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PREVENTION OF CORRUPTION – THE JOINT INITIATIVES OF THE EDITORIAL BOARD OF "LAW AND MODERN STATES" JOURNAL AND THE MINISTRY OF EDUCATION AND SCIENCE OF THE RUSSIAN FEDERATION

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The UN General Assembly adopted the United Nations Convention against corruption on October 31, 2003, as well as it proclaimed December 9 as **International Anti-Corruption Day**. The Convention was ratified by 168 States. Russia acceded to the Convention on March 8, 2006. International Anti-Corruption Day is celebrated since 2004.

In the Ministry of Education and Science of the Russian Federation, on December 9, 2013, on International Anti-Corruption Day, a round table was held on «Civil Society in the Fight against Corruption». It was attended by representatives of the Ministry of Education and Science of Russia, RANEPA (the Russian Presidential Academy of National Economy and Public Administration), and «Consulting and Legal Protection of the Population Foundation - the founder of our journal. At the roundtable our journal was represented by S.V. Boshno, Doctor of Law, Professor, and as well by A.T. Khidzev and T.M. Tatishvili, specialists in information and communication.

It was an interesting rich event, where presentations were made by representatives of the Russian Ministry of Education and Science, Administration of the President of the Russian Federation, the nominations for the awarding of diplomas and certificates of the Ministry of Education and Science of the Russian Federation. The participants of the round table showed an exceptional interest in the issues of combating corruption, conflict of interest, the teaching of anti-corruption educational programs and publication of anti-corruption documents.

Round table participants summed up the results of execution of the Decree of the President of the Russian Federation from March 13, 2012, No 297 On the national anti-corruption plan for 2012-2013 years and amendments to certain acts of the President of the Russian Federation on the issues of corruption. In the

Decree, the Head of the State instructed the Government of the Russian Federation to ensure conduction annually, on the basis of the federal state budget educational institution of higher professional education «Russian Presidential Academy of National Economy and Public Administration», of educational-methodical seminars for up to three days with participation of up to 85 teachers. Interaction of universities and with RANEPA was carried out under the overall supervision and methodical guidance of Ministry of Education of Russia. High-quality organization of the educational process, highly qualified lecturers provided an opportunity to improve the skills of 115 teachers. Members of the Editorial Board of our journal organized conduction of training seminars.

Participants of seminars represented more than half of the subjects of the Russian Federation.

The Ministry of Education and Science of the Russian Federation considers prevention through legal education of learning youth as an important direction of anti-corruption work. Implementation of this direction is possible with the introduction of corresponding information blocks into educational content.

We believe a worthwhile activity is inclusion in the content of jurisprudence law textbooks of chapters, paragraphs with an anti-corruption focus. Thus, in the textbook «Jurisprudence: Foundations of the State and Law» by S.V. Boshno, there is chapter 38 «Legal mechanisms for combating corruption». As result of studying the chapter, the student will know the notion of corruption, forms of corruption, regulatory legal acts in the sphere of combating corruption, the main directions of the state policy in the sphere of combating corruption, international anti-corruption cooperation, anti-corruption expertise. The student will acquire the ability to distinguish resistance, and prevention of corruption, and will possess the skills to identify conflicts of interest, to establish corruption defects of legislation, to conduct basic expert action. All of these knowledge, abilities and skills are extremely useful for the formation of the anti-corruption legal consciousness, bringing up impossibility to bargain (a) bribe.

Certificates of Merit of the Ministry of Education and Science for participation in prevention and combating corruption, as well as for the implementation of the National anti-corruption plan for 2012-2013 years, were awarded to Svetlana Vladimirovna Boshno, editor-in-chief of the journal «Law and Modern States», Head of Political Science and Law Department of the International Institute of Public Administration and Management of the Russian Presidential Academy of National Economy and Public Administration.

For active participation in the implementation of anti-corruption education programs, Certificate of Merit was awarded to Nailya Akhmetovna Akhmetova, PhD in Sociology, Associate Professor of Constitutional and Municipal Law, Volgograd State University.

In connection with the publication of scientific works of the anti-corruption orientation («Problems and prospects for combating corruption in the sphere of education», in particular (by the example of the Lipetsk Region — Tambov, 2011), and successful participation in training seminars, Gratitude Award of Ministry of

Education of Russia was given to Dmitriy Victorovich Sokolov, PhD, Associate Professor of Criminal Law, Criminal Procedure and Criminalistics of the Lipetsk State Technical University. These are authors of our journal.

Different printing and publishing materials in anti-corruption sphere created by the Russian Presidential Academy of National Economy and Public Administration and "Consulting and Legal Protection of the Population" Foundation were presented at the round table. Of great interest is the annual Almanac «Anti-corruption expertise of normative legal acts» (fig. 1), which has been the result of the participation of the Presidential Academy in implementation of the Federal target program **«Scientific and Scientific-Pedagogical Staff of Innovative Russia»** for the period 2009-2013. The Almanac implements an idea formulated by Ministry of Education of Russia, i.e. support for research schools, establishment of young scientists in science. Each issue has articles of professors, associate professors, senior lecturers, postgraduates, undergrauates, students and even schoolchildren.

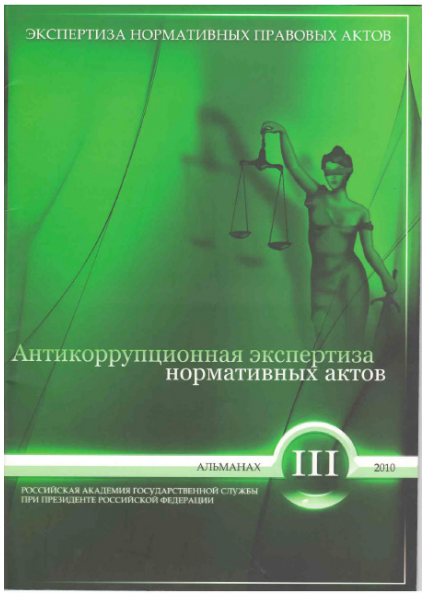

Fig. 1. «Anti-corruption expertise of normative legal acts» Almanac

Ministry of Education and Science of the Russian Federation at the round table supported the publication of the journal «Law and Modern States». There was noted such a merit of our journal as having a heading «Legislation against Corruption». Each issue of the journal contains articles of an anti-corruption focus. Thus, the number 3 for the 2013 year published articles of N.V. Mamitova, Professor of RANEPA, «Anti-corruption legal policy: problems of formation in modern Russia»;

of T.M. Tatishvili, postgraduate student of RANEPA, «Anti-corruption expertise in the system of measures to counter and prevent corruption»; of A.A. Ivanov, the undergraduate student of RANEPA, «Peculiarities of legal support in the area of entrepreneurship and combating corruption: comparative legal research». This is an example of the activity of the research school, organizing work on the general subject of scholars of different age and scientific expertise. Ministry of Education of Russia recommended to publish articles, including on combating and preventing corruption, in our journal. National scientists in prestigious foreign science-metric systems, Web of Science and Scopus, is a goal overseen by Ministry of Education of Russia — and that that we are committed.

Dmitry Ilchenko, Head of Department of the
Ministry of Education and Science of the Russian Federation,
Svetlana Boshno,
Editor-in-Chief

LAW THEORY, HISTORY AND DOCTRINE

A NOTION OF LEGAL IDENTITY

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Yevgeny Reznikov, Candidate of Juridical Science, Associate Professor of Theory of State and Law Department of Municipal Educational Institution «Volga Institute of Economics, Pedagogics and Law», Judge of Dzerzhinsky District Court of Volgograd,
e-mail: evreznikoff@yandex.ru.

Abstract. This article analyzes theoretical and legal aspect of definition «legal identity», being a relatively new notion formulated by the science of theory of state and law. It must be noted that a social aspect of identity attains particular importance in modern conditions, when a social differentiation has reached the highest point of complexity. A person cannot be torn away from society, but cannot either be just a «member of society», because being a part of society is inevitably mediated by participation in various social groups. Plurality of social roles results in the fact that sometimes it is hard for an individual to get his/her bearings in social space and determine which of those roles is primary and priority one. Such a necessity arises for no other reason than because different statuses can put forward different demands with regard to behavior and thinking of a person, form various personal qualities. As a consequence, a conflict is coming between different social roles, fraught with not only individual but social crises, too. That's why attainment of one's own identity is one of a person's first priorities, the solution of which lies either in the plane of choice between several options, or in the possibility of synthesis of several statuses (roles) on this or that regular basis. It's obvious that processes of that kind cannot be indifferent in legal contemplation. Because that is exactly law that is the primary authority which distributes and fixes social statuses. Legal regulation of a person's social activity inevitably generates this or that attitude on his/her part. Such connection between a person's legal status, his/her behavior and conscience gives all the grounds to discussion about legal identity existing along with other identities – ethnic, religious, political etc.

Keywords: identity, social identity, politico-legal identity, legal identity, state identity, subject of legal identity, subject of law, legal status, social status, legal consciousness.

In modern studies dedicated to identity it is conventional to differentiate it depending on type of social community to which a person can belong (for example, ethnic, religious, political, professional etc.). In that connection it seems to be justified to mark, besides named ones, legal identity, as well, which exists to the extent that corresponding social group possesses legally valid qualities.

Legal aspects of social identity are for the time being touched upon in scholarly literature just occasionally. So, among legal scholars A.G. Khabibulin was one of the first to use that notion, though, to be exact, his work refers not to legal identity, but to state identity as an element of a person's legal status. He connects the problem of identity with an institute of citizenship as of special politico-legal bond between state and personality.

In the opinion of A.G. Khabibulin, civil state of personality requires not only objective politico-legal connection with state, but subjective reflection of that connection, that is personal evaluation of one's belonging to certain state. Subjectification by individuals and their groups of all objectively existing relations with state, their realization and recognition are necessary. State identity is in evidence if state is for a citizen something subjectively significant, if one associates oneself with it, rates citizenship among one's most important social roles. The fundamental principles of the concept «state identity» proposed by A.G. Khabibulin, may well be applied to legal identity.

Ye.V. Astapova uses expression «politico-legal identity», defining it as a system of specific (original) attributes of statehood manifesting themselves at the mental, politico-legal and ideological levels. The mental level is represented by language and symbolical features (state language, banner, emblem etc.), politico-legal level is expressed in form of government, in specifics of political and legal system, ideological level looks like system of values, evaluations and interests focused on national security protection.

The reported representation differs by the fact that there lacks statement of individual psychological side, that is of place of individual in social community, and that not exactly conforms with traditions of research of identity in psychology as well as in other humanitarian disciplines (sociology, ethnology etc.).

Yu.Yu. Vetyutnev defines legal identity as belonging of a person to one or another social community, that is possession of subjective rights and legal obligations connected with that possession . At that the author points out that a notion of legal identity is construed by him as the analogue of legal status in the context of sociology and anthropology of law.

Such an approach appears to be more adequate because it reflects the notion of identity as of a pattern of mutual relation of individual with social group. But one cannot reduce the nature of identity, including legal one, to being of a person within a group and existence of his/her corresponding rights and obligations. In such interpretation, identity is really only one step removed from such phenomenon as social status. At that psychological content of identity passes completely unnoticed. Given that participation of individual in the activities of social group can be of a formal, superficial nature, at that rights and obligations can remain unrealized or be exercised

mechanically, by inertia, only slightly involving intellectual and emotional spheres of a person. In that case, it would seem, there is no reason to acknowledge presence of legal identity, though outwardly participation of person in community and legislative regulation of his/her behavior are present.

I.L. Chestnov, speaking of social identity of legal subject, characterizes it as dialogic relation with social status and social group. Legal statuses, as I.L. Chestnov notes, more often than not appear in front of us ready for use, fully formed, and we are bound to take them upon ourselves, which, however, leaves open the possibility (even though hypothetical) of modifying independently those statuses in accordance with our aspirations. In that approach the most valuable thing seems to be accentuation of dialogic nature of identity and possibility of two-way, counter motion in the course of its formation, for not only social institutes in their legal form place demands on personality, but an individual himself by his active doings makes a contribution to his own identity.

Special attention is deserved by the notion of legal identity proposed in the works by N.V. Isayeva, because the author goes beyond general definition of that notion or fragmentary remarks about its significance, but constructs on its basis rather a large-scale concept.

N.V. Isayeva formulates that definition as follows: «Legal identity is a quality of subject of law characterizing its current state by way of legal self-determination in categories of rights, freedoms, obligations and responsibility taken as legal values providing positive legal consciousness and legal activeness».

The version of that definition appears to be rather unfortunate by reason of cumbersome structure «a quality… characterizing its current state». The presence in it of terms «quality» and «state» looks rather superfluous because by virtue of their high-order generality they add hardly anything to characterization of legal identity. At the same time, the key idea of «legal self-determination» is completely applicable to legal identity, because it successfully emphasizes the active nature of identity and its regulatory properties, as well as being turned towards subject of law itself, and not towards some external objects.

The notion of self-determination includes psychological and behavioural content of identity, but it is necessary to complement it with a properly legal, that is regulatory aspect of that phenomenon, otherwise its specifics will be omitted. But the analyzed definition expresses that connection not very appropriately. First, it is not quite clear what «self-determination in categories» means. Second, the term «category» itself, borrowed from academic vocabulary, means a notion of the top degree of generality. Consequently, the proposed definition means that legal identity requires presence in its bearer of a developed scientific thinking, which essentially limits the sphere of its potential subjects, practically narrowing them down to representatives of academic community. Third, with such an approach a notion of legal identity acquires radically subjective colouring because the nature of identity depends only on subject itself, its self-consciousness and relationship to law. A factor of external recognition, objectified forms of social cooperation and control is disregarded. For example, a person's concept of his/her rights and obligations may not coincide with his/her real legal

status. Other than those external circumstances, a notion of legal identity, essentially, loses its difference from legal consciousness.

