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On the Efficiency of Punishment by Depriving Citizenship in Compliance with Criminal Law of the Republic of Kazakhstan

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Abstract

The main purpose of this paper is to propose the definition of the above-mentioned notion, the study of the issues relating to the effective realization of punishment by depriving the citizenship as a form of criminal punishment according to Criminal Law of the Republic of Kazakhstan. In order to look into this form of crime in a more scientific way the following methods have been used: historical, comparative –legal, logical, structural and functional. The authors of this paper have carried out the comparative – legal analysis of foreign legislative practice. It has enabled them to make a conclusion that in the countries stipulating a deprivation of citizenship as a form of punishment there are no requirements about the purposes of punishment. The authors consider that such an approach is characteristic of only those countries which do not have legally established special purposes of punishment.

Keywords: Criminal Law; Punishment; Deprivation of Citizenship; Vitally Important Interests of a State; Purposes of Punishment.

Introduction

Over the recent years it has been observed that the Criminal legislation of the Republic of Kazakhstan has toughened responsibility for committing serious and grave crimes, in particular for those crimes committed in organized criminal groups, crimes against juveniles, as well as against corruption, terrorism and extremism. For combating such forms of crimes, the Criminal Code of the Republic of Kazakhstan (2014) has not simply been increasing the responsibility, but it has also been introducing new forms of punishment. The Law of the

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Republic of Kazakhstan. No. 1017-XII "On the Citizenship of the Republic of Kazakhstan" (1991) shall define the citizenship as a stable political and legal liaison of a person with a state referring to a set of mutual rights and obligations. The Constitution of the Republic of Kazakhstan (1995) has established the provision that a citizen of the Republic of Kazakhstan under no circumstances may be deprived of citizenship, of the right to change his citizenship and may not be expelled from the territory of Kazakhstan (was adopted at the all-nation referendum of August 30, 1995).

By the Law of the Republic of Kazakhstan No. 91-VI "On Introducing changes and additions to some regulatory acts of the Republic of Kazakhstan in bringing them in compliance with the norms of the Constitution of the Republic of Kazakhstan" (2017) the Constitutional norm was supplemented that a deprivation of citizenship was permissible only at the decision of the court for committing a terrorist act or inflicting other grave damages to the vitally important interests of the Republic of Kazakhstan (The Law of the Republic of Kazakhstan …, 2017). In this regard, the Law of the Republic of Kazakhstan No. 91-VI "On Introducing changes and additions to some regulatory acts of the Republic of Kazakhstan in bringing them in compliance with the norms of the Constitution of the Republic of Kazakhstan" (2017) has introduced the norm of punishing by a deprivation of citizenship of the Republic of Kazakhstan. In compliance with Article 50-1 of the Criminal Code of the Republic of Kazakhstan (2014) a deprivation of citizenship of the Republic of Kazakhstan consists of a coercive break off of a stable political and legal relations of a State with an offender which has expressed a set of mutual rights and obligations.

A deprivation of citizenship of the Republic of Kazakhstan cannot be designated to juvenile delinquents under 18 (Criminal Code of the Republic of Kazakhstan, 2014). Thus, the deprivation of citizenship for the Kazakhstani Criminal Code is a new form of punishment. Previously it was not envisaged by law. That is why it is necessary to study new provisions of the criminal legislation and to justify its experience. While studying the issues of this paper the following methods of scientific cognition have been used: historical, comparative-legal, logical, and structural-functional. The authors of this paper have carried out analysis on the efficiency of punishment in the form of the deprivation of citizenship in compliance with the criminal legislation of the Republic of Kazakhstan and in this regard, it is suggested that it should be excluded from the Criminal Code of the Republic of Kazakhstan as a form of punishment.

Interpretation of Punishment of the Kazakhstani Scholars and Foreign Scientists

Because of the fact that this form of punishment was not applied in the legislative practice before nowadays there are very few works of the Kazakhstani scholars. Kazakhstani scholar M.K. Samaldykov (2017) considers the deprivation of citizenship as a punishment existing in the world legislative practice and studies the reasonableness of applying this form of punishment for this or that crime. The author underlines that in the amendment into the Fundamental Law of the country and the Criminal Code on the deprivation of citizenship, there is an approach which does not contradict to the provisions of subparagraph a) paragraph 3 Article 8 of the Convention on the Reduction of Statelessness (1961).

