DALLA COMUNITÀ INTERNAZIONALE

MATVEEVA YANA

Restorative justice according to the laws of some foreign countries and Russia

SUMMARY: 1. Introduction 2. Focus on measures in the perspective of comparative law 3. Conclusion

1.Introduction

In modern time the idea of recovery justice is especially actual for the Russian judicial system. Many scientists note crisis of retaliatory justice. Rehabilitation and socialization of the persons who have served real sentence, is complicated, high recurrence among such criminals is noted that at all doesn't promote decrease in a crime rate and a problem of private prevention. Besides, in similar cases, to the victim harm is seldom compensated. Now at the solution of the criminal and legal conflict special significance is attached to restoration of the broken public relation and compensation of the harm done by a crime. But the Russian criminal and criminal procedure legislation can't guarantee to the victim compensation of harm in full. The brief experience of application of measures of recovery justice in Russia, and also lack of uniform approach to a regulation of measures of recovery justice, in our opinion, demands, including, appeals to experience of some foreign countries. In the present article the legislation of some foreign countries is analyzed and the comparative analysis with the criminal act of the Russian Federation is carried out. In article the separate measures of recovery justice which were widely adopted in some foreign countries are allocated. In particular, mediation, transaction and other actual alternatives to criminal prosecution which can be carried to measures of recovery justice is analyzed. From the point of view of the comparative analysis, in our opinion, the legislation of England, France, Germany, Holland and Moldova is especially interesting. Recovery criminal justice could gain further development in Russia, including taking into account experience of foreign countries.

Currently in the Russian law there is a tendency to the world-noma and non-judicial solution to legal disputes. One of its manifestations is the Federal law of 27.07.2010 N 193-FZ On alternative procedure of dispute settlement with participation of mediator (mediation procedure)" .

The most conservative branch of law, criminal law, were also influenced by contemporary trends in science and practice.

The evidence of that is how the interest of scientists to the problems of reha-

bilitation in criminal justice, and the state's desire to humanize the use of criminal law through amendments to the criminal code and Criminal procedure code of the Russian Federation.
Potential punitive measures in the criminal law may not always be able to be used, and modern criminal policy should take this into account. Can we say that in Russian criminal law there is now a search of a balance between the coercive power of the state in the most violent of its manifestations (sentencing) and alternatives to criminal prosecution under certain factual circumstances? I think the answer to this question should be positive, restorative and criminal justice, it seems, can help in finding such a balance.

2. Focus on the measures in the perspective of the comparative law

Measures of restorative criminal justice aims to restore social justice, violated rights of the injured person and compensation for crime damage.
In addition, an important part of the idea behind restorative justice is the search for alternatives to the actual sentence to be served. A person who has served his real punishment in the form of deprivation of freedom, has a tendency to relapse, as rightly noted by scientists, social adaptation of such individuals is difficult, they have atrophied sense of responsibility for themselves and their families. Such individuals need special programs of socialization and rehabilitation, the use of which, unfortunately, can not guarantee the implementation of the task private prevention, as well as economically beneficial to the state. Particularly acute problem in relation to juvenile offenders.
Criminal laws of some foreign countries contains historically formed and proven measures of restorative criminal justice, and it's interesting to study and comparative analyses of Russian criminal law.
Mediation as a method of peaceful conflict resolution and alternative to criminal prosecution, is of paramount importance among the measures of restorative justice.
In scientific works of scientists of England, mediation is defined as the process by which an independent third party helps two conflicting parties to overcome their disagreement in any matter, and the decision to accept the terms of the agreement the conflicting parties.
Mediation in England is divided into two main types: the judiciary and the police. Judicial mediation is possible in all categories of criminal cases and is applied already at the stage of the criminal prosecution until a final verdict and sentencing. At the stage of the judicial process, the probation service acts as an intermediary between the offender and victim, and tries to convince the person who committed the crime, voluntary compensation of the caused damage. If successful, the mediation agreement is signed, which is taken into

