Original article
UDC 343.36
doi 10.46741/2686-9764.2025.70.2.004

The Interests of Justice as an Object of Criminal Law Protection in a Crime Provided for in Article 305 of the Criminal Code of the Russian Federation

NATAL'YA V. ROMANENKO
Ural State Law University named after V.F. Yakovlev, Yekaterinburg, Russia, ksd@usla.ru, https://orcid.org/0000-0001-8652-1728

Abstract

Introduction: the article analyzes certain issues of the theory and practice of applying Article 305 of the Criminal Code of the Russian Federation. *Purpose*: based on the generalization of theoretical provisions of criminal procedure science and the practice of criminal prosecution of judges for making knowingly unlawful judicial acts, to show key problematic issues affecting the effectiveness of protecting the interests of justice in the detection and investigation of this category of crimes. *Methods*: theoretical methods of formal and dialectical logic, historical, comparative legal, empirical methods of description, interpretation; private scientific methods, such as legal-dogmatic and interpretation of legal norms. *Results*: the analysis of the studied material has shown that criminal law tools and procedural mechanisms for protecting the interests of justice need to be improved. *Conclusion*: in order to enhance the protection of the interests of justice when considering cases of crimes provided for in Article 305 of the Criminal Code of the Russian Federation, it is necessary to limit the dispositive principle in the criminal prosecution of a judge, to conduct additional research into the stages of committing this crime and the possibility of criminal prosecution for an unfinished crime; to identify its elements and to establish its combination with other official criminal acts of representatives of the judiciary; and to provide representatives of the judicial community and other authorized persons with the opportunity to participate in criminal cases of this category in order to protect the interests of the Russian Federation.

Keywords: unlawful judicial act, deliberate unlawfulness, criminal liability of a judge, criminal prosecution of a judge, Article 305 of the Criminal Code of the Russian Federation, interests of justice, crimes against justice.

5.1.4. Criminal law sciences.

For citation: Romanenko N.V. The interests of justice as an object of criminal law protection in a crime provided for in Article 305 of the Criminal Code of the Russian Federation. *Penitentiary Science*, 2025, vol. 19, no. 2 (70), pp. 144–156. doi 10.46741/2686-9764.2025.70.2.004.

Article 305 of the Criminal Code of the Russian Federation: significance and applicability

Justice in the modern world is deservedly given the role of one of the most effective ways to protect human rights, and, as scientists aptly put it, it is "one of those highest social values that humanity could present in its justification at the trial of history" [1, p. 13]. Until recently,

"the court and the justice it administers are one of the most sought-after methods of conflict resolution based on the norms of real law" [2, p. 47]. It covers all procedural activities without exception, regardless of the stages and type of legal proceedings, "because only in this case judicial supremacy will be a single principle of the court's activity, and not its local property" [3, p. 46]. It is the only way to implement judicial power as one of the types of state power, and the branch is the friendliest to a person and a citizen, as focused as possible on ensuring his/her interests, including from abuse by representatives of its other branches.

Therefore, it is understandable that its own interests are subject to special legal protection, including by criminal law (Chapter 31 of the Criminal Code of the Russian Federation). Today, it contains more than two dozen articles that identify criminally punishable acts that infringe on the normal solution of tasks the court addresses. These articles are designed for a wide variety of audiences, from ordinary people who are not even involved in the proceedings to professional participants in the proceedings – investigators, interrogators, prosecutors, and lawyers. One of these articles stands out for its special provision – this is Article 305 of the Criminal Code of the Russian Federation ("Imposition of a deliberately unlawful sentence, decision or other judicial act").

This article is unique due to the range of subjects (because it is intended only for the "elite" of law enforcement officers – the very administrators of justice) and the order of its application (which, due to their special constitutional and legal status, is always carried out in a special procedure with regard to the provisions of Chapter 52 of the Criminal Procedure Code and Article 16 of the Law on Status of Judges). The specified criminal act involves only judges and is qualified separately from other official crimes, for example, abuse of official powers (Article 285 of the Criminal Code of the Russian Federation) or their excess (Article 286), receiving a bribe (Article 290), mediation in bribery (Article 291.1), forgery (Article 292), which are designed for a wider range of subjects. It should be noted that not all officials – prosecutors, lawyers, deputies, ministers, notaries, commissioners – can "boast" of having such an exceptional corpus delicti, provided only for them and for no one else.

"Elitism" of this article determines its special position among other articles of the Criminal Code of the Russian Federation and its infrequent use in comparison with them. In order to compile a complete and objective picture of the specifics of the criminal law protection of the interests of justice as an object of crime under Article 305 of the Criminal Code of the Russian Federation, we have conducted an independent study, the results of which are regularly supplemented and partially described earlier [4, 5]. The author studied materials of over 100 cases of criminal prosecution of judges for making a knowingly unlawful judicial act for the period of 2002–2024 starting from the moment of initiation – obtaining consent to initiate criminal proceedings against a judge in the judicial qualification board, including 55 verdicts against judges under Article 305 of the Criminal Code of the Russian Federation. The main research was conducted as part of the work on the dissertation on the topic "The concept of improving the special procedure for criminal proceedings against judges in the Russian Federation". As practice shows, cases of criminal prosecution of judges for knowingly unlawful judicial acts occur about 3–5 times a year, while, according to official statistics, the number of persons convicted under it is even lower – 1–2 sentences a year. This is a negligible number compared to, for example, theft, fraud, drug trafficking, etc., which tens of thousands are committed annually in our country. In this regard, in theory and practice, opinions are often expressed about the inapplicability of Article 305 of the Criminal Code of the Russian Federation. "There is practically no actual practice of applying this rule" [6, p. 4] and "crime statistics in the field of justice indicate a small proportion of these crimes in the total crime" [7, p. 4].

We cannot agree with the judgments about uselessness of this article. This article is used much less frequently even than other articles of Chapter 31 of the Criminal Code of the Russian Federation. However, we emphasize that its use should not be compared with the use of other articles of the Criminal Code of the Russian Federation, at least because of a "small number" of the subject of the crime (the proportion of the judiciary, excluding retired judges, averages about 40 thousand people, i.e. less than 1% of the total population of the Russian Federation). At the same time, it is necessary to take into account not only the number of verdicts under Article 305 of the Criminal Code of the Russian Federation, but also the number of cases of other closure of criminal proceedings (for example, termination of criminal proceedings due to statute of limitations, amnesty, reconciliation

of the parties or active repentance), as well as cases of failed initiation (refusal of the qualification board of judges to consent to the initiation of criminal proceedings in accordance with the provisions of Article 16 of the Law on the Status of Judges – for example, in the absence of deliberate intent in the judge's act). According to scientists, "criminal liability for making knowingly unlawful decisions is not always realized" [8, p. 22].