Legal identity in such interpretation has only psychological but not socio-legal content. A subject's rights and obligations are not an independent element of identity, but just an object of perception.

Besides, N.V. Isayeva's attitude is weakened by diminution of social groups' role in development of legal identity: «One can refer to characteristics of legal identity the specifics of its social component, too, which is expressed not in belonging to some separate social group (of judges, attorneys, teachers, engineers, employees etc.), but to community organized by state as a whole, offering one or another legal system».

As is known, any identity is in the first place a produce of social interaction creating a condition of collective unity and expressed in common self-consciousness. Reducing legal identity to general civil legal consciousness would mean disregarding specific forms of identity, developing in various communities on the basis of their internal legal order. In modern society with its high level of social fragmentation, communications at a national level are hampered, and attainment of common legal identity is in practice possible only on the basis of already formed group identity.

Not exactly appropriate looks also an idea of N.V. Isayeva about a presence of law identity in criminal communities: «Inasmuch as in a science of law theory the so-called nonlegal phenomena are included in a legal sphere, so in respect to criminal communities, with a certain part of conventionality, one can speak about negative legal identity».

In this case the logic of identity construction is violated: if persons forming part of criminal communities, deny with their behaviour actual positive law, that means their identity is based on some other regulatory basis. Their animosity to legal order give evidence not of «negative legal identity», but of their having qualitatively other social identity that doesn't have law content.

A concept of legal identity rests on an idea in conformance with which legal consciousness and legal status of a subject are connected with one another more closely than it is usually considered to be. As a rule, in national tradition of theoretical and legal research, a personality's legal status is considered separately from its legal consciousness and legal culture. It is recognized that those aspects of human legal existence are independent one from the other. Though interrelation between them is not denied, they are not studied as elements of unified system.

As it is, a person's attitude towards legal reality is, in all appearances, determined mainly by his/her own place in legal system and corresponding personal experience of collision with legal institutes. It is obvious that flood of legal information coming from society is perceived by a subject by far not in full but selectively, to the extent to which it concerns his life-sustaining activity. Formation of legal consciousness with all its particularities is a result of socialization that takes place through vesting of an individual with concrete rights and obligations. In its turn, legal consciousness induces a person to committing one or another legally significant act leading to alteration of his/her legal status. Such a dynamic structure of interactions of consciousness and status, actually, can be named a legal identity.

Legal identity is a specific instance of social identity. A so-called personality identity (understanding and perception of unity of self, of continuity of individual history etc.) hasn't a legal measurement, because law inevitably performs typification, standardization of people, not detecting their unique character. Actually, exactly that causes a significant part of problems in the sphere of legal identity, giving rise to various internal and external conflicts between individual needs and imperatives.

Legal identity is such a state of a person when he/she is not only a member of some social group, but lays on that fact high enough an emphasis, perceives it as an essential quality of his/her own personality. At that the said social group should be officially recognized, and its participants – possess a specific legal status. Accordingly, an individual being part of such group and having certain personal attitude towards it, extends it one way or another to regulatory aspect of collective existence.

Consequently, legal identity can be defined as a state of perceived involvement in a social group possessing legally significant qualities.

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HUMANIZATION OF PUNISHMENT. EVOLUTION OF THE CONCEPT IN DRAFTS OF NORMATIVE LEGAL DOCUMENTS OF THE XVIIIth AND EARLY XIXth CENTURIES IN RUSSIA

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Maksim Smoljarov, candidate for a master's degree at the Civil Law and Litigation Chair at the Academy of Federal Penitentiary Service (the Russian abbreviation FSIN) of Russia,
e-mail: msmolyarov@yandex.ru.

Abstract. The article analyses how ideas concerning punishment fulfillment were developing in legislative proposals of normative legal documents of the XVIIIth and early XIXth centuries. The author emphasises the fact that despite the declared humanism, all legislative proposals under examination still considered death penalty as the principal punishment. Nevertheless some modification of the capital punishment did take place: whereas early in the XVIIIth century there were specified two formats of death penalty (ordinary and qualified), the Draft of the Criminal Code of 1813 lists only an ordinary death penalty. Analysis of historic processes and punishment conceptions that are set forth in legislative proposals of the XVIIIth and early XIXth centuries allowed the author to predict further development of domestic legislation in the field of penal sanctions.

Keywords: punishment, death penalty, legislation, reforms of the XVIIIth and early XIXth centuries.

On October 14, 2010 the government of the Russian Federation adopted the Development Concept for the penitentiary system in the Russian Federation, which is to cover the period till 2020. According to its authors, this Concept is to serve as the foundation, the basis that will facilitate effecting further reforms of the penitentiary system of Russia for the years ahead. General direction of penitentiary system reforms complies with the objectives that are specified in the document itself, namely: enhancing efficiency of penitentiary institutions and agencies; making conditions for convicts more humane, strengthening interaction between the state and the society in matters concerning reforms of the penitentiary system, etc. The presented humanistic ideas root in the past. Historic sources of the Concept can be traced back to the Draft Regulations of the State of Russia of 1723–1726, Draft of the Criminal Code of 1754–1766, legislative proposals of Catherine II known as Catherine the Great (Draft of the Criminal Code of the second half of the 1770's and the1780's, Draft Code of Regulations about Prisons of 1787, etc.), and also to the

Draft of the Criminal Code of 1813.

Volume 3 of the Draft Regulations of the State of Russia of 1723–1726, devoted to issues that concern crime and punisment contained the following provisions: first, gravity of punishment depends upon a form of guilt, type of crime and other factors; second, criminal cases shall take into account mental capacity and age of the criminal; third, in what regards punishment, men and women, children and parents are equal before the law. At the same time there was introduced a new execution in the system of punishment, namely quartering after breaking on the wheel, which was to be fulfilled to preclude a premediated malice aimed at the sovereign. Purposes of punishment according to the document were as follows: intimidation of apt criminals, vindictive punishment, use of convicts' labour for state needs. Draft Regulations of the State of Russia of 1723–1726 was not adopted. Developing the Regulations in the Committees proceeded with varying success.

The next serious effort to modernize legislation was made in 1754–1766. In that period in the course of the Committee work there was produced a full-fledged draft of Criminal Code. The document contained considerations on several main issues: how to make criminal investigations (i. e., procedural matters) and how to proportion the penalty to the nature of the crime. As regards punishments, according to drafts the system of penalties was expanded: now the list of death penalty types included execution by means of decapitation and hanging, burning and breaking on the wheel. Besides, the draft also included "an absolutely unheard-of for Russia form of the capital punishment – laceration asunder by five horses". The purpose of the punishment is again to intimidate people. Thus, one can hardly trace any humanity in punishments specified in Drafts of the Criminal Code. However, elaborating general theoretic thesis (for example, confinement conditions, investigation procedures) per se significantly contributed to evolution of domestic political and legal thought. These drafts of the Criminal Code were not adopted, though.

Another effort to modernize legislation was made during the reign of Catherine II. Specially for the Code Committee of 1767 the Empress wrote the Legatum, which consolidated fundamental views of the Head of State on questions, connected with development of the state and its penitentiary system. Catherine specified a range of punishments to be applied to the criminal. The list contained death penalty (Chapter X Article 210), confinement, corporal punishments, fines, and other types of punishments. Catherine emphasized that the punishment must depend on a social danger of the deed (Chapter VIII, Article 94 of Legatum).

Later the Empress expressed similar penitentiary ideas in her Draft of the Criminal Code of the second half of the 1770's and the 1780's and in the Draft Code of Regulations about Prisons of 1787. In the Draft of the Criminal Code Catherine the Great did not just present her elaborated view on types of punishments; she also engaged herself in academic research (for example, Chapter XI gives the first fullest definition of «corruption crimes»).

The Draft Code of Regulations about Prisons of 1787 consolidated the notions concerning confinement conditions for convicts committed to prisons of the Russian Empire. In fact, this document, containing one hundred articles, outlined fundamental

principles of penitentiary policy of the Russian state for subsequent years. Basic ideas of the document were as follows: improving the prison system, determining the legal status of administrative authorities, and making conditions for convicts more humane. These drafts were never implemented in practice, though. It could happen due to problems both in domestic and in foreign policy of the Russian state.

After Catherine it was Emperor Alexander I who in early XIX century made certain efforts to reform the state legislation and penitentiary system. Specially for this purpose there was set up the Committee on drafting laws. The Committee worked by fits and starts. In 1813 it presented another Draft of the Criminal Code.

The Draft considered issues of crimes and punishing criminals, relief from criminal responsibility. Articles 22–23 provided for the following system of penalties: 1) ordinary death penalty; 2) political death; 3) deprivation of freedom and honour; 4) ignominious punishments; 5) a) imprisonment without ignominy and b) corporal punishments; 6) pecuniary fines; 7) discipline church. However, that document was never adopted, either.

So we can conclude that over the period from the XVIIIth to the beginning of the XIXth centuries death penalty remained one of the most commonly applied types of punishments both in theory and in practice. However, creating drafts of the abovementioned regulatory legal acts by itself demonstrated an inclination of the state authorities to reduce number of executions, make punishments more humane, improve conditions for convicts (e.g., in the Draft Code of Regulations about Prisons of 1787). Thus, the legislative proposals under examination were a serious step forward in developing political and legal thought in Russia.

We cannot possibly consider using in full political and legal ideas of the past presented by drafts of regulatory legal acts of the period covering the XVIIIth and early XIXth centuries in modern times, but all common-sense proposals that the discussed documents present, as well as attempts to implement them in practice, should be included into the “gold reserve” of experience in regard of developing the modern state in general and its penitentiary system in particular. Unfortunately, experience of negative reforming the state structure in the XVIIIth century is not investigated fully by modern scholars, which affects essentially the process of implementing reforms at the present time.

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BRIEF HISTORY OF RUSSIAN SYSTEMATIZATIONS OF LEGISLATION BY WAY OF CODE OF LAWS

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Camilla Kozinets, a student of the Foreign Regional Study Department in the International Institute of Public Administration and Management of the Russian Presidential Academy of National Economy and Public Administration, e-mail: kammo95@mail.ru.

Abstract. This paper considers the history of systematization of legislation in Russia by way of code of laws. The author refers to the consecutive stages in the systematization history and describes in details the particular solutions and the work done.The earliest systematization attempts date back to 15th – 16th centuries. The paper contains the research in the codification elements in the Law Books of that time, 1649 Sobornoye Ulozheniye (Council Code), works of Prince N.I. Odoyevsky commission. The second stage is constituted by the systematization of Peter I aimed at collecting the supplements to 1649 Sobornoye Ulozheniye. In the author's opinion, this systematization attempt was not successful. Another significant event in the national systematization periods was the efforts of M.M. Speransky. The paper analyses the outcome of this work, which was the Complete Collection of Laws and the Code of Laws of the Russian Empire. The final stage of systematization concerned herein contains the works of the Soviet Russia and then of the Russian Federation. The author comes to the conclusion of necessity to continue the systematization activities, so far as the law-making process in the last twenty years has been undergoing the intense development stage.

Keywords: systematization, corporation, incorporation, consolidation, Code of Laws of the RSFSR, 1649 Sobornoye Ulozheniye (Council Code), Complete Collection, M.M. Speransky, N.I. Odoyevsky, Code of Laws of the RF, law-making, legislative proceedings.

Introduction

The problem of systematization of Russian legislation is rather actual currently.

Many statutory acts, often being at odds, are passed in the state, that's why it is necessary to regularize statutory acts and reduce them to a certain system. That measure is necessary in order to guarantee accessibility of legislation, ease of its use and elimination of obsolete and ineffective rules.

Systematization of legislation in Russia is a process having deep historical roots and divided in several stages.

The issues of systematization have been elaborated deeply enough by national as well as foreign science.

1. First attempts at systematization (15th – 16th centuries)

It is possible to trace elements of codification already in the Law Books of 15th – 16th centuries. Codification was required by rules of judicial proceedings, criminal as well as civil ones. By the time of accession to throne of the Romanov dynasty, there were mess and confusion in legislation. Often statutory acts conflicted and were not known to a wide range of people. It was important in those conditions to create a document which would permit to codify legislation and «unscramble» various legal norms. One can name the Sobornoye Ulozheniye of 1649 passed at the time of the czar Aleksey Mikhaylovich, the first systematized act that embraced significant areas. That document could also be named a symbol of the Russian state getting strong. To develop the draft Ulozheniye, a special commission was created headed by the Prince N.I. Odoyevsky. That document partly replaced obsolete legal acts and left those to which the Ulozheniye gave direct references. It is recognized that separation according to branches of law was hardly teething, but nevertheless it was a positive tendency to further development of system of law and system of legislation.

