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Alaev I. V.

PUBLIC PERSONS – THE SUBJECTS OF ADMINISTRATIVE RESPONSIBILITY OF THE CODE ON ADMINISTRATIVE OFFENCES OF THE RUSSIAN FEDERATION

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Considers the composition of public persons envisaged by international legislation on combating against corruption and by administrative and tort legislation of Russia. On the basis of public service, identifies the major groups of subjects of administrative liability covered by the category of a public person. Gives the author's definition of the concept of a public person.

Keywords: public person, public service, subjects of administrative responsibility, administrative responsibility.

Considering the wide range of subjects of administrative law (administrative legal relations), it is necessary to note the presence of a large group of entities executing imperious powers, giving orders which are obligatory for execution by persons and aimed to protect public interests, as well as performing public functions. Moreover, within the specified range of subjects included not only individual subjects, in it also present collective subjects of law.

Individual subjects of law that are on public service, appear in the administrative and tort legislation of Russia as:

- public civil servants,
- municipal civil servants,
- military personnel,
- officials,
- representatives of the authority,
- members of the tender, auction, bidding or a unified commission created by state or municipal customer, budget institution,

- staff of internal affairs bodies, bodies and institutions of the criminal execution system, State Fire Service, bodies of monitoring over traffic of narcotic drugs and psychotropic substances and customs authorities,

- Chairman, Deputy Chairman, Secretary or other member of the electoral commission, referendum commission with decisive vote,

- officials of federal executive power bodies, executive bodies of subjects of the Russian Federation authorized to exercise state control (supervision).

Code on Administrative Offences of the RF contains the following enumeration of the collective public subjects of law, which can be brought to administrative responsibility:

- public authorities, bodies of local self-government (for example, part 2 article 5.3, part 2 article 5.5),

- electoral associations (article 5.8),

- initiative group on holding referendum, another group of referendum participants (article 5.17, 5.18),

- organizations,

- legal entities which include legal entities of public law.

As is evident from the enumeration, not all collective subjects which can be brought to administrative responsibility, have the status of a legal entity.

Examining the common issues of public individuals responsibility, A. V. Semenov noted, that despite the fact that the subject of responsibility was a collective formation or a private individual, "in respect of the liability of public authorities the issue was not clarified, to the question of who should be understood by the public authorities was not found an answer in the Constitution of the RF, existing legislation. Hence the structure of legal corpus delicti turns out to be devoid of one of its most important components" [7, 22].

Should be agree with the author's statement that "the legislative gap (or "reticence"), the absence of the official normative interpretation on the matter exposes law enforcement agencies to the serious test" [7, 22]. As shows practice of application administrative and tort legislation, the mentioned provision does not contribute to protection of civil rights, human rights and freedoms, as well as economic interests of legal entities.

The presence of problems of the application in administrative and tort legislation the concept of a legal entity, elaborated by Civilistique, noted Professor V. E. Chirkin, pointing out that "in the Federal law No. 184-FL of October 06, 1999 on General Principles of Organization of Legislative (Representative) and Executive Authorities of State Power of the Russian Federation Subjects", the legislative and

executive bodies of the subjects of the Russian Federation are named legal entities, precisely, "having the rights of a legal entity" (paragraph 7 article 4, paragraph 4 article 20). This is a special kind of legal entities who execute not commercial activities but public administration" [9, 88].

Attempt of V. E. Chirkin to count the number of public authority bodies having the status of legal entity, has been discontinued, as was indicated in the author's article, due to exceeding by them tens of thousands with statement of the fact that the number of legal entities performing public functions in society became comparable to number of legal entities of a commercial nature [9].

However, we do not consider that it is essential to give a collective entity of administrative responsibility the status of a legal entity in order to bring it to administrative responsibility. In the Russian legislation and law are most widely used to refer the participants of legal relations the terms "person", "persons". Therefore, a more relevant for the administrative and tort legislation is the very definition of persons subject to administrative responsibility, and the formation of administrative offences structures.

Address to foreign legislation shows that under public persons are understood, mainly legal entities: the state, represented mainly by its central authorities; local communities (regional groups); public institutions. For example, by the terms of the law on the State Administration of Latvia established that a public person it is the Republic of Latvia as the primary legal entity of public law and formed public persons (formed public person it is a self-government or other public person created by or on grounds of law. The law assigns to it its own autonomous competence, including formation and approval of its budget. This person may have its own property). The mentioned law contains a definition of the body of a public person, which refers to an institution or official, whose competence and the right to implement a public person legal will is established by the main legal act of the relevant public person or by the law regulating its activity [10].

As pointed out by E. O. Tysenko, "in European law at the present time has been actively developing the concept of so-called "public institutions". The most characteristic features of such a public legal formation are the three elements: 1) signs of a legal entity in civil-legal sense; 2) passing by organization employees of a special public service (state and civil, military or municipal), i.e. serving the public interest; 3) specific socially meaningful mission" [8, 184].

The activity of public persons is connected with the implementation of public service, defined by the authors of the textbook on administrative law as the service

activity of physical persons to ensure execution of public law subjects' power of authority and is characterized by a number of distinctive features:

"public service represents an activity to ensure and protect the public interest;

functioning of the public service institutions consists of performing or ensuring execution of public-power functions and powers;

this activity is of the official nature, assumes the status of public service position;

passage of public service is carried out in the organizational structures of the subjects of public law: the state, municipal formations and legal entities of public law;

financial support for public service is performed at the expense of the state or a municipal formation (federal, regional or local budget, budget of state non-budget fund)" [5].

Determination of public persons subject to juridical responsibility, we believe, is dictated by the need for the concept that unifies all the power structures and which would cover all the subjects, actions (inactions) and decisions which one way or another have authoritative impact on citizens and legal entities, violate their rights and interests.

Analyzing collective public persons for their designated purpose (public administration, public social servicing, public benefits), we have distinguished the following public collective subjects of law (depending on the amount of powers, rights and duties):

1) public legal formations (state, subject of Federation, municipal formation);
2) public authorities, acting as legal representatives of public legal formations (we are talking about the persons who under the authority of the law in a given amount are vested with imperious powers, as well as directly influence on their implementation, i.e. about the agents of public authority);
3) institutions of public authority (economic units providing services, performing public social servicing, they appear usually on the basis of a legal act of a state body (law, decree, resolution, etc.) and in an instructive procedure.);
4) public law associations in the form of an organization (political parties, public associations).

It should be noted that in each selected subject there is an economic activity (for example, purchase of furniture or office supplies within budget), which is a small and insignificant part of their work. Such an activity is not regarded by us as the fulfilment of the functions of a public person.

We believe that public formation (state, subject of Federation, municipal formation) does not require the status of a legal entity to be recognized a self-sufficient subject of public law. Therefore, the application of the rules on legal entities in respect of public formations, in our opinion, serves to only one goal – to give them the status of a civil-legal relations subject, exclusively in connection with their participation in the civil property turnover (including with private actors). Possession by collective public persons the status of a legal entity is not a necessary element to resolve issues of their bringing to administrative responsibility, as this possession does not change the essence of a public person. The issue of feasibility and admissibility of bringing collective public persons to administrative responsibility remains important.

In our opinion, it is absurd to bring to administrative responsibility the very public formations – sovereigns of the appropriate territories and representing all of their population. However, it is quite permissible to bring to administrative liability public collective subjects, which we have listed in paragraphs 2) - 4), which represent only a small part of public formations, with appropriate restrictions in the rights and duties.

The origins of the administrative responsibility of public persons, in our opinion, come out from responsibility of an official for the commission of wrongful actions. Therefore, the remark of Karin Beche-Golovko, that "it is necessary to draw the clear line between the personal guilt of an official, that is, his actions as a private person, assessment of which refers to the competence of courts of law within the concept of "private responsibility", and the official guilt of an official, that is, his actions as a representative of authority, control over which is within the competence of administrative courts" is quite fair [6, 74].

After ratification by the Russian Federation the United Nations Convention against Corruption [2] of October 31, 2003 and Council of Europe Criminal Law Convention on Corruption [3] of January 27, 1999, the Russian legislator will have to make amendments to national legislation, including in connection with introduction to the legal validity of a new concept - a public official.

Paragraph a) of article 2 of the UN Convention against Corruption stipulates that "public official" is:

- any appointed or elected person holding any position in legislative, executive, administrative or judicial body of a Participant State on a permanent or temporary basis, whether paid or unpaid, irrespective of that person's post level;

- any other person who performs any public function, including for a public department or public enterprise, or provides a public service as it is defined in the domestic legislation of a Participant State and as applied in the appropriate field of legal regulation of that Participant State;

- any other person defined as a "public official" in the domestic legislation of a Participant State [2].

Article 1 of the Council of Europe Criminal Law Convention on Corruption of January 27, 1999, determines a "public official" as an "official", "public servant", "mayor", "minister" or "judge" that exist in national law of the State, in which the person implements his position, as they apply in the criminal law of this state, besides the term "a judge" referred above includes prosecutors and persons holding judicial posts.

Despite the fact that in accordance with part 4 of article 15 of the Constitution of the Russian Federation, international treaties of the Russian Federation, including the UN Convention against Corruption, are an integral part of its legal system, the legislator, as it seems, is experiencing some difficulties in the design of norms in administrative-tort legislation of Russia due to the "historical tradition" of application administrative responsibility to private subjects of law.

Comparing the concepts of "state-level official" and "public official" used in these Conventions with the concept of an official, that is defined in Russian legislation, shows that the concepts of international conventions cover a larger number of real subjects of legal relations, since they include the following:

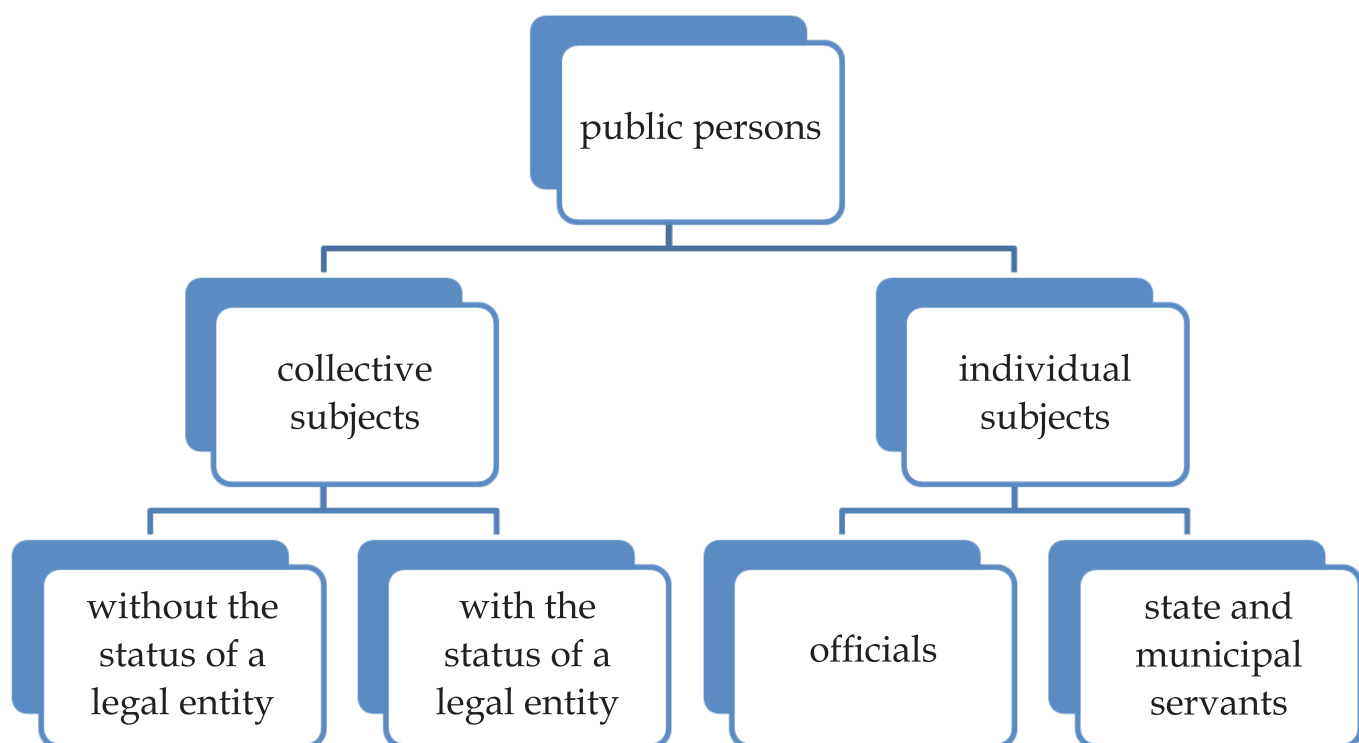
- public servants, which are not among officials (for example, service and technical personnel of state bodies, state and municipal institutions and organizations, etc.);