The increased importance of this encroachment for the state is indicated by the very fact of the existence of criminal liability for making unlawful judgments in all previously existing models of domestic criminal law (Article 114 of the Criminal Code of the RSFSR of 1926, Article 111 of the Criminal Code of the RSFSR of 1922, Article 177 of the Criminal Code of the RSFSR of 1960), which provided for a similar responsibility of judges for this crime. But at the same time, in the first editions of codes, this article established that judges had a selfish or other personal goal and stipulated heavier sanctions – "up to and including execution".

We believe that for as many centuries justice itself has existed, so its antipode – "anti-justice". One of the first examples of this is the legendary episode with Pontius Pilate who made "a decision not based on his personal conviction, but at the insistence of a crowd demanding blood and execution" [3, p. 45]. There have always been and will always be unscrupulous parties and judges' attempts to "bend justice to themselves", and therefore it is obvious that the proper observance of the interests of justice is ensured by Article 305 of the Criminal Code of the Russian Federation acting as an invisible and once quite tangible guardian of its fragile essence. However, this does not mean that although it is not originally designed for "circulation use", the application of its provisions does not face problems. Many of them are connected with the fact that "in theory and practice, there are no scientifically sound criteria for qualifying what has been done under Article 305 of the Criminal Code of the Russian Federation" [6, p. 4]. Unfortunately, the Plenum of the Supreme Court of the Russian Federation in its resolution No. 20 of June 28, 2022 "On some issues of judicial practice in criminal cases of crimes against justice" ignored Article 305 of the Criminal Code of the Russian Federation [9, p. 268], obviously, taking into account the same insignificant statistical indicators of its application, which are not at all indicators of its real relevance.

We should mention a recent trend of the decreased number of detected crimes under Article 305 of the Criminal Code of the Russian Federation (in the period 2002 – 2015, it occupied a leading position among all official crimes of judges, accounting for about 80% of their total number). Today, the proportion of crimes under Article 290 of the Criminal Code of the Russian Federation is significantly increasing. But we do not think that this is due to the fact that there are fewer unlawful decisions being made. Scientists, speaking generally about crimes against justice, note their very high level of latency ("an even greater number of persons who have committed such acts remain outside the field of view of law enforcement agencies, since these crimes are traditionally considered highly latent" [8, p. 22; 10, p. 6], "in fact there are incomparably more facts of illegal arrests, detentions, unlawful sentences, etc." [11, p. 602]) and present a number of criminological reasons (these crimes "are not registered, criminal cases are not initiated and perpetrators often go unpunished", "it is very difficult and sometimes impossible to prove a violation of the law on the part of a judge", "even registered crimes of law enforcement officers are hardly ever brought to trial, the case is usually limited disciplinary action or dismissal from service", "this is connected with corporate, falsely understood "solidarity" of lawyers who condescend to violate the rule of law by their colleagues, so for more dangerous reasons, such as personal acquaintances in leadership circles, bribery of officials, criminal connections" [11, p. 602]. While agreeing with these statements basically, we note that from a procedural point of view, these theses require more detailed argumentation.

Procedural mechanisms for protecting the interests of justice

One of the procedural means of protection is the opportunity to participate in proceedings as a victim with all the rights granted by Article 42 of the Criminal Procedure Code of the Russian Federation. However, this article neither provides for the possibility of recognizing public elements as victims in a criminal case, for example, the Russian Federation, nor guarantees the participation of its representatives in the case (traditionally they are the prosecutor's office). Formally, victims in such cases are most often recognized as individuals or legal entities, whose interests are directly infringed by an unlawful judicial act. As a rule, these are participants who have not been notified of the case consideration, the date and time of the court

session, whose rights and interests are affected by the judicial act, who have lost their property, been brought to administrative responsibility, etc. There are no representatives of victims on behalf of the judicial community, whose bodies include councils, judicial qualification boards, etc. The law assigns them the task of establishing the authority of the judiciary and ensuring that judges comply with the requirements of the Code of Judicial Ethics (paragraph 4 of Article 4 of the Federal Law No. 30-FZ of March 14, 2002 "On Bodies of the Judicial Community in the Russian Federation"). But the authority of the judiciary is severely undermined by the commission of crime qualified according to Article 305 of the Criminal Code of the Russian Federation:

– "these deliberate actions of Judge L. entailed significant violation ... of the legally protected interests of society and the state, which resulted in discrediting and undermining the authority of the courts of the Russian Federation and gross violation of the activities of the courts regulated by law" (verdict of the Frunzensky District Court of Ivanovo of September 5, 2017 No. 1-123/2016 in respect of L., Justice of the Peace of the judicial district No. 5 of the Frunzensky judicial district of Ivanovo);

– "by her actions, Judge E. twice grossly violated the above-mentioned norms of civil procedure and arbitration procedure legislation, undermined the authority of the judiciary in the state, disrupted normal work of the judicial authorities, and also harmed the legitimate interests of individuals in the civil process" (verdict of the Supreme Court of the Russian Federation of April 25, 2007 No. UKPI07-2 in respect of E., Judge of the Trusovsky District Court of Astrakhan);

– "the specified deliberate actions of Judge H. entailed a significant violation ... of the legally protected interests of society and the state, which resulted in damage to the reputation of judges, discrediting and undermining the authority of judicial authorities, and gross violation of the activities of courts regulated by law, which contributed to the formation of a negative attitude towards the court and the judicial profession in society" (decision of the Supreme Court of the Russian Federation of September 28, 2023 No. AKPI23-732, appellate ruling of the Supreme Court of the Russian Federation of January 16, 2024 No. APL23-475 in respect of Kh., Justice of the Peace of judicial district No. 33 within the boundaries of the administrative-territorial entity of Velikie Luki, Pskov Oblast);

– "Judge A. foresaw the inevitability of socially dangerous consequences in the form of a violation of the established procedure for the judge to exercise his official powers in the administration of justice and the formation of S.'s beliefs about corruption of the judicial authority, undermining the authority and discrediting the latter... By his actions, Judge A. significantly violated ... the legally protected interests of the state, since he undermined the authority of the judiciary, discredited the status of a judge and disregarded the oath of a judge" (decision of the Supreme Court of the Russian Federation of September 6, 2023 No. AKPP And 23-683, appellate ruling of the Supreme Court of the Russian Federation of November 23, 2023 No. APL23-420 in respect of A., Judge of the Maikop City Court of the Republic of Adygea), etc.

