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Some Considerations Regarding the Objects of Property Subject to Seizure in Criminal Cases and the Scope of Persons Whose Property is Subject to Seizur

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A B S T R A C T
This article discusses the fact that in the practice of judicial investigation, when confiscating the property of persons who are not suspects, accused and civil defendants or property objects in them, an approach is taken based on the content of the laws, without being limited only to the provisions of Part 1 of Article 290 of the Criminal Procedure Code, but the fact that the Criminal Procedure Code does not provide a list of persons whose property is subject to confiscation in connection with the conduct of a criminal case may cause misunderstandings

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INTRODUCTION

In a criminal case, the seizure of property or other property of the required value shall be carried out in order to ensure the execution of the part of the judgment on property recovery or if the judgment may indicate the transfer of a specific property object to another person. The seizure of property in a criminal case may be directed to all property objects that should not be seized.

The second part of Article 290 of the Code of Criminal Procedure lists as non-seizable property "a house, apartment, household appliances and equipment, clothing and other items necessary for the normal life of the family of the suspect, accused, defendant and civil defendant...". What exactly constitutes property in this category is vague, and therefore causes everyone to interpret it differently. This was clarified by the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated April 14, 2009 "On approval of the list of household appliances and equipment, clothing and other items necessary for the normal life of the debtor and his family, which cannot be subject to enforcement under executive documents" [1]. The appendix to this resolution states that the following properties are not subject to enforcement:

1. Persons whose main occupation is agriculture:

a) a single cow, or if there is no cow - a single heifer, if there is neither a cow nor a heifer on the farm, a single goat, sheep or pig, as well as domestic poultry (chicken, duck, goose, turkey and guinea fowl);

b) fodder for cattle until new fodder is harvested or until it is put out to pasture (if the collection is not directed to cattle);

c) seeds needed for the next planting;

2. The following household items, equipment, and clothing necessary for the debtor and his/her dependents

to live a normal life:
a) clothing for each person: an autumn or spring coat or cloak, one winter coat (or overcoat, fur coat), one winter suit (for women - two winter shirts), one summer suit or overcoat for men (for women - two summer shirts), one headgear for each season (in addition, for women - two summer scarves and one warm scarf or shawl), other clothing and headgear that have been used for a long time and are of no value;
b) used footwear, underwear, bedding, kitchen and dining equipment (except for items made of precious metals, items with inlaid patterns made of precious and semi-precious stones, as well as items of artistic value);
c) furniture for each person - one bed and chair or stool, one table for the family, one wardrobe and one chest of drawers; d) all children's equipment;
3. Rehabilitation equipment and prosthetic and orthopedic products used by disabled people;
4. If the debtor's main occupation is agriculture, food products in the amount necessary for the debtor and his family until the new harvest, and in other cases - food (cash) in the amount of the basic calculation for each member of the debtor's family;
5. Fuel necessary for the debtor and his family to cook and heat their home during the heating season.
However, these property objects can be seized if they are the subject of a crime, a weapon of a crime, or were obtained through criminal means.
If the civil claim requires the return of lost property in kind or if the property is recognized as material evidence, this property itself is subject to seizure. If the value of the property is required in the civil claim, in addition to compensation for procedural costs, other property may also be seized. When seizing other property, the seized property is evaluated by the inquiry officer or investigator at the market price at the time of assessment, taking into account the degree of its deterioration, in accordance with the requirements of Article 293 of the Code of Civil Procedure. If necessary, the assessment of the property is carried out with the participation of an expert.
Money, bonds, stocks, and other securities are recorded at their fair value.
When attaching property to ensure the execution of the civil claim part of the judgment, sufficient property shall be included in the record to cover the loss in value. In this case, the owner or possessor of the property shall have the right to indicate which property, in his opinion, he considers necessary to include in the record. This rule is also sufficiently substantiated in theory [2].
Among lawyers involved in the theoretical and practical aspects of property seizure, there is a consensus that the value of the property in an amount or sum should not be less than the value of the civil claim. In this case, when determining the amount of material damage caused by criminal aggression, it is necessary to take into account the value of the property on the date of the decision to recover material damage [3].
In theory, there are also opinions that when confiscating property, the value of the property to be seized should be 25% higher than the value of the damage (in our opinion, procedural costs may also be taken into account). There are also reasonable opinions against this. For example, according to VS Shadrin, it is not right to confiscate property that is “in excess of any need”. The value of the property to be seized must cover the damage caused by the crime [4] In our opinion, in addition, the costs associated with the handling of the case should also be taken into account. Criminally acquired income and items and physical evidence obtained in exchange for them do not fall into this category of property that is assessed and confiscated.
According to the procedural order of the writ, property can be divided into the following types: 1) movable property; 2) real estate; 3) securities and money in accounts.
According to Article 290 of the Code of Criminal Procedure, the property of the following persons may be seized in a criminal case: 1) the suspect; 2) the accused (defendant); 3) the civil defendant. However, this list is not sufficient in our opinion. Because the property of a person who is not a specific participant in the criminal case may also be seized. If there are sufficient grounds to believe that as a result of a crime or the actions of an insane person, certain property has passed into the possession of another person who is not