The author comes to a conclusion that the current norm of the national legislation on the deprivation of citizenship are of an authoritative character because of its vagueness and lengthy definition, as well as for the lack of legal guarantees for the family of a stateless person (Samaldykov, 2017). By establishing the rules on liability for the damages inflicted upon the vitally important interests of the Republic of Kazakhstan, the legislator has not specified what is meant by this notion. The notion "vitally important interests of the Republic of Kazakhstan" has been defined neither in the Constitution of the Republic of Kazakhstan (1995) nor in the Criminal Code (2004). The research of this issue is of great importance because it is in the Special Part of the Criminal Code there are articles which envisage punishment in the form of the deprivation of citizenship for the encroachment on the vitally important interests of the State.

M.K. Samaldykov (2017) criticizes the absence of a list groups of crimes which would envisage criminal liability for other grave damages inflicted upon the vitally important interests of the Republic of Kazakhstan. He recommends to consider all the crimes without any exception which are containing in Chapter IV of the Criminal Code of the Republic of Kazakhstan (2014) "Crimes against the peace and security of mankind" and in Chapter V of the Criminal Code of the Republic of Kazakhstan "Criminal offences against the constitutional order and security of the State" as the crimes encroaching upon the vitally important interests of the State. At the same time the mentioned author in his subsequent works notes, that such crimes as "treason, or the attempts of coup d'état, or the armed riots against the Republic of Kazakhstan" should be considered as a serious harm inflicted upon the vital interests of Kazakhstan. In his opinion, only for these illegal acts certain state-legal sanctions in the form of the deprivation of citizenship must be imposed (Samaldykov, 2017). In this regard it should be noted that the above-mentioned crimes are not thoroughly defined in Chapters IV, V of the Criminal Code of the Republic of Kazakhstan (2004). At present the Criminal

Code of the Republic of Kazakhstan of July 3, 2014 gives the list of crimes inflicting other grave harm and damages upon the vital interests of the State. In compliance with paragraph 20 – 1) Article 3 of the Criminal Code of the Republic of Kazakhstan the following crimes envisaged by Part 2 Article 160, Article 163, part 3 Article 180, Article 181, part 3 Article 182, Article 455.

Taking into consideration the contents of the above-mentioned Articles of the Criminal Code of the Republic of Kazakhstan (2004), we can make a conclusion that any serious harm inflicted upon the vitally important interests of the State are expressed in the form of material or physical damages of the personal security of the prisoners of war and civilians, security of mankind, national property, strategic objects and objects ensuring defense of the country, inviolability and territorial integrity of the State. As there is no precise definition of the notion "vitally important interests of the State" in the Criminal Code of the Republic of Kazakhstan (2004) we suggest the authors' definition that under this notion it should be understood the comprehensive values of the society, the constituent elements of which are security and defense capability, sovereignty and territorial integrity of the country, security of mankind and legitimacy of the constitutional order of the State.

In its turn it is necessary to estimate critically the Kazakhstani criminal legislation for the unwarranted establishment of the punishment under consideration on some corpus delicti. From our point of view, it would rather not envisage this form of punishment according to part 3 Article 179 of the Criminal Code for the acts aimed at the forcible seizure of power or forcible retention of power violating the Constitution of the Republic of Kazakhstan (1995) or the forcible change of the constitutional order of the Republic of Kazakhstan. The reason is that the latter belongs to the extremist crimes, in particular, to the political extremism. It means that a person who has committed acts aimed at the forcible change of the constitutional order or the forcible seizure of power may express his disagreement with the existing regime. For this reason, this category of criminals should not be attributed to the ordinary criminals, with all of that the Criminal Code of the Republic of Kazakhstan (2014) does not apply such notions as "political crimes" or "political criminals", though on some crimes it admits political motives of committing acts.