account by the court when sentencing. And this fact testifies in favor of judicial mediation in England is not a ground of exemption from criminal responsibility in the sense that it is known to the Russian criminal law. Even if the fact that the parties had reconciled, the harm is compensated, what signed the agreement-tion, punishment shall be imposed and can only be mitigated.
Police mediation suggests the possibility of a peaceful solution to criminal legal conflict by transfer of the case to the mediation service prior to the adoption of the decision on initiation of criminal prosecution. The mediator conducts the procedure of conciliation, meeting with a person who is subject to criminal prosecution and the victim (together or separately), stipulating forms of redress which may be varied, for example, monetary compensation, an apology in any form, damages their own labor and other forms. If mediation is successful and agreement between the parties is concluded, regardless of whether the conditions of such an agreement or not, from the police-be proved from criminal prosecution, limited to a warning.
As the main restorative justice programs in the U.S. actively use the mediation procedure between the offender and the victim. Mediation can be used at any stage: before the arraignment, and after the trial.
Mediation according to the "victim-perpetrator" was in present widespread use in many States. The essence of this type of mediation is the desire of the repentant criminal to voluntarily compensate the damage and apologize, and offsetting him the desire of the victim to meet the offender in person, ask some questions, such as why he was the victim of an assault, and to agree on the damages.
The study of mediation by the example of North Carolina shows that the use of this procedure is possible at the stage of trial. The court according to their own conviction, and, guided by external factors, may recommend the parties to initiate conciliation proceedings.
Mediation by a professional mediator or specific mediation service in the court room or another place chosen victim and perpetrator.
The mediator must control the process throughout its length of activity, is also a mediator may identify and invite individuals from the victim and / or offender which can be useful for solving the dispute. The result conciliation mediation agreement is drawn up in writing and signed by the parties, otherwise the agreement will not have force. Another possible outcome of the mediation: when the parties are unable to agree and the mediator declared that the case was "deadlocked". In this case, the materials of the case sent back for consideration in court.
The Belgian Code of criminal investigation contains provisions (article 216ter) on compensation of the harm caused by the crime. The Belgian legis-

lator does not specify individual names for the procedures described in article 216ter of the code of criminal investigation of Belgium, but by its nature it can be called mediation.
In accordance with legal provisions, the Prosecutor will call the offender and invites him to repair the damage caused by the crime, unless the expected penalty for the crime does not exceed two years imprisonment or more severe punishment. The offender shall provide the Prosecutor proof of damages. The Prosecutor, in an extreme case, may invite the victim and to organize the mediation procedure, during which the agreed amount of compensation, term of repayments and other terms.
In addition, the offender is given the opportunity to undergo medical treatment or other therapy from alcohol or drug addiction a period not exceeding six months, if the offender declares as the reason for committing the crime, specified disease, and (or) the ability to perform unpaid community work lasting not more than 120 hours.
The offender is obliged to pay at his own expense and installed by the Prosecutor to the period the costs of analysis or examination if it is held in a criminal case. The Prosecutor has the right to use confiscation and to oblige the offender to leave the seized items or move them to the place determined by the Prosecutor.
If the person is subject to criminal prosecution, accepts and fulfills all the conditions set by the Prosecutor, the right of the state in a criminal suit is settled.
The originality of the Belgian mediation is that the Prosecutor may put additional terms and conditions applicable to the issue of socialization of the perpetrator of the crime. In addition, the classical model of mediation is that the whole procedure should be carried out by an independent person, normally, this is a special service or another professional realtor. In Belgium, the same mediator acts as a representative of the authorities – Prosecutor, that is, here is the place to be "Prosecutor's mediation". However, these features apparently do not prevent the application of a mediation procedure.
Although, in the article 216ter of the code of criminal investigation and indicated that the procedure can be applied in that case, if the act does not result in a prison sentence of more than two years or a more severe punishment, in practice, the use of mediation to almost all crimes, even the most serious. The reason for this is the fact that the enforcers and theorists widely interpret a specified rate, taking into account the explanatory Memorandum to the Act of 10 February 1994 which do not contradict the will of the legislator. Broad interpretation of rule based on the explanatory Memorandum to the said law allows the Prosecutor to consider not only the punishment that may be pre-