2. Systematization under Peter I

The emperor Peter I thought that all subjects should obey the law and, consequently, they (laws) should be regularized and understandable, that's why he made attempt to create consolidated code. By decree of February 18, 1700, the emperor commanded to collect together all acts published after the Sobornoye Ulozheniye (1649). A special body was created «Chamber on Ulozheniye» (the first one in a succession of bodies created throughout the 17th – 18th centuries with the purpose of regularization of legislation). As envisioned by Peter I, codification should be started with collection of all newly-decreed articles. In 1711, when a Senate was created, it was it that took that issue under control. All newly-decreed articles were to be presented with data: whether they had been changed or were an addition to the Sobornoye Ulozheniye. Work on regularization of legislation proceeded with great difficulties. Under Peter attempts of codification were unrewarded by success, despite a large quantity of commissions which pursued that issue. Not one of them achieved the ultimate purpose that was declared in 1700, – creation of consolidated code.

3. Activities of M.M. Speransky

In one of his resolutions Alexander I wrote: «The law should be one for everyone. As long as I let myself offend against laws, who would then consider it their obligation to observe it?» The aspiration to entrench an existing order leads to an idea of systematization of legislation. Alexander I in 1801 established a tenth commission headed by P.V. Zavadovsky. That commission made a good preparatory work, but only Nicholas I could really implement the idea of systematization of legislation.

Codification commission was just reorganized in the 2nd division of the His Majesty's Own Chancellery. Afterwards, when a Code of Laws was already

prepared, the emperor established seven audit commissions with the aim of checking equivalence of the Code to the then-existing legislation. The check was facilitated by the fact that each article of the Code had a reference to a source – a corresponding act in the Complete Collection of Laws, with date and number. In fact the work on creation of systematic legislation was headed by M.M. Speransky. His idea was to divide that project in stages, and that was done.

In the first place, they set about formation of the Complete Collection of Laws (CCL). It included all statutory materials from the Sobornoye Ulozheniye to the beginning of reign of Nicholas I collected in chronological order. Such acts numbered more than 50 thousand, constituting 46 thick volumes. Later on the CCL was complemented with current legislation. So was created the second Complete Collection of Laws of the Russian Empire, embracing legislation up to 1881, and the third one enclosing laws since the March of that year.

CCL none the less was not quite a complete collection of laws. Some acts were not found by codifiers.

After publishing the Complete Collection of Laws, M.M. Speransky set about the second stage of work – formation of Consolidated Statutes of the Russian Empire. In the course of its compilation, inoperative statutes were excluded, contradictions removed, editorial refinement of texts carried out. Note that already in forming CCL Speransky allowed himself to somewhat edit published laws. During formation of the Consolidated Statutes, M.M. Speransky proceeded from the premise that «the Consolidated Statutes are a true picture of what there is in laws, but they are neither addition of it, nor interpretation». But, in researchers' judgement, M.M. Speransky on repeated occasions himself formulated new statutes not resting on effective law, especially in the area of civil law.

In the Consolidated Statutes all material was arranged according to a special principle developed by M.M. Speransky. If the CCL follows a chronological principle, then the Consolidated Statutes – already a branch one, though not quite consistently effected.

In the basis of the Consolidated Statutes structure there is a division of law in public and private law, proceeding from West-European concepts which go up to Roman law. M.M. Speransky only named those groups of laws state and civil ones. Working on the Statutes, M.M. Speransky studied the highlights of Western codification – Roman, French, Prussian, Austrian codes, though didn't copy them, but created his own original system.

After publishing the Statutes, Speransky thought to set about the third stage of systematization – forming Code of Laws which had not only to contain old statutes, but also develop law. If CCL and the Statutes were just incorporation, then forming Code of Laws implied codification method of work, that is not only integration of old statutes, but supplement of them with new ones, too.

M.M. Speransky's idea was to bring legislation in line with requirements of life, strengthen autocracy. But his aspirations failed to find support, and the work was suspended at the second stage.

4. Systematization in the Soviet Russia and the Russian Federation

In the USSR the attempts at implementation of integrated systematization went on.

So, for example, on September 2, 1976, the CPSU Central Committee, Presidium of the Supreme Council of the USSR and Council of Ministers of the USSR adopted a regulation «On preparation and publication of the Consolidated Statutes of the USSR».

The design of the Consolidated Statutes included seven sections of legislation:

1) on public and state organization;
2) on social development and culture; social-economic rights of citizens;
3) on rational use and conservation of natural resources;
4) on the national economy;
5) on international relations and foreign economic relations;
6) on national defence and national border control;
7) on justice, procuratorial supervision and law enforcement.

Conduct of the Consolidated Statutes of the USSR and RSFSR died down by the end of the 1980s in connection with turbulent law-making and substantial political changes. In 1995, a shot was tried at revival of systematization of legislation: a Decree of the President of Russia was published «On preparation for publication of the Consolidated Statutes of the Russian Federation». The main task of the Consolidated Statutes had to become perfection and integration of all laws in a unitary source, elimination of contradictions. But it never became implemented up to the present moment.

Conclusion

Systematization of statutory acts is representative of any developed system of legislation, and for the Russian one it is simply necessary because of the country's belonging to Romano-Germanic legal system and corresponding legal traditions. Ever since the adoption of 1993 Constitution, law-making activities in Russia went into overdrive. Adoption of scores of laws, bylaws, plenty of amendments require steady monitoring, that's why at this stage of development of legislation it is hard to make even a simple systematization. So as to regularize statutory acts, it is necessary to take into account historical experience, nuances in legislative sphere of the RF and assure accessibility of that codification to all citizens of the state.

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COMPARATIVE ECONOMIC AND LEGAL RESEARCH

LEGAL ANALYSIS OF THE LEGAL LIABILITY OF THE EXECUTIVE BRANCH IN RUSSIA AND USA

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Alexey Chepus, Candidate of Legal Sciences, PhD, doctoral student, associate professor at the Constitutional Law Department of the Russian Presidential Academy of National Economy and Public Administration, e-mail: alexal_2004@mail.ru.

Abstract. This paper contains the analysis of the notion of the legal liability of the executive branch in two legal frameworks – of Russia and USA. The constitutional foundations of the architecture and operation of the USA executive branch are researched in details, with the focus on the practice of functioning of the US Cabinet and President and the liability of the high-rank executives in the USA. The paper also considers the essence, legal elements and implementation instruments of the governmental liability in Russia. The application of the legal sanctions in Russia and USA is compared. The author casts his vision of the problems of liability of the RF Government and US Cabinet both to the President and Parliament. The paper also gives consideration to the concept-based fundamentals of the legal liability theory and provides various views of the problem of implementing the legal liability in Russia and USA.

Keywords: legal liability, Constitution of the Russian Federation, US Code, Russian Government, President, US Cabinet, executive branch, Congress, US Senate, Russian Parliament, vice president, executive powers and functions, impeachment of the top-ranking officials, Monica Lewinsky.

A central position in executive power system in any state is occupied by government. The USA are no exception, too. But under the United States Constitution there is no notion of government, and the question is about «chief executive officers of the executive branch departments». A place occupied by a government in the executive power system is explained by a chosen organization pattern. In the USA, as well as in a series of countries of Latin America (Argentina, Bolivia, Brazil, Venezuela, Chili, Ecuador, Mexico), a government as an independent authority is absent, such a pattern is called «presidential» in foreign literature.

In the USA head of state has executive power, and ministers (secretaries) are appointed exclusively by president, but all nominees for ministers are subject to obligatory approval by the Senate.

And in Russia it is vice versa. According to Part 1 of the Article 110 of the RF Constitution, executive power in the Russian Federation is effected by the Government of the Russian Federation which consists of chairman, deputies chairman and Federal ministers. But differences between executive power in Russia and the USA are not only in that, there are other distinctive features of executive power in two states. Let's expand on this in more detail.

The legal framework of activities of executive power, which is impersonated as a whole by President of the United States, is United States Code (title 3 «President» and title 5 «Organization of Cabinet and State Service»). The Constitution declares US President the only bearer of authorities of executive power at the level of federation (Sect. 1 Art. II). No collegial bodies of executive-governmental type are mentioned by higher law of the country. Besides, Government proper – as supreme body of executive power – does not exist in the USA under any other law. The United States of America, in the opinion of A.A. Mishin, falls into a small group of states in which government as collegial body of executive power is not recognized by constitution . But collectively federal executive bodies and their heads are called with uniting notion «Presidential Administration» or «Cabinet», the activity of which is analogous to governmental type bodies in composition as well as functions.

A term «Presidential Administration» in the USA was introduced for designation of the staff of presidential aides. In that case Presidential Administration» are called Cabinet members and staff members of Executive Office of the President. That's those bodies that collectively exercise functions which in other countries lie with governments.

Authorities and functions lying with executive power are realized in the USA exclusively through US President. Authorities of the Cabinet and its functions are up to now not contained either in the United States Code, or in the Code of Federal Regulations. This notwithstanding, Cabinet entered Presidential power as its integral part. Besides, Cabinet is deprived of any organizational and regulatory power, but for the most part exercises coordinational and consultative functions in the work of US President. It is held that Cabinet, first, helps the President to coordinate activities of bureaucracy, gives it political milestones and controls it, and second, provides communications of Presidential power with representatives of social, political and economic structures.

The basic function lying with Cabinet is participation in work of solving tasks of guaranteeing succession of US President office. So, the official functionaries closest to the head of state included in Cabinet can ascertain inability of US President to discharge his functions. In accordance with Section 4 of the 25th amendment to the US Constitution, vice president and majority of principal officers of executive departments can present to President of the Senate and Speaker of the House of Representatives a written declaration that President is not in a fit

state for health reasons or for some other reason to perform his official duties. In case of acceptance by the Senate of such declaration, vice president should immediately take upon himself the authorities of acting US President.

As to participation of the Cabinet in law-making process, its authorities in that field are practically reduced to zero. US President not only determines program of legislative activity, but tightly controls the whole law-making process. Only on a President's initiative the bodies subordinate to him can send up a bill to Congress. In the US President's messages to the US Congress a future program of law-making work for a year is determined, and Cabinet by no means participates in that program.

Budget and finance issues in the USA radically differ from Russian practice. Formally under the Constitution the US President is divested of any authority in that field. But starting from 1921, preparation of budget, and afterwards of the most important financial bills, was assigned generally to executive power, and effectively initiative in that field went fully over to President. But the budget which is presented as a President's initiative, is annually developed by the Office of Management and Budget (OMB) taking into consideration estimates of the results of federal bodies' work. Besides, Office of Management and Budget controls administration of Federal budget and takes part in development of tax programs. All proposals in fiscal policy, as well as in taxes, are presented only by President in the US Congress.

The issues of foreign policy, as well as of war and peace, are left under the supervision of the US Congress. Without its sanctions the President can bring troops and open hostilities only for holding off a surprise attack on the country and in case of emergency. Under the conditions of emergency President has immense powers, implementation of which should lead to restoration of public order, subjection of the rebels, supporting operation of Federal laws. This way, the Cabinet doesn't take part at all in policy of security and war issues, all decisions are reserved exclusively for the President and the US Congress.

But the President can recourse to advices and assistance of a number of bodies included in the Cabinet. One of those bodies is National Security Council (NSC) which gives to the President recommendations on the issues of defence, security, external intelligence, foreign affairs. That council is headed by the US President, permanent members of that council are vice president, state secretary, secretaries of defence and finance, special assistants to the President for national security affairs. Other officials are in case of necessity invited to meetings of that council for consultations.

An analog of that body in Russia can be the Security Council of the Russian Federation which is a constitutional body under the RF President, preparing decisions of the Russian Federation President in the field of ensuring protection of vital interests of a person, society and state against internal and external threats. As in the USA, in Russia the Security Council is headed by the RF President, and included in it are Chairman of the RF Government, a number of heads of Federal ministries and security forces.

In the USA the Cabinet hasn't got right of issue of statutory enactments. Only the President, performing his functions, issues executive orders, rules and provisions, proclamations and plans of reorganization. At that the main role is assigned to executive orders. They are issued on the basis of constitutional powers of the RF President or on the basis of laws of the US President.

Comparing structures of the Cabinets in the USA and RF Government, it should be pointed out that in the USA the Cabinet hasn't any well-defined structure. Under the US President several councils function: of national security, of economic affairs, of natural resources, of security, domestic and foreign trade and some others. A chairman of all the councils is the President, but each of them has a vice chairman or appointed temporary chairman who directs activities of the council and chairs its meetings in the absence of the President. The councils' responsibilities include development of focal points of policy and consulting of the President.

The number of persons included in the Cabinet, – heads of Federal executive departments – is selected by the President at his sole discretion, at that the appointment of each head is made by the US President personally, which is analogous to accepted practice of appointment of ministers and some heads of services in Russia. Members of the Cabinet can be in their offices as long as it is OK with the President. At that, the US President most often exercises shifts in the Cabinet in the second half of his term of office.

Meetings of the Cabinet are held as and when needed, which is defined by the US President. There are no rules on periodicity of the Cabinet meetings in America, and a meeting agenda is also completely determined by the President. The US President infrequently summons the Cabinet for decisions on complex political issues. Usually he determines in advance, what decision is to be legally formalized, and hold the Cabinet meetings so as to bring his position to the notice of state machine and public. On the other hand, the Cabinet is too small for making provision of political course development.

Now let us dwell directly on the issues of responsibility of ministers and secretaries to the US Congress and Senate.

Let us specify right away: in the USA, Mexico, Brazil and other presidential republics, where one can attribute the majority of Latin American states, an institute of parliamentary non-confidence in a cabinet of ministers or government is absent.

