



RULING OF THE PLENARY SESSION OF THE SUPREME COURT OF THE RUSSIAN FEDERATION

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On Court Sentence

A sentence is a decision of a court delivered in the name of the Russian Federation in a criminal case, regarding the innocence or guilt of the criminal defendant and imposition of punishment or relief from punishment.

The constitutional provision that any person accused of committing a crime shall be considered as innocent until that person's guilt is proved in the manner stipulated in federal law and is established in an effective sentence of a court gives the court sentence the significance of the primary act of justice and obliges the courts to strictly observe the legislative requirements to the sentence.

In order to ensure the uniform application of provisions of criminal procedural law regulating the adoption of acquitting or convicting sentences by courts of first instance, to improve the quality of court sentences, as well as in connection with different issues encountered by the courts, the Plenary Session of the Supreme Court of the Russian Federation, guided by Article 126 of the Constitution of the Russian Federation, Articles 2 and 5 of Federal Constitutional Law of 5 February, 2014 No. 3 "On the Supreme Court of the Russian Federation" hereby rules to provide the following explanations:

General Provisions

1. The attention of the courts is drawn to the fact that by virtue of provisions of Article 297 of the Criminal Procedure Code of the Russian Federation (hereinafter

referred to as “the CrPC RF”), a court sentence should be lawful, substantiated and fair; it shall be deemed as such if it corresponds to the requirements of criminal procedure legislation regarding its contents, procedural form and the manner of its adoption, and if it is based on correct application of criminal law. Taking into account the provisions of Article 14 of the International Covenant on Civil and Political Rights of 16 December, 1966 (hereinafter referred to as “the Covenant on Civil and Political Rights”) and Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November, 1950 (hereinafter referred to as “the Convention for the Protection of Human Rights and Fundamental Freedoms”), a sentence may only be deemed lawful if it is adopted following a fair trial.

A court sentence must contain an introductory part, a descriptive part and statement of reasons, and the operative part, in particular when only the introductory and the operative parts of the sentence are announced in accordance with Part 7 of Article 241 of the CrPC RF.

General Requirements to the Introductory Part of the Sentence

2. The courts should take into account that Article 304 of the CrPC RF stipulates uniform requirements to the introductory part of both convicting and acquitting sentences.

It is clarified that other information about the personality of the criminal defendant, which has significance for the case and should be mentioned in the introductory part of the sentence according to Item 4 of Article 304 of the CrPC RF, may include information that (along with other data) may be taken into account by the court in the appointment of the type and amount of punishment for the criminal defendant, the type of correctional facility, presence of a repeated crime, resolution of other issues pertaining to sentencing (information about a certain disability of the criminal defendant, about any state awards, honorary titles, military and other ranks of the criminal defendant, etc.).

3. As regards persons having previous convictions, the introductory part of the sentence shall contain information about the date of conviction, including the name of the court, the criminal law norm and the punishment measure, with reference to any subsequent changes (if such took place), about the probation period (in case of probation conviction), about the date of termination (execution) of punishment or the date and grounds for relief from punishment, the amount of the unserved part of punishment. If the person has previous convictions for crimes committed in minor age, this must be indicated in the sentence.

If at the moment when the criminal defendant committed a crime with which he is charged by the court their previous convictions have been removed or

extinguished, the court, based on provisions of Part 6 of Article 86 of the Criminal Code of the Russian Federation (hereinafter referred to as “the CC RF”), has no right to refer to those convictions in the introductory part of the sentence. In such a case, the court should indicate that the person has no previous convictions.

***General Requirements to the Descriptive Part and Statement of Reasons
of an Acquitting or Convicting Sentence***

4. By virtue of Article 240 of the CrPC RF, the conclusions of the court stated in the descriptive part and statement of reasons of the sentence pronounced in the general manner of court proceedings should be based on such evidence that was directly examined during the court session. If a reference is made in the sentence to the testimony of the criminal defendant, injured person and of witnesses, given by them during the preliminary investigation or at another court session, this is only allowed if such testimony is announced in accordance with the requirements stipulated in Articles 276, 281 of the CrPC RF.