The analysis of the foreign legislative practice shows that the Kazakhstani legislator interprets the deprivation of citizenship as punishment and applies it to the above-mentioned crimes. For instance, in France the deprivation of citizenship is applied as a punishment for treason, crimes committed against the Constitution of the country, as well as for criminal acts in favour of a foreign state inflicting harm and damage upon his own state and for acts incompatible with the status of a

French citizen (Code penal Version consolidee, 2019). In compliance with paragraph a) Section 349 of the US Immigration and Nationality Act (1952) such kind of punishment is used both towards the naturalized and the citizens of the USA by birth for committing such acts as treason, armed uprising against the USA, covert activities aimed at the overthrow of the government of the USA (Boyars, 1986).

The deprivation of citizenship as a form of criminal punishment is also used in India, Bangladesh, Egypt, Columbia, Bulgaria. In some countries, for instance in Iran, the deprivation of citizenship is justified not by the fact of committing a crime but acquiring the citizenship of another state (Non-Recognition of Dual…, 2015). Criminal Law of Germany does not envisage the deprivation of citizenship as punishment (Criminal Code of the Federative Republic of Germany, 2019). The legal analysis of foreign criminal legislations shows that in most of the countries the deprivation of citizenship is not applied as a form of punishment.

And in this regard, it is necessary to solve two important key issues of the national criminal law relating to the application of punishment in the form of the deprivation of the citizenship for crimes posing serious threats to the vitally important interests of the State. First of all, it is necessary to clarify the reasonableness of legislative establishment of punishment in the form of the deprivation of citizenship, i.e., to what extent the Kazakhstani society and enforcement practice need such a form of punishment; secondly, the purpose of its application, i.e., what positive results the application of such a form of punishment can bring about.

In the works of Immanuel Kant (1965a)., the issues of punishment were viewed in an abstract way, i.e., no attention was given to certain issues of punishment. Of course, researches of the issues of punishment from the philosophical point of view need the consideration of more significant, generalized issues than the issues of certain forms of punishment. I. Kant, being the proponent of the principle of equity, in the theory about punishment noted that "in any punishment as such, first and foremost, there must be equity, which comprises the just of the notion".

In this aspect we should agree with the contemplations of I. Kant (1965b) that punishment is the response of society to the committed crime. The phrase "the response of society to the committed crime" would mean the response of a legislator, which in its form and scope of the severity of punishment corresponds to the harshness and character of the criminal act. At the same time, in accordance with the theory of I. Kant, "any other purpose being applied as punishment, is the violation of the categoric imperative; and it is inadmissible because it destroys the entire public system". This thought was expressed by I. Kant directly and clearly:

"Punishment by court (poena forensic) cannot be regarded as the means of promoting some favour or benefit for the criminal himself or the civil society in general: punishment must be imposed only upon the criminal only for the fact that he has committed a crime…. He must be pleaded guilty before the thought that by punishing him we would gain profit for him himself and for his countrymen".

I. Kant (1965a) has not touched upon such issues as correction of the criminal or the mitigation of punishment under some conditions or the amnesty. On the contrary, I, Kant says that "it will be a great misconception if one tries to gain some profit from the law which promises to save him from the penalty or at least from part of it". At present the similar point of view about the role and importance of punishment can be found in the traditional theory of criminal law of some foreign states. For instance, in the American theory of criminal law the notion punishment is interpreted as follows: "punishment in Criminal law means pain, sufferings, penalty, restrictions imposed on a person in conformity with the rules of law and by poena forensic for the acts or criminal offences committed by him, or failure to fulfill obligations prescribed by law" (Rush, 2010).

Such kind of interpretation of punishment is characteristic of the criminal-legal doctrine of the English-American legal system. For instance, the theory on punishment in the Canadian law goes back to the roots of the English criminal law which was developed in the Middle Ages. At that time in England there did not exist well-thought measures of punishment, but the main purpose was the penalty (Poole, 1993).

