

2013 developments in Russian criminal law and procedure

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Introduction of new criminal offences

- “fictitious registration” of foreigners for residence in the Russian Federation (new article 322.3 of the Russian Criminal Code) – up to three years’ imprisonment;
- public advocacy aimed at the destruction of territorial integrity of the Russian Federation (new article 280.1 of the Russian Criminal Code) – up to five years’ imprisonment;
- illegal transfer of cash across the boundary of the Customs Union (new article 200.1 of the Russian Criminal Code).

Scholarly opinion: role of criminal law is overestimated, criminal law “weapon” requires appropriate “targets”, excessively wide application of criminal law may lead to negative consequences for society (*Criminal Law of Russia*, edited by Professor Rarog (2014), at page 5).

Further limitations of use of jury trial

Jury trial is possible only in respect of some most serious violent offences (such as aggravated murder, and only if life in prison is possible punishment thus making women and minors ineligible, now under review by the Constitutional Court), and in respect of offences acquittal of which by jury is less likely (such as, for example, banditry and hijacking).

In jury trials rate of acquittals was immeasurably higher than in trials by professional judges (almost non-existent), now this window is closing.

New appeal instances

- ordinary appeal (*апелляция*): with full re-trial and re-examination of evidence in the case file (rarely happens in practice);
- appeal in cassation (*кассация*): re-consideration of the case by the presidium of the regional court or by the Supreme Court of the Russian Federation if “fundamental violations of criminal law and/or law of criminal procedure which led to the outcome of the case” are detected by a single judge of the relevant court following written procedure;
- supervisory review (*надзор*): only before the Presidium of the Supreme Court of the Russian Federation, also upon discretion of a single judge of the Supreme Court, same grounds for quashing as in appeal in cassation

The European Court of Human Rights has not yet decided which of the above appeals should be exhausted for the individual application to Strasbourg to be admissible.