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SOME ASPECTS OF ADMINISTRATIVE-LEGAL REGULATION OF REPATRIATION IN RUSSIA

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The article provides a critical analysis of the migration policy in modern Russia. Here are noted some disadvantages of the state program of voluntary resettlement of compatriots in Russia compared with foreign experience, including in the context of the constraints imposed on its participants.

The author criticizes insufficiently active nature of repatriation policy in modern Russia and proposes expansion of the list of benefits and compensations to participants of the state program, such as exemption from payment of state fees, provision of material assistance to migrants moving outside of the program.

Keywords: repatriation, repatriation policy, migrants, compatriots, demographic development of Russia, voluntary resettlement of compatriots.

One of the many problems facing the modern Russian state is worsening of demographic situation. Overcoming of demographic decline depends on many factors, including sustained economic growth, decrease in income differentiation, the development of human capital and creation of an effective social infrastructure,

affordable housing market, and flexible labor market, improvement of sanitary-epidemiological and environmental conditions. However, these factors will contribute to the improvement of the situation in the long term. So now the most important factor is the improvement of migration management, because only migration management can create the conditions for demographic growth not in future perspective, but now.

The objectives of population policy can be achieved by reducing the emigration and increase in immigration, but, first of all, the objectives of population policy can be achieved through the skillful management of the process of repatriation (voluntary return of compatriots to their homeland).

So, in the state program of assistance to voluntary resettlement to the Russian Federation of compatriots living abroad, adopted June 22, 2006 [3], had been identified three objectives, each of which meets the interests of Russia's demographic development:

a) promotion and organization the process of the voluntary resettlement of compatriots for permanent residence in the Russian Federation;

b) assistance to socio-economic development of the regions;

c) solution of demographic problems, primarily in the territories of priority peopling.

Under compatriots Russian legislator understands persons born in one state, who live or used to live in it, and having signs of a common language, religion, cultural heritage, traditions and customs, as well as of their descendants. The notion of "compatriots abroad" (countrymen) includes:

- Russian citizens living permanently outside the Russian Federation;
- persons who had citizenship of the USSR;
- native (immigrants) of the Russian state, Russian Republic, RSFSR, Soviet Union and the Russian Federation, which used to have an appropriate nationality and become citizens of a foreign country, or have a residence permit, or have become stateless;
- the descendants of the mentioned persons.

Let's note that the approach to the definition of the category of compatriots in the domestic legislation is broad enough. Unlike some foreign countries (Germany, Kazakhstan), the legislator applies both ethnic feature and other features to the concept of compatriot. This group includes representatives of non-titular groups of neighboring countries, as well as titular groups as long they retain elements of the so-called "Soviet identity", which greatly expands the range of potential compatriots.

The implementation of the state program of voluntary resettlement of compatriots in Russia has become one of the priorities of Russia's migration policy to counter the negative trends in the reduction of the country's population, to socio-economic development of the regions, to providing the country economy with labor and human resources. However, the results of the policy of repatriation remain modest. So, for the time of the above program (from 2006 to the present) on the territory of the Russian Federation have arrived about 65,000 persons [10].

Undoubtedly, the adoption of the program (and the subsequent extension of the validity in the new edition up to 2015) is one of the most important steps of the state towards the solution of many problems related to the demographic crisis and the migration of the population as a whole. However, in our opinion, legal regulation of repatriation does not sufficiently meet the demographic interests of the state, since during the implementation of the program for a long time failed to eliminate many of its shortcomings. We have to admit that the Program provides for many restrictions imposed on its participants, while international practice demonstrates the creation of unprecedented benefits for returnees.

Special attention should be paid to the legal norms relating to the providing various services of compensatory nature.

Program participants are eligible for a variety of compensation:

a) compensation from the federal budget the costs of relocation to the future place of residence, including travel and transportation of personal things in accordance with section VII of the State program;

b) compensation from the federal budget the expenditure on the payment of a State fee for the registration of documents that define the legal status of displaced persons in the territory of the Russian Federation;

c) to receive installation allowance from the federal budget;

d) to receive from the federal budget a monthly allowance in the absence of income from labor, business and other activities not prohibited by the legislation of the Russian Federation in the period prior to the acquisition of citizenship of the Russian Federation (but not longer than six months). The amount of allowance is determined on the base of the subsistence level fixed in an appropriate constituent entity of the Russian Federation.

However, these compensatory guarantees are not provided to all participants of the Program, for example, "installation allowance" shall be paid only to the participants of the program moving to the territories of categories "A" and "B", and monthly allowance is paid only to persons moving to the territories of the category "A" [4] .

