

Termination of a Criminal Case (Criminal Prosecution) Due to the Imposition of a Court Fine*

Alexander Volevodz,¹ Dmitriy Ivanov,² Sergey Polyakov,³
Viktor Bezryadin,⁴ Vladislav Alyshkin⁵

^{1,2} Moscow State Institute of International Relations (University) of the Ministry of Foreign Affairs of the Russian Federation (MGIMO-University), ³Novosibirsk State Technical University, ⁴St.Petersburg University of the Ministry of Internal Affairs of Russia, ⁵Main Investigative Department, Russia



[10.15408/jch.v11i2.34007](https://doi.org/10.15408/jch.v11i2.34007)

Abstract

Criminal cases in Russia often hinge on a critical decision during the preliminary investigation stage: whether to proceed to trial or terminate the case. While various grounds for termination exist, one central condition revolves around the compensation or reparation for harm caused by the crime. This article examines the termination of criminal cases through court fines to compensate for the damage caused by crimes. The research utilizes the general scientific method of cognition for detailed examination and analysis, the systematic approach method for procedural considerations, and methods of analysis and synthesis to identify law enforcement challenges. The study systematically analyses the legal provisions and judicial practices related to imposing court fines since 2016. Results indicate that total compensation for harm is crucial for applying termination grounds under Article 25.1 of the Criminal Procedure Code. Voluntary harm compensation often leads to the termination of criminal cases, effectively preventing the creation of a criminal record for the accused.

Keywords: Preliminary investigation; Compensation for harm; Interrogator; Victim; Prosecutor

* Received: April 25, 2023, Revised: May 21, 2023, Accepted: June 24, 2023, Published: August 30, 2023.

¹ **Alexander Volevodz** is a Doctor of legal sciences at Moscow State Institute of International Relations (University) of the Ministry of Foreign Affairs of the Russian Federation (MGIMO-University). ORCID: <http://orcid.org/0000-0003-4962-2823> Email: alexander.g.volevodz@mail.ru

² **Dmitriy Ivanov** is an Associate Professor, Phd of legal sciences at Moscow State Institute of International Relations (University) of the Ministry of Foreign Affairs of the Russian Federation (MGIMO-University). ORCID: <http://orcid.org/0000-0002-2023-3771> Email: dmitriy.a.ivanov@bk.ru

³ **Sergey Polyakov** is an Associate professor, Phd of legal sciences at Novosibirsk State Technical University. ORCID: <http://orcid.org/0000-0003-0159-9484> Email: s.a.polyakov@inbox.ru

⁴ **Viktor Bezryadin** is an Associate professor, Phd of legal sciences at St.Petersburg University of the Ministry of Internal Affairs of Russia. ORCID: <http://orcid.org/0000-0003-0751-930X> Email: bezryadin.v.i@mail.ru

⁵ **Vladislav Alyshkin** is the investigator at Main Investigative Department, Russian Federation. ORCID: <http://orcid.org/0009-0008-4880-5680> Email: vshknn@yandex.com

**Corresponding author: alexander.g.volevodz@mail.ru

Pengakhiran Suatu Perkara Pidana (Penuntutan Pidana) Karena Dikenakan Denda Pengadilan

Abstrak

Kasus pidana di Rusia sering kali bergantung pada keputusan penting pada tahap penyelidikan awal: apakah kasus akan dilanjutkan ke pengadilan atau dihentikan. Meskipun ada berbagai alasan untuk melakukan penghentian, satu syarat utama berkisar pada kompensasi atau reparasi atas kerugian yang disebabkan oleh kejahatan tersebut. Pasal ini bertujuan untuk mengkaji penghentian perkara pidana melalui denda pengadilan sebagai upaya mengganti kerugian yang diakibatkan oleh kejahatan. Penelitian ini menggunakan metode kognisi ilmiah umum untuk pemeriksaan dan analisis secara rinci, metode pendekatan sistematis untuk pertimbangan prosedural, dan metode analisis dan sintesis untuk mengidentifikasi tantangan penegakan hukum. Kajian ini menggunakan pendekatan sistematis untuk menganalisis ketentuan hukum dan praktik peradilan terkait pengenaan denda pengadilan sejak tahun 2016. Hasil penelitian menunjukkan bahwa kompensasi penuh atas kerugian sangat penting untuk menerapkan alasan pemutusan hubungan kerja berdasarkan Pasal 25.1 KUHP. Kompensasi kerugian yang dilakukan secara sukarela sering kali berujung pada penghentian kasus pidana, sehingga secara efektif mencegah terciptanya catatan kriminal bagi terdakwa.

