

THE IMPLEMENTATION OF HOUSE ARREST IN THE CRIMINAL PROCEEDINGS IN UZBEKISTAN

Ramazonova Fariza Abdirashidovna

Teacher of Department "Criminal-procedural law" at Tashkent State University of Law, Uzbekistan. 100047, Tashkent, Saylgoh St., 35

Address: Republic of Uzbekistan, Tashkent, Shaykhontahur district, Besh-Yagach 8/28
e-mail: farizaxon@list.ru

Annotation: *This article is based on an analysis of house arrest as a preventive measure in criminal procedure and as a punishment in criminal law of the Republic of Uzbekistan, as a new form of judicial activities in criminal proceedings.*

Key words: *house arrest, preventive measure, punishment, criminal procedure, court, judge, judicial reforms.*

Introduction. In the recent years there have been dramatic changes in the political, social, economic and legal systems in the Republic of Uzbekistan. In light of the ongoing judicial reforms gained some recognition as an opinion on the need to fundamentally different ways of organizing national criminal justice. Thus, great attention is paid to the liberalization of criminal procedure including the reforms in this area, particularly, house arrest.

On September 4, 2014, President of Uzbekistan signed a law providing for amendments and additions to the Criminal Procedure Code (CPC). According to the introduced amendments, house arrest was introduced in Uzbekistan as a preventive measure.[1]

In particular, under article 242 of the new Criminal Procedure Code, house arrest is applied to the suspect, accused or defendant if there are grounds for a preventive measure in the form of detention, provided that detention is not unreasonable in view of age, health, family position and other circumstances.

House arrest is concluded in finding the suspect, accused or defendant in full or partial isolation from the society in a residential area in which he lives as an owner, tenant, or on other legal grounds, with the laying on prohibitions (limitations), as well as the implementation of his control.

Given the state of health of the suspect, defendant or the defendant's place of detention under house arrest can be determined by the medical institution.

The decision on measures of restraint in the form of house arrest shall specify the restrictions (limitations) of freedom, which is subject to the suspect, accused or defendant, as well as the body entrusted with supervising the observance of the established restrictions (limitations).

A person against whom a preventive measure in the form of house arrest, can be imposed following restrictions (limitation):

- 1) contacting with certain persons;
- 2) receiving and sending correspondence;
- 3) using any means of communication;
- 4) leaving the house.

The suspect, accused or defendant may be subject to all restrictions (limitations), or some of them.

Location of the arrested can be protected and over his/her behavior, if needed, can be set supervision.

In exercising supervision over the observance of the suspect, accused or defendant established interdictions (restrictions) out of the housing authority of the Interior has the right at any time to verify his presence in the community.

Checking is done not more than once a day and not more than once a night.

If necessary may be applied electronic monitoring in relation to the house arrested person.

Execution of house arrest imposed on the body of internal affairs at the place of residence of the suspect, accused or defendant.

If for medical reasons the suspect, accused or defendant was taken to a health facility and hospitalized, the place of performance as a preventive measure of house arrest is considered to be the territory of the relevant health institutions.

Date of the suspect, accused or defendant, who is under house arrest in conditions of complete isolation from society, with the defender, legal representative are in a place of execution of the measure.

The term of house arrest, and the procedure for extending the appeal are determined by the rules under Articles 241, 243, 245-248 Code of Criminal Procedure.

In case of violation of the restriction by the suspect, accused or defendant, house arrest can be changed to a preventive measure of detention.

Introduction of house arrest Procedural Law will reduce the practice of detention and should contribute to an enabling environment for the social reintegration of persons who have committed a crime, the preservation of their families and maintain their health.

Unlike other measures of restraint not connected with detention, house arrest can more effectively ensure the further suppression of criminal activities and attempts to prevent the truth in a criminal case.

Furthermore, according to the law "On amendments and additions to some legislative acts of the Republic of Uzbekistan", August 10, 2015, Criminal Code (CC) of Uzbekistan was amended¹. Now it came to amend Substantive Law.

