalkanatay@mail.ru, nureke259@mail.ru, asaida74@mail.ru, aiguluser@mail.ru

The relevance of the topic of the article is determined by the imperfection of the legal regulation of the appointment and execution of punishment in the form of arrest in the criminal and criminal-executive legislation of the Republic of Kazakhstan and the novelty of the said legislation. In this connection, there is a need for a comprehensive assessment of public relations arising in the process of setting and executing punishment in the form of arrest and determining the legal nature of this punishment, which forms the basis for the emergence of legal relations on the fact of criminal offense committed by the guilty. The authors of this article came to the conclusion that arrest, as a new type of punishment, which is hardly applicable in practice due to a number of circumstances, requires more detailed regulation in the criminal and criminal-executive legislation of the Republic of Kazakhstan. Further improvement of these types of legislation will allow the use of this type of punishment in preventing criminal offenses and increasing the effectiveness of the correction of the convicted person.

Key words: *Arrest, imprisonment, convicted person, term, punishment, criminal misconduct, humanization of punishment, strict isolation, execution and serving of punishment, special receivers, remand prison, guardhouse.*

Introduction

In Kazakhstan, the emergence of the institution of punishment in the form of arrest was the result of economic and political transformations carried out in the early 90s of the last century, requiring an appropriate legal infrastructure. In particular, the Decree of the President of the Republic of Kazakhstan dated February 12, 1994 No. 1569 “On the State Program of Legal Reform in the Republic of Kazakhstan” indicated that it would be necessary to make changes to the punishment system: to expand the size and scope of application of property sanctions as more appropriate to market relations; establish new types of punishments - restriction of freedom and arrest (for up to three months), excluding such types as public reprimand and dismissal from the post, probation, corrective labour; limit the number of crimes for which the death penalty (Decree, 1994).

Somewhat later, in the Decree of the President of the Republic of Kazakhstan of September 20, 2002 No. 949 “On the Concept of the Legal Policy of the Republic of Kazakhstan”, one of the areas of implementation of the criminal policy of the Republic of Kazakhstan was to create the necessary conditions for the introduction of criminal law norms providing for such new types of punishment restraint, arrest, life imprisonment (President, 2002).

In order to implement the tasks, the Criminal Code of the Republic of Kazakhstan of 1997 was first adopted (hereinafter - the Criminal Code of the Republic of Kazakhstan 1997) (The Criminal, 1997) [Vedomosti of the Parliament of the Republic of Kazakhstan, 1997 г., № 15-16, art. 211] and

The Criminal Executive Code of the Republic of Kazakhstan 1997 (hereinafter - the PEC RK 1997) (Executive, 1997) [Gazette of the Parliament of the Republic of Kazakhstan, 1997, No. 24, Art. 337].

January 1, 2017 as the date of entry into force of Chapter 15 of the PEC of the RK of 2014, devoted to the execution of the sentence of arrest, is contained in Part 1 of Art. 177 PEC RK 2014.

The purpose of the article is to analyse the legal nature of legal relations arising in the process of setting and executing such punishment as arrest.

Methods

The implementation of this goal was carried out with the help of an analysis of the norms of Kazakhstan legislation governing the appointment and execution of punishment in the form of arrest, with the aim of legal qualification of this type of punishment and determining its place in the legal system of Kazakhstan.

Methodological potential includes general scientific methods (dialectical, analysis, synthesis, analogy, induction, deduction) and private scientific methods (systemic, formal legal and comparative legal), which allow to compare different views on the legal nature of the relations arising in the process of applying the Criminal Code 1997 year and 2014 and PEC RK 1997 and 2014 in the appointment and execution of the sentence of arrest.

