

PROPER PERFORMANCE OF DUTIES THAT ENSURE THE ADVERSARIAL NATURE OF CRIMINAL PROCEEDINGS IN RUSSIA

Evgeny N. Petukhov, Maria A. Neymark

Altai State University, Barnaul, Russia

Article info

Received –

2021 December 29

Accepted –

2022 September 20

Available online –

2022 December 20

Keywords

Adversarial proceedings, duties of participants of criminal proceedings, means of provision

The subject of the research is the mechanism for the execution of criminal procedural duties that ensure the implementation of adversarial in Russian criminal proceedings.

The purpose of the research is to justify the existence of the problem of organizational-legal support for the proper fulfillment of the duties assigned to participants in the criminal process and to determine the main ways of solving. The hypothesis of the research is the thesis that the combination of legal, organizational, and other means existing in criminal procedure legislation does not guarantee the proper fulfillment of the duties imposed by the legislator on the participants in adversarial criminal proceedings.

The methodology. General scientific dialectical methods made it possible to study the conditions and the process of evolution of legal duties, to reveal their essence in the field of criminal proceedings. The system-structural method and the situational modeling method were used when studying the intra-system relationships of elements of the mechanism for the execution of criminal procedural duties and the system of means that ensure its implementation. The study of regulatory legal requirements was carried out using the formal legal method.

The main results, scope of application. The article examines the problem of organizational-legal support for the proper performance of the duties assigned to participants in the criminal process, guaranteeing the proper implementation of adversarial in criminal proceedings. The general concept of duty is given, and the definition of criminal procedure is formulated. The nature of the duties is revealed and their classification is proposed. The fundamental legal significance of the category "Adversarial" as a principle of criminal procedure is identified and the significance of criminal procedural duties as the main security means of the specified procedural category is justified. The provisions of the current criminal procedure legislation in Russia are critically analyzed from the point of view of the presence or absence of legal and organizational means in them that ensure the creation of the conditions necessary for the emergence of a real possibility of proper performance of duties by participants in the criminal process. It is established that the organizational and legal resources required to effectively ensure the proper performance of criminal procedural duties are insufficient. A problematic situation in criminal proceedings is revealed in the form of imperfection of the means intended to achieve his appointment in the context of the implementation of the adversarial legal regime. The views of scientists on the issues studied in the article are studied, analyzed and evaluated. Conclusions. The essence of the scientific problem of research is formulated and proposals are put forward aimed at improving the criminal procedure regulation of the proper behavior of legally liable participants in the criminal process in order to increase the effectiveness of ensuring the implementation of adversarial in criminal proceedings in Russia.

1. Introduction

In V. Dahl's dictionary the duty is that which is subject to unconditional performance on public or internal motives [1, p. 665].

We believe that there is no reason to invent any other semantic meaning of duty today, as in such meaning, the term "duty" has been used and interpreted since ancient times. In support of the above, we can point to the definitions of duties known in the scientific community, which were formulated by both the world's most famous philosophers of law and authoritative Russian legal scholars. In Ancient Rome Aristotle and Cicero, who wrote the whole treatise "On Duties". By duties, they understood the measure of proper, socially necessary behavior leading to the morally beautiful life of society [2].

Representatives of France Charles Montesquieu and L. Dougie also defined duties as a proper line (type) of behavior [3].

Russian scientists defined the essence of duties in the same context. Bratus S.N., Kechekian S.F., Alekseev S.S. and Matuzov N.I. came to a generalized conclusion that duties are a type and measure of state-appropriate, useful behavior designed to bring order into life [4, p. 11; 5; 6; 7].

All authors mentioned above applied a unified approach to understanding of the essence of duties - it is a measure of proper conduct of obliged person in the interests of society, the state or another person.