According to Sub-item “e” of Item 3 of Article 14 of the Covenant on Civil and Political Rights and Sub-item “d” of Item 3 of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, every person accused of committing a criminal offence shall have the right to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him. Taking into account these provisions and by virtue of Part 21 of Article 281 of the CrPC RF, the court shall have no right, without the consent of the parties, to announce testimony of the injured person or of a witness who fails to appear before the court or to reproduce in the court session the materials of video recording or filming of investigatory actions made with their participation, or to refer to this evidence in the sentence, if the criminal defendant had no chance to challenge the testimony of the aforementioned persons during the previous stages of proceedings in the case by means stipulated in law (for instance, to pose questions to the injured person or the witness during confrontations with his participation, with whose testimony the criminal defendant disagrees and to state his objections in regard of that testimony).

The courts should take into account that the information contained in the announced testimony, as well as other evidence, may be put into the basis of the court’s conclusions only after their verification and assessment in accordance with the rules stipulated in Articles 87, 88 of the CrPC RF. Herewith, the court shall have no right to refer to the evidence contained in the criminal case in substantiation of its conclusions, if such evidence was not examined by the court and was not mentioned in the minutes of the court session.

5. If the injured person, the witness, who is a spouse or a close relative of the criminal defendant, as well as if the criminal defendant himself refuses to testify, the court shall have the right to announce the testimony previously given by such persons, to reproduce materials of audio- and (or) video recordings, filming, attached to the minutes of interrogation, and to refer to this testimony and materials in the sentence, only if in the course of preliminary investigation the aforementioned persons have been informed of the corresponding provisions of Item 3 of Part 2 of Article 42, Item 2 of Part 4 of Article 46, Item 3 of Part 4 of Article 47, Item 1 of Part 4 of Article 56 of the CrPC RF, according to which nobody is obliged to testify against himself, their spouses and close relatives; moreover, if they were warned that their testimony can be used as evidence in the criminal case, including in case of their subsequent renunciation of this testimony, and that the testimony of the criminal defendant can be used as evidence if it was given by him in the presence of a defense lawyer (Item 1 of Part 2 of Article 75 of the CrPC RF).

6. Based on provisions of Items 3, 4 of Part 1 of Article 305, Item 2 of Article 307 of the CrPC RF, the descriptive part and statement of reasons of a sentence should contain the assessment of all pieces of evidence examined in the court session, both in favor and against the criminal defendant. Herewith, the court should describe the pieces of evidence on which it bases its conclusions regarding the issues resolved in the course of sentencing, and should mention the reasons, for which certain pieces of evidence are dismissed by the court.

If certain pieces of evidence examined by the court are found irrelevant for the case, the court should indicate this in the sentence.

By virtue of requirements of Article 75 of the CrPC RF regarding the inadmissibility of evidence obtained in violation of law, the court, having established such a violation, must provide reasons for its decision to recognize a piece of evidence as inadmissible and to exclude it from the body of evidence; the court should indicate, what exactly constituted the violation of law.

7. If the criminal case involves several criminal defendants or if the criminal defendant is accused of several crimes, the sentence should contain the analysis and assessment of evidence concerning each criminal defendant and every charge.

At the same time, when several criminal defendants are accused of the same crime (crimes), the sentence may describe the facts of the committed crime (crimes) and the evidence confirming the court's conclusions without their repetition in regard of each of the criminal defendants.

If any pieces of evidence in a criminal case concern several crimes at once (for instance, testimony of a witness regarding the facts of several thefts that he witnessed; duty regulations of the person accused of committing a number of

official malfeasances, etc.), it is enough to state their contents in the sentence in the part substantiating the conclusion regarding the guilt or innocence in commission of one of the crimes, simply referring to them thereafter.

8. Taking into account the provisions of Article 74 and Part 1.2 of Article 144 of the CrPC RF as to which information may be accepted as evidence in a criminal case, the court, in the descriptive part and statement of reasons of the sentence, has no right to confine to simply listing the evidence or referring to the minutes of procedural actions and other documents in which they are mentioned, but must describe their main contents. The court should avoid including information stated in the aforementioned minutes and documents in the part, in which it does not pertain to the court's conclusions and does not require the court's assessment. It is not allowed to transfer the testimony of persons interrogated with regard to the criminal case and the contents of other evidence from the indictment conclusion or the indictment act without taking into account the results of the court proceedings.