Data, Analysis, and Results

The term of arrest in accordance with Part 2 of Art. 45 of the Criminal Code of the Republic of Kazakhstan in 2014 is currently set at ten and fifty days. Until July 12, 2018, this period was different - from thirty to ninety days. These changes were made to the Criminal Code of the Republic of Kazakhstan 2014 Law of the Republic of Kazakhstan dated July 12, 2018 No. 180-VI "On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on the improvement of criminal, criminal procedure legislation and law enforcement and special state authorities" (The Law of the Republic of Kazakhstan dated July 12, 2018 No. 180-VI, 2018) [Bulletin of the Parliament of the Republic of Kazakhstan, 2018, No. 16, Article 56].

In the former Criminal Code of 1997, the arrest period was much longer: from one month to six months (part 2 of article 46 of the criminal code of the Republic of Kazakhstan).

In accordance with Part 5 of Art. 45 of the Criminal Code of the Republic of Kazakhstan in 2014, when a sentence is replaced, the minimum period of arrest may be less than ten days. This situation may arise in the following cases provided by law:

1. when enforcing a fine imposed on a convicted criminal offense - the unpaid part of the fine is replaced by arrest at the rate of one day of arrest for four unpaid monthly calculation indicators (Section 1) of Part 6 of Art. 41 of the Criminal Code of RK 2014);
2. in the event of circumstances impeding the execution of correctional work by a convicted person (except for disability) - they are replaced by arrest at the rate of one day of arrest for four unpaid monthly calculated indicators (clause 1) of Part 5 of Art. 42 of the Criminal Code of RK 2014);
3. in case of evasion of a convicted person from public works - they are replaced by arrest at the rate of one day of arrest for four unworked hours of public work (Section 1) of Part 2-1 of Art. 43 of the Criminal Code of RK 2014).

The arrest in accordance with Part 3 of Art. 45 of the Criminal Code of RK 2014 is not assigned to a certain group of persons. These include:

1. minors;
2. pregnant women;
3. women with young children;
4. men who raise young children alone;
5. women aged fifty-eight and over;
6. men aged sixty-three and over;
7. disabled people of the first and second groups.

This list has undergone significant changes compared to the Criminal Code of the Republic of Kazakhstan in 1997, which included only three categories of persons:

2. Persons who had not reached the age of sixteen at the time of sentencing, and later - persons who had not reached the age of eighteen at the time of sentencing in accordance with the amendments made by the Law of the Republic of Kazakhstan No. 10-III of 9 December 2004 “On Amending and Supplementing the Criminal Code, Criminal Procedure, Criminal Executive Codes of the Republic of Kazakhstan and Code of the Republic of Kazakhstan on Administrative Offenses for the simplification procedures for the investigation of criminal cases, the decriminalization of certain offenses and the improvement of legislation on administrative offenses ” (The Law of the Republic of Kazakhstan, 2004) [Bulletin of the Parliament of the Republic of Kazakhstan, 2004, No. 23, Article 139]; pregnant women;

3. women with minor children.

The inclusion of minors (initially, persons under the age of sixteen) in the number of persons who are not assigned the punishment in question is justified by the fact that they are thus warned of the negative consequences of this punishment in relation to children. Strict isolation from society (keeping locked up in chambers, lack of meetings with parents or other close people), lack of general education and vocational training, movement under escort leads to a breakdown of positive social and emotional ties with parents, relatives and other people, loss of time and opportunity educational plan, improvement of mental and physical development, which later, after serving the sentence, is either difficult or irrecoverable or irreparable.

Changes in the criminal law in respect of the list of persons to whom no arrest is assigned, were carried out in two directions:

1. extensions: the list includes 1) men raising single children alone, 2) women aged fifty-eight and over years, 3) men aged sixty-three and over years, 4) people with disabilities of the first and second groups;
2. Contractions: instead of women with minor children, now we are talking about women with young children.

In part 4 of Art. 45 of the Criminal Code of the Republic of Kazakhstan in 2014 retained a provision stating that servicemen are arrested in the guardhouse.

