

Original article  
UDC 343.265.2  
doi 10.46741/2686-9764.2025.71.3.008



## Establishment of Objective Reasons for Partial Compensation for the Harm Caused by a Crime when Deciding on Conditional Early Release of Persons Serving Imprisonment

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### Abstract

*Introduction:* the condition for compensation for damage caused by a crime, when deciding on conditional early release from further punishment, affects the rights and interests of both convicts and victims, as a result of which increased attention is paid to this condition in judicial practice. However, in most cases, when applying for conditional early release, the damage caused by the crime is only partially compensated. In modern Russian science, the objectivity of the causes of partial compensation for harm by convicts is insufficiently studied. Due to the absence of at least an approximate list of such objective reasons in the legislation and explanations of the Supreme Court of the Russian Federation, there is no uniform approach to this issue in judicial practice. This violates the principle of legal certainty, as a result of which the interests of the convicted person and the victim are excessively dependent on the judge's inner conviction. The *purpose* of this article is to study the court's approaches to establishing objective reasons for partial compensation for harm and to develop a specific list of circumstances that should be taken into account when assessing the objectivity of the reasons for partial compensation for harm. *Methods:* analysis, synthesis, analogy, comparison, abstraction, induction, deduction, observation, modeling. *Results:* it is important to form clearly defined criteria in science, judicial practice and legislation so that they can be taken into account when assessing the fulfillment of the condition for compensation for harm for the purposes of conditional early release. *Conclusions:* the approaches of the courts to the establishment of objective reasons for partial compensation for harm are identified and analyzed. The author proposes a classification of circumstances that can be recognized as objective reasons for partial compensation for harm and criteria that should be taken into account when assessing compensation for harm, in particular, the convict's ability to work, the ratio of the amount of compensated damage to the convict's income, work availability in correctional facilities, a lack of victim's bank account details, and the convict's ability to manage earnings.

**Key words:** conditional early release; compensation for harm; convicted person; victim; objective reasons for compensation for harm; criteria for conditional early release, circumstances of conditional early release, correctional facility; penal system.

### 5.1.4. Criminal law sciences.

**For citation:** Yundina M.A. Establishment of objective reasons for partial compensation for the harm caused by a crime when deciding on conditional early release of persons serving imprisonment. *Penitentiary Science*, 2025, vol. 19, no. 3 (71), pp. 293–301. doi 10.46741/2686-9764.2025.71.3.008.

*The courts' interpretation of the condition of partial compensation for harm*

The federal law No. 432-FZ of December 28, 2013 "On amendments to certain legislative acts of the Russian Federation in order to improve the rights of victims in criminal proceedings" establishes an additional condition in the form of full or partial compensation for damage caused by a crime, which is taken into account by the court when deciding on the conditional early release of a convicted person from further serving of the sentence. The explanatory note to the draft federal law No. 173958-6 states that a number of provisions of the draft law are aimed at solving a serious problem of compensation for harm to the victim.

According to Part 1 of Article 79 of the Criminal Code of the Russian Federation, Part 1 of Article 175 of the Penal Code of the Russian Federation, one of the mandatory conditions for conditional early release of convicts from further punishment is compensation for damage (in whole or in part) caused by a crime.

The Supreme Court of the Russian Federation in Sub-Paragraph 2 of Paragraph 7 of the current version of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 8 of April 21, 2009 "On judicial practice of conditional early release from serving a sentence, replacement of the unserved part of the sentence with a milder type of punishment" indicates the illegality of refusing conditional early release from serving a sentence only on the grounds that the damage has been partially compensated for objective reasons provided that the convicted person takes measures to compensate for the damage.

Despite a direct reference in the Criminal Code of the Russian Federation and the Penal Code of the Russian Federation to the admissibility of partial compensation for conditional early release, as well as the above-mentioned explanations of the Supreme Court of the Russian Federation, the conclusions of the courts on this issue are purely subjective. The courts give an arbitrary, non-uniform interpretation of the specified condition. At the same time, in fact, judicial practice establishes additional requirements that are not provided for by law in relation to compensation for damage caused by a crime.

