



(REVIEW ARTICLE)



Attorney and Prosecutor: Confrontation in the Criminal Process or the Search for Balance?

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Abstract

The article examines the role of the attorney and the prosecutor in the criminal process of Russia. It analyzes the traditional model of confrontation between the prosecution and the defense, the vulnerabilities of this system, and possible ways of forming balance. It is emphasized that effective justice is impossible without equality of the parties and that the reforms of recent years have only partially changed the actual position of the participants.

Keywords: Attorney; Prosecutor; Criminal Process; Defense; Prosecution; Judicial Practice; Balance of Parties; Adversarial Nature

1. Introduction

The criminal process is built on the adversarial nature of the parties. On one side is the state prosecutor, representing the interests of society and the state; on the other is the attorney, defending the individual, their rights and freedoms. Theoretically, their positions are equal: the prosecutor is obliged to prove guilt, and the attorney has the right to use all lawful means of defense.

However, in Russian law-enforcement practice, a clear imbalance persists. The share of acquittals in 2023 amounted to only 0.19% of all criminal cases. This figure reflects that the role of the prosecutor in the process often turns out to be stronger, while the attorney's position requires additional effort from the lawyer in order to be heard.

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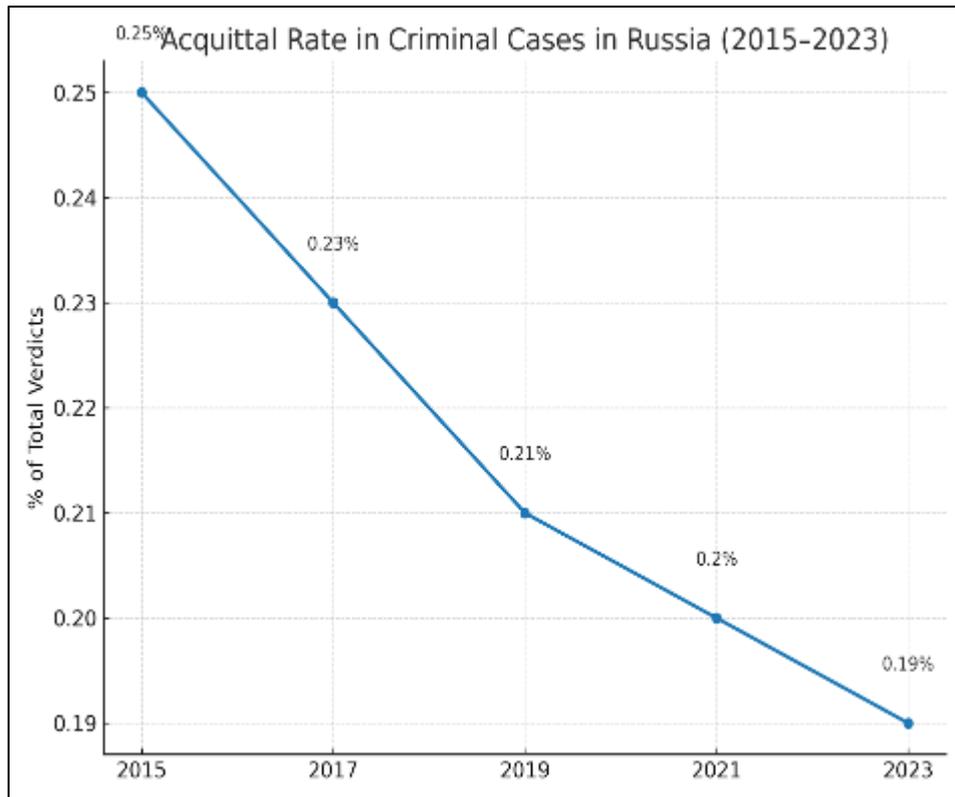


Figure 1 Acquittal rate in criminal case in Russia (2015-2023)

2. Block 1. Confrontation: The Traditional Model

2.1. The force-based superiority of the prosecution.

The prosecutor has an entire apparatus at their disposal — investigators, inquiry officers, expert services. The attorney, on the contrary, works with limited resources, often relying only on the documents collected by the prosecution.

2.2. Judicial practice

In most cases, courts trust the materials of the investigation, whereas the evidence presented by the defense requires special justification. This creates a sense of “inequality of arms.”

2.3. Pressure on the defense

Attorneys often face restricted access to case materials, obstacles in summoning witnesses, and refusals of motions. Formally, these actions do not violate the law, but in practice they weaken the defense.