9. The court should take into account that the use of results of investigative activities as evidence in a criminal case is only possible if such activities were carried out to solve the tasks specified in Article 2 of Federal Law of 12 August 1995 No. 144 "On Investigative Activities", provided that there were corresponding grounds, the conditions stipulated in Articles 7 and 8 of the aforementioned federal law were complied with, and the information received was presented to the bodies of preliminary investigation and to the court in the stipulated manner and was fixed through corresponding investigative or judicial actions. For instance, audio- and video recordings, withdrawn objects and documents must be examined and attached to the case; discovered substances must be subject to expert study; persons that participated in investigative activities must be interrogated as witnesses if necessary.

If any piece of evidence obtained as a result of investigative activities is deemed inadmissible, it cannot be compensated for by interrogation of the officers of bodies that carried out the investigative activities.

10. If the criminal defendant applied with a written or oral statement of acknowledgment of guilt during a check of a notification about a crime conducted in the manner stipulated in Article 144 of the CrPC RF, and the prosecution refers to the information contained in that statement as to a piece of evidence confirming the guilt of the criminal defendant, the court should verify, whether when that statement was accepted from the criminal defendant with regard to the requirements of Part 1.1 of Article 144 of the CrPC RF, his right not to testify against himself, to use the services of a lawyer, to challenge actions (failure to act) and decisions of the bodies of preliminary investigation were explained to him in the manner stipulated in Chapter 16 of the CrPC RF; whether the possibility of exercise of these rights was provided.

11. The sentence should indicate the attitude of the criminal defendant to the accusations against him; the arguments presented by him in his defense should be assessed.

If the criminal defendant changes testimony, the court is obliged to ascertain the reasons for which the criminal defendant renounced the testimony, earlier given in the course of preliminary investigation or court proceedings, to thoroughly verify all the testimony of the criminal defendant and to assess its reliability by comparing it with other evidence examined in the course of court proceedings.

If the criminal defendant does not confirm the testimony given by him during pre-trial proceedings in the criminal case in the absence of a defense lawyer, in particular if he rejects the services of the lawyer by virtue of Item 1 of Part 2 of Article 75 of the CrPC RF, this entails recognition of the testimony as inadmissible evidence, irrespective of reasons for which the criminal defendant does not confirm it.

12. If the criminal defendant explains the change or renunciation of testimony given in the presence of a defense lawyer by the fact that it was given under compulsion due to application of unlawful methods of investigation to him, the court must take sufficient and effective measures to verify this statement of the criminal defendant.

Herewith, the court should take into account that with regard to the provisions of Part 4 of Article 235 of the CrPC RF, the burden of refutation of arguments of defense, stating that the testimony of the criminal defendant was received in violation of requirements of law, lies on the prosecutor (state accuser), upon whose motion the court may perform the necessary judicial actions.

13. If there are grounds for verification of the statement of the criminal defendant in the manner stipulated in Article 144 of the CrPC RF, the court shall forward it to the head of the corresponding body of preliminary investigation. Such verification does not relieve the court from the obligation to assess the materials presented after the verification is conducted, and to state its conclusions in the sentence.

14. If in the course of the court proceedings the statements of the criminal defendant that his testimony was given under the influence of inadmissible methods of investigation are not refuted, such testimony cannot be used as evidence.

Refusal of the criminal defendant to give evidence cannot serve as his acknowledgement of guilt and cannot be considered as a fact that negatively characterizes the personality of the criminal defendant.

Features of the Descriptive Part and Statement of Reasons and of the Operative Part of an Acquitting Sentence

15. The courts should take into account that Part 2 of Article 302 of the CrPC RF sets an exhaustive list of grounds for pronouncing an acquitting sentence: no event of crime is established or the actions of the criminal defendant contain no elements of crime; the criminal defendant was not involved in the commission of the crime; the jury has pronounced the verdict of acquittal in regard of the criminal defendant. The acquittal on any of these grounds means that the criminal defendant is recognized as innocent and shall entail his rehabilitation.

When an acquitting sentence is pronounced, its descriptive part and statement of reasons shall indicate the nature of charges brought against the criminal defendant; the facts of the case established by the court are stated; the grounds of acquittal of the criminal defendant and the evidence substantiating them are indicated (for instance, information indicating that there was no event of crime event or that the involvement of the criminal defendant in the commission of the crime is not established). Besides, the descriptive part and statement of reasons of the acquitting sentence shall contain the reasons for which the court dismissed the evidence presented by the prosecution, and, if there is a civil claim – the reasons for the decision adopted in that regard. The use of wording that may raise doubts as to the innocence of the criminal defendant is not allowed in the acquitting sentence (Part 2 of Article 305 of the CrPC RF).