Kata Kunci: Penyelidikan pendahuluan; Kompensasi atas kerugian; Pemeriksa; Korban; Jaksa

Прекращение уголовного дела (уголовного преследования) в связи с наложением судебного штрафа

Абстрактный

Уголовные дела в России часто зависят от критического решения на стадии предварительного следствия: переходить ли к судебному разбирательству или прекратить дело. Хотя существуют различные основания для прекращения, одно из основных условий касается компенсации или возмещения вреда, причиненного преступлением. Целью данной статьи является рассмотрение прекращения уголовных дел посредством судебных штрафов как способа возмещения вреда, причиненного преступлением. В исследовании используются общенаучный метод познания для детального изучения и анализа, метод системного подхода для процессуальных соображений, а также методы анализа и синтеза для выявления проблем правоохранительной деятельности. В исследовании использован системный подход для анализа правовых положений и судебной практики, связанных с наложением судебных штрафов, начиная с 2016 года. Результаты показывают, что полная компенсация вреда имеет решающее значение для применения оснований прекращения по ст. 25.1 Уголовно-процессуального кодекса. Добровольное возмещение вреда зачастую приводит к прекращению уголовных дел, эффективно предотвращая привлечение обвиняемого к судимости.

Ключевые слова: Предварительное расследование; Возмещение вреда; Следователь; Жертва; Прокурор

A. INTRODUCTION

Criminal cases often culminate during the preliminary investigation stage, where the investigating authority evaluates the available evidence to decide whether to proceed to trial or terminate the case ([Nikonov, 2021](#)). Among the various grounds for terminating a criminal case specified in Article 25 of the Code of Criminal Procedure, compensation or reparation for harm caused by a crime emerges as a fundamental condition. This requirement emphasizes the significance of providing restitution to victims and restoring the violated rights of individuals affected by criminal acts.

The authors aim to shed light on the importance of compensatory measures in the criminal justice process and analyze the evolving judicial practices surrounding the application of court fines since their inception in 2016. This research aims to provide insights into the effectiveness and implications of using court fines as a measure of criminal liability exemption while emphasizing the significance of voluntary compensation for harm as an integral condition for termination, ultimately avoiding a criminal record for the accused.

B. METHODS

This study employs multiple research methods to comprehensively analyze the complex issues surrounding the termination of a criminal case (criminal prosecution) through imposing a court fine under Russian Federation legislation. The primary method employed is a general scientific method of cognition, allowing for a detailed examination and analysis of the various contentious aspects of this legal process. Additionally, the systematic approach method is utilized to review the procedural considerations involved when deciding to terminate a criminal case due to the imposition of a court fine.

To identify existing challenges in law enforcement practices regarding the termination of criminal cases with court fines, the researchers utilize methods of analysis and synthesis, offering valuable insights into potential areas of improvement. Furthermore, the comparative legal method is employed to study the Russian legislation governing the roles of investigators and those conducting initial inquiries, specifically when making procedural decisions related to the imposition of court fines. This method also includes an examination of relevant regulatory legal acts, aiding in the identification of critical issues and the formulation of potential solutions. By combining these research methods, the authors acquire novel information essential for enhancing the procedures related to terminating criminal cases (criminal prosecution) through the imposition of

court fines, thus contributing to the overall advancement of criminal procedural legislation in Russia.