The law was adopted by the Legislative Chamber on July 29, 2015 and approved by the Senate on August 6, 2015. The amendments entered into force on 11 August.

In order to liberalize the criminal law policy of the system of penalties introduced a new kind of basic sentence - the restriction of freedom.

It should be noted that the new punishment may be imposed for a period from three months to five years, as well as the constraints that can be applied to a convicted person in the severity of punishment is his assigned place after the arrest.

According to Article 48 of the Criminal Code, the limitation of freedom consists in the establishment by the court complete ban of leaving the home or restrictions on the way out of the home at a certain time of day.[2]

Restriction of freedom shall be appointed for a term of six months to five years and shall be served under the supervision of authorities, determined by the court. Restriction of freedom, a condition of its serving of residence of the convicted person determined by the court taking into account the nature of the offense and to prevent evasion of the court decision.

Given the nature of prohibitions (limitations), the court may impose on convicted following additional restrictions (limitation):

- not go to certain places;
 - notto participate in the mass and other events;
 - not to engage in certain activities;
 - not to own or store certain subjects;
 - not to drive a vehicle;
 - not to change the place of residence, place of work and (or) study, not to go beyond the relevant administrative territory without the consent of the supervisory authority of the convicted;
 - not to establish contacts with certain persons;
 - notto use the means of communication, including the Internet;
 - notto drink alcoholic beverages.
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As noted in the document, the court may impose, on a person sentenced to restriction of freedom, compensation for the material and moral damage, as well as other duties promoting his correction.

If sentenced person to restriction of freedom for the period of serving the sentence realize their criminal acts, firmly on the path of correction, compensate for the material and moral damage, the court may cancel the whole or part of the previously set bans (restrictions).

In case of malicious evasion by the convicted person from serving the penalty of restriction of liberty, and from performance of assigned duties by the court, the court can replace the not served term of restrictions with another form of punishment.

Restrictions on freedom of juvenile offenders shall be appointed as a principal punishment for a term from six months to two years.

The period of restraint of liberty shall be calculated from the day of registration of the convict in the inspection of Corrections. The term of the restriction of freedom does not include the time of unauthorized absence of the convicted person in the community without a valid reason.

Sentenced to liberty restraint shall comply with the prohibitions established by the court (restrictions), as well as being on call in the inspection of execution of punishments for giving oral or written explanations on issues related to serving their sentences.

In relation to a person sentenced to restriction of liberty may be applied electronic monitoring.

Permission for leaving the place of residence at a specific time on visiting certain places, located within the relevant administrative territory or to travel outside the territory of the relevant administrative territory, as well as permission to change the place of residence is given by Penitentiary Inspectorate. The decision is made in exceptional cases, depending on the nature of prohibitions (limitations), the convict's personality, his behavior, the presence of supporting documents.

Permission for leaving the place of residence of the convicted person in respect of whom established a complete ban on leaving the shelter; permission for the convict to leave the relevant administrative territory, as well as permission to change the place of residence of the convicted person is authorized by the public prosecutor.

The followings are considered as maliciously evading from serving punishment of restraint of liberty:

a) committing a breach of the order and conditions of serving the sentence for one year after being subjected to a disciplinary sanction in the form of warning about the inadmissibility of violation of the prohibitions established by the court (restrictions);

b) violating the rules of use in relation to a technical means of surveillance;

c) escaping from the place of residence, the location which is not found for more than three days;

d) not arriving at the inspection of execution of punishments in the community for more than three days, exceeding the prescribed period.

Conclusions. Passing the Law and realization of these changes will promote observance of the principle of fairness as it is the main purpose of punishment. Besides that it will help to eliminate inevitabilities by increasing responsibility, as well as reduce the number of persons in penitentiaries.

References:

1. The Law of the Republic of Uzbekistan "On amendments and changes to the Code of Criminal Procedure of Uzbekistan", September, 2014.
2. The Law of the Republic of Uzbekistan "On amendments and additions to some legislative acts of the Republic of Uzbekistan", August 10, 2015.