If the acquitting sentence is pronounced in regard of a person accused of committing several crimes, in the descriptive part and statement of reasons of the sentence the court should state the reasons for acquittal and evidence confirming those reasons in regard of every charge contained in the indictment.

The attention of courts is drawn to the fact that by virtue of Part 7 of Article 246 of the CrPC RF, a full or partial renunciation of charges by the state accuser shall entail the adoption of a ruling (decree) on full or partial termination of the criminal case or of criminal prosecution, but not of an acquitting sentence.

16. The operative part of the acquitting sentence should specify, of what charges stipulated in law the criminal defendant is acquitted. If the criminal defendant was accused of committing several crimes, the grounds for acquittal should be stated in regard of each crime.

If it is necessary to adopt a decision on issues referred to in Items 3 and 4 of Part 1, Part 2 of Article 305 of the CrPC RF, the court, in this part of the acquitting sentence, indicates that the pre-trial restriction measures are cancelled, that measures aimed at ensuring the confiscation of property and indemnification are cancelled and that the civil claim is not satisfied or is left without consideration.

In addition, the operative part of the acquitting sentence should provide for the right of the acquitted person for rehabilitation. A notification explaining the manner of compensation of harm caused by criminal prosecution is forwarded to the rehabilitated person simultaneously with the sentence (Part 1 of Article 134 of the CrPC RF).

Features of the Descriptive Part and Statement of Reasons of a Convicting Sentence

17. The attention of courts is drawn to the fact that, depending on particular features of the manner of court proceedings, the norms of criminal procedure law stipulate various requirements to the contents of the descriptive part and statement of reasons of convicting sentences pronounced after consideration of cases in the general manner (Article 307 of the CrPC RF), in the special manner (Part 8 of Article 316, Part 6 of Article 317.7 of the CrPC RF) as well with participation of a jury (Item 3 of Article 351 of the CrPC RF).

By virtue of the principle of presumption of innocence, a convicting sentence cannot be based on assumptions, and all insurmountable doubts in the validity of accusations, in particular of its separate components (forms of fault, degree and nature of participation in the commission of the crime, circumstances mitigating and aggravating the punishment, etc.) shall be interpreted in favour of the criminal defendant. If the criminal defendant admits his guilt, but that is not confirmed by the body of evidence gathered in the case, this cannot constitute the basis for a convicting sentence.

If the case is considered in a special manner, which does not provide for the examination of evidence pertaining to the charges in the court session, the judge shall pronounce the sentence only after concluding that the charges with which the criminal defendant agreed are substantiated and confirmed by evidence gathered in the case (Part 7 of Article 316 of the CrPC RF). If there are any doubts as to the substantiation of the charges, the judge makes a decision to terminate the special manner of proceedings and to consider the criminal case in the general manner.

18. The courts should take into account that the descriptive part and statement of reasons of a convicting sentence pronounced in the general manner of proceedings should contain a description of the criminal action, how it was ascertained by the court, with indication of the place, time, way of its commission, form of fault, motives, purposes and consequences of the crime. If the crime was committed by a group of persons or a group of persons in collusion or by an organized group, such a description of the criminal action must indicate, what particular criminal acts were committed by each of the accomplices.

If the court established facts of the crime which were not included in the charges brought against the criminal defendant, but are recognized by the court as mitigating the punishment (for instance, commission of the crime due to concurrence of adverse life circumstances or by motive of compassion, or as a result of physical or mental compulsion; unlawful or immoral nature of the injured person's behavior which became the cause of the crime), these circumstances must also be specified in the description of the act of the criminal defendant.

19. All conclusions regarding the qualification of a crime under any Article of a criminal law, its part or item must be substantiated by the court. When declaring the criminal defendant guilty of committing a crime on the basis of elements subject to evaluation (for instance, grave consequences, significant harm, presence of material or other personal interest), the court should not confine to the mere reference to the corresponding element, but is obliged to describe (in the descriptive part and statement of reasons of the sentence) the facts that serve as grounds for making the conclusion regarding the presence of the specified element in the committed act.

If the criminal defendant is accused of committing several crimes, the court should substantiate the qualification of each crime.

20. Any change of the charges in court should be substantiated in the descriptive part and statement of reasons of the sentence.