In the USA, as well as in Latin American countries, a form of parliamentary responsibility of principal officers of departments of executive power is impeachment, that is procedure of judicial or parliamentary accusation in commitment of criminal political delict applied to officials of various rank up to a head of state with the purpose of further deprivation of current position. It is possible, in our opinion, to speak about impeachment as a form of responsibility expressed in non-confidence, that is that procedure possesses all attributes of constitutionally legal responsibility and acts as constitutional sanction. As M. Statkevichius correctly remarks, «the development of impeachment institute

has shown that it becomes a form of constitutional (constitutionally legal) responsibility. It is true that constitutions of modern states do not define a feature of impeachment as of constitutional responsibility – it is an object of theoretical study. The researchers' conclusions that impeachment is a form of constitutional responsibility are based on inclusion of that institute in subject of regulation of constitutions».

Impeachment as a form of government liability is of little practical significance. In states with parliamentary and mixed modes of state administration it is easier to eject government members in the procedure of parliamentary vote of non-confidence or by discretional decision of head of state, than by way of multi-layer impeachment procedure. Even in presidential republics impeachment of a minister is a most singular phenomenon. In the United States of America, for instance, throughout history of the state only one secretary was summoned for impeachment procedure. Impeachment in the USA was also applied several times to judges and lower-level officials. Altogether in the US history the Senate ousted from office 7 judges, and charges were brought against 11. Besides, in the USA impeachment can be passed by legislatures at the level of states against officials of those states, and that was done in regard to governor of state Illinois Rod Blagojevich who was caught in acceptance of a bribe.

But it is worthy of note that in the USA, Mexico, Brazil there are no distinct statutory tests, and together with that, precedents for using such a procedure as impeachment. But the impeachment procedure formally extends not only on members of the US Cabinet of secretaries, but practically on all civil federal officials, judges, including the secretaries, for violation of the Constitution and other laws. But that situation is rare and basically characteristic feature of liability in the USA. It is important to note that after discharge from office of a minister or other official, further legal prosecution is carried out in accordance with general practices and is a part not of system of constitutional liability but of criminal or civil one. For that reason sets of elements of criminal offense in the United States of America, as well as in Mexico, are not included in the grounds of incurrence of constitutional liability.

Under the US Constitution, all civil officials of the United States can be dismissed from office after conviction in the impeachment procedure for high treason, bribery of other serious offences and misdemeanours (Article 2, Section IV). Alongside with that, characteristic features of high treason are disclosed in the US Constitution. They are: prosecution of war against the USA or joining enemies, rendering of assistance and support to enemies, in similar fashion characteristic features of bribery are distinctly and unambiguously defined in the US laws. But as for «other serious offences» and «misdemeanours», definition is absent, though in criminal legislation of America misdemeanours are less serious crimes penalized for a term of less than one year. But the term «serious offences» is applied to misdemeanours as well as to any other criminal offences. For that reason almost any act on the part of the top-ranking officials in the USA falls within the scope of the criminal law. It gives rise to formal reason on the part

of the parliament to organize impeachment procedure of any official included in Cabinet of ministers, as well as of the US President himself, which was done to Bill Clinton in 1998–1999 with regard to case of perjury and obstruction of justice in connection with the history of Monica Lewinsky.

Similar procedures of discharge from office of members of government or Cabinet ministers exist in other countries, too.

As can be seen from the above, in the USA the top-ranking officials of departments of executive power bear primarily political responsibility, the essence of which lies in the fact that they are obliged to retire in case of impeachment or vote of non-confidence on the part of the US Congress. In all other cases the top-ranking officials belonging to Cabinet of Ministers in the USA, are answerable directly to the President.

Doubtless, Cabinet of Ministers in the USA is only a working and deliberative body under the US President and can not act as independent subject of constitutional and legal liability to the House of Representatives and the Senate of the USA. Such being the case it is impossible to speak of liability of ministers, advisors, secretaries and other officials appointed by the US President, who don't have, in legal terms, constitutional powers and are, in essence, Presidential administration of some deliberative body under the head of state. An analogous situation is in Mexico, Brazil and the majority of Latin American countries, as well as some colonies and dependencies of the Caribbean Basin (Puerto Rico), where executive power is fully concentated in hand of the head of state. As is correctly noted by A.G. Orlov, in many Latin American countries members of Cabinet of ministers enjoy in fact no independence, and the Cabinet itself performs only functions of advisory body under a President.

As can be seen from the above, comparing organization of work of executive power in the USA and Russia, it should be said that a government as such in the USA, as distinct from Russia, does not exist. In accordance with the Russian legislation, Chairman of the Government of the Russian Federation is appointed by the RF State Duma. It offers to a President candidacies for the position of Federal ministers as well as determines principal directions of government activity and organizes its work. The Russian Government, as distinct from the US Cabinet, divests itself of authority before a newly elected RF President. But a President in Russia can at any time dismiss Government, change ministers or Chairman of the Government, which is in some sort analogous to powers and authority of the US President.

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DEVELOPMENT OF SOCIO–ECONOMIC COOPERATION BETWEEN RUSSIA AND THE USA

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Antonina Sharkova, Doctor of Economics, Professor, Head of Department 'Economy of organization', Financial University under the Government of the Russian Federation, e-mail: sharkova_av@mail.ru.

Irina Alieva, fourth-year student, Faculty of 'International Economic Relations', Financial University under the Government of the Russian Federation, e-mail: alieva_iz@mail.ru.

Valeriya Monakhova, fourth-year student, Faculty of International Economic Relations, Financial University under the Government of the Russian Federation, e-mail: emprero@list.ru.

Abstract. In context of recovery of modern global economy there is a visible trend of social partnership development in the majority of countries. The article deals with socio-economic issues of Russia and the USA. Authors explain in detail the future of Russian and American socio-economic projects in context of the business climate development of the two countries. Both countries have significant experience in this sphere that is why the cooperation in this field will be doubly important for them. In the article a detailed analysis of Russian socio-economic project "Camp for you" is presented.

Keywords: socio-economic projects, volunteering, Russian-American cooperation, social entrepreneurship, disabled people, social entrepreneur, social enterprise, social justice, social initiative.

1. Introduction

In context of recovery of modern global economy there is a visible trend of social partnership development in the majority of countries. Unlike traditional entrepreneurship, which is focused on the deriving stable profit from the production, social entrepreneurship, first of all, is aimed to solve social problems and, in most cases, to help the most vulnerable segments of the population – people with disabilities. The best reward for them is the recognition of their significant place in the society and feeling of being an important part of the whole community. That is why the governments of most countries, after all, consider social entrepreneurship as a tool to create a stable economy, which certainly contributes to accelerating its growth and building an equitable society.

Social entrepreneurship is a relatively new phenomenon in the Russian practice. Russian applied scientists consider the international experience of such business activities with regard to the possibilities of its application in modeling

the legal structure of meeting the socio-estate needs in order to establish it in modern Russia. And the most promising is to focus on social entrepreneurship in the USA taking into account its diversity and research potential and to identify the possibility of its relation with the Russian market.

2. Overview of socio-economic activities in Russia and the USA

No doubt, the USA has considerable experience in the socio-economic sphere. Such notions as "social entrepreneur" and "social enterprise" began gaining popularity in the United States back to the nineties. In particular, structure called *«Social Enterprise Initiative»* was created in Harvard in 1993 in order to study the experience of social enterprises, as well as to train and consult those social entrepreneurs of profit, non-profit and public sector, who wish to improve the living conditions of their communities. Nowadays, American social entrepreneurs, largely responsible for the effective functioning of the national economy of the USA, are seeking new ways to increase the productivity of their work, which largely depends on close interaction with government authorities.

As for Russia, the process of economy transformation to a qualitatively different state began in the late 1980s. It is currently characterized by dramatic changes in the structure of productive capabilities of society, the content of human activity, and the role of the state in the management mechanism. New social institutions are developing now, the system of basic legal norms is improving, and my country strengthens its positions on the international level that, in turn, contributes to the strengthening of the market relations with the USA.

A strategic goal of further cooperation between Russia and the USA is the achievement of social and economic levels in the external relations of the two countries, which would be appropriate to their status of superpowers on the world stage. The implementation of this goal would establish a new image of the future joint development of Russia and the USA by the end of the next decade. High rates of socio-economic development of both countries will certainly indicate that.

3. Analysis of socio-economic policies of the Russian Federation and the United States of America

Integrated management and regulation of joint social and economic activities of both the domestic and international scales are vital to achieve the goal of further cooperation development between Russia and the USA. This implies the achievement of high standards of personal safety, the availability of education services of the required quality and the maintenance of the environmental security through the cooperation of the two countries.

According to forecasts, Russian GDP in purchasing power parity per capita will increase to $19,735 by 2015. By 2015, more than 70% of Russian children and youth will receive secondary and higher education. The share of the population living in adverse environmental conditions will fall to 14%. Due to the improvement of human welfare, mortality level is expected to decrease by about two times. All these parameters should be considered not only separately, but also in comparison with the indicators of other countries, particularly with the American ones.

As for the forecast for the USA by 2015, the GDP in purchasing power parity per capita will be $52,393. Currently, the number of young Americans with higher education has reached record levels. One third of people aged 25-29 years now has the diploma of bachelor. About 90% of young people have finished high school or its equivalent, and 63% studied at the university for some time. American President Barack Obama has set a task to USA to be the leader in the number of young people with education above the secondary to 2020.

Strengthening of the institutions of economic freedom and justice, such as the constitutions of Russia and the USA, takes place at the present stage of development of these countries. This, in turn, means the guaranteed realization of citizens' rights, an improved system of democratic institutions, and also creation of effective instruments of legal regulation and law enforcement. In this case the policy of two countries should be aimed at the expansion of the freedom of entrepreneurship, maintaining the effectiveness of state and municipal management. Priority of the foreseen activities will be the assertion of the social justice principle.

No doubt, that the main principles of American and Russian society interaction are trust and responsibility. Russia and the USA are taking measures to exclude one-sided socialization. Obtaining this goal is possible only by means of ensuring equal opportunities for social mobility of gifted persons of all layers of society, and also by pursuing a policy of support to vulnerable segments of the population. In a word, Russia, as the USA did before, took a course of socio-economic policy aimed to improve the quality of life and the standard of living of certain social groups. The main areas of social policy of the two countries are education and health, under which it is necessary to implement the relevant socio-economic projects, which play an important role in the development of the Russian and American economy.

Socio-economic projects play an important role in the economic development of Russia and the USA. The infrastructure of effective support of small and medium business, carried out by public institutions in the face of the Administration of small business, and the numerous private foundations, and other civil society institutions is highly developed in the United States. However, the specifics of support of the third sector and social enterprises, in particular, require a special approach. It is necessary to point out that in the USA the Government provides substantial assistance to the development of social entrepreneurship, principally in the following 5 areas:

- motivation of social innovation;
- creation of favorable conditions of the development of social initiatives;
- recognition and promotion of successful social initiatives;
- assistance in the expansion and development of successful social initiatives;
- dissemination of the information about the effectiveness of social entrepreneurship.

It is known that the most difficult period of operation for small enterprises is the starting one (first 2 years) during which 1/3 of newly established enterprises

is closed. More than a half of the starting enterprises cease to exist within the first 4 years of operation. The circumstances are even more difficult for starting social enterprises, which enter the market of public services with a new initiative. In order to support social enterprises in this difficult period of their formation, they can be provided with the financial assistance of such funds like *«Echoing Green»* and *«Ashoka»*. In addition, a number of universities are sponsoring competitions for the best social innovations through research and educational programs, as well as providing financial assistance to the initiators of new social ideas. As for the Russian Federation, the Government annually adopts a decision to finance the socio-economic projects, the aim of which is the personal development of each Russian citizen and society in general. The main tasks of socio-economic projects consist of the provision of social assistance to vulnerable groups of citizens, improving the quality of life of the Russian people, and provision of social guarantees.

The Russian and American socio-economic projects include implementation of state action in the field of specific public tasks aimed at improving the economy of the countries through the development of their societies.

4. Factors influencing the development of socio-economic projects for children in Russia

Sustainable growth of the birth rate as well as increase of the welfare of citizens of the Russian Federation. made a significant positive impact on the development of the social-economic projects. As we can observe, in 2013, the birth rate reached the number mortality and sustainable natural population growth was achieved, thus, it will affect the increase of potential camps clients the future[1] (Fig. 1).

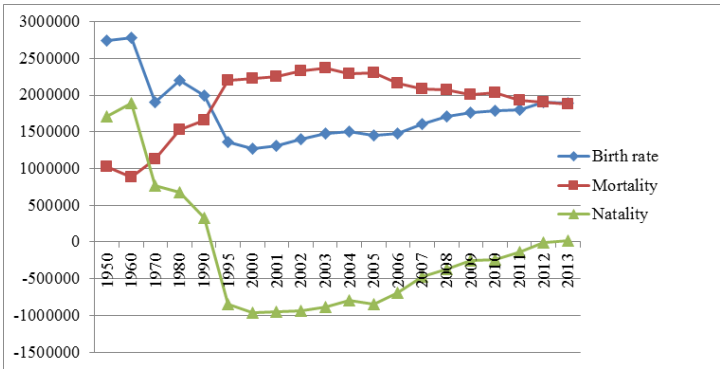

Fig. 1. The demographic situation in Russia from 1950 to 2013

Another important factor that affects the development of business projects, is the level of salaries. According to Rosstat, the growth rate of average monthly

[1] Demography // Federal State Statistics Service. – URL: http://www.gks.ru/wps/wcm/connect/rosstat_main/rosstat/ru/statistics/population/demography/#.

nominal wage per employee in the Russian Federation amounted 112,6% in February 2014 compared to February 2013[1]. The profits of the population of the Moscow region (where the project is located) in January 2014 increased in comparison with the previous year and constituted 105,2%, which also confirm the improvement of prosperity of citizens. Undoubtedly, it will contribute to the increase of expenses of citizens for education and health care.

