

*/Coat of arms of the Russian Federation/*

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

No. 43

In the city of Moscow

On December 23, 2025

**On Amendments to Certain Rulings of the Plenary Session of the Supreme Court of the Russian Federation on Criminal Matters**

In connection with changes in legislation, as well as issues arising in judicial practice, 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:

1. In Ruling of the Plenary Session of the Supreme Court of the Russian Federation of 28 June 2011 "On Judicial Practice in Criminal Cases regarding Extremist Crimes":

1) In the Preamble:

a) In paragraph five, the words "Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950" shall be deleted;

b) Paragraph six shall be supplemented with the words "and the Convention of the Shanghai Cooperation Organization on combating Extremism of 9 June 2017" following the words "of 15 June 2001";

2) In paragraph two of Item 1, the words ", paragraph 2 of Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms" shall be deleted;

3) Item 2 shall be added with numbers ", 282<sup>4</sup>" following the numbers "282<sup>3</sup>";

4) Item 5 shall be supplemented with the following paragraph:

"Public incitement to activities directed against the security of the Russian Federation and consisting of the commission of crimes specified in the Note to Article 104<sup>1</sup> of the CrC RF, or to obstructing the execution by government bodies and their officials of their powers to ensure the security of the Russian Federation,

committed in the absence of elements of crimes provided for in Articles 205<sup>2</sup>, 280, 280<sup>1</sup>, 280<sup>3</sup>, 284<sup>2</sup> and 354 of the CrC RF, taking into account the circumstances of the case, are qualified under Part 1, Part 2 or Part 3 of Article 280<sup>4</sup> of the CrC RF.";

5) Item 7 shall be revised to read as follows:

"7. Actions aimed at inciting hatred or strife and, likewise, at humiliation of dignity of a person or a group of persons based on sex, race, nationality, language, origin, attitude to religion or affiliation with any particular social group entail criminal liability under Part 1 of Article 282 of the CrC RF only if they are committed publicly, including with the use of mass media or of information and telecommunication networks, including the Internet (e.g. speaking at assemblies, rallies; distribution of flyers, placards; placement of corresponding information in journals, brochures, books, on websites, forums or in blogs; bulk electronic messaging; and other similar actions, in particular when it is suggested that other persons will learn the information in the future).

Statements substantiating and (or) declaring the need for genocide, mass repressions, deportations, perpetration of other illegal actions, including the use of violence, against representatives of any particular nation, race, followers of a certain religion, should in particular be understood as actions aimed at inciting hatred or strife. Criticism of political organizations, ideological and religious associations, political or public figures in connection with the exercise of their powers or other actions determined by their status, as well as of political, ideological or religious beliefs, national or religious customs must not by itself be regarded as action aimed at inciting hatred or strife.

The crime stipulated in Part 1 of Article 282 of the CrC RF is regarded as accomplished from the moment of perpetration of at least one action aimed at inciting hatred or strife and, likewise, at humiliating the dignity of a person or a group of persons based on their sex, race, nationality, language, origin, attitude to religion, affiliation with any particular social group. At the same time, liability under Item a of Part 1 of Article 282 of the CrC RF occurs provided that actions aimed at inciting hatred or strife, as well as at humiliating the dignity of a person, were committed by a person subjected to administrative penalty for a similar act under Article 203<sup>1</sup> of the CAO RF, as well as by a person with an uncancelled or unexpunged criminal record for committing a crime under Articles 280, 282 and (or) 282<sup>4</sup> of the CrC RF. If actions aimed at inciting hatred or strife, as well as at humiliating the dignity of a person or group of persons based on their sex, race, nationality, language, origin, attitude to religion, affiliation with any particular social group, are associated with substantiating or propaganda of the use (or the threat of the use) of violence, as well as committed with the use (or the threat of the use) of violence either by a person using his official position, or by a group of persons, a group of persons by prior agreement or an organized group, liability under Item b of Part 1 or under Part 2 of Article 282 of the CrC RF occurs regardless of whether the guilty person has previously been subjected to administrative penalty under Article 20.3<sup>1</sup> of the CAO RF, or whether he had an uncancelled or unexpunged criminal record for committing a crime under Articles 280, 282 and (or) 282<sup>4</sup> of the CrC RF.";

6) Item 8<sup>2</sup> shall be revised to read as follows:

