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**THE IMPACT OF MONETARY RECOVERY AIMS WHEN USING A MORAL
DAMAGE COMPENSATION MECHANISM (“CONSUMER EXTREMISM”
AS A SOURCE OF INCOME IN THE MODERN PERIOD)**

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Abstract. *The article analyzes the concept of “consumer extremism” in Russian law, discusses its literary (“jargon”) character and the lack of a clear legal definition. Unlike criminal law, where the term “extremism” has its clear normatively fixed content, in everyday life and legal literature this term has received its wide use only in conjunction with the term “consumer”, because it is applied due to the action of the federal law “On protection of consumer rights” and is entirely based on its application and the possibility of abuse of their rights by consumers. In the literature there are different views in the opinion on the appropriateness of the term “consumer extremism”, but almost no one disputes the very fact of its existence in reality and judicial practice as one of the methods of impact on the opposite party with the aims, sometimes diverging from the aims of consumer protection, and pursuing only material enrichment of the injured party. Such concepts as “abuse of their rights” and “bad faith”, in the opinion of the author, can and should be included in the content of the term “consumer extremism”, if it is applied in the practical sphere of life of consumers of public goods. The author provides examples of consumer actions that can be considered as consumer extremism and discusses their impact on jurisprudence and business. The article also presents different points of view on this phenomenon, emphasizes the need for further research and development of legal measures.*

Keywords: *consumer extremism, litigation, public opinion, legal consequences, compensation for moral damage.*

The term “consumer extremism” is more literary than legal. For example, it is proposed, guided by the provisions of Article 10 of the Civil Code of the Russian

Federation (limits of the exercise of civil rights) and taking into account Article 159 of the Criminal Code of the Russian Federation (fraud), “consumer extremism” should be called: actions of consumers to circumvent the law, carried out solely with the intention to cause damage to another person; their abuse of their special position in the market of goods, works, and services; unfair behavior of buyers and recipients of services, abuse of the right; deliberate illegal acts of consumers, committed with the aim of turning in their favor the property of the state. According to A. Kalinovskaya, the emergence of “extremists” is primarily due to the fact that the law on consumer rights protection adopted in 1992, which a number of international experts recognized as the best of Russian legislative acts, provided quite a large volume of rights to citizens. Legislation designed for a conscientious consumer, in court disputes, recognizes it is his weak side, which is very effectively used by “extremists”¹.

The Consulting Center of Hygiene and Epidemiology in Krasnoyarsk region based on the materials published on the website pravo.ru concludes that “Russian law on consumer protection is recognized by international experts as one of the most humane in the world. At the same time, it must be mentioned that on the one hand, it protects the rights of a bona fide purchaser, but on the other hand, it gives room for action to those who use the principle “the consumer is always right” in their selfish interests. And although the term “consumer extremism” does not exist in Russian law, in reality it does”².

The “Consumer extremism” refers to artificially created or mass claims against a seller, manufacturer, real estate developer, etc.³

P. A. Lavrenkov notes that the innovations of the Law of the Russian Federation “On protection of consumer rights” led to changes in judicial practice, which “gave rise not only to consumer extremism, but also to a specific legal business based on the purchase of consumers’ rights to receive an insurance payment (assignment of the right of claim), its maximization by creating artificial preconditions for referring the dispute to the court and collecting penalties under the Law of the Russian Federation “On protection of consumer rights”⁴.

¹ Consumer extremism: myth or reality // Federal Service for Supervision of Consumer Rights Protection and Human Welfare. URL: <https://24.rosпотребнадзор.ru/> (date of address: 10.04.2024).

² Ibid.

³ Consumer extremism. How to win a dispute with a consumer // Central District. URL: <https://centraldep.ru> (date of address: 10.04.2024).

⁴ *Lavrenkov P. A. Sudeyskoe usmotrenie kak instrument soblyudeniya balansa interesov storon dogovora strakhovaniya [Judicial discretion as an instrument of observing the balance of interests of the parties to an insurance contract] // Sudeyskoe usmotrenie: sbornik statey [Judicial discretion: a collection of articles] / E. V. Avdeeva, G. A. Agafonova, M. D. Belyaev i dr.; otv. red. O. A. Egorova, V. A. Vaypan, D. A. Fomin; sost. A. A. Suvorov, D. V. Kravchenko. M.: Yustitsinform, 2020. 176 p.*

M. G. Sveredyuk notes similar trends in the medical sphere of service provision. In particular, he points out that situations are gaining momentum when a person who has applied for medical assistance deliberately provokes medical workers, tries to mislead judicial, control and supervisory authorities with the aim of *material enrichment*. This phenomenon, in his opinion, has been called “consumer extremism”¹. In another work he emphasizes that “the above phenomenon is characteristic of virtually any sphere of household services, performance of works, sale of goods. For medicine, such behavior of patients is the most sensitive, because it is about life and health. In this regard, it is possible to form a separate concept — patient extremism, under which the author proposes to understand — conscious dishonest actions (inaction) of a patient in relation to the activities of a medical organization (medical worker), with the aim of material enrichment or obtaining advantages of various kinds”².