scribed by sanctions of articles, but also the potential mitigating circumstances, if the same are available , thus expanding the possibility of application of mediation.
Fundamentals of mediation procedures conducted in the Federal Republic of Germany enshrined in §153a of the criminal procedure code of Germany, according to which the Prosecutor may refuse the initiation of prosecution in cases of misconduct, with the consent of the court and the accused, in the absence of the corresponding public interest, placing on the accused the obligation or specific guidelines. As obligations or instructions can be assigned:
1.perform certain actions for damages caused by the misconduct;
2.payment of the cash amount to charitable organizations or to the state budget;
3.to perform other socially useful activities;
4.the payment of alimony in a specific amount;
5.a comprehensive effort to compensate for the harm caused in the victim (compensation by the victim), so that it rights a wrong act committed by him wholly or for the most part or is committed to achieving this goal, or
6.participation in the seminar in accordance with § 2b (par. 2: th. 2) or § 4 (art. 8: th. 4) Federal law on road traffic .
Responsibilities must match the value of the committed Pro-mortar, and to perform them, the Prosecutor's office shall set a period which cannot be longer than one year if the obligation of payment of the Ali-ments, and more than six months at the laying of all other obligations (guidance). These time limits may be extended by the Prosecutor's office once in three months. The Prosecutor is also entitled to cancel the execution of duties, with the consent of the defendant to assign and modify duties .
When the defendant performs the duties assigned to it, perfect for them the act is no longer regarded as misconduct and criminal liability does not occur. If the obligation is not fulfilled, the work done by the accused for its implementation, is not refundable, and the Prosecutor's office initiated a public prosecution.
At the stage of the excited charges to the end of the trial, which last time checked the facts of the case, the court is entitled, with the consent of the Prosecutor and of the defendant, suspend the case and to impose the above obligations on the defendant. Further, the consequences of performance or non-performance are applied on a common basis.
The waiver of charges with the active repentance (§153e of the criminal procedure code of Germany), in comparison with the criminal law of the Russian Federation is a special case of exemption from criminal responsibility. We are talking about crimes that threaten the security of Germany as a state. The

attorney General may, with the consent of the competent higher regional court to abandon prosecution of such acts, if the offender after committing the crime, but before he became aware of his unfoldment, contributed to the prevention of danger to the integrity or security of Germany or its constitutional order.
Similarly, the code of criminal procedure of Germany reglamentary cases where a person after committing a crime reported to the appropriate authority for details about the plans associated with treason, endangering the democratic legal state, or treason against the Federal earth, or a threat to external security."
The excited charges in such cases shall be entitled to terminate the competent higher regional court, subject to the consent of the attorney General and the availability of the above prerequisites.
Mediation in France is governed by the provisions of the Criminal procedure code, in particular, informed mediation mentioned in article 41, under which the Prosecutor was granted the right to decide on mediation if it considers that the outcome of such a procedure the victim shall be reimbursed to the harm, the conflict may be resolved, and mediation can contribute to correcting the persons who committed the crime.
The Prosecutor, prior to the institution of public prosecution shall have the right:

1. to produce a reminder to the person liable to criminal responsibility of his duties prescribed by law;

2. to offer the person subject to criminal liability to apply to social, health or professional institution;

3. to appeal to that person with a request to bring its position into conformity with the law or regulations;

4 to oblige a person liable to criminal liability, to indemnify damages caused to them;

5. to start a mediation procedure with the consent of the parties to such a procedure: the victim and the person subject to criminal liability .

France has developed two types of mediation: delegated mediation, i.e. mediation with the participation of a disinterested third party (paragraph 5 of article 41-1 of the criminal procedure code of France), and mediation in the scope of their authority , which conducts the Prosecutor on the basis of clauses 1-4 of article 41-1 of the criminal procedure code of France.
The Prosecutor has the right to apply article 41-1 of the criminal procedure code of France in any category of criminal cases, determining the nature and number of conditions that must be performed at its discretion.
The goal of mediation is the practical restoration of the violated interests, and,