Thus, the Second General Jurisdiction Court of Cassation, in its ruling of January 20, 2021 in the case No. 77-15/2021, overturning the decisions of the first and appellate instances that granted

convicted A.'s request for conditional early release, indicates that under Part 1 of Article 79 of the Criminal Code of the Russian Federation partial compensation for damage caused by a crime as the basis for conditional early release is compensation for the harm that is close to full compensation, and the funds deposited by the convicted person to repay the damage amount to only a small part of the damage caused by the crime. However, neither the legislation nor the explanations of the Constitutional Court and the Supreme Court of the Russian Federation contain such an interpretation of partial compensation for harm.

The scientific literature notes that the subjective nature of assessing conditions based on the judge's inner conviction entails uncertainty, which, in turn, affects the adoption of legitimate and informed decisions, which makes the convict's interest dependent on the judge's opinion and affects the uniformity of practice in the application of the analyzed institution [1, p. 15; 2, p. 20].

*Sufficiency of measures aimed at compensation for harm*

One of the most controversial issues in judicial practice when considering convict's applications for parole is determining the degree of sufficiency of measures aimed at compensating for the harm in order for the court to conclude that a person does not need to fully serve the sentence imposed by the court in order to correct him/herself.

The analysis of judicial practice of the courts of cassation instance allows us to conclude that higher instances encourage lower courts not to use a formal approach to assessing compensation for harm. Such a formal approach consists in ignoring information by the courts about the presence (absence) of material sources for compensation for harm, failure to investigate the issue of the convict's property status, employment opportunities, the amount of the convict's earnings, as well as other objective reasons for incomplete compensation for harm. The courts of the first and appellate instances, when assessing this condition, as a rule, take into account only the amount paid and the existence of enforcement proceedings, without establishing the reasons for partial compensation and without checking whether there is a real possibility of compensation for damage in a larger amount.

Thus, the Second General Jurisdiction Court of Cassation, in its ruling of April 28, 2020 in the

case No. 7u-2367/2020 (77-566/220) indicates that the courts of the first and appellate instances did not check whether convict B. had had an objective opportunity to compensate for the damage in full. They did not find out the amount of the convict's salary in the correctional facility and the period of its receipt. It was not established whether B. had (or did not have) other property to sell, so that he could compensate for the damage caused. In another case, the Third General Jurisdiction Court of Cassation overturns decisions of the lower courts in its ruling of January 12, 2023 in the case No. 77-149/2023, emphasizing that the courts concluded about the convict's insufficient measures to compensate for the harm caused by the crime, but did not check the sum deducted from the convicted person's salary for the benefit of the victims and the convict's opportunity to compensate for the damage caused in a larger amount and his other sources to repay the claims.

Since, according to the explanations of the Supreme Court of the Russian Federation, partial compensation for damage in the presence of objective reasons preventing full compensation cannot be grounds for refusing conditional early release, the approach of the courts to establishing such objective reasons requires legal certainty and uniformity.

Prior to the amendments in 2015, Paragraph 7 of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 8 of April 21, 2009 (as amended on February 9, 2012 No. 3) indicated a non-exhaustive list of objective reasons why the damage was not fully compensated: the convict's disability or the presence of diseases that prevent him/her from finding employment, the inability to find employment due to a limited number of jobs in the correctional facility. At the same time, the established facts of the convicted person's deliberate evasion from compensation for the harm caused by the crime (by concealing property, income, avoiding work, etc. d.) along with other circumstances may serve as an obstacle to conditional early release.

Since there is no list of objective reasons in the current version of the Resolution No. 8 of the Plenum of the Supreme Court of the Russian Federation of April 21, 2009 after the 2015 amendments, the courts establish the objectivity of the reasons for non-compensation of damage arbitrarily.

Judicial practice identifies a number of circumstances that are claimed by convicts as objective reasons for incomplete compensation for harm. Such circumstances can be divided into two groups: circumstances related to the income of the convicted person and circumstances related to the enforcement of a court decision on compensation for harm.