C. RESULTS AND DISCUSSION

In view of the study of theoretical issues and the practice of providing compensation for harm caused by criminal acts, the authors cover the conditions accompanying the adoption of decisions on the termination of a criminal case (criminal prosecution) ([Nurutdinova et al., 2023](#)). It should be noted that the analysis of the provisions of the current Russian legislation regulating the procedure for terminating a criminal case (criminal prosecution) allows us to identify the following grounds, the occurrence of which is directly related to the fact of compensation for harm: *the termination of a criminal case due to the reconciliation of the parties* ([Art. 25 of the Code of Criminal Procedure](#)); *the termination of a criminal case or criminal prosecution due to the imposition of an illegal law measure in the form of a court fine* ([Art. 25.1 of the Code of Criminal Procedure](#)); *the termination of criminal prosecution due to active repentance* ([Art. 28 of the Code of Criminal Procedure](#)); *termination of criminal prosecution due to compensation for damage* ([Art. 281 of the Code of Criminal Procedure](#)).

In turn, N.G. Kadnikov (2000, p. 104) notes that the categories of criminally punishable acts to which these grounds for termination of a criminal case (criminal prosecution) are applicable, which are crimes of minor gravity, account for 33% of the total number of crimes as stated in the Criminal Code of the Russian Federation, and crimes of medium gravity - 34%. In 2022, exemption from criminal liability occurred in 74% of cases in pre-trial proceedings.

During the period of operation of Art. 76², 104⁴, 104⁵ of the Russian Federation and Art Criminal Code. 25.1 of the Code of Criminal Procedure of the Russian Federation, the institution of a judicial fine confirmed its relevance in law enforcement practice. Following the statistics of the Judicial Department at the Supreme Court of the Russian Federation, a court fine in 2017 was imposed on 20,639 persons, and in 2018, it was set on 33,329 persons.

These data indicate a consistent increase in the courts' decisions on exemption from criminal liability with the imposition of a court fine. The courts made such decisions in all federal subjects of the Russian Federation. This measure was applied to persons who committed various crimes of small and medium gravity (theft, fraud, misappropriation or embezzlement, intentional destruction or damage to property, etc.). ([Presidium of the Supreme Court of the Russian Federation, 2019, p. 2](#))

It should be emphasized that the necessary grounds for terminating a criminal case (criminal prosecution) is voluntary compensation for harm caused by a criminally punishable act proved during the preliminary investigation. For example, procedural features aimed at ensuring the functioning of the “capital amnesty”, as well as the procedure for terminating a criminal case due to the imposition of a court fine, are aimed both at humanizing criminal justice and improving the economic situation in the state. ([Grigoriev et al., 2022, p. 60](#))

The importance of voluntary compensation for harm is revealed in a two-component aspect by I.G. Kozhin ([2006](#)), who believes that:

Firstly, this method of compensation for harm significantly expands the possibilities of the guilty in choosing specific ways of compensation. Secondly, voluntary compensation for harm caused by a crime is applicable in pre-trial proceedings. At the same time, the main disadvantage of a civil lawsuit is the possibility of its resolution only with the verdict (decision) of the court. ([p. 192](#)).

While partially agreeing with the first statement by I.G. Kozhin, we oppose his second position with our arguments regarding the leveling and understatement of the possibilities of civil action in criminal proceedings. Supporting the institution of claims in criminal proceedings, we emphasize its importance in general and significance for the law enforcement officer in particular since it is by ensuring the plaintiff’s claims for compensation for the harm caused by the crime that the complete restoration of the violated rights of persons who have become victims of criminal acts is achieved. As for the pre-trial proceedings, it should be noted that these issues cannot always be resolved during the preliminary investigation since the suspect (the accused) does not always have a conscious desire for voluntary compensation for the harm. Therefore, a civil lawsuit allows compulsorily by a court decision, without violating the constitutional rights of persons brought to criminal responsibility, to seek the restoration of the rights of crime victims and compensate for the harm caused by criminal acts.

Studying the practices of foreign countries, we also pinpoint the effectiveness of applying the claim method of protecting the rights of victims of criminally punishable acts. For example, German law enforcement practice often refers to the possibilities of civil proceedings to resolve issues of compensation for harm caused by a crime, especially in cases where difficulties arise in resolving the problems of determining the amount of damage caused and the damage to be compensated ([Dubrovin, 2009, p. 35](#)). At the same time, it is necessary to clarify that in the Russian law of criminal procedure, the rights of a

civil plaintiff do not differ significantly from the rights of a victim, and the only difference is in the subject of the claim. Further, to Art, it is crucial to consider the specifics of the proving by the investigator and the person conducting the initial inquiry of the factual circumstances related to the actual compensation for the harm caused. 25.1 of the Code of Criminal Procedure of the Russian Federation: "Termination of a criminal case (criminal prosecution) in connection with the appointment of a measure of a criminal law nature in the form of a court fine".