The Criminal Code of Germany has not established the notion and purposes of punishment either. Chapter I, Section III of the Criminal Code of the FRG (2019) is fully dedicated to the characteristics of separate forms of punishment. The issues relating to the purposes of punishment are considered by the criminal-legal doctrine. In the Criminal Code of Canada (1985) there is no definition of punishment, but the purposes of punishment are clarified. The theory of Ch.L. Montesquieu (1955) relating to the issue of the application of punishment is considered to be more humane. Fifty years before I. Kant (1965a) wrote that "harsh punishment is more appropriate in despotic states, the main principle of which is fear, rather than in monarchies and republics, where dignity and virtue are in the core. What is meant by dignity and virtue of the state in the process of applying punishment? Firstly, the inevitability of punishment, i.e., a person who has committed crime must not be left without punishment, at least on the level of criminal legislation taking into consideration the crime committed; secondly, an offender is granted privileges which are envisaged by law.

Cesare Beccaria (2011) was the first to raise a voice for more lenient sentence and against the inhumanity, i.e., death penalty. Being a famous lawyer and public figure, Beccaria considered that the most effective means in the struggle against crimes was not harsh punishment but inevitability of punishment. In his famous book called "Concerning Crimes and Punishment" he wrote that "the more severe the punishment, the more hardened become the souls of people".

Such an approach is proved by the fact that the State depriving a person his citizenship does not want to see him in the future as an honest, law-abiding member of the society. It would display the correction of the convicted, which is considered to be the final goal of punishment. In other words, States depriving offenders their citizenship and at the same time rejecting their chances of rehabilitation are not trying to make them more productive members of society. The deprivation of citizenship also denotes the deprivation of political rights (for example, to be a member of a political party, to participate in demonstrations, pickets, rallies, elections, etc.) and partly of their economic rights (for example, a ban on the ownership of the property). Besides, a person deprived of his citizenship cannot receive some social aid from the state in the place of residence.

As far as the notion "equity of punishment is concerned, in the criminal – legal theory there exist different points of view. For instance, U.S. Dzhekebayev (2001) notes that "Only such punishment which promotes overcoming criminality in general may be admitted as just punishment. It says about the fact that the notions equity of punishment and equity of law are not the same". According to N.F. Kuznetsova and I.M. Tyazhkova (2002), the principle of equity of punishment "requires the exact proportionality of punishment and the level of a danger to the public, conditions of committing crimes and to understand why a person commits a crime and how society failed to enable him to live a respectable, law-abiding life.

The other authors I.I. Rogov and S.M. Rahmetova (2005) by analyzing the purposes of punishment note that "the court imposing 'a just' punishment openly (judicial proceedings are usually held at open sessions), tries to convince everyone in society that the State is able to punish a person who has violated the Criminal code, and it is ready to protect the public order and peace, public security, the environment, and the health of the population, without which it is impossible for the entire society to exist". The analysis of the points of view of the above-mentioned authors show that they stick to different opinions.

N.F. Kuznetsova and I.M. Tyazhkova (2002) define the equity of punishment in compliance with the current criminal-legal doctrine, i.e., there you can find an answer "how a person who has committed a crime is to be punished fairly". But this point of view does not pursue the purpose of protecting such

public values as public security, healthcare of the population, etc. The protection of these public values may be attributed to quite a different purpose of punishment – prevention of crimes. U.S. Dzekebayev (2001) also supports this point of view connecting the notion "equity of punishment with the preventing function of punishment. In criminology the notions prevention and overcoming the crime are admitted as synonymous notions. In our opinion the notions "equity of punishment" and "serving the justice" have different functions. If equity of punishment, according to N.F. Kuznetsova and I.M. Tyazhkova (2002), denotes the proportionality of punishment and the level of a danger of the crime to society and the person himself who commits a crime, the restoration of justice means the criminal prosecution of persons who commit violence against the society. It will also express the desire and the will of the society.