The court may change the charges and qualify the actions (failure to act) of the criminal defendant under another Article of criminal law, under which no charges were brought against the criminal defendant, only provided that such actions (failure to act) of the criminal defendant, qualified under such a new article, were incriminated to the criminal defendant, contain no elements of a graver crime and do not significantly differ from the facts of charges supported by the state (private) accuser, and that the change of charges shall not worsen the position of the criminal defendant and does not violate his right to protection.

The courts shall proceed from the premise that the charges are considered graver, when:

- another norm of criminal law (article, its part or item) is applied, and its sanction stipulates a more severe punishment;
- the charges include additional facts (episodes), not incriminated to the accused and entailing a change of qualification of the crime for a law stipulating a more severe punishment or increasing the actual volume of charges, although without changing the legal assessment of committed acts.

Any other change of formulation of charges (incrimination of other acts instead of the ones stated earlier or of a crime different from the indicted one by the object of

offence, form of fault, etc.) shall be deemed as significantly factually different, if the right of the criminal defendant to protection is breached in this way.

21. If the criminal defendant is accused of committing several crimes, and the charges in regard of some of those crimes are not confirmed, the court shall state in the descriptive part and statement of reasons of the sentence the reasons for declaring the criminal defendant guilty of certain crimes and for acquitting the criminal defendant of other crimes, and in the operative part shall formulate the corresponding decisions to pronounce the criminal defendant guilty of the one crimes and acquitted in regard of the other crimes.

Where the criminal defendant is accused of committing a continued crime consisting of several episodes, and the charges regarding some of them are not confirmed, or if one of the qualifying elements of the crime is incriminated incorrectly, but this does not entail the change of qualification of the committed act for another Article or part of an Article contained in the Special Part of the CC RF, it will be sufficient for the court to indicate (stating the relevant reasons) in the descriptive part and statement of reasons of the sentence that the charges are found unsubstantiated in this part, and that the unconfirmed episodes or qualifying elements are excluded from the charges.

If the criminal defendant committed one crime which was erroneously qualified by several articles of criminal law, the court shall indicate (stating the relevant reasons) in the descriptive part and statement of reasons of the sentence that the Article of criminal law which was excessively incriminated to the criminal defendant is excluded.

22. After concluding that it necessary to change the accusation previously brought against the criminal defendant to the articles of criminal law stipulating liability for crimes in the categories of private (Part 2 of Article 20 of the CrPC RF) and private-public accusation (Part 3 of Article 20 of the CrPC RF), initiated only upon application of the injured person or its legal representative, the court, if there is such an application in the case, as well as when the case was initiated by the head of an investigative body, an investigator, an inquiry body or an inquiry officer with consent of a prosecutor on grounds stipulated in Part 4 of Article 20 of the CrPC RF, shall qualify the actions of the criminal defendant under the corresponding articles of the criminal law. If the court finds elements of crime in the actions of the criminal defendant, assigned by the criminal law to the category of private accusation, and there is an application for making the criminal defendant criminally liable for the given crime in the materials of the criminal case, but the injured person or its legal representative declares that reconciliation was reached with the criminal defendant, the case shall be subject to termination on the basis of Part 2 of Article 20 of the CrPC RF.

If there is no application for making the criminal defendant criminally liable for commission of a crime referred to in Part 2 or 3 of Article 20 of the CrPC RF, except where Part 4 of that Article applies, the court shall explain to the injured person or its legal representative the right to apply to court with such an application. An oral application of these persons shall be recorded in the minutes of the court session. If there is no application from them, the court shall adopt a ruling (decree) to terminate the criminal case (criminal prosecution) on the basis of Item 5 of Part 1 of Article 24 of the CrPC RF.

23. If the criminal defendant is accused of committing several crimes, and during the trial the court concludes that it is necessary to terminate criminal prosecution in regard of some of them, the reasoned decision about that shall be stated not in the sentence, but in a ruling (decree) of the court, adopted simultaneously with the sentence. Herewith, in the descriptive part and statement of reasons of the sentence the court shall specify that criminal prosecution of the criminal defendant pertaining to the commission of other crimes is terminated by a separate ruling (decree).

24. Taking into account the fact that the trial only takes place in regard of the criminal defendant, the use of wording in the sentence, indicating the guilt of other persons in the commission of the crime is not allowed.

If the case regarding several accused persons is allocated into separate proceedings or was terminated due to death, it shall be specified in the sentence that the crime was committed by the criminal defendant together with other persons, without mentioning their family names, but with indication of the procedural decision in their regard (for instance, “a person, the proceedings in whose regard were allocated into separate proceedings”).