It should be mention that the increase in services consumption took place in the winter, the growth rate in February 2014 amounted to 101,0% compared to the same period last year. Thus, in turn, explains the increased interest of not only unprivileged classes but also middle classes about socio-economic projects. Also we should pay attention to the fact that it was a boost in revenue as well as with expenses in comparison with December 2013, in particular the increase in profits in the Moscow region amounted to 142,6% in relation to November of the same year, and the growth rate of expenditure amounted to 115, 8%. Of course, this shows the purchasing activity of citizens in the period of New Year holidays, but we also pay attention on the fact that many families use the services of the camps during new year holidays, so this surge will certainly contribute to the increase of potential customers.

It should be noted that the increase of sales of tours on the territory of the Russian Federation to Russian citizens took place: in 2012 there were 33 thousand tours more than in 2010. It indicates the economic recovery after the crisis of 2009 and the increase in solvent demand for tourist services.

Every year the number of children rested in camps in the Moscow region is increasing: in 2011, the figure was just over 159 thousand people, while in 2012 it has almost doubled and amounted to 280 thousand people (Fig. 2).

Fig 2. The total number of children rested in the camps in the Moscow region in 2011 and 2012

[1] Salary // Federal State Statistics Service.– URL: http://www.gks.ru/wps/wcm/connect/rosstat_main/rosstat/ru/statistics/wages/labour_costs/#

It should be stressed that more than 480000 children live in the Moscow region, so the demand for such services as children's tourism will only increase.

According to the newspaper "Moscow today", the trend to reduce a number of camps in the Moscow region exists. That shows that less competitive camps leave the market of children's leisure because of the low quality of services. At the same time we can talk about some "recovery" of the industry, as the market consists of only those organizations, which are able to provide high-quality services. It is necessary to pay attention to the fact that every year the state allocates more resources to support industry. As you can see on the Fig. 3, in 2013, the consolidated budget of the Moscow region was aimed at holding children's health campaign (including the financing of the camps and providing healthcare services for children). It spent 267,9 million rubles more than in 2012. Of course, this will make a huge impact on the number of camps in the area, as well as on the improvement of service to those organizations that already have experience in the field of children's leisure and recreation.

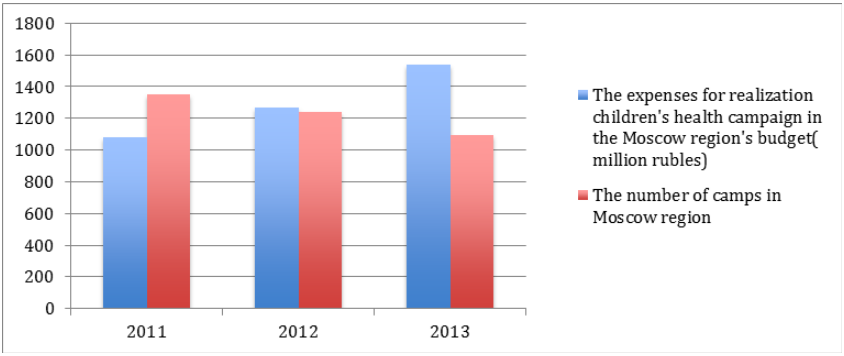

Fig 3. Budget expenses for holding children's health campaign and the number of camps in the Moscow region

In conclusion it should be stated that the effective government is vital for economic prosperity, development of education and health, and reduction of social inequality. However, the state is not seen as a direct participant in economic growth, but as a guarantor of law, stability of the political and macroeconomic environment, social security and education, since social business becomes a driver of economic growth. As it was noted earlier Russian business climate is favorable for the creation and promotion of projects because of the demographic situation and various economic indicators improvement.

5. Estimation of cooperation between Russian and American socio-economic projects

Striking examples of Russian socio-economic projects are national priority ones. They are all called «Global program», carried out in Russia since 2006. They include «Health», «Education», «Sport», and «Development of agriculture»

programmes. Well-known American socio-economic projects are «Independent Transportation Network» (ITNAmerica) and «Triangle Residential Options for Substance Abusers Inc.» (TROSA).

ITNAmerica is a social enterprise that was created for the safe, secure transportation of disabled people, so they could have an opportunity to get to any place at any time. This service allows many people with disabilities to move freely for personal reasons and to play an active role in social life. The idea was implemented through the combination of modern information technologies with the help of local communities. Drivers, who are involved in the implementation of transportation services for persons under this program, get the support of local business communities, who provide them with the incentives for the purchase of used cars and their maintenance. The experience of ITNAmerica has successfully spread around the country, so that many American cities created affiliated organizations. As for TROSA, it provides long-term support to people with low income. This company has worked out a program for providing long-term (up to 2 years) social aid to local residents. The program includes such types of long-term care as counseling, education and training. The novelty of this program is that the participant actually does not pay. In fact, the payment for them is in the labor participation; it can be used in the implementation of this program or at working in the TROSA Company. Those covered by the program can work as auxiliary workers, drivers or warehouse workers and have simple administrative functions but without any payment. Thus, the 2/3 of the financial stability of the social program in the conditions of low-income markets is covered by the revenue from the unpaid labor of social assistance users.

It should be noted that the biggest part of Russian and American projects in the sphere of social entrepreneurship are designed to alleviate the problems of the disabled and the poor people.

However social entrepreneurship in Russia is supported by a quite limited number of non-profit organizations and funds as opposed to USA. In fact, it shows the level of development of economy sector in Russia and the USA.

The trend of implementation and realization of socio-economic projects, in general, contributes to the development of social entrepreneurship in the two countries. One of the main tasks for the Russian and American governments is the joint cooperation in the field of socio-economic issues.

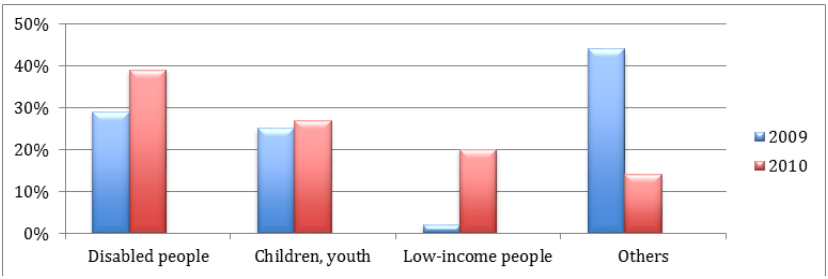

Fig 4. The target groups of social entrepreneurship in Russia[1]

In Russia, as well as in the USA, social entrepreneurship can get support from the government, especially, it concerns the organizations that provide educational and entertainment services for children. According to the Fig. 4, the projects aimed at mitigating the social problems of children and young people constitute a significant part of public funding. In spite of this fact, the number of children's camps in Russia doesn't increase despite of growing demand for their services. Unfortunately, with a tendency of reduction in the number of camps, that provide educational and entertaining services for children without physical disabilities, it is clear that a great lack of such camps for handicapped children is even more. The Russian Federation solves this problem by the introduction of new special socio-economic projects and their development in the context of Russian-American socio-economic cooperation.

The development of an innovative economy is impossible without development, building human capital and intensity of human use of its potential. The crisis gave a new reference point in the development of economy and the formation of human capital. Undermanning of companies causes the necessity of recruitment of foreign specialists[2].

One of these new socio-economic projects is "Camp for you". It offers the following services: language courses, health care services and entertainment programme for children with and without disabilities.

An evident idea became the benchmark for the creation of the project «Camp for you»: people with disabilities, especially children, should live and study among healthy children in order to feel themselves valuable members of the society. The project «Camp for you» is aimed at implementation of this idea into life. It aims at socialization of handicapped children and healthy ones in the process of their joint interaction.

Camp allows children to overcome language barriers, and psychological

1 *Zvereva N.* Social entrepreneuship: a look into the future // New Business: social entrepreneuship. – URL: http://www.nb-forum.ru/interesting/experts/sotsialnoe-predprinimatelstvo-vzglyad-v-buduschee.html.

2 *Sharkova A.V., Merzlova M.P.* The factors of formation and development of human capital in the innovative economy // Law and the modern states. – 2013. – No 4. – C. 9–13.

ones that handicapped children usually have. The program takes into account the differences of physical and mental activities of handicapped children.

The novelty of the project is next: it provides educational, entertaining and health-improving programmes together. The educational programme includes the English lessons, which focus on developing the comprehension and improving the conversational skills. It is worth noting that the lessons are conducted by volunteers from English-speaking countries, in particular from the USA. Surely, American volunteers are important for Russia in order to develop the socio-economic relations with the USA. The entertainment program includes outdoor games, creative activities, evening performances and etc. The program of the project includes meetings with disabled people who have achieved success in their lives. The medical treatment includes complex of health resort services. For each handicapped child an individual program of treatment for the disease is thoroughly worked out, and all healthy children receive health care treatment.

This project is expected to make a great impact on the personal growth of handicapped and healthy children in the process of communication. 'Camp for you' is aimed at the development of communicative skills of handicapped children to prevent the development of inferiority sense in communication with healthy children. The main goal of this project is the adaptation of handicapped children for further stay in such camps abroad, particularly in the USA, for their further training.

The USA, as a leader in the field of social entrepreneurship, can offer Russian camp cooperation with existing American camps for handicapped children.

For example, nowadays in Texas, there is «Lions Camp» for children with disabilities. It was established in 1949 in response to an outbreak of polio, which changed the lives of many Texans, including the Texas children. Now the children with special needs from all corners of the USA participate in camp activities. The camp provides its services for children with the first type of diabetes, as well as for those with cancer. The mission can be defined as promoting «Can do» philosophy to the participants of the camp, so they can develop together with their coevals. Every summer more than 1500 American children visit this camp.

Cooperation between two camps – American and Russian – will, certainly, contribute to the development of socio-economic cooperation between Russia and the USA. A specific course of events will be determined by the strategic interests of both countries and by efforts to overcome barriers and prejudices that exist. Two projects – the Russian «Camp for you» and the American «Lions Camp» – were realized in order to solve important social problems. Undoubtedly, those social-economic projects play an important role in the social policy of Russia and the United States that form a strong international democratic society.

6. Conclusion

Evaluating the current situation, it is obvious that the socio-economic projects play a significant role in the development of the Russian and American societies as a whole. The success of such projects highly depends on how social policy is pursued by these States. With the wide support of the government

and the private sector, and the development of socio-economic cooperation between Russia and the USA such projects will improve the level of education and healthcare and influence the economic situation. Today, the modernization and improvement of socio-economic structures of these states are a priority for the Russian and American societies. It is obvious that it will take a long time, nevertheless, the governments have to take the responsibility for monitoring the implementation of the modernization process in their different aspects and spheres: economic, political, social, etc. In our opinion, the cooperation of the two states and their societies will make a huge impact on the policy of global socio-economic system improvement, introduce more important international projects and, in turn, contribute to the strengthening of Russian and the USA status of superpowers and form a new image of the Russian and American societies: fair and socially responsible.

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INTERNATIONAL LAW AND FOREIGN LEGISLATION

CORRUPTION AND POLITICAL CRISIS IN UKRAINE

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Alexei Ivanov, Candidate for a Master's Degree of Jurisprudence of the International Institute of State Service and Administration of Russian Presidential Academy of National Economy and Public Administration, e-mail: alexnika3@gmail.com.

Ivan Bogun, Bachelor of Jurisprudence at National Juridical Academy of Ukraine named after Yaroslav the Wise.

Abstract. The article reviews issues of corruption and political crisis in Ukraine in the context of international organisations reports that estimate corruption levels and entrepreneurial climate worldwide. The article examines countries of the European Union and member states of the Customs Union, asseses the political crisis in Ukraine.

Keywords: corruption, Ukraine, politics, member states of the European Union, member states of the Customs Union, legislation, crisis.

With its tentacles corruption embraced all spheres of public administration in Ukraine, affected all branches of Ukrainian national authorities, and constituted a principal source of political crisis in the county. We can only suppose how Ukrainian society would have responded the decision to stop *Euro-integration* and redirect the development vector towards the *Customs Union*, granted the state had been strictly observing the constitutional law, freedoms and guarantees. What would have happened, if the same change occurred under condition that independent courts were functioning normally, the state were performing effective political housecleaning (instead of just making show), carrying out anti-corruption foreign and domestic policy and providing for a favourable entrepreneurial environment?! Indeed, can the states held together by bonds of customs agreements boast of having healthy, transparent economics or of being «corruption free»? We have reasons to believe that Ukraine's refusal to sign an agreement about association with the European Union was a mere pretext! We drew this conclusion on the basis of analysing the situation in Ukraine after 2010, i.e. after Yanukovich came to power. For this purpose we used analytic and statistical data received in Ukraine and in other countries. We studied reports of international organisations that give appraisals of corruption levels, anti-corruption policies, and conditions for developing entrepreneurial business for countries all over the world. For comparative examination there were chosen states and republics that are member

states of the Eurasian Economic Community Customs Union on the one hand, and member states of the European Union (EU) on the other hand. The research covers the period from 2009 to 2013.

