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Ars Aequi

UNIVERSITATEA „OVIDIUS” CONSTANȚA

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Legal characteristics of release from serving a sentence due to the decision of the authorized body to transfer a convict for exchange as a prisoner of war

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Abstract

The article under studies deals with the issue of releasing a convict from serving a sentence due the decision of the authorized body to transfer this convict for exchange as a prisoner of war. It regards the mechanism of applying this type of release from criminal liability, envisaged by the Criminal Code of Ukraine (hereinafter – CC of Ukraine). Particular emphasis has been laid on the emerging need to implement such a mechanism in terms of the russian-Ukrainian war in order to ensure the return of all Ukrainian prisoners of war held by the russian federation by transferring russian prisoners of war held in Ukraine who have received the status of convicts. The article also points out that the legal basis for the application of this type of release from serving a sentence is the amendments made to the Criminal Code of Ukraine, as well as the possibility of its implementation on the basis of a number of regulations in the field of international humanitarian law and domestic legal acts. The latter regulate the legal status of prisoners of war against whom domestic courts have passed guilty verdicts. The authors highlight the key differences between the studied way of exchanging the convicted prisoners of war and the use of pardons, which has been actively used since the beginning of the war in Ukraine in 2014.

Keywords: *release from serving a sentence; convict; prisoner of war; combatant; pardon; war crimes; international humanitarian law.*

In the 20th century, the world experienced two world wars, which had significant impact and consequences and took away the lives of millions of people. What did we, the modern generation, who relied so much on the mechanisms of international security