In this regard, it is appropriate to note that only at the beginning of the operation of this article of the Code of Criminal Procedure of the Russian Federation, from September to December 2016, 1,299 criminal cases were transferred to the courts, in which this measure was applied. We will support the point of view of E.V. Smirnova (2017), who argues that the provisions introduced by the Federal Law of 03.07.2016 No. 323-FZ are an incentive to compensate for the harm caused by the crime as quickly as possible at the stage of preliminary investigation. ([State Duma of the Federal Assembly of the Russian Federation, 2016, p. 68](#))

According to some researchers, this provision continues the criminal policy of humanising illegal and unlawful procedure legislation ([Esina et al., 2017, p. 120](#); [Pushkarev et al., 2021, p. 395](#)). Complementing and developing the position of the abovementioned authors, we emphasize the improvement aimed at creating conditions for compensation for harm not only through the use of repressive measures (forced seizure of property during procedural actions in pre-trial proceedings in criminal cases) but also through the further development of the institution of voluntary compensation for harm.

The amendments not only provide for a real possibility for victims to receive compensation for the harm caused by the crime but also have a purely economic component to the application of this measure since the amounts received as a result of the payment of court fines are a source of replenishment of the federal budget.

Having mentioned the positive aspects of applying the provisions of chapter 51 of the Code of Criminal Procedure of the Russian Federation, we provide more details on the procedure for using the abovementioned measure of a criminal law nature. In this study, we will designate as a "constant" of this institution the proven fact of total and authentic compensation for harm caused by a criminally punishable act as an indispensable condition for applying the specified ground for the termination of a criminal case.

According to Art. 76.2, 104.4 of the Criminal Code of the Russian Federation, a court fine is a measure of a criminal law nature in the form of a monetary penalty imposed by the court when releasing a person from criminal liability in cases where this person has committed a crime of minor or moderate gravity for the first time and *has made amends for the harm caused by the crime*.

A literal understanding of these provisions makes it possible to conclude that a person who has paid a court fine *is still not exempt from criminal liability if he has not actually and fully compensated or otherwise made amends for the harm caused by the crime*. Thus, the authors feel strongly that to apply the grounds for termination of a criminal case (criminal prosecution) specified in Art. 25.1 of the Code of Criminal Procedure, compensation or other reparation for the harm caused by a criminally punishable act is an integral, conceptual and fundamental condition.

At the same time, it should be noted that under the mitigation of the harm caused by the crime, in this case, it is possible to personify both the actual compensation for harm by paying money to the victim equivalent to the expenses incurred and other measures aimed at restoring the violated rights and legitimate interests of the victim, civil plaintiff or their representatives. It can be repairing or restoring damaged property, replacing lost property with similar ones, reimbursing treatment costs, etc ([Smirnova, 2017](#)). Most importantly, this fact should be proved by the materials of the criminal case and the victim's claims regarding compensation need to be fully satisfied ([Nguyen, 2021](#)). The return of stolen property to the victim may be recognized as compensation for damage or redress, provided that the person voluntarily returned the stolen property.

By the decision of the Leninsky District Court of Kirov on December 14, 2017, the criminal case against M., accused of committing a crime under paragraph "c" of Part 2 of Art. 158 of the Criminal Code of the Russian Federation, following Art. 25.1 of the Code of Criminal Procedure of the Russian Federation was terminated with the appointment of a court fine. This decision was made since M. had not been held criminally liable before, was accused of committing a crime of moderate gravity, and was compensated for the damage caused to the victim by voluntarily handing over the stolen property. At the same time, the courts reasonably refused to apply the provisions of Art. 76.2 of the Criminal Code of the Russian Federation if the stolen objects were seized during the detention of a person and during investigative actions to detect and seize them. Thus, by the decision of the magistrate of the judicial district No. 138 of the Vnukovo district of Moscow on November 11, 2017, the request of the interrogator to terminate the criminal case against S., suspected of committing a crime under Part 1 of Article 158 of the Criminal Code of the Russian Federation

and the imposition of a court fine was refused since the suspect did not take action to return the stolen property. The police detained the stolen property, and the person conducting the initial inquiry returned it to the victim. At the same time, at the court hearing, S. explained that she did not offer any material compensation to the victim and did not apologize. In such circumstances, the court had no grounds for applying a criminal law measure against S. in the form of a court fine and exempting her from criminal liability under Art. 76.2 of the Criminal Code of the Russian Federation. ([Presidium of the Supreme Court of the Russian Federation, 2019, p. 2](#))

