
Interview of the Chairman of the Investigative Committee of Russia to the ITAR-TASS News Agency



The Chairman of the Investigative Committee of Russia told in what cases businessmen are placed in a pre-trial detention centers, what crimes, committed by businessmen are considered as socially dangerous and what other measures are required to prevent the corruption

In Russia, the burden on business has been significantly reduced in over the recent years. But the issues of businessmen being prosecuted still resonate the society and are raised at the country's leadership level. Are the investigators really tough on businessmen, and in what cases the businessmen are placed in a pre-trial detention centers, and what crimes committed by businessmen are considered as socially dangerous, and what other measures are needed to prevent the corruption? Mr. Alexander Bastrykin, the Chairman of the Investigative Committee of Russia has answered those questions in his interview with TASS, while has havin a break during his participation on the St. Petersburg International Legal Forum.

— Mr. Alexander Ivanovich, is our criminal law humane enough or is it still too tough towards businessmen?

A comfortable climate for business in the country cannot be formed without the humanization of criminal liability for crimes in regards to business activity. I believe that criminal law mechanisms of the economic sphere are well-balanced. In criminal proceedings, the emphasis is made on the formation of a special procedural mode, that regulates the procedures and features of criminal case launching against businessmen, including the specifics of measures applied to criminal procedural coercion, work with evidence, exemption from criminal liability and criminal prosecution termination.

So, in relation to businessmen, in particular, criminal investigations are launched on such crimes as fraud, embezzlement, illegal business, restriction of competition, criminal bankruptcies, and tax and fees evasion.

Since April 9, 2010, an exceptional procedure has been provided for choosing a preventive measure as being placed to custody towards the persons accused of committing the mentioned above crimes. So, the custody placement is allowed only if the suspects do not have a permanent place of residence on the territory of Russia, or their personalities are not identified, or the measure of restraint previously chosen has been violated, or the accused or suspect has fled from the preliminary investigation or from the court.

Since 2011, it has also become possible to be exempted from criminal liability if a person has committed an economic crime for the first time, under the condition of full compensation for damage and transfer of monetary reimbursement to the federal budget in the law established amount. What I mean is, if the person of interest has compensated the caused damage to the budget, and has paid all penalties and fines, the criminal case is terminated.

Of course, in the Russian Federation the judicial practice has a significant impact on the criminal policy formation in the field of ensuring the economic security. Therefore, the Investigative Committee of Russia constantly monitors how the investigating authorities provide guarantees to the accused and the suspects in terms of unreasonable choice of restraint as being places into custody, taking into account the clarifications of the Plenum decisions of the Supreme Court of Russia. The Heads of the investigative bodies of the Investigative Committee of Russia have increased the requirements to the Investigators for the strict implementation of the provisions of criminal procedure legislation in terms of choosing a preventive measure in the form of custody in criminal cases of crimes related to businessmen activity. In addition, I want to emphasize that the Heads of the investigative divisions of the Investigative Committee are focused on the need for a wider use of the right to interrogate a suspect (accused) before taking a decision on the choice of the restraint, extending the period of preliminary investigation, canceling or changing the measure of restraint.

— But nevertheless, businessmen are still being placed in the pre-trial detention centers at the

stage of preliminary investigation. Why?

As a rule, custody is chosen in relation to persons if they play an active role in organizing crime and in putting pressure on witnesses, if they make attempts to escape from the preliminary investigation authorities. For example, the Main Investigation Directorate of the Investigative Committee for St. Petersburg investigated a case of tax evasion in the total amount of 1.9 billion rubles committed by one Company. The accusation was brought against Mr. Andrey Kushul, the actual owner of the "Rosan" group of companies, who fled outside the Russian Federation and was put on the international wanted list. A preventive measure as custody was chosen against him in absentia. Subsequently, his location was identified and he was extradited from Spain. He was taken into custody, his criminal case has already been submitted to court. Just think about it, the budget did not receive almost 2 billion rubles, which could be spent on the development of medicine, education, and new technologies. And this businessman just ran away. Shall we place him to the resort place after that?