The process of the execution of the arrest punishment is currently regulated by the fifteenth head of the PEC RK 2014. This chapter in accordance with Part 1 of Art. 177 PEC of the Republic of Kazakhstan entered into force on January 1, 2017.

Places of serving a sentence of arrest are special receivers and isolated areas of detention facilities at the place of conviction (paragraph 1 of article 83 of the PEC of the RK of 2014) and the guardhouse for military personnel (paragraph 2 of the article of the 83 of the PEC of RK of 2014).

For the first time in the PEC RK of 2014, the terms of sending convicts to serve a sentence of arrest are defined from the day the sentence enters into legal force (part 1 of article 84), and for convicted military men within three days sentence, entered into force (part 2 of article 84).

Features of the order of execution of punishment in the form of arrest are reflected in Art. 85 PEC RK. A smaller part of these features was already known to the former penal legislation of the Republic of Kazakhstan. For example, the fact that convicts for arrest are kept in strict isolation in cells (part 1). But here it is necessary to clarify what is in the wording of Part 1 of Art. 64 PEC of the RK of 1997 after the changes of December 10, 2009 the cell type was specified: lockable common cells (The Law of the Republic, 2009). Prior to this, there was no such specification, although the content of convicts in lockable common cells was implied. This was due to the fact that in the original edition of Part 2 of Art. 64 of the Penal Code of Penal Code of the Republic of Kazakhstan of 1997, it was established that prisoners (to arrest) are subject to the conditions of detention established by this Code for persons serving a sentence of imprisonment under conditions of general regime in prison. Art. 127 PEC of the RK of 1997 of the reviewed edition determined that those sentenced to deprivation of liberty were kept in prisons in lockable common cells (part 1).

Also, as before, in places of serving a sentence of arrest, there are separate men, women, and persons who have previously served sentences in institutions and having a criminal record. In the original edition of Part 1 of Art. 64 of the 1997 PEC of the RK. The list of these persons also included minors, who were subsequently excluded.

But most of the features of the order of serving a sentence of arrest for the current criminal-executive legislation of the Republic of Kazakhstan are new:

1. Separated from healthy people, there are separate patients with various infectious diseases (Part 1 of Art. 85 of the PEC of RK 2014);

2. Isolated from other convicts are convicted persons - former employees of courts, law enforcement and special state bodies, persons authorized to exercise control and supervision over the behaviour of convicted persons (part 1 of article 85 of the PEC of RK 2014);
3. When a convicted person is hospitalized in a medical institution of a health organization, a convoy is sent to ensure his protection (part 1 of article 85 of the PEC of RK 2014);
4. Convicted servicemen are kept separately depending on their composition (officers, sergeant, foreman and ordinary servicemen) and separately from military personnel held in the guardhouse for other reasons (part 3 of article 85 of the PEC of RK 2014).
5. Meals sentenced to arrest are provided according to the standards of persons sentenced to imprisonment.

Food servicemen convicted for arrest are provided at the rates established by the authorized bodies in the field of criminal executive activities, national security, defense of the Republic of Kazakhstan in coordination with the central authorized body on budget planning (Part 2 of Article 85 of the PEC RK 2014).

In accordance with Art. 86 PEC RK 2014 convicted to the penalty of arrest, in addition to general rights and obligations (Articles 10 and 11 PEC RK 2014), the following rights are granted:

1. once a month, receive and send letters and telegrams at your own expense;
2. receive money transfers;
3. to spend monthly on the purchase of foodstuffs and basic necessities the funds available in the control accounts of the cash of the temporary placement of money in the amount of up to one monthly calculation indicator;
4. once a month receive parcels, transfers, packages containing essential items and clothing according to the season.

