



*Olga L. Dubovik*

**Book Review:**  
**A.A. Aryamov, M.A. Kolyvantsev.**  
***Alternative forms of solving the criminal-legal conflict.***

*Moscow: Yurlitinform, 2017. - 192 p.*

The monograph is the result of a special study of the problem that is relevant not only for Russia, but also for other countries. As the authors point out, already more than 70% of states declared their adherence to alternative forms of solving criminal and legal conflicts, and other countries gradually introduce this approach in their legal systems. Certainly, lawyers (scientists and practitioners) conduct hard discussions about the essence of this legal instrument, its objectives, potential effectiveness and possibilities of use. Apparently, the controversy will only worsen because of the accumulation of law-making and right-realization experience. Moreover, reviewed book can play the least role in it. Comparative-legal analysis of the provisions of Russian, European, International legislation, Criminal Law of other states, judicial practice provides a basis for assessing both the criminal law conflicts and proposed (traditional and alternative) forms of their solution. It is gratifying that the authors turned to this topic: after all, after fundamental developments of the legal conflictology carried out by the Center for Conflict Studies of the Russian Academy of Sciences in the early 1990s, under the leadership of the Vice-President of the Russian Academy of Sciences, Academician V.N. Kudryavtsev, this direction is "stalled". I hope that reviewed book will serve as revival of this sphere in the national jurisprudence and sociology.

Before proceeding to the description of the content, arguments and conclusions of the authors, it is in the interests of the foreign reader to list the norms of the Criminal Code of the Russian Federation in which they found the ideas of an alternative solution to criminal and legal conflicts. They are: pre-trial cooperation agreement, simplified inquiry, confession (Article 62 of the Criminal Code), exemption from liability in connection with active repentance (Article 75 of the Criminal Code), exemption from liability in connection with reconciliation with the victim (Article 76 The Criminal Code of the Russian Federation), the exemption from criminal liability in cases of crimes in the sphere of economic activity (Article 76.1 of the Criminal Code of the Russian Federation), the postponement of serving a sentence (articles 82 and 82.1 of the Criminal Code of the Russian Federation), the release from criminal responsibility of a minor in connection with the application to him Measures of educational progress (Article 90 of the Criminal Code of the Russian Federation), and others.

The object under analysis, in A.A. Aryamova and M.V. Kolyvantseva, is associated with juvenile justice. They do not specifically mention this, but they also point to the connection with the institution of the appointment of punishment and release from it, with questions of responsibility for the relapse and prevention of crimes, judicial discretion and others, re-



vealing the multifaceted topic during the analysis, but, most importantly, labeling a wide range of tasks facing the science of criminal (material and procedural) law in our day.

The book consists of an introduction (pp. 3-4), three chapters, an appendix containing commentary adapted translations into Russian of the federal laws of the Swiss Union On International Legal Assistance in Criminal Matters, On the Return of Assets Illegally Received by Politically Influential Persons (RIAA ) (pp. 126 - 181) and a bibliographic list (pp. 182 - 186), which lists 86 works related to the topic.

The first chapter The concept of the criminal legal conflict and the sphere of criminal law as a space for its resolution (pp. 5-27) is devoted not only to the analysis of the conceptual apparatus proper, but also to the definition of the place of the criminal legal conflict in the system of legal conflicts. The authors refer to the well-known works of L. Kozer, R. Darendorf, V.P. Kazimirchuk, V.N. Kudryavtsev and other scientists in order to describe in a concise form the signs of a legal conflict, the stages of its development, the causes of generation, the structure (composition), objects, participants. Then they proceed to the assessment of such a concept as the "sphere of criminal law", which, in their opinion, means the "springboard" of the criminal legal conflict. In this case, A.A. Aryamov and M.V. Kolyvantseva makes maximum use of the case law of international judicial bodies, primarily the European Court of Human Rights (ECHR), evaluating both the arguments of the decisions made by the Court and their influence on the formation and use of alternative forms of solving criminal and legal conflicts. Thus, they analyze the understanding of the ECHR of the principle of legal certainty in the example of the decision of October 7, 2014 "Navalny and Ofitserov v. Russian Federation" (pp. 16-17), coming to the unchallenged conclusion that in the law enforcement practice of the ECHR there is a tendency to narrow " Sphere of criminal law "by using arbitrary terminology and ignoring the corresponding links of criminal law and other branches of law, conditioned by the protective essence of criminal law as a whole" (p. 17).