We cannot agree that the formation of a "negative opinion about the judiciary" in the society is "an unfounded speculation of the prosecution, since the court has not been presented with any evidence that the intentionally committed violations of the law by Justice of the Peace F. were made public and the population expressed their negative attitude towards the judiciary in the country" (verdict of the Tyumen Regional Court of July 30, 2014 No. 2-28/2014 in respect of F., Justice of the Peace of the judicial district No. 5 in Tobolsk). Every case of criminal prosecution of a judge for any crime is a phenomenon that always causes a wide public response and is painfully perceived as something extraordinary that requires an immediate and adequate reaction, although the population, as a rule, does not actively express this (in rallies, pickets, protests, etc.).

Another way to protect criminal law interests is the possibility of appealing a judicial act affecting the interests of a particular subject, even if he/she was not involved in the case. In accordance with the provisions of procedural legislation, the subjects of appeal, in addition to direct participants in the legal dispute, also include "other persons to the extent that the appealed court decision affects their rights and legitimate interests". In various types of legal proceedings (articles 389.1, 401.2, 412.1 of the Criminal Procedure Code of the Russian Federation, articles 320, 376, 391.1 of the Civil Procedure Code of the Russian Federation, articles 295, 318, 332 of the Code of Administrative Judicial Procedure of the Russian Federation, articles 42, 257, 273, 308.1 of the Arbitrazh Procedure Code of the Russian Federation) they are called differently:

– “persons who were not involved in the case and whose rights and obligations were determined by the court”;

–“other persons if their rights and legitimate interests were violated by court decisions”;

– “persons who were not involved in the administrative case and whose rights and obligations were determined by the court”;

– “other persons if their rights, freedoms and legitimate interests were violated by judicial acts”;

“persons who did not participate in the case, but whose rights and obligations were considered in the judicial act of the arbitration court”.

However, representatives of the Russian Federation or the judicial community are not explicitly listed in any of the listed articles among the subjects of appeal, cassation or supervisory review of sentences passed under Article 305 of the Criminal Code of the Russian Federation for the issuance of unlawful judicial acts in criminal, civil, administrative, arbitration cases.

Finally, another way to protect public interests (including the interests of justice) is the right to apply to a court for compensation for damage caused to the Russian Federation, its subjects or municipalities. They are vested with the prosecutor’s office, which are authorized to commit such actions in accordance with Part 1 of Article 45 of the Civil Procedure Code of the Russian Federation, Part 1 of Article 39 of the Code of Administrative Judicial Procedure of the Russian Federation, Part 1 of Article 52 of the Arbitrazh Procedure Code of the Russian Federation. It is difficult to imagine the amount of the monetary equivalent of the damage caused to the authority of the judiciary to be compensated by a judge convicted of committing a crime provided for in Article 305 of the Criminal Code of the Russian Federation. Practice has no lawsuits for compensation for damage caused to the Russian Federation as a result of diminishing the interests of justice and the authority of the judiciary, filed against judges convicted under Article 305 of the Criminal Code of the Russian Federation.

Thus, procedural mechanisms for protecting the interests of justice – the main object of the crime provided for in Article 305 of the Criminal Code of the Russian Federation – seem rather abstract today.

The structure of an object of criminal encroachment and characteristics of its purpose

The object of this criminal offense, provided for in Article 305 of the Criminal Code of the Russian Federation, also requires clarification, given that the resolution of the Plenum of the Supreme Court of the Russian Federation mentioned above does not specify it (“the authors of the explanations turned out to be such skilful lawyers that they were able to characterize elements of crimes without mentioning the object against which they are directed” [1, p. 14]).

Traditionally, scientists identify two objects of encroachment in this crime – the main and additional. The main one is social relations that ensure that the court solves the tasks of justice, and the additional one is the rights, freedoms and legitimate interests of the parties [12, p. 221; 13, p. 429]. It is worth mentioning that this particular emphasis follows from the construction and arrangement of this article formulated by the legislator: the corpus delicti is placed precisely in Chapter 31, and, for example, not in Chapter 19 of the Criminal Code of the Russian Federation (“Crimes against the constitutional rights and freedoms of man and citizen”), where it might have sounded like “Violation of the right to judicial protection by issuing an unlawful judicial act by a judge”. That is, the legislator assigns the interests of justice absolute priority over the interests of the individual.

In principle, this is typical for all articles of Chapter 31 of the Criminal Code of the Russian Federation and many articles of its other chapters. At the same time, this priority separates justice as an object of criminal law protection from public service and service in local government bodies, crimes against which are concentrated in Chapter 30 of the Criminal Code of the Russian Federation. This seems logical considering that the judge, as the subject of a crime under Article 305 of the Criminal Code of the Russian Federation, is not a civil servant, but holds a government position. However, at the same time, there is a confusion of objects of criminal legal protection of the entire Section X (“Crimes against the state power”) and Chapter 30 (“Crimes against state power, interests of public service and service in local governments”), from the title of which the mention of state power should be excluded. Another consequence of this is the possibility of establishing a combination of the crime provided for in Article 305 of the Criminal Code of the Russian Federation with the crimes provided for in Chapter 30 of the Criminal Code of the Russian Federation.

It should be noted that the participants in the process, being dissatisfied with the court decision, in any case seek to accuse the judge of the intentional nature of his/her illegal actions.

Under such conditions, it seems fair to say that "any person in whose interests a court decision is annulled or changed by a higher authority may consider that it was originally decided not in accordance with the law; therefore, a crime under Article 305 of the Criminal Code of the Russian Federation took place" [14, p. 101]. Therefore, the increased standard of proof provided by an awareness element (according to scientists, this element obliges the law enforcement officer to establish not just intent, but "prior awareness of the accused about any significant circumstance" [15, p. 73]), looks justified. In addition, the above-mentioned emphasis in the disposition of Article 305 of the Criminal Code of the Russian Federation and the priority of the interests of justice over the private interests of participants in the proceedings do not allow us to talk about the possibility of criminal prosecution of a judge for any decision that one of the parties is dissatisfied with.