At the same time the types of assistance provided to the Program participants are compensatory in nature and do not provide for the creation of preconditions for stimulating the process of repatriation. In general, the Russian legislation provides significantly smaller financial assistance to returnees than in many foreign countries. In such circumstances, the major factor influencing the migration process is poor living conditions in the countries of origin of compatriots. Thus, the policy of repatriation in modern Russia is not active enough in nature, since to date have not been created any essential prerequisites for attracting returnees for permanent residence in Russia. For this reason, it seems necessary to extend the list of benefits and compensations in respect of the participants of the state Program, which will create some mechanisms to encourage this migration process.

The program implementation is also complicated by a variety of procedural mechanisms. For example, the need for a mechanism of payment to Program participants compensation for the payment of state fee for registration of documents is not enough clear [5]. From the logic of the legislator can be assumed that the payment by a participant of the state Program of fee for registration of documents that define its legal status in the territory of the Russian Federation is a kind of guarantee of good faith participation in the implementation of its intentions to move to Russia. In case of successful realization of the intentions the expenditure on the payment of fees is compensated by the State within 15 days. For this, program participant must file an application. In our opinion, this procedure is unnecessarily complicated, creates undue difficulties for returnees to get spent money back, and partially complicates the process of repatriation.

As has already been noted, program participants are exempt from paying most of customs duties, in our opinion, this mechanism can also be applied to the tax legislation. It would be much easier to completely rid the program of payment of a fee. It would be much easier to completely relieve program participants from the payment of fee. So the Tax Code of the Russian Federation [1] in article 333.35 provides for benefits for certain categories of individuals and organizations in the payment of state duty. It seems perfectly logical to complement this list by adding to paragraph 1 article 333.35 the Tax Code of the Russian Federation, the following norm:

"16) individuals who are the participants of the state program to assist the voluntary resettlement to the Russian Federation of compatriots living abroad and members of their families for the actions associated with the preparation of documents defining the legal status of migrants in the territory of the Russian Federation".

An important issue is also the implementation by a participant of the program and members of its family their main duties upon arrival to Russia, one of which is a military duty.

Domestic legislation does not provide for specific determent for persons subject to military conscription due to the recent migration to the territory of the Russian Federation and obtaining citizenship. Obviously, the most preferred category of returnees is exactly young families, spouse, or children of which may be called up for military service. So the question of deferment of such conscription seems to be an important impetus of repatriation policy, as it gives returnees the opportunity for social integration in Russia. Seems possible to include in paragraph 1 article 24 of the Federal law "On Military Duty and Military Service" [2] (deferment of conscription citizens for military service) the following norm:

"l) citizens participating in the Program of voluntary resettlement to the Russian Federation of compatriots residing abroad – for one year after obtaining citizenship of the Russian Federation".

In our view, these changes will allow, to some extent, extend social guarantees of Program participants, thereby stimulating the migration process of repatriation.

It is also important to note that the Program only applies to direct participants and ignores those persons who meet the criteria, but move to Russia on their own. It seems that for maximum effectiveness of migration process, the State must provide such migrants a certain minimum of social guarantees or, perhaps, even financial assistance.

Speaking about this migration process, more globally should be noted that encouraging of the return of compatriots to Russia cannot fully meet the demographic concerns of the State. For example, A. V. Topilin, estimating the size of Russian-speaking diaspora in the CIS and Baltic States, notes that since the collapse of the USSR this diaspora has considerably aged and become less mobile [6]. At the same time, the younger generation, which emerged in the period after the former Soviet republics gained independence, has significant ethno-social differences and other value system. Culturally more remote and less adapted migrants – a serious challenge to immigration policy that must take into account the ongoing changes [8]. That is why, determining the migration process of repatriation as the primary one the legislator should create some preconditions for implementation of immigration policy. V. I. Mukomel' notes that "immigration policy, policy of integration and naturalization policy are closely related, they can be considered as successive stages of the policy of admission, arrangement and transformation from an yesterday's migrant to a full-fledged member of a host society" [5, 258].

These circumstances greatly increase the relevance of integration events in respect of returnees, in the design of which must be taken into account the increasing socio-cultural distance between the citizens of the CIS countries – potential sources of returnees and immigrants. However, it must be said that at the current stage the policy of integration of immigrants in Russia is given a little attention.

It should be noted that the problem of integration of migrants in a host society has both political and cultural aspects. It appears that both of these aspects need to be considered equally during integration policy. We believe that integration policy should be based on linguistic, cultural and social adaptation, in which education plays a vital role. The process of acculturation is exercised primarily through language training, which is both a tool and an integral part of the integration of migrants into the culture of a host society, as a lowering the level of Russian language leads to a loss of interest in Russian culture not only in the country but all over the world.

