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## **PROVISION OF THE RIGHTS AND LEGITIMATE INTERESTS OF LEGAL ENTITIES THAT HAVE BEEN VICTIMS OF CRIMES**

*Dmitriy Aleksandrovich Ivanov*<sup>1</sup>

*Pavel Vladimirovich Fadeev*<sup>2</sup>

*Elmir Nizamievich Alimamedov*<sup>3</sup>

*Vo Kim Dung*<sup>4</sup>

<sup>1</sup> *Moscow State Institute of International Relations (University) of the Ministry of Foreign Affairs of the Russian Federation (MGIMO-University), Moscow, Russia, dmitriy.a.ivanov@bk.ru.*

<sup>2</sup> *Moscow University of the Ministry of Internal Affairs of Russia named by V.Ya. Kikot, Moscow, Russia. fadeev.p.v@bk.ru.*

<sup>3</sup> *Finance University under the Government of the Russian Federation, Moscow, Russia, alimamedov.e.n@mail.ru.*

<sup>4</sup> *Moscow University of the Ministry of Internal Affairs of Russia named by V.Ya. Kikot, Moscow, Russia. vo.kim.dung@mail.ru.*

**Abstract:** The authors pay close attention to the problems of ensuring the rights and legitimate interests of legal entities, victims of crimes, in pre-trial proceedings on criminal cases in the Russian Federation and the Socialist Republic of Vietnam. The authors emphasize the relevance of this topic by noting that the presence of these problems in criminal proceedings in both Russia and Vietnam requires rethinking approaches to creating a unified model for regulating this area of activity. The purpose of this study is to develop theoretical provisions concerning the activities of officials and law enforcement agencies engaged in criminal proceedings to ensure the rights and legitimate interests of legal entities that have been victims of crimes, and to develop proposals on this basis aimed at improving legislation and law enforcement practice. The analysis of the current criminal procedure legislation of the SRV and Russia on ensuring the rights and legitimate interests of legal entities that have suffered from crimes will allow us to use the experience of regulating public relations in this area in subsequent legislative activities, as well as to identify the most optimal ways to improve the criminal procedure legislation of the SRV and Russia.

**Keywords:** the victim, a legal person, an individual, the harm caused by the offence, pretrial proceedings, the investigator, the interrogating officer, seizure of property, civil suit, civil plaintiff.

## INTRODUCTION

The relevance of this article is primarily due to the fact that the protection of the rights and legitimate interests of persons and organizations who have suffered from criminal encroachment is one of the most important tasks of any democratic state, including the Socialist Republic of Vietnam<sup>1</sup> and the Russian Federation<sup>2</sup>, which is ensured by the effective operation of criminal procedure legislation. At the same time, the successful functioning of legal entities as a subject of public and social relations will help to create the welfare of society, economic security and further development of the state.

## MATERIALS AND METHODS

The methodological basis of the research is a General scientific systematic method of cognition, which allowed us to comprehensively consider the issues of ensuring the rights and legitimate interests of legal entities, victims of crimes. When preparing the study, private scientific methods were used: formal and logical analysis of the concept and procedural status of legal entities as victims of crimes; comparative legal method, which analyzes and identifies common provisions and differences in the criminal procedure laws of the Socialist Republic of Vietnam and the Russian Federation, regulating issues related to the implementation and enforcement of the rights and legitimate interests of legal entities that have been victims of crimes in pre-trial criminal proceedings (Pushkarev et al., 2020, p. 282); a specific sociological method used for interviewing investigators and heads of investigative bodies; a method of systematic analysis used in the formulation and submission of proposals for improving the provisions of criminal procedure legislation that regulate relations that develop when ensuring the rights and legitimate interests of legal entities that have suffered crimes in the Socialist Republic of Vietnam and the Russian Federation. The reliability of the research results is ensured by the implementation of a scientifically proven method of conducting it, using various methods of cognition and studying literary sources of the Socialist Republic of Vietnam and the Russian Federation, as well as materials of investigative practice of the Socialist Republic of Vietnam.

## RESULTS ANALYSIS

At present, there is an increase in the number of social relations, the result of which is an intensive rhythm of modern life and the development of social relations. One of the active subjects of such public relations is a legal entity. As a rule, the institution of a legal entity has an intricate history of formation and development. Today, legal entities, as entities with appropriate rights and obligations, enter into various public relations, including criminal procedural ones. There is a constant increase in the number of legal entities acting as subjects of various legal relationships. Consequently, legal entities are increasingly involved as participants in criminal procedural relations. Issues related to ensuring the rights of legal entities affected by criminal encroachment have an important place at the stage of pre-trial proceedings, since at these stages, for the first time, the rights and obligations of participants in criminal proceedings are realized.