involved in another crime, this property shall also be seized. For example, a person who bought stolen property at a flea market, even though he was not involved in the crime, shall have this property seized. However, this property is not the property of the suspect, accused, defendant, or civil defendant.

The issues of confiscation of property in criminal procedural law have remained virtually unchanged for several decades. One of the comments to the RSFSR Code of Criminal Procedure on the norm on non-confiscible property stated that this rule does not apply in cases where the property was acquired by the suspect or accused in a criminal way and transferred to other persons in order to hide it from confiscation [5]. The commentary to the RF Code of Criminal Procedure states that the rule on non-confiscible property does not apply in cases where there is evidence that the suspect or accused in another person acquired it in a criminal way and alienated it in order to hide it from confiscation [6]. It follows from these comments that the property of the suspect or accused in another person is not subject to confiscation if it was transferred for purposes other than hiding it from confiscation (free use, lease, etc.). Proponents of this view, who constitute a minority in the world of criminal procedure, strive to achieve the inclusion of norms of civil and other areas of law in the conduct of criminal cases. However, the condition for applying norms of civil, labor and family law to criminal proceedings is that these norms should not contradict the general principles of criminal procedure.

Most scholars, including A. P. Koratkov and I. L. Petrukhin, believe that the seizure of the property of a suspect, accused, and other persons materially responsible for his actions is carried out regardless of where it (i.e., the property) is located [7]. In other words, these scholars tried to propose a law that the property of a suspect, accused, and other persons who are subject to seizure may be seized regardless of where and in whose hands it is kept.

ADMarchuka and AVFedulova believe that property owned by others should be confiscated only if there is evidence that it was obtained through the criminal actions of the suspect or accused [8]. However, the property of the suspect or accused, which may later be subject to execution, may have passed into the ownership of another person on legal grounds.

Previously, some legal literature put forward such ideas: when a person becomes the owner of property, the person giving, donating, or selling this property knows or does not know how this property was acquired, and the idea was put forward that the property in question should be confiscated [9]. This means that if a person knows that he is becoming the owner of property acquired through criminal means - if he is a dishonest possessor, then the property in him should be confiscated, and if not, then it should not be confiscated. However, this is completely contrary to the rules of criminal procedure law on the return of property to the victim or civil plaintiff. In these cases, the property must be confiscated according to the claim. Because the real owner is considered to have the right to own this property more than anyone else. A person who is not involved in the crime and suffers damage as a result of the seizure of property retains the right to claim its value.

There is another controversial situation in criminal practice. Persons who are involved or likely to be involved in a criminal case as suspects or defendants alienate property belonging to them. However, this property was not obtained through criminal means. In these cases, there is no legal basis for confiscation of these properties. Only the purpose of alienation is important. If the contract is fraudulent or in order to hide from confiscation, the property is sold, given for free use, or donated to another person, it can be confiscated, taking into account the actual circumstances of the case.