The duty-bearer at all times was and still is a person. Based on this reality, the answer to the question about the nature of duties is based on morality and sociality. We dare to assume that the initial duties are moral duties based on duty. The human being is born with a duty to continue the human race, to which the nature itself obliges him, the very existence in this nature. This is the first moral duty of man to humanity (to his ancestors and descendants). For every full-fledged man on earth, the nature has created conditions and made it possible to properly realize this duty throughout his life. Then, we believe, social duties are formed, which are also related to duty. Here it is appropriate to remember the words of Plato that "We were born not only for ourselves, part of us

must give to our country, and part to others. The condition for the proper performance of social duties is an organized form of life of people on earth. Which consists in the fact that the born man as no living creature on earth is a helpless creature, it is doomed to death without the help of adults of similar creatures. The same is taken into account by human nature and a person in old age or poor health. Hence, people are doomed to care for each other, adults for children, and healthy people for the sick and old. That is, people must live in an organized way, namely, in a social environment. It is prepared for them by the very existence of human life on earth, where they should perform social duties towards each other. Further, the evolution of human life in the social environment has led people to the need to build relationships between them, to define the rules of relationship between them. This inevitably resulted in legal responsibilities. This is what they began to be called, as they began to be formulated in written sources of law, regulating legal relations arising, running and stopping throughout the life of people in its various spheres. Roles (functions), places in the legal hierarchy of building society are distributed among people. People become holders of rights and obligations, i.e., subjects of law.

In the considered context of the question, about the nature of duties, we believe it is possible to determine that the basis of moral and social duties is an objective beginning, and the basis of legal duties is a subjective beginning.

The present article focuses on the existence and development of ways to solve the problem of proper execution, a type of legal duties such as criminal procedural duties, which are sectoral criminal procedural law. The efficiency of implementation of the adversarial system in criminal proceedings depends on their proper execution.

2. Purpose

Evaluation of the criminal procedural legislation in force in Russia and the positions existing in the legal science concerning the efficiency of regulation of relations in the sphere of criminal proceedings with the purpose of ensuring their adversarial nature.

3. Objectives

To analyze the current state of norms of the current criminal procedure legislation from the point of view of existence, the means fixed in it, providing an opportunity for participants of criminal proceedings to properly perform the duties assigned to them. To study, existing in legal science views of scientists-researchers on essence of adversarial nature and set of the duties providing its realization in the sphere of criminal proceedings. Formulate proposals for a conceptual approach to the means that guarantee the effectiveness of performance of duties by participants in criminal procedural relations.

4. Material and methods

In the course of work on the article, the authors reviewed information, summarized and evaluated literature on the subject of the research. The results of earlier studies on problems of ensuring competitiveness in criminal proceedings and ensuring proper performance of criminal procedural duties were analyzed. The most significant of them are Andreeva O. I.'s doctoral dissertations. [8], Vavilina E.V. [9], candidate dissertations A.V. Avilov [10], L.L. Kozhevnikova [11], and A.S. Sannikova's textbook [12]. Other scientific works [13; 14] and analytical documents of Russian and foreign scientists and law enforcers on the subject under study have been studied. Participants in criminal proceedings have subjected regulatory and legal acts of national (Russian) legislation to critical analysis from the standpoint of efficiency of ensuring the adversarial nature of criminal proceedings and the proper performance of duties.

In the course of the research, the following general scientific methods were used: analysis, synthesis, comparison, generalization, induction, and deduction.

Along with the general scientific methods, the private scientific method of law interpretation was applied, which allows to deepen and expand the results of the formal and legal method, to reveal both the literal and systemic meaning of legal prescriptions and to make a general picture of aspects and parties of legal regulation of behavior of participants of criminal proceedings in the performance of their duties.

The sociological methods were used to

collect empirical material and substantiate the research findings.

5. Results and discussions

The results of the analysis of theoretical sources point to the existence of a sufficient number of works available in Russia on the study of various aspects of the responsibilities of participants in criminal proceedings, the authors of which are such well-known and authoritative scientists-processualists as L.M. Volodina [15], O.I. Andreeva [8], Yu.K. Yakimovich [16]. Besides, taking into account the results obtained during the historical study of legal acts of Russian legislation of the X-XX centuries from the standpoint of securing numerous criminal procedural duties in them and noting the important importance that the participants in the criminal process themselves express to them by the legislator, it we can state that in the criminal procedural science an independent criminal procedural category of criminal procedural duties has been formed. Mature scientific knowledge has been accumulated about it, the sum of which allows to draw a conclusion about the existence of an independent scientific theory of criminal procedural duties with its formed structure and an independent subject of study as a part of criminal procedural science.

In our opinion, the essence of the criminal procedural duty at the present stage of the development of the theory of criminal procedural duties is quite true, as determined by the Chairman of the Supreme Court of the Russian Federation V.M. Lebedev: "Criminal procedural duty is a measure of due behavior of an obligated subject conditioned by the requirements of a legal norm and provided with the possibility of state coercion, the necessity of certain actions [17].