- state and municipal servants (including officials) of foreign countries, servants of public international (interstate, intergovernmental) organizations.

In our opinion, the range of public persons in international conventions is unreasonably increased by service personnel and technical staff of state bodies, state and municipal institutions and organizations. In reality, these individuals can only be mediators in legal relations of a public official and a private subject of law, because they themselves have no imperious powers. Mediation may be punished under the Criminal Code of the RF (for example, when giving a bribe), however, there is no corpus delicti of a mediator if a public official has not committed an administrative-legal tort.

It seems to us, the closest to a public official (an individual public person) is the category of a representative of the authority (the subject of administrative responsibility) that covers all the categories of public officials which are described in the comments and study materials. However, in the context of the subject of administrative responsibility the range of real subjects of the category "representative of the authority" is much less. Outside the external administrative legal relations employees of state, supervisory or controlling bodies, endowed in accordance with the law instructive powers in respect of persons who are outside of the service subordination, do not act as representatives of the authorities. In our opinion, not all persons performing service in collective public formations may be considered public persons. The legal nature of the conduct of a public official in the relations with citizens is provided as by a separate government agency and by the state (public authority) as a whole.

From the analysis of Russian public persons on the subject of administrative responsibility we have determined the following composition of subjects:



Public persons indicated in the picture can and should be brought to administrative responsibility, which should become an obstacle to a criminal corrupt crime.

Under individual subjects should be considered physical persons implementing legislative, executive or judicial power, as well as employees of state, supervisory or controlling bodies endowed in accordance with the law instructive powers in respect of persons who are outside of the service subordination or the right to

make decisions binding for execution by citizens and organizations, regardless of their departmental affiliation [4].

Summing up described, we can formulate common definition for collective and individual public persons:

A public person is a collective or individual subject of law empowered by law to take decisions leading to emergence, cessation or modification of the rights and duties of an unspecified number of individuals.

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LEGAL ASPECTS OF THE CONCEPT AND ESSENCE OF PUBLIC SECURITY

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Analyses the existing views on public safety. In considering of the legal aspects of the essence of public security, focuses on the types of threats to public security. Notes socially dangerous deeds and emergencies of social, natural, technical and biological nature. Here are made conclusions on achieving public safety by means of implementation of an uniform State policy in the field of providing public safety, including means of criminal and administrative and tort legislation.

Keywords: security, public security, threats to public security, objects of public security.

The concept of public security is itself a capacious social and legal category. Its importance at the present stage of development of Russian statehood is increased by objective patterns that determine ultimately the pace of scientific and technological progress and the democratization of all state, public and other structures.

As a concept public safety is the most widely used in various fields of knowledge and activities. To understand the essence and concept of public security it is necessary to emphasize that public safety – it is an independent phenomenon with historical form, content, and mechanisms of the origin, development and maintenance and also one of the characteristics of social reality, which indicates the state of satisfying the vital interests of personality, society and State.

In philosophical and philological sense public safety includes two elements: Safety and Society, which is a complex of historical patterns of joint activity of people, in other words, the totality of social relations in the State. This view, on the whole, determined the conclusion on that public safety is a state of social relations,

preventing a threat of harm, and ensuring thereby their normal functioning. In short, it›s not only the safety of health of a society member or a collective (group), but this is the safety of their property, honor, dignity and morality. This is the safety of all major components of an individual person or collective, which represent a certain aggregative value protected by the moral and legal norms.

In legal dictionaries Public Safety is defined as "a system of public relations and legal norms governing these relations, in order to ensure public safety, the inviolability of people life and health, normal work and recreation of citizens, normal activity of state and public organizations, institutions and enterprises" [9 , 204].

In the Federal Law on Safety [5], safety is defined as a condition of security the vital interests of a personality, society and State from internal and external threats. Giving such a concept of safety, the legislator has apparently pursued a goal to determine security objects, having distributed them in order of importance – personality, society, State, and the sources of risk – internal and external, without naming them concretely.

A more extended interpretation of the security gives B. P. Kondrashov: safety – is a state of protection of the security objects' vital interests – personality, society and the State provided by the subjects of security against socially dangerous acts and other harmful phenomena of social, techno genic and natural character through the use of a system of measures, means and methods provided for by law [8, 6].

It is important that the author of this definition not only lists the sources and types of dangers, but rightly highlights socially dangerous deeds (not necessarily a crime) and other malicious natural and technogenic phenomenon.

V. V. Gushhin defines public safety as a socio-legal phenomenon, which refers to a totality of mediated by sources of extreme danger social relations which are regulated by a system of legal norms for prevention, localization and elimination the conditions and factors that create a potential or real threat to the vital interests of personality, society and the State [7, 49].

A. P. Korenev links public safety to the manifestation of the negative properties of the sources of extreme danger when their wrong use [6, 35]. However, it seems that their presence also poses a potential threat to public safety.

According to many authors, the term "sources of extreme danger" is a basis for understanding of public safety in the narrow sense, i.e., the sources of increased danger are one of the essential conditions of emergence relations in which manifests public safety. However, the discussions taking place within the criminal law, administrative-legal and civil law literature do not provide exhaustive answers to the questions: What is the source of increased danger, what properties does it have,

what material expression does it find in public life? This is facilitated by the fact that in normative acts there is no any sign by which a particular subject or object can be attributed to a number of mentioned sources. In science is not developed the unified concept of a source of increased danger.

Consideration of the sources of extreme danger is inherent mainly to civil law. This in its turn determines its sectorial interest, because outside of its study remains questions that lie outside the institution of obligations arising in consequence of the harm infliction. In other words, civil law deals only with situations that due to their consequences involve the obligation to provide compensation for harm or damage. The latter is known to imply a physical person or legal entity incurring civil-law liability and which is simultaneously the owner of the source of increased danger. For example, article 1079 CC RF gives an approximate list of activities posing an increased danger to others (the use of vehicles, machinery, electrical high-voltage power, nuclear energy, explosives, potent poisons, etc., the implementation of construction and other related to it activities, etc.).

A comprehensive list of them cannot be provided due to the constant development of science and technology. It seems that attribution of these or those objects and materials used in the activities of physical persons and legal entities to the sources of increased danger depends on two signs minimum: their harmful properties and the impossibility of total control by the human.

However, along with duration, which represents an increased danger to the surrounding people, where emerge relations of public safety, there are other threats to public safety. Therefore, it is insufficient to associate the concept of public safety only with a source of extreme danger.

To clarify the nature of public safety it is necessary to analyze threats to public safety, pose a danger to the vital interests of personality, society and State.

Policy of threat to public safety is associated with impaired functioning of the State and local government's bodies, political parties and other public associations, errors and distortions in the national policy in the center and the regions.

In economics, they arise from defects, distortions of economic policy, legal unsettlement of many aspects of market and economic relations, significant expansion of the criminalization of the economy, stratification of the population while reducing living standards of the majority of the population, unsatisfactory control over foreign economic activity.

In the social sphere the threats are associated with the violation of legitimate rights and interests of citizens, with refusal and the inability of the State to protect them, with the trouble in the system of physical and moral health protection of the

population, as well as with the threats arising from extremely unfavorable demographic situation.

In ecology – this is a sharpening of contradictions between the development of the productive forces, technology and the need to maintain a favorable ecological environment of human life; unbalance and not comprehensive solution of economic, social, environmental and technological issues, as well as environmental pollution, depletion of natural resources, destruction of ecological balance, the growth of anthropogenic pressure on Earth, depletion of fertile soil and energy resources.

In culture, they are related to the unsatisfactory state of cultural values protection, resulting in a loss or a real destruction threat of many values of national significance, as well as the massive smuggling abroad; the threat arising from poor conditions for creativity, degradation of morality and national self-awareness, decreasing of the level of education and good manners among the population.

In the of man-made area, threats arise from technogenic accidents and disasters, technological and industrial exploitation of worn out and non-serviceable equipment, delayed repair and maintenance works, violation of rules governing the storage and transportation of hazardous materials, deviations from the design documentation in the manufacture and operation of equipment, facilities in the construction of buildings and structures.

Also, security threats are associated with the quick increase in crime, the criminalization of the most important spheres of government and society, increasing the severity of criminal actions and the escalation of violence, brutality, aggression, armament and organization of criminals; the manifestation of new types of crimes that cause great stir among the public: hijacking of a large number of hostages, terrorism, bank frauds, criminal political extremism, corruption of the state apparatus, including law enforcement agencies; with an increase in the number of different kinds of abuses and violations of law by law enforcement officials, as well as with the fall of public confidence in the ability of the State to effectively protect their interests from criminal attacks.

Analysis of current legislation shows that the public safety threat may arise when a violation of the rules of exploitation rail, sea, river and road transport; traffic rules, construction and other works, exploitation fire dangerous objects and equipment, as well as in cases of violation of rules handling of weapons, ammunition, explosives, potent poisons, radioactive isotopes and other dangerous objects and substances. Socially dangerous violations of these rules are classified according to the criminal legislation as crimes encroaching on public safety (articles 215-222, 225, 228, 246, 247, etc. of the Criminal Code of the RF).

Offenses encroaching on public safety are also described in several chapters of the Code on Administrative Offences of the RF. For example, the violation or failure to comply with the rules of fire safety entails administrative responsibility under article 20.4, and article 12.14 of the Code provides for liability for violation rules for the transport of dangerous substances and items by rail, sea, river and road transport, etc.

The development of human society is a complex and contradictory process, and at certain times of the society life happens a sharp aggravation of the contradictions between nature and society. In turn, this gives rise to environmental disasters, large-scale accidents, natural disasters, i.e., emergencies, which are characterized by violation of the habitual links and relations in the economic, social and other spheres.

