

White-Collar Crime Punishment Softened

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New changes to the Criminal Code will enable white-collar criminals to buy their way out of trouble. The cost: five times the amount of damages inflicted, capped at 15 million rubles (\$535,000), from each convicted person, paid to the federal budget.

President Dmitry Medvedev announced at a meeting with Justice Minister Alexander Konovalov earlier this week that he had submitted the amendments to the State Duma. In the justice minister's opinion, the changes are not a liberalization but an effort to make the Criminal Code more practical.

Serious alteration of the Criminal Code began last year. Two previous groups of amendments — abolition of pretrial arrests for economic crimes and cancellation of the lower limits of punishments for minor crimes — are already in effect.

According to the text of the amendments obtained by Vedomosti, punishment for economic crimes can be avoided if it is the first time the offender has committed such crimes, the crimes are not grievous, and the offender is ready to pay the government five times the amount

of damages inflicted.

An employee at the Interior Ministry's economic crime department noted that the changes will affect crimes that do not directly harm the state, and in such cases, according to the bill, the offending party will have to pay back the damages to the victim (whether a person or a legal entity) and pay to the federal budget five times the amount of the damages.

According to the articles listed in the amendments, the damages cannot exceed 3 million rubles, so the payment to the state cannot surpass 15 million rubles, the source said.

The most significant of the amendments concern articles on engaging in illegal business and banking activities, selling unlicensed goods and evading customs payments, the source said. The average damage for the majority of such cases amounts to 1 million to 2 million rubles.

People rarely go to jail for these crimes now, lawyer Vladimir Zherebenkov said. The requirement to pay the government will only make things worse for businesses. The damage will be decided by state officials, who will decide it in their own favor, he said.

The fivefold payment could be ruinous, Zherebenkov warned. For example, he defended two clients on trial for installing slot machines that sell lottery tickets. They were found guilty of engaging in illegal business activity, and the damages came to 1.5 million rubles. They would not have been able to pay five times that amount, he said.

"The amendments will more likely affect cases of small-scale con artists than businessmen," said Yana Yakovleva, head of Business Solidarity, a noncommercial partnership. In her opinion, a large number of cases are opened without naming the entities to which damage has been done. "Law enforcement officials are already the ones who decide to whom damage was done. And businessmen wind up paying a fine where no one really suffered. You can understand how this could be grounds for corruption," she said.

According to the bill, the amended articles of the Criminal Code will affect cases opened after Jan. 1, 2012.

Specifically, it will now be possible to "buy your way out" of the following crimes: illegal business activities; selling unlicensed goods; illicitly obtaining a state loan; evading repayment of debt; illegally using a brand name; taking a bribe relating to a sporting event; violations on securities markets; not returning foreign exchange earnings; evading customs payments; wrongful, willful or fraudulent bankruptcy; concealing funds from penalties on arrears.

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