Also, sick convicts and disabled persons have the right to receive packages and transfers with medicines and medical products in the quantity and assortment determined by a medical certificate;

5. on meetings with a lawyer without limitation of their number, duration, and in conditions that ensure their confidentiality;
6. for a daily walk of at least one and a half hours;
7. on a telephone conversation with a spouse (spouse), close relatives at the expense of personal funds in cases of death or severe illness of the spouse (spouse), a close relative

- who threatened the life of the patient, a natural disaster, which caused significant material damage to his family and other exceptional personal circumstances ;
8. for short-term visits for a period of not more than seven days, not counting the time required for travel (not more than five days), in connection with the death or serious illness of a spouse (spouse), a close relative who threatened the patient's life, a natural disaster causing significant material damage to his family.

In this article, along with the common for all convicted rights and obligations under Art. Art. 10 and 11 of the PEC of the Republic of Kazakhstan, special rights are provided for persons convicted for arrest. It should be noted that the conditions of serving the sentence of arrest, as defined in Art. 86 PEC RK 2014, significantly differ from the previous penal legislation. B.K. Shnarbayev and A.E. Mizanbayev note that the legislator has refused a repressive approach to the execution of punishment in the form of arrest, which took place earlier in legal theory and practice. The humane approach to serving a sentence in strict isolation is reflected in special rights for those convicted of arrest. (Criminal executive, 2017) [Criminal executive law of the Republic of Kazakhstan. Textbook.B.K. Shnarbaev, A.E. Mizanbaev. - Kostanay: Kostanai branch of FSBEI of HE "Chelyabinsk State University", 2017. - 512 p.] In particular, receiving parcels, transfers, packages containing essential items and clothing according to the season is now possible once a month (clause 4) of Part 2 of Art. 86 PEC RK 2014), while earlier, although their receipt was provided for, but their frequency was not specified.

Further, the legislator in the new PEC of the Republic of Kazakhstan returned to the size of one monthly calculation indicator for the monthly expenses of the convict for the purchase of food and basic necessities from the funds available in control accounts for cash of temporary placement of money (paragraph 3) part 2 of article. 86 PEC RK 2014). This size was also provided in the first edition of the PEC of the RK of 1997. But do not forget that the specified size in accordance with the previously mentioned Law of the Republic of Kazakhstan dated December 10, 2009 has been increased to three monthly calculated indicators (The Law of the Republic, 2009). Accordingly, the current amount of the monthly expenses for the purchase of food products and basic necessities is a manifestation of tougher conditions for serving the punishment in question. And there is a need, in our opinion, to consider the possibility of increasing this indicator to three monthly calculated indicators.

The fact that the PEC RK of 2014 increased the minimum duration of walks sentenced to arrest deserves a positive assessment: from one hour to one and a half hours (clause 6) of Part 2 of Art. 86 PEC RK 2014). The PEC of the RK of 1997 also provided for a walk of at least one and a half hours, but only for minors.

In addition, in the current legislation, exceptional circumstances of a personal nature were specified, in the presence of which a telephone conversation of a convict with his spouse

(spouse), close relatives (paragraph 7) of Part 2 of Art. 86 PEC RK 2014). This will allow us to apply the law in a uniform manner, as well as to avoid the facts of abuse of official powers by the relevant officials of the places of execution of punishment in the form of arrest.

Evidence of the further humanization of the criminal-executive legislation of the Republic of Kazakhstan is the fact that in the PEC of RK of 2014 for the first-time convicted persons serving an arrest were granted such rights as:

1. once a month to receive and send at his own expense letters and telegrams (paragraph 1) part 2 of art. 86 PEC RK 2014);
2. receive money transfers (clause 2) of Part 2 of Art. 86 PEC RK 2014);
3. short-term visits for a period of not more than seven days, not counting the time required for travel (not more than five days), in connection with the death or serious illness of the spouse (spouse), a close relative who threatened the life of the patient, a natural disaster causing significant material damage to his family (PP. 8) Part 2, Art. 86 PEC RK 2014)..