— Alexander Ivanovich, but the problem of putting pressure on business by law enforcement officers also remains. How is it possible to deal with this issue?

The Investigative Committee has developed a number of managing and administrative procedures that provide for improvement measures of the work related to the appeals of businessmen about the facts of putting pressure on them, including pressure put from the law enforcement agencies.

Honest businessmen must be protected from the unreasonable pressure and other restrictions. That is why the Investigative Committee has opened a separate emergency telephone line to receive messages about pressure being put on businesses. In 2022, this line received more than 400 request calls.

In the first quarter of 2022, the investigators of the Investigative Committee had 209 cases on crimes committed against the businessmen, where 35 cases against 42 accused have already been submitted to court.

— How many criminal cases against businessmen are being investigated by the Investigative Committee? How many of them are terminated?

In 2021, the Investigative Committee launched almost 35.5 thousand criminal cases on crimes of an economic nature. As a rule, such cases are multi-episode. In 2021 the Investigators of the Investigative Committee finalized almost 5.5 thousand criminal cases of this category against 6,390 persons. More than half of them were dropped in connection with the active repentance of the accused and complete compensation for the damage caused. Another 1,250 cases were submitted to the court to finalize the cases with the decision to be fined, more than 500 of them were against the businessmen. 16.5 thousand cases of criminal acts in the economic sphere were submitted to the court. Among them, almost 4 thousand - related to the business activity crimes against 4,337

businessmen. In strict accordance with the Criminal Procedural Law, only 119 defendants were placed in custody during the investigation.

— The state is gradually reducing the burden on business, including the tax payments. Do the tax crimes decrease in this regards?

Despite a significant tax burden reduction and business condition improvement over the recent years, the facts of tax evasion still occur. This is happening due to the abundance of unscrupulous strategies used, which have formed a whole market for tax schemes that promote abuse. They don't only reduce the amount of tax revenues, fees and insurance contributions to the budget and reduce the efficiency of the economy, but also make the taxpayers think that such crimes can stay without punishment.

In 2021, we investigated and submitted to court more than 1 thousand criminal cases on the facts of tax crimes. During the investigation, it became possible to achieve the unpaid taxes reimbursement in the amount of more than 44 billion rubles.

— If we continue to discuss the taxes issue, this year there was the law adopted, according to which only the tax authorities can state a subject for criminal case launching in relation to tax crimes. This supposed to reduce the burden on businessmen under sanctions. How will this impact the work of the Investigative Committee? Is there any risk that cases of tax evasion will go up?

This can lead to a significant reduction of criminal cases related to tax crimes. In addition, the mentioned changes will also impact tax investigations which have a corruption component.

Besides, there are a number of other issues, and if they are not resolved by criminal law, then the effective counteraction to illegal financial transactions by using digital financial assets and digital currency will be difficult. Thus, the additions to the criminal and criminal procedural legislation have not been adopted so far, these additions should equate digital currencies to property.

I want to draw attention to the circumstances that create conditions for tax evasion. Today, criminal liability has been established for such methods of tax evasion, I mean, for example, the creation of "fly-by-night" companies, the transit and cash the funds out. However, we are faced with a new challenge - the so-called "paper VAT" sales platforms, where fraudulent tax documentation is prepared not for free. Using such resources, the unreliable entrepreneurs are increasingly evading taxes. And this phenomenon requires the adoption of response measures, including the measures related to protect the economic interests of conscientious businessmen.

— Economic crimes are associated with corruption. What extra measures are needed to eradicate it?

I believe that there is a need to introduce full-fledged confiscation of property into the Criminal Code of the Russian Federation as a punishment for persons who have committed corruption crimes. I am sure that such an approach will be the most effective and fair way which meets the expectations of our citizens and the interests of conscientious businessmen.

— **Apart from tax evasion, what other offenses do you consider as being socially dangerous?**

First of all, non-payment of wages, when people sometimes do not receive their salaries for months. And one of our main tasks is to effectively counteract this socially dangerous crime.

Just inly in 2021, the 762 cases of non-payment of wages was submitted to the courts. But behind this figure there were entire families who did not receive what they have earned.

