

RESTITUTIO IN INTEGRUM: BETWEEN STATE INTERESTS VS VICTIMS IN FRAUDULENT INVESTMENT CASES

(Study of Binomo Fraudulent Investment Decision)

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Abstract

The aim of investment is basically to gain profits in the future. However, along with the rapid development of information technology, it is increasingly having negative impacts, one of which is "fake investment", as carried out by a convict with the initials IK. What is interesting about this case is regarding the status of the convict's assets. The Tangerang District Court decided that IK's assets were confiscated by the state. The victims also felt disappointed. However, this changed at the appeal level, where the Banten High Court gave a decision that IK's assets be returned to the victim. Due to the mutual attraction between the interests of the State VS the interests of the victims, this article will discuss legal protection efforts for victims of fraudulent investments in Indonesia and the mechanisms for recovering losses both to the victims and to the national economy that arise as a result of the practice of "investment." bulging". This research uses a Legal Research Method with a statute approach and a case approach. The research results show that legal protection related to fraudulent investments still focuses on mitigation, not prevention. Apart from that, it is felt that law enforcement efforts are still less effective, especially regarding Restitutio in integrum or restoration of the original situation.

I. Introduction

Basically, the meaning of investment is an activity carried out by a person or legal entity in setting aside part of its income so that it can be used to carry out a business in the hope of obtaining profits in the future.¹ Investment can also be said to be the placement of funds in a certain period with the hope that the use of these funds can be used for the future.² Basically, the meaning of investment is an activity carried out by a person or legal entity in setting aside part of its income so that it can be used to carry out a business in the hope of obtaining profits in the future.³ Investment can also be said to be the placement of funds in a certain period with the expectation of using funds.

Investment is closely related to job opportunities, an overview of economic activities and the assessment of a production process. In realizing national development, the government is still not able to fully fund the necessary financing needs, so several investment models have been developed by the private sector to accommodate other parties.⁴ Investment has become a mainstay weapon to support economic growth and the existence of financing from investors allows development in various fields.

Judging from its objectives, investment is part of the implementation of the national economy and is placed as an effort to increase national economic growth.⁵ As for the way that investment can be achieved, factors that can hinder the investment climate must be eliminated, one of which is to create legal certainty in the field of investment.⁶ In this case, it is related to investment-related policies. The National Investment Policy is the government's view of investment that must be in accordance with national objectives as well as the rights and obligations to protect investors and the investment itself.⁷

On February 23, 2023, the Director General of Informatics Applications (Dirjen Aptika) of the Ministry of Communication and Informatics, Samuel Abrijani Pangerapan said: *"Our society is the easiest to be deceived online and online fraud is very high in Indonesia, reports to us last year have exceeded 130 thousand"*.⁸ The rise of victims of fraudulent investments, especially those that occur through

¹ Faisal Santiago, *Investment Law in Indonesian Economic Amplification*, (Bogor: PT. Useful Science Work, 2022), p. 2

² Latif Rizqan, "Investment in Islam and Its Application," Kompasiana, <https://www.kompasiana.com/latifrizqon/5a579f34bde57519374dd9f2/investasi-dalam-islam-dan-penerapannya>, (accessed October 2, 2023)

³ Faisal Santiago, *Investment Law in Indonesian Economic Amplification*, (Bogor: PT. Useful Science Work, 2022), p. 2

⁴ Ana & Suratman Rokhmatussa'dyah, *Investment Law & Capital Market* (Jakarta: Sinar Grafika, 2011), p. 8

⁵ Faisal Santiago, *Investment Law in the Amplification of the Indonesian Economy*, Op. Ibid, p. 5

⁶ Ibid

⁷ Ibid, p. 7

⁸ <https://infopublik.id/kategori/nasional-sosial-budaya/715547/catatan-kominfo-korban-penipuan-online-capai-130-ribu-pada-2022>, accessed on Friday, October 13, 2023, at 01.36

electronic media, is certainly inseparable from the lack of public literacy about the use of the internet and social media.