The innovations of the PEC RK are the provisions of Art. 87, which for the first time determined the peculiarities of the legal status of convicted servicemen serving a sentence of arrest:

1. 1. the time of serving a sentence of arrest is not counted in the general term of military service and the length of service on assignment of the next military rank (part 1);
2. 2. during this period, a soldier cannot be assigned to the assignment of another military rank, assigned to a higher position, transferred to a new duty station or dismissed from military service, except for cases of recognition as unfit for service due to health reasons (part 2);
3. also, the convicted soldier during the specified period is not paid a monetary allowance (part 3).

Discussion

The theoretical legal analysis of the previously existing and existing Kazakhstan criminal and criminal executive legislation and the existing scientific interpretation of legal categories in the field of the application of punishment in the form of arrest allows us to identify the following main conclusions.

First, I would like to draw attention to the minimum presence of labour in the execution of punishment in the form of arrest. Paragraph 71 of the Internal Regulations and the order of maintenance of military police bodies convicted in the guardhouse of the National Security Committee of the Republic of Kazakhstan, approved by order of the Chairman of the National

Security Committee of the Republic of Kazakhstan No. 319 of September 25, 2014 (The internal rules and procedures, 2014) [[http://adilet.zan.kz / rus / docs / V14KN009842](http://adilet.zan.kz/rus/docs/V14KN009842)], it is indicated that convicted military personnel are involved in the management of the guardhouse with a duration of no more than two hours per week. Chapter 7 of the Internal Regulations and Maintenance Rules for the Military Police Armed Forces of the Armed Forces of the Republic of Kazakhstan, approved by order No. 367 of the Minister of Defense of the Republic of Kazakhstan dated July 20, 2017, stipulates the possibility of engaging military personnel in the maintenance of the guardhouse, cleaning chambers and other the premises of the guardhouse in order of priority according to the schedule of duty, as well as improvement of the territory of the guardhouse (The internal, 2017).

In clause 34 of the Rules of Organization of Activities and Internal Regulations of Special Institutions Implementing the Execution of Sentences in the Form of Arrest, approved by Order No. 504 of the Minister of Internal Affairs of the Republic of Kazakhstan dated July 26, 2017 (The rules, 2017), it is indicated that the attendant in the cell monitors the cleanliness of the chamber, sweeps and washes the floor in the chamber, cleans the chamber bathroom, the walking yard at the end of the walk. But in the last two documents the maximum limit of the duration of such work per week is not specified. In Chapter 15 of the PEC of RK 2014, there is no provision at all for engaging persons sentenced to arrest to work. Although in art. 65 of the PEC of the RK of 1997 was an indication that the administration of places of execution in the form of arrest has the right to involve convicts in the management of premises for places serving a sentence of arrest without payment of no more than four hours a week. The possibility of bringing convicts to arrest to paid work is also not provided for in the indicated chapter of the PEC of RK 2014.

The need for labour (both in the form of paid labour, and in the form of improvement works and improvement of living conditions in places) in the execution of the sentence of arrest is due, in our opinion, to the fact that labour is an integral part of the correction of the convicted person. Firstly, it is based on the very concept of correcting the convicted person, that is, the formation of the convicted person of a law-abiding behaviour, positive attitude towards the individual, societies, work, norms, rules and ethics of behaviour in society (clause 10), Art. 3 PEC RK). Secondly, socially useful work is one of the main means of correcting a convict (clause 4) of Part 1 of Art. 7 PEC RK). The importance of the correction of the convict is due to the fact that this is one of the goals of punishment (part 2 of article 39 of the article of the Criminal Code of the Republic of Kazakhstan in 2014). Thirdly, the main duty of convicts is a conscientious attitude to work (paragraph 7) of Part 1 of Art. 11 PEC RK). The lack of labour in rectifying a convict for arrest is also perplexing due to the fact that even those sentenced to imprisonment who are serving a sentence in cells work in specially equipped working chambers or in isolated localized areas of the production area (part 1 and 4). Article 149 PEC RK).



