

HO CHI MINH NATIONAL ACADEMY OF POLITICS

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**APPLICATION OF LAW ON EXEMPTION FROM CRIMINAL
LIABILITY FOR THE ACCUSED BY THE CRIMINAL
INVESTIGATION POLICE AGENCY IN VIETNAM**

**SUMMARY OF DOCTORAL THESIS
MAJOR: THEORY AND HISTORY OF STATE AND LAW
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**The thesis may be consulted at: The National Library of Vietnam
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INTRODUCTION

1. Rationale for the research topic

Under Vietnamese criminal law, exemption from criminal liability is an institution reflecting the State's humanitarian and lenient policy toward persons who have committed criminal acts but satisfy the statutory grounds and conditions for not being prosecuted for criminal liability. Exemption from criminal liability does not negate the criminal nature of the act, nor does it mean tolerating the act or disregarding the requirements of crime prevention and combat; rather, it is a conditional form of legal treatment that ensures a combination of the strictness and humanity of criminal law.

For the accused, application of law on exemption from criminal liability during the investigation stage is an exercise of state power by the Criminal Investigation Police Agency, carried out on the basis of collecting, examining and assessing evidence; determining the grounds and conditions for exemption from criminal liability; selecting legal provisions; and issuing procedural decisions within its competence. Proper application of law contributes to protecting the lawful rights and interests of the accused, victims and related subjects; individualizing the handling of criminal liability; saving procedural resources; improving investigative effectiveness; and strengthening the fairness, strictness and humanity of criminal justice.

In theoretical terms, published studies have mainly examined exemption from criminal liability from the perspectives of criminal law, criminal procedure law, or application of law in general; they have not fully clarified application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency as an exercise of state power during the investigation stage. Issues concerning its concept, characteristics, role, legal content, stages of application of law, conditions for ensuring its application, responsibilities of relevant subjects, procuratorial supervision and control of power need to be further systematized from the perspective of the major of Theory and History of State and Law.

In practice, during the 2018 - 2025 period, 3,445 criminal cases and 3,446 accused persons were subject to termination by the Criminal Investigation Police Agency due to exemption from criminal liability; in the first six months of 2026 alone, the corresponding figures were 105 criminal cases and 133 accused persons. Data for the first six months of 2026 are used only to update

the situation and identify new trends; they neither replace annual aggregate data nor are directly compared with data for a full year. Practical limitations remain in identifying and proving the grounds for exemption from criminal liability; selecting and citing legal provisions; distinguishing general grounds from specific grounds; issuing and organizing the implementation of decisions; coordination, procuratorial supervision, statistics and practical review. The number of criminal cases and accused persons subject to exemption from criminal liability tends to decline over the entire period, more clearly in the later years; however, such a quantitative decline cannot automatically be regarded as either a positive result or a limitation if it is separated from the quality of each application of law decision.

In response to the need to improve the theoretical foundation, accurately assess the current situation and propose solutions to ensure objective application of law in accordance with the applicable grounds, competence, order and procedures, the doctoral candidate selected the topic “Application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam” for the doctoral thesis in the major of Theory and History of State and Law.

2. Research purpose and tasks of the thesis

2.1. Research purpose

On the basis of clarifying theoretical issues, analyzing the law and assessing the current situation of application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency, the thesis proposes viewpoints and solutions to ensure application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam.

2.2. Research tasks

First, to review domestic and foreign studies related to the topic, assess the results achieved and identify issues that the thesis needs to continue examining; second, to clarify the theoretical foundation of application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency, including its concept, characteristics, role, legal content, stages of application of law and conditions for ensuring its application, while also studying the experience of several countries to draw reference values for Vietnam; third, to analyze the influencing factors and assess the current

situation of application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam, identifying achievements, limitations, and the objective and subjective causes of those limitations; fourth, to propose viewpoints and solutions to ensure application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam.

3. Research subject and scope of the topic

3.1. Research subject of the topic

The topic focuses on application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam.

3.2. Research scope of the topic

- In terms of content: The thesis examines application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency. It does not independently and comprehensively study exemption from criminal liability for offending commercial legal persons; this matter is mentioned only to the extent necessary for recommendations on improving relevant law. The thesis does not examine the entire exemption from criminal liability activities of the People's Procuracy and the People's Court, but considers these bodies only in their coordination and procuratorial supervision relationships and where necessary for comparison with the application of law activities of the Criminal Investigation Police Agency.

- In terms of geographical scope: The thesis examines application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency throughout Vietnam.

- In terms of time: The thesis focuses on practical information, statistics and data from the 2018 - 2025 period. Certain data for the first six months of 2026 and new documents and materials up to 30 June 2026 are updated to identify relevant new developments; they are not used to replace annual aggregate data or directly compared with data for a full year.

4. Theoretical foundation and research methods

4.1. Theoretical foundation

The theoretical foundation of the topic consists of Marxism-Leninism, Ho Chi Minh Thought, and the viewpoints, policies, orientations and guidelines of the Communist Party of Vietnam concerning the socialist rule-of-law State,

judicial reform, protection of human rights, control of state power, and crime prevention and combat; these are directly applied to the study of application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency.

4.2. Research methods

The thesis is conducted on the methodological basis of Marxism-Leninism regarding dialectical materialism and historical materialism; Ho Chi Minh Thought on the State, law and the protection of human rights; and the viewpoints of the Party and the State on building the socialist rule-of-law State, judicial reform, control of state power and humanitarian criminal policy.