According to article 52 of the Constitution of the Russian Federation, the state is obliged to protect the rights of persons who have suffered from crimes. Criminal Procedure Code of the Russian Federation<sup>3</sup>, in turn, has also identified this provision as

one of the most important tasks of criminal proceedings, the implementation of which is carried out by ensuring the rights and legitimate interests of individuals and organizations, victims of crimes (paragraph 1 part 1 article 6 of CPC of RF), the access of victims to justice and compensation of harm caused by the crime. Accordingly, under Russian law, not only an individual but also a legal entity is considered a victim.

The concept of "victim" is one of the key concepts in Vietnamese criminal procedure science. Ensuring the rights of victims of crimes in Vietnam confirms its high importance not only for criminal proceedings in general, but also for the activities of pre-trial investigation bodies (Dinh, 2016; Viet, 2004). In accordance with article 51 of the Criminal Procedure Code of the Socialist Republic of Vietnam<sup>4</sup>, adopted in 2003, the victim was a person who had suffered physical, moral and property damage as a result of a crime. Consequently, the victim was only an individual. Legal entities participating in criminal proceedings could only acquire the status of a civil plaintiff, which really limited their rights and opportunities in comparison with the rights of the victim. Failure to recognize legal entities as victims in practice led to a violation of the principle of equality before the law and the court. This situation required changes to the norms of the Criminal Procedure Code of the Russian Federation, so that their application in practice in order to ensure the rights and legitimate interests of legal entities, victims of crimes, could be effective and justified.

The Vietnamese legislator, taking into account these circumstances, in 2015 adopted a new Criminal Procedure Code of the Republic of Vietnam, which entered into force on January 1, 2018. In contrast to the Criminal Procedure Code of the Russian Federation of 2003, in the Criminal Procedure Code of the Russian Federation of 2018, a legal entity can acquire the status of a victim. This latest provision is a positive approach to effectively ensuring the rights and legitimate interests of legal entities that have been victims of crimes. However, despite the possibility provided for by law to grant legal entities the procedural status of victim, the problems associated with the participation of legal entities as victims under the legislation of the SRV have not been resolved yet. The legislation has not sufficiently regulated the issues related to the basis and procedure for acquiring the status of a victim by a legal entity, with the implementation of their procedural rights at various stages of criminal proceedings. Thus, there is a need for a deeper study of the problem of ensuring the rights and legitimate interests of legal entities that have been victims of crimes.

It is well known that in accordance with the current criminal procedure legislation of several countries (including Russia and Vietnam), along with an individual, a legal entity is granted the status of a victim in a criminal case if damage to property or business reputation occurs. This provision, in our opinion, allows us to more effectively protect the rights and legitimate interests of legal entities. However, giving a legal entity the status of a victim of a crime also raises several controversial issues, approaches to their resolution, in legal science and law enforcement practice. The degree of development of the research topic. During the period of operation of the Criminal Procedure Code of the Russian Federation many Russian scientists were engaged in this problem: Yu. N. Belozarov, V. P. Bagiev, L. V. Brusnitsyn, A. V. Dubrovny, V. A., Bulatov, V. V. Vandyshev, A. V. Volynskaya, V. N. Grigoriev, A. V. Grinenko, K. F., Guzenko, O. A. Zaitsev, S. R. Zelenin, D. A. Ivanov, M. V. Ignatiev, L. D. Kokorev, S. V. Goldin, E. N. Kleschina, A. M. Larin, O. V. Michurina, N. G. Muratova, S. V. T. Yurkin, V. N. Sipkin, I. L. Petrukhin, A. V. Pobedin, V. M. Savitsky, N. N. Senin, S. A. Sinenko, E. V. Smirnova, T. V. Teterina, V. G. ul'yanov, R. G. Khasanshina, G. P. Himicheva, O. V., Himicheva, S. P. Shcherba and others.

One of the important research papers closest to the subject of work is the dissertation for the scientific degree of legal sciences candidate of the following authors: T.V. Teterina (2004), S.V. Koldin (2004), N.N. Vasilenko (2005), R.M. Yevloyev (2005), D.A. Ivanov (2007), T.I. Shiryaeva (2008), P.G. Sychev (2008), V.V. Afisov (2008), A.Yu. Sadov (2008), M.H. Abdrakhmanov (2008), S.P. Olefirenko (2009), M.R. Safaraleev (2009), A.O. Sharshembiev (2013), V.I. Balovneva (2018). Various problems of ensuring the rights and legitimate interests of victims in pre-trial proceedings were raised in the works of V. V. Pushkarev (Pushkarev et al., 2019, p. 2563-2566; 2020, p. 121-125), and are of significant interest. In Vietnam, the institute of the victim in criminal proceedings has also been studied by a number of scientists: Nguyen Ngoc Cham; Vo Khanh Vinh; Chan Huy Chang; Le Tien Chau; Hoang Thi Lien; Dinh Van Kue; Fung Nguyen Thanh; Chan Thanh Thuy. Recognizing their scientific value in the development of criminal procedure science in Vietnam, it should be mentioned that most of them agree that only an individual can act as a victim of a crime. Since January 1, 2018, according to the current Criminal Procedure Code of the Russian Federation, victims of crimes can be not only individuals, but also legal entities. Thus, problems related to ensuring the rights of legal entities who have suffered from crimes are a novelty in the criminal procedure science of the SRV (Polstovalov, 2017, p. 807).

