

INCORRECT INTERPRETATION OF THE LAW BY THE COURT**

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The subject of this study is the main trends that have developed in judicial practice related to the assessment of the correctness of the interpretation of the norms of law by the court. The purpose of the study was to identify the main approaches used by law enforcement agencies, primarily courts, in assessing the possible existence of an error in the interpretation of the applied law by a lower court.

General scientific and special methods of scientific cognition were used in the research. Among them are analysis, synthesis, deduction, induction, the systematic method, the hermeneutical method and the legal-dogmatic approach. In particular, published court decisions were analyzed, scientific literature and current legislation were studied, after which conclusions were drawn about the state of law enforcement practice and the prevailing trends when considering by higher courts the issue of a possible error in the interpretation of the law committed by a lower court.

The main content of the article is the results of the analysis of judicial practice, the purpose of which was to identify the main trends in judicial practice related to the assessment of the correctness of the interpretation of the norms of law by the court. The practice of applying the provisions of the procedural codes of the Russian Federation, providing for the consequences of a misinterpretation of the provisions of normative acts by the court, is considered. As a result of the conducted research, the main problems that courts face when assessing the correctness of the interpretation given by their colleagues from the lower court were identified. During the analysis, special attention was paid to such aspects as the causes of erroneous interpretation, ways to detect and eliminate the identified error, and the consequences of making an error.

Based on the results obtained, conclusions were formulated, among which it is worth noting that judicial errors in the interpretation of normative acts are quite common. At the same time, procedural legislation regulates such situations in different ways in different types of legal proceedings. Having discovered a judicial error in interpretation, the higher court most often does not indicate specific norms that have been misinterpreted, but offers its own solution to the dispute. The errors of the courts in the qualification of those mistakes made by the lower courts were also noted.

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1. Introduction

The process of interpreting legal norms by the court can be quite complex and multifaceted. Interpretation is used in the legal qualification and in making a decision on a case [1, p. 39]. Interpretation does not change the legal norm or create a new one; it is aimed at analyzing and studying the current norm [2, p. 167]. Various approaches and concepts of judicial interpretation are presented in the literature [3; 4; 5]. As a result of the interpretation of the norm, its only possible meaning is revealed, since otherwise a situation of legal uncertainty would arise.

The judge is guided by the procedural legislation when applying legal norms [6, p. 37]. A court decision based on a misinterpretation of the law must be and is assessed as unacceptable, since this leads to a violation of the rights of participants in the process.

The procedural codes of the Russian Federation contain a number of provisions regulating the assessment of the correctness of the application of the norms by the courts. Erroneous interpretation of a norm is often directly indicated as one of the forms of incorrect application of the law. An indication of incorrect interpretation of the law is contained in paragraph 3 of part 3 of Article 310 of the Code of Administrative Procedure of the Russian Federation, in paragraph 3 of part 2 of Article 330 of the Civil Procedure Code of the Russian Federation and paragraph 3 of part 2 of Article 270 of the Arbitration Procedure Code of the Russian Federation. There are grounds to speak of incorrect interpretation in the context of the application of Articles 389.15, 289.17 and 389.18 of the Criminal Procedure Code of the Russian Federation.

The authors of a number of studies discuss approaches to interpretation, the methods used, and the nature of possible errors [7, p. 31; 8, p. 58-59; 9, p. 20]. They also consider the specifics of the terms used by the legislator, for example, they establish the difference between the "incorrect" and "erroneous" interpretation of the law by the court [10, p. 20]. Some articles note the problems of regulating judicial interpretation in procedural

codes [11, p. 46], the specifics of the process of specifying and applying legal norms [12, p. 37].

The purpose of this work is to check on the materials of judicial practice how the courts themselves consider the interpretation of legal norms in the decisions of lower courts.

