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СПЕЦИАЛЬНЫЕ ПРАВИЛА СМЯГЧЕНИЯ НАКАЗАНИЯ В СЛУЧАЕ ЗАКЛЮЧЕНИЯ ДОСУДЕБНОГО СОГЛАШЕНИЯ О СОТРУДНИЧЕСТВЕ, ПРИ ОСОБОМ ПОРЯДКЕ СУДЕБНОГО РАЗБИРАТЕЛЬСТВА И ПРИ СОКРАЩЕННОМ ПОРЯДКЕ ПРОВЕДЕНИЯ ДОЗНАНИЯ

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В статье рассматриваются правила назначения наказания в случае заключения досудебного соглашения о сотрудничестве, при особом порядке судебного разбирательства и при сокращенном порядке проведения дознания, регламентированные ст. 62 УК РФ «Назначение наказания при наличии смягчающих обстоятельств». Авторы приходят к выводу, что правовая природа указанных институтов не соответствует правовой природе смягчающих наказание обстоятельств. По мнению авторов, не целесообразно закрепление в одной статье закона различных по своей сущности правовых предписаний. Правила назначения наказания при заключении досудебного соглашения о сотрудничестве, при особом порядке судебного разбирательства и сокращенном порядке проведения дознания необходимо исключить из ст. 62 УК РФ и закрепить в самостоятельных статьях УК РФ.

Ключевые слова: *назначение наказания, правила назначения наказания, досудебное соглашение о сотрудничестве, особый порядок судебного разбирательства, сокращенный порядок проведения дознания, формализированные пределы наказания, правоприменение*

SPECIAL RULES OF MITIGATION OF PUNISHMENT IN CASE OF THE CONCLUSION OF THE PRE-TRIAL COOPERATION AGREEMENT, AT THE SPECIAL PROCEDURE OF FOR THE TRIAL AND AT THE SHORTENED ORDER OF INQUIRY

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The subject. The article analyzes the rules for the appointment of punishment in the case of a pre-trial cooperation agreement, with a special procedure for the trial and with a shortened procedure of conducting inquiry, regulated by art. 62 of the RF Criminal Code «Turning out a Sentence when Mitigating Circumstances Exist». The authors give an answer to two questions:1) Does the legal nature of these institutions correspond to the legal nature of mitigating circumstances; 2) Is it advisable to consolidate in a one article of the law different legal regulations.
Methodology. Authors use such researching methods as analysis and synthesis, formally legal, comparative legal.
Results. Rules for the appointment of punishment in the conclusion of a pre-trial cooperation agreement, stipulated by the part. 2, 4 art. 62 of the RF Criminal Code, regulate not the order of accounting for mitigating circumstances, but the legal consequences associated with the promotion of a person, which concluded and executed a pre-trial cooperation agreement, that does not correspond to the legal nature of the part. 1, 3 art. 62 of the RF Criminal Code.
The legal nature of the rules for the appointment of punishment, established in part 5 of art. 62 of the RF Criminal Code, also does not correspond to the legal nature of the rules for the imposition of punishment in the presence of mitigating circumstances, because mitigation of punishment occurs on criminal procedural grounds, which are not mitigating circumstances.
Conclusions. In authors opinion, fastening in art. 62 of the RF Criminal Code of three independent rules for the imposition of punishment, namely, the rules for the imposition of punishment in the

presence of mitigating circumstances (part 1, part 3 of article 62 of the Criminal Code), at the conclusion of a pre-trial cooperation agreement (part 2, part 4 article 62 of the Criminal Code), with a special order of the trial and a shortened procedure for conducting an inquiry (part 5 article 62 of the Criminal Code) is unreasonable and inexpedient, because these rules have a different legal nature.
Formalized limits of mitigation imposed at all parts of art. 62 of the Criminal Code of RF, are not connected with each other.
Rules for the imposition of punishment in the conclusion of a pre-trial cooperation agreement, with a special procedure for the trial and a shortened procedure for conducting inquiry have to be deleted from art. 62 of RF Criminal code and have to be consolidated at separate articles of the Criminal Code.