From the point of view of the scientists from some European states it is stated that while punishing the offenders for the committed crimes, the desire of the society must be taken into consideration. "The punishment for grave crimes must reflect the condemnation of the crime by the society, and the purpose of punishment is not simply a deterrence. The main purpose of punishment is the condemnation of the crime by the society" (Stuart et al., 2009). Criminal law and their scope must be in conformity with the lawmaking interests. But with such characteristics of the notion "equity of punishment" we should not make a conclusion that positive and humane purposes will be upon the deprivation of citizenship. It may be explained in the following way: the deprivation of citizenship in its content envisages neither the correction of the offender nor the restoration of the social justice.

Another purpose of punishment is the prevention of committing new criminal acts by the conviets or other persons. The common idea of the prevention of crimes is prevented as the warning of citizens about the crime that may be committed, about the criminal behavior that may be stopped only by the application of punishment on anyone who has committed a crime. Such measures may cause the feelings of fear to be punished. The analysis of foreign sources shows that besides retributive purposes in the criminal legislation a specific role is also played by the preventive directions. We think that in the issue under discussion the common preventive purpose of punishment may also be attributed to some potential offenders. But it will be possible only then when potential criminals will acknowledge that the deprivation of citizenship will inflect a great damage upon them. At the same time, it is impossible to apply a special preventive punishment against a person deprived of his citizenship, as it was noted, in the Kazakhstani legislation the conditions of restoring citizenship are not envisaged.

In considering the issues of punishment the interrelations between crime and punishment are not less important, though in the theory of Criminal law there is no consensus. But here we do not mean the adequacy or proportionality of punishment to the severity and character of crimes, but what category (crime or punishment) in the Criminal Law is the first in regard to the other. In the criminal-legal science the issues on crime prevention are viewed, where the category "punishment" is admitted as a primary notion rather than crime itself. So, according to A.F. Kistyakovski (1882), "the primary place in Criminal Law is attributed to punishment. It is here where the soul, the main ideas of Criminal Law are expressed. The scientists of some European countries also support this point of view. In particular, the Polish criminologist L. Laszek (1967) notes that there are numerous supporters of the primacy of punishment of offenders. By absolutizing punishment, they consider that the institute of punishment appeared in the public life even earlier than the notion crime, that in the genetic sense the notion "punishment" comprises some "prins" relating to criminality.

The Role and Significance of Punishment in the Form of the Deprivation of Citizenship

Under the current criminal-legal doctrine crime and punishment are in a dialectical interrelation with each other. According to the classical understanding of these notions without crime there is no punishment, otherwise it turns into the act of lawlessness. Punishment follows the concept of crime, and its purposes must be studied in their interrelations. Such an understanding is supported by foreign scholars. As it is noted by Canadian lawyers, punishment is the result of identifying a person who has committed a crime to be guilty. Punishment reflects the level or extent of condemnation of the act from a moral point of view (Manming et al., 2009). This understanding, having been transformed into the notion "punishment", sets the exact tasks – to be proportional with the severity of crime, and be appropriate to the nature of the crime.

The idea of establishing the punishment to be appropriate to the nature of the crime is found only in the works dedicated to the issues of the Special Part of Criminal Law. In practice, these tasks are taken into consideration by a legislator in the specification of sanctions of the appropriate articles of the Special Part of Criminal Code of the Republic of Kazakhstan (2014).Thus, this task has been implemented by the Kazakhstani legislator in the form of the deprivation of citizenship concerning the persons who have committed crimes against vitally important interests of the State, though the innovation introduced by a legislator does not correspond to the purposes of punishment. Punishment under discussion by its nature and the gravity of the offence a bit like a punishment as the

"expulsion from the tribe", which existed in earlier ordinary criminal law of the Kazakhs. The peculiarity of such a punishment was the fact that an offender being expelled from the tribe could not live with his relatives; but for the deprivation of citizenship the expulsion from the territory of the State has not been envisaged by the legislation.