The purpose of this work is to study, based on the materials of judicial practice, how courts consider issues of interpretation of legal norms in decisions of lower courts. The conducted analysis of practice showed differences in the approaches of the courts, depending on what kind of case is before us - civil, criminal, etc., which are associated both with the peculiarities of the substantive rules applied by the courts and with the interpretation of procedural rules.

2. Misinterpretation of the law in civil proceedings

The Civil Procedure Code of the Russian Federation in Article 330 contains grounds for the cancellation or modification of a court decision in the appellate procedure. Thus, among such grounds in paragraph 4 of Part 1 of Article 330, a violation or incorrect application of the rules of substantive law or the rules of procedural law is indicated. In fact, this is not one ground, but several at once, which is disclosed in other parts of the rule under consideration [13]. Therefore, it is worth distinguishing between cases of violation and cases of incorrect application of the rules of law. In addition, in accordance with Part 2 of the described article, incorrect application of the rules of substantive law may be understood as one of the following circumstances:

- 1) failure to apply a law that should be applied;
- 2) application of a law that should not be applied;
- 3) incorrect interpretation of a law.

Thus, incorrect interpretation of the law is one of the possible variants of incorrect application of the rules of law by the court, which may serve as a basis for cancellation or change of the court decision. The presence of such a basis does not mean the automatic occurrence of the described

consequences - incorrect interpretation should lead to the adoption of an incorrect decision by the court, or create such a risk.

With regard to the provision on incorrect interpretation of the law, scientists have repeatedly raised questions related to the fact that the literal meaning of this norm does not imply an obligation to take into account the expressed position of the Constitutional Court of the Russian Federation when interpreting the law, if such exists [14; 15]. This problem of the wording of this norm was even raised before the Constitutional Court.

The Constitutional Court of the Russian Federation has repeatedly noted that this norm is intended to create conditions for correcting possible errors in decisions of lower courts. At the same time, the absence of a direct indication of the court's obligation to take into account decisions of the Constitutional Court of the Russian Federation does not create uncertainty either in terms of the procedure for application or in terms of compliance with the Constitution of the Russian Federation. This is due to the fact that, by virtue of Articles 6 and 79 of the Federal Constitutional Law "On the Constitutional Court of the Russian Federation", decisions of the Constitutional Court of the Russian Federation are binding throughout the territory of the Russian Federation for all public authorities, organizations and citizens, are directly effective and do not require confirmation, without implying the application of regulatory legal acts in an interpretation that diverges from their constitutional and legal meaning identified by the Constitutional Court of the Russian Federation¹.

An analysis of the application of the provision on misinterpretation of the law in practice has revealed several aspects that deserve attention.

Courts do not always correctly distinguish between violation and incorrect application of substantive law. Often, court conclusions that directly contradict the provisions of regulatory

legal acts are designated as incorrect application of the rule due to its incorrect interpretation². Although there are also examples of how, in similar circumstances, the court found a violation of substantive law³. In some cases, one can even see a consistent indication that the lower court made a decision in violation of the law, which becomes a reason for overturning the decision due to an incorrect interpretation of the law⁴. This may indicate that sometimes the courts do not attach importance to the grounds on which the decision of the lower court will be overturned, if grounds for overturning are found.

There are also cases in practice where courts mistakenly refer to paragraph 3, part 2, article 330 of the Civil Procedure Code of the Russian Federation. Thus, having concluded that the rule was not subject to application, instead of paragraph 2, courts sometimes refer to paragraph 3. For example, when reviewing the decisions of lower courts, it was noted: "in connection with which the said legal norm, as not having retroactive effect, cannot be applied to the present housing dispute... the court of first instance correctly determined the circumstances that are significant for the case, but gave an incorrect interpretation of the norms of substantive law applicable to the relations of the parties, which led to the issuance of an unjust decision"⁵. Another example: "the panel of judges finds the reference in the court decision to the need to apply Federal Law No. 426-FZ of 28.12.2013 "On Special Assessment of Working Conditions" to be untenable. The obligation to conduct a special assessment of working conditions under the said law is imposed on the employer. In this case, the plaintiff was not in employment relations with the enterprises and organizations specified in the court decision. ... the panel of judges finds the court

¹ Judgment of the Constitutional Court of the Russian Federation dated May 30, 2023 No. 1177-O; Judgment of the Constitutional Court of the Russian Federation dated October 25, 2016 No. 2242-O/2016; Judgment of the Constitutional Court of the Russian Federation dated September 27, 2018 No. 2439-O.