In this regard, we would also like to pay tribute to the doctrine on criminal procedural duties developed by the famous Soviet scholar-processor M.A. Cheltsov, who suggested that the duties of participants in criminal proceedings should be understood as the proper conduct of the rightful participant in a criminal trial, which is prompted by the function he performs [18].

V.M. Kornukov prepared several separate and rather significant works for the criminal procedure science devoted to the problem of criminal

procedure duties, including their concept [19; 20; 21; 22; 23]. He defined criminal procedural duties as forced and necessary behavior of participants of criminal proceedings, caused by their role. At the same time, he emphasized the importance of studying criminal procedural duties, putting the proper level of criminal procedural discipline and strict observance of legality in criminal proceedings on the basis of appropriate theoretical and practical understanding of duties of all subjects of criminal procedural activity.

From the above definitions of criminal procedural duties, we believe that we should agree with the opinion of M.A. Cheltsov [18]. However, taking into account our correction of his position, we define a particularly important place of interest in his formulated concept of criminal procedure duties. Interest (need) for a person as a participant of criminal proceedings (the court as an organ, not an exception - it also consists of people) is a driving force that determines the choice of a goal (expected result) and as a result motivates him/her for active or passive behavior. It should be noted that this behavior should be realized through participation of subjects in criminal procedure activities, which, as we know, are carried out in a manner strictly established by law. It means that a participant of criminal procedure activity must achieve his goal by performing his inherent function, which is conditioned by the duties imposed on him by the legislator, as the latter determines his due (normative) behavior. It follows that if a participant in criminal proceedings wants to achieve a legitimate interest in a criminal case, he must perform his duties properly.

Thus, having determined our position regarding the general significance and essence of criminal procedural duties, we will continue to determine the meaning of this procedural category in ensuring the adversarial nature of criminal proceedings.

Declaratively modern criminal proceedings implemented in accordance with the procedure established by the norms of the current Russian criminal procedure legislation are adversarial. This legal fact is based on paragraph 3 of Article 123 of the Constitution of the Russian Federation, which states that one of the constitutional principles of

justice is adversarial and equality of the parties, as well as Article 15 of the Code of Criminal Procedure of the Russian Federation (hereinafter - the Code of Criminal Procedure of the Russian Federation), in which this principle has found its concreteness. It operates at all stages of criminal proceedings, determines all its structure and its legal nature. We will not enter into polemics on this issue, agreeing that it has long been on the pages of legal special procedural literature and among lawyers-applicants found in the vast majority of a single solution - the modern criminal trial in Russia is competitive. Although, for the sake of fairness, we note that there is a special opinion on this matter. So, according to T.G. Borodinova and V.V. Borodinov, the existing law enforcement practice is supporting the introduction of "pure" competition only at the judicial stages of the criminal process. In this regard, they insist on lowering its status from the "industry-wide principle" to the "general condition of the trial" [24].

Although the problem of adversarial in criminal proceedings exists, including abroad. For example, in the United States of America (USA) adversarial proceedings are perceived as a fundamental feature of their legal system. However, as G. Goodpaster notes, there are also opponents of the adversarial system, who assume that not the adversarial system, but the truth is the goal of the American legal system [25].

In the UK, in addressing the problem of finding an effective form of justice in the form of a legal response to terrorism, Jacqueline S. notes. Hodgson, there is a question of a wide deviation from the adversarial model of justice with regard to the roles reserved for prosecution and defense in the direction of the Inquisitorial approach [26].

In the international criminal process, as Ambos K. notes, there is also no unequivocal dominance of competition [27]. Indeed, following various amendments to the ICTY Rules of Procedure and Evidence and the drafting of the Rome Statute combining elements of civil and common law, it is more of an international mixed procedure.

In Russia, based on the norms of the Criminal Procedural Code of the Russian Federation, we recognize the existence of only formal adversarial competition. However, the existence of an actual

adversarial system is necessary. That is, procedural equality of all participants in criminal proceedings should be established and ensured, at all their stages, to achieve justice. At the same time, we should note that the whole world is concerned about the issue of justice in the law enforcement process. For example, C. Menkel-Meadow notes that "When the pursuit of justice is linked to legal practice, at least three other fundamental values are often similarly declared: justice through "the rule of law, not people", equal access to justice (and "equality before the law") and the importance of a "fair process" in achieving justice [28]. With which, of course, Russia also agrees.