In the practice of judicial investigation, when confiscating the property of persons who are not suspects, accused and civil defendants or objects of property in them, an approach is observed based on the content of the laws, not limited only to the provisions of Part 1 of Article 290 of the Criminal Procedure Code. However, the fact that the Criminal Procedure Code does not specify a list of persons whose property is subject to confiscation in connection with the conduct of a criminal case may cause misunderstandings.

In our opinion, it would be appropriate to add to the first part of Article 290 of the Code of Criminal

Procedure a provision stating that "The property of other persons shall be seized on the grounds provided for in Articles 285 and 287 of this Code. If there is sufficient evidence that the property of a suspect, accused or civil defendant that may be seized has been transferred to other persons in order to conceal it from seizure, such property shall also be seized..

CONCLUSION

One of the main goals of the Constitution is to ensure an environment of tolerance between nations and religions. There are 16 confessions and more than 2,300 religious organizations operating in the country. In addition, broad opportunities have been created for the free celebration of religious holidays and the development of pilgrimage tourism. State policy in the religious sphere also includes combating radicalization and extremism. In this regard, the new Law "On Freedom of Conscience and Religious Organizations", adopted in 2021, provides for measures against radical movements. World experience shows that ensuring religious tolerance requires active participation of the state. Countries such as France, the USA, and Germany also rely on the principle of secularism. The religious policy implemented in Uzbekistan is also based on national traditions and values. Ensuring freedom of conscience and religious tolerance in the Republic of Uzbekistan is one of the priorities of state policy. The principle of secularism serves to strengthen peace and stability in the country. The unity of the state and society, as well as the mechanisms of legal regulation in the religious sphere, should be improved in the future.

REFERENCE

1. "Collection of Legislative Acts of the Republic of Uzbekistan", 2009, No. 16, Article 203.
2. Mazalov AG Grajdansky isk v ugolovnom proshes. - M, 1977. – P. 103-104.
3. Paragraph 8 of Resolution No. 21 of the Plenum of the Supreme Court of the Republic of Uzbekistan dated September 11, 1998 “On judicial practice on the issue of compensation for material damage caused by criminal acts”.
4. Bagautdinov FN Obespecheniye imushchyestvennyx prav lichnosti pri rassledovaniy. -M.: 2002. -S. 103-104
5. Kommentary k Ugolovno-procesualnomu Codex RSFSR! Otv.ed. VI Radchenko; pod ed. VTTomina 5-ye izd., pererab. i dollar - M., 2001: – S. 324.
6. Kommentary k Ugolovno-procesualnomu kodexu Rossiyskoy Federasii: Novaya redaksiya. Pod ob shch eat red. NA Petukhova, GI Zagorskogo. - M., 2002. - P. 231.
7. Kommentarii k Ugolovno-prosesualnomu kodeksu Rossiyskoi Federasii v redaksii Federalnogo zakano ot 29. maya 2002 goda / Pod ob shch yey i nauch. ed. A. Ya. Sukhareva. - M., 2002. - S. 216., Commentary on Ugolovno-procesualnomu kodeksu Rossiyskoy Federasii / Pod ed. ILPetrukhina . M., 2002. – P. 183.
8. Комментарий,, k Ugolovno-prosesualnomu: codexu Rossiyskoy Federasii / Otv. ed. VI Radchenko; Nauch. ed. VT Tomin, MP Polyakov. - M., 2004: – S. 327.
9. Chichko VN Deyatelnost slozhatelya po obespecheniyu realnogo vozmeshchyeniya materialnogo ushchyerba, prichinennogo prestupleniyem // Uchenyye zapiski Saratovskogo yuridicheskogo instituta. Vyp . XIX. Ch.I. - Saratov , 1970. - P. 277