² Appeal decision of the Oryol Regional Court of October 20, 2021 on case No. 33-2616/2021; AD of the Saratov Regional Court of February 14, 2018 on case No. 33-952/2018.

³ Appeal decision of the Moscow City Court of June 9, 2023 on case No. 33-38302/2023.

⁴ Appeal decision of the Moscow City Court of December 16, 2020 on case № 2-1689/2020, № 33-420724/2020.

⁵ Appeal decision of the Supreme Court of the Komi Republic of April 28, 2022 No. 33-2818/2022 on case No. 2-912/2022.

decision in terms of satisfying the claims to be subject to cancellation by virtue of ... paragraph 3, part 2, article 330 of the Civil Procedure Code of the Russian Federation - an incorrect interpretation of the law"⁶. In some cases, there is no indication of a specific reason for the cancellation of the decision. For example, the court "cancels the decision of the court of first instance as illegal and unfounded" with a reference in general to Part 1 of Article 330 of the Civil Procedure Code of the Russian Federation⁷.

Another inaccuracy in the context of an unambiguous definition of the grounds for cancellation of a decision is the mixing of these grounds, for example, "the decision was made in violation and incorrect application of the norms of substantive law"⁸.

In most decisions, the courts do not indicate which norm was interpreted incorrectly. Most often, the appellate court repeats the arguments of the lower court, then makes a reservation that "the court incorrectly interpreted the applicable legal norms" or "the court incorrectly interpreted the applicable law"⁹. After which the court gives a correct assessment, from its point of view, of the circumstances of the case under consideration¹⁰. It would be much more illustrative to clearly indicate which norm was misinterpreted, what the error was and what consequences it led to.

In practice, courts apply the rule that a decision of the court of first instance that is correct in essence cannot be overturned for formal reasons alone¹¹. However, here the question arises

about the assessment of this correctness, about its criteria. In the analyzed acts, the courts only noted the presence or absence of the consequence of an interpretation error in the form of a correct or erroneous decision of the case. The question of whether the error did not lead to, but could have led to, an incorrect decision in the case was not raised in the analyzed decisions. At the same time, in some cases, the courts replaced the criterion of a correct decision with the criterion of a legal decision. For example, the court noted: "taking into account that the violation committed by the court led to the issuance of an illegal judicial act... is subject to cancellation"¹².

Legality is a more understandable category than correctness; here one can rely on the Code and its explanations. Scientific literature also emphasizes the conditionality of the requirement of legality and validity by the very nature of the act of justice [16, p. 14]. Thus, in accordance with Art. 195 of the Civil Procedure Code of the Russian Federation, the court's decision must be legal and valid. In this case, the decision is legal if it is made in strict compliance with the rules of procedural law and in full compliance with the rules of substantive law that are applicable to this legal relationship, or is based on the application, in necessary cases, of analogy of law or analogy of law¹³. However, legality and correctness of a decision are not synonymous concepts. Formally, the Code allows a correct but illegal decision to remain in force. The courts are forced to explain that the provision of Part 6 of Article 330 of the Civil Procedure Code of the Russian Federation, according to which a decision of the court of first instance that is essentially correct cannot be overturned for formal reasons alone, "in itself cannot be considered as violating constitutional rights [...], since the determination of which violations are formal and do not entail the cancellation of the reviewed ruling of the lower court is subject to establishment by the court in each specific case based on the factual

⁶ Appeal decision of the Supreme Court of the Republic of Karelia of March 1, 2021 No. 33-492/2021 on case No. 2-540/2020

⁷ Appeal decision of the Moscow City Court of August 24, 2023 on case No. 33-33545/2023.