The thesis selectively applies the human rights-based approach (HRBA), identifying the accused, victims and persons with related rights and interests as rights-holders, while the Criminal Investigation Police Agency and persons competent to conduct proceedings are duty-bearers responsible for respecting, protecting and ensuring those rights in accordance with law. This approach does not regard exemption from criminal liability as an automatic right of the accused; rather, it uses the requirements of legality, equality, non-discrimination and accountability to assess both the risk of application without sufficient grounds and the risk of failing to apply it promptly in cases where the conditions are satisfied.

In addition, the thesis uses an interdisciplinary approach, to the necessary extent, among the theory of state and law, criminal law, criminal procedure law and the science of criminal investigation organization. Specific methods include document research; analysis, synthesis, historical-logical and systemic methods; comparative law; statistics and case studies. Data are examined, cross-checked and analyzed by percentage structure, trends and proportions; data requiring protection as state secrets are published only in percentage form. Case studies are purposively selected, coded and used for qualitative analysis, without being generalized into an overall national structure.

5. New contributions of the topic

- *First*, the thesis supplements theoretical arguments on application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency; develops the concept; and clarifies its characteristics, role, legal content, stages of application of law and conditions for ensuring its application. Thereby, the thesis contributes to a clearer

recognition of this as an exercise of state power during the investigation stage, associated with the requirements of protecting human rights and controlling the exercise of procedural competence.

- *Second*, the thesis systematizes the influencing factors; analyzes and assesses the current situation of application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam on the basis of statistical data, practical materials and case studies; and identifies the achievements, limitations, and objective and subjective causes of those limitations.

- *Third*, the thesis proposes viewpoints and solutions to ensure application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam, linking each solution to the identified limitations and causes and meeting the requirements of improving the law, organizing law implementation, protecting human rights and controlling state power during the investigation stage.

6. Theoretical and practical significance of the topic

6.1. Theoretical significance

The research results contribute to supplementing and clarifying the theory of application of law in the field of criminal procedure, particularly application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency from the perspective of the major of Theory and History of State and Law.

6.2. Practical significance

The research results may be used as reference materials in the process of improving the law and guiding and organizing the implementation of application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency; and for research, teaching and learning at Ho Chi Minh National Academy of Politics, the People's Police Academy, law-training institutions, and by agencies and persons competent to conduct criminal procedure.

7. Structure of the thesis

Apart from the Introduction, Conclusion, List of the Author's Published Scientific Works Related to the Thesis, References and Appendices, the thesis consists of 04 chapters and 11 sections.

Chapter 1

OVERVIEW OF RESEARCH RELATED TO THE THESIS TOPIC AND ISSUES REQUIRING FURTHER STUDY

1.1. OVERVIEW OF RESEARCH RELATED TO THE THESIS TOPIC

The thesis reviews domestic and foreign studies related to application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency. The review is selective and closely follows the topic, thereby identifying findings that may be inherited and issues that the thesis needs to continue studying and clarifying.

1.1.1. Domestic research situation

Domestic studies are systematized by the thesis into three principal groups of content: theoretical foundation; current situation; and viewpoints and solutions for ensuring application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency. The KX.02/21-25 and KX.04/21-25 programs are used selectively as methodological references concerning Ho Chi Minh Thought, the rule-of-law State, human rights and control of power; they are not regarded as works directly studying exemption from criminal liability for the accused by the Criminal Investigation Police Agency.

- Studies on the theoretical foundation

The studies have provided an important foundation concerning exemption from criminal liability, criminal liability, exemption from punishment, exclusion of criminal liability and application of law in criminal matters. These works are valuable references for identifying the legal nature, conditions and legal consequences of exemption from criminal liability, as well as approaches to application of law in the criminal field.

- Studies on the current situation

The studies have reflected certain difficulties and obstacles in understanding and applying the grounds for exemption from criminal liability, especially Article 29 of the 2015 Criminal Code. Some works have identified inconsistent application and differing interpretations of the conditions for exemption from criminal liability, its legal consequences and the competence to apply it. In addition, studies on application of law in investigation, procuratorial supervision and adjudication also suggest approaches to the current situation by subject, stage and ensuring conditions.

- Studies on viewpoints and solutions

The studies have addressed the need to improve criminal law and criminal procedure law, enhance the effectiveness of bodies conducting proceedings, and ensure human rights and citizens' rights in criminal procedure. These are important references for the thesis in developing viewpoints and solutions to ensure

application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency.

1.1.2. Foreign research situation

The thesis surveys studies approaching the institution of exemption from criminal liability from different perspectives, such as criminal liability, grounds for exemption from criminal liability, conditions for application, application practice and requirements for legal improvement. Studies on the laws of Russia, Kazakhstan, Tajikistan and several other legal systems have certain reference value in identifying the legal nature, limits of application, control mechanisms and experience in ensuring application of law on exemption from criminal liability. However, because of differences in legal traditions, procedural models, competent subjects and scope of application, these research results are inherited selectively by the thesis in a manner consistent with Vietnam's political, legal and criminal procedure conditions.

1.2. ASSESSMENT OF STUDIES RELATED TO THE THESIS TOPIC AND ISSUES REQUIRING FURTHER STUDY

Through the overview of the research situation, the thesis determines that published studies have important value in developing the theoretical foundation, assessing practice and suggesting solutions to ensure application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency. However, these studies still leave certain gaps in relation to the research requirements of the thesis.

First, in theoretical terms

Most studies mainly examine exemption from criminal liability as an institution of criminal law or examine termination of investigation due to exemption from criminal liability from the perspective of criminal procedure. They have not established a complete theoretical system of application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency as an exercise of state power during the investigation stage.

Second, in practical terms

The studies have reflected certain difficulties in identifying and applying the grounds for exemption from criminal liability, but no study has systematically assessed the current situation of application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency nationwide according to the stages of the application of law process, such as identifying legal facts, selecting legal provisions, issuing decisions and organizing the implementation of application of law decisions.