International Assessments

According to annual CPI[1] (Corruption Perceptions Index) reports prepared by the nongovernmental international organisation *Transparency International*, whose aim is to fight corruption and research corruption levels on a global basis, Ukraine's position can be described as steady stagnation over the last 5 years. So, in the annual report for 2012 experts declared that Ukraine ranked the lowest among European countries according to its corruption level. It takes 144-th place among 174 countries with no European countries having a worse position.

The Corruption Perceptions Index is determined by international experts made by financial organisations and advocating rights legal organisations on the basis of cross-sectional opinion surveys among general public all over the world. On the ground of this information the rating is compiled, and the state with the best Corruption Perceptions Index (CPI) for the given year ranks first. Figure 1 shows ratings of Ukraine in comparison with the member states of the Eurasian Economic Community Customs Union (Russia, Belarus, Kazakhstan).

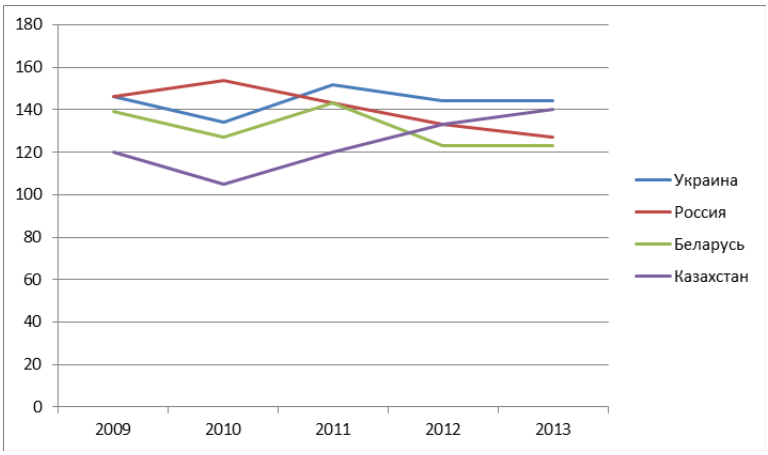

Fig. 1. Corruption Perceptions Index from 2009 to 2013 (Ukraine, Russia, Belarus, Kazakhstan)

This chart shows that the CPI ratings of the member states of the Customs Union and Ukraine are, firstly, similar, and, secondly, very low. Only Kazakhstan managed to approach the top hundred of leading countries when in 2010 it was ranked 105 in the rating, but this position was beheld for a short while only, since already in 2011 the country went down to the 120-th place, and in 2013 it lost its positions entirely by dropping to the 140-th place. In fact, Kazakhstan's ranking

1 Indeks vospriiatiia korruptcii // Transparency International Rossija: Tsentr antikorruptsionnykh issledovanii i initsiativ. – URL: http://www.transparency.org.ru/indeks-vospriiatiia-korruptcii. [Corruption Perceptions Index // Transparency International Russia: centre of anti corruption research and initiatives]

is almost as low as Ukraine's now, which ranks 144. Russia, on the contrary, is demonstrating positive dynamics: in 2009 it ranked 146, but in 2013 it rose to the 127-th place.

Figure 2 shows ratings of some countries (Germany, France, Italy, the Netherlands) that are member states of the European Union (EU). These countries were chosen out of 28 current member states of the European Union against a number of criteria. *Firstly*, they were among the first six countries that originally composed the foundation of the European Union. *Secondly*, these are large countries with fully developed geopolitics and economics, and with population of more than 15 million people.

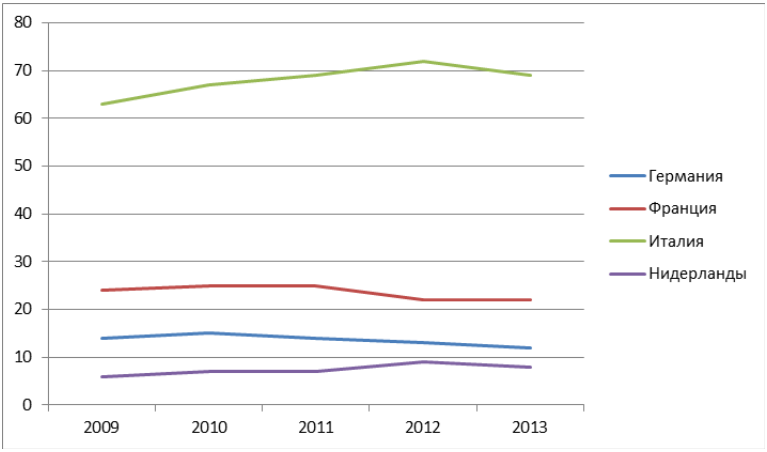

Fig. 2. Corruption Perceptions Index from 2009 to 2013 (Germany, France, Italy, the Netherlands)

The present chart shows that member states of the European Union steadily rank among the top thirty of world nations with positive CPI. The only exception is Italy, which has recently been unable to go higher than the 60-th place.

Group of States against Corruption (GRECO)[1] is an international organisation established under the Council of Europe in 1999. The objective of this organisation is providing participating countries for assistance and support to facilitate their fight against corruption by setting up anti-corruption standards in the area of legal regulation, which would be most efficient and suitable for the given state. The Group consists of 49 states, and Ukraine joined GRECO in 2006.

GRECO started monitoring compliance of Ukrainian legislation in the area of fight against corruption in early 2007. GRECO experts determined as their priority tasks assessing the following aspects: measures taken by Ukrainian authorities to decriminalise corruption acts; transparency degree in funding political parties; and compliance of the national legislation with requirements of the Criminal Law

1 Council of Europe. – URL: http://www.coe.ru/main/agreement/greco/.

Convention on Corruption dated 27 January, 1999[1]. The GRECO final compliance report contained a positive appraisal of the efforts aimed to establish criminal responsibility for violations of law related to corruption, among them for unlawful acquisition of wealth. The report also contained 7 recommendations concerning criminalisation of socially dangerous acts connected with corruption and 9 recommendations that deal with issues of transparency with regard to funding political parties. In April 2013 Ukraine was due to inform GRECO on how the given recommendations would have been implemented.

Summarizing the results of GRECO expert compliance report for 2013[2] we can conclude that the work aimed to revise Section XVII of the Criminal Code was assessed as positive. In 2011 the said Section replaced the previous one, which was titled "Crimes Concerning Official Activities". The new title of Section XVII is «Crimes Concerning Official Activities and Professional Activities, Related to Rendering Public Services». Experts noted in particular Article 368 of the Criminal Code «Acceptance of an Offer, Promise or Getting Unlawful Profit by a Civil Servant" and Article 369 of the Criminal Code "Offering or Giving Unlawful Profit by a Civil Servant». The said articles stipulate the area of corruption crimes committed by civil servants, as well as by persons who provoke civil servants to commit such crimes.

Further on it should be noted that Ukraine implemented fully only 3 out of 16 recommendations given by GRECO in 2007, while 7 recommendations were implemented in part, and the rest 6 recommendations were not implemented at all. Thus, the effecting of anti-corruption law reform in Ukraine can be considered partial and satisfactory.

We also analysed annual reports of the World Bank Group «Doing Business» from 2009 to 2013. These reports present annual research conducted in developing countries that assess how easily it is to carry out entrepreneurial activities, including key aspects of their annual cycle. A high ranking on the ease of doing business index means the regulatory environment is more conductive to operation of a local business. An important area to be evaluated is regulatory and legal framework, stipulating entrepreneurial activities. The report «Doing Business 2013» was titled «Smarter Regulations for Small and Medium», which in itself proves how important it is to study this very enterprise sector; the report present assessment results of 185 countries.

Analysis of entrepreneurial climate in the states under examination was included into this research for the following valid reasons. *Firstly*, it is business that forms the economic foundation of any developed state, which is evidenced by its contribution into GDP of such countries. To illustrate the statement, we will refer to the fact that share of small and medium businesses into GDP of member states of the EU is at least 50% (Germany, France, Italy). Unfortunately, Ukraine and member states of the Customs Union cannot boast of such figures (in Ukraine SMB share in GDP according to various evaluations is 10–12%, in Russia and Kazakhstan – 15–20%, in Belarus – 25–30%). *Secondly*, states with a high rating of anti-corruption policies are generally noted with comfortable conditions for

1 Criminal Law Convention on Corruption, Strasbourg, 27.01.1999 // Consultant-Plus. – URL: http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=121544.
2 Compliance Report on Ukraine. – URL: http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2013)14_Ukraine_EN.pdf.

enterprises as well. This appears to be a regular pattern: a low corruption brings about a favourable business climate, which results in economic development. Fig. 3 compares Ukraine with the member states of the Customs Union in the context of reports “Doing Business”.

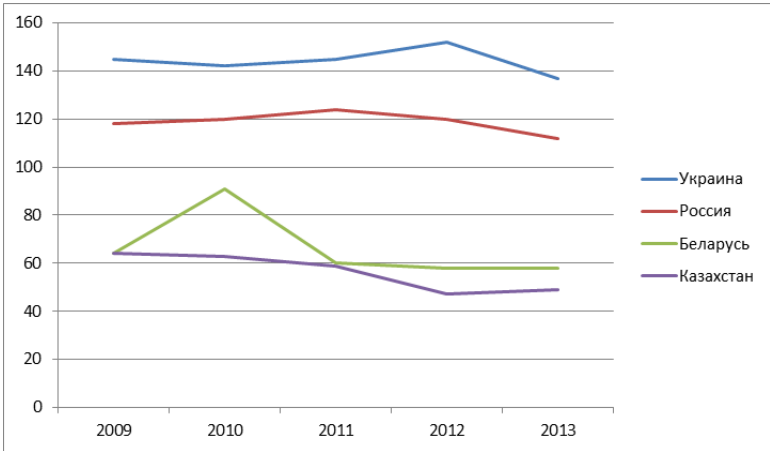

Fig. 3. Ratings according to reports “Doing Business” from 2009 to 2013 (Ukraine, Russia, Belarus, Kazakhstan)

Fig. 3 clearly shows that Ukraine has the worst ratings, and only in 2013 it was ranked higher than 140. Kazakhstan and Belarus have had the best ratings in this group during last years: they have been steadily ranked between 40 and 60.

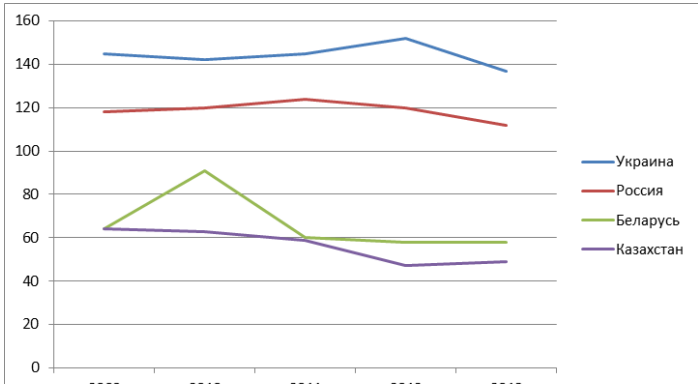

Fig. 4. Rating according to reports “Doing Business” from 2009 to 2013 (Germany, France, Italy, the Netherlands)

Fig. 4 present information on the same member states of the European Union that we examined in the context of reports on CPI in Fig. 2.

All the countries presented in Fig. 4 except Italy, which ranked lowly in Fig.2 as well, demonstrate stable positive dynamics and rate in the top 30 among the countries with the best climate for business.

Anti-corruption policy and legal regulation in the field of fighting against corruption in Ukraine

The United Nations Convention against Corruption (UNCAC) can be considered the first international anti-corruption legal act, which was adopted in 2003. Its 71 Articles are divided into 8 Chapters. It should be noted that in 2006 Ukraine ratified the aforenamed United Nations Convention by passing the Law of Ukraine «On Ratification of the United Nations Convention against Corruption», which made incorporating its provisions into national legislation a high priority task. In order to achieve compliance of Ukrainian legislation with international requirements, parliamentarians developed the «Legislative package of anti-corruption proposals» that included the following draft laws of Ukraine: «On principles of preventing and counteracting corruption», «On responsibility of juridical persons for commission of a corruption offence» and «On introduction of alterations into certain legislative acts of Ukraine related to the responsibility for corruption offences». All the legislative proposals were examined by experts of the Council of Europe.

Legislation of Ukraine on preventing and countering corruption

The main regulatory legal act stipulating the given sphere of activities is the «National Anti-Corruption Strategy for the period from 2011 to 2015»; the corresponding Decree of the President of Ukraine No. 1001 was signed on 21 October, 2011. The priority task of the Strategy is to level down corruption by eliminating its causes, and also by taking such preventive measures in cases of corruption threats that would be based on legality and the intolerance attituade on behalf of the society.

The legal platform of anti-corruption policy and legal regulation in the field of countering corruption was formed by the Law of Ukraine under No. 3206-VI dated 07.04.2011 «On principles of preventing and counteracting corruption»[1]. The said law comprises VII Sections divided into 33 Articles and final provisions. Among other things, Article 1 defines corruption, corruption offence, conflict of interest, and unjustified benefit. Article 2 reviews legislation in what concerns preventing and countering corruption; it also takes into consideration international cooperation in the area of fighting corruption, secured by the fact that Ukraine signed international treaties and agreements. Article 4 gives a detailed list of subjects to responsibility for corruption offences. Article 13 is titled “Codes of conduct», and it is aimed at both civil officers and entrepreneurs. It is worthwhile to pay special attention to Article 15 «Anti-corruption expertise of drafts of regulatory legal acts», since in this case it is possible to draw an analogy with the Russian legislation, specifically with Federal Law No. 172 «On anti-corruption expertise of regulatory legal acts and drafts of regulatory legal acts».