When certain accomplices of a criminal action of which the criminal defendant is accused are relieved from criminal liability on non-rehabilitating grounds, the court may refer to the role of these persons in the crime (with obligatory indication of grounds for termination of proceedings) only on condition that this has significance for the establishment of the role, degree and nature of involvement of the criminal defendant in the crime, the qualification of his actions or establishment of other significant facts of the case.

Features of the Descriptive Part and Statement of Reasons of a Convicting Sentence Pronounced in the Special Manner

25. Taking into account the features of judicial proceedings carried out in accordance with Chapter 40 of the CrPC RF, the descriptive part and statement of reasons of a sentence pronounced in the special manner, where the accused person

agrees with the charges brought against him, should specify that the court ensured the observance of conditions stipulated in law.

In particular, it should be specified that the accusation is substantiated, is confirmed by the evidence gathered in the case, and that the criminal defendant understands the nature of charges brought against him and agrees with them in full; that the motion for the special manner of proceedings was submitted by the criminal defendant timely, voluntarily and in the presence of a defense lawyer, that he understands the nature and consequences of the submitted motion; that the state or private accuser and the injured person have no objections to consideration of the case in the special manner.

The change of accusation in the part of qualification of the committed crime (allowed where it is not required to examine the evidence gathered the case and where this does not change the facts of the case), shall be reasoned in the sentence.

26. The descriptive part and statement of reasons of the convicting sentence, pronounced in regard of the criminal defendant, with whom a pre-judicial cooperation agreement was concluded, shall contain the court's conclusions on whether the criminal defendant observed the conditions and fulfilled the obligations stipulated in the pre-judicial cooperation agreement concluded with him.

In particular, it should be specified in this part of the sentence that the charges are substantiated, confirmed by evidence gathered in the case, and that the criminal defendant understands the nature of the charges brought against him and agrees with them in full; that the pre-judicial cooperation agreement was concluded voluntarily and with participation of a defense lawyer; what assistance the criminal defendant rendered to the investigation and in what way it was actually expressed; results of examination of facts referred to in Part 4 Article 317.7 of the CrPC RF, conducted during the court session, should be provided.

Statement of Reasons in Matters of Punishment

27. The courts are obliged to strictly comply with the requirements of Article 307 of the CrPC RF regarding the need to provide in the convicting sentence the reasons for conclusions on matters of appointment of the criminal punishment, its type and amount.

In particular, the descriptive part and statement of reasons of a sentence must contain the reasons for which the court concludes that it is necessary to issue a suspended sentence, to impose a punishment that is below the minimum limit stipulated in criminal law for the given crime or to transition to another (less severe) punishment or to abstain from imposing any additional punishment

stipulated as an obligatory one (Article 64 of the CC RF), to impose an additional punishment stipulated in the sanction of criminal law but not being an obligatory one, to impose additional punishment in the form of deprivation of right to occupy certain positions or to engage in certain activities on the basis of Part 3 of Article 47 of the CC RF, to deprive the defendant of a special, military or honorary title, class rank or state award.

If the court concludes that it is necessary to impose a punishment upon the criminal defendant in the form of deprivation of liberty, and the sanction of an Article of criminal law also stipulates other kinds of punishment, the court must provide the reasons for which a different punishment measure cannot be imposed.

When, pursuant to Item "a" of Part 1 of Article 58 of the CC RF, the court pronounces that the defendant, convicted to deprivation of liberty, is to serve the sentence in a general regime correctional colony instead of a colony-settlement, the sentence shall contain the circumstances of commission of the crime and information about the personality of the guilty person that the court took into account when adopting such a decision.

When determining the kind of correctional facility and the regime of serving the sentence in the form of deprivation of liberty, the court is obliged to specify, in the descriptive part and statement of reasons of the sentence and with reference to the corresponding sub-item and part of Article 18 of the CC RF, that there is a certain type of repeated crime in the actions of the defendant, and to provide information about the previous convictions, that the court took into account when resolving this issue.