Considering the current changes in the criminal procedure legislation of both countries, it seems relevant to study the problems of ensuring the rights and legitimate interests of legal entities that have been victims of crimes. The study of legal literature will allow us to conclude that in the vast majority of works there is only a level of fragmentation, without a comprehensive study of this problem (Makeeva et al., 2016, p. 313). The above circumstances take an important place in the studied topic and confirm the need for its detailed study, development of more effective, modern ways and means of ensuring the rights and legitimate interests of legal entities that have suffered crimes in criminal proceedings.

The authors are convinced that in order to achieve the goals of this study, which is to develop theoretical provisions concerning the activities of officials and law enforcement agencies engaged in criminal proceedings to ensure the rights and legitimate interests of legal entities that have been victims of crimes, and develop proposals aimed at improving legislation and law enforcement practice, it is necessary to do the following tasks: to consider the concept of legal entities, victims of crimes, their procedural rights and obligations as participants in criminal proceedings under the legislation of the Socialist Republic of Vietnam and the Russian Federation; to study the development of the legal system in the Socialist Republic of Vietnam and the Russian Federation regulating the rights and legitimate interests of legal persons, victims of crimes at the stages of criminal proceedings and preliminary investigation; to consider legal relations occurring between a legal entity, a victim of crimes and other participants in criminal proceedings; to determine the mechanism, methods and means of ensuring the rights and legitimate interests of legal entities that have been victims of crimes in pre-trial criminal proceedings; to study theoretical and legal aspects of ensuring the rights and legitimate interests of legal entities, victims of crimes, in pre-trial proceedings; clarify the role, content and essence of the activities of officials and law enforcement agencies to ensure the rights and legitimate interests of legal entities, victims of crimes, in pre-trial proceedings in criminal cases; develop author's proposals aimed at improving the provisions of the criminal procedure law of the Socialist Republic of Vietnam, as well as the practice of its application in relation to the activities of officials and law enforcement

agencies to ensure the rights and legitimate interests of legal entities, victims of crimes, at the pre-trial stages.

## CONCLUSIONS

The fundamental idea, justified by the authors, is to further improve the activities of authorized participants in criminal proceedings in order to ensure the rights and legitimate interests of legal entities, victims of crimes, in pre-trial proceedings in criminal cases in the Russian Federation and the Socialist Republic of Vietnam. Currently, a legal entity, as a right holder, has corresponding rights and obligations. Its role in the life of any civilized society is undeniable. The issue of protecting the rights and legitimate interests of legal entities from criminal encroachments is acute in every state. The right to be a victim in criminal trial gives a legal entity an advantage in protecting violated rights and compensating for the damage caused. It is proved that, unlike an individual, the participation of a legal entity in a criminal case as a victim of crimes is characterized by certain features related to its civil legal form. Consequently, implementation of the procedural mechanism for ensuring the rights and legitimate interests of legal entities recognized as victims of crimes, should take into account all these features. Moreover, it is reasonable to note the fact that to achieve the goal of the mechanism we are studying, all its elements must be implemented in an interconnected manner. Providing legal entities with the opportunity to act as victims of crimes under the Criminal Procedure Code of the Russian Federation and of the Socialist Republic of Vietnam is undoubtedly a positive step in protecting the rights and legitimate interests of legal entities, especially in the context of globalization and modern market economy development. It is confirmed that the problems existing in theory and law enforcement practice about the moment when a legal entity is recognized as a victim in a criminal case pose another urgent task for the legislator to improve the criminal procedure legislation in order to increase the effectiveness of the mechanism for protecting the rights and legitimate interests of a victim who is a legal entity.

## FOOTNOTES

1 Henceforth, the SRV.

2 According to the Constitution of the Russian Federation, both 'the Russian Federation' and 'Russia' are equal, henceforth, we will use 'Russia'.

3 Henceforth, the CPC of Russia.

4 Henceforth, the CPC of the SRV.

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