Thus, the main types of threats to public safety are socially dangerous acts and emergency situations of social, natural, technological and biological nature.

In sum, the threat to public safety can be defined as a totality of conditions and factors that create a real and potential threat to objects of public safety. The objects of public safety include: the rights and freedoms, life and health of citizens, property, environment, as well as public and social institutions, which ensures normal living conditions of citizens, society and the State. It is precisely these objects of public safety are the vital interests of personality, society and the State and on the merits represent the highest level of interest. In its turn, these interests are the most important categories of individual and social life, deviation of parameters of which from the established level adversely affects on the integrity, consistency and progress in the development of personality, society and the State. Therefore, there is an objective need of their protection by people, society and the State. In other words vitally important interests are a totality of needs the satisfaction of which provides the existence of possibility of progressive development personality, society and the State.

The vital interests of a personality, society and State should be reliably protected. By the state of safety, you need to understand the absence or adequate parry threats to public security objects. Hence the purpose of public safety is to create and maintain the necessary level of protection of public safety objects and adequate parry threats to these objects.

According to the law of the Russian Federation on Safety, public safety entities are the State, citizens, public and other organizations and associations. The main subject, which is responsible to ensure public safety, is the State. The functions in this area, it provides through bodies of a legislative, executive and judicial

powers. The State provides public safety of citizens in the Russian Federation and outside it guarantees them protection and patronage.

Citizens, public and other organizations and associations, being the subjects of public safety, have rights and responsibilities of participation in ensuring public safety in accordance with the Russian Federation legislation, the legislation of subjects of the Russian Federation, adopted within their competence in this area on the basis of article 71, 72 of the Constitution of the RF.

Achieving public safety is ensured by conducting a single state policy in the field of ensuring public safety, implementation system of measures of economic, political, organizational and of other nature that are adequate to threats to the vital interests of a personality, society and the State. In order to create and maintain the necessary level of protection of public safety objects is being improved the system of legal rules governing social relations in the field of public safety, determined the main directions of activities of public authorities in this area, formed or converted public security bodies and the mechanism of control and supervision over their activities. Direct execution of functions to ensure public safety is assigned to State agencies for ensuring public safety, which, in accordance with law, are formed within the executive power system.

Legal bases for public safety are laid down in the Constitution of the Russian Federation, Russian Federation Law on Security, laws and other normative acts of the Russian Federation regulating relations in the field of public safety; in constitutions, laws and other normative acts of state power bodies of the subjects of the Russian Federation, adopted within their competence in this area, international treaties and agreements concluded or recognized by the Russian Federation.

The leading role in the regulation of social relations in this sphere belongs to the Russian Constitution. Constitutional and legal norms define the basic rights and freedoms of Russian citizens and implementation the rights and freedoms inseparably from the performance of duties. These norms consolidate the system of legislative, executive and judicial authorities ensuring public safety, determine their legal status.

Executive and administrative activities of the executive power bodies shall be based on administrative-legal norms, which are widely used for the establishment of administrative coercion measures.

Civil law norms are used to ensure public safety of physical persons, legal entities, and the state by establishing civil law liability for the inflicted harm. Thus, in accordance with article 1079 CC RF legal entities and citizens whose activities are linked to increased risk to others, must compensate the damage caused by a source

of danger, unless they prove that the damage was caused due to force majeure or intent of the victim.

Criminal legal norms govern relations in the field of public safety arising from the committing of the most socially dangerous deeds. For example, Chapter 24 of the Criminal Code of the RF envisages criminal responsibility for crimes against public security: terrorism (article 205 of the Criminal Code of the RF), robbery (article 209 of the Criminal Code of the RF), mass riots (article 212 of the Criminal Code of the RF), as well as crimes in the sphere of production when violation of safety rules at explosive objects (article 217 of the Criminal Code of the RF), at nuclear power objects (article 215 of the Criminal Code of the RF), fire security(article 219), and others.

Thus, the scope of public safety, which includes public relations related to the prevention or elimination of threats to human life and health, property, environment, government and social institutions, adjusted by nearly all branches of the law of the Russian Federation.

Along with the legal norms relations in the field of public safety are regulated by the technical standards secured in the passports, rules, regulations and other documents of this kind, but the technical standards become technical-legal, and their violation implies legal responsibility.

At the same time relations in the field of ensuring public safety are regulated also by organizational norms that secure certain organizational structures and institutions that provide in-system unity, the consistency of elements functioning of certain organizational structures and reflect the dynamic nature of the organization of certain subjects, but these rules are ultimately also of a legal nature.

Based on the above, under the public safety system we understand the system of social relations happening in accordance with legal and technical norms when the use of objects and items posing an increased danger to society, or upon the occurrence of special conditions in connection with a natural disasters or other emergencies.

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THE EXPERIENCE OF COMBATING CORRUPTION IN COUNTRIES WITH DEVELOPED ECONOMY

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On the base of review of corruption level in countries occupying different positions in the ranking of corruption, is being proved transnationality and systematic structure of corruption, typical for the current moment. Here is noted a national characteristic of combating corruption in China, which struggles against corrupt officials but not with the sources of corruption. Offers an idea about the supremacy of international institutions in organizing combating against corruption.

Keywords: corruption, manifestations of corruption, combating against corruption, anticorruption activity, prevention of corruption.

It is generally recognized that corruption - this is one of the most serious threats not only to economic and social development of individual countries, but also for national and international security in general. Corruption is a disease of the State power, which undermines the rule of law and weakens the institutional foundations of political stability, social cohesion and hinders economic development.

Fighting corruption is conducted by majority of the States of the world. In recent years, to the research the causes of corruption and development methods for its prevention and overcoming have joined many international and national governmental and non-governmental organizations and prominent academics. Moreover, unlike the recent past, more attention is paid to the developed industrial countries. However, in effective overcoming corruption only very few countries can achieve tangible results in practice.

In this connection special interest represent the States which have attained some success in fighting corruption. The idea of extraction the anti-corruption

programs that have proven their effectiveness in practice represents enormous potential for borrowing the positive international experience.

Quite pure in respect of corruption the countries that are in the top ten or top twenty according to the rating of corruption, which at the State level have formed anti-corruption strategy are Finland, Denmark, New Zealand, Iceland, Singapore, Sweden, Canada, Netherlands, Luxembourg, Norway, Australia, Switzerland the United Kingdom, Hong Kong, Austria, Israel, USA, Chile, Ireland, Germany, and Japan.

Some features of the organization of anti-corruption activities in the above-mentioned relatively healthy countries are as follows. Corruption is perceived by governments of these countries as a serious national security problem. At the same time corruption is seen as external and internal threats. Clearly separated the two aspects of corruption: political and economic. The development of political corruption can lead to uncontrollable political situation in the country and poses a threat to democratic institutions and the balance of the various branches of government. Economic corruption reduces the effectiveness of market institutions and regulatory activities of the State. It is important that efforts to restrict corruption in these countries, as a rule, institutionalized, and is impressive in its scope.

On the results the CPI (Corruption Perceptions Index, IVK in Russian) in 2010, Singapore took 1 (first) place (9.3 points) among 180 countries in the world, sharing it with Denmark and New Zealand.

The main idea of anti-corruption policy in Singapore is in an attempt to minimize or eliminate conditions that create an incentive and opportunity to induce the person to commit corrupt actions. The central part in the fight against corruption is a permanently functioning special body - Corrupt Practices Investigation Bureau (CPIB), which prevents and investigates corruption in the public and the private sector in Singapore. The functional responsibilities of the Bureau include: reviewing and investigating complaints on corruption violations, both among civil servants and private sector; investigation the violations and abuses of power by civil n t.o commit corrupt acts. servants; prevention of corruption by improving the activity of state bodies and administrative procedures to minimize opportunities for committing corruption crimes. The Bureau consists of three divisions: investigation, reference and information, support.

As an important criterion for anti-corruption policy has been put forward the idea of transparency of case and the inevitability of punishment.

Legislative base – Prevention of Corrupt Activity (PCA) – dictates strict measures: the life of the accused beyond his means or the possession of objects of

property is interpreted as the actual proof of receiving a bribe. In addition, in accordance with current legislation, any person who offers, accepts, or receives a bribe, could be sentenced to a fine of up to 100 thousand SGD or imprisonment up to five years, or subjected to both types of sentences at a time. If the corruption affects government contracts or involves - a Member of Parliament the period of imprisonment may be extended up to 7 years.

In addition, the Court obliges the offender to return to the State the equivalent of bribe.

The main instrument of anti-corruption policy in Singapore is the high wages of state employees, where are used market-based methods in the calculation of salary to ministers and officials.

Singapore Civil Service operates on the basis of meritocracy (a system of individual merit), neutrality, public accountability, honesty and anti-corruption discipline.

China – a typical example of a country with economies in transition, where is preserved a strong centralized power, which, however, cannot restrain corruption in the force of objective circumstances related to the transition period, so in 2010, China took 78 place in the ranking of corruption.

Currently in China there are two kinds of indication of corruption and, accordingly, two levels of perception:

- criminal-legal significance. Corruption-bribery.
- political and moral significance. Corruption-decomposition. This concept applies to almost all anti-social and venal actions of officials at all levels who use their official position for the acquisition of excessive and unwarranted privileges, benefits and bonuses, misappropriation, or extortion of material assets, receiving material assets, wealth, property benefits, and etc. in person or through an intermediary.

Considering China's corruption, it should be recognized that this phenomenon belongs to the so-called "Asian model" of corruption, where it is a familiar and socially acceptable cultural and economic phenomenon associated with the functioning of the state. In China, it is compounded by the fact that this state has a thousand-year tradition of the existence of the bureaucracy as a special, privileged, structured, self-perpetuating group, to belong to which was very prestigious. In addition, China has traditionally struggled with the symptoms of the problem, but not the problem, i.e., with corruptors, and not the sources of corruption.

Today, the problem of combating corruption and decay rises on virtually every serious party meeting; constantly emphasizes the fundamental importance and

complexity of the tasks of the party. Beijing is increasingly developing international cooperation in the fight against corruption and is eager to bring its anti-corruption legislation in line with the "UN Convention against Corruption."

Combating against violation of party discipline and other manifestations of "decomposition" in the ongoing anti-corruption campaign in China now takes one of the priority directions. Not surprisingly, in all statements and resolutions of the Government of the PRC phenomenon of "corruption" is almost always mentioned along with the term "decomposition", and often these concepts are fully merged. However, the problem of violation of Party discipline by members of the CPC and the abuse of power is a separate and very serious issue in life of modern China.

The decisive actions of the Chinese leadership have significantly changed the situation on combating corruption for the better. Emphasis is placed simultaneously on two branches of government – legislative and judicial branches. It should be noted that the Chinese themselves often explain the need for tough measures against corrupt officials, citing the well-known parable "to cut a chicken to scare a monkey." Since even seemingly minor financial crimes of officials can entail substantial deprivations for millions of people.

In the first place, in addition to existing agencies on combating corruption, namely the Central Commission for Discipline Inspection of the CPC Central Committee and the Ministry of control, was established a new body - the State Administration of Anti-Corruption. Thus, the creation of anti-corruption system in China began with the formation of a centralized structure on combating corruption.