However, there are other, *opposite points of view* on this issue. For example, in his interview, the Deputy Head of the Federal Service for Supervision of Consumer Rights Protection and Human Welfare — M. S. Orlov notes: “I think that consumer terrorism is nothing more than a fiction on the part of business. I would not characterize consumer appeals with such a term with the aim of realizing their legal rights. ... There is no consumer terrorism, there is simply an unwillingness to fulfill the legitimate demands of our citizens. Our legislation is originally constructed on the fact that the consumer is a weak party, and the business entity is a professional market participant. Accordingly, consumer rights must be protected in a special way. Business is always looking for loopholes (in a good sense of the word) and, I must say, is quite successful in this. Consumers are not always aware of their rights under the law, and sellers often take advantage of this. And when the consumer does apply for protection of his rights, business entities typically refuse to satisfy his claims. Even with the current regulation, it is not uncommon for consumers to have to go to court”³.

¹ Sveredyuk M. G. Neobkhodimost organizatsii mediko-pravovoy raboty v subekte RF kak faktor, sposobstvuyushchiy snizheniyu riskov nenadlezhashchego osushchestvleniya meditsinskoy deyatelnosti (praktika Khabarovskogo kraya) [The need to organize medical and legal work in the subject of the Russian Federation as a factor contributing to the reduction of risks of improper implementation of medical activities (practice of Khabarovsk area)] // Meditsinskoe pravo [Medical Law]. 2022. No. 3. Pp. 43–47.

² Sveredyuk M. G. Pravootnosheniya v sfere okhrany zdorovya: problemy, probely, pravovye riski [The legal relations in the sphere of health protection: issues, gaps, legal risks] // Materialy mezhvuzovskogo nauchno-prakticheskogo onlayn kruglogo stola “Regulirovaniye pravootnosheniy: voprosy istorii, teorii i yuridicheskoy praktiki” (Khabarovsk, 20 noyabrya 2020 g.) [Materials of the interuniversity scientific-practical online round table “Regulation of legal relations: issues of history, theory and legal practice” (Khabarovsk, November 20, 2020).] / otv. red. K. A. Volkov i dr. Khabarovsk: Tikhookeanskiy gosudarstvennyy universitet, 2021.

³ Potrebitelskiy terrorizm — ne bolee chem vydumka so storony biznesa (Intervyu s M. S. Orlovym) [Consumer terrorism is nothing more than a fiction on the part of business (Interview with M. S. Orlov)] // Zakon [Act]. 2021. No. 9. Pp. 8–14.

V. A. Belov believes that, from a legal point of view, a consumer's filing (lawsuit) claims, including multimillion and/or disproportionate claims, for "insignificant" improper fulfillment of obligations assumed by a retailer cannot be called terrorism or extremism, and the use of the concept of "consumer terrorism"/ "consumer extremism" should be recognized as jargonism¹. V. A. Belov, apart from referring to the understanding of terrorism and extremism only in the strictly criminal legal sense², bases his conclusions, among other things, on the conclusions of the Perm Territory Court, which points out that "Current legislation does not contain such a concept as "consumer extremism", from the point of view of the law such actions are qualified as abuse of right. Paragraph 1 of Article 10 of the Civil Code of the Russian Federation establishes the prohibition of abuse of right, aimed at the realization of the principle enshrined in Article 17 (Part 3) of the Constitution of the Russian Federation, according to which the exercise of human and civil rights and freedoms must not violate the rights and freedoms of others. In accordance with Paragraph 2 of Article 10 of the Civil Code of the Russian Federation, in case of non-compliance with the requirements stipulated in Paragraph 1 of this Article, the court, taking into account the character and consequences of the abuse committed, shall refuse to protect the right belonging to the person in full or in part, as well as apply other measures provided for by law³.

Nevertheless, in practice there are often situations when violation of personal non-property rights becomes the basis for enrichment of bloggers, for example, by systematically posting videos on the Internet containing public insults or humiliation of representatives of law enforcement agencies and other citizens caught in the frame, etc.

For example, employees of the Federal Service of National Guard Forces of the Russian Federation filed a lawsuit with the Proletarsky District Court of Tula to protect their honor, dignity and business reputation. The defendant was blogger Artem Volkov, better known as "Artem Wolf". It follows from the case materials that on January 29, 2021, the blogger posted a video on his YouTube channel, in which he conducted a raid in a Dixie store: he was looking for expired goods. During the visit, the employees of the supermarket called law enforcement. Between the blogger and

¹ For more details, see: *Belov V.A. Potrebitel'skiy terrorizm: teoriya i praktika. Chasti 1 i 2* [Consumer Terrorism: Theory and Practice. Parts 1 and 2] // *Pravo i ekonomika* [Law and economics]. 2021. No. 6. Pp. 22–30; *Belov V.A. Vidy trebovaniy potrebiteley: teoretiko-prakticheskiy analiz* [Types of consumer demands: a theoretical and practical analysis] // *Zakon* [Act]. 2021. No. 9. Pp. 33–41.