In our opinion, it would be advisable to provide in chapter 15 of the PEC RK of 2014 the possibility of bringing convicts to arrest to perform work on the management of the premises of places intended for serving a sentence in the form of arrest, without payment of no more than two hours per week.

Secondly, the new PEC RK of 2014 did not reflect the measures of encouragement and punishment applied to those convicted for arrest, and, accordingly, the order of their application. Although in the PEC of the RK of 1997 such a rule was - Art. 66. In our opinion, it is advisable to override the experience of the previous Kazakhstan legislation on this issue, making some changes to it, taking into account the current conditions of serving the sentence of arrest. In particular, the list of incentive measures previously provided for by the PEC of the RK of 1997, including gratitude, early removal of the previously imposed penalty, permission for a telephone conversation, should, in our opinion, be expanded to include an additional spending allowance of up to one monthly settlement in the above list, indicator for the purchase of food and necessities on holidays. Such a list of incentive measures is already practiced in the previously mentioned Rules of Internal Order and the procedure for the maintenance of convicted persons in the guardhouse of the military police of the National Security Committee of the Republic of Kazakhstan (paragraph 111) (The internal rules and procedures, 2014).

We suggest keeping the list of penalties the same: reprimand and placement in a punishment cell. But the maximum term for the last penalty is necessary, in our opinion, to be reduced from ten to five days, taking into account the fact that at present the maximum term of arrest is reduced from ninety days to fifty days.

In connection with consideration of the issue of incentives and penalties applicable to those convicted of arrest, we consider inadmissible reference in the previously mentioned Rules for the organization of activities and internal regulations of special institutions implementing the execution of arrest punishment (The rules, 2017) to art. Art. 128 and 131 PECs of the RK of 2014 due to the fact that these articles regulate incentives and penalties, as well as the procedure for applying them to convicts of another type of punishment - imprisonment.

Thirdly, the PEC RK of 2014 does not regulate the procedure for the movement of convicts to arrest on the territory of the places of execution of punishment. Only in Part 1 of Art. 85 of this Code, there is a provision stating that if a prisoner is sent for hospitalization to a medical institution, a health convoy is conveyed to ensure his protection. In addition, in paragraph 31 of the previously mentioned Rules for the Organization of Activities and the Internal Regulations of Special Institutions Implementing the Execution of Punishment in the Form of Arrest, there are provisions for a convoy against convicts, according to which the movement of convicts through the territory of a special receiver or remand prison is carried out only under escort. We consider it necessary in the PEC RK of 2014 to introduce a norm providing for the

duty of convicts sentenced to arrest to move around the territory of the places of serving a sentence of arrest only under escort, and not limited to the presence of a corresponding provision in the subordinate act.

Fourth, in Art. 84 PEC RK 2014 as the basis for the execution of the punishment in the form of arrest provided only entered into force of the court sentence. In our opinion, this is not enough. Among the grounds for the execution of punishment in the form of arrest, it is also necessary to include a court decision that has entered into legal force in the event of the replacement of such types of punishment as a fine, correctional work and public work for arrest in accordance with clause 1) h. 41, p. 1) Part 5, Art. 42 and 1) Part 2-1 of Art. 43 of the Criminal Code of the Republic of Kazakhstan.

Fifth, in accordance with paragraph 5), Part 2, Art. 86 PEC RK of 2014 convicted to arrest have the right to meet only with a lawyer without limiting their number, duration and in conditions that ensure their confidentiality. In violation of this provision, in paragraph n. 95 - 104 of the Internal Regulations and the procedure for the maintenance of the military police bodies of the National Security Committee of the Republic of Kazakhstan convicted in the guardhouse (The internal rules and procedures, 2014) contain provisions on holding meetings of convicted servicemen with lawyers, relatives and other persons. In particular, it is indicated that the convicted military personnel are provided with short two-hour meetings (clause 95), for example, persons who are not relatives of the convicted military officer (clause 96), spouse (wife), relatives (clause 97), visits are granted in the order of the general queue (p. 98) and others. We consider it necessary to bring the said sub-law with the PEC of RK 2014 by excluding most of the provisions of p. 95 - 104 of the said Rules, with the exception of the provisions on granting meetings with a lawyer to a soldier, as well as security measures during meetings.