"8<sup>2</sup>. It is brought to the attention of the courts that the factual circumstances that constituted the grounds for bringing a person to administrative liability under Article 20.3, Article 20.3<sup>1</sup>, or Part 1 or 2 of Article 20.3<sup>2</sup> of the CAO RF do not in themselves predetermine the court's conclusions about the defendant's guilt in committing a crime under Article 280<sup>1</sup>, Item a of Part 1 of Article 282 or Article 282<sup>4</sup> of the CrC RF, since such guilt is established by the court in procedures provided for by the criminal procedure law on the basis of the entire body of evidence, including elements not examined during the consideration of a case on administrative offense.

By implication of the criminal law, the commission by a person of public incitement to actions aimed at violation of territorial integrity of the Russian Federation, or the commission of actions aimed at inciting hatred or strife and, likewise, at humiliation of dignity of a person, or propaganda or public display of Nazi paraphernalia or symbols, or paraphernalia or symbols similar to Nazi paraphernalia or symbols to the point of confusion, or paraphernalia or symbols of extremist organizations, or other paraphernalia or symbols, the propaganda or public display of which is prohibited by federal laws, as well as the manufacture or sale for the purposes of propaganda, or the acquisition for the purposes of sale or propaganda of such paraphernalia or symbols is qualified under Article 280<sup>1</sup>, Item a of Part 1 of Article 282 or Article 282<sup>4</sup> of the CrC RF, provided that at the time of the execution of these actions, the perpetrator was a person subjected to administrative penalty for committing a corresponding similar act. Taking into account that, by virtue of Article 4.6 of the CAO RF, a person is considered to have been subjected to administrative penalty starting from the effective date of a decision on the imposition of an administrative penalty for such an administrative offense until the expiration of one year after the end date of the execution of this decision or after the date of payment of an administrative fine paid before the effective date of the decision on the imposition of this type of administrative penalty, when considering a criminal case on a crime provided for in Article 280<sup>1</sup>, Item a of Part 1 of Article 282 or Article 282<sup>4</sup> of the CrC RF, the court must verify the following:

whether the ruling on imposition of an administrative penalty under Article 20.3, Article 20.3<sup>1</sup>, or Part 1 or 2 of Article 20.3<sup>2</sup> of the CAO RF was effective at the time of the commission of the unlawful actions specified in Article 280<sup>1</sup>, Item a of Part 1 of Article 282 or Article 282<sup>4</sup> of the CrC RF;

whether this ruling has been executed, whether its execution has not been terminated;

whether the one-year period has expired after the end date of the execution of this ruling, and in cases where a person paid an administrative fine before the effective date of the ruling on the imposition of an administrative penalty – after the date of payment of the administrative fine;

whether the ruling on imposition of an administrative penalty on a person and subsequent rulings related to its execution have been reviewed in accordance with the procedure provided for in Chapter 30 of the CAO RF.

If the above circumstances prevent sentencing or other final decision, the court returns the criminal case to the prosecutor.

The same should be done in the event of consideration of a criminal case on a crime provided for in Article 280<sup>1</sup>, Item a of Part 1 of Article 282 or Article 282<sup>4</sup> of the CrC RF under a special procedure of trial (Chapter 40 of the Criminal Procedure Code of the Russian Federation). In particular, in accordance with Part 7 of Article 316 of the CrPC RF, a decision on the consideration of a criminal case on such a crime under a special procedure is made only if the charge, to which the accused person admitted, is substantiated and confirmed by the evidence collected in the criminal case.";

7) Item 11 shall be revised to read as follows:

"11. Where vandalism is committed, historical and cultural monuments are destroyed or damaged; military graves, monuments, steles, obelisks, other memorial structures or objects perpetuating the memory of those who died defending the Fatherland or its interests, or dedicated to the days of military glory of Russia are destroyed, damaged or desecrated; likewise, bodies of the deceased and places of their burial are desecrated based on motives of political, ideological, racial, national or religious hatred or strife, or hatred or strife against any particular social group, these acts are accordingly qualified under Article 214, 243, 243<sup>4</sup> of the CrC RF. If said acts were accompanied by actions stipulated in Article 282 or 282<sup>4</sup> of the CrC RF (e.g. if corresponding inscriptions or drawings were made on the monuments, nationalist slogans were pronounced in the presence of third persons), this is qualified as a cumulation of crimes stipulated, accordingly, in Article 214, 243, 243<sup>4</sup> or 244 of the CrC RF and in Article 282 or 282<sup>4</sup> of the CrC RF.";