Third, in terms of viewpoints and solutions

Previous proposals have mainly been made at the general level of criminal law, criminal procedure law or the activities of bodies conducting proceedings in

general. The studies have not directly focused on the specific characteristics of the Criminal Investigation Police Agency as the subject of application of law on exemption from criminal liability for the accused during the investigation stage.

From the above gaps, the thesis identifies the issues requiring further study as follows: clarifying the theoretical foundation of application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency; assessing the current situation of application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam; and proposing viewpoints and solutions to ensure that this activity is conducted lawfully, consistently, objectively and humanely, without wrongfully convicting innocent persons or allowing crimes to go unpunished.

1.3. RESEARCH HYPOTHESIS AND RESEARCH QUESTIONS

1.3.1. Research hypothesis of the thesis

Application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency is an exercise of state power during the investigation stage, conducted through the identification of legal facts, selection of legal provisions, and issuance and organization of the implementation of procedural decisions in each specific case. This activity both reflects the State's humanitarian and lenient criminal policy and must ensure the principle of legality, human rights, and the lawful rights and interests of subjects participating in criminal procedure, as well as the requirements of crime prevention and combat.

The research hypothesis of the thesis is that application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam during the 2018 - 2025 period, despite its achievements, still has limitations in identifying and proving the grounds for exemption from criminal liability, selecting legal provisions, issuing and organizing the implementation of procedural decisions, and ensuring consistency among agencies and units. These limitations arise from both objective and subjective causes, including shortcomings in the law and application guidance, inadequacies in implementation organization, the capacity of application of law subjects, mechanisms of coordination, procuratorial supervision, inspection, statistics and practical review, and the ensuring conditions.

Clarifying the theoretical foundation and accurately assessing the current situation and causes of the above limitations provide the basis for developing a corresponding system of viewpoints and solutions to ensure that application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency is carried out on the proper grounds, within the proper competence and in accordance with the prescribed order and procedures, objectively, consistently and in a manner capable of practical control.

1.3.2. Research questions

First, what aspects of exemption from criminal liability and application of law on exemption from criminal liability for the accused have been clarified by domestic and foreign research, and what issues must the thesis continue to study from the perspective of the major of Theory and History of State and Law?

Second, what are the concept, characteristics, role, legal content, stages and ensuring conditions of application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency?

Third, what factors influence application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency; what results have been achieved in practice in Vietnam during the 2018 - 2025 period; what limitations remain; and what are the causes of those limitations?

Fourth, what viewpoints should be thoroughly followed and what solutions should be implemented to ensure that application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam is lawful, consistent and objective, protects human rights, does not wrongfully convict innocent persons, and does not allow crimes to go unpunished?

Chapter 2

THEORETICAL FOUNDATION OF APPLICATION OF LAW ON EXEMPTION FROM CRIMINAL LIABILITY FOR THE ACCUSED BY THE CRIMINAL INVESTIGATION POLICE AGENCY

2.1. CONCEPT, CHARACTERISTICS AND ROLE OF APPLICATION OF LAW ON EXEMPTION FROM CRIMINAL LIABILITY FOR THE ACCUSED BY THE CRIMINAL INVESTIGATION POLICE AGENCY

The thesis clarifies the concepts of the accused, exemption from criminal liability and application of law, and the central concept of application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency. Within the scope of the thesis, the accused is understood as an individual against whom a competent authority has instituted criminal proceedings and who has an independent legal status in criminal procedure legal relations; when the statutory grounds and conditions are satisfied, that individual may be considered by the Criminal Investigation Police Agency for application of law on exemption from criminal liability during the investigation stage.

Exemption from criminal liability is the State's decision, through a competent body conducting proceedings, not to require a person who has committed a criminal act to bear criminal liability when the grounds and conditions prescribed by law are satisfied, while still ensuring the requirements of crime prevention and combat, education of offenders, protection of human rights and citizens' rights, and expression of the State's humanitarian and lenient criminal

policy. Exemption from criminal liability applies only to a person who has committed an act containing all elements constituting a crime and who, in principle, must bear criminal liability; it must therefore be distinguished from innocence, an act that does not constitute a crime, circumstances excluding criminal liability, and exemption from punishment.

On that basis, the thesis defines: “Application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency is an activity involving state power, carried out by the Criminal Investigation Police Agency through competent persons during the investigation stage, on the basis of examining and assessing documents and evidence to determine the grounds and conditions for exemption from criminal liability, select appropriate criminal law and criminal procedure provisions, issue an individualized procedural decision giving rise to the legal consequences of exemption from criminal liability for the accused, and remain subject to the procuratorial supervision of the People's Procuracy”.

The content of the concept reflects the unity among the subject of application of law, namely the Criminal Investigation Police Agency; the object of application, namely the accused in a specific criminal case; the legal basis, namely criminal law and criminal procedure law on exemption from criminal liability; the content of application, namely identifying legal facts, assessing evidence, selecting provisions and issuing procedural decisions; and the legal consequence, namely that the accused is no longer prosecuted for criminal liability for the act covered by the exemption from criminal liability decision.

The thesis identifies five characteristics: this is an exercise of state power within the functions of the Criminal Investigation Police Agency and is conducted through competent persons; within the scope of current law and the topic, the person considered is the accused in a specific criminal case; the activity is conducted on the basis of unity between criminal law and criminal procedure law; it is a process of individualizing the law through examination and assessment of documents and evidence and the issuance of procedural decisions; and it is a conditional activity reflecting humanitarian criminal policy, while requiring a balance between the protection of human rights and the requirements of crime prevention and combat.