⁸ Appeal decision of the Moscow City Court on case No. 33-18865/2020; Appeal decision of the Moscow City Court of June 22, 2020 on case No. 33-13493/2020.

⁹ Appeal decision of the Moscow City Court of May 22, 2023 on case No. 33-19570/2023; Appellate ruling of the Moscow City Court of October 28, 2022 on case No. 33-38286/2022.

¹⁰ Appeal decision of the Moscow City Court of September 30, 2020 on case No. 33-32577/2020.

¹¹ Appeal decision of the Saratov Regional Court of May 29, 2019 on case No. 33-3931/2019.

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¹² Appeal decision of the Supreme Court of the Komi Republic of November 9, 2020 on case No. 33-5476/2020.

¹³ Resolution of the Plenum of the Supreme Court of the Russian Federation No. 23 of December 19, 2003 (ed. June 23, 2015) "On the court decision".

circumstances"¹⁴.

In practice, the application of this provision causes another difference in the approaches of the courts. Most decisions are cancelled without any analysis of the correctness of the decision made. The court simply notes that "by virtue of paragraph 3 of part 2 of article 330 of the Civil Procedure Code of the Russian Federation, an incorrect interpretation of the law is an incorrect application of the norms of substantive law, and this serves as grounds for the cancellation of the court decision made in the case"¹⁵. At the same time, there are also decisions where, in a similar situation, an analysis of the correctness of the decision made is carried out, which is formally an approach consistent with the Civil Procedure Code of the Russian Federation¹⁶.

In concluding the consideration of the group of civil disputes, it is necessary to briefly note the point related to the fact that the courts in isolated cases indicate how methodologically it was necessary to approach the current. Sometimes one can find an indication of the need to use a literal interpretation¹⁷.

3. Misinterpretation of the law in arbitration proceedings

Article 270 of the Arbitration Procedure Code of the Russian Federation contains provisions that are absolutely identical to those of the Civil Procedure Code of the Russian Federation, establishing the grounds for changing or canceling the decision of the arbitration court of first instance. As a consequence of this, the majority of the features of law enforcement specified in the previous section of this article are present in practice.

Higher courts most often reveal incorrect application of substantive law and incorrect implementation of procedural law [17, p. 147]. In decisions of arbitration courts, the court also often gives its own assessment of the circumstances of the case and then concludes that the previous decision is based on an incorrect interpretation of the rules of law, even without indicating in relation to which particular rule the error was made¹⁸. Among such cases, there are common cases where the court did not take into account important norms when making a decision. However, this is indicated as a basis provided not by paragraph 1, but by paragraph 3 of part 2 of article 270 of the Arbitration Procedure Code of the Russian Federation¹⁹. By the way, it is worth mentioning here that the courts sometimes differ in the names of the structural elements of Article 270 of the Arbitration Procedure Code of the Russian Federation. In the overwhelming majority of cases, this is the division of the article into parts and points, but there are variants of respectively highlighting points and sub-points²⁰. Such a small detail can lead to a misunderstanding of what provision the court was referring to.

It can also be noted that courts sometimes point to "incorrect interpretation and application of the norms of substantive and procedural law to the disputed legal relations of the parties"²¹. Although formally incorrect interpretation of norms is already a special case of incorrect application of norms.

One of the reasons for the misinterpretation in the analyzed cases was the need to identify the meaning of the evaluative concept. In this case, the court may make a mistake both in interpreting the provisions of the law and in the acts that explain it. For example, paragraph 2 of the Resolution of the Plenum of the Supreme Court of the Russian

¹⁴ Judgment of the Constitutional Court of the Russian Federation No. 72-O/2015 of January 29, 2015.