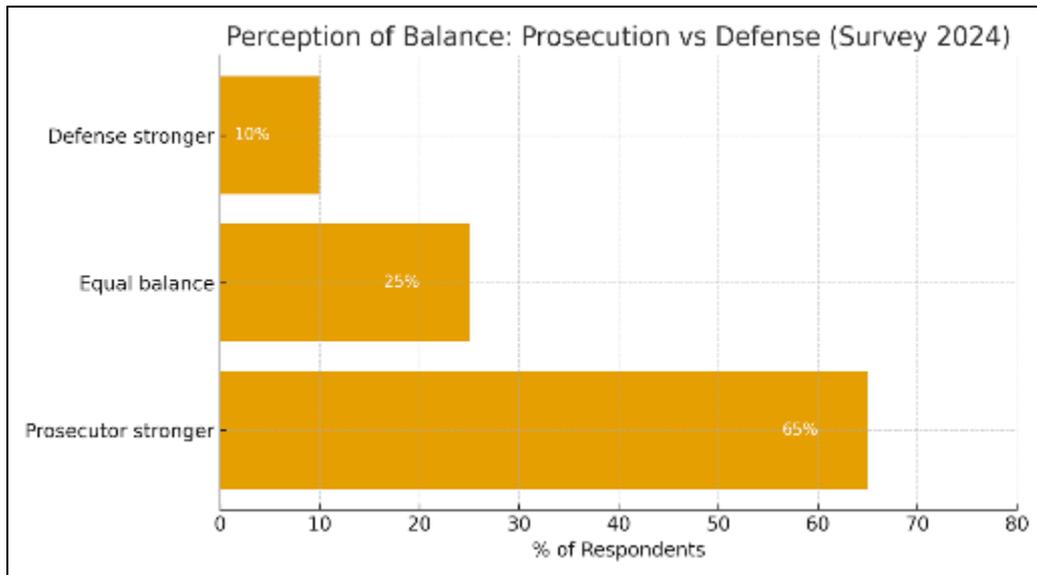


Figure 2 Perception of balance: Prosecution vs Defense(Survey 2024)

3. Block 2. Searching for Balance

3.1. Judicial reform and adversarial procedure

The reforms of recent years are aimed at strengthening adversarial principles: the number of acquittals in cases involving juries has increased, and the opportunities for attorneys to file motions for evidence have expanded. But the systemic gap is still significant.

3.2. The role of defense strategy

A strong defense is built on competent analysis of procedural violations, work with experts, and attracting public attention. These tools allow the attorney to compensate for the imbalance.

3.3. Examples of successful cases

The termination of criminal cases on rehabilitative grounds or the recognition of evidence as inadmissible is rare, but such decisions become precedents that strengthen the position of the defense.

4. Block 3. Prospects: Competition or Partnership?

4.1. The partnership model

In developed legal systems, the prosecutor and the attorney are not only opponents, but also participants in a shared process of ensuring justice. The prosecutor is obliged to seek not only evidence of guilt, but also facts confirming innocence.

4.2. The Russian context

So far, this model is implemented only to a limited extent. But the gradual expansion of defense rights, the development of bar associations, and the increasing openness of the judicial system create conditions for changing the balance.

4.3. The future

In the coming years, the role of the attorney may strengthen through the digitalization of processes (electronic access to case materials), the growth of independent expert examinations, and the expansion of the jury system. All of this may bring Russian practice closer to the principle of equality of the parties.

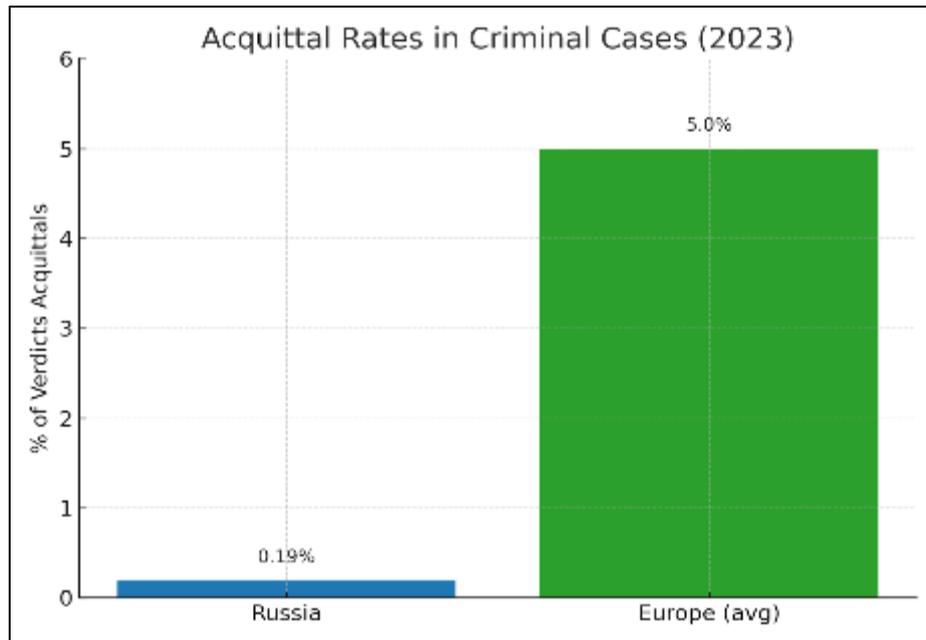


Figure 3 Acquittal rate in criminal cases(2023)

5. Conclusion

The confrontation between the attorney and the prosecutor remains a key feature of the criminal process. In Russia, this confrontation is still characterized by an imbalance: the prosecutor has an institutional advantage. However, it is precisely the search for balance that makes the justice system stable. For the attorney, the task is not only to defend the client, but also to participate in changing the culture of the criminal process. And for the state, it is to create conditions in which adversarial procedure is real, not merely formal. Only in this way is it possible to ensure fair justice and public trust in the judicial system.

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