In China, traditionally believed that society should be governed not only by the rule of law, but also by the norms, rules of conduct, ethical beliefs and the force of example. Deeply respected by all in China, Confucius urged: "Do not worry about that you do not have a high rank. Worry about whether you deserve it."

Arab Republic of Egypt on the results of the CPI - 2010 takes 98th place with 3.1 points.

As measures to strengthen the fight against corruption Parliament of Egypt on February 25, 2005 ratified the Convention against Corruption. Another component in the combating against corruption is a tightening of laws against money laundering, illegal financial transactions by legal entities and physical persons, as well as creating conditions of more rapid response in case of theft of funds of the national treasury.

The legal base for combating corruption and money laundering in Egypt is the Law on Combating Money Laundering No. 80 of 2002. Article 8 of this normative act stipulates that financial institutions are obliged to report any suspicious

transactions that may fall under the "money laundering", as well as to establish a system that will provide the information on the personal identification and legal status of the client.

In accordance with Articles 10 and 17, the person providing information on suspicious financial transfers, cannot be held liable. Culprit of the crime on laundering money should be freed from punishment, if he will report to the competent authorities about committing of a crime. He is also exempt from the punishment if the competent authorities were aware of the crime, but getting information from the person allowed to identify and arrest other offenders or confiscate money, which became the object of the crime.

The Republic of Namibia on the results of the CPI-2010 is on 56th place with a score of 4.4.

In order to counter corruption the Republic of Namibia has ratified the international documents to combat corruption, namely the UN Convention against Corruption and Transnational Organized Crime, and established its national database aimed at the criminal legal combating corruptors. In light of this, in Namibia in 2004, was adopted the law No. 29 on the Prevention of Organized Criminality, in 2007 the law No. 3 on the Financial Intelligence and Creation of an Advisory Council to Combat Money Laundering.

In 2003, Namibia adopted the Law No. 8 on Combating Corruption. On the basis of this acts the Anti-Corruption Commission which is endowed with the following functions: initiation, revealing and investigation of corruption facts, implementation of international cooperation and exchange of information on the issues of combating corruption, informing the public on corruption issues, etc. In accordance with the law on combating corruption in Namibia as corruption offenses deemed unlawful adopting of satisfaction, bribing an official, as well as foreign government officials, corrupt actions in the field of tenders, sports events, auctions. Separate crime is a failure to report about corrupt transactions.

Positive aspect of Namibia's anti-corruption legislation is the protection of witnesses and informants. During the trial should not be disclosed the identity or address of the person assisting the Commission in investigating the facts of corruption.

Thus, the policy of the Republic of Namibia aims to develop and strengthen the mechanism of prevention, revealing, punishment and eradication of corruption, regulation international cooperation, development and harmonization of policy to combat corruption.

One of the main directions of anti-corruption policy of Tanzania is prophylaxis corruption, conducted by the Bureau on prevention and combating corruption. The objectives of preventive measures are contained in the National Anti-Corruption Strategy and Action Plan (NACSAP II) is the inclusion of all interested persons in the combating against corruption. Instrument for achieving this goal are the mechanisms and processes of transparency and openness of economic and political governance.

In order to implement the UN Convention against corruption, as well as the convention of the African Union on prevention and combating corruption in Tanzania was adopted the law No. 11 of 2007 on Prevention and Combating Corruption, which has significantly expanded the range of anti-corruption, including corruption in the private sector.

Tanzanian law enforcement authorities are paying great attention to the professionalism of their investigators conducting an investigation for the facts of corruption. As was noted at the conference, the problems faced by many law enforcement agencies include, firstly, the low level of investigators, and secondly, the low level prosecutors. The important principle in the fight against corruption must be impartial, decisive, objective attitude of law enforcement agencies to the process of investigating corruption.

Great attention is paid by the Government of Tanzania to international cooperation in the combating against corruption and asset return. However, it is emphasized that the fight against corruption is complicated by the facts of lengthy legal procedures to provide legal assistance and the lack of information sharing at the international level.

According to research conducted by non-governmental organization Transparency International Greece takes 78th place. In 2009, the amount of corruption in the administration of the State amounted to 787 million euros. Currently, the Hellenic Republic actively participates in EUROPOL, EUROJUST, as well as in the European Judicial Network, which was established by the Council of the European Union in 1998.

Greece ratified the European Convention on Legal Assistance, signed treaties on legal assistance with many countries around the world. A great step forward in combating against corruption was the ratification of the UN Convention against Corruption, which allowed developing the anti-corruption program based on international transparency and responsibility through the creation of a controlling mechanism.

Deserve attention the problems identified by deputy prosecutor of Athens

in matters of criminal prosecution and extradition for corruption offenses, namely: differences in national legislations and legal systems; lack of coordination in conducting interrogations; the attitude to the elements of proof. Overcoming these problems is impossible without joint efforts focused on a common goal - an effective combating against corruption.

Israel is one of rather corruption-free countries. This is provided by the system of a certain duplication of monitoring possible corrupt actions. It is carried out by government agencies and special police units, the Department of the State Controller, which is independent from ministries and government departments, and by public organizations such as the Department for the purity of the government.

These organizations are investigating possible corruption point, and if find out it they inform the investigating authorities. Moreover, the information must necessarily be made available to the public. The independence of these organizations from the heads of ministries and agencies, whose officials may be involved in corruption, is very important.

Management to combat corruption, included in the administration of Prime Minister, is charged with the duty to constantly educate the officials to prevent possible corruption and coordinate the work of the various intradepartmental services on struggle for purity of government authorities.

An important role is also played by MASS MEDIA. According to the words of one of the major political figures of this country, the most dangerous to his political career are charges of corruption that can appear in a respected newspaper.

It should be noted that in Israel, due to significant social benefits for civil servants and their merciless punishment upon detection of corruption, local corruption is virtually absent.

At the present stage corruption is characterized by transnationality and systematicity. Corruption does not recognize national borders. It is ubiquitous, the scale of the phenomenon has reached the international level.

In the complex of legal anti-corruption means at the international level are of particular importance those that focus on ensuring the effectiveness of counter transnational corruption, achieving the quality of prevention and suppression of the most dangerous for individual states and the international community actions, which would guaranteed international standards for qualification of corruption offenses , uniform jurisdictional parameters, the inevitability of prosecution and punishment of offenders, as well as fair compensation of harm for victims.

Important role in the unification of common approaches of national legislation of different countries in the fight against corruption is played by international organizations of UN, Council of Europe, World Bank, Organization of American States, Organization for Economic Cooperation and Development (OECD) and other international organizations.

Within of eyeshot of UN the issue of corruption has been remaining for more than two decades. And that understanding of the international nature of the corruption phenomenon and its transnationality requires global measures at the international level to neutralize the threat it poses to the security of the entire world community. Therefore no coincidence there is a problem of corruption in the spotlight of global programs undertaken within the framework of the UN Program on Crime Prevention and Criminal Justice.

In the framework of the Global Program UN assists countries in detecting, preventing and stopping corruption. In particular, the program has developed mechanisms contributing greater transparency and reporting in field of government procurement and international commercial transactions.

One of the first international documents in this area is a resolution adopted on December 15, 1975 by the UN General Assembly, condemning "all forms of corruption", encourages the "governments within the framework of their national" jurisdiction to take all necessary measures to prevent such corruption and punish offenders.

In 1996 the General Assembly of the UN adopted a resolution "Combating Corruption", which calls for careful consideration the issues related to international aspects of corruption, especially in respect to international economic activities carried out by corporate organizations. Also known declaration of UN "On Fight against Corruption and Bribery in International Commercial Transactions" of 1996, according to which States undertake, inter alia, to consider as a criminal offense a bribery of foreign governmental officials and to cancel the exemption from taxation of amounts received as a bribe from any private or public corporation or physical person of UN member state by any state official or a person elected to the representative body of another country.

A great role in the fight against transnational, international corruption is played by the UN Convention against Corruption, which contains measures aimed at more efficient and effective prevention of corruption and fight against it, promotion, facilitating and support of international cooperation and technical assistance in the prevention corruption and the fight against it, including the adoption of measures to recover assets, promoting honesty, incorruptibility and

responsibility as well as proper management of public affairs and public property (Article 1).

The Convention introduces a comprehensive set of standards, measures and rules that all countries can use to strengthen its legal norms and regimes of state regulation in the field of combating against corruption. It urges to adopting measures to prevent corruption and declares outlaw prevailing forms of corruption in both public and private sector.

The Convention stresses on the need for manifestation political will on the part of the executive, legislative and judicial powers for the use of many-sided and serial measures of state and society to eliminate the causes and conditions that generate and support corruption in various spheres of life. In particular, the Convention highlights the need to create a specialized national body to combat corruption, what is regarded as a manifestation of political will. The Convention promotes taking and strengthen measures aimed at more effective prevention of corruption and deeds that are directly related to it, and combating with them.

Thus, UN has recognized the international nature of the problem of corruption and is trying to find a generally acceptable forms and methods of stopping of this phenomenon.

The Council of Europe approach to the fight against corruption has three interrelated aspects: the development of pan-European norms and standards, monitoring for their compliance and providing technical assistance and implementation the programs of targeted assistance to countries and regions.

In 1996 the Committee of Ministers of the Council of Europe adopted the Program of Action against Corruption, in which have been prepared and open for signature two conventions – Criminal Law Convention on Corruption of January 27, 1999 and the Civil Law Convention on Corruption of 4 November 1999.

Participants to the both conventions may be both invited European states that are not yet in the Council of Europe, and non-European countries (USA, Canada, Japan and some other countries have participated in their development).

The preamble to the Criminal Law Convention on Corruption emphasizes the need for a holding as a matter of priority general criminal policy aimed at protecting society from corruption, including the adoption of appropriate legislation and preventive measures. It also speaks of the threat posed by corruption to the rule of law, democracy, human rights, social justice, economic development, moral values. The purpose of the Convention is widening, activization and proper functioning of the international cooperation of Convention participating country in the field of criminal law, in order to prevent the threat to the rule of law, democracy

and human rights, effective state management, the principles of equality and social justice, competitiveness, economic development and the threats to the stability of democratic institutions and the moral foundations of society.

Group of States Against Corruption (GRECO) – international organization created by the Council of Europe in 1999. The main aim of the organization is supporting participant states in combating corruption.

GRECO establishes anti-corrupt standards (requirements) to a state's activity and monitors compliance of practice to these standards. The Group helps to detect disadvantages of a national anti-corrupt policy and offers necessary legislative, institutional and operative measures. GRECO provides for possibility for sharing the best solutions in the field of detecting and preventing corruption.

The Group consists of 49 states. The membership of GRECO is not limited by Europe, however, today the only not-European state in the composition of the Group is the USA.

Thus, during the analyses of national programs and acts of international organizations aimed on the combating corrupt offences, the conclusion that the core of the international anti-corrupt strategy is still on the stage of formation seems to be reasonable. Huge potential of legal means available to the major international organizations remains unclaimed enough, while the long overdue the need to work out in the UN and to put in place an universal international legal document preventing the development and spread of corruption in all spheres of life. This would improve the national anti-corruption legislation, as it is important that the efforts of this kind took place with the support of individual countries that in general can lead to a really effective anti-corruption mechanism.