Even with a superficial analysis of the provisions of Article 15 of the Code of Criminal Procedure of the Russian Federation, we see the importance of criminal procedural duties to ensure the implementation of justice in a criminal case under the legal regime of trial, adversarial proceedings. The legislator simulates in the norms of criminal procedure legislation the active due behavior of the parties in a court session, without limiting their presence only. The legislator prescribes to the court the obligation to apply the entire arsenal of organizational and legal resources to create equal conditions for the parties to prove their interests in a criminal case.

Everyone knows that an ideal mechanism of criminal procedure can be achieved only on paper, if great law-making efforts are made, as well as impeccable knowledge and skills of legislative technique, that is, only in the text of the law. In law enforcement life, it is not always possible to implement an ideally programmed model of behavior of subjects of law. The reasons are: imperfection of the criminal procedure legislation in the form of a gap, a casus, contradictions concerning the regulation of emerging legal relations [29]; multifaceted interpretation of applied procedural terms, categories, institutions, as well as lack of clarity and clarity in the wording of procedural norms, which leads to a semantic mistake and as a consequence to the wrong application of the legal norm [30]; insufficient legal and other knowledge or inexperience of the law enforcer, which leads to errors in inquiry and insight [31]; the load of the law enforcement

officer, primarily the investigator, the investigator, including those related to the performance of unusual functions, which exceeds all permissible norms and leads to total failure to comply with procedural deadlines and untimely fulfillment of obligations arising from the corresponding rights of participants in criminal proceedings.

Since we face the task of finding a solution to the problem of proper performance of criminal procedural duties to properly ensure the implementation of adversarial criminal proceedings, we will identify the following groups of duties:

1. Duties ensuring the realization of rights of participants of the adversarial criminal proceedings;
2. Duties ensuring proving the interests of the parties in adversarial criminal proceedings;
3. Duties ensuring the observance of the criminal procedure form of adversarial criminal proceedings;
4. Duties ensuring the interests of justice in adversarial criminal proceedings;
- 4) Duties ensuring the interests of justice in adversarial criminal proceedings;
5. Duties ensuring the criminal prosecution (accusation) and protection against it in adversarial criminal proceedings.

Taking into account the limited scope of the article, let us demonstrate the problems of execution of some of them. They, we believe, will illustrate to a sufficient extent the imperfection of organizational and legal resources designed to ensure that participants in criminal proceedings are able to properly perform the duties imposed on them by the legislator. We will also formulate our proposals aimed at ensuring the implementation of actual adversarial proceedings in a criminal case.

Duty of bodies of investigation to acquaint the defender (under his petition) with all materials of a criminal case during all investigation, instead of at a stage of the termination of investigation. This duty is not properly fulfilled - from the bodies of investigation you will not be interrogated copies of the decisions in which they state their interim decisions on the case (for example, about the extension of the investigation). Participants have to make continuous requests for their extradition, which makes it very difficult for them to appeal. We believe that in such a situation it is necessary for the

bodies of inquiry and preliminary investigation to oblige (by law) to issue all these documents on request or already in established cases, by law, within 24 hours from the moment of their issuance or application respectively. Otherwise, default of the specified duty by bodies of preliminary investigation leads to default of the duty of the defender connected with protection of the rights, freedoms and interests of the trustee. The defender with the client cannot build a position of protection, as they do not have enough information on business. Everything is complicated, why hide the information on the case, if all participants according to the principle of competitiveness should be in equal conditions. This situation generates an involuntary abuse of the right. Experienced attorney-at-law go on a trick, declare on far-fetched grounds of complaint in the order of Article 125 of the Criminal Procedural Code of the Russian Federation and in court legally familiarize themselves with all the documents of the criminal case provided by the investigation bodies (make photocopies of them).