In terms of its role, application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency contributes to ensuring human rights, the rights of the accused and the lawful rights and interests of related subjects; individualizing the handling of criminal liability; educating offenders and preventing and combating crime; testing and improving the law and ensuring consistent application; maintaining security, order and social safety; and improving the effectiveness of criminal procedure activities.

2.2. LEGAL CONTENT AND STAGES OF APPLICATION OF LAW ON EXEMPTION FROM CRIMINAL LIABILITY FOR THE ACCUSED BY THE CRIMINAL INVESTIGATION POLICE AGENCY

2.2.1. Legal content on exemption from criminal liability for the accused by the Criminal Investigation Police Agency

The thesis approaches the legal content on exemption from criminal liability through groups of legal grounds sharing the same regulatory nature, thereby clarifying the relationship among the Criminal Code, the Criminal Procedure Code and the application of law activities of the Criminal Investigation Police Agency during the investigation stage.

First, the group of grounds relating to circumstances and criminal policy includes: voluntary termination of the commission of a crime halfway; changes in policies or law rendering the act no longer socially dangerous; amnesty; changes in circumstances rendering the offender no longer dangerous to society; the offender's serious illness resulting in no further capacity to pose danger to society; voluntary confession, truthful disclosure, effective contribution to crime detection and investigation, efforts to limit consequences, and the achievement of major merit or special contributions; and cases involving a serious crime committed through negligence or a less serious crime where the offender has voluntarily repaired and compensated for damage and remedied the consequences and has been reconciled with, and proposed for exemption from criminal liability by, the victim or the victim's lawful representative.

Second, the group of legal provisions concerning juvenile offenders. During the 2018 - 2025 research period, Clause 2 Article 91 of the 2015 Criminal Code constituted a specific ground for exemption from criminal liability applicable to offenders under 18 years of age. From 1 January 2026, the Law on Juvenile Justice took effect and Chapter XII of the 2015 Criminal Code was repealed; the grounds for exemption from criminal liability under the Criminal Code must first be considered, and only where the case does not fall within exemption from criminal liability may diversion measures under the Law on Juvenile Justice be considered. Application must ensure the best interests of the juvenile, the right to participate in proceedings, the right to legal aid and the participation of a representative, while also protecting victims' rights and meeting crime-prevention requirements.

Third, the group of grounds associated with the constituent elements and specific categories of crimes includes: persons cultivating opium poppy, coca, cannabis or other plants containing narcotic substances; bribe-givers who proactively report before detection; bribery intermediaries who proactively report before detection; and persons who fail to report a crime but have acted to prevent the offender or limit the harmful consequences of the crime. For the crime of

giving bribes, Clause 7 Article 364 of the Criminal Code is the direct and specific ground; Article 29 of the Criminal Code is only the general foundation of the exemption from criminal liability institution.

Under current law, exemption from criminal liability is not a ground for declining to institute a criminal case under Article 157 of the 2015 Criminal Procedure Code. Therefore, early identification of circumstances relevant to exemption from criminal liability does not mean using subordinate legislation to add a ground for non-institution beyond those prescribed by law.

2.2.2. Stages of application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency

The thesis identifies four basic stages: first, identifying, analyzing and assessing the circumstances of the criminal case and the documents and evidence relevant to exemption from criminal liability; second, selecting appropriate legal provisions and distinguishing general grounds from direct and specific grounds; third, issuing an individualized procedural decision in accordance with the proper grounds, competence, order and procedures, in which the People's Procuracy exercises procuratorial supervision rather than approving the Criminal Investigation Police Agency's decision; and fourth, organizing implementation of the decision, including sending, serving and notifying it, cancelling procedural measures when the grounds no longer exist, handling legal consequences, archiving, statistics, reporting and lessons learned.

2.3. CONDITIONS FOR ENSURING APPLICATION OF LAW ON EXEMPTION FROM CRIMINAL LIABILITY FOR THE ACCUSED BY THE CRIMINAL INVESTIGATION POLICE AGENCY

The thesis identifies five principal groups of ensuring conditions.

2.3.1. Political ensuring conditions

The comprehensive and direct leadership of the Party over law-making and law enforcement, judicial reform and humanitarian criminal policy provides the orientation for application of law on exemption from criminal liability to be carried out for the proper purpose and in association with building the socialist rule-of-law State, protecting human rights and controlling power.

2.3.2. Legal ensuring conditions

A complete, coherent, clear and feasible legal system is the foundation for application of law to be conducted constitutionally and lawfully, on the proper grounds, within the proper competence and in accordance with the prescribed order and procedures; it prevents both arbitrary application and the omission of cases that satisfy the conditions for exemption from criminal liability.

2.3.3. Ensuring conditions relating to the organizational apparatus and human resources of the Criminal Investigation Police Agency

A rational organizational apparatus, clear allocation of responsibilities, and a

contingent of Heads and Deputy Heads of the Criminal Investigation Police Agency, Investigators and Investigation Officers possessing professional integrity, qualifications and skills are direct factors determining the quality of identifying grounds, assessing evidence and issuing procedural decisions.

2.3.4. Ensuring conditions for coordination relationships

The coordination mechanism between the Criminal Investigation Police Agency and the People's Procuracy, the People's Court and relevant agencies contributes to a unified understanding, control of power, and objectivity and rigor in considering exemption from criminal liability. In this relationship, the People's Procuracy supervises whether a decision is well-grounded and lawful, without replacing the decision-making competence of the Criminal Investigation Police Agency.

2.3.5. Ensuring conditions relating to physical facilities and technical equipment

Premises, technical means, audio- and video-recording equipment, storage systems, professional software, data connectivity and information security provide the foundation for supporting the collection and management of evidence, statistics, reporting, lessons learned and digital transformation within controlled professional systems.