Examining the issue of delimitation of criminal and administrative responsibility, the consequences of applying sanctions, the authors state the existence of an applied conflict: "Some states declare their refusal to fulfill their international obligations to ensure human rights in the field of criminal legal relations, justifying their position by the fact that according to their national law the group of relations under consideration refers to the sphere of administrative or procedural (and sometimes civil) law: A statement about the inadmissibility of a complaint *ratione materie* - a vice of relevance "(p. 19). A.A. Aryamov and M.V. Kolyvantseva noted that in response to the evolving challenges, the ECHR, in the interpretation of the Convention, developed a unique collision tool - the doctrine of "the sphere of criminal law" and illustrated it with numerous examples from the court's practice (pp. 19-21). As a result, they also note the opposite trend of expansion in the practice of the ECHR "the sphere of criminal law" by including segments of administrative and procedural law, as well as civil law (p. 21). Further, the authors also point to the extension of the limits of criminal repression through the interpretation and application of Art. 7 of the Convention, referring to the well-known case "Strelets, Kessler and Krenz v.s. Germany" (pp. 22-27). They conclude: "Obviously, the expansion of the" sphere of criminal law "through the application of the rules of retroactive action of the criminal law to the problem, traditionally related to the subject of the action of law in space, that is, the inclusion in the applicable legal



framework of the legal system of another state (p. 27)". In conclusion A.A. Aryamov and M.V. Kolyvantseva support changes in the Federal Law "On the Constitutional Court of the Russian Federation" (introduced on December 4, 2015), which allow the highest Russian court to "adjust the case law of the ECHR" (p. 27), contested by many European lawyers.

In the chapter of the second peer-reviewed monograph, "Alternative (non-judicial) forms of solving a criminal legal conflict" (pp. 28-93), the concepts, principles, content and signs of these forms are firstly considered, and then - the forms of an alternative solution to the criminal legal conflict themselves. They are: the prevention and its types, police fines, mediation, transaction, plea bargaining, cooperation agreement, substitution therapy, and prospects for the implementation of the C-2 Program. The choice and charge are the choice and responsibility.

In addition, the possibilities of using traditional civil-law instruments in the fight against corruption (pp. 84 - 89) and the experience of "adolescent justice" (pp. 89-92) are analyzed here. The authors, when analyzing the concept and features, principles and content of alternative forms of solving the criminal-legal conflict, recall from a historical point of view the program of "reducing aggression" in the US, the works of M.P. Chubinsky, which served as the formation of both restorative and juvenile justice. Then they pass to the methodological foundations, referring to the works of M. Ansel, J. Pradel and other scientists. And they adapt the theoretical provisions to the interpretation of the principle of legality (Article 3 of the Criminal Code of the Russian Federation), novels 2012 on countering pedophile crime, "the most unequivocal of these are the provisions on the castration of pedophiles" (page 31), which did not find a place in the Russian criminal law (Not to mention the ethical and legal doubtfulness of this measure!), even if this measure is a reaction to the consequences of a crime directed against the sexual inviolability of a juvenile.

Considering judicial practice, the authors come to the absolutely correct conclusion that: "In addition to the negative precedent in the domestic legal field, there is also a positive precedent" (p. 33), which is demonstrated by the influence of international courts (primarily the ECHR) on the formation of legal requirements and bans on the national field of the Russian Federation (as an illustrative example - Veselov and Others v. Russian Federation case) in the aspect of delineation of the permissible operative-search activity (pp. 33-34).

In the same paragraph, the authors analyze the goals proclaimed by the Russian legislator: restoring social justice, general and private prevention, correction for criminals (re-education for minors); and then assessing how these goals are achieved in the aspect of applied law enforcement (pp. 37-38). They come to the sad conclusion that, for example, the goal of restoring justice is not achieved for a number of reasons: the judiciary does not cope with the task assigned to it; Inefficient development of colossal budgetary funds and so on (p. 38).

A.A. Aryamov and M.A. Kolyvantseva proceed from the premise that: "The doctrine of alternative forms of solving a criminal legal conflict is not an autonomous legal phenomenon - it is a structural part of a larger legal phenomenon known as" restorative (compensating) justice "(p. 41). In this regard, it is important to pay attention to the active use of civil tools



for the needs of criminal law, the servicing nature of the provision of public services, the rights of the victim and their restoration. The authors note that the Russian criminal law provides for the possibility of exemption from liability in connection with reconciliation with the victim (Article 76 of the Criminal Code and Article 25 of the Code of Criminal Procedure) at any stage of the process. Nevertheless, "the practice of applying these norms are poor (prohibition of reconciliation in case of multi-objective crimes, prohibition of reconciliation at pre-trial stages of the process, etc.)" (p. 42).

The monograph analyzes the general principles and rules for the application of alternative forms of resolving a criminal legal conflict. Therefore, the authors call lawfulness, effectiveness, priority of interests of the victim, expediency, etc. among the principles (pp. 46 - 49).