It is undeniable that the rapid development of information technology has brought many positive impacts. However, in addition to the positive impact caused, it also has a negative impact,⁹ one of which is a new crime, namely *Cybercrime*.¹⁰ *Cybercrime* can be translated as illegal activities carried out using computers through an internet network.¹¹

Cybercrime is very closely related to *cyberspace*. *Cyberspace*, also known as cyberspace, is a communication medium that is located in a computer that is carried out using the internet. Space is a social space that is not limited by distance and time.¹² The abuse that occurs in a *cyberspace* is then referred to as *cybercrime*.¹³ There are various types of *cybercrime*, including those related to one of the crimes in the economic field, namely "Fraudulent Investment", namely Investment or that promises big profits but leads to fraud.¹⁴

Investment offers that contain manipulation are considered dangerous because they take advantage of the public's failure to deceive with the lure of high and unnatural returns. Legal protection for victims of fraudulent investments is absolutely necessary because perpetrators of fraudulent investments must be processed legally and punished so that unrest does not spread due to the government's priori assumptions in protecting its citizens and seems to strengthen legal uncertainty.¹⁵

With the rampant practice of "fraudulent investment", of course it is not in accordance with the purpose of the investment itself which in the end can have an impact on the occurrence of losses both experienced by the community as victims of fraudulent investments, as well as for the State in relation to efforts to improve or develop the national economy.

Of the many cases regarding "fraudulent investment", there is one interesting case, namely the case of fraudulent Binomo investment. IK, which is the *Brand Ambassador* of Binomo in Indonesia, through the Tangerang District Court Decision Number 1240/Pid.Sus/2022/PN Jo. Banten High Court Decision

⁹ Febriansyah, Musriko, "Investigating Online Fraud with the BRI Mobile Mode : Modus Operandi and the Gaps in Law Enforcement", *PENA JUSTISIA : Media Komunikasi dan Kajian Hukum* Vol 22 No 2 (2023). <http://dx.doi.org/10.31941/pj.v22i2.4730>

¹⁰ Febriansyah, *Financial Identity Theft : From Electronic Information Crime to Personal Data Crime*, Journal of Law of Samudera Keadilan Volume 18 No 2 (2023), p. 360

¹¹ Lilik Muladi, *Seraut Wajah Putusan Hakim: Studi Kasus Prita Mulyasari*, (Jakarta : Rineka Cipta, 2009), hlm. 40.

¹² Maskun, *Cyber Crime: An Introduction*, (Jakarta: Kencana, 2013), p. 46.

¹³ Ibid., p. 47

¹⁴ Firman Muhammad Arif, "Risk Mitigation of Fraudulent Investment and Actualization of Istiṣlāḥ Reason", *Al-Manāḥij: Journal of Islamic Law Studies* Vol. 14 No. 1, (June 2020), p. 24. doi.org/10.24090/mnh.v14i1.3580

¹⁵ Muhammad Arif, "Risk Mitigation of Fraudulent Investment and Actualization of Istiṣlāḥ Reason" Op, Cit, p. 21.

Number 117/PID. SUS/2022/PT BTN Jo. Supreme Court Cassation Decision **Number 2029 K/Pid.Sus/2023**, has been legally and convincingly proven guilty of committing the crime of "*spreading false and misleading news that results in consumer losses in Electronic Transactions and Money Laundering*"

In the first-instance decision, the panel of judges stated that all evidence in the form of the Defendant's property was confiscated by the state. Where the verdict disappointed the victims. The decision was finally changed by the Banten High Court, which in essence, the defendant's property was used to recover the victim's losses.

In law, there is a Principle known as *Restitutio in integrum* or restoration to the original state. Seeing the case, there was a tug-of-war of interests, especially in connection with efforts to recover losses. He emphasized that the recovery of losses for victims and the recovery of the national economy are both caused by the fraudulent investment practice.

Based on the description above, this article will be critically studied both in terms of normative and implementation related to 2 (two) main things, namely: *first*, how to protect legal protection for victims of fraudulent investments in Indonesia. *Second*, how is the mechanism for recovering losses both for the victims, as well as for the national economy arising as a result of the practice of "fraudulent investment".

2. Research Method

Research is referred to as *research*, which means an activity of "re-searching" for a truth¹⁶. Likewise, in this study, the author tries to find the truth that can answer the formulation of the problem above. Philipus M. Hadjon said that legal science has a distinctive character, namely in terms of its normative, practical, and precrisive nature.¹⁷ Departing from this, in this study, the author also uses a normative legal research method (normative juridical), namely legal research that puts the law as a norm system. The norm system in question is about principles, norms, rules, from laws and regulations, and court decisions.¹⁸ The approaches used by the author include the statute approach, and the case approach.