the shape of this recovery can be any of: an apology, financial compensation, repairs and more.
The mediator, which the Prosecutor delegates the implementation of measures to reconciliation of the parties to the conflict, as a rule, employees of public organizations who provide support for victims or to assist persons who committed the crime.
Once the mediator is satisfied that the parties participate in mediation voluntarily, he explains to them their rights, including the right to terminate negotiations at any time, organizes meetings, during which, trying to resolve the conflict, and at the end, in the case of a successful procedure is a Protocol signed by the offender and the victim.
Mediation is also used in the production of juvenile, as stipulated in the Ordinance of 02 February 1945. As minors are incapable, in their criminal cases used mediation, providing for the reparation of harm caused by the criminal offence. The decision on mediation involving minors, subject to penal responsibility may be taken at any stage of the process, including at the trial stage, all the necessary conciliation may make the person leading the relevant stage of the process, without the involvement of third parties – mediators.
In criminal law of Russia and most CIS countries, forms of mediation, in our view, are active repentance, reconciliation with the victim.
In the criminal code of the Kazakhstan mediation is mentioned as one of the procedures of reconciliation of a person who committed a minor offense or has committed a crime of medium gravity, with the victim (paragraph 1 of article 67). Criminal procedure code of Kazakhstan among other persons involved in the criminal process calls the mediator who is an independent individual involved by the parties for mediation.
Procedural criminal legislation of Moldova allocates mediation as a way of settling the case peacefully (article 344.1). Conducting mediation procedure is possible according to the decision of the court in the case of a person charged with committing a minor or less serious offences, and in the case of minors and certain serious crimes, as well as in cases when a criminal case occurs at the request of the victim, as well as in the event of theft of the property owner committed a minor, a spouse, relatives, to the prejudice of the Trustee or a person residing with the victim or accepted for accommodation. Mediation in criminal matters in the Republic of Moldova is regulated by the Act of June 14, 2007 No. 134-XVI On mediation, which contains the main provisions of the mediation procedure; the rights, obligations and responsibility of participants of mediation; rules for obtaining the status of a mediator, as well as the guidelines on mediation in civil, family and criminal matters.

3. Conclusion

In our opinion, in Russia and in some CIS countries do not fully use the potential of mediation as a form of reconciliation and reparations that have been reported in the scientific literature.

The distinctive feature of mediation in foreign criminal law is the possibility of its application with the participation of an independent mediator or mediation service that could be accepted by the Russian criminal and criminal procedural legislation.

Using the experience of some foreign countries, Kazakhstan and Moldova, should set out the conditions of application and the procedure of mediation by making changes to the criminal law, criminal procedure law, and the Federal law of 27.07.2010 N 193-FZ On alternative procedure of dispute settlement with participation of mediator (mediation procedure)". In most foreign countries mediation in criminal justice is largely procedural in nature and are rarely fixed in the substantive criminal law. It seems that the national legislator should not go on this path, because mediation is a complex legal institution and its individual forms: the active repentance and reconciliation with the victim, enshrined in the criminal law of the Russian Federation. The inclusion of norms on mediation in the first place, the criminal code of the Russian Federation, it is true and relevant the principle of legality.

Transaction or to pay a certain amount (fiscal penalty) to the state Treasury, along with mediation, is widely used in some foreign countries.

The law "About criminal justice in Scotland" was passed in 1987, established the possibility of exemption from criminal responsibility for the Commission of dangerous acts, upon payment of a fixed penalty. The meaning of such a measure is the following: the Procurator-fiscal, having received information about the crime within the competence of the district court, and not counting mandatory to initiate a criminal prosecution shall have the right to make an accused person a formal conditional offer of release from criminal liability upon payment of a certain sum of money to the state Treasury. In this sentence explains the conditions of exemption from criminal responsibility, and establish the deadline for acceptance of conditional offer: 28 days, specify the amount of the fixed penalty and the intervals of payment. If the person subject to criminal liability, fully pays the fixed penalty or the first installment, the proposal shall be considered adopted and the state has no right to initiate criminal prosecution, otherwise, the Procurator-fiscal makes the decision on the beginning of criminal prosecution. The amount of the fixed penalty is £ 25, the sum is unchanged.

Possible payment of the fine in installments, in cases where remains unpaid some portion of the fine, the court clerk has the right to forced the order to

collect from the debtor a debt by civil process.
Dutch criminal law knows the Institute of the transaction, the essence of which is the refusal of the state from prosecution of the perpetrator of the criminal act, in the case where that person has fulfilled certain requirements of the attorney.
Interesting from the point of view of comparative law are the provisions of article 74 of the criminal code of Holland, which contains a list of conditions which may be imposed by the Prosecutor prior to the trial for the termination of criminal prosecution:

- the payment of a sum of money to the state not less than five guilders and not more than the maximum amount of fine provided for by law;
- waiver of seized articles, subject to confiscation or withdrawal from circulation;
- the refusal of the subjects to be confiscated or pay the state their estimated value;
- full payment to the state sum of money or transfer of objects that are seized to deprive the accused wholly or partly of profits obtained as a result of the crime, including cost saving;
- full or partial compensation of the damage caused by the criminal pre-crime.

As can be seen from the text of the criminal code of the Netherlands, the Prosecutor may choose at their discretion one or more conditions from the list, which is comprehensive.