*Circumstances related to the convict's income*

This group of circumstances includes low wages, limited employment opportunities for those sentenced to imprisonment in correctional facilities, and disability.

By themselves, low wages and limited employment opportunities for persons sentenced to imprisonment are not recognized as objective reasons for incomplete compensation for harm, since they do not indicate that the convicted person does not have money or other property and the possibility of its sale, and as a result, it is impossible to take more active measures to repay claims (appeal decisions of the Saratov Regional Court of February 10, 2025 in the case No. 22-224/2025, the Supreme Court of the Kabardino-Balkarian Republic of March 19, 2024 in the case No. 22-203/2024). At the same time, circumstances in the form of low wages and limited employment opportunities when taking active measures aimed at compensating for harm, employment in the absence of other income and property or the inability to realize it are recognized by the courts as objective reasons preventing full compensation for harm (cassation rulings of the Third General Jurisdiction Court of Cassation of March 30, 2021 in the case No. 77-649/2021, of July 1, 2021 in the case No. 77-1498/2021; appeal decision of the Voronezh Regional Court of February 7, 2025 in the case No. 22-195/2025; resolution of the Sixth General Jurisdiction Court of Cassation of April 16, 2024 in the case No. 77-1140/2024).

We back the courts' approach to proper examination of the convict's possibility to fulfill material obligations in a criminal case, as well as the correlation of the amount of income during a specific period of serving the sentence and the amount paid by them according to the executive documents (cassation definition of the Second General Jurisdiction Court of Cassation of December 24, 2019 in the case No. 7U-464/2019[77-57/2019; resolution of the Fourth General Jurisdiction Court of Cassation of December 12, 2024 in the

case No. 77-3477/2024, the First General Jurisdiction Court of Cassation of July 6, 2023 in the case No. 77-3110/2023; decision of the Third General Jurisdiction Court of Cassation of May 19, 2020 in the case No. 77-214/2020).

However, in court practice, there is no single approach to the admissible correlation between the convict's income and the amount of the harm reimbursed. Thus, in a number of cases, the courts recognized the condition for compensation for damage fulfilled in case the convict transferred the whole amount of the salary to the victim, even if the actually paid sum was insignificant in relation to the total amount of damage (decision of the Sixth General Jurisdiction Court of Cassation of April 16, 2024 in the case No. 77-1140/2024; appeal decision of the Voronezh Regional Court of February 7, 2025 in the case No. 22-195/2025). At the same time, if a convict spends wages on his/her own personal need and repay the harm caused in the insignificant amount, it indicates that the convicted person does not take all measures to compensate for the damage caused by the crime, and that the convict must serve the sentence (decision of the First General Jurisdiction Court of Cassation of October 17, 2023 in the case No. 77-4808/2023; appeal resolution of the Kurgan Regional Court of September 10, 2024 in the case No. 22-1367/2024 (UID 45APOSTILLE0008-01-2024-001232-26); appeal resolution of the Kurgan Regional Court of August 22, 2023 in the case No. 22-1442/2023).

Undoubtedly, the transfer of convicts' available income for compensation for harm indicates that they do not need to fully serve their sentence. However, the courts' approach, according to which spending wages on personal needs indicates the fact that the convicted person is avoiding compensation for harm in the absence of a clear legally permissible ratio between the

income received by the convicted person and the amount of damage compensated, cannot be considered consistent with the criterion of legal certainty and the principle of equality. As a result of this approach, in our opinion, the convict's interest is overly dependent on the judge's inner conviction, as well as on objective reasons beyond the convict's control. Moreover, this approach of the courts means that in order to satisfy the condition for compensation for harm, it is necessary for those sentenced to imprisonment to renounce the guaranteed right to purchase food and basic necessities and to allocate all available funds for compensation for harm.

We cannot agree with the doctrinal position on the establishment of a claim for compensation of at least 25% of the amount of damage caused in order to satisfy a petition for conditional early release [3, p. 6]. The property status of convicts, the opportunity to work and the amount of damage itself are radically different and therefore the establishment of this requirement will inevitably lead to the violation the principle of equality of convicts.