8) Paragraph one of Item 19 shall be revised to read as follows:

"19. When considering cases on crimes stipulated in Article 282<sup>2</sup> of the CrC RF, organizations that are recognized to be extremist in accordance with the legislation of the Russian Federation should include public or religious associations or other organisations, in regard of which there is an effective court decision on liquidation or prohibition of activities due to engagement in extremist activities, as well as extremist communities in the event of the entry into force of a sentence in a criminal case against a person for creating a community stipulated in Article 282<sup>1</sup> of the CrC RF, for leading or participating in this community. In accordance with Article 9 of the Federal Law "On Countering Extremist Activities", these organizations and communities are included in a special list, which is subject to official publication.";

9) In Item 20:

a) Paragraph one shall be revised to read as follows:

"20. The organisation of activities of an association, which is recognized to be extremist according to the legislation of the Russian Federation (Part 1 of Article 282<sup>2</sup> of the CrC RF), should be understood as actions of organisational nature, aimed at continuation or renewal of unlawful activities of the prohibited organisation (e.g. convocation of meetings; organisation of recruitment of new members; organisation of marches; use of bank accounts, unless this is related to the liquidation procedure).";

b) Paragraph three shall be revised to read as follows:

"When considering a criminal case concerning a crime under Article 282<sup>2</sup> of

the CrC RF, the court should establish what specific actions were committed by the guilty person, what their significance is for the continuation or resumption of the activities of an organization that is recognized extremist in accordance with the legislation of the Russian Federation, and what motives the person was guided by when committing these actions.";

10) The text shall be supplemented with Item 22<sup>3</sup> as follows:

"22<sup>3</sup>. Liability under Article 282<sup>4</sup> of the CrC RF occurs if propaganda or public display of Nazi paraphernalia or symbols, or paraphernalia or symbols similar to Nazi paraphernalia or symbols to the point of confusion, or paraphernalia or symbols of extremist organizations, or other paraphernalia or symbols, the propaganda or public display of which is prohibited by federal laws, as well as the manufacture or sale for the purposes of propaganda, or the acquisition for the purposes of sale or propaganda of such paraphernalia or symbols was committed by a person during the period when he is considered to have been subjected to administrative penalty for any of the administrative offenses provided for in Part 1 or 2 of Article 20.3 of the CAO RF.

The crime provided for in Part 1 or 2 of Article 282<sup>4</sup> of the CrC RF is qualified as accomplished if the guilty person has committed any of the actions specified, respectively, in the dispositions of Part 1 or 2 of this article.

Propaganda of Nazi paraphernalia or symbols, or paraphernalia or symbols similar to Nazi paraphernalia or symbols to the point of confusion, or paraphernalia or symbols of extremist organizations, or other paraphernalia or symbols, the propaganda or public display of which is prohibited by federal laws, should be understood as deliberate actions aimed at forming in other persons beliefs in the attractiveness of such paraphernalia or symbols, or attractiveness of ideology or organization identified with them, as well as the idea of the permissibility of their use.

In particular, the public display of these symbols or paraphernalia consists in deliberate actions to post the corresponding images on the Internet, to show these images to other persons, including images applied to various objects or tattoos.

When resolving on the issue of qualification of an act under Article 282<sup>4</sup> of the CrC RF, courts should take into account the provisions of Article 1 of Federal Law of 25 July 2002 No. 114-FZ "On Countering Extremist Activities" and notes to Article 20.3 of the CAO RF that imply that cases of using Nazi paraphernalia or symbols, or paraphernalia or symbols similar to Nazi paraphernalia or symbols to the point of confusion, or paraphernalia or symbols of extremist organizations, which from a negative attitude towards the ideology of Nazism and extremism and have no signs of propaganda or justification of Nazi and extremist ideology, are not recognized to be extremist activities."