To ensure the adversarial nature of criminal proceedings, we also propose to impose on the prosecutor the obligation in the form of an injunction to submit to him his decisions to annul the appealed decisions of the person conducting the initial inquiry (investigator), to the court in accordance with Article 125 of the Code of Criminal Procedure of the Russian Federation before the beginning of the court hearing and during the court hearing to consider the said complaint. Today there is a situation when the prosecutor in the course of consideration of the complaint of the defender or other participant sees that the court intends to cancel the decision of the person conducting the initial inquiry, for example, on appointment of expertise or on extension of the term of investigation, he "sends" to the court previously prepared prosecutor's decision to cancel such a decision. The court, in the absence of a subject for consideration, terminates the complaint proceedings. The complainant "misses the boat," and the procurator and the person conducting the initial inquiry (investigator) remain "hands untied" by the court's decision again. They can continue to make similar unsubstantiated decisions until a new

complaint is filed.

In addition, in this situation, an investigator (interrogator) must be obliged to be a party in court when considering a complaint filed under Article 125 of the Code of Criminal Procedure. It is they who must uphold the lawfulness and validity of their decisions or actions with equal opportunities with the defense party, not the prosecutor (he must exercise supervision). It is possible to go even further and propose to abolish at all the obligation of the prosecutor to carry out criminal prosecution in pre-trial proceedings. In such a situation, the balance of power of the parties in pre-trial proceedings is equalized. Under such conditions, the actual implementation of the adversarial system will indeed be ensured.

Further, we propose to enshrine in the legislation the obligation of the state to provide loans to participants in criminal proceedings to secure an agreement with a defense counsel (suspect, accused, defendant) or a representative (victim, witness). We ground it by the fact that, for example, lawyers-defenders, as everyone knows, carry out their duties to protect the interests of the trustees quite formally (they are present in the course of investigative actions or court sessions, put their signatures in the protocols), because they do not have the motivation for active activity themselves. In such a situation, the trustee cannot properly demand that the defense counsel perform active actions (he has no arguments). It is not unjustified to state that sometimes there is a collusion between the defense counsel on appointment and the person conducting the investigation in the interest of quick and unhindered execution of criminal prosecution. We believe that the offered variant will be favorable to the state, as it will not be burdened to bear material expenses on criminal case (to bear expenses on the defender by appointment). Moreover, there will be a right of demand at the trustee in relation to the defender; accordingly, there will be a proper motivation and the defender more actively to carry out protection of interests.

Contribute to the implementation of the actual adversarial procedure will also be enshrined in the legislation the right of the lawyer-defender on an equal footing with the bodies of investigation to

collect evidence. Currently, for example, when interviewing the victim, the defender collects only information. In the development of this proposal, as V.V. Koryakovtsev and X.V. Pitulko correctly note, it is necessary to supplement Part 3 of Art. 86 of the Code of Criminal Procedure of the Russian Federation with the obligation of the investigator, investigator, prosecutor and court to attach (and investigate) to the criminal case evidence obtained independently by the defense, subject to such a procedural procedure for obtaining them (similar to the procedure for obtaining them by state bodies) [32, p. 134]. At present, for example, when interviewing the victim, the defender collects only information. If to fix the right to carry out interrogation of the victim in the presence of the representative of the last whom the interrogator (investigator) recognized such subject, the defender will have an opportunity to collect proofs. Moreover, the defender in the course of dialogue with the victim and its representative can in the law of the established conditions coordinate the questions connected with reconciliation and compensation of the caused harm. In other words, the advocate actually has an opportunity to properly fulfill the obligation - to lead the process to a peace agreement. We believe that the legislative regulation of these relations will lead to the adoption of legal decisions concerning the fate of the accused and the entire criminal case already at the stage of preliminary investigation. After all, criminal proceedings are not a war between the parties, but an equal opportunity to protect persons in criminal proceedings (see: Article 6 of the RF Code of Criminal Procedure).

Except for the above-described specific cases of failure to properly perform criminal procedural duties, a rather large number of situations of failure to perform duties can be generally described as follows:

- appearance before an investigator, inquirer, and court (statistics show a large number of cases of forced coercion and changes in the preventive measure);
- observance of order in the courtroom and in the course of investigation actions (reports on criminal procedural activity record a large number of removals from the courtroom and the place of

investigation (e.g., legal representatives and other participants in the criminal case);

- it is not enough, in quantity and quality, of the proofs testifying to participation of the person in a crime - default of the obligation of proving (about the given negative result of proving testify the prosecutor's refusals to support prosecution on cases, cancellation of decisions of bodies of investigation, refusals to satisfy petitions, and also the decision of acquittals, etc.);