¹⁵ Appeal decision of the Supreme Court of the Kabardino-Balkarian Republic of August 5, 2021 on case No. 33-1554/2021; Appeal decision of the Supreme Court of the Republic of Tatarstan of September 14, 2020 on case No. 33-13187/2020.

¹⁶ Appeal decision of the Supreme Court of the Republic of Bashkortostan of April 9, 2019 on case No. 33-7255/2019.

¹⁷ Appeal decision of the Moscow City Court of April 4, 2021 on case No. 33-11652/2021.

¹⁸ Decision of the 13th Arbitration Court of Appeal of November 8, 2017 No. 13AP-22751/2017 on case No. A56-35347/2017; Decision of the 13th Arbitration Court of Appeal of May 5, 2011 on case No. A56-16999/2009.

¹⁹ Decision of the 13th Arbitration Court of Appeal of June 10, 2016 No. 13АП-8062/2016 on case No. A21-6740/2015.

²⁰ Appeal decision of the Moscow City Court of July 24, 2020 on case No. 2-6311/2019, No. 33-25837/2020.

²¹ Appeal decision of the Moscow City Court of July 22, 2020 on case No. 33-1069/2020

Federation dated 25.12.2018 No. 48 provides an explanation regarding the application of paragraph 2 of Article 213.25 of the Federal Law dated 26.10.2002 No. 127-FZ "On Insolvency (Bankruptcy)". This ruling indicates that in "exceptional cases" additional property may be seized from the debtor's bankruptcy estate. The higher court did not agree with what the lower court considered an exceptional case²².

It is rare to find a court explaining how to approach the interpretation of a disputed provision. In one case, the court noted that "the lower court incorrectly applied the rules of substantive law, which resulted in an incorrect interpretation of the provisions... The legal position of the appellate court is based on the grammatical, logical and formal-legal interpretation of the provisions of this article"²³.

4. Misinterpretation of the law in administrative proceedings

Despite the fact that Article 310 of the Code of Administrative Procedure of the Russian Federation is very similar to similar provisions of the Civil Procedure Code of the Russian Federation and the Arbitration Procedure Code of the Russian Federation, it also has external differences. Thus, the text of the law directly stipulates that the basis for the cancellation or change of a court decision in the appellate procedure is an incorrect interpretation of the law, including without taking into account the legal position contained in the decisions of the Constitutional Court of the Russian Federation, the Plenum of the Supreme Court of the Russian Federation and the Presidium of the Supreme Court of the Russian Federation [18, p. 12].

The explanations that were given in relation to similar norms of the Civil Procedure Code of the Russian Federation or the Arbitration Procedure Code of the Russian Federation are also applicable in this case, but the legislator considered it necessary to include this clause in the

text of the law. As a result, we see a difference in the legislator's approach to solving the same problems. It is also interesting here that within the framework of such an addition to the norm, the definitions of the Constitutional Court of the Russian Federation, which may also contain a legal position, were "lost". Assume that in this case it is necessary to adhere to the same logic as the Constitutional Court of the Russian Federation, and recognize this as a gap that can be filled.

The textual similarity of the norm again serves as the basis for the emergence of situations similar to those reflected in the article earlier. For example, in the same way, the courts incorrectly declare "incorrect application and interpretation of the norms of substantive law"²⁴ and assess the legality of the decision²⁵.

In cases of this group of disputes, a more detailed approach is taken to the description of the error in interpretation, the description of its causes and methods of elimination. Thus, the main reasons for errors in interpretation are named as ignoring the need for a systematic interpretation of the norm²⁶ and selective²⁷ or random²⁸ interpretation of legal norms. Selective interpretation of legal norms is often associated with the fact that the factual circumstances of the case were not properly taken into account²⁹. In this case, the courts often make a mistake - if the circumstances of the case were not taken into account, which resulted in the non-application of the necessary rules, which were not interpreted, then we should not be talking about an incorrect interpretation of the law, but about the non-application of the applicable law or about an

²² Decision of the 13th Arbitration Court of Appeal of July 5, 2023 No. 13AP-14795/2023 on case No. A21-8023-4/2021.