2. In Ruling of the Plenary of the Supreme Court of the Russian Federation of 15 November 2016 No. 48 "On the Practice of Court Application of Legislation Regulating the Specific Features of Criminal Liability for Crimes in the Sphere of Entrepreneurial and Other Economic Activities":

1) Item 1 shall be revised to read as follows:

"1. It is brought to the attention of the courts that criminal and criminal-

procedure law stipulates special features of criminal proceedings for cases on crimes committed in the sphere of entrepreneurial and other economic activities. In particular, they pertain to the manner of consideration of a notification about a crime (Parts 7–9 of Article 144 of the Criminal Procedure Code of the Russian Federation (hereinafter – the CrPC RF) and initiation of a criminal case (Part 3 of Article 20, Parts 1<sup>3</sup> and 3 of Article 140 of the CrPC RF), recognition of items and documents as material evidence (Article 81<sup>1</sup> of the CrPC RF), application of a pre-trial restriction measure (Part 1<sup>1</sup> and 3<sup>1</sup> of Article 108 of the CrPC RF), performance of investigative actions (Part 4<sup>1</sup> of Article 164, Part 1 of Article 164<sup>1</sup> of the CrPC RF), as well as special features of exemption from criminal liability and termination of criminal prosecution (Article 76<sup>1</sup> of the Criminal Code of the Russian Federation (hereinafter – the CrC RF), Article 28<sup>1</sup> of the CrPC RF). The requirements contained in the aforementioned norms must be strictly adhered to, both when the court exercises its powers in pre-trial proceedings in criminal cases of said category and at all the stages of their consideration by courts of the first and higher instances.

In criminal cases on crimes provided for in Parts 1-4 of Article 159, Articles 159<sup>1</sup>-159<sup>3</sup>, 159<sup>5</sup>, 159<sup>6</sup>, 160, 165, and 201 of the CrC RF, the listed features, within the limits established by law, apply if these crimes are committed by an individual entrepreneur in connection with his business activity and (or) the management of property belonging to him and used for the purposes of business activity, that is, in the course of his independent, at-his-own-risk activities aimed at systematic profit-making from the use of the property, sales of goods, performance of works or provision of services, and (or) from the management of the property belonging to him and used for the purposes of such activities (Item 27<sup>1</sup> of Article 5 of the CrPC RF), or committed by a member of the corporate body of a commercial organization in connection with the exercise of his powers to manage this organization or in connection with the conduct of business or other economic activities by the commercial organization, that is, in the exercise of his powers to manage this organization or in the course of his independent, at-its-own-risk activities aimed at systematic profit-making from the use of property, sales of goods, performance of works or provision of services, or other business activities (Item 27<sup>2</sup> of Article 5 of the CrPC RF).

These features apply to each suspect or accused of committing one or more crimes of this kind, with the exception of cases where the criminal case files prove that these crimes are not related to the conduct of his business activities and (or) the management of his property used for business purposes, or with the exercise of his powers to manage the organization or conduct of business or other economic activities by the commercial organization. At the same time, the criminal nature of a person's actions in itself cannot constitute grounds for recognizing such activities as unrelated to business or other economic activities.

Also, the features listed in the first paragraph of this item, within the limits established by law, are applied in criminal cases on crimes provided for in Parts 5-7 of Article 159, Articles 171, 171<sup>1</sup>, 171<sup>3-1723</sup>, 173<sup>1</sup>-174<sup>1</sup>, 176-178, 180, 181, 183, 185-185<sup>4</sup> and 190-199<sup>4</sup> of the CrC RF, regardless of the legal status of the person who committed them.";

2) In paragraph one of Item 4, the words "in Part 1<sup>1</sup> of Article 108 of the CrPC RF" shall be replaced by the words "in Item 1 hereof";

3) Item 5 shall be revised to read as follows:

"5. When verifying, upon the complaint of an interested person, whether the initiation of a criminal case on crimes stipulated in Articles 199<sup>3</sup> and 199<sup>4</sup> of the CrC RF was lawful and substantiated, the judge, taking into account the fact that by general rule, stipulated in Parts 7–9 of Article 144 of the CrPC RF, a criminal case on said crimes may be initiated based on files of a territorial body of the insurer, should verify whether the investigator, pursuant to the requirements of Part 7 of Article 144 of the CrPC RF, has sent, within three days, a copy of the notification about such crimes, received from an inquiry body, to the corresponding territorial body of the insurer, attaching the corresponding documents and a pre-estimate of the presumed amount of insurance payments in arrears, as well as whether the investigator received a conclusion or information stipulated in Part 8 of Article 144 of the CrPC RF. Herewith it should be taken into account that prior to receiving the conclusion or information from the insurer's territorial body the investigator is entitled to make the decision on initiation of a criminal case only where there is other sufficient data indicating that there are elements of a crime (Part 9 of Article 144 of the CrPC RF), which also must be verified by the court.