2.4. APPLICATION OF LAW ON EXEMPTION FROM CRIMINAL LIABILITY FOR THE ACCUSED IN SELECTED COUNTRIES AND LESSONS FOR VIETNAM

The thesis selects the Russian Federation, the Republic of Kazakhstan and the Republic of Tajikistan as the principal countries for study because they belong to the written-law tradition, are influenced to a certain extent by the Soviet criminal-law model, and have relatively clear provisions on exemption from criminal liability and application mechanisms associated with investigation, procuratorial supervision, dismissal of cases or termination of investigations. China, Japan and the Rome Statute/ICC are examined at a screening and comparative level to clarify the scope of selection and reference value.

From international experience, the thesis draws the following reference values: placing exemption from criminal liability within an investigation process subject to strict legal control; standardizing files, criteria, grounds and forms; linking exemption from criminal liability to obligations to remedy consequences, reconcile and compensate where permitted by law; and strengthening procuratorial supervision, post-review, statistics and accountability. Such experience must be received selectively and in a manner consistent with Vietnam's political, legal and organizational conditions and criminal procedure model, without mechanical copying.

Chapter 3

INFLUENCING FACTORS AND THE CURRENT SITUATION OF APPLICATION OF LAW ON EXEMPTION FROM CRIMINAL LIABILITY FOR THE ACCUSED BY THE CRIMINAL INVESTIGATION POLICE AGENCY IN VIETNAM

3.1. FACTORS INFLUENCING APPLICATION OF LAW ON EXEMPTION FROM CRIMINAL LIABILITY FOR THE ACCUSED BY THE CRIMINAL INVESTIGATION POLICE AGENCY IN VIETNAM

The thesis determines that the factors influencing application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency are not themselves a direct assessment of the current situation of application, but conditions, contexts and impacts governing the process of identifying grounds, selecting provisions, issuing decisions and organizing the implementation of application of law decisions in practice.

3.1.1. Organizational apparatus and operations of the Criminal Investigation Police Agency of the People's Public Security Forces

The Criminal Investigation Police Agency is the central subject during the investigation stage and is responsible for detecting, collecting, examining and assessing evidence and issuing procedural decisions within its competence. Therefore, the organizational structure, qualifications, experience, professional integrity and task-performance capacity of Heads and Deputy Heads of the Criminal Investigation Police Agency, Investigators and Investigation Officers directly affect the quality of application of law on exemption from criminal liability for the accused.

Data processed in percentage-structure form show that the leadership of the Criminal Investigation Police Agency has a relatively solid foundation in investigative ranks, while Investigators and Investigation Officers directly handling initial matters are concentrated mainly at the provincial level and commune-level police. Since 2025, the organizational model of the Criminal Investigation Police Agency has changed with the abolition of district-level Criminal Investigation Police Agency, creating a need to clearly allocate responsibilities among provincial-level Criminal Investigation Police Agency, professional units and commune-level police in receiving, examining and verifying information, promptly identifying grounds for exemption from criminal liability, reporting and proposing appropriate handling.

3.1.2. Situation of application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam

The thesis analyzes the application situation through its scale, quantity and trends; structure by legal grounds under the Criminal Code and by groups of

offences; personal characteristics; positive impacts; and risks arising in practice. Appendix 7 uses 18 coded case studies for qualitative analysis; they do not constitute a representative statistical sample and are not generalized into the overall national structure.

During the 2018 - 2025 period, 3,445 criminal cases and 3,446 accused persons were terminated due to exemption from criminal liability; data for the first six months of 2026, comprising 105 criminal cases and 133 accused persons, are presented separately to update trends. Over the entire period, the number of criminal cases and accused persons subject to exemption from criminal liability tended to decline, more clearly in the later years, but did not decline continuously year by year. Clause 3 Article 29 of the Criminal Code was the principal ground applied; offences infringing public order and offences infringing property accounted for noteworthy proportions. The downward trend is not automatically regarded as either positive or a limitation, but must be considered in relation to the grounds, conditions and quality of each decision.

3.2. CURRENT SITUATION OF APPLICATION OF LAW ON EXEMPTION FROM CRIMINAL LIABILITY FOR THE ACCUSED BY THE CRIMINAL INVESTIGATION POLICE AGENCY IN VIETNAM

The thesis assesses the current situation according to the four stages of application of law and clarifies the achievements and their causes, as well as the limitations and their causes.

3.2.1. Achievements in application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam and the causes of those achievements

3.2.1.1. Achievements in application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam

At the stage of identifying, analyzing and assessing the circumstances of a criminal case, the Criminal Investigation Police Agency has paid greater attention to collecting, examining and assessing not only evidence of the criminal act, but also information on personal background, the attitude toward making statements, remedy of consequences, compensation, reconciliation and other factors relevant to exemption from criminal liability. At the stage of selecting legal provisions, comparison of case circumstances with each statutory ground has been conducted more cautiously, and general grounds and specific grounds have gradually been identified and distinguished more clearly.

At the decision-making stage, termination of investigation due to exemption from criminal liability has been placed under closer examination and procuratorial supervision; decisions must be based on documents and evidence in the case file and comply with the proper grounds, competence, order and procedures. At the implementation stage, the Criminal Investigation Police Agency has paid greater

attention to sending, serving and notifying decisions, handling legal consequences, filing records, statistics, reporting and lessons learned, thereby contributing to ensuring the lawful rights and interests of the accused, victims and related subjects.

Overall, application of law on exemption from criminal liability has contributed to implementing humanitarian criminal policy, individualizing criminal liability, encouraging offenders to correct their mistakes, remedy consequences and reconcile with victims, while enabling timely handling of cases in which continued prosecution for criminal liability is no longer necessary and improving investigative effectiveness.