Key words: *imposition of penalties, the rules for imposition of penalties, a pre-trial cooperation agreement, a special procedure for the trial, shortened order of inquiry, formalized limits of punishment, law enforcement.*

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1. Rules for the appointment of punishment, set out in Art. 62 of the Criminal Code.

When the Criminal Code of the Russian Federation was adopted in 1996, Art. 62 of the Criminal Code of the Russian Federation consisted of only one part, providing rules of the imposition of punishment in the presence of mitigating circumstances. As a result of the amendments introduced by Federal Laws No. 11-FZ of 14.02.2008, No. 141-FZ of June 29, 2009, No. 420-FZ of 07.12.2011, No. 23-FZ of 04/03/2013 [1], this rule was significantly expanded and included rules that provide for the imposition of punishment in the conclusion of a pre-trial cooperation agreement, with a special order of the trial and with a shortened procedure for conducting an inquiry. The result was a paradoxical situation. Despite the fact that Art. 62 of the Criminal Code called destination of punishment at presence of mitigating circumstances in the text of this article provides other grounds for mitigation of punishment, in addition to mitigating circumstances, as well as independent accounting rules such grounds.

In this regard, there are two questions: first, whether the legal nature of the listed institutions is consistent with the legal nature of the mitigating circumstances and, secondly, whether it is expedient to consolidate in one article the law, at first glance, of different legal prescriptions.

2. Features of the appointment of punishment in the conclusion of a pre-trial cooperation agreement.

On the basis of part 2 of Art. 62 of the Criminal Code , in the case of the conclusion of a pre-trial cooperation agreement in the presence of mitigating circumstances, provided for by Art. 61 of the Criminal Code of the Russian Federation, and the absence of aggravating circumstances, the term or amount of punishment may not exceed half the maximum term or the size of the most severe form of punishment provided for by the relevant article of the Special Part of the Criminal Code.

In accordance with paragraph 61 of Art. 5 of the Code of Criminal Procedure, the pre-trial cooperation agreement is an agreement between the parties to the prosecution and defense, in which the parties agree on the terms of the suspect's or the accused's liability depending on his actions after the institution of the criminal case or the charge. We draw attention to the fact that in the case of a pre-trial agreement on cooperation, the case is subject to review in a special procedure provided for by Chapter 40^1 of the Code of Criminal Procedure, however, the basis for mitigating punishment

under Part 2 of Art. 62 of the Criminal Code is, according to the interrelated provisions of Part 2 of Art. 62 of the Criminal Code and Art. 63 [1] of Criminal Code of the Russian Federation, namely the conclusion and execution of a pre-trial cooperation agreement, and not the consideration of a case in a certain procedural form.

The essence of the pre-trial cooperation agreement is explained as follows. I. E. Zvecharovsky notes that the purpose of introducing this institution in Russia is to stimulate positive postcriminal actions [1, p. 14]. A.S. Aleksandrov, A.F. Kuchin, A.G. Smolin write that the institution of a pre-trial agreement is a legal means of individualizing a person's criminal liability, with a criminal procedure - a form of simplified legal proceedings and a court decision [2, p. 17]. A physically identical position is held by M.V. Goloviznin [3, p. 65]. According to E.N. Zhevlakova, the essence of the pre-trial cooperation agreement is that the suspect or defendant assumes the obligation to assist the investigation in the detection and investigation of the crime, the exposure and prosecution of other accomplices in the crime, the search for property added as a result of the crime in exchange for a substantial reduction in the punishment in accordance with the provisions of Part 2 and Part 4 of Art. 62 of the Criminal Code of the Russian Federation [4, p. 33].

Summarizing the above positions and reflecting the legal content of the pre-trial cooperation agreement in various forms, we note that the pre-trial cooperation agreement is a transaction, at the time of concluding which actions recognized as extenuating circumstances in accordance with clause "i" of Part 1 of Art. 62 of the Criminal Code, have not yet been committed. The very mitigation of punishment occurs on the basis of the fact of the execution of the pre-trial cooperation agreement, which is not mitigating circumstances, and the circumstances mitigating the punishment are not specifically taken into account.