Data indicating that there are elements of crimes stipulated in Articles 199<sup>3</sup>, 199<sup>4</sup> of the CrC RF may in particular be contained in the files forwarded to the investigative body by the prosecutor in order to resolve the issue of criminal prosecution, in an expert's conclusion and in other documents.

According to Part 1<sup>3</sup> of Article 140 of the CrPC RF, the only reason for initiating a criminal case on crimes provided for in Articles 198-199<sup>2</sup> of the CrC RF is the files sent by the tax authorities in accordance with the tax and levy legislation in order to resolve the issue of initiating a criminal case. When verifying, upon the complaint of an interested person, whether the initiation of a criminal case on such crimes based on the files received from tax bodies as provided for in Item 3 of Article 32 of the Ta[ Code of the Russian Federation was lawful and substantiated, the courts must determine whether the decision of the tax body on bringing a person to liability for committing a tax offense has entered into force, and also, whether the obligation to pay the amounts of arrears, penalties and fines specified in such a decision was fulfilled within the time period established by law.

If after completing the verification the court finds that the decree on initiation of a criminal case on crimes stipulated in Articles 198–199<sup>4</sup> of the CrC RF was issued by the investigator in the absence of sufficient data indicating that there are elements of those crimes, the court acknowledges such a decree of the investigator to be unlawful and (or) unsubstantiated. In this case, the court obliges the prosecutor or the head of the investigative body to remedy the violation of the law.";

4) The text shall be supplemented with Item 5<sup>1</sup> as follows:

"5<sup>1</sup>. When deciding on the selection of a pre-trial reconstruction, the courts should take into account that the requirement of Part 2 of Article 99 of the CrPC

RF, which provides for mandatory consideration of the possibility of selecting a pre-trial restriction that will allow the ongoing business activities and (or) management of owned property, which is used for business purposes (with the exception of seized property), or activities to manage the organization, or in connection with the conduct of business or other economic activities by the commercial organization, must be respected not only in relation to persons specified in Item 1<sup>1</sup> of Article 108 of the CrPC RF, but also in relation to all persons listed in Item 1 hereof. Failure to choose such a restriction must be properly reasoned.";

5) Item 6 shall be revised to read as follows:

"6. It is clarified for the courts that, taking into account the interrelated provisions of Parts 1-2 of Article 108 of the CrPC RF in relation to a suspect or accused of committing crimes provided for in Part 1 of Article 159<sup>1</sup>, Part 1 of Article 159<sup>2</sup>, Part 1 of Article 159<sup>5</sup>, Part 1 of Article 159<sup>6</sup>, Part 1 of Article 171, Part 1 of Article 171<sup>4</sup>, Part 1 of Article 173<sup>2</sup>, Part 1 of Article 174, Part 1 of Article 174<sup>1</sup>, Part 1 of Article 185, Article 185<sup>1</sup>, Part 1 of Article 199<sup>3</sup> of the CrC RF, the pre-trial custody cannot be chosen, since the penal clauses of these articles do not provide for imposing a penalty in the form of imprisonment.

Based on the provisions of Item 2 of Part 1 and Item 1<sup>1</sup> of Article 108 of the CrPC RF, it is not allowed to apply pre-trial custody in respect of other persons suspected and accused of committing crimes listed in Item 1 hereof in the absence of circumstances specified in the law.