Today, the legislator does fix the purpose as a necessary element of this crime, freeing the law enforcement officer from the need to identify it. It seems a serious omission, since the purpose of committing a crime under Article 305 of the Criminal Code of the Russian Federation determines whether or not it is necessary to identify elements of other crimes in the judge's act. As practice shows, the purpose of committing this crime in the vast majority (about 80% of the cases) is mercenary [we have written about this earlier – 16–18] (it is assumed that direct remuneration in the form of a monetary equivalent is a bribe). That is, bribery as the main way to influence the judge makes the crime provided for in Article 305 of the Criminal Code of the Russian Federation, in the vast majority of cases, a corruption-related crime [19, p. 338]. This is also confirmed by the research of other scientists: "motives for the issuance of knowingly unlawful judicial acts in the vast majority of cases are based on the material needs of subjects (including the need for a systematic increase in their well-being, as well as stable earnings)" [8, p. 23; 20, p. 78]; "in cases of knowingly unlawful judicial acts, personal motives prevail, which in most cases are related to corruption, requests from "high patrons" of the perpetrators, or close relations with representatives of the criminal world (which mostly remains in the shadows)" [11, p. 604]. That is, in this case, the judge's act should be classified as a set of crimes provided for in articles 305 and 290 of the Criminal Code of the Russian Federation and Article 292 in case of a fake protocol of the court).

In accordance with the provisions of Part 2 of Article 10 of the Federal Law No. 273-FZ of December 25, 2008 "On Combating Corruption" and Paragraph 2 of Article 3 of the Law on the Status of Judges, the personal interest of a judge, which affects or may affect the proper performance of his/her official duties, is understood as the possibility for a judge to receive income in the form of material benefits or other undue advantages directly for the judge, his/her family members or other persons and organizations with which the judge is financially or otherwise bound. In relation to the crime in question, this is judge's various kinds of dependence on the parties to the dispute due to services previously rendered by them, bound by certain obligations to them, a sense of unpaid debt, etc. – and, as a result, a desire to please, thank, and do justice. This type of dependence indicates the presence in the judge's act of elements of a combination of crimes provided for in articles 305, 285 (286) of the Criminal Code of the Russian Federation (as well as, in the presence of a forged protocol, additionally Article 292 of the Criminal Code). And only sometimes, in about every tenth case, the issuance of an unlawful judicial act is solely due to improper organization of work, it is committed in order to prevent further delay in the consideration of cases, reduce the number of pending cases, conceal negligence in their work and improve its performance in order to avoid adverse disciplinary consequences (i.e. in this case Article 305 of the Criminal Code of the Russian Federation is applied in its "pure form" or in combination only with Article 292 of the Criminal Code of the Russian Federation).

The interdependence of the acts provided for in articles 305 and 290 (as well as articles 285, 286, 292 of the Criminal Code of the Russian Federation) seems obvious, and the establishment of this relationship and the imposition of more severe punishment for a combination of crimes is a necessary condition for the proper protection of the interests of justice. However, the purpose of issuing an unlawful judicial act in the investigation of this crime is not always established, and the totality of this crime with others is often not identified.

Limitation of the dispositive principle in criminal prosecution under Article 305 of the Criminal Code of the Russian Federation

The presence of the interests of justice – the most abstracted category focused on an unlimited range of people, "whose goal is to protect human and civil rights and freedoms" (review

of judicial practice of the Supreme Court of the Russian Federation No. 1 (2015), decision of the Supreme Court of the Russian Federation of February 27, 2019 No. AKPI19-35, etc.) – further narrows the possibility of implementing a dispositive principle, which is already limited in criminal proceedings, for example, reconciliation of the accused with the victim. It is allowed for crimes of minor and moderate severity committed for the first time (which is quite suitable for the parameters of the act provided for in Part 1 of Article 305 of the Criminal Code of the Russian Federation) and is organized only between the judge and the victims – individuals: "The victim considers the above sentence illegal, since the evidence was not examined during the trial, he was not questioned as a defendant, the parties did not debate, he was not given the right to address the court with the last word, the verdict was not announced, and he did not participate in court sessions. But subsequently, Judge L. fully compensated him for moral damage in the amount of 70,000 rubles, and he refused to file claims" (verdict of the Frunzensky District Court of Ivanovo of September 5, 2017 No. 1-123/2016 in respect of L., Justice of the Peace of the judicial district No. 5 of the Frunzensky judicial district of Ivanovo).

The ethical aspect of such "reconciliation" is highly questionable. And if the victim can determine a sufficient amount for him/herself based on his/her own level of pretension and ideas of justice, then who and to what extent can determine the amount of moral damage caused to the Russian Federation and how should a judge apologize to it when making amends? Obviously, there are no answers to these questions. Therefore, such reconciliation is more like a "compensation" for legalizing criminal behavior of a representative of public authority in relation to a person and a citizen, for violating the right to judicial protection guaranteed by Article 46 of the Constitution of the Russian Federation, rather than reaching a legitimate compromise between equal parties to a criminal dispute.

The price of the "deal with justice", no matter how much it is set, looks very cynical: "During another meeting, Judge G. explained to him that he could make a decision in favor of S., but for this he needed to transfer 2,000,000 rubles, which was the price for making an illegal and unjustified decision" (verdict of the Proletarian District Court of Rostov-on-Don of July 19, 2024 No. 1-13/2024 against G., judge of the Temryuksky District Court of the Krasnodar Territory).

That is, perhaps, satisfying the interests of an additional object of criminal encroachment, such reconciliation does not compensate in any way for the interests of the main object – justice, and even if all the formal conditions provided for in Articles 76 of the Criminal Code of the Russian Federation and Article 25 of the Criminal Procedure Code of the Russian Federation are fulfilled, it only emphasizes its inappropriateness. Therefore, we believe that the specifics of the object of the crime provided for in Article 305 of the Criminal Code of the Russian Federation should entail a direct prohibition on termination of the case for reconciliation, active repentance, a court fine and on any other compromise grounds. Positive post-criminal behavior, which is required in most of these cases, can only serve as a mitigating circumstance and reduce the amount of responsibility.

Identification of the interests of justice as an object of criminal encroachment in each crime of a judge related to the exercise of official powers

The interests of justice as an object of criminal encroachment are not always established in the criminal behavior of a judge related to the exercise of official powers. The Constitutional Court of the Russian Federation, in its decision No. 23-P of October 18, 2011 ("In the case of the review of the constitutionality of the provisions of Articles 144, 145 and 448 of the Criminal Procedure Code of the Russian Federation and Paragraph 8 of Article 16 of the Law of the Russian Federation "On the Status of Judges in the Russian Federation" in connection with the complaint of citizen S.L. Panchenko") in the case of S.L. Panchenko, emphasizes that the crime provided for in Article 305 of the Criminal Code of the Russian Federation is usually accompanied by a number of other crimes, such as "Fraud" (Article 159), "Abuse of official authority" (Article 285), "Abuse of official authority" (Article 286), and "Receiving a bribe" (Article 290). On the one hand, this suggests that the crime provided for in Article 305 of the Criminal Code of the Russian Federation is extremely rarely committed as a single one. As rightly noted by scientists, many illegal actions "are related to receiving or attempting to receive a bribe (mainly for promising to terminate a criminal case, acquit, satisfy an illegal claim, etc.)" [11, p. 603]. At the same time, the Supreme Court of the Russian Federation clarified that the list of crimes listed above by the Constitutional Court of the Russian Federation is not exhaustive. These crimes are often com-

mitted “in addition” to the pronouncement of a deliberately unlawful judicial act (although not necessarily only them).