The institution of the pre-trial cooperation agreement, as set forth in the Criminal Code and the Code of Criminal Procedure of the Russian Federation, is analogous to the plea bargaining agreement existing in foreign criminal laws. Thus, according to the legal positions set forth by the US Supreme Court , the plea bargaining agreement is an essential and expedient part of the criminal procedure [5], which is voluntarily concluded on both sides (the prosecutor and the accused) with the subsequent approval of the court [6, p. 232-235], the accused undertakes to plead guilty to committing a crime in court, and the prosecutor in return undertakes either to retrain the act committed to a less serious composition or to reduce the scope of the charge. The victim is excluded from participation in the process, but his opinion on the forthcoming procedure is clarified by the prosecutor when drawing up the agreement, and the damage caused to him as a result of the crime must be compensated (recently this is one of the terms of the transaction). Evidence in court is not investigated, because at the conclusion of the transaction there is no judicial investigation [7, p. 87].

The above institution is also fixed in the laws of England and Wales. The establishment of a formalized system of concluding guilt-making agreements is intended to encourage defendants to confess guilt at earlier stages of criminal proceedings. The decision to file a charge, its scope and qualification of actions are within the competence of the prosecution. The agreement is drawn up in writing and submitted to the court at the first appearance in court of the accused. Having considered the agreement, the court appoints a separate hearing. It is conducted openly, in the presence of the accused. The court is given the right to accept or reject the agreement, to transfer from the fate of the decision to obtaining additional information or express their own opinion on the maximum punishment [8; 9; 10].

In order to regulate the bases, procedures and implications of a pre-trial agreement on cooperation of the German parliament adopted the law on agreements in criminal proceedings May 28, 2009 and [2], who introduced a new special section in German Code of Conduct. He provides that the court in suitable criminal cases can agree with the participants of the process on the further course and outcome of the hearings. The subject of the agreement is the recognition of the accused and the legal consequences of such actions connected with the reduction of the punishment [11, p. 247-250].

In Italy, the institution of pre-trial agreement, on the one hand, is called upon to increase the effectiveness of the fight against organized crime and terrorism, and on the other, to save time and

money for the consideration of the criminal case [12, p. 645-649]. The basis for mitigating punishment is the agreement reached between the prosecution and defense and its approval by the court [13, p. 221].

Thus, as well as Russian criminal legislation, foreign criminal law stipulates that the basis for mitigating an order is precisely the agreement reached by the parties to the accusation and protection of cooperation and the approval (adoption) of such an agreement by the court, rather than mitigating the punishment.

Summarizing, we note that the rules for the appointment of punishment, stipulated by the Part. 2, 4 Art. 62 of the Criminal Code of the Russian Federation, regulate not the procedure for recording mitigating circumstances, but the legal consequences associated with the encouragement of a person who concluded and executed a pre- judicial cooperation agreement, which is not in accordance with the legal nature of the part. 1, 3 Art. 62 of the Criminal Code.

3. Features of the appointment of punishment at a special order of the trial and with a reduced procedure for conducting an inquiry.