In particular, Item 2 of Part 1 of Article 108 of the CrPC RF prohibits the use of pre-trial custody in the form of detention against a suspect or accused of committing minor crimes, including those provided for in Part 1 of Article 159, Part 1 of Article 159<sup>3</sup>, Part 1 of Article 160, Part 1 of Article 165, Parts 1, 3 and 5 of Article 171<sup>1</sup>, Parts 1 and 1<sup>1</sup> of Article 171<sup>3</sup>, Article 171<sup>5</sup>, Part 1 of Article 173<sup>1</sup>, Part 2 of Article 173<sup>2</sup>, Part 2 of Article 174, Part 2 of Article 174<sup>1</sup>, Article 177, Part 1 of Article 178, Part 1 of Article 180, Part 1 of Article 181, Part 1 of Article 183, Parts 2 and 3 of Article 185, Parts 1 and 3 of Article 185<sup>2</sup>, Part 1 of Article 185<sup>4</sup>, Part 1 of Article 191, Parts 1 and 2 of Article 191<sup>1</sup>, Part 1 of Article 193, Part 1 of Article 193<sup>1</sup>, Part 1 of Article 194, Parts 1, 2 and 3 of Articles 195, Article 198, Part 1 of Article 199, Part 1 of Article 199<sup>1</sup>, Part 1 of Article 199<sup>2</sup>, Part 2 of Article 199<sup>3</sup>, Article 199<sup>4</sup> of the CrC RF, if there are no circumstances specified in sub-items c and d of Item 1 of Part 1 of Article 108 of the CrPC RF.

Part 1<sup>1</sup> of Article 108 of the CrPC RF prohibits the use of pre-trial custody in the absence of the circumstances specified in Items 1-3 of Part 1<sup>1</sup> of Article 108 of the CrPC RF, against a suspect or accused of committing crimes stipulated by Items 5 to 7 of Article 159, Part 2 of Article 171, Parts 1<sup>1</sup>, 2, 4 and 6 of Article 171<sup>1</sup>, Part 2 of Article 171<sup>3</sup>, Articles 172-172<sup>3</sup>, Part 2 of Article 173<sup>1</sup>, Parts 3 and 4 of Article 174, Parts 3 and 4 of Article 174<sup>1</sup>, Article 176, Parts 2 and 3 of Article 178, Part 2 and 3 of Article 180, Part 2 of Article 181, Parts 2 to 4 of Article 183, Part 2 of Article 185<sup>2</sup>, Article 185<sup>3</sup>, Part 2 of Article 185<sup>4</sup>, Article 190, Parts 2 to 5 of Article 191, Part 3 of Article 191<sup>1</sup>, Article 192, Part 2 of Article 193, Parts 2 and 3 of Article 193<sup>1</sup>, Parts 2 to 4 of Article 194, Parts 1<sup>1</sup>, 2<sup>1</sup>, 4 and 5 of Article 195, Articles 196, 197, Part 2 of Article 199, Part 2 of Article 199<sup>1</sup>, and Part 2 of Article

199<sup>2</sup> of the CrC RF, without any other conditions, and in relation to a suspect or accused of committing crimes provided for in Parts 2 to 4 of Article 159, Parts 2 to 4 of Article 159<sup>1</sup>, Parts 2 to 4 of Article 159<sup>2</sup>, Parts 2 to 4 of Article 159<sup>3</sup>, Parts 2 to 4 of Article 159<sup>5</sup>, Parts 2 to 4 of Article 159<sup>6</sup>, Parts 2 to 4 of Article 160, Part 2 of Article 165, and Article 201 of the CrC RF, provided that these crimes were committed by an individual entrepreneur in connection with the implementation of his business activity and (or) management of property belonging to him and used for the purposes of business activities, or if these crimes were committed by a member of the corporate body of a commercial organization in connection with the exercise of his powers to manage the organization or in connection with the conduct of business or other economic activities by the commercial organization.

With this in mind, the court, for each motion received from the investigator or inquirer for selection of pre-trial custody as a pre-trial restriction measure in respect of a suspect or accused of committing crimes provided for in Parts 2-4 of Article 159, Parts 2-4 of Article 159<sup>1</sup>, Parts 2-4 of Article 159<sup>2</sup>, Parts 2-4 of Article 159<sup>3</sup>, Parts 2-4 of Article 159<sup>5</sup>, Parts 2-4 of Article 159<sup>6</sup>, Parts 2-4 of Article 160, Part 2 of Article 165, and Article 201 of the CrC RF, who is an individual entrepreneur or a member of the corporate body of a commercial organization, should check whether the resolution on the initiation of the petition and files attached to the resolution contain specific information confirming the conclusion that the alleged crime was not committed in connection with his business activity and (or) the management of his property used for business purposes, or not in connection with the exercise of his authority to manage this organization, or not in connection with the conduct of business or other economic activities by the commercial organization (Part 3<sup>1</sup> of Article 108 of the CrPC RF). In the absence of the specified information, such a petition is subject to dismissal.