On the other hand, it seems that all illegal activities of a judge connected with his official powers are somehow focused on his adoption of an unlawful judicial act. A judge, in accordance with his constitutional and legal status, is endowed with only one public function aimed at the exercise of judicial power – the administration of justice (unlike, for example, an employee of the prosecutor’s office, in whose arsenal, in accordance with the Federal Law of January 17, 1992 No. 2202-1 “On the Prosecutor’s Office of the Russian Federation” has more than ten supervisory and non-supervisory powers). Therefore, the judge is an object of criminal interest not for “general patronage” or “general connivance”, but only in connection with his/her ability, abusing his/her official powers, exceeding them or acting in accordance with them, to make a decision in favor of one or another participant in the process. Moreover, these actions can be directly related to the adoption of a judicial act in the framework of a specific criminal, civil or administrative case, as well as to some organizational actions, for example, aimed at accepting the case for its own production: “Lawyer K. appealed to Judge K. with a proposal to recognize initial protocols of interrogations of H., the suspected and accused, as inadmissible evidence, in which he accused D. of committing crimes, Judge K. agreed, demanding funds in the amount of 13,000,000 rubles, of which 4,000,000 rubles were the guarantor of his acceptance of the criminal case for his trial” (verdict of the Moscow Regional Court of August 28, 2023 No. 2-62/2023 against K., Judge of the Lytkarinsky City Court of the Moscow Oblast).

It is this opportunity that attracts a certain category of unscrupulous persons to the judge, turning him/her into a “tool” for committing a crime. Otherwise, all criminal communication with the judge is devoid of any meaning. In some situations, these individuals (representatives of the parties, lawyers, acquaintances, |acquaintances of acquaintances, etc.) can prompt the judge to illegal actions by placing pressure on him/her, but most often by bribing, promising him/her remuneration in one form or another . Sometimes the judge him/herself may suggest this to the representatives of the parties (for example, to extort a bribe) (decision of the Qualification Board of Judges of the Sverdlovsk Oblast of June 5, 2018 on the resignation of a judge of the Arbitration Court of the Sverdlovsk Oblast, decision of the Higher Qualification Board of Judges of the Russian Federation of November 28, 2018 on the consent to initiate criminal proceedings, decision of the Supreme Court of the Russian Federation of February 26, 2019 No. AKPI19-71, appellate ruling of the Supreme Court of the Russian Federation of May 21, 2019 No. APL19-153).

The signs of the conditionality of a bribe by the issuance of an unlawful judicial act are quite obvious:

– “for the bribe received from D., Judge G. issued a ruling on the introduction of a monitoring procedure for the LLC and on the approval of the interim manager P. and announced its operative part, and then produced this (motivated) ruling in full” (verdict of the Central District Court of Barnaul, Altai Krai of April 11, 2023 No. 1-6/2023 in respect of G., Judge of the Arbitration Court of Altai Krai);

– Judge A. offered P. to transfer 100,000 rubles to him for making a decision on the satisfaction of the claim. A. insisted that a positive decision on the claim would be made after he received the full amount of the bribe. Under such circumstances, the civil case was postponed” (verdict of the Supreme Court of the Russian Federation of October 21, 2011 No. UKPI11-10 in respect of A., Judge of the Voroshilovsky District Court of Rostov-on-Don);

– “Judge K., as a result of repeated negotiations agreed to the proposal. Thus, he had a criminal intent: to recognize interrogation protocols of D.’s as the suspected and accused as inadmissible evidence, to stop the criminal prosecution of A. and D. in terms of their crimes committed as part of an organized group, qualifying their acts as committed by a group of persons by prior agreement, to impose the minimum possible punishment on A. and D. in the absence of legal grounds, for which he demanded a bribe in the form of money in the amount of 13,000,000 rubles, which is a particularly large amount” (verdict of the Moscow Regional Court of August 28, 2023 No. 2-62/2023 against K., Judge of the Lytkarinsky City Court of the Moscow Oblast).

In theory and practice, there is a stable opinion about the need to establish a set of crimes in these acts, “if the imposition of a knowingly unlawful sentence, decision or other judicial act is related to receiving a bribe, the socially dangerous act in question must be classified according to the set of crimes provided for in articles 305 and 290 of the Criminal Code of the

Russian Federation" [21, p. 101]. However, at the same time, receiving a bribe (Article 290 of the Criminal Code of the Russian Federation) is the main element (annual reports on the number of persons brought to criminal responsibility and types of criminal punishment, reports on the number of persons convicted of all types of crimes of the Criminal Code of the Russian Federation and other persons against whom judicial acts have been issued in criminal cases) (i.e., an act that would have been committed in any case) and the issuance of an unlawful judicial act (Article 305 of the Criminal Code of the Russian Federation) is an optional one (an act might and might not be committed). Scientists define this qualification as optional and superstructural, "additional qualification occurs when it has already been established that what has been done is provided for by certain elements of a crime (a certain corpus delicti), but this is still not enough to give a final criminal assessment of what has been done" [22, p. 119; 23].

Indeed, the crime provided for in Article 305 of the Criminal Code of the Russian Federation is not always completed by the time the bribe is received, quite often "parties" agree on an advance payment scheme. The entire amount of the illegal remuneration is transferred to the judge, he/she makes a decision in the interests of the payer. As a result, the composition of the crime provided for in Article 305 of the Criminal Code of the Russian Federation is not always revealed, and the totality of crimes in the judge's act is also not established. It seems that this omission is a direct consequence of the practical impossibility of criminal prosecution for an unfinished crime under Article 305 of the Criminal Code (see below), as well as the additional nature of the qualification of the act provided for in Article 305 of the Criminal Code, and also does not provide an adequate level of protection of the interests of justice.

Non-obviousness of the commission of a crime under Article 305 of the Criminal Code of the Russian Federation

Criminal prosecution of a judge for any crime is burdened with procedural difficulties provided for in Chapter 52 of the Criminal Procedure Code and Article 16 of the Law on the Status of Judges. In the case of prosecution under Article 305 of the Criminal Code of the Russian Federation, non-obviousness of this crime is a complicating element. After all, everything looks good: the judge is engaged in day-to-day work, studying case materials, holding court sessions, giving instructions to staff on the preparation of requests, notifications, notices of the parties, and draft documents, announcing judicial acts, etc. Some people (participants in the dispute, representatives of the prosecutor's office and the bar, visitors) may come into his/her office and talk about something in private, but this is not criminal in principle. There is no violence, threats, illegal entry into other people's premises, violation of public order, expression of disrespect for society, etc., i.e. the method of its commission is not obvious. It is only when law enforcement officers are arrested at the scene of a crime during an operational experiment that it becomes known that this seemingly respectable activity was criminal in nature.