The transaction can be applied to perpetrators who have committed any crime, except those crimes for which the law establishes the penalty of imprisonment of more than six years.

The Institute transactions in Belgium is largely procedural in nature and governed by the procedural rules, not substantive law.

The procedure of the transaction in Belgium was first enshrined in the Royal Decree of 10 January 1935, in the explanatory note to which it was noted that the legislator took into account positive experience of application of article 74 of the criminal code of the Netherlands.
Refusal from criminal prosecution on the basis of transactions in Belgium is only possible to initiate a criminal prosecution, in the trial stages of the process the institution will not apply.
Subsequently, the scope of the Institute was expanded after the publication of the Royal decree of June 21, 1939, the procedure of transaction is made possible not only in cases concerning offences, but also for some categories of misconduct, including imposing sentences of imprisonment. This position of the legislator was subjected to merciless criticism among theorists of criminal

law of Belgium. The representatives of the doctrine was considered a significant drawback of the procedure of the transaction in this office that the Institute promotes the release from prosecution of wealthy individuals who can pay off the state-state, while the poor may be particular virtually no .
The legislator has listened to the criticism of the representatives of the science of criminal law, and in Belgium a few years was a law, according to which, the transaction may apply to cases on offences, but not to cases of offences in Belgium. The entry into force of the act of June 7, 1949, marked the return to the old provisions under which the transaction is allowed and in case of Commission of the offense, including those resulting in a punishment of deprivation of liberty. In the explanatory note to the said law was expressed position regarding accusations by the doctrine in relation to the transaction, as a means of repurchase of criminal prosecution. According to the legislator, the transaction can be applied if the Prosecutor finds that the act committed may not be appointed otherwise adequate punishment except a fine or confiscation. In addition, the legislator has considered that there is no reason to believe that the crown prosecution service, endowed with fairly wide discretionary powers, will abuse them.
In accordance with article 216-*bis* of the code of criminal investigation are Belgium, the transaction in Belgium applicable to cases on crimes, which does not encroach on serious violation of the physical integrity of the victim, punishment for the Commission of which in the form of penal imprisonment not exceeding two years or longer or does not provide for more severe punishment.
The amount payable in cash the Treasury can not exceed the maximum amount of the fine, if provided as punishment for committing a specific crime and must be proportionate to the seriousness of the crime. The Prosecutor has the right to set a time limit for the payment of a certain sum, which may not be less than two weeks and more than 3 months, in exceptional cases the period may be extended up to 6 months.
If we talk about the value and legality of the transaction as of the Institute of criminal law of Belgium, the European court of human rights in Strasbourg in the case of Deweer V. Belgium, concluded that "presenting undeniable advantages, both for stakeholders and for justice in General, a transaction is not in principle contrary to the European Convention for the protection of human rights and fundamental freedoms".
The code of criminal procedure of the Federal Republic of Germany provides for the possibility to temporarily refuse initiation of prosecution in cases of misconduct, with the consent of the court and the accused, in the absence of the corresponding public interest, having accused in addition to other al-

ternative duties that can be attributed to the forms of mediation, the obligation to transfer a sum of money to a charity or the state Treasury.
In France, the payment of a fine to the state Treasury, as a measure of restorative justice, is applied in the form of a conditional waiver of criminal prosecution, which is possible by virtue of the right of the Prosecutor to assess the feasibility of criminal prosecution (article 40 CPC).
The possibility of applying criminal provisions for certain categories of crimes enshrined in article 48-1 code of criminal procedure of France.
The Institute of criminal provisions has been restated in article 41-2 and 41-3 of the code of criminal procedure article France. In accordance with article 41-2 of the code of criminal procedure, before the decision on initiation of criminal prosecution, the Prosecutor may offer a confessed an adult person to perform the following steps:

- to pay the state Treasury a fine of a certain amount, depending on the category of crime (for example, not more than 3 750 euros for committing less serious crimes);
- to pass the state objects with which or in respect of which the offence was committed;
- take your driver's license or a hunting license for a period up to four months;
- free to perform socially useful work total duration of not more than sixty hours .