- the rights of participants in criminal proceedings are not explained (a fairly convincing failure to fulfill this obligation is confirmed by the cancellation of decisions of investigation bodies and courts by controlling and supervising bodies);

- refusal to certify and provide samples for comparative examination (this is confirmed by cases of state coercion, including the use of physical force and special means);

- failure to properly monitor the underage defendant, failure to fulfill the assumed obligation as a personal guarantee (this is confirmed by the statistics of decisions on imposing monetary penalties);

- deprivation of the status of an advocate due to failure to fulfill their duties to defend (represent) the interests of participants in criminal proceedings (see: reviews of the disciplinary practice of the Russian Bar Association);

- removal of investigators, interrogators from the investigation because of red tape, because they did not recant, etc. (This problem is constantly voiced in the reports of the heads of law enforcement agencies).

The stated above allows us to speak about the existence of the problem in the adversarial criminal procedure law enforcement process in the form of total improper performance of criminal procedure duties [33].

The above allows us to talk about the existence of a problem in the adversarial criminal procedure law enforcement process in the form of total improper performance of criminal procedure duties¹.

¹ See confirmation of non-fulfillment of duties in reports, reports of law enforcement leaders and reviews of the results of their

With regard to the subject matter of our study, we have come to realize that there is a difference between the existing system of means to ensure the proper performance of criminal procedural duties and the desired system of means, which should more effectively ensure their proper performance.

In order to make a constructive analysis of the situation that has arisen, it is necessary to use the method developed in the theory of criminalistics, such as comparative analysis related to model information [34]. The information model and the actual model should be compared.

In our case, in the form of a model information model (original) is a model of due behavior of an obligated subject programmed in the norms of criminal procedure legislation and conditions in the form of organizational-legal means, which provide him with an opportunity to properly perform the criminal procedure duties assigned to him. In other words, it is a normative (existing) combination (legal-organizational means) and relations between them.

The actual model is a predictable system of component elements that are part of this actual model in the form of legal and organizational means, which in our opinion should ensure the proper performance of duties in the most effective way.

The result of comparing these models leads us to the conclusion that the said means programmed in the current criminal procedure law are insufficient, i.e., that the information model is inferior. We see its imperfection (gaps in it). The organizational and legal means included in it do not meet the needs of criminal procedure activities, and do not ensure proper behavior of

the participants in criminal proceedings. As we have shown above, a large number of obligations remain unfulfilled. Hence, it is necessary to construct an additional system of organizational and legal means, which in symbiosis (together) with the already existing system of such means, but changed from the position of new, modern knowledge of the science of criminal procedure and the science of organization, will make up a proper system of organizational and legal means of effective ensuring the proper performance of criminal procedural duties in domestic criminal proceedings.

Summing up the above, we see that a problematic situation has arisen, which is clearly evidenced by the existing contradictions in the system of Russian criminal procedure. This problematic situation leads to the problem of improving organizational and procedural means of ensuring proper performance of duties in criminal proceedings.

6. Conclusions

Implementation of adversarial criminal proceedings in modern Russia the criminal procedural duties play an important supporting role. However, in the science of criminal procedure there is a lack of sufficient knowledge that would help participants of adversarial criminal proceedings to clearly see the responsibilities defined by the legislator, as well as to properly understand their content, understanding their unambiguous meaning, which would certainly guarantee fair justice in criminal cases.

Thus, determining the importance of maintaining the adversarial model of criminal proceedings in Russia, taking into account our arguments and based on existing knowledge about the concept, essence, and meaning of criminal procedural responsibilities in criminal proceedings, we will formulate the following scientific problem as a conclusion.

Results of using the method of comparative analysis (related to model information) between the regulatory model, consisting of organizational and legal means enshrined in the criminal procedure legislation that do not properly ensure the proper fulfillment of criminal procedure obligations and the actual model, consisting of the necessary organizational and legal means, which should more

activities: Electronic resource:
<https://sledcom.ru/news/item/1308329>;
https://www.vsrfr.ru/press_center/video_archive/27607/;
http://www.cdep.ru/userimages/sudebnaya_statistika/2018/Obzor_sudebnoy_statistiki_SOYu_2017.pdf. (Date of circulation 29.10.2020);
Electronic resource:
https://www.vsrfr.ru/press_center/news/6820/.
(Date of circulation 16.11.2020).

effectively ensure the proper performance of duties in criminal proceedings, lead to the conclusion that there is a problem in criminal proceedings of improving the organizational and procedural means of ensuring the proper performance of criminal procedural duties, who act as one of the main guarantors of the adversarial model of criminal proceedings in Russia.