To solve the discussed problem of the acceptable ratio of income received by convicts and the amount of damage compensated, it will be necessary to analyze the financial situation of those sentenced to deprivation of liberty. According to the data of the Ninth special census of convicts and persons in custody, in 2022, about half of the men serving imprisonment in correctional facilities had no earnings at the time of the census, about 40% of the convicts had no money in their personal account, and about the same proportion had less than a thousand rubles in their personal accounts. Besides, on average, 3.3–15.0% of the convicts are required to pay alimony (Table 1). The data provided allow us to conclude that only about half of the persons serving imprisonment have financial opportunities to compensate for harm.

Table 1

*Distribution of convicts depending on the availability of earnings, funds in personal accounts and their alimony obligations (in %) [4, pp. 299, 281, 303; 5, p. 439, 455, 458; 6, pp. 506, 533, 538; 7, pp. 631, 635]*

	<b>Penal settlement</b>	<b>General regime correctional facility</b>	<b>Strict regime correctional facility</b>	<b>Special regime correctional facility</b>
Do not have earnings	25.0	52.4	46.9	45.2
Do not have funds in their personal accounts	52.4	41.6	40.9	31.4
Have up to 1,000 rubles in their personal accounts	24.1	39.8	46.3	37.1
Are obliged to pay alimony	15.0	6.3	5.5	3.3



The reasons for such property status of convicts are low labor productivity, resulting in insufficient wages, as well as low job security.

Deductions from convicts' salaries are also important. According to Part 3 of Article 99 of the federal law No. 229-FZ of October 2, 2007 "On enforcement proceedings" in the case of compensation for damage caused by a crime, the maximum amount of deduction from wages and other incomes of the debtor-citizen may not exceed 70%. Court decisions often reflect the requirement for convicts applying for parole to provide compensation for harm in the specified proportion. However, this requirement cannot be fulfilled, since initially an income tax of 13% is deducted from the convict's salary. Besides, Part 3 of Article 107 of the Penal Code of the Russian Federation guarantees the transfer of at least 25% (50% for certain categories of convicts) of the salary to the convict's personal account, regardless of all deductions. Thus, 62% (37% for certain categories of convicts) remain to compensate for the harm caused by the crime. In case the convicted person pays alimony, its sum depends on the number of children or dependents and under Part 1 of Article of the Tax Code of the Russian Federation it amounts to 25–50%. So, there may be virtually nothing left to pay off the damage. Therefore, the conclusions of the court of cassation should be recognized as justified, according to which, based on the provisions of the federal law "On Enforcement Proceedings", the debtor is obliged to compensate for the damage caused in the amount not exceeding that established by law. These requirements fully apply to debtors

serving a custodial sentence. Thus, in accordance with the cassation resolution of the Second General Jurisdiction Court of Cassation of February 28, 2024 in the case No. 77-512/2024, an insignificant amount of payments to persons sentenced to imprisonment for damages cannot indicate that the convicted person evades this obligation. In this regard, we cannot agree with the position of the courts, which consists in comparing the ratio of accrued wages and the amount of damage compensated (judgment of the Third Court General Jurisdiction of Cassation of August 8, 2023 in the case No. 77-1925/2023). It seems that it is acceptable to correlate only the amount of wages credited to the personal account after all deductions with the amounts of damage compensated. At the same time, when determining the specified ratio, it is also necessary not to take into account the amount of the guaranteed minimum credited to the convict's personal account. Thus, the permissible ratio of the convicted person's income to the amount of the compensated harm should be determined based on the ratio of the amount of income credited to the personal account after all deductions minus the guaranteed minimum to the amount of the compensated harm.

Separately, it is worth paying attention to the second reason for the unsatisfactory financial situation of convicts – low job security. Only half of those sentenced to imprisonment work and are constantly provided with work. The reason for the low job security is a lack of jobs in correctional institutions, a quarter of convicts faces this problem (Table 2).