3. Results and Discussion

Legal Protection for Victims of Fraudulent Investments in Indonesia

According to Hans Kelsen, law is a normative science and not a natural science.¹⁹ Furthermore, Hans Kelsen explained that law is a social technique to regulate

¹⁶ Muhaimin, *Legal Research Methods*, (Mataram; Mataram University Press, 2020). p. 17

¹⁷ *Ibid*, p. 17

¹⁸ Mukti Fajar ND and Yulianto Achmad, *Dualism of Normative Legal Research and Empirical Legal Research*, (Yogyakarta: Pustaka Siswa, 2010), p. 34

¹⁹ Jimly Asshiddiqie and M. Ali Safa'at, *Hans Kelsen's Theory of Law*, (Jakarta: Secretariat General and Clerk of the Constitutional Court of the Republic of Indonesia, 2006), p. 12

people's behavior.²⁰

Linguistically, the word protection in English is called protection. The term protection according to KBBI can be equated with the term protection, which means the process or act of protecting, while according to Black's Law Dictionary, *protection is the act of protecting*.²¹ In general, protection means protecting something from dangerous things, something can be in the form of interests or objects or goods. In addition, protection also contains the meaning of protection given by a person to a weaker person. Thus, legal protection can be interpreted as all efforts by the government to ensure legal certainty to provide protection to its citizens so that their rights as a citizen are not violated, and those who violate it will be subject to sanctions in accordance with applicable regulations.²²

The definition of legal protection is a protection provided to the subject of hukum in the form of legal instruments, both preventive and repressive, both written and unwritten. In other words, legal protection is an illustration of the function of law, namely the concept where the law can provide justice, order, certainty, usefulness and peace.²³

According to R. La Porta, the form of legal protection provided by a country has two properties, namely preventive and punitive.²⁴ The most obvious form of legal protection is the existence of law enforcement institutions such as courts, prosecutors' offices, police, and other non-litigation dispute resolution institutions.

This is in line with the definition of law according to Soedjono Dirdjosisworo who stated that law has various meanings in society and one of the most obvious of the understanding of law is the existence of law enforcement institutions. Legal protection is very closely related to the aspect of justice. According to Soedirman Kartohadiprodjo, in essence, the purpose of law is to achieve justice. Therefore, the existence of legal protection is one of the mediums to uphold justice, one of which is the enforcement of justice in the economic sector, especially investment or investment.²⁵

In Indonesia, there is an independent institution whose purpose is to ensure that all financial services sectors are held fairly, orderly, transparently, and accountably. Lemabaga is the Financial Services Authority (OJK).²⁶ The existence of OJK is basically based on the desire to realize a strong national economic

²⁰ Hans Kelsen, *Basics of Normative Law*, (Jakarta: Nusamedia, 2009), p. 343.

²¹ Bryan A. Garner, *Black's Law Dictionary, ninth edition*, (St. Paul: West, 2009), hlm 1343

²² Patent Holders Need Legal Protection", *Republika*, May 24, 2004

²³ Musriko, Febriansyah, "Disparity In The Application Of Legal Rules To Gambling Crimes Through Electronic Media", *PENA JUSTISIA : Media Komunikasi dan Kajian Hukum Vol 22 No 2* (2023).
<http://dx.doi.org/10.31941/pj.v22i2.4731>

²⁴ Rafael La Porta, "Investor Protection and Cororate Governance; *Journal of Financial Economics*", Vol 58 No 2, (Oktober 1999): hlm 9

²⁵ H.R. Sardjono and Frieda Husni Hasbullah, *Comparative Potpourri of Civil Law*, (Jakarta: Ind-Hill Co, 2003) p. 143.

²⁶ Faisal Santiago, *et.al*, Paruh Sang OJK, (Bogor: PT. Karya Ilmu Bermanfaat, 2023), hlm 2

system that is able to grow sustainably, and is able to protect the interests of the nation, society, and financial services sector actors.²⁷

OJK is tasked with carrying out regulatory and supervisory duties in the financial services sector in an integrated manner. The OJK was formed with the aim that all financial services activities in the financial services sector are carried out in an orderly, fair, transparent, accountable manner, able to realize a financial system that grows sustainably and stably, and able to protect the interests of consumers and the public. OJK is expected to be able to support the interests of the national financial services sector so that it can increase national competitiveness. OJK is independent and free from interference from other parties, which has the functions, duties, and authority to regulate, supervise, inspect, and conduct investigations.²⁸ However, the authority to regulate, supervise, inspect, and investigate can only be carried out against Financial Services Institutions (LJK) in the capital market sector, the non-bank financial industry sector that has been licensed.