In addition, relevant and useful would be a centralized educational and upbringing programs for the public servants at all levels of government and the civilian population which are held by international non-governmental organizations and national public funds. Everything must be subordinated to the goal of zero tolerance for corruption, compliance with the principles of the rule of law and justice, and moral regeneration of human behaviour.

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ADMINISTRATIVE RESPONSIBILITY WITHOUT ESTABLISHMENT OF THE FORM OF A GUILTY DEED

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Justifies the opportunity of bringing to administrative responsibility of a delinquent regardless of the form of his guilty action. Defines the subjects which can be brought to administrative responsibility, regardless of the form of guilt. Here is introduced the author's definition of the legal category of guilt.

Keywords: guilt, administrative responsibility, forms of guilt, subjective fault imputing, objective fault imputing.

Despite the fact that an administrative offence is recognized as a guilty, unlawful action (inaction) of a physical person or legal entity for which the Code on Administrative Offences or the laws on administrative offences of the constituent subjects of the Russian Federation establishes administrative responsibility (what implies the obligation of proving the guilt of an offender), the application of administrative responsibility without the establishment of guilt is still valid.

A good example of this approach is the deviation from the principle of guilt and the imposition of liability for damages regardless of tortfeasor fault in some articles of chapter 59 of the Civil Code of the RF, which establishes the obligations due to infliction of harm, as well as bringing to administrative liability of vehicles owners in case of fixation of administrative offences by the special technical means operating in automatic mode, having a function of photographing and filming, recording, or by means of photographing and filming and video recording (see article 2.6.1. of the Code on Administrative Offences of the RF).

Judicial practice on administrative disputes confirms the possibility of mentioned by us deviation from the general rule in cases where the law provides an objective imputation of guilt. However, in our opinion, we should distinguish

the objective imputation of guilt, when the delinquent must prove his innocence, from the proposed by us principle of bringing to administrative responsibility, without a ascertainment of delinquent guilt when the object and the objective side of an administrative offense derives directly from the unlawful act which could and must be perceived by the delinquent (individual subject of law) as an unlawful and punishable by law action.

Due to the fact that tort legislation uses mental principle of guilt, in our opinion, in most cases there is no need to establish the form of delinquent guilt, especially if the legislator does not link the form of guilt with the severity of the applicable administrative penalty. The person performing the administrative jurisdiction on this kind of administrative offenses, should be exempt from establishing a form of guilt and clarification of what had felt the delinquent at the time of committing the administrative offense.

Proceedings on the cases that do not require the establishment of the form of delinquent guilt will be limited with establishing the circumstances of exclusion of bringing the delinquent to administrative responsibility. They are: extreme necessity, insanity, limitation on holding a person administratively responsible, as well as the existence the fact of physical and psychological coercion, the execution of an order or directive (in the context of application of an administrative penalty to the officials).

According to the norm of article 2.7 of the Code on Administrative Offences of the RF the person who committed an administrative offense in a state of extreme necessity is exempt from administrative liability in mind that the law in this case does not consider as an administrative offense the actions of a person causing harm to legally protected interests. Institute of extreme necessity is not an innovation in Russian legislation, as it was quite developed in the framework of criminal law, this fact is noticed by A. N. Guev in the commentary to article 2.7 the Code on Administrative Offences of the RF: “Article 39 of the Criminal Code of the RF establishes that causing harm to interests protected by the criminal law in a state of extreme necessity it is not a crime. Similarly, in administrative law the causing harm, in the state of extreme necessity to interests protected by the law on administrative offences does not constitute an administrative offence” [2].

Under actions in a state of extreme necessity that cause harm to legally protected interests, the legislator implies various actions, although constituting an administrative offense entailing administrative responsibility, but meanwhile excludes the guilt of this delinquent. The essential points of extreme necessity are the circumstances of infliction harm by a delinquent – the liquidation of imminent

danger to the personality and the rights of the delinquent or others, as well as the legally protected interests of society or the State, if this danger could not be eliminated by other means. In addition to this condition the norms of the examined article of the Code on Administrative Offences of the RF establish the material limit of damage inflicted by actions in the state of extreme necessity. This condition is about that the inflicted harm should be less significant than prevented.

There is no doubt on the assertion of A. N. Guev that state of extreme necessity arises "when there is an actual, real, not imaginary threat to specified interests. There is no extreme necessary if the threat to the specified protected interests may arise in the future. This is directly indicated by the words "to eliminate the directly threatening danger"" [2].

Causing harm to the protected by right (law) interest may be considered justified if the delinquent had no other way to prevent greater damage (harm). Therefore, before making a decision about an active action (an extreme necessity cannot be expressed in inaction) any person shall commensurate the consequences of his/her actions seeking in the first place not illegal ways to prevent or eliminate the threat of harm to the interests protected by law. In the case of the inevitability of committing of an administrative and legal tort a person must perform such actions which constitute the least harmful violations. It should be borne in mind that the issue on the delinquent actions, as the only possible ones, should be resolved taking into account the specific circumstances of the case.

To correlate the prevented harm and the caused harm it should be taken into account the content of the protected and violated interests. We cannot but agree with A. N. Guev that "when comparing human life and health and property interests the preference is given to life and health of people. If for protection of property interests being violated the similar interests, must be used the factors of cost assessment of harm caused and prevented" [2].

The next circumstance that affects the application of administrative penalties to a delinquent is insanity at the time of committing an administrative and legal tort. Article 2.8 of the Code on Administrative Offences of the RF defines insanity as the inability of a physical person for reasons of mental health to recognize the facts and social meaning of his behavior and to control it. Code on Administrative Offences of the RF establishes administrative liability based on legal provisions of the sanity of individuals and, consequently, the public officials. Presence of doubts about the sanity of a public official at the time of committing illegal actions (for example, actions contrary to common sense and not giving logical explanation, or applying of the delinquent before committing

an administrative offense for psychiatric care in a medical institution) obliges an administrative jurisdiction body (or official) to establish the presence or absence of delinquent's sanity. Of the listed by article 2.8 of the Administrative Code of the causal factors of insanity for a physical person - a chronic mental illness, temporary mental disorder, dementia or other mentally sick condition, in our opinion, only a temporary mental disorder can be adopted as the circumstance precluding the administrative responsibility of a public official. In other cases, the contract for the passage of public service would not have been concluded with a delinquent. On-duty administrative offence committed by a public official should be distinguished from the administrative offence of a physical person (common subject of administrative law).

In legal literature distinguishes insanity, which has different criteria for causality – the psychological (legal) and medical (biological) that have several signs. Psychological criterion of insanity determines impossibility of delinquent to realize the actual nature and wrongfulness of his actions (an intellectual sign) or control them (a strong-willed sign).

Allowed for a public official medical criterion associated with a temporary mental disorder, which is a short-term, or by itself passing state (reactive psychosis, memory loss); and other morbid mental state. Without going into details of the study on options for mental disorders, it should be emphasized that such impairment should occur secretly and imperceptibly, as otherwise the representative of the employer would be obliged to suspend the patient from his service duties and send him for medical survey. Considered by A. N. Guev [2] versions of mental disorders associated with use of drugs or alcohol by an physical person for a public official in the commission of an administrative-legal tort, as it seems to us, can only be circumstances aggravating the administrative responsibility. In another interpretation of insanity this would lead to the delinquent's evasion from administrative responsibility.

It should be recognized that delinquent insanity is defined by a combination of both criteria – mental (legal) and medical, and the final decision about the insanity of a public official, who has committed an administrative-legal tort, will be made by the administrative jurisdiction body considering the case on an administrative offense of that person. It is no secret that resolving the issue of insanity of a public official would require the involvement of experts with relevant knowledge in the field of psychiatry. Only experts-psychiatrists will be able to establish the existence and nature of the delinquent's morbid mental disorder, determine the depth of the lesion of his mental abilities, and its causes.

The possibility of release from administrative liability due to the insignificance of the administrative offense, provided for by the legislator in article 2.9 of the Code on Administrative Offences of the RF, in our opinion, is unlikely to be justified with respect to such subject of administrative responsibility as a public official. If, in respect of the private entity that is a managed entity in administrative and legal relations, is acceptable application under certain conditions of verbal warning with explanation to him the wrongful nature of his conduct and the possible harmful consequences for him and society, but the public official by virtue of his administrative and legal status is himself obliged to distinguish lawful actions from lawlessness and to realize the consequences of his tort conduct. It seems to us, the mere fact of an administrative offense by a public official has to be an exceptional case. Therefore, there can be no question of replacing an administrative penalty to oral warnings. As an official (service) tort the administrative offense of a public official also has the character of a disciplinary misconduct in framework of which the representative of an employer who has entered into a contract with a specified person on the passage of public service, has the opportunity to educate the servant as long as he want and take appropriate measures of disciplinary punishment.

In our view, to article 2.9 of the Code on Administrative Offences of the RF must be entered an exception from the general rule – non-proliferation norms of this article on the delinquent – a public official, as the very inclusion of the service tort to the Code on Administrative Offences of the RF in the form of a particular administrative offense is already talking about the State's negative public attitude to this tort, and nonpublic measures of impact on service tort of a public official are within the framework of disciplinary penalties.

The circumstances relating to the limitation of bringing to administrative responsibility are of essential meaning when sentencing punishment any subject of administrative liability. However, the provisions of article 4.5 of the Code on Administrative Offences of the RF, as we see it, not really suite to such entity as a public official. For example, the general statute of limitations for administrative prosecution (the statute of limitations of making judgment on a case concerning an administrative offense in the context of the articles of Law) - two months (three months, in a case of considering by a judge) is absolutely unacceptable for the service torts of public officials who are persecuted by provisions of the Code on Administrative Offences of the RF, as tortious conduct of those persons in the first place creates relationships defined as an administrative and legal dispute [4]. And only after resolution of an administrative and legal dispute, can be instituted proceedings on the case on administrative offence of a public official. Therefore, we

believe, with respect to bringing to administrative responsibility of a public official should be established specific limitation periods, taking into account the date of discovery of an administrative offense and date of completion of the administrative and legal dispute. Naturally, remains unchanged the position on that the day of an administrative offense shall be considered the day when this or that unlawful deed is completed.

Consideration of the circumstances affecting the application of administrative penalties to public officials would not be complete if we had not referred to such circumstances of an administrative offense, as the fulfillment by a public official an order or instruction. For example, the obligation of execution of orders and instructions by public civil servants is enshrined in article 15 of the Federal Law No. 79-FL from July 27, 2004 on the Public Civil Service of the Russian Federation. However, the same article prohibits public civil servant to execute unlawful order. Upon receipt of the leader order, which, according to a civil servant, is unlawful, a civil servant must submit a written justification of illegality of the order with an indication of the provisions of the Russian Federation legislation, which may be violated in the execution of this order and receive confirmation of this order from the head in writing form. In case of confirmation of this order in writing form by the head the civil servant is obliged to abandon its execution.

A similar norm for municipal employees exists in the Federal Law No. 25-FL of March 02, 2007 on Municipal Service in the Russian Federation (see part 2 of article 12).

Considering the duties of civil and municipal servants stipulated by the mentioned laws and judicial practice on administrative and legal disputes we come to the conclusion that the delinquency of deeds of these public officials is directly related to failure to perform their official duties imposed upon them by law. The question arises as to whether to establish a form of guilt of public officials in cases of non-performance of their job (service) duties? What other evidence of guilt in these cases is necessary?