In June of this year, in Tambov, the former General Manager of JSC "Tambovspetsmash", whose Company manufactured tractors and combine-machines but the wages haven't been paid, so he was sentenced to 2.5 years in prison and a fine of 250 thousand rubles. From January 2019 to October 2021, the 76 workers were not getting their payments. That was happening almost over two years. One more example, the case happened in Moscow. Between October 2021 till January 2022, the General Manager of "ARKS Energomontazh" LLC did not pay wages to more than 100 employees. The Head of the Main Investigative Directorate of the Investigative Committee of Russia for Moscow personally received the staff and instructed to immediate restoration of the citizens violated rights. And only thanks to the principled position of the investigators, the debt towards all employees was fully repaid in a short time - this amounted to more than 49 million rubles.

Let me give you another typical example of unscrupulous business-making. In 2015, the Ministry of Construction and Modernization of the Housing and Communal Complex of the Republic of Buryatia, in accordance with the state program, planned to purchase residential premises in the Sotnikovo settlement, Ivolginsky rayon, due to create a specialized housing community for orphans and children left without parental care. Having a purpose to steal the funds from the budget, allocated for that specified program, the individual businessman Mr. Domshoev have organized the construction of 254 residential buildings in the particular chosen territory without proper project documentation using cheap building and finishing materials. The premises built by him had critical defects due to deliberately committed violations of construction codes and regulations, it was simply impossible to live in those houses. But Deputy Minister of Construction of the Republic of Buryatia Mr. Rybalchenko, acting as the Buyer's representative, on behalf of the regional government, executed the acceptance acts of this low-quality property, which served as the basis for transferring budget assets to Mr. Domshoev in the amount of more than 200 million rubles. The Head of the municipality administration of the "Ivolginsky district" Mr. Dymbrylov and Mr. Ivanov together with Mr. Mizhitov (the officials of the municipality) issued the permits for the construction and commissioning of facilities. In April of this year, all of them were found guilty in accordance with the Articles on fraud in an especially large scale, the negligence that caused especially large damage and abuse of power with grave consequences.

On a consistent and systematic basis the Investigative Committee will continue to stand steadily on the protection of the juvenile's housing rights, including the economic interests of our country, to carry out work related to the criminal legal protection of conscientious businessmen, their property from criminal encroachments, mercilessly suppressing any attempts to undermine the social stability of society. In 2021, the 585 cases were launched in the field of national projects implementation, 200 of them are already submitted to court. The 244 defendants are awaiting a fair court verdict, among them the 144 persons who have committed the crimes of the mentioned category using their official position.

— Alexander Ivanovich, Mr. Vladimir Putin, the President of Russian Federation claimed the need to cancel all routine inspections of Russian businesses, whose work is not associated with the risks of harm to citizens and the environment, this claim was made at the 25th St. Petersburg International Economic Forum. How is it possible to maintain a balance between inspections and security?

Such inspections are undoubtedly necessary where a risk of harm to citizens and the environment is high, otherwise the tragedies may repeat again, those tragedies that occurred at Syamozero in Karelia on June 18, 2016 and at the "Zimnaya Vishnya" shopping center in Kemerovo in March 2018, at the Listvyazhnaya mine in November 2021, where 51 people died. There have been many such tragedies, because the business turns a blind eye to security issues and saves on it, in the pursuit of profit.

There are many examples of the services provision when the security requirements are not preserved. Profits are enormous, but there is no security.

In Leningradskaya oblast, the shareholder together with the General Manager of the tourist camp "Verkhniye Mandrogi" were convicted. They were found guilty of providing services that do not meet safety requirements, which negligently caused the death of a person. In June 2018, in the park, a wooden figure of Baba Yaga have fallen on an eight-year-old boy from Nizhny Tagil , the child died. They pleaded guilty and were sentenced to 2.5 years of probation and a fine of 300,000 rubles. But who will return the child back to his mother?

Such cases should not be allowed to occur, such violations should be punished in accordance with the most severe responsibility and severe punishment.

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