Also, the Prosecutor is obliged to impose on the perpetrator of a crime, to compensate the victim caused by the crime harm. Nominated by the attorney-mentioned conditions must be accepted by the person who committed the crime within ten days from the date when they become known to him. In case of refusal or failure to comply with conditions, the Prosecutor may initiate a criminal prosecution. If the person agrees to comply with the proposed conditions, the Prosecutor sends the case file to the court for approval of the agreement. After reviewing the case, the court shall issue a decision which is not subject to appeal, approving the agreement or to refuse its approval. If the court approved the agreement, the Prosecutor shall appoint an authorised person that organises the execution of the agreement and monitors the performance of prescribed conditions by the person who committed the crime. Full implementation of the agreement deprives the state of the right to criminal prosecution, in part, is taken into account when assigning punishment, and refusal to comply with the terms of the agreement entails the institution of criminal proceedings on the same basis.
The use of such alternatives to criminal prosecution is possible in cases of certain offenses listed in the code of criminal procedure of France, which in-

clude, for example, some property offenses, theft, bodily injury and other providing for the punishment for committing them, in the amount of not more than three years of imprisonment.
Elements of the institution of transaction for example the Belgian and Netherlands of the criminal law are stipulated in article 76.1 of the criminal code of Russia, but the mechanism of rejection of criminal prosecution is somewhat different: the guilty person is necessary not only to indemnify, but to pay into the Treasury a substantial amount.
The criminal legislation of the CIS countries is not known to such measures of restorative justice, as the payment of a fine or other monetary amount or other elements of the transaction.
A characteristic feature of the studied measures of restorative justice in foreign law is the vesting of the public Prosecutor, the basic shape public prosecution wide discretionary powers. In particular, the Prosecutor has the right to determine whether criminal prosecution of a person and assign mandatory conditions of refusal from criminal prosecution of the perpetrator, including to determine the amount payable to the Treasury. In addition, in some cases, the Prosecutor has the right to act as "mediator" and participate in the reconciliation of the parties to the conflict, as envisaged, for example the criminal procedure code of France.
Exemption from criminal liability of minors with the use of coercive measures of educational influence is a measure of restorative justice, inherent only in Russia and other CIS countries, in the legislation of other countries the exact analogues of such measures, in our opinion, no.
Criminal laws of most CIS countries and Russia as a whole is not original in terms of regulation of this form of exemption from criminal responsibility, differ only in the conditions of application of coercive measures, but their types and contents are virtually identical and mainly those are: warning; transfer under supervision of parents or persons in Loco parentis, or a specialized state body; putting on duty to make amends for the harm; restriction of leisure and establishment of special requirements to behavior of the juvenile.
You should pay attention to the criminal law of Armenia, contains the correct, in our view, the rule according to which "in case of committing new crime, the minor is exempted from criminal responsibility under the previous offence if in connection with the latter was applied a coercive measure of educational character."
Unique, in comparison with criminal laws of other CIS countries is the regulation of exemption from criminal responsibility of minors in the criminal code of Belarus. A juvenile who has committed a crime not representing big public danger or less serious crime, may be exempted from criminal liability with

transfer under supervision of parents or persons substituting them, at their request, with such transfer shall be allowed subject to payment of the Deposit. In the case of an underage person placed under surveillance, during the year a new intentional crime, the amount of the security Deposit goes to the state. The decision of a question on transfer of a juvenile under supervision depends on this assessment of the character of the committed crime, data on the identity and other circumstances of the case, which may reflect the fact that the correction of poor children is possible without bringing him to criminal responsibility.

Juvenile article 67 of the criminal code of Kazakhstan sets forth the specific basis of exemption from criminal responsibility: the minor who has committed a grave crime not associated with causing death or serious harm to human health, can be released court from criminal liability if he reconciled with the victim, make amends for the harm to the victim. To such minors can also be applied compulsory measures of educational influence. In our opinion, this Statute we are talking about mediation involving the perpetrator is a minor.

The world practice of application of measures of restorative justice was established and has proved effective in solving not only civil, family and commercial disputes, but in the settlement of criminal law conflicts. In this case, as shown by the study of the laws of some foreign countries, the application of measures of restorative criminal justice is only possible in certain categories of cases, and in cases where there is public interest, it is unacceptable that speaks to the reasonableness and rationality of these measures.

The formation of the concept of restorative justice in Russia with the correct setting goals and objectives, taking into account the effective experience of foreign countries and CIS countries, with the amendments to the criminal code, the Criminal procedure code, other Federal laws, is able to solve many problems of criminal justice, including issues of redress and restoration of violated rights of the victim, the problem of finding an alternative to criminal prosecution, as well as the unreasonably frequent problem of criminal responsibility of minors.