The discussed problem can be used as a determining goal and direction of its achievement in the course of research and development activities to find ways to improve organizational and legal means that serve as an effective resource to ensure the proper performance of criminal procedural duties in Russia.

REFERENCES

1. Bratus S.N. *Subjects of civil law*. Moscow, 1950. 368 p. (In Russ.).
2. Kechejian S.F., *Legal relations in socialist society*. Moscow, 1958. 187 p. (In Russ.).
3. Alekseev S.S. *Law theory*. Moscow, Bek Publ., 1995. 311 p. (In Russ.).
4. Matuzov N.I. *Actual problems of the theory of law*, Monograph. Saratov, 2003. 510 p. (In Russ.).
5. Andreeva O.I. *Conceptual foundations of the ratio of rights and obligations of the state and the individual in criminal proceedings of the Russian Federation and their use for legal regulation of activity by the regulation of the subject of criminal proceedings*. Thesis of dissertation... doctor of legal sciences. Tomsk, 2007. 48 p. (In Russ.).
6. Vavilin E.V. *Mechanism of exercising civil rights and duties*. Doct. Diss. Moscow, 2009. 425 p. (In Russ.).
7. Avilov A.V. *Subjects of the obligation of proof in criminal proceedings*, Diss. Cand. Thesis. Krasnodar, 2011. 165 p. (In Russ.).
8. Kozhevnikov L.L. *Duties of the accused (Concept, types, problems of legal regulation and ensuring conditions for proper performance)*, Diss. Cand. Thesis. Volgograd, 2003. 218 p. (In Russ.).
9. Sannikov A.S. *Duties of participants of criminal proceedings of the party of charge in pre-trial proceedings*, Textbook. Yekaterinburg, Ural Law Institute of the Russian Interior Ministry Publ., 2013. 92 p. (In Russ.).
10. Bozhchenko A.P., Semenov S.L., Nikitin I.M., Nazarov Y.V. Implementation problems in the principles of equality and adversarial in criminal procedure (for example, the possibility of filing by the defense of an expert's opinion). *Russian Journal of Forensic Medicine*, 2021, vol. 7(1), pp. 41–47. DOI: 10.17816/fm350. (In Russ.).
11. Pushkarev V.V., Gaevoy A.I., Kolchurin A.G., Bukharov N.N., Pcholvsky N.K. Ensuring the principle of adversarial parties by the investigator at the end of the criminal prosecution. *LAPLAGE EM REVISTA*, 2021, vol. 7, iss. Extra-A, pp. 304–310. DOI: 10.24115/s2446-622020217extra-a806p.304-310.
12. Volodina L.M. *Purpose of criminal proceedings and problems of their implementation*, Monograph. Moscow, Yurлитinform Publ., 2018. 296 p. (In Russ.).
13. Yakimovich Y.K. *Participants of the criminal proceedings*. St. Petersburg, Yurлитinform Publ., 2015. 176 p. (In Russ.).
14. Lebedev V.M. (ed.). *Criminal procedure law*, Textbook for bachelor and master's degree, 2nd ed. Moscow, Yurait Publ., 2014. 1060 p. (In Russ.).
15. Cheltsov M.A. (ed.). *Criminal proceedings*, Textbook for law universities and faculties. Moscow, Yuridicheskaya literatura Publ., 1969. 463 p. (In Russ.).
16. Kornukov V.M. Legal means to ensure the performance of duties by participants in criminal proceedings, in: *Issues of criminal proceedings*, Interuniversity Collection, iss. 1, Saratov, Saratov University Publ., 1977, pp. 43–50. (In Russ.).
17. Kornukov V.M. Legal regulation of obligations of participants of criminal proceedings and possibilities of its improvement, in: *Issues of criminal proceedings*. Interuniversity Collection. 2. Saratov, Saratov University Publ., 1979, pp. 58–62. (In Russ.).
18. Kornukov V.M. Legal status of personality in criminal proceedings. *Problems of legal status of personality in criminal proceedings*, Saratov, Saratov University Publ., 1981, pp. 39–42. (In Russ.).
19. Kornukov V.M. Person in criminal proceedings: problem of obligations. *Soviet state and law*, 1988, no. 7, pp. 81–88. (In Russ.).
20. Kornukov V.M., Baranova M.A. Legal regulation of duties and responsibilities of a witness in the field of criminal procedural relations. *State and Law*, 2006, no. 2, pp. 92–95. (In Russ.).
21. Borodinova T.G., Borodinov V.V. The adversarial system in criminal procedure: Norms and implementation. *International Journal of Innovative Technology and Exploring Engineering*, 2019, vol. 8 (12), pp. 4039–4042. DOI:10.35940/ijitee.L3627.1081219.
22. Goodpaster G. On the Theory of American Adversary Criminal Trial. *The Journal of Criminal Law and Criminology*, 1987, vol. 78, no. 1, pp. 118–154. DOI: 10.2307/1143577.
23. Hodson J.S. The Future of Adversarial Criminal Justice in 21st Century Britain (March 25, 2010). *North Carolina Journal of International Law and Commercial Regulation*, 2010, vol. 35, p. 319–362. Available at SSRN: <https://ssrn.com/abstract=1578310>.
24. Ambos K. International criminal procedure: "adversarial", "inquisitorial" or mixed? *International Criminal Law Review*, 2003, vol. 3, iss. 1, pp. 1–37. DOI: 10.1163/156753603767877084.
25. Menkel-Meadow C. Practicing "In the Interests of Justice" in the Twenty-First Century: Pursuing Peace as Law Enforcement Review 2022, vol. 6, no. 4, pp. 289–300