Part 5 of Art. 62 of the Criminal Code provides for two separate rules for the appointment of punishment. The first is that the term or the amount of punishment are imposed on a person whose criminal case has been examined in accordance with the procedure provided for in chapter 40 of the Code of Criminal Procedure of the Russian Federation cannot exceed two thirds of the maximum term or the size of the most severe form of punishment provided for the committed crime. According to Art. 314 of the Code of Criminal Procedure of the Russian Federation, such compulsory easing is applied if there are the following grounds: 1) it is allowed only for crimes punishable under the Criminal Code of the Russian Federation does not exceed 10 years of imprisonment; 2) with the consent of the accused with the charge against him; 3) with the consent of the public or private prosecutor and the victim with special consideration of the case. The second rule, stipulated in Part 5 of Art. 62 of the Criminal Code of the Russian Federation, is that in the case specified in Art. 226 [9] of the Code of Criminal Procedure, the term or the amount of punishment imposed on a person cannot exceed one second of the maximum term or the size of the most severe form of punishment provided for the commission of a crime. According to Art. 150, 226[1], 226[9] of the Code of Criminal Procedure, the application of the latter rule is possible only in the case of committing crimes of small and medium gravity , for which a preliminary investigation was carried out in the form of an inquiry in abbreviated form. D.S. Dyadkin points out that an inquiry in abbreviated form is conducted in the presence of criminal procedural conditions stipulated in Chapter 32.1 of the Code of Criminal Procedure of the Russian Federation, as well as the person's acknowledgment of his guilt, the nature and amount of the damage caused by the crime, the agreement with the legal assessment of his deed, cited in the decision to initiate criminal proceedings [14, p. 193]. It should be noted that in both cases the proceedings are conducted in a special order provided for by Chapter 40 of the Code of Criminal Procedure of the Russian Federation, which stipulates the general legal nature of the rules for the imposition of punishment provided for by Part 5 of Art. 62 of the Criminal Code.

A.V. Boyarskaya and L.V. Golovko note that the special order of the trial, provided for in Ch. 40 and art. 226.9 of the Code of Criminal Procedure of the Russian Federation, is a version of simplified judicial proceedings in the criminal process of Russia [15, p. 61; 16]. We believe that this position is justified. But O.V. Katchalov writes that the essence of punishment under a special order of the trial is to achieve a social compromise, which, on the one hand, is expressed in the refusal of the accused from contesting the charges and the concurrence of the simplified form of court proceedings, and on the other - in the guaranteed leniency [17, p. 20]. The author concludes that it is inadmissible to formally enforce the requirements of the law. In our opinion, the last given position is not entirely correct, since the basis for mitigating the punishment under Part 5 of Art. 62 of the Criminal Code of the Russian Federation are not any extenuating circumstances, but a specific procedural order of the trial by the court, as well as the form of the preliminary investigation of the

crime, which indicates that the punishment is mitigated due to certain procedural grounds, rather than mitigating circumstances. This circumstance is also indicated by E.V. Blagov and D.S. Dyadkin, noting that neither Chapter 40 of the Code of Criminal Procedure, nor part 5 of Art. 62 of the Criminal Code do not indicate the dependence of the appointment of punishment on the availability of mitigating circumstances, as well as the fact that the rules for the imposition of punishment provided for in Part 2, Part 5 of Art. 62 of the Criminal Code of the Russian Federation, establish the procedure for mitigating punishment on procedural grounds [18, p. 123; 14, p. 192].

Thus, the legal nature of the rules for the appointment of punishment, established in part 5 of Art. 62 of the Criminal Code of the Russian Federation, does not correspond to the legal nature of the rules for the imposition of punishment in the presence of mitigating circumstances, as mitigation of punishment occurs on criminal procedural grounds, which are not extenuating circumstances.

Proceeding from the foregoing, we believe that it is possible to draw a well-founded conclusion that the rules for the imposition of punishment provided for in Part 2, Part 4, part 5 of Art. 62 of the Criminal Code of the Russian Federation, namely, rules for mitigating punishment in the case of a pre-trial cooperation agreement, with a special procedure for the trial and with a shortened procedure for conducting an inquiry, have a different legal nature than the rules for the imposition of punishment in the presence of mitigating circumstances.

We also believe that the rules for the imposition of punishment, provided for in Part 2, Part 5 of Art. 62 of the Criminal Code of the Russian Federation, also do not have a single legal nature. We consider it necessary to point out that the special order of the trial, as well as the shortened questioning, is intended to speed up the trial of minor crimes and is aimed at conciliation of the parties. The pre-trial agreement on cooperation pursues a different goal: the assistance of the suspect and the accused to the investigation in the investigation of crimes and the detection of previously unknown crimes [19, p. 120].