Table 2

*Distribution of convicts based on job security (in %) [4, p. 294; 5, pp. 440-441; 6, p. 529; 7, p. 625]*

	<b>Penal settlement</b>	<b>General regime correctional facility</b>	<b>Strict regime correctional facility</b>	<b>Special regime correctional facility</b>
Work and are constantly provided with labor	86.6	59.7	62.8	59.5
Are not provided with labor (are not permanently provided) due to the lack of jobs/work fronts	9.3	25.8	18.7	22.2

The analysis of the data obtained during the census of convicts allows us to draw an important conclusion that in penal settlements a greater number of convicts are provided with

labor, and the lack of jobs is less pronounced. At the same time, this differentiation of employment opportunities means that the convict's interest in conditional early release actually de-

depends on the prescribed regime of serving the sentence. Thus, convicts serving sentences in penal settlements have more opportunities to compensate for harm and, consequently, a higher chance of satisfying a request for parole, which means the equality principle violation. In this regard, it seems that when considering the issue of conditional early release, it is necessary to find out information about the convict's real property status and the availability of employment opportunities.

It is worth noting that courts often establish additional criteria that are not provided for by law, indicating that the convicted person has fulfilled the condition for compensation for harm for the purposes of conditional early release. In particular, the courts do not recognize the condition for compensation for harm fulfilled if the convicted person did not begin compensating for harm from the first month of employment, made deductions intermittently despite the total amount of the damage compensated, or compensated the damage immediately before filing a petition for conditional early release (appeal decision of the Ulyanovsk Regional Court of May 29, 2023 in the case No. 22-887/2023; decision of the Third General Jurisdiction Court of Cassation of August 8, 2023 in the case No. 77-1925/2023). The courts consider such behavior of convicts as a formal action rather than a systematic desire for correction (appeal resolution of the Supreme Court of the Republic of Dagestan of April 8, 2024 in the case No. 22-796/2024).

We cannot back this approach in judicial practice, since, first, such additional criteria are not provided for by law, which violates the principle of legal certainty, and second, the previously cited indicators on the financial condition and employment of convicts indicate objective reasons for the irregularity of payments for damages and delayed payments. Even if they earn money in the first months of employment, convicts do not actually have funds in their personal accounts or have them in small quantities, while they quite reasonably spend their newly earned earnings (guaranteed minimum) on food and basic necessities, further directing part of their wages to compensation for harm. Taking into account the real property status of the convicts and the level of job security, the fulfillment of the additional requirements developed by the courts regarding the terms of

compensation for harm is virtually impossible for more than half of all convicts due to circumstances beyond their control.

Scientific literature notes that the results of the Ninth special census of convicts and persons in custody in 2022 indicate a deepening of the property stratification of convicts [8, p. 201]. Consolidation of the additional criteria in the form of systematic payments and the early beginning of payments will lead to the possibility of fulfilling the condition for compensation for harm and, as a result, the application of conditional early release exclusively to persons with a good financial situation who have some property or receive funds from relatives and other third parties. Regardless of the amount of damage compensated, the objective reason for incomplete compensation for harm should also be recognized as a lack of earnings of a person sentenced to imprisonment due to the lack of jobs in a correctional facility if the convicted person has taken active measures to find employment and has no other sources for compensation for harm.

Thus, it seems that when assessing the objectivity of the group of causes of incomplete compensation for damage related to the income of a convicted person, the following circumstances should be taken into account when considering the issue of conditional early release:

1. Ability to work. In case of the convict's disability (appeal resolution of the Orenburg Regional Court of August 1, 2023 in the case No. 22-1684/2023), it seems justified for the court to investigate the issue of whether the convicted person has sources for compensation for harm: the absence of such sources, as well as any deductions made by the convicted person, regardless of the amount of damage actually compensated, should be recognized as an objective reason for incomplete compensation for damage.

2. Employment. When assessing this circumstance, the availability of jobs in the correctional facility and the adoption of active employment measures by the convict should be taken into account. The objective reason for incomplete compensation for harm should be a lack of earnings of the person sentenced to imprisonment due to a lack of jobs in the correctional institution if the convicted person has taken active measures to find employment and has no other sources for compensation for harm.

