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COUNTERACTION CORRUPTION

NEW CHALLENGES

MONOGRAPH

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Member of the Russian Academy of Sciences

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This monograph sums up the results of multidisciplinary scientific research of legal and institutional fundamentals relating to combating corruption that were obtained within the National plan of combating corruption. It defines modern concepts of combating corruption with due account given to new challenges and factors which are conducive to this socially negative phenomenon. The monograph reflects theoretical and methodological rules employed to monitor corruption elements and anti-corruption measures, it also provides recommendations relating to the ways and means to liquidating the causes and conditions for corruption. Under consideration are traditional and new technologies of combating corruption, potentials of legal liability for corruption crimes. It also gives recommendations for national anti-corruption policy improvements that are based on international law tendencies and positive legal experience of international legislation development.

The theses of this paper were broadly discussed at international and national science conferences, including the IV and the V Eurasian anti-corruption forums (Moscow, 2015 and 2016), and also during the sixth session of the Conference of States — members of the UN Convention on counteracting corruption (Saint Petersburg, 2–6 Nov. 2015).

Theoretical conclusions and practical solutions highlighted in this publication can raise the effectiveness of national anti-corruption strategies, give a new impetus to multidisciplinary scientific studies of the legislation and law enforcement cases, and also get a greater number of people interested in this sphere – practicing lawyers, representatives of business community, graduates, and post graduates, legislative bodies, teachers, students, readers who face the problem of overcoming corruption.

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INTRODUCTION

Every country strives to successfully solve economic and political problems and ensure decent life standards for its people. This requires a high degree of legislation and legal awareness, strong public order. Any deviation from the rule of law is destructive for the society, the state, and the people. Corrupt offenses are especially dangerous, taking various forms and being found in various areas of social relations.

Corruption evolves constantly and has no boundaries being a complex social phenomenon. It is universal and exists in all countries regardless of their social, economic and political development and it also takes new transnational forms. Its causes as well as its consequences pose a significant challenge to governments as they lead to lower efficiency of state institutions, distort the principles of the social system and diminish sharply the potential of law in state administration. Thus, the fight against corruption and anti-corruption activities in Russia have been taking systemic offensive nature. The anti-corruption strategy of modern law making and law enforcement aims not just at the inevitable punishment for corrupt actions but also at consistent removal of causes for corruption.

The problem of corruption is not a national problem, so international law standards are being actively developed in this area. The Russian Federation is a leader in the legal implementation of the requirements of international anti-corruption conventions along with other countries: nearly all obligations assumed under international treaties are being implemented, adopted by international organization of both global and regional level (United Nations Organization (UNO), the Council of Europe (CE), the Group of States against Corruption (GRECO), Organization for Economic Cooperation and Development (OECD)). The legal regimes of combating corruption are harmonized in the countries of Eurasia. Much attention is paid to studies of similar experience in rapidly developing countries, e.g. in the member states of the BRICS.

The anti-corruption legislation of the Russian Federation is under constant improvement; it becomes more integral and systemic and is tested seriously. New global challenges foreground combating corruption as a leading function of the government. That is the reason why the National Plan for Combating Corruption for 2016–2017 sets such law making objectives as institutionalization of lobbyism, optimization of the mechanisms of settlement of conflicts of interests which makes scientific research and studies of the world practices most important.

Besides, at the present stage, the science of law still has on the table the issues of implementation of provisions of international conventions as regards the institution of liability in the light of different basic approaches of national legal systems; corruption risks; establishment of legal models enabling foreseeing, prevention, identification, preclusion and neutralization of the adverse impact of corruption on the society, state, global business, economic, political and social processes. In addition, the research of regional and municipal legislation should be intensified, as well as the legal and methodological issues of development and implementation of counter-corruption technologies should be considered thoroughly.

The Institute of Legislation and Comparative Law under the Government of the Russian Federation has analyzed the development of the Russian legislation and law enforcement practices for many years. The Institute developed a methodological framework in the sphere of anti-corruption measures studies which gained it the status of the Interdisciplinary Center for Coordination of Scientific, Educational and Methodological Support of Combating Corruption. Many works on this topic were issued by the Institute or under the guidance of the leading researchers of the Institute. This monograph is another milestone on the way to the Russia without Corruption state objective.

The monograph contains comprehensive legal analysis of combating corruption as a social phenomenon and provides a detailed description of the systemic mechanism of counter-corruption activities. Such approach may be useful for everybody, including federal and municipal officers, businessmen, judges, deputies.

A distinctive feature of the book is its truly public spirit, its commitment to the idea that every member of the society should

be involved in the fight against corruption. The authors believe that the development of a high level of legal awareness and legal culture should combine with clear legislative instruments, establishment of efficient legal regimes and introduction of stringent penalties for acts of corruption.

The book is based on different regulative, statistical, scientific and practical material, which made it possible to formulate recommendations on improvement of methods to struggle against cases of corruption. It makes the book useful for broad public interested in combating corruption and strengthening the rule of law.

ROLE OF LEGAL SCIENCE IN COUNTERACTION CORRUPTION IN MODERN RUSSIA (by way of the introduction)

Currently, the legal science is especially interested in resolving the following tasks: examination of the role of each factor determining corruption and of their combination on the propagation of corruption; forecasting its possible evolution directions; monitoring of corrupt practices and efficiency of national and international anti-corruption policies; identification of drawbacks, inconsistencies and breaks of system interconnections in the applicable legislation which contribute to acts of corruption. It's not just about constant improvement of the doctrine base of combating corruption, it's also about timely identification and examination of its new forms so as to make it possible to develop an appropriate system of preventive measures and penalties matching the corruption threat.

Based on its scientific legacy in the sphere of criminal law, the Institute of Legislation and Comparative Law under the Government of the Russian Federation (hereafter the Institute) has recently expanded the range of issues under examination related to combating corruption¹. At the first stage, the researchers focused on the doctrinal approach to its definition, the legal basis of combating corruption in Russia, foreign countries, and at the interstate level². This made it possible to:

¹ Since 2011, the Institute coordinates the scientific and methodological support of combating corruption in accordance with the resolution of the presidium of the Presidential Council of the Russian Federation on combating corruption dated February 16, 2011 (Minutes No 22) and the resolution of the Government of the Russian Federation dated January 31, 2012 No 50.

² Many conclusions and estimations suggested in the fundamental monograph Corruption: nature, practices, combating) (managing editor, T.Ya. Khabrieva. Moscow: Institute of Legislation and Comparative Law under the Government of the Russian Federation, 2012), became popular in foreign science and practice. The book was translated into Chinese and published in China. 腐败：性质、表现与应对/ (俄罗斯) 哈布里耶娃-北京：法律出版社, 2014.

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