28. Based on the premise that according to Part 1 of Article 57 of the CC RF deprivation of liberty for life is imposed for particularly grave crimes against life, as well as for particularly grave crimes against the health of the population and public morals, public safety, sexual inviolability of minors under the age of fourteen, the courts should take into account that such a kind of punishment may be imposed where stipulated in law only when the need to impose it is based on the exceptional danger that the person who committed such a crime presents to the society. When providing reasons in the sentence for imposing a punishment in the form of deprivation of liberty for life, the court shall state the specific facts of the case and data characterizing the personality of the criminal defendant in substantiation of that conclusion.

Features of the Operative Part of a Convicting Sentence

29. The attention of the courts is drawn to the fact that in all cases the operative part of the convicting sentence must be stated in such a way that no doubts or ambiguities arise in the course of its execution. In this regard, the operative part of

a convicting sentence should contain the decisions of the court in regard of each of the matters referred to in Articles 308 and 309 of the CrPC RF and resolved by the court in the given case, including the ones regarding the submitted civil claim, the material evidence, the distribution of procedural costs.

30. If the court appoints a punishment in the form of a fine, the operative part of the sentence should specify the means of calculation of the fine and the monetary sum of the fine.

When the fine is appointed as the basic punishment for one of the crimes, where there are cumulative crimes or sentences, it must be indicated that Article 69 of the CC RF or Article 70 of the CC RF apply, as well as that the fine is subject to independent execution.

31. If punishment is appointed in the form of deprivation of right to occupy certain positions of the state service or in local self-government bodies, the sentence should not specify a concrete position, but rather the scope of positions determined by concrete features, covered by such a prohibition (for instance, positions connected with the fulfillment of functions of a representative of authority, organizational and managerial and (or) administrative powers).

32. If the court concludes that there are no grounds for appointment of additional punishments and indicates this in the descriptive part and statement of reasons of the sentence, it is not necessary to indicate in the operative part that the basic punishment is appointed without an additional punishment.

33. Finding it necessary to apply Article 64 of the CC RF to one or several crimes where there are cumulative crimes, the court shall refer to the aforementioned provision in the operative part of the sentence when appointing a punishment for the crime, to the punishment for which the norm is applied. It is not necessary to refer to Article 64 of the CC RF in this part of the sentence when appointing the final punishment for cumulative crimes.

34. If the defendant is recognized as guilty of committing several crimes, then in accordance with Article 69 of the CC RF and Item 4 of Part 1 of Article 308 of the CrPC RF, the operative part of the sentence should indicate the type and amount of the basic and additional punishments, appointed separately for each crime, as well as the type and amount of the final basic and additional punishments appointed for cumulative crimes.

When restriction of liberty is appointed as the basic or additional punishment for each or some of the crimes forming a cumulation, the period of such restriction of liberty shall be specified for each of the crimes, and the corresponding restrictions and duties – after appointment of the final punishment.

When a punishment is appointed in the form of deprivation of liberty for cumulative crimes or sentences, the type of correctional facility in which the condemned should serve the sentence and the regime of the given correctional facility are stipulated in the sentence only after appointment of the final punishment. If the court adopts a reasoned decision providing that the condemned should serve a part of the period of final punishment in prison, then in the operative part it should be indicated, what period is to be served in prison and the type of correctional facility in which the remaining period of punishment is to be served. Herewith, the period during which the condemned stays in custody before the moment when the sentence comes into force shall be offset by the court against the period of the prison sentence (Part 2 of Article 58 of the CC RF).

35. If the court applies the rules of Part 5 of Article 69 of the CC RF, the operative part of the sentence shall specify the period of punishment served by the defendant in regard of the first sentence, which is subject to offset against the period of the newly appointed punishment, in particular where the punishment in regard of the previous sentence has been served in full.

36. The courts shall take into account that when pronouncing a probation sentence, a reference to Article 73 of the CC RF must be made after stipulating the final punishment.

When pronouncing probation in the second sentence for a crime committed before the first sentence (also stipulating probation) was issued, the court, in the operative part of the second sentence, should indicate that the two sentences are to be executed independently.

37. If grounds for relief of the defendant from punishment, stipulated in Part 6 of Article 302 of the CC RF, are established during the court proceedings, the court, after describing the reasons of the adopted decision in the descriptive part and statement of reasons of the sentence, should in its operative part indicate that the defendant is recognized guilty of the crime and that a punishment is appointed upon him in accordance with the corresponding Article of criminal law, thereafter indicating that the defendant is relieved from the punishment. Herewith, where Item 2 of Part 6 of Article 302 of the CrPC RF applies, the court, after establishing the term of punishment in the operative part of the sentence, includes into it the period that the criminal defendant spent in custody in regard of this criminal case, with due regard to the rules stipulated in Article 72 of the CC RF.