As for the proportionality of compensation for damage caused by a crime to the specific sums of money paid by the suspect (accused), it should be mentioned that the amount paid in compensation may be greater than the amount claimed by the victim. On the other hand, it cannot be less than the amount that the victim stated when assessing the total amount of harm. We elaborate this statement with the following example.

The justice of the peace of the judicial district No. 313 of the Reutovsky judicial district of the Moscow region at the court hearing found that K. had not previously been convicted, the criminally punishable act committed by him, stipulated in Part 1 of Art. 158 of the Criminal Code of the Russian Federation falls under the category of crimes of minor gravity; property damage caused to Auchan LLC for a total amount of 2,603 rubles 30 kop. Reimbursed to the defendant for 7,800 rubles. Art. 76.2 of the Criminal Code of the Russian Federation exempted K. from criminal liability under Part 1 of Art. One hundred fifty-eight of the Criminal Code of the Russian Federation and following Art. 25.1 of the Code of Criminal Procedure of the Russian Federation terminated the criminal case against the defendant, imposing a court fine. In determining the fine, the court considered K.'s property status, the presence of two minor children as dependents, his employment and a stable income.

Defendant K. was sentenced to a criminal law measure in the form of a court fine of 5,000 rubles. At the same time, it was explained to defendant K. that in case of non-payment of a court fine within the period established by the court, the court fine is cancelled. The person is brought to criminal responsibility under the relevant criminal law article. It allows us to assert that the fact of real and full compensation for the harm caused by the crime by the guilty party should be reflected in the criminal case materials ([Pushkarev et al., 2019, p. 7952](#)). At the same time, the amount paid in compensation for harm may be several times greater than the amount that the victim declares when substantiating his claims. This multiple increase confirms the fact of satisfaction of all claims of the victim

to the guilty person, and as a consequence, encourages the judge to decide to release the person from criminal liability and impose a minimum court fine following the provisions of Art. 104.5 of the Criminal Code of the Russian Federation and Part 6 of Art. 446.1 of the Code of Criminal Procedure of the Russian Federation.

Following the explanations given in paragraph 2.1 of the Resolution of the Plenum of the Supreme Court of the Russian Federation of June 27, 2013, No. 19, “On the application by the courts of the legislation regulating the grounds and procedure for exemption from criminal liability”, the methods of compensation for damage and the mitigation of harm should be lawful and not infringe on the rights of third parties. At the same time, the law does not limit the possible ways of compensating for damage and making amends for the harm caused by the crime. ([Smirnova, 2017, p. 24](#))

The courts correctly proceed from the fact that the harm caused by the crime can be compensated in any form that makes it possible to pay for the adverse changes caused by the crime to the social relations protected by criminal law. For example, by the decision of the Ruzaevsky District Court of the Republic of Mordovia on June 28, 2017, the criminal case against K., who was accused of committing a crime under Part 1 of Art. 228 of the Criminal Code of the Russian Federation was terminated following Art. 25.1 of the Code of Criminal Procedure of the Russian Federation with the appointment of a court fine of 10,000 rubles. The court reasoned its decision by stating that K. redressed the harm caused by the crime through voluntary community service at the “Social and Rehabilitation Center for Minors” and donating money to this institution ([Presidium of the Supreme Court of the Russian Federation, 2019, p. 2](#)). Without making any conclusion on the grounds for the application of a court fine, we note that any oral or written promises of the suspect (accused), as well as his various other obligations to compensate for harm soon, cannot be regarded as circumstances suggesting the possibility of applying this measure of a criminal law nature exempting from criminal liability.