The presence in the resolution on the initiation of a motion for selection of pre-trial custody as a pre-trial restriction measure and in the files attached to the resolution of an indication of the mercenary motive of the suspect or accused, as well as the method of disposing of the stolen property (for example, appropriated personally or used for business purposes) cannot serve as grounds to consider the act to be committed without relation to the exercise of business activities.

If, when resolving on the remand in custody of a person detained in accordance with Article 91 of the CrPC RF as suspected of committing a crime in the field of business or other economic activity, the defense party requests that the court hearing be adjourned in order to submit documents confirming the status of the suspect, who is an individual entrepreneur or a member of the corporate body of a commercial organization, the court grants such a request for the grounds and in accordance with the procedure provided for in Item 3 of Part 7 of Article 108 of the CrPC RF.:"

6) In Item 7, the words "iin Items 1–4 of Part 1 of Article 108 of the CrPC RF" shall be replaced by the words "in Items 1–3 of Part 1<sup>1</sup> of Article 108 of the CrPC RF";

7) Items 8 and 8<sup>1</sup> shall be revised to read as follows:

"8. It is brought to the attention of the courts that in considering the motion for selection of pre-trial custody as a pre-trial restriction measure in regard of a

person suspected or accused of crimes listed in Item 1 hereof, they should in all cases discuss whether it is possible to apply a different, milder pre-trial restriction measure, in particular when there are circumstances indicated in Items 1–3 of Part 1<sup>1</sup> of Article 108 of the CrPC RF in a criminal case.

8<sup>1</sup>. In all cases on crimes listed in Item 1 hereof, the possibility of applying a pre-trial restriction measure in the form of bail should be discussed. Herewith, the court is not limited in its right to suggest this issue for discussion of the parties upon its own initiative.

If after discussing the possibility of applying bail to a suspect or accused the court finds it necessary to select a harsher pre-trial restriction measure or to prolong it, in its decision it must cite the motives for which it deems impossible to apply bail. Herewith, it is inadmissible to refer to other restrictions pertaining to the use of bail except for those stipulated in Parts 3 and 4 of Article 106 of the CrPC RF .";

8) Paragraph two of Item 10 shall be deleted;

9) Item 12 shall be revised to read as follows:

"12. Based on the interrelated provisions of Part 1 of Article 76<sup>1</sup>, Item 3 of the Notes to Article 198, Item 2 of the Notes to Article 199, Item 2 of the Notes to Article 199<sup>1</sup>, Item 2 of the Notes to Article 199<sup>3</sup>, Item 2 of the Notes to Article 199<sup>4</sup> of the CrC RF and Parts 1, 2 of Article 28<sup>1</sup> of the CrPC RF, restitution of damages caused to the budgetary system of the Russian Federation as a result of a crime specified in Articles 198– 199<sup>1</sup>, 199<sup>3</sup>, 199<sup>4</sup> of the CrC RF should be understood as full payment of arrears, fees and fines in the amount established in accordance with the legislation of the Russian Federation on taxes and levies and (or) legislation of the Russian Federation on compulsory social insurance against occupational injuries and diseases with due regard to the calculation of fees and fines provided by the tax body or territorial body of the insurer.

Partial restitution of damages caused by the crime may be deemed as such a mitigating circumstance pursuant to Part of Article 61 of the CrC RF.

Proceeding from provisions of Item 1 of Article 45 of the Tax Code of the Russian Federation, stating that the taxpayer's duty to pay the tax may also be carried out by a different person, for the purposes of Part 1 of Article 76<sup>1</sup> of the CrC RF, full restitution of damages caused to the budgetary system of the Russian Federation may be confirmed by documents certifying the fact of transfer of amounts accrued in discharge of indebtedness of the tax payer (an organization or individual) to the budgetary system of the Russian Federation (e.g. by a payment order or a receipt marked by the bank as executed). The court's ability to verify said fact is preserved.";

10) Item 14 shall be revised to read as follows:

"14. For a person to be exempted from criminal liability for the crimes indicated in Parts 1 and 2 of Article 76<sup>1</sup> of the CrC RF, the restitution of damages caused to a citizen, organisation or the state (the budgetary system of the Russian Federation) as a result of the crime, as well as the transfer of income and monetary restitutions to the budget must be performed in full before the court retired to its deliberation room.";