Civil Claim Issues

38. When resolving the issues stated in the sentence pertaining to the civil law claim, the court is obliged to specify the reasons substantiating full or partial satisfaction of the claim or refusal to satisfy it, to specify the amount in which the

plaintiff's claims are satisfied (providing the corresponding calculations), and to indicate the law on the basis of which the civil claim was adjudicated. If a civil claim submitted against several defendants is satisfied, the sentence should indicate, what sums in particular are subject to joint recovery, and what sums are to be recovered in shares.

The attention of the courts is drawn to the fact that according to provisions of Part 2 of Article 309 of the CrPC RF, when pronouncing the convicting sentence, the court is obliged to adjudicate the civil claim submitted in the case. The court may recognize the plaintiff's right to satisfaction of the claim and transfer the issue of the amount of compensation in the claim for consideration in civil proceedings only if it is necessary to perform additional calculations regarding the claim, which will require the postponement of trial, and where this will not influence the court decision regarding the qualification of the crime, the punishment measure and other issues arising during sentencing.

39. If an acquitting sentence is pronounced due to the absence of the event of crime or non-involvement of the defendant in the commission of the crime, the court shall refuse to satisfy the claim. In other cases, the court shall leave the civil claim without consideration (Part 2 of Article 306 of the CrPC RF).

The civil claim may also be left without consideration if the plaintiff or its representative fails to appear in the court session, unless Part 2 of Article 250 of the CrPC RF applies: either the plaintiff or its representative submits the corresponding motion, or the claim is supported by the state accuser, or the defendant completely agrees with the submitted claim.

40. The courts should take into account that the person, to whom moral, physical or property harm is caused by the crime, has a right to submit a civil claim regarding the indemnification of moral harm, which, according to law, may be performed in monetary form irrespective of the kind of property harm subject to compensation. When adjudicating this type of claims, the court should be guided by the provisions of Articles 151, 1099, 1100, 1101 of the Civil Code of the Russian Federation, according to which in determining the amount of indemnification of moral harm it is necessary to take into account the nature of physical and moral suffering caused to the injured person due to its individual features, degree of fault of the defendant, his financial position and other specific facts of the case that influence the decision of the court in regard of the submitted claim. In all cases, when determining the amount of indemnification of moral harm, the requirements of reasonableness and fairness should be taken into account.

By virtue of provisions of Articles 151 and 1101 of the Civil Code of the Russian Federation, when adjudicating a civil claim on the indemnification of moral harm filed against several accomplices of a crime and satisfying the claims, the court shall determine the manner of recovery in shares, taking into account the degree of

their fault in the crime. The operative part of the sentence shall specify the amount of compensation for moral harm, recoverable from each of the defendants.

Closing Provisions

41. The sentence shall be stated using clear and understandable terms and expressions. It is not allowed to use any unusual acronyms or words which are unacceptable in official documents, as well as to encumber the sentence with descriptions of circumstances which do not concern the nature of the considered case.

Detailed description of ways of commission of crimes connected with the production of narcotic drugs, explosive devices and substances, etc., as well as of crimes encroaching sexual inviolability and sexual personal freedom or morals of minors should be avoided, unless necessary.

42. According to Part 3 of Article 303 of the CrPC RF, all corrections made in the sentence should be discussed and certified by signatures of the judge (judges) in the deliberation room before the sentence is pronounced. All corrections which were not discussed or certified, if they concern significant circumstances (for instance, the qualification of a crime, the type and amount of punishment, the amount of satisfied civil claims, the type of correctional colony) constitute grounds for a full or partial reversal of the sentence by a higher judicial instance.

43. The date of adoption of the sentence shall be the date of its signing by the composition of the court, irrespective of the date of its pronouncement.

44. In view of adoption of this Ruling, Ruling of the Plenary Session of the Supreme Court of the Russian Federation of 29 April 1996 No. 1 “On Court Sentence” (as amended by rulings of the Plenary Session No. 7 of 6 February, 2007 and No. 11 of 16 April, 2013) is abrogated.

Chief Justice of the Supreme Court of
the Russian Federation

V.M. Lebedev

Secretary of the Plenary Session, Judge of
the Supreme Court of the Russian Federation

V.V. Momotov