Most of the companies or parties that make fraudulent investment offers are not Financial Services Institutions (LJK) so that the company or party is not registered and supervised by the OJK. Thus, the OJK cannot ensure the legality aspect of the company. In this regard, OJK is only able to play a role in socializing and educating the public about the characteristics of fundraising activities and the management of illegal investments, *knowledge sharing* with law enforcement and regulators in the regions, and helping to make coordinated efforts between related agencies to accelerate the handling process through the framework of the Task Force for Handling Alleged Unlawful Acts in the Field of Fundraising and Investment Management or better known as the Investment Alert Task Force.²⁹ Meanwhile, the OJK itself closes 20-50 *links* that offer illegal investments and loans every day. This is done so that the public can be protected from fraud in the financial services sector.³⁰

From the description above, it can be seen that the function of legal protection for the community as carried out by the OJK, is only limited to protection in the form of prevention. Likewise, the Investment Alert Task Force, when an application is found that is suspected of containing elements of illegal investment, it blocks the legal site/application and submits an information report to the Criminal Investigation Branch of the National Police for follow-up in accordance with applicable regulations.

The National Police is actively uncovering fraudulent investment cases involving

²⁷ Ibid

²⁸ Ibid, p. 3

²⁹ Sikapi, OJK's Role in Fighting Illegal Investment Offers, <https://sikapiuangmu.ojk.go.id/FrontEnd/CMS/Article/116>, (accessed March 2, 2023)

³⁰ Friderica Widyasari Dewi in Republika, *Potential to Lose Rp 139 Trillion, This is the Reason Illegal Investment Still Continues to Mushroom*, <https://ekonomi.republika.co.id/berita/rzqiy3490/berpotensi-rugikan-rp-139-triliun-ini-alasan-investasi-ilegal-masih-terus-menjamur>, (accessed March 2, 2023).

'crazy rich' influencers. As of August 2023, as many as 8 out of 10 influencers have been imprisoned.³¹ One of them is quite popularly known as Indra Kens (IK). In the case that ensnared IK, the Tangerang District Court through its Decision has sentenced IK to 10 years in prison. This is because IK ...*legally and convincingly proven guilty of committing the crime of "spreading false and misleading news that results in consumer losses in Electronic Transactions and Money Laundering*. If you look at the handling process, it seems that the legal protection for the victims of fraudulent investments is only given in the form of repressive sanctions against the perpetrators. Then what about the recovery of losses both to the victims, as well as to the national economy arising as a result of the practice of "fraudulent investment" *Restitutio in integrum*?. In connection with this, it will be discussed in the next section.

Restitutio in Integrum: Between State Interests VS Victims of Fraudulent Investment

In the Tangerang District Court Decision Number 1240/Pid.Sus/2022/PN Tng dated Nov. 14, 2022, the panel of judges has stated that the Defendant IK has been legally and convincingly proven guilty of committing the crime of spreading false and misleading news that results in consumer losses in Electronic Transactions and Money Laundering, which is followed by a criminal sentence of imprisonment for 10 (ten) years, as well as a fine of Rp. 5,000,000,000,- (five billion rupiah), with the provision that if the fine is not paid, it will be replaced with imprisonment for 10 (ten) months.

Furthermore, the trial evidence which included tens of billions of money, luxury cars, certificates of rights to land and buildings, and hundreds of other valuables obtained by the defendant from the proceeds of the crime, the Tangerang District Court Panel of Judges firmly stated "Confiscated for the State".

Previously, the Public Prosecutor through his Letter of Demand requested that the evidence be returned to the Victim Witnesses through the United Indonesian Traders Association or Association which was established based on the deed of establishment Number 21 dated September 26, 2022 before Notary-PPAT Musa Muamarta, S.H.