11) Paragraph two of Item 17 shall be revised to read as follows:

"Where there are other legal grounds to quash the judgement of conviction, and therewith, at the time of consideration of the case by the court of appeal, the convicted person has met the conditions specified in Parts 1 or 2 of Article 76<sup>1</sup> of the CrC RF regarding exemption from criminal liability, the criminal case or criminal prosecution is subject to termination according to the rules of Parts 1 pr 3 of Article 28<sup>1</sup> of the CrPC RF, unless there are grounds to pronounce a judgement of acquittal.";

12) Item 18 shall be revised to read as follows:

"18. In cases on crimes indicated in Parts 1 and 2 of Article 76<sup>1</sup> of the CrC RF, where they were committed by a group of persons bearing joint and several liability for the damages incurred by joint criminal actions, the court terminates criminal prosecution in regard of all the accomplices on condition that all the requirements of Parts 1 and 2 of Article 76<sup>1</sup> of the CrC RF regarding the restitution of damages and other payments have been met in full by at least one of those persons."

3. In Ruling of the Plenary Session of the Supreme Court of the Russian Federation No. 18 dated 9 July 2020 "On Judicial Practice in Cases on Illegal Crossing of the State Border of the Russian Federation and on Crimes pertaining to Illegal Migration":

1) In paragraph two of Item 3, the words "etc." shall be replaced with the words ", as well as in other cases, including those provided for by international treaties that allow for obtaining proper permission to cross the State Border outside the established checkpoints.";

2) Item 4 shall be supplemented with new paragraphs as follows:

"Taking into account the provisions of Article 9 of Law of the Russian Federation of 1 April 1993 No. 4730-I "On the State Border of the Russian Federation", crossing the State Border without proper permission, which entails liability under Part 1 of Article 322 of the CrC RF, includes, among other things, its intentional crossing outside the routes and places established for this purpose by international treaties or decisions of the Government of the Russian Federation in the absence of permission from the border authority for such crossing, including cases when the person who committed this act outside the checkpoint across the State Border has valid documents for the right to enter the Russian Federation or leave the Russian Federation.

Departure from the Russian Federation of a citizen of the Russian Federation who has or earlier had access of state secrets and whose right to leave the Russian Federation is knowingly restricted in accordance with Russian legislation on state secrets, including under the circumstances specified in Part 1 of Article 322 of the CrC RF, is qualified under the corresponding Part of Article 283<sup>2</sup> of the CrC RF and does not require additional qualification under Part 1 or Part 3 of Article 322 of the CrC RF.";

3) The word "tourist" shall be deleted from paragraph one of Item 7;

4) Item 10 shall be revised to read as follows:

"10. Organizing illegal migration for the purposes of commission of a specific crime, as well as concealing a specific crime or facilitating the commission of the same with the participation of or in regard of foreign citizens or stateless

persons in the Russian Federation, in particular where the foreign citizens or stateless persons themselves were unaware of participation in the commission of that crime, concealing or facilitating the commission of the same, is fully covered by Item b of Part 2 of Article 322<sup>1</sup> of the CrC RF. If a person organising illegal migration for such purposes participated in commission of said crime, concealing or facilitating the commission of the same, her/his actions, where there are corresponding grounds, are qualified as a cumulation of crimes stipulated in Item b of Part 2 of Article 322<sup>1</sup> of the CrC RF and in the corresponding Article (Item, Part of an Article) of the Special Part of the Criminal Code of the Russian Federation with reference to Part 3 or Part 5 of Article 33 of the CrC RF if necessary.

Organizing illegal migration in order to conceal another crime or facilitate the commission of the same is qualified under Item b of Part 2 of Article 322<sup>1</sup> of the CrC RF, regardless of the place of commission and category of such crime.";

5) Paragraph one of Item 17 shall be supplemented with the following sentence : "Admission by a person of guilt in committing a crime under Article 322<sup>2</sup> or 322<sup>3</sup> of the CrC RF, not related to assisting the preliminary investigation bodies in establishing unknown circumstances subject to proof, or other circumstances that are significant for the criminal case, cannot be deemed as contributing to the solution of the crime."

Chief Justice of the Supreme Court of the  
Russian Federation

I.V. Krasnov

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

O.K. Zatelepin