Of particular interest is the part of Chapter 2, which deals with general requirements for the use of forms of alternative influence on the perpetrator (pp. 49-51), although these issues should be expanded. This applies to mandatory consent to the application of such measures on the part of the offender, on the part of the victim, mandatory confession of guilt, compensation for damage, correlativity with the categorization of crimes (under Russian law, these measures apply only to crimes of small and medium gravity), etc. Assessing the real situation, the authors note: "By their nature, measures of alternative impact on the offender often acquire very severe and onerous forms. This is not a kind of justification. It quite often happens the cases when criminals petitioned to stop alternative measures applied to them and returned to the usual channel of public legal repression "(p. 51).

The third chapter is called "Negative modern trends in the development of alternative forms of solving the criminal legal conflict" (pp. 94 - 125) and consists of two paragraphs. In the first one, the activities of the World Anti-Doping Agency (WADA) are considered (in particular, considers the conflicts in connection with the disqualification of Russian athletes and the problem of the possible use of criminal law means to combat doping). Without retelling this matter, that excites German fans in connection with the latest emerged abuses, we point out, for the information of those who believe that in Russia they only tolerate doping: : Article 6.18 of the Code of the Russian Federation on Administrative Offenses provides liability for violation of the requirements for preventing doping in sport and combating it as established by the legislation on physical culture and sports. And, according to AA. Abramov's and M.V. Kolyvantseva's point of view, this norm can be fully attributed to the "sphere of criminal law" in terms of the established positions of the ECHR (p. 103). Moreover, the State Duma of the Russian Federation *unanimously* adopted in the second and immediately third reading a bill that criminalizes the decline of athletes to doping on November 3, 2016 (pp. 103 - 104)<sup>1</sup>.

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<sup>1</sup> The Federal law from November 22, 2016 No. 392-FZ was introduced the article 230.1 of the Criminal Code Inducing the athlete to use substances and (or) the methods prohibited for use in sport. The main formal components of the offense provides liability for inducing the athletic by the trainer, specialist in sports medicine or other specialist in the field of physical culture and sports to the use of substances and (or) the methods forbidden for use in sports, with the exception of cases provided by article 230 of this Code. Qualifying circumstances are: to commit crime



Having explained the content of this novel of the Russian criminal legislation, the authors formulate the conclusion that "the activities in the sphere of illicit trafficking in doping drugs (on the part of both athletes and others) that are subject to investigation by WADA can be fully qualified as a criminal- Legal conflicts (or to the "sphere of Criminal Law") (p. 105). At the same time AA. Aryamov and M.V. Kolyvantseva critically assesses certain provisions of the World Anti-Doping Code concerning the implementation of WADA functions, since "the option of abuse of such unlimited powers is naturally programmed" (p. 109). This is a complex issue, currently being studied by experts in the field of sports and criminal law, attracting the attention of the media and the public. The authors' comments of the reviewed monograph on WADA's liability for its own offenses, *which are not provided for* (it is possible only to cancel its decision) needs additional arguments, taking into account the reaction to the recently discovered facts of abuse. It remains to wish the authors to prepare a special work on this topic, covering all aspects of the problem raised by them - and not only in the framework of research on criminal-legal conflicts.

The paragraph on forfeiture concludes monograph, in which the rules of Swiss Law mainly analyzed (pp. 120 -125).

Commending the work as a whole, it must be concluded that it is of interest to the Russian users, because it contains a lot of information about the foreign Criminal Law, the practice of the European Court of Human Rights, the position of the doctrine, and at the same time - to other countries experts, because it describes the state of affairs in Russia, the law relating to the permission of criminal law conflicts with the use of alternative forms of criminal decisions of a political nature, and reflects the opinion of the legal Message Properties. Anyway, this book is worth reading. With some arguments and conclusions of the authors it is possible and necessary to argue. This work will undoubtedly contribute to further research in the field of legal conflictology as a new and extremely important area (branch) of scientific knowledge and law enforcement practice.

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- a) in a group of persons upon a preliminary collusion;
  - b) against the knowingly minor athlete or two or more athletes;
  - C) the use of blackmail, violence or with threat of its application (part 2).

Qualifying circumstances with a higher degree of social danger are the cause the death of the athlete by negligence or other grave consequences (part 3).

The article is provided with two notes: "1. The Inducing of the athlete to use substances and (or) the methods prohibited for use in sport means deliberate actions, contributing to the use by an athlete of a prohibited substance and (or) a prohibited method, including those committed by fraud, persuasion, advice, guidance, suggestions of the information or prohibited substances, prohibited methods, the removal of obstacles to the use of prohibited substances and (or) prohibited methods. 2. The list of substances and (or) the methods prohibited for use in sport, should be approved by the Government of the Russian Federation for the purposes of this article and article 230.2 of the Code ".