² *Ibid.*

³ Information on the results of generalization of judicial practice of consideration by the courts of the Perm Territory of cases on disputes in the sphere of liability of housing developers after the transfer of residential premises to owners for 2018–2019, three months of 2020 (approved by the Presidium of the Perm Territory Court 04.12.2020).

employees of the Federal Service of National Guard Forces of the Russian Federation there was a conflict, in which the following insults were heard against the plaintiffs: “werewolf”, “bull”, “body with a machine gun”. In addition, videotaping and sounding of personal data of employees was conducted without their consent. The actions of A. Volkov caused them moral damage, expressed in moral suffering, as they experienced nervous stress, felt discomfort from public humiliating expressions in their address. The defendant discredited their professional status. This publication led to the conduct of an internal audit against them. They had to worry and explain themselves to their leadership, colleagues, friends, and relatives. At the moment, they cannot fully fulfill their official duties, as they work with citizens who could see the video, which is available to an unlimited number of people,” — noted in the case file. Employees of the Federal Service of National Guard Forces of the Russian Federation demanded to remove the video with their participation, to recognize the disseminated information as untrue, defaming their honor, dignity and business reputation, as well as to recover compensation for moral damage, the cost of state duty and notarial services. The court partially satisfied the claims. The blogger was obliged to remove the video clip and reimburse the plaintiffs 10,000 rubles for moral damages, 900 rubles for state duty and 5,150 rubles for notarial services. The total cost amounted to 16,050 rubles. A. Volkov disagreed with the decision of the Proletarsky District Court and filed an appeal. The Tula Regional Court found no grounds to overturn the current decision. The blogger’s complaint was left without dismissal. It should be explained that A. Volkov published his first video in March 2020. The blogger published a video with inspections of supermarkets in Tula. His aim, as he claimed, was to fight expired goods¹.

The scenario of all the posts on the Internet was approximately as follows: the blogger started a “performance” at the checkout counter in a store of a large retail chain under the recording of a video camera - he violated the integrity of the packaging of goods, bit or tasted the goods, refused to pay, and thereby entered into a verbal altercation with the sellers indignant by this behavior at the checkout counter, who successively appealed for assistance and help to representatives of the store’s security guards, superiors, and then to representatives of the Federal Service of National Guard Forces of the Russian Federation. Having a basic legal education, in the dialog the blogger constantly referred to specific provisions of civil law and the law “On protection of consumer rights”, which are violated by the opposing party, and thus, as a rule, embarrassed them. He provoked everyone, especially representatives of the authorities, to active actions, which were immediately assessed by him under the camera as a violation of his freedom, personal constitutional rights, abuse of

¹ In Tula, the Russian Guards have sued blogger Artem Wolf for 16 thousand rubles for insults // Tula Press. URL: <https://tulapressa.ru> (date of address: 10.04.2024).

authority, etc. But the culmination of the “performance” was not that at all, during the altercation at the cash register, the video blogger’s assistants collected a basket-cart of really expired goods in the store and presented it to the store management and law enforcement officers. Under the pressure of this “evidence and proof”, as well as future possible public condemnation by the viewers and subscribers of the blog, all the humiliations and insults previously uttered by the blogger to the store employees and representatives of the authorities were “forgiven”, and a statement was accepted from Volkov about the violation of his rights as a consumer. As a result, the violation of honor and dignity of internal affairs officers and sellers-cashiers, other store employees by the blogger Volkov remained out of the attention of the viewers, as well as the justice system, because the victims did not try to defend their honor and dignity in this situation.

The above example allows us to compare once again the motivations for which in pre-revolutionary Russia and in modern Russian society citizens, especially employees of internal affairs bodies, who suffered moral damage, did not strive then and do not strive now to protect their honor, dignity and business reputation. This is due to the necessity to go to court in every case, bringing all this to the public, public level of discussion. If in pre-revolutionary Russia, according to the same Professor D. I. Meyer, the main motive was spiritual values and the right to forgive the victim of the offender of moral damage, now the victims are driven by completely different motives, most often in no way related to mercy. The first place, unfortunately, is occupied by uncertainty in the effectiveness of judicial protection and the complexity of the judicial procedure, which requires from the victims additional physical, moral and material costs, for which many are simply not ready due to the fact that going to court is an extraordinary situation rather than ordinary and commonplace in the daily life of each of us. With regard to employees of internal affairs bodies, appeal to the court for protection of honor, dignity, business reputation may entail an internal investigation of the legality of their actions, for example, on the basis of statements of the defendant, etc. All this allows us to once again recall the effectiveness of the preventive function of civil law, civil procedure and the functioning of the judicial system, which is largely based on the effectiveness of judicial protection and all its components, the fundamental of which are the provisions of civil procedural law, enshrined in civil procedural legislation and realized in judicial practice guarantees of their implementation in the consideration of civil cases.

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