Certainly, the practice is based on science. In science, there is no single theoretical and legal concept of justification of application responsibility “regardless of fault”, which leads to a formal use of objective imputation.

Moved from the criminal law to administrative law psychological theory of guilt, in our opinion, is not universal and unconditional for all the subjects of administrative law. It seems to us, in administrative law should be developed its own theory of the offender guilt. Content of articles of the Code on Administrative Offences of the RF with heading “Form of guilt” reveals, in our opinion,

the classification of offenses, depending on the volitional and intellectual mood of a delinquent at the moment of his illicit act. The legislator has proposed to law enforcer artificial structure of forms of guilt, when in fact the content of article 2.2. of the Code on Administrative Offences of the RF deciphers the types of administrative offenses (gives their classification) depending on the taking place intellectual and volitional moment of a delinquent at the time of committing illegal actions.

We believe that in the administrative law the concept definition of guilt should not be limited by mental attitude of delinquent to his deed. And an indication of guilt as a necessary condition of legal liability is the functional purpose of guilt, as a category of law. Fault - a category of social society, the rules of the existence of which are governed by various rules including legal ones. In isolation from society, the concept of guilt does not exist. And above all, fault - an assessment by society of committed actions. On the basis of these views, let's formulate our own concept of guilt.

Fault – this is a socio-legal category that reflects the condemning (blaming) subjective assessment of deed (actions or inactions) of a physical person, committed in violation of social norms and rules of conduct with particular volitional and intelligent aspect, which characterizes the deed as intentional or reckless, as well as wrongful actions of a legal entity, entailing legal liability.

This concept does not contain any contradictions in the case of various assessments of deeds by a delinquent himself and by persons exercising administrative jurisdiction, judges and other persons – participants of tort legal relations. Society by means of the laws determines the procedure of establishment of guilt, authorized persons establishing guilt, as well as deeds and conditions of their commitment (deliberate or careless), which are condemned by society. And the final decision on the guilt of a delinquent in case of a dispute is taken by a judicial authority.

In the context of the given by us concept of guilt it is not correct to speak about the existence of forms of guilt. Intent and negligence is a form of manifestation of an offense rather than a form of guilt! The need for differentiation these forms of manifestation of guilt related, in our opinion, with a view to impose differentiated offender's penalties, depending on the taking place volitional and intellectual aspects of the offender in a particular tort. However, in most cases in the administrative and tort legislation the type of tort does not matter that was noted by B. V. Rossinsky: "In the articles of the Code on Administrative Offences of the RF and the laws of the RF subjects, establishing administrative responsibility, a form of guilt is more often

not indicated. According to the articles administrative liability arises, regardless of the form of guilt… In some cases, although the form of guilt is not directly established by the legislator, indirectly, it is clear from the nature of the deed… However, sometimes the wording of an administrative offense expressly says that it can be committed only in the form of intent or only in the form negligence" [5, 618-619].

We believe that wine, as a socio-legal category has been introduced as a requirement of legal liability occurrence to implement in the law enforcement activity the presumption of innocence. The implementation of this presumption requires a certain course of actions of the subjects of administrative jurisdiction, which are obliged to collect sufficient evidence on the subject of proof and compliance with the rule of law in procedural actions. Therefore, in tort relations is important not only to the mental attitude of delinquent to a deed and its consequences (i.e., not his subjective assessment), rather assessment of authorized by law subject of administrative jurisdiction the delinquent's offense in terms of forms of guilt manifestation. This statement has a definite sense in view of the fact that the delinquents, as practice shows, if there are sufficient and absolute evidence of their guilt, continue to assert their innocence.

We believe that in cases of guilt assessment by a delinquent – a physical person it should be kept in mind not a very guilt, but feeling of guilt i.e. the delinquent awareness of the guiltiness of his actions. In this context (sensory perception of guilt), it is rightly so the assertion of legal scholars on the absence of guilt(feeling of guilt) by collective entities of law (legal entities).

However, in our opinion, the fault of a legal entity (in our concept of the fault) can be implemented in both intentional actions and the actions by negligence, due to the intentional acts or acts by negligence of its officials (authorized representatives of the collective entity of law). This rule is valid in the tax area. In accordance with part 4 of article 110 of the Tax Code of the RF the organization guilt in the commission of a tax offense is determined by the fault of its officials or its representatives, actions (inactions) of which resulted in the commission of the tax offense.

Proposed by us transfer of guilt from the field of mental sensations to the area of objectively possible conduct of subjects in the field of legal relations governed by public law is not a novelty in the law. Civil law has in this matter the relevant experience, when the real conduct of participants of property turnover is compared with the requirements of the diligence and prudence which should be exercised by an attentive and bona fide entity.

We agree with A. M. Huzhin that “the existing in the modern judicial practice provision on the possibility application of legal liability “without establishment of guilt” is not equal to objective imputation” [6, 188]. Everything that the specified author said for civil law is relevant for the public sectors of law.

Code on Administrative Offences of the RF contains a number of articles with administrative offenses in which the liability volume is of unconditional nature (proving of innocence is formal, as even casual actions are imputed to a delinquent). However, in law-enforcement practice may be a decrease in the amount of liability in connection with the establishment of the circumstances of extreme necessity, as well as mitigating circumstances.

Unfortunately, currently in administrative law there is no theoretical-legal conception of justification the application of liability regardless of fault. Attempt to prove the necessity of bringing to administrative responsibility separate entities of law regardless of guilt has been made by us at the consideration of the subjective aspect of administrative offences of public civil servants [3]. We believe that bringing to administrative responsibility regardless of fault may take place with respect to collective subjects – legal entities. Foundations for the considered are laid down by legislator in the articles of the Code on Administrative Offences of the RF with the formal structure, which in fact presume the guiltiness of an illegal action, and the proceedings on the case on an administrative offense in such cases are limited to checking circumstances which exclude bringing to administrative responsibility.

Bringing forward the concept of the possible application of administrative responsibility “regardless of fault”, we offer to the scientific community to puzzle out the essence of legal structures and concepts, which are the terms of its implementation. For example, the rules of administrative and tort legislation, allowing the possibility of bringing to administrative responsibility without establishing a form of guilt, cannot be identified with responsibility without fault. Responsibility without establishing a form of guilt should occupy an intermediate position between the “strict legal liability” based on the presumption of guilt, and “soft legal liability” based on the presumption of innocence.

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THE NOTION OF GUILT IN THE CODE ON ADMINISTRATIVE OFFENCES OF THE RUSSIAN FEDERATION

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The concept of guilt as a social and legal assessment category is being contrasted with the current concept of guilt based on mental attitude of a guilty person to the committed offense. Examines the errors of normative concepts of «form of guilt» vested in tort legislation of Russia. Considers the possibility of application of juridical responsibility «without establishment of guilt».

Keywords: guilt, concept of guilt, forms of guilt, intent, negligence, presumption of innocence, principle of guilt, guilt of a natural person, guilt of a legal entity.

In accordance with the Russian delictual legislation the prerequisite for bringing an offender (delinquent) to responsibility is his guilty action or inaction. From the context of article 2.1 of the Code on Administrative Offences of the RF follows that in the absence of guilt in the actions (inaction) of a physical person or legal entity, these actions, despite their illegality, are not administrative offenses.

Enshrined in the Code on Administrative Offences of the RF presumption of innocence requires persons exercising administrative jurisdiction to establish the guilt of a person in respect of whom are being conducted proceedings on an administrative offense. However, in our opinion, the wording of the rules of article 1.5 of the Code on Administrative Offences of the RF, reflecting the presumption of innocence, contains some contradictions with part 1 of article 2.1 of the Code on Administrative Offences of the RF, which in a literal interpretation of the rules preclude administrative responsibility of any subject. It is obvious that

B. V. Rossinsky had in mind the same thing, saying that "the guiltiness of an action implies that it was committed in the presence of guilt. The absence of guilt in any case does not allow considering this deed (even illegal) as an administrative offense" [10, 35].

As we see it, the legislator in the part of guiltiness of the delinquent more successfully formulated the presumption of innocence in the field covered by the Criminal Code and the Criminal Procedure Code of the RF, not applying for torts committed in the absence of delinquent's guilt the concept of a crime (see Table. 1). However, as noticed by M. V. Bavsun, emerging practice of using the Institute of guilt and criminal law principle of fault-based liability "does not comply with their legislative formulations and follows, mainly, the way of expediency. Besides, the expediency that is out the law, far outstripping it and conditioned by reality" [6, 17].

In our opinion, we should not ignore the fact that the law enforcer can act in ways the use of which will contribute to achieving the goals set by the law, herewith relying less on the administrative directions of tort legislation, but more on common stereotypes, perceiving them as a dogma, deviation from which is impossible. This is possible more in situations where the legislator has left enough room for the use of discretionary powers of law enforcer.

A. M. Huzhin believes that the legal construct of "objective imputation" is typical not only to criminal law, but also for other branches of modern law, in situations when it comes to the use of legal liability without establishing of guilt [15, 187]. And it is difficult to disagree with it. Judicial practice confirms the possibility of derogation in cases prescribed by law from the principle of guilt and accepts the possibility of use legal liability without establishing of guilt, i.e. objective imputation.

Table 1

Presumption of innocence in the tort legislation of Russia

Criminal Code and Criminal Procedural Code of the RF	Code on Administrative Offences of the RF
CC RF: article 5. The Principle of Guilt	Article 1.5. Presumption of Innocence
1. A person shall be brought to criminal *responsibility* only *for* those **socially dangerous actions (inaction)** and socially dangerous consequences *in respect of which his guilt has been established.*	1. *A person shall be* administratively *liable* only for those **administrative offences**, *in respect of which his guilt has been established.*

CPC RF: article 14. Presumption of Innocence	
1. The accused shall be regarded as non-guilty until his guilt of committing the crime is proved in accordance with the procedure, stipulated by the present Code, and is established by court sentence, which has entered into legal force.	2. A person who is on trial for an administrative offence shall be regarded innocent until his guilt is proved in the procedure established by this Code and established by a lawful decision of the judge, body and official who has considered his case.
2. The suspect or the accused is not obliged to prove his innocence. The burden of proving the charge and of refuting the arguments cited in defence of the suspect or the accused, shall lie on the party of the prosecution.	3. A person held administratively responsible is not obliged to prove his innocence, except as provided by footnote to this article
3. All doubts concerning the guilt of the accused, which cannot be eliminated in accordance with the procedure established by the present Code, shall be interpreted in favor of the accused.	4. Irremovable doubts in respect of the guilt of a person held administratively responsible shall be interpreted in favor of this person.
4. The verdict of guilty cannot be based on suppositions.	*No equivalent to the norm of part 4 article 14 of Criminal Procedural Code of the RF*

The main reason for deviations law enforcer from the lawfulness we believe the absence of the concept of guilt in the tort legislation of Russian. Contents of articles of the Criminal Code and the Code on Administrative Offences of the RF with the heading "form of guilt" reveals, in our opinion, very different concepts – classification of offenses depending on the volitional and intellectual delinquent's state of mind at the time of the wrongful deed (see Table. 2).