After incorporation of the above-said law into Ukrainian legislation there were introduced certain alterations that concerned both the Criminal Code of Ukraine and the Ukrainian Code of Laws on acts punishable under administrative

1 Law of Ukraine «On principles of preventing and counteracting corruption» dd 07.04.2011 No. 3206-VI // Kodeksy.com.ua.

law. They passed the corresponding regulatory legal act, namely Law No. 4711-VI «On alteration of selected legislative acts of Ukraine in the context of adoption of the Law of Ukraine «On principles of preventing and counteracting corruption».

On the 17th of May 2012 the Ukrainian Parliament Verkhovna Rada passed the Law of Ukraine «On principles of ethical conduct» No. 4722-VI. Provisions of the Code of Conduct of civil officers in member states of the Council of Europe served as the foundation for the said Ukrainian regulatory legal act. This Code of Conduct provides for enforceability of these legal norms by law.

On the 18th of April 2013 the Verkhovna Rada of Ukraine passed the law of Ukraine «On alteration of some legislative acts of Ukraine as to bring national legislation up to standards set by the Criminal Law Convention on Corruption» (No. 221-VII). This law in fact carries into effect recommendations given by international organisations in regard to countering corruption.

These are main laws that stipulate countering corruption in Ukraine. The present papers do not include research of sublegislative regulatory legal acts that are subsequent to the enumerated legal standards. Thus, the country has such a vast regulatory and legal framework aimed to prevent and counteract corruption that it can envied even by some European states, successfully counteracting corruption.

Some statistics about preventing and counteracting corruption

The annual report on preventing and countering corruption for 2012 prepared by the Ministry of Justice of Ukraine[1] displays the following:

- 83% of Ukrainian population call bribery a common phenomenon;
- 53% of citizens experienced corruption in state and municipal educational institutions.

In 2011 organs of the prosecutor's office and the Ministry of Internal Affairs of Ukraine revealed about 17,000 official crimes, which is by 25% more than in 2010. Bribery is the most common of crimes committed in public offices.

Majority of citizens face corruption when they need various services:

- in health care institutions – 60.3% (in 2002 – 54.2%);
- at customs – 42.1% (in 2002 – 38.6%);
- when looking for a job in public services – 36.2% (in 2002 – 31%);
- when asking for welfare social payments – 20.4% (in 2002 – 16.3%);
- in courts – 12%.

1,330 people were brought to responsibility for commission of corruption crimes; 624 of them are local officers, 385 people are qualified as employees of internal affairs agencies.

Totally Corrupt Administrative Authorities

The format of the article does not allow us to research the whole scope of corruption with regard to official venality in full. For this reason we chose to dwell upon only what we consider to be key points and episodes, and to do it in the maximally compressed form.

The Minister of Justice of Ukraine Pavel Petrenko stated[2]: for reasons connected with corruption of former Ukrainian authorities the state budget short-

1 URL: http://www.minjust.gov.ua/43275. [in Ukrainian]

2 Ministry of Justice of Ukraine: in 2013 for reasons connected with corruption of authorities the budget short-received about $27 bln. – URL: http://www.rbc.ru/rbcfreenews/20140401151517.shtml.

received about 300 bln. grivnas of income ($27 bln.) only in 2013.

The nominal GDP of Ukraine according to the results of 2013 amounted to 1 trillion 455 billion grivnas, whereas the state budget revenue was only 339.2 billion grivnas. Thus, the Ministry of Justice evaluated corruption losses of the budget of Ukraine as 21% of GDP, or 88% of the state budget.

According to the «Rating of Tender Champions» prepared by Forbes-Ukraine, companies that belong to Alexander Yanukovich, the elder son of Viktor Yanukovich, for the last two years received 62.5 bln grivnas (261.6 bln roubles) from the state by tender, i.e. on the competitive bidding basis. The tenders concerned such industries as coal-mining, railway, construction and energetics.

At the same time his All-Ukraine Development Bank («Vseukrainski Bank Razvitiya»), where Alexander Yanukovich is the sole owner, is rapidly developing, so that by the beginning of 2013 its assets grew by 750%. The Elder Yanukovich, as they nicknamed Alexander, is a wealthy person, whose assets are appraised at 510 million dollars. However, before his father became the President Alexander had been just a modest dentist in Donetsk, nothing of note, so to say. We cannot but consider it an evidence of conflict of interest and corruption of the state elite.

In 2011 Ukraine faced a loud corruption scandal. The state company Chernomorneftegaz, engaged in the exploration and production of oil and gas, purchased an oil platform from a British intermediator firm for 400 million dollars. Perfunctory expert and journalistic investigations[1] revealed one fact, which was then widely discussed, namely that the actual price of that platform at the manufacturing factory was 250 million dollars, thus the «kickback» amounted to 150 million dollars, which is 60% of the nominal cost of the product. Experts are confident that the Minister of Energy Yuri Boyko could not possibly huddle such a transaction without approval and support from President Yanukovich. Then what about legal regulation of state purchases? That's what we call double standards.

It will take many scientific papers and monographs to present illegal privatization of various objects (plants, factories, ports) under the rule of President Yanukovich. We will turn our attention only to the so called privatization of such property objects, which allowed their owner to relax for a short while from his «oh so strained duty chart», entertain friends, hunt or, in the last resort, think about the future of Ukraine.

A short list of dubious privatization of «Mr. Yanukovich's possessions» includes the following:

- The residency «Mezhigoriye». These «broad acres» actually spread over 137 hectares and include forests, a zoo with all kinds of animals, an artificial lake and a garage for 70 units of vehicles. In 2010 the highway that leads to the residency was paved with asphalt, and it cost the state treasury of Ukraine 50 mln grivnas, which was practically as much as in that same year was spent by the the state to repair all roads of Kiev. We should also note that from 1935 till 2007 the object in question was used as a state governmental residency.
- The recreation center «Mys Ayah». The complex is situated at the Southern coast of the Crimea; it includes a four-storied hotel with 86 suites, 45 wooden cottages, and the own bathing beach on the coast. The recreation center borders on the closed wood, which is kind of a National Nature Reserve. The

1 *Nikolov Yu., Shalaiskiy A*. The Oil Derrick for Boyko // ZN,UA. – URL; http://gazeta.zn.ua/

dubious privatization took place in 2007, after the redevelopment paid out from budgetary funds through the offices of the State Property Fund of Ukraine. The transaction was said to involve $800,000. An extensive park of 3.5 hectares was subjected to that privatization alongside with the estate property.

- The hunting area «Sukholuchiye». This game reserve was established in 1967; it covers the total area of 37.9 ha, including 17.4 ha of forests and 9 ha of water rights. In 2007 the Yanukoviches family rented this game reserve for a long-term. According to its new landlords' plan now the reserve is partially enclosed with a trench (7 m wide, 5 m deep), definitely to defend private life of public servants against trespassing on behalf of that very public.
- «The Tea-House of Yanukovich» is the ironic nickname of the four-storied palace situated only 7 kilometers far from Yalta on the grounds of the health resort «Chernomorsky». The name of the health resort in Ukrainian means «the Black Sea Resort», and the palace literally faces the sea. An exclusively picturesque park 6.5 ha in area that boasts of masterpieces of landscape architecture and a stylish vine-grove forms an exquisite frame for the building. Its interior, décor, exterior design and the view are no less gorgeous than those of an oriental sheiks' pleasure-domes. The health resort «went private» right after the Orange Revolution. Officially it belongs to the legal entity «Dolphin 2001». According to other sources the place belongs to Anton Prigodsky[1], a close friend of Victor Yanukovich.

All the above-listed assets appeared in numerous criminal cases associated with illegal privatization and frauds. Yet, it should be noted that in spite of all unquestionable, conclusive, cogent, undeniable, incontrovertible evidence they were presented, courts never pronounced objective sentences, and as often as not such cases did not even get a hearing in the court. It happened primarily because legislative and judicial branches of the country are corrupt, while criminal trials in question concerned top public officers. Today investigation into so called «privatization cases» is resumed, and now we can cherish a hope for having just and objective court proceedings at last.

Summary

So we have come to a conclusion that the key role in the political crisis in Ukraine was played by totally corrupt authorities. Metastasize at that all branch state administration. Corruption metastasis invaded all branches of state administration. Conflict of interest in the area of public purchases, astronomic «kickbacks» of budgetary funds, and the juggle «privatization» of various national assets got to be the trivial round for Ukraine. Mind you, all this was taking place under a severe economic slump in the state. The legal framework regulating the area of fighting corruption de jure meets European standards, but de facto it functions selectively, if at all. By international procedures of evaluating corrupt practices and entrepreneurial climate applied for different countries all over the world, Ukrainian ratings are close enough to those of the member states of the the Customs Union, but they are seriously behind the ratings displayed by the member states of the European Union covered by our research. The EU member states rank very high in all ratings. Their status is a result of a clear division of branches of power, independence of the court system, excluding double standards

1 *Chivokunja V.* – URL: http://www.pravda.com.ua/articles/2007/07/3/3253561/. [in Ukranian]

in matters of justice, a favourable climate for entrepreneurs and anti-corruption policy. We should always strive for the best.

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PROBLEMATICS OF RESPONSIBILITY UNDER INTERNATIONAL LAW IN RUSSIAN AND FOREIGN DOCTRINES OF INTERNATIONAL LAW

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Kira Sazonova, Candidate of Juridical Science, Candidate of Political Science, Associate Professor of Russian Presidential Academy of National Economy and Public Administration, e-mail: kira_sazonova@mail.ru

Abstract. Responsibility under international law is one of the most complicated branches of modern international law. Further vector of international relations depends exactly on its development. The establishment of international responsibility law is beholden to a large degree to doctrinal search of scholars from various countries. Several key scholar schools have been formed which, generalizing interstate interaction practice, develop optimal forms of responsibility of states and international organizations under international law.

Keywords: international law, international responsibility, doctrine, states, scholar schools.

The role of national doctrines in international law is often underestimated, because international law is perceived as something «averaged» and universal. Undoubtedly, one of important tasks of international law is erasing boundaries, not erecting them. Nevertheless, retrospective review of international law development in the course of the last one hundred and fifty years clearly demonstrates that those are differences in national legal families, in legal engineering and in approaches to interpretation of key international law rules, that often lead to essential discords between states, and now and then to major breaches of international law, too. On the other hand, branches of particular importance for the whole international community are often worked out with combined efforts. Essentially, modern international responsibility law is a compromise between Anglo-Saxon and Romano-Germanic legal traditions.

International responsibility law is closely connected with growth of international interdependence and integration of international community. A Swiss E. de Vattel as long ago as the 18th century substantiated the position according to which in case a state infringes on rights of other states, it grants to other states a right to unite for retaliatory punishment: «If some nation openly tramples upon justice, despising and infringing on rights of the others each time it finds reason for that, then a supreme security interest of human society grants to other states a right to unite for rebuff and for punishment of such nation». Nevertheless first serious

doctrinal developments of subject matter of international responsibility began only in the 20th century, at that a quite considerable contribution was made by representatives of the national school of international law.

In the national doctrine, international responsibility topics aroused incredible interest in the Soviet times, especially in 1970–1980. Among the most significant works of representatives of specified period on the problem of responsibility one may mention the works of D.B. Levin, L.A. Modzhoryan, P.M. Kuris, Yu.M. Kolosov, V.A. Vasilenko. It is telling that in 1983 practically simultaneously two fundamental studies on the topic of international responsibility of states were published – by Yu.M. Reshetov and N.A. Ushakov. Certainly, those works contain a lot of fundamental ideas concerning international responsibility, but over the last years the branch gained substantial momentum in terms of codification as well as in terms of new case law, which requires new doctrinal analysis and apprehension. Meanwhile from the date of publication of the last fundamental work on topics under consideration «Law of international responsibility» by I.I. Lukashuk in 2004 exactly ten years passed. It must be noted that a lot of monographs and publications dedicated to responsibility were published at the same time abroad.

As to European doctrine, the largest contribution to the development of international responsibility was made by representatives of Italian, French and British international law schools. One of the earliest works that mention international responsibility of states, is the study of an Italian P. Fiori written in the second part of the 19th century. In the beginning of the 20th century a significant contribution to international public law as a whole and to law of international responsibility was made by a legendary international law scholar D. Anzilotti. One more renowned Italian who made a significant contribution to law of international responsibility is R. Ago, one of special rapporteurs of UN International Law Commission concerning responsibility, who became an author of eight reports, on the basis of which the first part of draft articles about responsibility of states was developed by the end of 1970ies. Besides that, it was exactly R. Ago who proposed innovatory article «International crimes and delicts», which today is called in the doctrine «Ago revolution».

Modern French school of law of international responsibility is represented by P.-M. Dupuy and A. Pellet. British school of international law is also traditionally highly interested in international responsibility topics. Besides, that is no other than a Briton J. Crawford, appointed in 1996 a special rapporteur of International Law Commission concerning responsibility, who took a discretionary decision to drive the issue of codification of the branch from the dead-lock, having removed the major «bone of contention» between states – the aforementioned article dedicated to crimes of states. On the one hand, the outcome document came off unduly general and well-rounded by nature, but on the other – it is better than endless arguments and full absence of codification.