Criminal or Penal Law of the Republic of Kazakhstan admits as one of the main and humane purposes of punishment the correction of the offender. The purpose of punishment itself presupposes the application of certain means of treatment and conviction toward the offenders during the term of serving their sentence. There exist a variety of rehabilitation of the convicts, but they are established depending on the form of punishment. In general, a set of ways of the correction include educational work, getting primary and secondary education, professional education, maintenance of positive social relations, public conscientious labour, public impact, and the established discipline while serving the sentence. At present, there is an opinion among the population that it is impossible to cure offenders by jailing. On the contrary, they correctional institutions as leave inveterate offenders. In this regard it should be noted that in Criminal Code of the Republic of Kazakhstan (2004) the places of confinement are not called as "correctional or penal institutions" but simply "institutions".

The need to maintain security within the institutions depending on the danger, the seriousness or violent nature of their offence, the length of their sentence and other considerations, has prompted to divide these institutions into categories of minimum, simple, medium, maximum, emergency and mixed security. Such names of institutions of confinement are mainly used in the USA. Here we can answer the proponents of the opinion that "in the places of confinement where people are deprived of their liberty, jails cannot cure them, on the contrary, they may become real criminals" as they are imprisoned as criminals. In the Kazakhstani places of confinement, it is really so that these institutions cannot rehabilitate and correct the convicts; unfortunately, they become adherent to the criminal subculture. In our opinion, it happens because of the formal application of the established means and ways aimed at the correction in practice. But this tendency is not characteristic of all the countries. For instance, the comparative analysis of the recidivism carried out by the Canadian scientists shows that the Canadian citizens sentenced to the deprivation of liberty commit the repeated crimes much less, which can be explained by the fact that they use a great number of rehabilitation programs in the penal institutions of the country (Rudell and Winfree, 2006).

The foreign scientists also pay much attention to the issues of the social adaptation of the offenders, expecting the positive results from the implementation of punishment. For example, Manming, Mewett and Sankoff (2010), D. Kazochkina (2010) admitting the actuality of the rehabilitation purposes of the convicts, give rise to the idea that some "therapeutic" measures may be used and they may be effective for changing the convict's behavior. It should be noted that the above mentioned means of rehabilitation cannot be used on the citizens deprived of their citizenship because this form of punishment does not set as its aim the correction of a criminal. The absence of humane purposes in the application of punishment in the form of the deprivation of citizenship gives rise to the thought that in this form of punishment another element, the pena is expressed. At present in the Kazakhstani criminal-legal science there exists such an opinion that the penance can be used as the means for attaining some other goals set by the State.

In the theory of law, the issue relating to the fact "whether to consider or not to consider the penance as the purpose of punishment in criminal law" was analysed by I.S, Noy (1973). I.I. Karpets (1961; 1973), M. Tkachevsky (1970) and many other criminologists admit the penance as one of the purposes of criminal punishment. I.I. Karpets (1961; 1973) dwelling upon the purposes of punishment notes: "When the court imposes the punishment it is guided by certain purposes: to punish and to correct the offender by using punishment. It is difficult to imagine that punishment may be used without the purpose of punishment". This author in his subsequent works defending his point of view wrote that punishment sets as its aim the penance of the offender (Gertsenzon, 1958; Piontkovsky, 1969). The punishment of the criminal in the general sense means the application of the act of revenge by the State for the crime committed and for the infliction of sufferings on the convict through a variety of means of punishment.

The criminal-legal method of combating criminality and the implementation of the imposed punishment is the method of coercion. Article 39 of the Criminal Code of the Republic of Kazakhstan runs: "Punishment is the State method of coercion designated by a court decision". In compliance with the provisions of this Article of the Criminal Code of the Republic of Kazakhstan (2014) the coercive method of punishment is included in the stipulated criminal law on the deprivation or restriction of rights and freedoms of a person. The coercion, being the main mechanism of implementing punishment, requires the fulfillment of the appropriate acts both on the part of the convict and of the State. The State punitive organs for the realization of the imposed punishment are engaged in its fulfillment using the means envisaged by law. The convict prisoner serving his sentence is restricted in his rights and freedoms.