3.2.1.2. Causes of the achievements in application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam

The achievements result from the leadership and direction of the Party and the State; the gradual improvement of criminal law, criminal procedure law and guiding documents; the growth in professional integrity, capacity and experience of Heads and Deputy Heads of the Criminal Investigation Police Agency, Investigators and Investigation Officers; coordination and procuratorial supervision between the Criminal Investigation Police Agency and the People's Procuracy; inspection, practical review and lessons learned; and the gradual provision of physical facilities, data and technical equipment for investigation activities.

3.2.2. Limitations in application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam and their causes

3.2.2.1. Limitations in application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam

First, in certain cases, identification and proof of the grounds and conditions for exemption from criminal liability have not been sufficiently comprehensive or consistent, especially for grounds containing qualitative elements such as changes in circumstances, the offender no longer being dangerous to society, major merit, special contributions, voluntary repair, compensation and reconciliation.

Second, the selection and citation of provisions in certain cases have not been technically precise; there remain cases in which exemption from criminal liability has not been clearly distinguished from an act that does not constitute a crime, circumstances excluding criminal liability, or exemption from punishment, and the direct ground has not been clearly identified when Article 29 of the Criminal Code is cited together with a specific ground. For the crime of giving bribes, Clause 7 Article 364 of the Criminal Code must be identified as the direct and specific ground.

Third, the form of decisions and procedural forms relating to exemption from criminal liability have not been fully standardized; certain decisions and reports do not clearly state the legal grounds, conditions for application, scope of legal consequences and handling of related matters, thereby reducing transparency and controllability.

Fourth, in certain cases the organization of implementation, coordination and procuratorial supervision has not been timely or coherent; sending, serving and notifying decisions, handling legal consequences, resolving complaints, and exchanges between the Criminal Investigation Police Agency and the People's Procuracy still require further standardization.

Fifth, statistics, reporting, practical review, lessons learned and ensuring conditions remain limited; there is no separate and unified data system organized by applicable grounds, groups of offences and procuratorial supervision results. The capacity of some application of law subjects is uneven, while physical facilities, equipment and data infrastructure are not consistent among units. These limitations simultaneously create the risk of applying exemption from criminal liability without sufficient grounds and the risk of failing to identify or promptly apply it where the conditions are satisfied.

3.2.2.2. Causes of the limitations in application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam

First, the legal awareness and application of law thinking concerning exemption from criminal liability of some subjects are not fully consistent; the relationship between humanity and leniency, on the one hand, and the principle of legality, strictness and accountability, on the other, has not been fully understood.

Second, certain legal provisions on exemption from criminal liability remain qualitative and discretionary; some aspects of the linkage between the Criminal Code and the Criminal Procedure Code are not coherent; and application guidance, forms, professional procedures and methods of recording grounds in files, decisions and reports remain incomplete.

Third, the capacity, qualifications and skills in assessing evidence, identifying grounds, selecting provisions, reasoning and providing explanations among some Heads and Deputy Heads of the Criminal Investigation Police Agency, Investigators and Investigation Officers are uneven.

Fourth, the organizational apparatus of the Criminal Investigation Police Agency changed from 2025, creating new requirements for allocation of responsibilities, guidance, coordination and control among provincial-level Criminal Investigation Police Agency, professional units and commune-level police. This is a new factor affecting implementation organization, not a cause that retrospectively explains all limitations during the 2018 - 2024 period.

Fifth, the inter-agency coordination mechanism has not been fully standardized or closely linked to each stage of application of law; in certain cases, exchanges between the Criminal Investigation Police Agency and the People's Procuracy concerning grounds, conditions, evidentiary materials, forms of decision and legal consequences have not been timely.

Sixth, examination, procuratorial supervision, inspection, and resolution of complaints and denunciations have not been conducted consistently and regularly or fully linked to the accountability of competent persons.

Seventh, statistics, reporting, practical review and lessons learned have not been standardized; classification of data and development of a database directly serving application of law on exemption from criminal liability remain limited.

Eighth, physical facilities, technical equipment, professional data and digital transformation are not coherent; international experience has not been sufficiently transformed into suggestions concerning examination criteria, forms, data, statistics and coordination. However, failure to absorb international experience is not regarded as the direct cause of each error in application of law.

Correct identification of the groups of causes is the direct basis for developing a corresponding system of solutions in Chapter 4, ensuring that no limitation is identified without its cause and no solution is proposed without a demonstrated practical problem.

Chapter 4

VIEWPOINTS AND SOLUTIONS FOR ENSURING APPLICATION OF LAW ON EXEMPTION FROM CRIMINAL LIABILITY FOR THE ACCUSED BY THE CRIMINAL INVESTIGATION POLICE AGENCY IN VIETNAM

4.1. VIEWPOINTS FOR ENSURING APPLICATION OF LAW ON EXEMPTION FROM CRIMINAL LIABILITY FOR THE ACCUSED BY THE CRIMINAL INVESTIGATION POLICE AGENCY IN VIETNAM

The viewpoints for ensuring application of law on exemption from criminal liability must be identified in the context of continuing to build the socialist rule-of-law State, judicial reform and protection of human rights; changes in the organizational apparatus of the Criminal Investigation Police Agency; an increasingly diverse and complex crime situation; and requirements for digital transformation, data standardization, statistics, reporting and lessons learned. The system of viewpoints must ensure humanity and leniency while maintaining legality, avoiding wrongful treatment of innocent persons and preventing crimes from going unpunished.