²³ Decision of the 13th Arbitration Court of Appeal of June 30, 2021 on case No. A56-103383/2017.

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²⁴ Appeal decision of the Moscow City Court of August 31, 2022 on case No. 33a-5185/2022; Appeal decision of the Moscow City Court of March 1, 2022 on case No. 33a-949/2022.

²⁵ Appeal decision of the Penza Regional Court of May 20, 2021 No. 33a-1468/2021 on case No. 2a-469/2021.

²⁶ Appeal decision of the Moscow City Court of July 3, 2023 on case No. 33a-3809/2023.

²⁷ Appeal decision of the Moscow City Court of August 31, 2022 on case No. 33a-5175/2022; Appeal decision of the Moscow City Court of August 19, 2022 on case No. 33a-4812/2022.

²⁸ Appeal decision of the Moscow City Court of November 23, 2021 on case No. 33a-5589/2021.

²⁹ Appeal decision of the Moscow City Court of March 11, 2022 on case No. 33a-1100/2022

incorrect determination of the circumstances of the case.

The cause of erroneous interpretation is sometimes the broad interpretation of provisions for which this was not possible³⁰. An interpretation that is discriminatory is also unacceptable³¹. The objectives of the implementation of the interpreted provision are also taken into account³².

It is not possible to identify recommendations on the use of interpretation methods from court decisions. Most often, courts resort to the use of literal³³ or systemic interpretation³⁴. At the same time, there are cases when a higher court points to the cause of the error hidden in the use of only a literal interpretation³⁵ or, conversely, in the failure to use a literal interpretation³⁶.

5. Misinterpretation of the law in criminal proceedings

In accordance with Art. 389.15. of the Criminal Procedure Code of the Russian Federation, the following are indicated as grounds for cancellation or change of a court decision in the appellate procedure, among others: a significant violation of the criminal procedure law and incorrect application of the criminal law. At the same time, Art. 389.18. indicates that incorrect application of the criminal law is:

1) violation of the requirements of the General Part of the Criminal Code of the Russian Federation;

2) application of the wrong article or the wrong paragraph and (or) part of the article of the

Special Part of the Criminal Code of the Russian Federation that were subject to application;

3) imposition of a punishment more severe than that provided for by the corresponding article of the Special Part of the Criminal Code of the Russian Federation.

Formally, incorrect interpretation of the norms of substantive or procedural law is not noted as a basis for cancellation of the decision. It is possible to establish by interpretation that the violation of the requirements of the General Part of the Criminal Code of the Russian Federation includes incorrect interpretation of the norms, which led to this violation. However, it is worth noting the significant difference in wording from the already considered provisions of other procedural acts.

It is obvious that the issue of interpretation of norms has not become less relevant in criminal proceedings in comparison with others. The application of law without its interpretation is simply impossible. In criminal proceedings, the possible consequences of incorrect interpretation should rather be considered the most dangerous.

During the consideration of the case, the judge evaluates the evidence according to his inner conviction, based on the totality of the evidence available in the criminal case, guided by the law and conscience.

An indication that the judge committed a violation, expressed in the incorrect application of the criminal law (application of the wrong article or the wrong paragraph and (or) part of the article of the Special Part of the Criminal Code of the Russian Federation that should have been applied) is encountered quite often³⁷. It is worth making a reservation that there is no indication here of non-application of the norm that should be applied. Such an error is usually considered in the context of either application of the wrong norm or violation of the requirements of the Criminal Code of the Russian Federation. Thus, there were cases when the court could fail to apply³⁸ or take into account

³⁰ Appeal decision of the Moscow City Court of April 29, 2022 on case No. 33a-2178/2022.

³¹ Appeal decision of the Tver Regional Court of December 1, 2021 No. 33a-4576/2021.