The notion “coercion” in its pure sense denotes that a person sentenced to a certain punishment must serve it even in the absence of desire. It means that the offender must pay the established sum of the fine in due time or be in the place of confinement, to obey and meet the requirements of the administration of penal institutions in case if he is sentenced to imprisonment. Such method of coercion in case of the deprivation of citizenship is expressed in the deprivation of the political and legal relations with the State. In this form of punishment there are no other coercion properties or the obligation of the convict relating to this imposition. In our opinion, any punishment established by law must pursue the socially useful purposes not only for society but also for the convicts themselves. As a result, these circumstances are estimated by the factor providing for the validity of this form of punishment. For instance, if we are talking about the punishment in the form of the deprivation of liberty, the main grounds of the application of it are the particularly dangerous identity of the criminal who must be isolated from the society with the purpose of ensuring its security.

At present in the literature devoted to jurisprudence and to the problems of criminal-legal science, the scientists are quite reasonably focusing on the “crisis of punishment” (Criminal Justice Confronting …, 1996; Kurtis, 2004). The notion “crisis of punishment” is multidimensional as punishment alongside with the activities of State bodies on the issues of its implementation where the ineffective action of punishment may take place. The inefficiency of punishment may also take place due to the fact that State legal policy may recommend substandard purposes, principles and forms of punishment. Because of the need to consider a great number of issues, the ratios of the rule of law require special research. Considering the role and significance of punishment in the form of the deprivation of citizenship, it is necessary to dwell upon the compliance of this notion with the nature of another legal instrument on the deterrence of criminal behavior, the so-called “security measures”.

Among the post-Soviet countries only in the Criminal Code of Belarus the notion “security measures” has been given (Criminal Code of the Republic of Belarus, 1999). Chapter 14 of the Criminal Code of Belarus is called “Coercive security measures and treatment”, the purpose of which is to impose forcible measures of a medical character upon those who have committed socially dangerous acts. In this regard, it should be mentioned that in the Criminal Code of the Republic of Kazakhstan (2014) there is no definition of the notion “security measures”. Security measures after the punishment, according to the authors of the concept on security measures, would be the legal restriction concerning the persons who have served their sentences (Kuznetsova and Tyazhkova, 2002). Such legal restrictions in Criminal Law of the Republic of Kazakhstan are called

the probation control and is regarded as the establishment of the administrative supervision until the termination of serving the sentence, or being under the supervision of the probation services.

From the legal characteristics of the notion "security measures" we can make a conclusion that the deprivation of citizenship does not correspond to security measures. Firstly, the deprivation of citizenship does not belong to the coercive measures of a medical character. Secondly, this form of punishment does not have any relation to the administrative supervision which is applied during or after serving the punishment. Thirdly, it does not set the tasks of preventing crimes relating the persons who are prone to commit crimes.

In this regard, it is appropriate to say about ensuring security measures in the society in the application of punishment stipulating the expulsion of a foreigner or a stateless person from the territory of the Republic of Kazakhstan. The criminal legislation of the Republic of Kazakhstan does not envisage the expulsion from the territory of the Republic of Kazakhstan the citizens of our country deprived of citizenship, because it may lead to the interruption of links with his family or relatives, as well as inflicting sufferings to the families and relatives.

Conclusions

Thus, the analysis of the efficiency of punishment in the form of the deprivation of citizenship according to the criminal legislation of the Republic of Kazakhstan shows that the meaning and content of the deprivation of citizenship as a form of punishment correspond to the teachings of I. Kant who has asserted that "in the equity of punishment we do not mean any correction, rehabilitation of an offender or the mitigation of punishment". Thereby, the punishment under discussion contradicts to the teachings of the scholars who have offered to stipulate humane purposes and principles in punishment which will provide not harsh punishment but its inevitability and socially useful purposes, the State's ability to punish its citizen on the bases of the gravity of the committed crime.

The discrepancy of characteristics of punishment in the form of the deprivation of citizenship with the humane purposes of punishment as well as the absence of socially useful purposes both for the society and the convict himself, raise doubts from the point of its conditionality. As a result, we can make a conclusion on the inefficiency of this form of punishment and in this regard, it is suggested to exclude it as a form of punishment from the Criminal Code of the Republic of Kazakhstan.

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