Justice. *Fordham Law Review*, 2002, vol. 70, pp. 1761–1774, available at: <https://scholarship.law.georgetown.edu/facpub/175>.

26. Franziforov Yu.V. *Conflicts of criminal proceedings*, Doct. Diss. Nizhny Novgorod, 2007. 569 p. (In Russ.).
27. Belonosov V.O. *Interpretation of the norms of law in the system of theoretical and practical activity in the sphere of criminal proceedings*, Doct. Diss. Saratov, 2009. 471 p. (In Russ.).
28. Nazarov A.D. *Investigation and judicial errors and the criminal procedure mechanism for their elimination: conceptual foundations*, Doct. Diss. St. Petersburg, 2017. 388 p. (In Russ.).
29. Koryakovtsev V.V., Pitulko X.V. Adversarial process: urgent problems of modern Russian criminal proceedings. *Pravoprimenenie = Law Enforcement Review*, 2019, vol. 3, no. 1, pp. 119–137. DOI: 10.24147/2542-1514.2019.3(1).119-137. (In Russ.).
30. Davydov S.I., Petukhov E.N. «Hidden» criminal procedural duties of professional participants of the prosecution and court in Russia. *Bulletin of the Nizhny Rod Academy of the Ministry of Internal Affairs of Russia = Legal Science and Practice: Journal of Nizhny Novgorod Academy of the Ministry of Internal Affairs of Russia*, 2018, no. 1 (41), pp. 137–142. DOI: 10.24411/2078-5356-2018-00020. (In Russ.).
31. Protasevich A.A., Stepanenko D.A., Shikanov V.I. *Modeling in reconstruction of the event under investigation*, Essays on the theory and practice of investigations works. Irkutsk, 1997. 206 p. (In Russ.).

INFORMATION ABOUT AUTHORS

Evgeny N. Petukhov – PhD in Law, Associate Professor;
Associate Professor, Department of Criminal Procedure
and Criminalistics
Altai State University
61, Lenina pr., Barnaul, 656049, Russia E-
mail: petuchove@mail.ru
ORCID: 0000-0003-0690-6535

Maria A. Neymark – PhD in Law, Associate Professor;
Associate Professor, Department of Criminal Procedure
and Criminalistics
Altai State University
61, Lenina pr., Barnaul, 656049, Russia E-
mail: neymark.m@mail.ru
ORCID: 0000-0002-2834-5508

BIBLIOGRAPHIC DESCRIPTION

Petukhov E.N., Neymark M.A. Proper performance
of duties that ensure the adversarial nature of criminal
proceedings in Russia. *Pravoprimenenie = Law
Enforcement Review*, 2022, vol. 6, no. 4, pp. 289–300.
DOI: 10.52468/2542-1514.2022.6(4).289-300. (In Russ.).