4.1.1. Ensuring the leadership of Party committees in application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam

The leadership of Party committees is exercised through political-legal orientation, development of the organization and personnel, examination, supervision, prevention of misconduct and provision of operational conditions; it does not replace procedural activities, select the grounds for exemption from criminal liability, or interfere in the resolution of a specific criminal case. The Criminal Investigation Police Agency and competent persons bear independent responsibility for their decisions and remain subject to the procuratorial supervision of the People's Procuracy.

4.1.2. Ensuring strictness, publicity, transparency and accountability in application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam

Every decision must be based on clear legal grounds, sufficient documents and evidence, and reasoning capable of examination; and must comply with the proper subject, competence, order, procedures and form. Publicity and transparency mean that the grounds, process and responsibilities of application of law must be clear, consistent and capable of examination; they do not mean disclosure of state secrets, investigation secrets or personal data. Investigators and Investigation Officers are responsible for documents, evidence and the content of their proposals; Heads and Deputy Heads of the Criminal Investigation Police Agency are responsible for examining case files, selecting grounds, and issuing and organizing the implementation of decisions.

4.1.3. Ensuring the lawful rights and interests of the accused in application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam

The Criminal Investigation Police Agency must objectively collect and assess both incriminating and exculpatory evidence and circumstances relevant to exemption from criminal liability; proactively and fully identify and promptly consider the statutory grounds; and ensure the right to be informed, the right to defence, the right to present evidence and requests, and the right to complain. Where there are insufficient grounds for accusation, the corresponding procedural ground must be applied and the case must not be converted into exemption from criminal liability; where the grounds for exemption from criminal liability are sufficient, adverse procedural measures that no longer have a basis must be promptly terminated.

4.1.4. Ensuring the maintenance of security, order and social safety in application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam

Exemption from criminal liability does not mean tolerance, but is a conditional form of legal treatment. The Criminal Investigation Police Agency must comprehensively assess the nature and degree of danger posed by the act, its consequences, the role of each accused person, the extent of remedy, the possibility of reoffending, victims' rights and the social impact of the decision; at the same time, the requirement to maintain security and order must not be used as a general reason to narrow or refuse application in cases where the conditions are satisfied.

4.1.5. Ensuring humanitarian policy in application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam

Humanitarian policy must be implemented correctly, fully and promptly on the basis of law, evidence and accountability, creating conditions for offenders to remedy consequences, correct their mistakes and reintegrate. Humanity does not mean leniency without principle, tolerance, or the use of exemption from criminal liability to reduce the number of criminal case; nor does it permit fear of responsibility to result in the omission of cases that satisfy the conditions.

4.2. SOLUTIONS FOR ENSURING APPLICATION OF LAW ON EXEMPTION FROM CRIMINAL LIABILITY FOR THE ACCUSED BY THE CRIMINAL INVESTIGATION POLICE AGENCY IN VIETNAM

The thesis proposes eight groups of closely related solutions corresponding to the identified limitations and causes.

4.2.1. Improving the law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam

Regarding the Criminal Code, it is necessary to clarify grounds and conditions for exemption from criminal liability that remain qualitative; improve Article 29; distinguish general grounds from direct and specific grounds in the Part on Specific Offences; and ensure that provisions applicable to commercial legal persons are designed fully and consistently. Regarding the Criminal Procedure Code, inter-agency guidance should first be issued on the early identification, collection, examination and assessment of circumstances relevant to exemption from criminal liability and the handling process during the stage of resolving crime reports and during the investigation stage; subordinate legislation must not be used to add grounds for non-institution beyond Article 157. If the legislature in the future adopts a mechanism for exemption from criminal liability before the institution of proceedings against the accused, the Criminal Code, Criminal Procedure Code and the law on organization of criminal investigation bodies must be amended coherently, clearly prescribing the standard of proof, competence, form of decision, procuratorial supervision mechanism, right to complain, victims'

rights and legal consequences. Decisions, forms, files, sending and service, statistics and complaint resolution should be standardized. The 2026 draft laws are used only to identify legislative trends.

4.2.2. Consolidating the organizational apparatus and improving the operational quality of the Criminal Investigation Police Agency in Vietnam

Responsibilities among ministerial-level and provincial-level Criminal Investigation Police Agency, professional units and commune-level police should be clearly allocated in receiving, examining and verifying information, promptly identifying grounds for exemption from criminal liability, reporting and proposing handling; mechanisms for guidance, examination and control of individual responsibility should be established to ensure that changes in the organizational model do not interrupt or prolong consideration of cases that satisfy the conditions for exemption from criminal liability.

4.2.3. Continuing to improve the capacity, qualifications and professional skills of competent subjects in application of law on exemption from criminal liability for the accused in Vietnam

Specialized training should be organized by topic and representative situations, focusing on skills in collecting, examining and assessing evidence; identifying the grounds and conditions for exemption from criminal liability; distinguishing exemption from criminal liability from an act that does not constitute a crime, circumstances excluding criminal liability and exemption from punishment; selecting provisions; reasoning and providing explanations; and issuing decisions in accordance with the proper grounds, competence, order and procedures.

4.2.4. Investing in physical facilities and technical equipment for application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam

Working conditions, technical equipment, audio- and video-recording devices, storage facilities, professional software, data connectivity and information security should be ensured; databases, electronic case-file management and technical infrastructure within controlled professional systems should be developed to serve the collection and preservation of evidence, statistics, reporting and lessons learned. The thesis does not propose uploading case-file data to external artificial-intelligence tools.

4.2.5. Continuing to improve the coordination mechanism in application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam

A mechanism for exchanges between the Criminal Investigation Police Agency and the People's Procuracy should be established as soon as signs of grounds for exemption from criminal liability arise; agreement should be reached on the grounds, conditions, materials to be proved, forms of decision, sending, service, procuratorial supervision, statistics, reporting and lessons learned. The

People's Procuracy exercises procuratorial supervision over decisions to terminate investigations; it does not approve them or replace the decision-making responsibility of the Criminal Investigation Police Agency. The People's Court and relevant agencies participate to an appropriate extent through practical review, guidance and inter-agency coordination.