But this happens most often when the subject of a bribe or other illegal remuneration is being detained, i.e. when committing crimes under articles 159 or 290 of the Criminal Code of the Russian Federation. It should be noted that the method of obtaining illegal remuneration has remained traditional – the transfer of cash, when the crime is suppressed and then the collection of evidence is also focused on these types of crimes. In addition to the testimony of bribe-giving witnesses, they include the following evidence:

– resolutions on conducting an operational search event "operational experiment"; reports on its results, according to which information was obtained about the presence of corpus delicti in the actions of the judge; resolutions on declassification of information constituting a state secret and their carriers; resolutions on providing results of operational search activities to the body of inquiry, investigator or court; statements of persons on their voluntary consent to participate in operational search activities in order to identify and suppress criminal activities of a judge;

– testimony of FSB officers who participated in the arrest; testimony of witnesses and members of the public who were present during the arrest;

– protocols of inspections of mobile devices, electronic media of audio and video recordings of bribe negotiations, call details from subscriber devices, flash drives with video surveillance cameras;

– acts of inspection, processing and issuance of funds and dummy funds, protocols of inspection of premises, buildings, structures, terrain and vehicles with the seizure of documents, objects and materials;

– expert opinions (phonoscopic, linguistic, criminalistic), etc.

The materials used to formalize red-handed detention become one of the main evidence under articles 290 or 159 of the Criminal Code of the Russian Federation, but they cannot confirm the issuance of an unlawful judicial act. A certain intersection of evidentiary means is possible, but at the same time it is impossible to use the powerful resource of surprise inherent in the institution of detention, designed to ensure that the controlled person is not ready for law enforcement intervention and is caught red-handed. This creates a specific "set" of evidentiary tools used in the detection and investigation of crimes under Article 305 of the Criminal Code of the Russian Federation. In this situation, the following means of proof are required: testimony (from participants in the trial, employees of the court staff, the chairman of the court, and other judges), protocols of document inspections, materials on criminal, civil, and administrative cases, as well as other documents, such as acts of the judge appointment and termination of his/her powers, and acts of higher courts on the cancellation of his/her judicial decision as unlawful. A protocol of the court session that was not actually held is regarded as physical evidence.

Their collection is carried out in a slightly different way than the collection of evidence incriminating the receipt of a bribe or other illegal remuneration. As a rule, there is no need to conduct examinations and searches in the judge's office and living quarters, or to listen to his/her telephone conversations. It is impossible to catch a judge at the moment of pronouncing an unlawful judicial act (especially given the absence of an unambiguously defined moment of its pronouncement). Practically none of the evidence listed above is direct, and therefore they must be collected in sufficient totality. However, due to the limited coercion applied to judges, this collection is difficult, and subsequently, when submitting a submission by the Chairman of the Investigative Committee of the Russian Federation to the Higher Qualification Board of Judges of the Russian Federation for consent to initiate criminal proceedings, materials confirming receipt of illegal remuneration are provided in sufficient volume, and materials confirming that remuneration was offered for making an unlawful decision are, as a rule, absent.

In most situations, when investigating them, if Article 305 of the Criminal Code of the Russian Federation is not the main one, but an additional one, the question of the possibility of such a connection (totality) is not investigated at all:

– B. said that in the case of decisions mitigating criminal liability, he was ready to transfer a monetary reward to the judge... In connection with the above, Judge T. decided to receive a particularly large bribe from B.'s relatives through an intermediary for performing actions within his authority in the interests of the latter. Judge T. was convicted under Part 6 of Article 290 of the Criminal Code of the Russian Federation (verdict of the Krasnoyarsk Regional Court of December 29, 2022 No. 2-26/2022 in respect of T., Deputy Chairman of the Sovetsky District Court of Krasnoyarsk);

– D. during repeated meetings with Judge S., with whom he maintained a trusting relationship, appealed to him with a request for assistance in acquitting his acquaintance in the Volzhsky District Court of Saratov. S. decided to carry on as if he could, using his official position, to ensure such a verdict for receiving funds in the amount of 15 million rubles. Judge S. was convicted under Part 3 of Article 30, Part 4 of Article 159 of the Criminal Code of the Russian Federation (verdict of the Penza Regional Court of March 21, 2019 No. 2-04/2018 against S., Judge of the Saratov Regional Court);

– Judge K. had a criminal intention to ensure the issuance of a ruling on the refusal to satisfy the bankruptcy trustee's application submitted to the Moscow Arbitration Court for a monetary reward. Judge K. was convicted under Part 3 of Article 30 and Part 4 of Article 159 of the Criminal Code of the Russian Federation (verdict of the Simonovsky District Court of Moscow of July 12, 2022 No. 1-102/22 in respect of K., Judge of the Moscow Arbitration Court);

– Judge R. received an arbitration case on the claim of "AR" against "RB" LLC. During the preparation for the consideration of this arbitration case, he had the intention to receive a bribe for making a decision to dismiss the claims. Judge R. was convicted under Part 6 of Article 290 of the Criminal Code of the Russian Federation (verdict of the Krasnodar Regional Court of September 23, 2015 No. 2-29/2015 against R., Judge of the Arbitration Court of the Krasnodar Territory).

In such cases, criminal prosecution under Article 305 of the Criminal Code of the Russian Federation turns out to be directly dependent on the will or capabilities of law enforcement agencies, turns into a kind of private prosecution: if there is sufficient evidence, criminal prosecution will take place, and consent to initi-

ate criminal proceedings will be sought from the qualification board of judges, if not, the investigative authorities are limited only to prosecution for obtaining bribes (fraud). It should be noted that the differentiation of a judge's responsibility between articles 290 and 159 of the Criminal Code of the Russian Federation depends on whether the case for which the judge received or intended to receive illegal remuneration was in his/her proceedings. If so, i.e. the judge had a real opportunity to make such a decision by lawful or illegal actions, then he was liable under Article 290 of the Criminal Code of the Russian Federation. If a judge received a reward through deception or abuse of trust for facilitating such actions that he could not carry out due to the lack of appropriate official powers or official position (the case was handled by other judges, including in a higher court, and he/she only promised to "help resolve the issue"), the deed should be qualified as fraud committed by a person using his/her official position (see Paragraph 24 of the resolution of the Plenum of the Supreme Court of the Russian Federation No. 24 of July 9, 2013 "On judicial practice in cases of bribery and other corruption crimes"). However, the objects of criminal law protection here are different, and the interests of justice are not protected by Article 290 of the Criminal Code of the Russian Federation, much less Article 159 of the Criminal Code of the Russian Federation, which is even placed in another section of the Criminal Code of the Russian Federation, in particular, "Crimes in the sphere of economics". And, in addition, we have already discussed the need to limit the dispositive (private) principle in the prosecution of encroachment on the interests of justice.