Table 2

Forms of guilt and guiltiness in the tort legislation of Russia

Criminal Code of the RF	Code on Administrative Offences of the RF
Article 24. Forms of Guilt	Article 2.1. Administrative Offence
1. **A person** who has committed an act deliberately or carelessly shall be **deemed guilty of a crime**.	2. **A legal entity shall be deemed guilty** of an administrative offence, if it is established that he had the opportunity to observe rules and norms whose violation is administratively punishable under this Code or under the laws of a subject of the Russian Federation, but he has not taken all the measures that were in his power in order to compliance with to them.

Continuation of table 2

Article 25. Intentionally Committed Crime	Article 2.2. Forms of Guilt
1. An act committed with direct intent or indirect intent shall be recognized as a crime committed intentionally. 2. A crime shall be deemed committed with direct intent, if the person was conscious of the social danger of his actions (inaction), foresaw the possibility or the inevitability of the onset of socially dangerous consequences, and willed their offensive. 3. A crime shall be deemed committed with indirect intent, if the person realized the social danger of his actions (inaction), foresaw the possibility of the onset of socially dangerous consequences, did not wish, but consciously allowed these consequences or treated them with indifference.	1. An administrative offence shall be deemed willful, when the person who has committed it realized the wrongful nature of his action (omission), could foresee the harmful consequences thereof and wished these consequences, or deliberately allowed them, or treated them indifferently.
Article 26. Crime Committed by Negligence	Article 2.2. Forms of Guilt
1. An act committed thoughtlessly or by negligence shall be recognized as a crime committed by negligence. 2. A crime shall be deemed to be committed thoughtlessly, if the person has foreseen the possibility of the onset of socially dangerous consequences of his actions (inaction), but expected without valid reasons that these consequences would be prevented. 3. A crime shall be deemed to be committed by negligence if the person has not foreseen the possibility of the onset of socially dangerous consequences of his actions (inaction), although, with the necessary care and forethought he ought and could foresee these consequences.	2. An administrative offence shall be deemed as committed through negligence, when a person who has committed it could foresee the harmful consequences of his action (omission) but self-conceitedly hoped to prevent such consequences, or did not foresee the appearance of such consequences, though he had to and could foresee them.

Encyclopedic sources of the Soviet period determined guilt, as:

- position (state), the opposite of righteousness, in which passes a person who has violated ethical or legal standards, having committed a misconduct or a crime. The state of guilt is an expression of moral relations in which the individuality correlates to others and to society as a whole [12, 41];

- necessary condition for the bringing to responsibility [13, 225].

Currently, the guilt is defined as "mental attitude of a person to his wrongful conduct (action or inaction) and his consequences" [14, 42]. "Guilt means person's awareness (understanding) of inadmissibility (wrongfulness) of his conduct and related to it outcomes. Guilt is a necessary condition of juridical responsibility" [14, 42].

"Guilt – the mental attitude of a person to committed by him wrongful act (action or inaction) and its consequences. Means person's awareness (understanding) of inadmissibility (wrongfulness) of his behavior and related to it outcomes. A necessary condition of juridical responsibility" [8, 46].

The concept of guilt, earlier given by I. A. Galagan, is also based on medical and biological nature of man. According to the scientist understanding guilt is a "mental attitude of a person to his committed wrongful action or inaction in the form of intent or negligence, as well as to its consequences" [7, 170].

The above stated understanding of guilt by legal scholars, except that it is a necessary condition of juridical responsibility, we believe, does not satisfy the requirements of law that presumes subjective imputation.

The mistake in the above definitions of guilt is, to our point of view, in binding to one subject – delinquent, even though the establishment of guilt is imposed on other subjects. How, in this case the person carrying out administrative jurisdiction determines the fault of a delinquent? The legislator has proposed the law enforcer artificial structure of forms of guilt, when in fact the content of Article 2.2. of the Code on Administrative Offences of the RF deciphers types of administrative offenses (gives their classification) depending on the delinquent's volitional and intelligent aspect taking place at the time of committing illegal actions.

We believe that in the administrative law definition of guilt should not be limited only with mental attitude of delinquent to his deed. And reference to guilt as a necessary condition of juridical responsibility is a functional purpose of guilt, as the category of law. Guilt is a category of social society, the rules of the existence of which are governed by various norms, including legal ones. In isolation from a society the concept of guilt does not exist. And, above all, fault is an assessment by society of committed acts. On the basis of the given views let's formulate our own notion of guilt.

Guilt is a socio-legal category, reflecting the condemning (reprehensible) subjective assessment of deeds (actions or inactions) of a physical person, committed in violation of social norms and rules of conduct with some volitional and intelligent aspect, which characterizes the deed as intentional or reckless, as well as wrongful acts of a legal entity, entailing juridical responsibility.

This definition does not contain any contradictions in the case of various assessments of deeds by a delinquent himself and persons exercising administrative jurisdiction, judges and other persons – participants of tort legal relations. Society through laws determines the procedure of establishing guilt, authorized persons who establish guiltiness, as well as deeds and conditions of their commission (intentional or reckless), which are condemned by society. And the final decision on the guilt of a delinquent in case there is a dispute is taken by a judicial authority.

In the context of our concept of guilt it is not correct to speak about the existence of forms of guilt. Intent and negligence is a form of manifestation of an offense rather than a form of guilt! The need for differentiation these forms of manifestation of guilt related, in our opinion, with a view to impose differentiated offender's penalties, depending on the taking place volitional and intellectual aspects of the offender in a particular tort. However, in most cases in the administrative and tort legislation the type of tort does not matter that was noted by B. V. Rossinsky: "In the articles of the Code on Administrative Offences of the RF and the laws of the RF subjects, establishing administrative responsibility, a form of guilt is more often not indicated. According to the articles administrative liability arises, regardless of the form of guilt… In some cases, although the form of guilt is not directly established by the legislator, indirectly, it is clear from the nature of the deed… However, sometimes the wording of an administrative offense expressly says that it can be committed only in the form of intent or only in the form negligence" [5, 618-619].

We believe that wine, as a socio-legal category has been introduced as a requirement of legal liability occurrence to implement in the law enforcement activity the presumption of innocence. The implementation of this presumption requires a certain course of actions of the subjects of administrative jurisdiction, which are obliged to collect sufficient evidence on the subject of proof and compliance with the rule of law in procedural actions. Therefore, in tort relations is important not only to the mental attitude of delinquent to a deed and its consequences (i.e., not his subjective assessment), rather assessment of authorized by law subject of administrative jurisdiction the delinquent's offense in terms of forms of guilt manifestation. This statement has a definite sense in view of the fact that the delinquents, as practice shows, if there are sufficient and absolute evidence of their guilt, continue to assert their innocence.

We believe that in cases of guilt assessment by a delinquent – a physical person it should be kept in mind not a very guilt, but feeling of guilt

i.e. the delinquent awareness of the guiltiness of his actions. In this context (sensory perception of guilt), it is rightly so the assertion of legal scholars on the absence of guilt (feeling of guilt) by collective entities of law (legal entities). Therefore, the legislator has formulated in part 2 of article 2.1. of the Code on Administrative Offences of the RF special definition of a legal entity's guilty deed, which can be regarded as a symbiosis of principles of subjective and objective imputation of guilt, because the mere fact of committing an administrative offense is not sufficient for the bringing to administrative liability of a legal entity. It is necessary to establish, that a legal entity had the opportunity to comply with the rules and norms for the violation of which the Code on Administrative Offences of the RF or the laws of a subject of the Russian Federation provides for administrative responsibility, but this (legal) entity did not take all possible measures to comply with them.

We believe that the norm of Code on Administrative Offences of the RF on the guiltiness of a legal entity has been formulated in view of the structure taking place in civil legislation. Article 401 of the Civil Code of the RF stipulates that "a person is admitted innocent, if he has taken all measures for the proper performance of an obligation with the degree of care and prudence which was required of him by the nature of the obligations and terms of turnover" (laid the principle of objective imputation).

However, in our opinion, the guilt of a legal entity (in our definition of guilt) can be implemented both through intentional deeds and the actions by negligence, in view of the intentional deeds or actions by negligence of its officials (authorized representatives of the collective subject of law). In accordance with part 4 of article 110 of the Tax Code of the RF the organization guilt in the commission of a tax offense is determined by the fault of its officials or its representatives, actions (inactions) of which resulted in the commission of the tax offense.

Proposed by us passing of fault from the field of mental sensations to the area of objectively possible conduct of subjects in the field of legal relations governed by public law is not a novelty in the law. Civil law has in this matter the relevant experience, when the real conduct of participants of property turnover is compared with the requirements of the diligence and prudence which should be exercised by an intelligent and good faith entity.

We agree with A. M. Huzhin that "the existing in the modern judicial practice provision on the possibility application of juridical responsibility "without establishment of guilt" is not equal to objective imputation" [15, 188]. All that the specified author said for civil law is relevant for the public sectors of law.

Code on Administrative Offences of the RF contains a number of articles with administrative offenses in which the liability volume is of unconditional nature (proving of innocence is formal, as even casual actions are imputed to a delinquent). However, in law-enforcement practice may take place a decrease in the amount of liability in connection with the establishment of the circumstances of extreme necessity, as well as mitigating circumstances.

Unfortunately, currently in administrative law there is no theoretical-legal conception of justification the application of liability regardless of fault. Attempt to prove the necessity of bringing to administrative responsibility separate entities of law regardless of guilt has been made by us at the consideration of the subjective aspect of administrative offences of public civil servants [9]. We believe that bringing to administrative responsibility regardless of fault may take place with respect to collective subjects – legal entities. Foundations for the considered are laid down by legislator in the articles of the Code on Administrative Offences of the RF with the formal structure, which in fact presume the guiltiness of an illegal action, and the proceedings on the case on an administrative offense in such cases are limited to checking circumstances which exclude bringing to administrative responsibility.

However, before proposing a scientifically based concept of the possible application in the framework of administrative law responsibility regardless of fault, we should sort out the essence of legal structures and concepts that are prerequisites for the realization of this principle.

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ECONOMIC SECURITY OF THE REPUBLIC OF KYRGYZSTAN: THE CURENT CONDITION AND ACTUAL PROBLEMS OF ITS SUPPORT

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In the context of ensuring the economic security of a State, justifies the need in state regulation of economic activities of private entities. On the basis of the analysis of internal threats to the economic security of the Republic of Kyrgyzstan it is being postulated that economic security is a crucial basic element, the material base of the common system of national security.

Keywords: economic security, national security, public administration of economic security, system of economic security.

After the collapse of the USSR the task of self-identification and protection of national interests arose before sovereign Kyrgyzstan. Presidential Decree of the Republic of Kyrgyzstan from August 7, 1991 № PD-253 "on Measures to Strengthen the Economic Basis of the Sovereignty of the Republic of Kyrgyzstan" was the first legal act reinforcing the legal bases for the economic security of the Republic of Kyrgyzstan. In subsequent years by the Security Council of the country has been developed and approved by the resolution of the Government of the KR dated December 19, 1996 № 606 "The Main Provisions of State Economic Security Strategy of the Kyrgyz Republic".

The Kyrgyz Republic Constitution guarantees, on the one hand, private-legal relations, when it comes to property, freedom of economic activity, on the other hand - sets the unity of a tax system. But neither of these two functions is feasible without government regulation of economic relations.