4.2.6. Continuing to strengthen inspection, examination and resolution of complaints and denunciations in application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam

Inspection and examination should focus on whether decisions are well-grounded and lawful, within competence and in accordance with the prescribed order and procedures, and on accountability; they should identify both cases in which exemption from criminal liability is applied without sufficient grounds and cases in which the conditions are satisfied but exemption from criminal liability is not considered or is applied late. Mechanisms for resolving complaints and denunciations must protect the rights of the accused, victims and related subjects.

4.2.7. Regularly reviewing practice and drawing lessons in application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam

Representative cases, including both correctly and incorrectly handled cases, should be selected for notices of lessons learned; a separate statistical system should be developed, clearly recording the applicable grounds, type of offence, decision-making agency, procuratorial supervision results and issues arising after termination; reports and the matrix linking limitations, causes and solutions should be standardized.

4.2.8. Continuing to strengthen international cooperation in application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam

The experience of the Russian Federation, Kazakhstan, Tajikistan and other legal systems should be studied selectively with regard to standardizing processes, data, forms and statistics, controlling power and ensuring accountability. International experience serves only as a reference; it must not be copied mechanically, and failure to absorb foreign experience must not be regarded as the direct cause of each error.

In the immediate term, priority should be given to consistent application guidance, standardization of decisions, forms, statistics and reports, and specialized training. In the long term, the law, organizational apparatus, databases, technical infrastructure and power-control mechanisms should continue to be improved coherently, ensuring that the solutions do not aim to mechanically increase or decrease the number of criminal cases and accused persons subject to exemption from criminal liability, but rather to ensure correct, full, timely, well-grounded and controllable application.

CONCLUSION

The thesis “Application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam” is conducted in the context of building the socialist rule-of-law State, judicial reform, and improvement of humanitarian and lenient criminal policy. The research results contribute to clarifying mechanisms for exercising and controlling state power during the investigation stage, protecting the lawful rights and interests of the accused, victims and related subjects, while also meeting the requirements of crime prevention and combat.

On the basis of the research overview, the thesis develops a theoretical framework for application of law in exemption from criminal liability cases within the scope of the topic. Accordingly, application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency is an activity involving state power, carried out during the investigation stage through the examination and assessment of documents and evidence; determination of the grounds and conditions for exemption from criminal liability; selection of provisions; and issuance of procedural decisions within competence. This activity must comply with the proper grounds, competence, order and procedures, be objective, capable of examination and explanation, and remain subject to the procuratorial supervision of the People's Procuracy. The thesis also clarifies that exemption from criminal liability must be distinguished from innocence, an act that does not constitute a crime, circumstances excluding criminal liability and exemption from punishment; under current law, exemption from criminal liability is not a ground for declining to institute a criminal case under Article 157 of the 2015 Criminal Procedure Code. For the crime of giving bribes, Clause 7 Article 364 of the 2015 Criminal Code is the direct and specific ground, while Article 29 of the 2015 Criminal Code is the general foundation of the exemption from criminal liability institution.

In practical terms, the thesis assesses application of law on exemption from criminal liability for the accused by the Criminal Investigation Police Agency in Vietnam during the 2018 - 2025 period; data for the first six months of 2026 are used only to update trends. The research results show that this activity has contributed to implementing humanitarian criminal policy, individualizing criminal liability and protecting the rights of the accused. The number of criminal case and accused persons subject to exemption from criminal liability tends to decline over the entire period, but such a quantitative decline cannot automatically be regarded as either a positive result or a limitation if separated from the quality of each application of law decision.

Practical limitations remain in identifying and proving the grounds for exemption from criminal liability; distinguishing general grounds from specific grounds; selecting and citing provisions; issuing and organizing the implementation of decisions; coordination, procuratorial supervision, statistics and practical review. These limitations simultaneously create the risk of applying exemption from criminal liability without sufficient grounds and the risk of failing to identify or promptly apply it where the conditions are satisfied. The principal causes are the lack of coherence in the law and application guidance; the qualitative nature of certain grounds; insufficient standardization of forms, data and professional statistics; and limitations in allocation of responsibilities, coordination, examination and the capacity of some application of law subjects.

From the research results, the thesis proposes a system of viewpoints and solutions focused on improving the Criminal Code, Criminal Procedure Code and guiding documents; clarifying the grounds, legal consequences, competence and procedures of application of law; standardizing decisions, forms, files, data and statistics; allocating responsibilities within the Criminal Investigation Police Agency; building the capacity of Heads and Deputy Heads of the Criminal Investigation Police Agency, Investigators and Investigation Officers; and improving coordination mechanisms with the People's Procuracy, examination, complaint resolution, practical review and lessons learned. Identification of grounds for exemption from criminal liability from the stage of resolving crime reports must be conducted cautiously, without using subordinate legislation to add grounds for non-institution beyond Article 157 of the Criminal Procedure Code. The 2026 draft laws are used only to identify legislative trends and do not replace current law or the research results for the 2018 - 2025 period.

The solutions proposed by the thesis do not aim to mechanically increase or decrease the number of criminal case and accused persons subject to exemption from criminal liability, but to ensure that this institution is applied correctly, fully, promptly, on sufficient grounds and in a controllable manner; thereby contributing to the protection of human rights, avoiding wrongful treatment of innocent persons, preventing crimes from going unpunished, and improving the quality of the Criminal Investigation Police Agency's activities in Vietnam's socialist rule-of-law State.

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