4. Correlation of the various rules for the appointment of punishment under Art. 62 of the Criminal Code.

Significant problems arise when correlating the rules for the appointment of punishment under Art. 62 of the Criminal Code of the Russian Federation among themselves.

The question of applying Art. 62 of the Criminal Code of the Russian Federation in the establishment of the court grounds for the simultaneous use of several of its parts is currently explained in paragraphs 38 and 39 of the Resolution of the Plenum of the Supreme Court of the Russian Federation "On the practice of appointing criminal penalties by the courts of the Russian Federation": "When appointing a punishment to a person with whom a pre-trial cooperation agreement was concluded, in accordance with part 2 or part 4 of Art. 62 of the Criminal Code, the provisions of part 1 of this article on the time and amount of punishment are not subject to accounting. When establishing the circumstances envisaged in part 5 and part 1 of Art. 62 of the Criminal Code, applies a set of rules to mitigate the punishment: first, the provisions of Part 5 of Article 62 of the Criminal Code, then - part 1 of Article 62 of the Criminal Code. Thus, the maximum possible sentence in such cases must not exceed two-thirds of two-thirds - in the criminal proceedings in the manner prescribed by Chapter 40 of the Code, and two-thirds of a second - in the case referred to in Article 226 [9] of Criminal Procedure Code of the Russian Federation" [3].

Especially unwarranted leniency submitted limits set out in the hours. 5, Art. 62 of the Criminal Code, which provide for the consent of the person to the charges against him at the e tapas preliminary investigation or inquiry the possibility of punishment , not exceeding , respectively , two-thirds or half the maximum term or amount of the strictest punishment provided for the offense. Please note that in this case the accused in mitigation of punishment does not require the establishment of his actions are no mitigating circumstance under Part. 1 Art. 61 of the Criminal Code, and is not required and the lack of his actions aggravating circumstances. Moreover, the courts from giving p. 28 Resolution of the Plenum of the Supreme Court of the Russian Federation "On the practice of appointing courts of the Russian Federation Criminal Punishment" widely

consider the admission of guilt as a separate mitigating circumstances, which leads in this case to a double penalty mitigation.

As a result of the analysis of sentences made of h. 1 tbsp. 228 of the Criminal Code by the courts of Tomsk, Tyumen and Novosibirsk regions, we have concluded that, in those cases where the courts have simultaneously examined the case in a special manner, and also take into account the extenuating circumstances the punishment in the absence of aggravating, the most applicable punishment is a fine.

Summing intermediate conclusion said, noting that the formal limits mitigating the punishment established in all parts of the Art. 62 of the Criminal Code, not interconnected, and their use, including, while taking a few pieces of Art. 62 of the Criminal Code, does not lend itself to scientific substantiation.

This study allows us to answer the second of these questions. The consolidation of three different institutions in the same article of the Criminal Code leads to unnecessary piling up of legal norms that affect the possibility of amending the law by the legislator, who is forced to supplement the Criminal Code self -sustaining articles instead of a comprehensive settlement of an independent institute in a separate article of the Criminal Code.

Finally, the rules of sentencing set out in Art. 62 of the Criminal Code, not interconnected, which affects the impossibility of effective joint application, as well as the inability to logically justify the formal limits mitigating the penalties prescribed in the above regulations.

5. Conclusions.

Summing up the consideration of the problems of the content of Art. 62 of the Criminal Code it is possible to draw the following conclusions.

Firstly, the legal nature of the rules of sentencing set out in para. 2 Art. 62 of the Criminal Code does not correspond to the legal nature of the rules of sentencing under extenuating circumstances, as leniency under para. 2 Art. 62 of the Criminal Code is happening in criminal procedural grounds which are not mitigating circumstances.

Secondly, formal limits mitigating the punishment established in all parts of the Art. 62 of the Criminal Code, not interconnected, and their use does not lend itself to scientific substantiation.

Third, strengthening the rules given independent sentencing in one article of the Criminal Code is not appropriate, moreover, interferes with the legislative improvement of the regulation of these rules of sentencing.