Sixthly, in Part 1-1 of Art. 467 of the Criminal Code of the Republic of Kazakhstan 2014 currently has references to part 3 of art. 41, part 3 of Art. 42 and Part 2 of Art. 43 of this Code. Before the amendments to the Criminal Code of the Republic of Kazakhstan in July 2018, these norms provided for provisions on the replacement of fines, correctional works and public works with punishment. But in accordance with the Law of the Republic of Kazakhstan dated July 12, 2018 No. 180-VI "On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on the improvement of criminal, criminal procedure legislation and activities of law enforcement and special state authorities (The Law of the Republic of Kazakhstan dated July 12, 2018 No. 180-VI, 2018) [Bulletin of the Parliament of the Republic of Kazakhstan, 2018, No. 16, Article 56] Art. 41 and 42 of the Criminal Code of RK 2014 were set out in the new edition, and in Art. 43 of the Criminal Code of the Republic of Kazakhstan 2014, Part 2 was outlined in a new edition and supplemented with new parts: 2-1 and 2-2. And now the provisions on the procedure for the replacement of fine, correctional works and public

works are regulated, respectively, in paragraph 1) part 6 of article. 41, p. 1) Part 4 of Art. 42 and p. 1) Part 2-1 of Art. 43 of the Criminal Code of RK 2014. It is necessary in this regard, in Part 1-1 of Art. 467 of the Criminal Code of RK 2014 instead of Part 3 of Art. 41, part 3 of Art. 42 and Part 2 of Art. 43 of this Code specify p. 1) h. 6, Art. 41, p. 1) Part 4 of Art. 42 and p. 1) Part 2-1 of Art. 43 of the Criminal Code of RK 2014.

Conclusion

The stated provisions can be used in the process of improving the criminal and criminal-executive legislation of the Republic of Kazakhstan concerning the legal regulation of the appointment and execution of such type of punishment as arrest in order to prevent criminal misconduct, improve the efficiency of correction of the convict, etc.

In particular, the proposal to increase the paragraph 3) Part 2 of Art. 86 PEC RK 2014 from one to three monthly estimates of the amount of monthly expenses for the purchase of food and basic necessities from the funds available in control accounts of cash for temporary placement of money is an additional possibility to humanize the penal legislation of the Republic of Kazakhstan.

The desire to improve the correction of convicted persons to arrest explains our proposal to include in chapter 15 of the PEC RK of 2014 provisions on the possibility of bringing convicted persons to arrest, as well as a separate article providing incentives and penalties to convicts for arrest, as well as their application to specified persons.

For the prevention of possible offenses by those convicted for arrest, it is proposed in the indicated chapter of the PEC of RK 2014 that imposing such a duty on those convicted for arrest as movement on the territory of places of serving punishment in the form of arrest only under escort.

In order to fully reflect the current legislation (criminal and criminal procedure), it was suggested that, in addition to the court's verdict, the court's rulings in the event of the replacement of such punishments as well as the verdict of the court were included into the grounds for the execution of the sentence of arrest. like fine, correctional labour and community service for arrest.

To eliminate the contradictions in the Kazakhstan legislation, it is proposed to make the appropriate changes in part 1-1 of Art. 467 of the Criminal Code of the Republic of Kazakhstan, as well as in separate by-laws of the Republic of Kazakhstan.



The presented conclusions and suggestions of the authors to improve the criminal and criminal-executive legislation in terms of determining, appointing and executing such punishment as arrest can be used by other authors of scientific papers on the specified subject, both within Kazakhstan's science and abroad.



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