The verdict made the victims feel disappointed. This is because the losses they experienced as a result of the Binomo Fraudulent Investment lie were not recovered.³²

On January 10, 2023, the Banten High Court through Decision **Number 117/PID. SUS/2022/PT BTN**, finally changed the Tangerang District Court Decision as far as the evidence was concerned, namely to *"... returned to the Victim Witnesses to*

³¹ Public Relations of the National Police, National Police Immediately Reveals Fraudulent Investment Case Involving 2 'Crazy Rich', <https://humas.polri.go.id/2023/08/03/polri-segera-ungkap-kasus-investasi-bodong-yang-libatkan-2-crazy-rich/>, (accessed March 2, 2023)

³² CNN Indonesia, Binomo Victims Disappointed Judge Decides Indra Kenz's Assets Confiscated by the State, <https://www.cnnindonesia.com/nasional/20221115144601-12-874014/korban-binomo-kecewa-hakim-putuskan-aset-indra-kenz-dirampas-negara>, (accessed March 2, 2023)

be distributed proportionally through the United Indonesian Traders Association (Deed of Establishment Number 21 dated September 26, 2022 before the Notary of PPAT Musa Muamarta, S.H." This is in accordance with the Prosecutor's Demands submitted at the previous trial.

The reaction changed, one of the victims said: *"Yes, it is true that when the appeal was granted and returned to the victim, I was very happy because it was originally going to be confiscated for the state. We feel that this appellate judge has a conscience..."*³³ This decision has permanent legal force after the IK Cassation was rejected by the Supreme Court through Decision Number 2029 K/Pid.Sus/2023 dated June 21, 2023.

The change in the decision regarding the evidence in question is based on the consideration of the Panel of Judges of the Banten High Court as quoted below:

"Considering that the evidence is further related to the evidence, especially those registered in the list of evidence number 220 to number 258 because as revealed in the trial that the evidence was obtained by the defendant Indra Kesuma Als Indra Kenz from the victims in this case which amounted to 144 people and had suffered a very large loss, namely + Rp.83 billion (approximately eighty-three billion rupiah); That this case arose because of a report from one of the victim's witnesses on behalf of MARU NAZARA, namely based on Police Report No: LP/B/0058/II/2022 Criminal Investigation Branch of the National Police dated 3-2-2022, so it is inappropriate if the actions of the victim witnesses who participated in Binomo trading are considered a gambling game, therefore the Panel of Judges of the High Court is of the opinion that in order to recover most of the losses that have been suffered by the victims, Therefore, it is appropriate, proper, and fair if the evidence is returned to the victims to be distributed proportionally through the Management of the Victims' Association as demanded by the Public Prosecutor"

If you pay attention to the consideration of the High Court Decision above, ***the Restitutio in Integrum*** to the victims is based on the issue of whether the victims of Binomo's fraudulent investments can be considered as gambling players. In *contrario*, it can be concluded that if the victims are included in the qualification of "gamblers" then there is no legal protection, in other words there is no *Restitutio in Integrum* for the victims. This is also in accordance with the legal considerations of the Tangerang District Court when rejecting the Prosecutor's Claim regarding the return of evidence with the following considerations: *"Considering, that the Public Prosecutor demands that evidence numbers 220 to 258 be returned to the victim's witness through the United Indonesia Trader Association; Considering, that on this matter the Panel of Judges disagreed, with the*

³³ ID Era, Binomo Victim Admits Happy Indra Kenz's Assets Canceled by the State: Appeal Judge Has a Conscience, <https://era.id/megapolitan/115374/korban-binomo-akui-bahagia-aset-indra-kenz-batal-diambil-negara-hakim-banding-punya-hati-nurani>, (accessed March 2, 2023)



*following considerations: **That actually the traders in the aquo case are gambling players under the guise of Binomo trading***"

Basically, the ITE Law has regulated legal remedies that can be taken by victims. This is related to legal protection through the application of the principle of **Restitutio in Integrum** for victims. The legal arrangement in question is as stipulated in Article 28 paragraph (1) and paragraph (2) of the ITE Law which determines as follows:

1. *Any Person can file a lawsuit against the party that operates the Electronic System and/or uses Information Technology that causes losses.*
2. *The public can file a lawsuit on behalf of the party who implements the Electronic System and/or uses Information Technology that results in harm to the community, in accordance with the provisions of the Laws and Regulations.*