One can state that «development of global institutions is a result of various challenges encountered by international community, and efforts with which community members together meet those challenges». Development of

international structures directly influences law of international responsibility. As noted by A. Pellet, one of the authors of draft articles on responsibility of states of UN International Law Commission and one of the scholars having made the most significant contribution to the branch, at the present time «responsibility became more diversified and complex because of changes international community underwent in its development».

Among the newest European initiatives in the area of international responsibility law one has to emphasize SHARES project (abbreviature of word group shared responsibility – «joint responsibility»), set up as a successor of Amsterdam Center for International Law and uniting several young scholars specializing in the studies of various aspects of international responsibility. SHARES is financed on account of the grant of 2.1 mln Euros received by the project manager A. Nollkaemper from European Research Council, organization of European Community intended to stimulate development of research activities in EC. Besides, it is very significant that research in the area of international responsibility law is financed together with research in such areas as the search of cure for cancer and AIDS, energy engineering and high-tech solutions.

Among Western scholars continuing to develop today law of international responsibility, one has to note A. Nollkaemper, M. Spinedi, A. Nissel, E. Wyler. In 2010 a fundamental work came out «The Law of International Responsibility», published under the editorship of reputable European international law scholars J. Crawford, A. Pellet, and S. Olleson. It is telling that its size exceeds a thousand pages. So one can state that academic community is active enough, now political will is necessary for further development of the law of international responsibility.

Imaginative phrase broadly circulates of a British legal scholar F. Maitland, who as far back as 1987 said that «today we study the day before yesterday in order that yesterday could not paralyze today, and today could not paralyze tomorrow». Such an approach, however, is hardly applicable today taking into account the speeds with which interstate cooperation develops, taking into account globalization and integration processes, as well as taking into consideration amount of accumulated armaments. Besides, quality of academic research decreases gradually but consistently. A distinguished national scholar in international law I.I. Lukashuk noted that «many scholars are so involved in preparation of answers to current questions that the doctrine has become «reactive» to some extent. It just responds to what has already happened, ignoring what will happen tomorrow. That discourages rising of its theoretic level».

The French lawyer P.-M. Dupuy, reasoning about complicacies connected with the process of codification of law of international responsibility, noted that «each epoch reflected the concept drawn upon relations of subjects of law, their actions and a community which they belonged to». One can note that modern stage of development of international relations is characterized by a relatively low manageability and frequent breaches rules of international law. That is exactly further strengthening and development of the branch of international responsibility that could become a necessary stabilizing factor intended to strengthen the

interstate relations system and ensure in prospect a passage to supernational level formation.

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JURISPRUDENCE: PRESENTATION OF A TEXTBOOK

FEATURES OF LAW

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Svetlana Boshno, Doctor of Juridical Science, Professor and Head of the Political Science and Law Department of the Russian Academy of National Economy and Public Administration,
e-mail: boshno@yandex.ru.

Abstract. The article discusses the signs of law allowing to understand the law as a particular kind of social regulation. An important feature of the law is certainty, which creates conditions for a uniform understanding and application of law. The article describes the linguistic techniques that create preconditions for the formal certainty of the law: accuracy, clarity, simplicity, uniformity of terminology. The sociality of the law emphasizes that the law governs only relations between people who have the will and consciousness. The process of creating a law has peculiarities. Compliance with the procedural rules of law making is essential for the validity of law. Of great importance is the normativity of law. The feature combines non-personification of the addressee, universality and general obligation. Such signs of the law as stability and dynamism are considered in the unity. The article will be included into the textbook «Jurisprudence».

Keywords: signs of law, features of law, normativity, universality, non-personification, general obligation, the social value of law, the formal certainty, legalese, stability of the law, the dynamism of the law, written law, the form of law, regulation, corruption.

Law is an important version of regulators of public relations. Law exists in different forms: regulations, precedent, custom, doctrinal and other forms of law. Each form of law has specific characteristics, but there are common ones. We consider those signs that characterize the essence of law, its social value and purpose. Of great importance are those signs of law that allow to select it as a special regulatory system that is different from morality and religion.

1. Certainty of law is connected with special requirements to the outer shell, the form of expression. Legal rules, as a rule, are fixed in writing in the

special form: laws, precedents, etc.

Formal certainty of the law is achieved by special legalese. Using the language techniques the law affects the will and consciousness of the people. The language serves as a means of conveying information about the content of the legal provisions. Linguistic embodiment of normative legal act gives integrity to the will of the legislator, completeness of the form, provides comforts for study and application. Normative legal act is a written literary work, and it has the same requirements as any other work of book writing. In addition, regulation is one of the subspecies of official-business works together with other acts and documents having legal significance.

In the presentation of a legal thought in the form of legislative regulation language techniques are used which have been developed specifically for this sphere of law-making, i.e. that are employed primarily or even exclusively in this area. It gives grounds to distinguish the language of the legislation as an independent style of literary language, which is caused by special social challenges facing the law, with specific way to display a subject and is characterized by specific compositional and stylistic means, special vocabulary of the language to express thoughts of the legislator.

The most striking features of the language of the law are the following:

- official character, documentation of external language expression of an idea of the legislator;
- its clarity and simplicity;
- the maximal accuracy of expression.

Legal guideline should be clear to legal subjects and accurately formulate allowed (forbidden) behavior. On the uncertainty of the law, difference in understanding and applying the law indicates.

Formal certainty of norms of the law is the requirement of anti-corruption legislation. The uncertain legal guideline creates preconditions for corruption, as it is impossible to formulate precisely the rights and obligations of the parties. The official may arbitrarily interpret the responsibilities of a citizen in order to extort a bribe from him. Anti-corruption expertise of normative legal acts is designed to prevent this defect of legislation.

2. Sociality. Law regulates only social relations, i.e. relations between people, groups of people, large social communities (people, nation). Animals cannot be participants of legal relationships. The Russian legislation classifies them as objects of law (animate things). Law does not regulate subjects of the material world, but it regulates people's behavior on subjects.

Natural phenomena in general are not subject to the law, it does not regulate them. All attempts of law to interfere into the natural world is doomed to failure. Thus, law cannot dictate to the sun, when and which side to rise in the morning. But it can make people to get up at the time that the legislator establishes (changes) in accordance with its interests. For example, when moving from summer to winter it gets dark earlier and earlier, and time is changed by the law. More precisely, not time, but its outward expression – watches that express time for people. These measures can only partially solve state problems, since the root of this problem is not subordinate to the legislator – he does not direct the sun. And it would be desirable.

3. Procedural. Law as a system of rules includes clear **procedures** for

their creation, implementation, protection. Procedural rules, procedural order - typical signs of law that define the relationship with the state apparatus, especially with the lawmaking bodies. Law in the form of a normative legal act is created by authorized government bodies in the lawmaking process. Modern rule of law takes the form of a law, which is created as a result of a complex and lengthy procedure of lawmaking.

Absence of a lawmaking procedure is essential defect, negatively affects the application of the legislation. For the validity (including constitutionality) of the normative legal act it matters a compliance with the procedure for its creation. Violations of the lawmaking procedure can lead to challenging in court and subsequent ban to apply the document. Clearly stated legislative procedure and its observance is guarantee of quality and long-term application.

Lawmaking is carried out by authorized persons and bodies. Legal acts are the result of lawmaking. Other forms of law can occur without special procedures. Thus, for example, a custom does not have a procedure for its creation. Custom is formed and crystallized by repeating socially-useful approved rules. Public authorities are not involved in this process. State recognizes the emerging rules of behavior (customs) by authorization.

4. Normativity means that the law is a system of rules (rules of conduct), *characterized* by a certain logical structure ('if ... then ... else ...'), setting scale, measures of behavior. Law defines the boundaries, scope of what is permitted, prohibited, prescribed behavior.

Normativity consists of universality, general compulsion and non-personification.

Universality of law means that it is through its documentary form is capable of doing this or that general rules binding for all in the state, in a particular area. In other words, it cannot be issued in the form of law guidelines of single use or addressed to a particular person or specific life situation. Law should be the measure of freedom to a large number of subjects. Addressees of legal norms may be, for example, citizens of the Russian state, as well as everyone who is present in its territory. Legal guidelines can target large groups selected for various reasons (age, sex, occupation, etc.). Thus, groups may consist of women, pensioners, military people, etc.

Normativity also means that legal acts are valid for a long time, and they are not associated with a specific fact, attitude, subject. Despite the fact that the specific relations emerge, evolve and dissolve, legal acts retain their content and do not undergo any changes. Normativity means that the act is retained regardless of whether it has been applied or not. So, there are documents that are adopted in order to ensure that their rules are translated into behavior (for example, Civil Code of the Russian Federation), and there are documents adopted in order to never be used (for example, the Criminal Code of the Russian Federation). But regardless of whether or not the document is in use or not and how intensive it is used, it continues to operate. Only cancellation of a legal act or publication of another act on the same subject, but with different content terminates the validity of the law.

Legal provisions are compulsory. They spread their equal impact on different individuals. Be bound by the rule of law is provided by the opportunity to state coercion, that is, they are endowed with not only an ideological mechanism

(authority, justice, religious support), but also with the possibility of occurrence of adverse consequences, having the character of the property infringements, physical, mental suffering, when they are violated. Law is valid and applied regardless of whether the subject of the law knew about its existence or not. The overall obligation is implemented in life by the principle of equality of all before the law and the court. Ideally, the application of the legislation should not be affected by property and official status of the offender and the other subject of law. Thanks to this principle, law can perform important social functions, in particular, to ensure the equality of all persons before the law and the court.

Modern democratic states one of their conceptual slogans proclaim equality from a legal standpoint. There are other guarantees of equality: gender, religious. Citizen's political views should not affect the application of the law. All guarantees of equality before the law are relevant to democratic states.

Rules of law dividing society into groups through ownership, social origin are known to the history of law and government. Formally democratic states consolidate overall obligation of rules. But known to a society cases of avoiding legal liability of senior officials destroy the legal culture and deform legal consciousness of society, destroy the normativity of law.

Non-personification of law is one of the faces of normativity. Guidelines of the legislation do not have specifically defined, individual, personified addressee, but are intended for unlimited, abstract group of persons. If a particular person occurs under conditions stipulated by the structure of the relevant rule, and then, it turns out to be the addressee of the norm. With this feature, it is linked the proliferation of validity of the law, its length in time.

5. Guarantee by power (authority). Execution of legal norms is guaranteed by the authority of the entity or person who has issued them. Doctrine, religious texts, customs, and other forms of law have no definite force in the form of the army and prisons, but still very effective. Normative legal acts have completely different guarantee of performance. The power of the authority or the authority of force – in this well-known formula it is enshrined confrontation of law in the form of a normative legal act and other forms of law.

6. An important feature of positive law is the **protection by the state**, which supports the law with its authority and coercive power. Not all the rules of law are respected and enforced exclusively voluntarily, by the internal beliefs. Part of the population is subject to the requirements of guidelines simply because it fears application of government sanctions. Protection of legal norms includes state coercion, various organizational, technical and educational, preventive (precautionary) measures of authorities on compliance with and enforcement of legal norms by citizens. These measures help to stabilize the legal order in society.

7. Written and unwritten law. Sign of writing characterizes the law as institutional formation, because this sign defines the law as a phenomenon having external forms of expression and internal structure.

Thanks to a written form, the law is contained, passed. Written form provides accessibility, sustainability of the law.

Reflection of the written form is the requirement to publish normative legal acts. It is a constitutional requirement. In accordance with Article 15 of the Constitution of the Russian Federation laws shall be published. Unpublished

laws shall not be applied. Regulatory legal acts issued by the President of the Russian Federation, the Government of the Russian Federation, federal bodies of executive power, are subject to official publication, if they affect the rights and freedoms of citizens, or are of interdepartmental nature. Guarantee of issuance of the legal normative acts permits a state to apply the principle of «ignorance of the law is no excuse». Normative legal acts are officially published in newspapers («The Parliamentary Newspaper», «Rossiyskaya Gazeta»), journal («Collection of Laws of the Russian Federation»), and posted on the official legal portal www.pravo.gov.ru.

8. Systematicity of law means that rules of the law in order to perform its functions constitute a mutually agreed-related system. Legislator, securing in guidelines new legal norms must harmonize them with existing rules. Only systematic, consistent, officially existing law can fulfill tasks facing it. Effectiveness of the law is in direct proportion from its systematicity. The systematicity of law is an internal device of law, its division into the industry, institutions and the rule of law. Systematicity of law means absence of contradictions between rules of law.

9. Dynamism of law is manifested in mobility, the possibility of rapid changes in legislative provisions. Most clearly this feature of law is manifested during the tumultuous socio-economic and political transformation. It is at this time outdated normative legal acts are intensively changed and discarded, new ones are actively developed and adopted. Dynamism can enter into some contradiction with the requirement of stability of law. However, this requirement shall not impede the progressive development of the law. Thus, the law must combine two features: dynamism and stability.

10. Stability of the law is that the law contains stable, almost unchanged guidlines, based on the fundamental moral and religious postulates. Long existing stable legislation has a positive impact on civil society, the legal culture and legal consciousness. Citizens do not read regulations constantly, as it is a complex, extensive system, outlined by the specific language. Real effective action of a legal act requires quite a long time to prepare society (from 3 up to 6 months). Then citizens need time to get used to a new legal regulation. Effective is the usual legislation that is assimilated by citizens. In such a situation, compliance with legislation becomes habitual. However, stability should not escalate into conservatism, stagnancy. Legislation should be developed, measuredly and accurately respond to new challenges and needs of society.

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тел. 8-916-644-65-13
e-mail: law_and_modern_states@mail.ru