The court's failure to investigate the circumstances of disability and employment would contradict the meaning of the introduction of the institution of conditional early release and the explanations of the Supreme Court of the Russian Federation and would lead to the violation of the equality principle by depriving disabled convicts of the right to conditional early release due to non-fulfillment of the condition for compensation for damage due to circumstances beyond their control. In addition, the circumstances, such as disability or a lack of employment due to a lack of jobs, are explicitly stated by the Supreme Court of the Russian Federation in the previous version of Paragraph 7 of the resolution of the Plenum of the Supreme Court of the Russian Federation No. 8 of April 21, 2009.

3. The ratio between the income received by the convicted person and the amount of damage compensated. When assessing this circumstance, it is necessary to follow a single approach focused on a clear and understandable criterion, including for convicts. It is proposed to determine the acceptable ratio of the convicted person's income and the amount of damage compensated based on the ratio of the amount of income credited to the personal account after all deductions minus the guaranteed minimum to the amount of damage compensated.

*Circumstances related to the execution of a court decision on compensation for damage*

When justifying the impossibility of full compensation for harm, convicts mention a lack of bank account details of the victim, the failure of the victim to receive funds, as well as a lack of ability to dispose of income and property due to the seizure of property or bankruptcy.

In judicial practice, a well-founded position has been formed that the absence of writ of execution in a correctional institution does not release a convicted person from the obligation to compensate for harm (appeal resolution of the Perm Regional Court of December 5, 2024 in the case No. 22-6572/2024, Kurgan Regional Court of November 26, 2024 in the case No. 22-1787/2024, Kurgan Regional Court of May 2, 2024 in the case No. 22-592/2024, Novosibirsk Regional Court of February 24, 2025 in the case No. 22-777/2025). However, this position means that the convicted person must take pains to find ways to compensate for harm in the absence of the victim's bank account

details or the return of the convicted person's money transfer.

So, in one of the cases, convict V. referred to the absence of writ of execution in the correctional facility and the lack of information about the victim's place of residence in support of the impossibility of compensation for harm. However, in the appeal resolution of November 26, 2024 in the case No. 22-1787/2024, the Kurgan Regional Court did not take this argument of convict V. into account stating that this circumstance does not release convict V. from the obligation to compensate the victim M., information about whom is available in the materials of the criminal case. In another case, the Supreme Court of the Republic of Crimea, in its appeal resolution No. 22-2023/2024 of July 18, 2024, indicated that the funds had been recovered by a bailiff from convicted R., however, the recovered funds had not been transferred to the recoverors in the enforcement proceedings due to the absence in the materials of enforcement proceedings of the bank accounts details opened in the Russian credit institution. This situation, according to the court, did not indicate that the convicted R. had taken all measures to compensate for the damage caused by the crime.

It seems that imposing on a convicted person the obligation to find ways to compensate for harm in the absence of the victim's bank account details, a writ of execution or a refund of the transfer is excessive, since the victim's right to compensation is realized by satisfying a civil claim in a criminal case, as well as by taking measures by the victim to recover a court decision by sending a writ of execution to the correctional institution where the convicted person is serving his/her sentence.

While in prison, a convicted person has limited access to information and the ability to search for information about the victim's bank account details and place of residence, even though they are included in the criminal case file, since most convicts do not have full copies of the criminal case file, which often amount to dozens or even hundreds of volumes. Due to the fact that it is the victim who is interested in restoring his/her violated rights by receiving compensation for the harm caused to him/her by the crime, it should be recognized that it is the victim him/herself who should monitor the

receipt of a writ of execution or bank account details to the correctional institution.

Thus, when assessing the objectivity of the causes of incomplete compensation for harm, the following should be checked: whether there was a writ of execution in the correctional institution, the convict had information about the victim's place of residence, and the victim's refused to accept compensation for harm. When checking these circumstances, the absence of a writ of execution in the correctional institution should be recognized as an objective reason for incomplete compensation for harm, while at the same time it is impossible for the convicted person to obtain information about the victim's place of residence or the victim's refusal to accept funds to compensate for harm.