It follows that the interests of justice require additional identification of elements of a crime under Article 305 of the Criminal Code of the Russian Federation in any criminal act of a judge related to the exercise of official powers.

Is liability for an unfinished act provided for in Article 305 of the Criminal Code of the Russian Federation possible?

The pronouncement of an unlawful judicial act, in the presence of obvious elements of this crime, is not imputed to the judge due to the fact that the crime provided for in Article 305 of the Criminal Code of the Russian Federation is often not completed. This may be due to the suppression of receiving illegal remuneration, which was intended for the judge for making an illegal decision. But then the responsibility for it must come as for an unfinished deed.

However, the issue of establishing a stage of the crime provided for in Article 305 of the Criminal Code of the Russian Federation is not considered either in theory or in practice, although the intentional nature of this act in itself does not exclude it. It should be noted that the judge's intention to make an unjustified judicial decision originates during the first agreements with the parties, is specified during the discussion of "details" of the court decision – terms, amounts, ways of compensation for harm, etc., when accepting fictitious documents from participants without due diligence and in violation of instructions, etc. It is implemented by printing the text of the court decision, certifying it with his signature and the seal of the court, and is completed by making, certifying and issuing copies of the illegal court decision to the parties (executors), instructing staff to produce retroactively forged minutes of the court session, etc.:

– "In the period up to September 19, an unidentified person asked Justice of the Peace A. to recognize citizen V. the owner of a BMW X5 car in violation of the procedure established by law. A., realizing the illegal nature of the request, agreed, after which he received a falsified statement of claim. On September 19, the defendant intentionally, with the aim of making a deliberately unlawful decision, issued an illegal ruling on the acceptance of the statement of claim for his production, initiating civil case No. 2-468. On the same day, continuing to implement the intent to make a knowingly unlawful decision, bypassing the mandatory stage of preparing the case for trial, issued an illegal ruling on the appointment of the case for trial. On September 24, realizing the intent to make a knowingly unlawful decision, issued a knowingly unlawful decision, which satisfied the claim. From September 24 to October 10, the defendant made a copy of the knowingly unlawful decision of September 24 in the civil case No. 2-468, signed and sealed it; after that, he handed it over to an unidentified person for subsequent presentation to the traffic police and vehicle registration authorities" (verdict of the Sverdlovsk Regional Court of July 27, 2007 No. 2-77/07 against A., Justice of the Peace of the judicial district No. 2 of the Nizhneserginsky district of the Sverdlovsk Oblast).

Undoubtedly, these circumstances primarily characterize the subjective side – intent, defining it as premeditated (as opposed to sudden) and specified (as opposed to indefinite) [24, pp. 90–92] and testify that planning of the issuance of an unlawful judicial act begins long before

it is pronounced. However, the earlier ruling of the Constitutional Court of the Russian Federation in the case of S.L. Panchenko stipulates the inadmissibility of criminal prosecution of a judge under Article 305 of the Criminal Code of the Russian Federation, if the judicial act issued by him/her has entered into legal force and has not been annulled in accordance with the procedure established by the procedural law as unlawful. Subsequently, this position is reflected in criminal procedure legislation. Article 448 of the Criminal Procedure Code of the Russian Federation was supplemented with Part 8 of a similar content (Federal Law No. 54-FZ of April 5, 2013). It completely eleminated the possibility of distinguishing stages of the crime under Article 305 of the Criminal Code of the Russian Federation and bringing to justice for preparing for it (under Part 2) or attempting to commit it. It should be noted that in none of the cases we considered, the act provided for in Article 305 of the Criminal Code of the Russian Federation was qualified with reference to Article 30 of the Criminal Code of the Russian Federation (neither before 2011, nor even after). We assume that in such a situation there would have been many more cases of application of Article 305 of the Criminal Code of the Russian Federation and the discussion about its "dead" nature would have come to naught.

In case the adoption of a judicial act was not completed for reasons beyond the judge's control (for example, due to detention at the place of receiving a bribe for issuing an unlawful judicial act) or criminal prosecution was not initiated due to procedural difficulties, peculiarities of evidence, etc., then these actions directed against the interests of justice remain unpunished.

Conclusion

We believe that the interests of justice as the main object of criminal law protection in the crime qualified under Article 305 of the Criminal Code of the Russian Federation require a more balanced approach to law enforcement: limiting the dispositive principle, additional study of its stages and the possibility of criminal prosecution for an unfinished crime, establishing its combination with other official criminal acts, and presenting the possibility for representatives of the judicial community and other authorized persons to participate in their defense.

The range of problems mentioned requires an integrated approach to their solution from the point of view of the theory of criminal law sciences, legislation and practice of its application. Among the priority measures, it seems necessary to specify the disposition of Article 305 of the Criminal Code of the Russian Federation, stating in it that the illegality of a judicial act must be established by a court of a higher instance by canceling it in accordance with the procedure provided for by procedural law, thereby bringing it into line with Part 8 of Article 448 of the Criminal Procedure Code of the Russian Federation, as well as with the above-mentioned position of the Constitutional Court of the Russian Federation, expressed in the resolution No. 23-P of October 18, 2011. The same close attention should be paid to the study of questions about its objective and subjective sides, sanctions and sentencing practices, the specifics of initiating, investigating and considering criminal cases of this category, problems of disciplinary responsibility of the judge who has committed this act and issues of termination of his/her status.