СПИСОК ЛИТЕРАТУРЫ

1. Звечаровский И.Э. Юридическая природа института досудебного соглашения о сотрудничестве // Законность. – 2009. – № 9. – С. 14-16.
2. Александров А.С., Кучин А.Ф., Смолин А.Г. Правовая природа института, регламентированного главой 40 УПК РФ // Российский судья. – 2007. – № 7. – С. 16-19.
3. Головизнин М. В. Особый порядок принятия судебного решения при заключении досудебного соглашения о сотрудничестве: дис. ... канд. юрид. наук. – М., 2012. – 250 с.
4. Жевлаков Э.Н. Назначение наказания: учебное пособие для магистрантов. – Москва: Проспект, 2015. – 88 с.
5. Bibas S. Taming Negotiated Justice [Electronic resource] // Yale Law Journal. – 2012 . – Vol. 122. The electronic version of the printing publication // URL: http://www.yalelawjournal.org/forum/taming-egotiated-justice#footnote4 (access date: 01.10.2017).
6. Thaman S. Comparative criminal procedure: A casebook approach. 2nd ed. – Durham: Carolina Academic Press, 2008. – 296 c.
7. Дудина Н.А. Соотношение производства при заключении досудебного соглашения о сотрудничестве с согласительными процедурами в уголовно-процессуальном законодательстве // Вестник Сибирского юридического института ФСКН России. – 2016. – № 2. – С. 86-91.

8. McLeod C. Solicitor, Simmons & Simmons: plea bargaining: the fight against white-collar crime [Электронный ресурс]. URL: http://www.inhouselawyer.co.uk/index.php/fraud-and-corporate-crime/6893-plea-bargaining-the-fight-against-white-collarcrime (дата обращения: 29.09.2017).
9. Monty R. Response to the Attorney General‘s Office Consultation — The Introduction of a Plea Negotiation Framework for Fraud Cases in England and Wales. – London, 2008. – 234 с.
10. The Attorney General‘s Office Consultation .The Introduction of a Plea Negotiation Framework for Fraud Cases in England and Wales. – 3 April 2008. –12 с.
11. Подройкина И.А. Зарубежный опыт и преемственность при построении системы наказаний в России // Бизнес. Образование. Право. Вестник Волгоградского института бизнеса. – 2012. – № 4 (21). – С. 247-250.
12. Tulkens F. Negotiated Justice // European Criminal Procedures. – Spencereds, 2002. – С. 641-687.
13. Ломакин А.Н. О применении соглашений о признании вины. Опыт зарубежных стран // Бизнес. Образование. Право. Вестник Волгоградского института бизнеса. – 2016. – № 3. – С. 218 - 224.
14. Дядькин Д.С. Теоретико-методологические основы назначения уголовного наказания: монография. – М.: Изд-во «Спутник+», 2016. – 342 с.
15. Боярская А.В. Доказывание в упрощенных судебных производствах уголовного процесса России: монография. – Омск.: Изд-во Ом. гос. ун-та, 2015. –258 с.
16. Головко Л.В. Курс уголовного процесса. – М.: Статут, 2016 // Правовая справочно-информационная система «Гарант».
17. Качалова О.В. Особенности назначения наказания при рассмотрении уголовного дела в особом порядке // Мировой судья. –2015. – № 11. – С. 20-26.
18. Благов Е.В. Применение общих начал назначения уголовного наказания: монография. – М.: Юрлитинформ, 2013. – 190 с.
19. Топчиева Т.В. Досудебное соглашение о сотрудничестве в российском уголовном процессе: монография. – Барнаул: Барнаульский юридический институт МВД России, 2015. – С. 132.
20. Лобанова Л.В. Учет смягчающих обстоятельств при назначении наказания лицу, заключившему досудебное соглашение о сотрудничестве // Lex Russia. – 2014. – № 3. – С. 331-340.
21. Ниценко Р.А. Назначение наказания: обязательные смягчение и усиление: дис. ... канд. юрид. наук. – М., 2014. – 211 с.