However, such a state regulation must not violate the freedom of economic activity. More precisely, such a freedom of economic activity, which in particular, does not lead to a violation of the unity of economic space through the monopolization of the areas of business activity in any territory.

According to the principal Law of the Kyrgyz Republic, the generally recognized principles and norms of international law and international treaties of the Republic of Kyrgyzstan are an integral part of the legal system of the Kyrgyz Republic.

We recall that in UN General Assembly Resolution of October 24, 1995, which sums up fifty years of the UN activity, it was recognized that "efforts to ensure peace, safety and stability throughout the world will be futile unless the economic and social needs of the people are not satisfied". This is not a single statement, but systematically conducted principle in the cited document. For example, in paragraph 3 of the Resolution states that the commitment written in the UN Charter, which says that all members of the United Nations will take joint and separate action in cooperation with the Organization to improve the standard of living, ensuring full employment and creating conditions for economic and social progress and development, has not been implemented in full. It is emphasized that in addition to the problems of remaining unacceptably wide gap between developed and developing countries "also should be recognized specific problems of countries with economies in transition, which are determined by the twin process of their transition to democracy and a market economy".

This document is not restricted with the definition of objectives and postulation of principles, formulates methods to achieve them, their practical implementation. It Is Significant, that this is methods of public law. The resolution comes from the fact of "the accelerating process of globalization and strengthening interdependence in the global economy" and offers the solution of "adopting strategic measures designed to ensure maximum benefits from these trends and to minimize their negative consequences for all countries." The resolution makes a very important conclusion both for legal science and practice, sets the task of forming a special branch of law – the economic and social progress law, highlighting the international law in part of development. In paragraph 13 expressed imperative "to promote the progressive development of international law in the field of development, including a law that would contribute to economic and social progress".

The basis of legal measures to ensure economic security – the principle of public-law impact on economic development, which in the Resolution receives specific content when in paragraph 8 focuses on the implementation of "national

and international measures aimed at eradicating poverty that is an ethical, social, political and economic imperative of humankind, as well as on ensuring full population employment and social integration".

Let us recall readers that in international-legal relations and documents the categories "national" and "state" are identical and related not to ethnicity and nationality, but to the unity and the imperativeness of public law provided for by the State. Imperativeness of public law means the reality of civil rights because law enforcement on this case is made in dispute cases through the judicial and executive proceedings, and thus ensures it as current law.

The mentioned Resolution continues the constitutional tradition of such acts of international law as the International Covenant on Economic, Social and Cultural Rights (New York, December 19, 1966).

The preamble to the official text of the Covenant introduces commonly accepted principles of international law, which are an integral part of the Kyrgyz Republic legal system.

According to the constitutional provisions of the Kyrgyz Republic these principles ensure freedom not only of a lawful private-legal deed, but also the freedom of protection by public law from destitution, freedom as an actual opportunity to exercise their rights: "Participating to the present Covenant states ... recognize that according to the Universal Declaration of Human Rights the ideal of free human personality enjoying freedom from fear and destitution can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights". Specificity of legal establishment the Institute of freedom in the Covenant is being developed in paragraph 2 article 11: "States participating to the present Covenant [1], recognizing the fundamental right of everyone to freedom from hunger, shall take necessary measures individually and through international cooperation, involving conducting specific programs".

Article 11 of the Covenant establishes a specific form of a basic economic right as an actual one rather than formal-legal right of everyone to a sufficient standard of living for himself and his family, including sufficient feeding, clothing and housing, and to the continuous improvement of living conditions. States-Participants shall take appropriate measures to ensure the implementation of economic rights, while recognizing the value, in this respect, of international cooperation based on free consent.

The problem of economic security was first posed in the U.S. in the 30s. Its relevance was conditioned by the strongest global economic crisis and the need

for a rapid response to threats of this magnitude in the framework of national economy. "The Great Depression" of the late 1920s demonstrated the inadequacy of market self-regulation mechanism under the conditions of a high degree of concentration of production and the arms race. The state's role in the distribution of GDP, the support of strategically important industries, the formation of prices and income, aggregate demand, consumption and accumulation increased substantially.

Approaches to the understanding of economic security have been changing depending on the changing political and economic concepts of public administration. For a long time there was an understanding of economic security as one of the characteristics of a global military confrontation between the socialist and capitalist systems, that is, economic security was considered as ensuring the viability of national economies in terms of war and the "cold war". As variations of the concept existed approaches according to which economic security was treated as ensuring the survival of the country in case of natural disasters and environmental emergencies, or under the conditions of national and world crises.

In recent decades, to the notion of economic security embeds a sense as "ensuring the competitiveness of national economy and its leading industries on the global stage". This is connected to the changes in the structure of national economies of developed countries and the need to reflect the effectiveness characteristics of their development.

In some cases, economic security is postulated as an economy state and as security for private and public persons, and as security of economic space [12, 108-125]. This approach is followed by many authors in their works, including S. Yu. Glazyev [5, 113], V. C. Zagashvili [6, 114], V. Pan'kov [11], etc.

Economic objectivism was expressed in the definition of this subject by a scientist and economist A. I. Illarionov: "Under the economic security is understood the combination of economic, political and legal conditions that ensures the long-term production of the maximum amount of economic resources per capita in the most effective way" [7, 49].

Academician L. I. Abalkin considers economic security as "a totality of conditions and factors that ensure the independence of the national economy, its stability and sustainability, the ability for constant renewal and self-improvement" [2, 5].

S. A. Afontsev defines "national economic security as the resistance of the national economic system to endogenous and exogenous shocks of economic or political origin, that manifests in its ability to neutralize the potential sources

of negative shocks and minimize losses associated with really occurred shocks" [4, 66].

Some American authors see the source of the concept of national security in the theory of national interest [13, 20].

The Russian authors who paid attention to the original character of the national security interest, however, do not follow it, and turn to the economic dominant, enriched to a certain extent with legal categories: "Economic security – synthetic category of political economy and political sciences is closely linked with the categories of economic independence and dependence, stability, and vulnerability, economic pressure, blackmail, coercion and aggression, economic sovereignty, etc." [13, 126].

Economic security is a material basis of national security. It serves as a guarantee of sustainable and stable development of a country and its independence.

Economic security represents a state of the national economy, which can satisfy the entire totality of real, actual, economic needs of society and ensure its economic independence, a stable and sustainable development, progress, worthy and equal status in the global economy, reliable, i.e., not allowing crossing a critical limit, protection against internal and external threats and the impact of unpredictable and hardly projected factors [10, 154-156].

In our view, the economic security of the state is a state of the economy and government institutions, at which is provided the guaranteed protection of economic interests, socially directed development of the country as a whole, sufficient economic potential at adverse variants of internal and external processes development.

As rightly note T. Kamchybekov and K. Azhekbarov: "Ensuring economic security is an important condition for the existence of economic activity, because it allows business entities to save the accumulated wealth, operate with investment resources, carry out long-term investments" [8, 48].

In the decision of the Government No. 631 of September 19, 2002 "on the State of the Economic Security of the Republic of Kyrgyzstan and Measures of its Further Ensuring" it was noted that economic security is an important part of public policy of the Kyrgyz Republic.

Main points in it support at the present time are: maintenance of normal living conditions of the population; ensuring with the necessary resources of all sectors of the economy; creation of conditions and prerequisites for the stabilization and further development of the economy and its protection against external and internal threats.

In the Strategy of the country development for 2007-2010 approved by the Presidential Decree of the Republic of Kyrgyzstan No. 249 PD (Presidential Decree) of May 16, 2007, it was written that the most important prerequisites for the successful implementation of this strategy is a providing the following major types of economic security: financial, energy, industrial, defense, food, etc.

Of course, that the system of economic security has both, inherent object – the country's economic system, and objects at the intersection and interpenetration with other possible areas of activity. Therefore, the system of economic security must be considered in the economic sphere itself, including foreign and domestic economic problems, and in the areas of intersection of the economic sphere with allied foreign economic areas. These include the military-economic sphere, the sphere of public safety (problems of the shadow economy, organized crime and corruption in the economy, economic frauds which are carried out in accordance with the law, etc.).

The main parameters of economic security, as it is considered to be, depends on the dynamics of production, the state of state's budget and debt, political, legislative, environmental nature inevitably lead to a decline in the economic potential of the country's National economy. Thus, for the economic security any form of threats or damage as a rule, always leads to material and financial losses that adversely affects the country's balance of payments. Therefore, to the internal threats as factors causing the crisis of economic security can be attributed: imperfection of tax and customs policy; a small portion of processing mineral raw materials on the territory, etc.

In an extremely common form the threats to the economic security of the country can be divided into two types, characterizing: 1) the deterioration the state and functioning of economy in respect of all its main parameters; 2) the criminalization of the economy, the growth of criminal-shadow impact on the processes of economy, production and distribution of material values and services.

Therefore, returning to the classification of domestic economic threats, it is possible to make an indisputable conclusion that the main economic threat is an imperfection of the system of government administration, the weakness of efforts to restore order in the economy, eliminate the conditions of enormous material and financial losses of the country. Internal threats to the economic security of the Kyrgyz Republic must be eliminated by authorities combating economic crimes in the framework of Financial Police and the Ministry of Internal Affairs, as well as by the executive authorities as a whole.

As believes U. O. Amanaliev, “further improvement the mechanism of public management the system of taxes and fees, as well as ensuring economic security of the Kyrgyz Republic, is associated with looking for optimum organizational forms and methods, including improving the organization and functioning of the Kyrgyz Republic Financial Police. Special attention deserves the need for the scientific development of issues of law enforcement and controlling activities of the Kyrgyz Republic financial police bodies from which depends on the solution of many economic problems” [3, 6].

Establishment the Financial Police of the Republic of Kyrgyzstan was aimed to perform such functions in a modern state, as the protection of property rights, ensuring the legitimate rights and interests of citizens, entrepreneurs, and most importantly to ensure economic security of the state. Presidential Decree of the Republic of Kyrgyzstan “On Normalization the Functions and Powers of Government Agencies Engaged in Combating Economic Crimes” [9], has set before the Financial Police of the Republic of Kyrgyzstan, the following priorities:

- protection of state ownership and budgetary funds;
- combating against corruption, bribery and official misconducts;
- combating against smuggling;
- combating against spurious entrepreneurship and tax evasion in especially large amounts.

Analysis of the crime situation in Kyrgyzstan in the sphere of economy shows that the main channels of the committing shadow economy, corruption and smuggling are: insufficiency of measures taken on the customs borders, including airports and railway stations aimed to prevent illegal importation to and exportation from the Republic of material asset; insufficiency of measures taken to timely revealing and prevention the facts of the underground production of goods, including wine-vodka products, tax evasion and unfair business.

In conclusion, we believe appropriate to draw the following conclusions.

Economic security is organically incorporated into the overall system of national security, along with military and defense, ecological and information security. But, because of the importance of production processes, distribution and consumption of material goods, for the life of society the economic safety is a crucial, basic element, the material basis of the overall national security system.

Without ensuring economic security of the country it is impossible to resolve general problems of national security. Therefore, ensuring economic security, preventing and suppressing of emerging threats to economic security is one of the most important national priorities

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