³² Appeal decision of the Kamchatka Regional Court of November 10, 2022 on case No. 33a-2078/2022.

³³ Appeal decision of the Sevastopol City Court of July 19, 2022 No. 33a-2121/2022 on case No. 2a-1266/2022.

³⁴ Appeal decision of the Stavropol Regional Court of September 15, 2022 No. 33a-1584/2022 on case No. 2a-324/2022.

³⁵ Appeal decision of the Moscow City Court of February 1, 2022 on case No. 33a-420/2022.

³⁶ Appeal decision of the Supreme Court of the Republic of Mari El of July 20, 2021 No. 33a-1386/2021 on case No. 2a-554/2021.

³⁷ Appeal decision of the Moscow City Court of May 11, 2023 on case No. 10-7378/2023.

³⁸ Appeal decision of the Nizhny Novgorod Regional Court of November 22, 2021 No. 22-6794/2021..

the provisions of the criminal law³⁹. It is also possible to find cases where the court not only applies the wrong article instead of the correct one, but applies a norm that should not have been applied at all and does not require any replacement⁴⁰. Often such cases were related to the courts' assessment of the presence or absence of mitigating circumstances in the case⁴¹. Another common group of disputes were cases of sentencing that was not based on the requirements of the law⁴². Incorrect sentencing is a material violation, which is grounds for changing the sentence⁴³. There are also cases of errors that are not a significant violation. For example, the judge incorrectly determined the age of a participant in the process⁴⁴.

In the context of criminal cases, courts very rarely pay attention to the assessment of the correctness or incorrectness of the interpretation given by the lower court. The process of interpretation is sometimes called "establishing the meaning"⁴⁵.

In criminal proceedings, the category of incorrect interpretation is enriched with features specific to this group of disputes. For example, when assessing the correctness of sentencing, the court may make a decision in compliance with the requirements of the Criminal Code of the Russian Federation, but this decision may also be checked to see whether the assigned punishment is a consequence of excessive leniency or a consequence of excessive severity⁴⁶. The reason for the identified practice may be due to the specifics of the Criminal Procedure Code of the Russian

Federation, in the text of which there are norms that are not subject to literal interpretation [19, p. 53] and those containing evaluative terms [20, pp. 36, 39].

In most of the decisions analyzed, the courts only recorded that the lower court had committed a "material violation"⁴⁷ or that the violation committed "affected the outcome of the case"⁴⁸.

It is interesting that Article 189.17 "Material Violations of the Criminal Procedure Law" contains a list of violations that are always recognized as material, and not a single case of application of this list could be found. Another violation that "influenced or could influence the issuance of a lawful and reasonable court decision" can also be recognized as material. In its structure, this provision is very similar to the above-mentioned reference in the Civil Procedure Code of the Russian Federation to such a consequence of a violation that "led or could lead to the adoption of an incorrect decision". In practice in civil cases, it was also not possible to find cases where the court would take into account not the fact of an illegal or unreasonable decision, but only such a possibility. Cases where courts have explicitly indicated that a lower court has misinterpreted the law are quite rare⁴⁹. In these cases, the most common cause of error is an expansive interpretation of norms that are not subject to such interpretation⁵⁰.

In assessing the correctness of the interpretation, courts sometimes turn to indicating whether the literal interpretation was given correctly or incorrectly⁵¹. However, more often the courts used another criterion – whether the interpretation corresponded to the "exact meaning" of the law. At the same time, the mechanism for

³⁹ Appeal decision of the Lipetsk Regional Court of November 25, 2021 on case No. 22-1292/2021.

⁴⁰ Appeal ruling of the Penza Regional Court of November 13, 2021 on case No. 22-1140/2021.

⁴¹ Appeal ruling of the Nizhny Novgorod Regional Court of November 1, 2021 on case No. 22-6433/2021

⁴² Appeal decision of the Moscow City Court of July 11, 2023 on case No. 10-13189/2023.