REFERENCES

1. Zvecharovsky I.E. The legal nature of the institute of pre-trial cooperation agreement // Zakonnost. – 2009. – № 9. – P. 14-16.
2. Alexandrov A. S., Cuchin A.F., Smolin A.G. Legal nature of the institution, regulated by Chapter 40 of the CPC of RF // Rossiiskiy Sudya. – 2007. – № 7. – P. 16-19.
3. Goloviznin M.V. A special procedure for the adoption of a court decision in the conclusion of a pre-trial cooperation agreement: dis. ... cand. leg. science. – M., 2012. – 250 p.
4. Zhevlakov E.N. The purpose of punishment: a textbook for undergraduates. – Moscow: Prospect, 2015. – 88 p.
5. Bibas S. Taming Negotiated Justice [Electronic resource] // Yale Law Journal. – 2012 . – Vol. 122. The electronic version of the printing publication // URL: http://www.yalelawjournal.org/forum/taming-egotiated-justice#footnote4 (access date: 01.10.2017).
6. Thaman S. Comparative criminal procedure: A casebook approach. 2nd ed. – Durham: Carolina Academic Press, 2008. – 296 p.
7. Dudina N.A. Relation of production at the conclusion of a pre-trial cooperation agreement with conciliation procedures in the criminal procedure legislation // Vestnik Sibirskogo juridicheskogo instituta FSKN Rossii. – 2016. – № 2. – P. 86-91.

8. McLeod C. Solicitor, Simmons & Simmons: plea bargaining: the fight against white-collar crime [ER]. URL: http://www.inhouselawyer.co.uk/index.php/fraud-and-corporate-crime/6893-plea-bargaining-the-fight-against-white-collarcrime (access date: 29.09.2017).
9. Monty R. Response to the Attorney General‘s Office Consultation — The Introduction of a Plea Negotiation Framework for Fraud Cases in England and Wales. – London, 2008. – 234 p.
10. The Attorney General‘s Office Consultation .The Introduction of a Plea Negotiation Framework for Fraud Cases in England and Wales. – 3 April 2008. –12 p.
11. Podroikina I.A. Foreign experience and continuity in the construction of the penal system in Russia // Bisnes. Obrazovanie. Pravo. Vestnik Volgogradskogo institute bisnesa. – 2012. – № 4 (21). – P. 247-250.
12. Tulkens F. Negotiated Justice // European Criminal Procedures. – Spencereds, 2002. – P. 641-687.
13. Lomakin A.N. On the application of guilty agreements. Experience of foreign countries // Bisnes. Obrazovanie. Pravo. Vestnik Volgogradskogo instituta bisnesa. – 2016. – № 3. – P. 218 - 224.
14. Dyadkin D.S. Theoretically-methodological bases of appointment of criminal punishment: monography. – M.: Publishing house "Sputnik +",2016. – 342 p.
15. Boyarskaya A.V. Proving in simplified judicial proceedings of the criminal process in Russia: a monography. – Omsk : Publishing house Om. state university, 2015. – 258 p.
16. Golovko L.V. The course of the criminal process. – M .: Statute, 2016 // Legal reference and information system «Garant».
17. Kachaloa O.V. Features of the appointment of punishment in the examination of a criminal case in a special order // Mirovoi sudya. – 2015. – № 11. – P. 20-26.
18. Blagov E.V. Application of the general principles of the appointment of criminal punishment: monography. – M.: Jurlitinform , 2013. – 190 p.
19. Topchieva T.V. Pre-trial agreement on cooperation in the Russian criminal process: monograph. – Barnaul: Barnaul Law Institute of the Ministry of Internal Affairs of Russia, 2015. – p. 132.
20. Lobanova L.V. Accounting for mitigating circumstances when imposing punishment on a person who has concluded a pre-trial cooperation agreement // Lex Russia. – 2014. – № 3. – P. 331-340.
21. Nitsenko R.A. The purpose of punishment: mandatory mitigation and strengthening: dis. ... cand. jurid. sciences. – M.,2014. – 211 p.

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