In addition, the position is also widespread in judicial practice, according to which if compensation for harm is carried out only (or mainly) by way of compulsory deduction from the convicted person's salary, and voluntary compensation for harm is not made in the absence of objective obstacles or is made in an insignificant amount, then such partial compensation for harm does not indicate the adoption of measures by the convicted person to compensate for the harm caused by the crime and, as a result, does not indicate the achievement of the goals of criminal punishment, in particular, the goals of restoring social justice (appeal resolution of the Kurgan Regional Court of September 10, 2024 in the case No. 22-1367/2024, of May 2, 2024 in the case No. 22-592/2024, of August 22, 2023 in the case No. 22-1442/2023, Zabaikalsky Regional Court of April 1, 2025 in the case No. 22-579/2025).

However, the legislation does not contain a requirement for voluntary compensation for harm, does not specify the procedure for the execution (voluntary or compulsory) of a court decision to recover monetary funds from a convicted person in compensation for harm, and therefore the establishment by the courts of an additional requirement in the form of voluntary compensation for harm should be considered excessive.

Separately, it is worth paying attention to the circumstance related to the convict's ability to manage income. The mere fact of working in the correctional institution does not mean that a convicted person has the opportunity to spend his/her income at his/her discretion, including by sending compensation for harm. In particular, the

wages received may be withheld in the form of child support. There are also cases when bankruptcy proceedings have been initiated against a convicted person and a financial manager has been appointed. This deprives the convict of the opportunity to independently dispose of funds, which is recognized by the courts as an objective reason for partial compensation for damage (resolution of the First General Jurisdiction Court of Cassation of June 14, 2023 in the case No. 77-2657/2023; cassation ruling of the Second General Jurisdiction Court of Cassation of November 13, 2020 in the case No. 77-1981/2020). It seems that the convict's lack of ability to independently manage money should also be attributed to objective reasons for incomplete compensation for harm.

In conclusion, we would like to note that restoration of social justice is ensured through compensation for harm. However, the courts' overly formal approach to assessing the fulfillment of the condition for compensation for harm for the purposes of conditional early release, which does not take into account the amount of income of the convicted person, compliance with the requirements of the law on enforcement proceedings, and additional requirements to this condition that are not provided for by law cannot contribute to restoration of social justice and the violated rights of victims.

This conclusion is based on the previously provided data on the property status of persons serving imprisonment, according to which 81.4% of the convicts in correctional facilities are insolvent and unable to compensate for harm [6, p. 458]. At the same time, in most of the analyzed court decisions, convicts who applied for conditional early release provided the court with information about the guarantees of their employment in the organization if the petition for conditional early release were granted, indicating a potential salary higher than the average salary in correctional facilities. This means that when deciding on conditional early release, it is necessary to check the convicted person's arguments about the possibility of finding a better-paid job at large in order to repay the harm in a shorter time.

As the Moscow Regional Court correctly pointed out in its resolution of December 19, 2024 in the case No. 22-11243/2024, conditional early release is not an obstacle to full compensation for harm, and also does not release the convict-



ed person from full compensation for harm. We back the scientists' opinion that being at large, a convict has more opportunities to work and carry out further compensation for harm if it is not fully compensated [9, pp. 91–92]. Conditional early release of a convicted person does not deprive the victim of the right to compensation for harm and does not hinder restoration of social justice, and to some extent even contributes to this.

Consideration of compensation for harm in terms of conditional early release has not only positive, but also negative aspects. They are as-

sociated with potential violation of the principle of equality of convicts before the law, increased property stratification of convicts, economic inability of convicts to repay harm, and the special position of individual victims who do not want to receive compensation from the convicted person for the harm caused by the crime. In this regard, it is advisable to continue studying this topic with a possible way to adjust the terms of repayment of harm or to waive this condition when considering the issue of conditional early release.

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Received June 10, 2025