Based on this, **Restitutio in Integrum** for the victims should be taken through the Civil route. Namely by filing a lawsuit for Unlawful Acts in accordance with the provisions of Article 1365 BW which reads: *"Every act that violates the law and brings losses to others, obliges the person who caused the loss due to his fault to replace the loss"*. This mechanism, although it seems complicated and requires another legal remedy, will be able to solve the problem in a targeted manner, especially related to the restoration of each victim's rights, which can answer the question, to which victim? and what is the value of the loss? Meanwhile, for the state, in Article 45A paragraph (2) of the ITE Law, it has been determined:

"Any person who deliberately and without rights spreads false and misleading news that results in consumer losses in Electronic Transactions as referred to in Article 28 paragraph (1) shall be sentenced to imprisonment for a maximum of 6 (six) years and/or a maximum fine of Rp1,000,000,000.00 (one billion rupiah)."

From these provisions, it is very clear that, in addition to being subject to imprisonment, convicts who violate the provisions of Article 28 paragraph (1) of the ITE Law, can also be subject to sanctions in the form of a maximum fine of Rp1,000,000,000.00 (one billion rupiah). Similar to the threat of sanctions in the ITE Law, in Article 3 of the Anti-Money Laundering Law which is imposed on IK in a cumulative manner with the ITE Law, it is also regulated:

*"Every person who places, transfers, transfers, spends, pays, grants, entrusts, brings abroad, changes form, exchanges for currency or securities or other acts of Wealth that he knows or should suspect is the result of a criminal act as intended in Article 2 paragraph (1) with the aim of concealing or disguising the origin of Wealth shall be convicted of the crime of Money Laundering with imprisonment a maximum of 20 (twenty) years **and** a maximum fine of Rp10,000,000,000.00 (ten billion rupiah)"*



From the provisions of Article 3 of the Anti-Corruption Law above, it can be seen that between the Prison Sentence and the Fine Penalty must be applied cumulatively, considering that the two are separated by the connecting word "and", no longer "and/or" which means it can be one or both.

In the Decision related to the case under discussion, in addition to the defendant being sentenced to 10 years in prison, the defendant was also sentenced to a fine of Rp. 5,000,000,000 (five billion rupiah). However, if the fine is not paid, it will be replaced with imprisonment for 10 (ten) months. Furthermore, the question arises, where can the IK convict pay the fine? Meanwhile, his property has been handed over to the victims in a budel. Of course, the "diplomatic" answer is that if it is not paid, then it will be replaced with a prison sentence of 10 months. The answer is said to be "diplomatic" because it does not actually answer the question, but seeks other answers to what is not asked.

This question should be answered and even carried out through a series of executions with an auction sale mechanism on the assets of convicts, both those proven to be obtained from the proceeds of crime and those that are not. Similar to claims for losses of victims through civil channels, the State should also be able to do that, moreover to the state there has been a Criminal Verdict with permanent legal force. For the victims, it is necessary to first prove their losses individually through civil channels. Considering that IK victims are not only limited to people in the Association, but all of Indonesia. With the application of the law as described above, the balance between the interests of the state and the interests of all victims (including those who are not members of the association) will be able to run in tandem and better ensure legal certainty.

4. Conclusion

The conclusions of this study are as follows:

1. Legal protection for the community as carried out by the OJK and the Investment Alert Task Force is only limited to protection in the form of prevention, namely when an application is found that is suspected of containing elements of illegal investment, it blocks the illegal site/application and submits an information report to the Criminal Investigation Branch of the National Police for follow-up in accordance with applicable regulations. Meanwhile, protection in the form of repression is carried out by the National Police by revealing fraudulent investment cases involving 'crazy rich' *influencers*. As of August 2023, as many as 8 out of 10 influencers have been imprisoned. One of them is quite popularly known as Indra Kens (IK).
2. In relation to efforts to recover losses, both to the victims and to the national economy, there is a tug of war. This is due to the ineffectiveness of the case settlement process. Both victims who claim to have suffered losses can file a civil lawsuit by first proving their respective losses. Likewise with the state, the criminal fine against the convict in the case should be carried out through a series of executions through the auction sale mechanism on the convict's property, both



proven to have been obtained from the proceeds of crime and those that are not. That way, the balance between the interests of the state and the interests of all victims (including those who are not members of the association) will be able to go hand in hand and better ensure legal certainty.

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