D. CONCLUSIONS

To sum up, the voluntary compensation for harm caused by a criminally punishable act may entail the termination of a criminal case (criminal prosecution) due to the imposition of an illegal law measure in the form of a court fine (Art. 25.1 of the Code of Criminal Procedure), which accordingly implies the absence of such a negative consequence as a criminal record.

REFERENCES:

- Dubrovin, V. V. (2009). Legal regulation of compensation for damage caused by a crime under the legislation of the Federal Republic of Germany. *International Criminal Law and International Justice*. No 4, 31-36.
- Esina, A. S., Arestova, E. N. & Zhamkova, O. E. (2017). *Inquiry in the internal affairs bodies: Textbook and workshop for universities*. Moscow: Yurayt Publishing House.
- Grigoriev, V. N., Panfilov, P. O. & Terekhov, M. Yu. (2022). Otkaz ot svobodnoy otsenki dokazatelstv na primere "amnistii kapitala": Ocherednoy udar po publichnosti ygolovnogo processa Rossii [Rejection of free evaluation of evidence on the example of "capital amnesty": Another blow to the publicity of the Russian criminal process]. *Tomsk State University Journal of Law*. No. 44, 58-70. <https://doi.org/10.17223/22253513/44/5>
- Kadnikov, N. G. (2000). *Classification of crimes under the criminal law of Russia*. Monograph. Moscow: Legal Publishing House of the Ministry of Internal Affairs of the Russian Federation.
- Kozhin, I. G. (2006). Methods of compensation for harm caused by a crime. *Black Holes in Russian Legislation*. No. 2, 190-192.
- Nikonov, P. (2021). Criminal policy in countering corruption crimes related to bribery and other illegal remuneration (legislative aspect). *Cuestiones Politicas*. Vol. 39, No. 71, 703-714. <https://doi.org/10.46398/cuestpol.3971.42>
- Nguyen, V. T. (2021). Compensation for damage caused by a crime in the Socialist Republic of Vietnam and the Russian Federation. *Jurnal Cita Hukum*. Vol. 9, No 2, 211-220. <https://doi.org/10.15408/jch.v9i2.21738>
- Nurutdinova, A., Blinkov, O., Chumakova, O., Fedorov, A., Stepanova, G., Shelygov, A. (2023). Privacy Protection in The Age of Digital Communications: Judicial Practice. *Lex Humana*. Vol. 15, No. 3, 136–149.
- Presidium of the Supreme Court of the Russian Federation. (2019). Review of judicial practice of exemption from criminal liability with the imposition of a court fine (Article 76.2 of the Criminal Code of the Russian Federation) (approved by the Presidium of the Supreme Court of the Russian Federation on July 10, 2019). Retrieved from <https://www.vsrp.ru/documents/all/28088/>
- Pushkarev, V. V., Fadeev, P. V., Khmelev, S. A., Van Tien, N., Trishkina, E. A. & Tsviliy-Buklanova, A. A. (2019). Crimes in the Military-Industrial Complex

(MIC). *International Journal of Recent Technology and Engineering*. Vol. 8, No 3, 7950-7952. <https://doi.org/10.35940/ijrte.C6635.098319>

Pushkarev, V. V., Poselskaya, L. N., Skachko, A. V., Tarasov, A. V. & Mutalieva, L. S. (2021). Criminal prosecution of persons who have committed crimes in the banking sector. *Cuestiones Políticas*. Vol. 39, No 69, 395-406. <https://doi.org/10.46398/cuestpol.3969.25>

Smirnova, E. V. (2017). *Legal regulation and issues of practice of compensation for damage caused by a crime in criminal proceedings in Russia: Diss. ... cand. jurid. sciences'*. Volgograd Academy of the Ministry of Internal Affairs of the Russian Federation, Volgograd.

Federal Law No. 323-FZ. (July 3, 2016). On amendments to the Criminal Code of the Russian Federation and the Code of Criminal Procedure of the Russian Federation on improving the grounds and procedure for exemption from criminal liability. Retrieved from: <https://rg.ru/documents/2016/07/08/uk323-dok.html>

Alexander Volevodz, Dmitriy Ivanov, Sergey Polyakov, Viktor Bezryadin, Vladislav Alyshkin