REFERENCES

1. Tsvetkov Iu.A. What is justice in general and criminal justice in particular. *Mirovoi sud'ya = Magistrate Judge*, 2023, no. 12, pp. 13–20. (In Russ.).
2. Kolokolov N.A. Russian justice in the conditions of a new legal reality. *Ugolovnoe sudoproizvodstvo: problemy teorii i praktiki = Criminal Procedure: Problems of Theory and Practice*, 2022, no. 2, pp. 47–56. (In Russ.).
3. Bozrov V.M. The essence, content and form of justice in criminal cases in the russian legal science: general and special. *Rossiiskii sud'ya = Russian Judge*, 2020, no. 2, pp. 39–50. (In Russ.).
4. Romanenko N.V. Sentencing in respect of judges. *Sibirskie ugolovno-protsessual'nye i kriminalisticheskie chteniya = Siberian Criminal Procedure and Criminalistic Readings*, 2017, no. 2 (16), pp. 53–60. (In Russ.).
5. Romanenko N.V. *Osushchestvlenie ugolovnogo sudoproizvodstva v otnoshenii sudei v Rossiiskoi Federatsii: problemnye voprosy teorii i pravoprimenitel'noi praktiki* [The existence of criminal proceedings against judges in the Russian Federation: problematic issues of theory and law enforcement practice]. Moscow, 2018. 416 p.
6. Kartashov A.Iu. *Ugolovnaya otvetstvennost' za vynesenie zavedomo nepravosudnykh prigovora, resheniya ili inogo sudebnogo akta: diss. … kand. yurid. nauk* [Criminal liability for the imposi-

tion of knowingly unlawful sentences, decisions or other judicial act: Candidate of Sciences (Law) dissertation]. Stavropol, 2004. 171 p.
7. Titova A.V. *Ugolovnaya otvetstvennost' za vynesenie zavedomo nepravosudnykh prigovora, resheniya ili inogo sudebnogo akta: avtoref. diss. ... kand. yurid. nauk* [Criminal liability for the imposition of knowingly unlawful sentences, decisions or other judicial act: Candidate of Sciences (Law) dissertation abstract]. Rostov-on-Don, 2010. 27 p.
8. Ponomarev V.G., Rozhnov A.P. Pronouncing a deliberately unlawful judicial act (Article 305 of the Criminal Code of the Russian Federation): criminological characteristics of the criminal's personality. *Otechestvennaya yurisprudentsiya = Russian Jurisprudence*, 2015, no.2 (2), pp. 21–26. (In Russ.).
9. Zenina L.S. Issues of distinguishing between the issuance of a deliberately unjust judicial decision and crimes against the person (articles 128 and 154 of the Criminal Code of the Russian Federation). *Probely v rossiiskom zakonodatel'stve = Gaps in Russian Legislation*, 2023, vol. 16, no. 7, pp. 267–272. (In Russ.).
10. Lobanova L.V. *Prestupleniya protiv pravosudiya: teoreticheskie problemy klassifikatsii i zakonodatel'noi reglamentatsii* [Crimes against justice: theoretical problems of classification and legislative regulation]. Volgograd, 1999. 268 p.
11. *Kriminologiya: ucheb.* [Criminology: textbook]. Ed. by Kudryavtsev V.N., Eminova. V.E. Moscow, 2022. 800 p.
12. Lebedev V.M. *Kommentarii k Kommentarii k Ugolovnomu kodeksu Rossiiskoi Federatsii: v 4 tomakh. T. 4. Osobennaya chast'. Razdely X–XII* [Commentary to the Criminal Code of the Russian Federation: in 4 volumes. Vol. 4. Special part Sections X–XII]. Moscow, 2024. 276 p.
13. Borovikov V.B. *Ugolovnoe pravo. Osobennaya chast': ucheb. dlya vuzov* [Criminal law. Special part: textbook for universities]. Moscow, 2024. 505 p.
14. Ivanov A.O. On the issue of objective signs of a deliberately unlawful judicial act. *Sibirskoe yuridicheskoe obozrenie = Siberian Law Review*, 2011, no. 14, pp. 99–102. (In Russ.).
15. Pikurov N.I. Reliable knowledge as an element of the design of a criminal law norm: problems of qualification. *Vestnik Universiteta imeni O.E. Kutafina = Courier of Kutafin Moscow State Law University (MSAL)*, 2024, no. 4 (117), pp. 67–74. (In Russ.).
16. Romanenko N.V. *Problemnye voprosy osushchestvleniya operativno-rozysknoi deyatel'nosti i primeneniya mer ugolovno-protsessual'nogo prinuzhdeniya v otnoshenii lits, obladayushchikh statusom sud'i: monogr.* [Problematic issues of the implementation of operational investigative activities and the application of measures of criminal procedural coercion against persons with the status of a judge (monograph)]. Moscow, 2017. 144 p.
17. Romanenko N.V. *Organizatsionno-pravovaya model' ugolovnogo sudoproizvodstva v otnoshenii sudei v Rossiiskoi Federatsii* [Organizational and legal model of criminal proceedings against judges in the Russian Federation]. Moscow, 2020. 304 p.
18. Romanenko N.V. Judicial crime in contemporary Russia: myth or reality? *Mirovoi sud'ya = Magistrate Judge*, 2017, no. 7, pp. 21–26. (In Russ.).
19. Kriminologiya: ucheb. dlya vuzov [Criminology: textbook for universities]. Ed. by Malkov V.D. Moscow, 2011. 544 p.
20. Idrisov K.R. *Prestupleniya protiv pravosudiya, sovershaemye dolzhnostnymi litsami organov predvaritel'nogo rassledovaniya i suda: diss. ... kand. yurid. nauk* [Crimes against justice committed by officials of the bodies of preliminary investigation and trial: Candidate of Sciences (Law) dissertation]. Nizhny Novgorod, 2007. 262 p.
21. Pavlov B.G. Qualification of crimes against justice with a special subject. *Leningradskii yuridicheskii zhurnal = Leningrad Law Journal*, 2007, no. 3, pp. 87–116. (In Russ.).
22. Zatsepin A.M. Elements of additional qualification of crimes. *Aktual'nye problemy rossiiskogo prava = Actual Problems of Russian Law*, 2015, no. 8, pp. 116–122. (In Russ.).
23. Zatsepin A. M. *Dopolnitel'naya kvalifikatsiya prestupleniya: doktrina i praktika: dis. d-ra yurid. nauk* [Additional qualification of a crime: doctrine and practice: Doctor of Sciences (Law) dissertation]. Ekaterinburg, 2022. 490 p. EDN GTDWXR.
24. Dzhindzholiya R.S., Babaev R.G., Babaev E.R. *Ugolovnoe pravo. Obshchaya chast': ucheb. posobie* [Criminal law. General part: textbook]. Moscow, 2022. 334 p.

INFORMATION ABOUT THE AUTHOR

NATAL'YA V. ROMANENKO – Doctor of Sciences (Law), Associate Professor, professor at the Department of Judicial Activity and Criminal Procedure named after A.M. Davydov of the Ural State Law University named after V.F. Yakovlev, Yekaterinburg, Russia, ksd@usla.ru, https://orcid.org/0000-0001-8652-1728

Received February 17, 2025