⁴³ Appeal ruling of the Rostov Regional Court of November 23, 2021 on case No. 22-6104/2021.

⁴⁴ Appeal ruling of the Nizhny Novgorod Regional Court of November 12, 2021 on case No. 22-6630/2021

⁴⁵ Appeal decision of the Nizhny Novgorod Regional Court of November 2, 2021 on case No. 22-6432/2021.

⁴⁶ Appeal ruling of the Moscow City Court of April 26, 2023 on case No. 10-7331/2023

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⁴⁷ Appeal decision of the Moscow City Court of November 28, 2022 on case No. 10-23679/2022.

⁴⁸ Appeal ruling of the Moscow City Court of October 10, 2022 on case No. 10-20473/2022.

⁴⁹ Appeal ruling of the Moscow City Court of June 22, 2023 on case No. 10-11448/2023.

⁵⁰ Appeal ruling of the Moscow City Court of April 20, 2021 No. 10-8359/2021; Appeal decision of the St. Petersburg City Court of March 29, 2021 No. 22-1706/2021 on case No. 1-734/2020.

⁵¹ Appeal decision of the Supreme Court of the Republic of Tatarstan of December 7, 2021 on case No. 22-10037/2021.

identifying this exact meaning was not disclosed in the decisions.

6. Conclusions

As a result of the conducted study of judicial practice, a number of conclusions can be drawn:

1. Courts do not always point to an incorrectly interpreted norm when assessing the interpretation given to it by a lower court. Most often, courts generally conclude that the court made a decision based on an incorrect interpretation. In such a case, there is no clear understanding of which norm the court failed to correctly interpret and what the error in interpretation consisted of.

2. Judges are equally faced with the need to interpret legal norms when considering civil or arbitration disputes, as well as criminal or administrative ones. Accordingly, they make the same type of mistakes. However, the assessment of these errors is given on the basis of differing norms of procedural legislation. There are no objective grounds for the existence of these differences. It is necessary to consider the possibility of unifying the relevant provisions of the Civil Procedure Code of the Russian Federation, the Arbitration Procedure Code of the Russian Federation, the Code of Administrative Procedure of the Russian Federation and the Criminal Procedure Code of the Russian Federation. This problem is clearly demonstrated by the example of both the aforementioned judicial and scientific disputes [21] that in Art. 330 of the Civil Procedure Code of the Russian Federation and Art. 270 of the Arbitration Procedure Code of the Russian Federation the content that is included in the words "incorrect interpretation of the law" is not disclosed, while in Art. 310 of the Code of Administrative Procedure of the Russian Federation it is disclosed. An analysis of practice has clearly shown that the provisions of these codes under consideration should be interpreted absolutely identically despite the differences in their wording in the law.

3. Improvement of procedural legislation should also be aimed at reducing the "competition" between such concepts as "legal

decision" and "correct decision", and specifying the category of "significant violations".

4. Most often, courts use literal and systemic interpretation in practice. In cases where the result of one of them contradicts the other, the courts do not explain the reason for referring to one or another interpretation. At the same time, in the cases examined, the courts gave priority to both systemic and literal interpretation. Often, the courts did not indicate at all how they interpreted the disputed provision, limiting themselves to indicating "identifying the meaning of the norm."

5. Courts do not always correctly assess the nature of the established error. Most often, courts mistakenly associate cases of application of those rules to disputed legal relations that should not have been applied at all with incorrect interpretation of the rule. They probably adhere to the logic according to which the court incorrectly interpreted the rule, considered it appropriate and applied it in the case. However, the provisions of procedural laws on incorrect interpretation should be understood in relation to rules that should have been applied in the case and were applied, but in accordance with their incorrect interpretation.

1. 6. Courts do not consider such reasons for errors as the complexity of the language of the law, defects in the norm, lack of qualifications, ambiguity of wording, etc. One could even say that the courts do not comment on or evaluate the reason for the error, recording only the fact of the error.

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