Targeted conducting by the Russian state of the policy of immigration and repatriation increasingly requires the establishment the mechanisms of adaptation of immigrants, the main of which will be education, and language training.

Repatriation policy exercised by the Russian Federation is aimed at compatriots who have not lost social and cultural ties with Russia, what attaches to this direction a passive nature. A more preferable for the state, in our opinion, is an exercising a more active repatriation policy aimed at increasing the interest in Russian culture and Russian language in the countries of potential outcome of compatriots. When creating a strategy for migration policy of the Russian Federation, along with the political, legal and economic issues in it should be also included the issues of integration and socialization of immigrants, because the process of integration is the most important aspect of migration policy of any modern state.

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RETROSPECTIVE ANALYSIS OF PRACTICE OF ROTATION IN THE PUBLIC SERVICE OF THE RUSSIAN FEDERATION

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Normative regulation of rotation of public servants is investigated in the article on the example of the SCC and Russian Federal Drug Control Service. Here are noted the shortcomings of carried out personnel rotation, including its episodic nature without a clear planning, the lack of control over the rotation, the lack of evaluation of rotation effectiveness and monitoring of its impact on the productivity of employees, on the performance of services and departments, whose heads have been moved in order of rotation.

Formulated and suggested requirements to the normative legal regulation and organization of managerial personnel rotation.

Keywords: public service, rotation in public service, reforming of public service system, personnel rotation.

In accordance with the Decree of the President of the Russian Federation No. 261 from March 10, 2009 "On the Federal Program "Reforming and Development of the Public Service of the Russian Federation (2009-2012)" [6] in the civil service legislation were introduced novelties governing the implementation of rotation [1, 2]. These novelties must be applied in public civil service from 2013, and in the Ministry of Internal Affairs – from January 01, 2012. However, this method of organizing public service has been known in our country for a long time. Experience of rotation in the public service should be studied in order to take into account errors, identify possible obstacles in the process of implementation of new anti-corruption measures.

Personnel rotation was previously envisaged by the Interim Provision on the Committee for Protection of the State Border of the USSR, approved by the Decree of the President of the USSR No. UP-2951 from December 03, 1991 [4]; by the Provision on the Committee of Government Communications under the President of the USSR, approved by the Decree of the President of the USSR No. UP-2690 from October 10, 1991[3]. In accordance with the Provision on supervisory and control activity in the Russian Gosgortechnadzor (RD 04-354-00) approved by the order of the Russian Gosgortechnadzor No. 50 from April 26, 2000, rotation was prescribed for the inspectors assigned to specific hazardous production facilities, the duration of assigning to a particular object was limited to five years, within five years it was forbidden to send a newly appointed official to check a supervised institution, in which the expert had worked before moving to a supervisory authority.

The task of developing mechanisms of personnel rotation of public servants was set in the Program of Social and Economic Development of the Russian Federation in the medium term (2003-2005) approved by the Decree of the Government of the Russian Federation No. 1163-r from August 15, 2003 [7].

The first and most studied experience [11, 13, 14, 13-16] of implementation the Institute of personnel rotation of law enforcement service in the Russian Federation was obtained by the customs authorities. The decision to work out a mechanism of rotation of personnel in all customs bodies and institutions in accordance with their profile and specific activity was made in 1994. Activities to improve the work related with the rotation of personnel in customs bodies of the Russian Federation in 1994-1995 years [10] assumed a fundamental approach to establishing a rotation mechanism. It was needed to gather information about the staffing of regional customs authorities by categories of staff positions; to evaluate the possibility of their staffing at the expense of local resources or with bringing specialists from other customs authorities; to determine the terms of bringing specialists; to evaluate the

reserves to accommodate non-resident employees, arrange their life; to draw up lists of employees willing to participate in the process of personnel rotation; to consider the attractiveness of a region for employees.

Then the lists of customs authorities, which reasonably had to be completed by using short-term business trips (shift system), long-term business trips (2-3 years or 4-5 years), were drawn up. The calculation of the number of employees needed to ensure personnel rotation, including employees who wished to increase the long service due to the employment at easy terms, was carried out.

Order of the State Customs Committee of Russia No. 21 from January 12, 1996 "On the Rotation of Personnel in the Customs Authorities of the Russian Federation" approved the Instruction on the order of rotation of personnel in customs bodies. In accordance with it rotation should be carried out gradually and systematically, what involves the coordination of these activities between the central apparatus and regional bodies. Coordination, monitoring and resolution of other organizational issues were assigned to the Office of personnel and training institutions of the SCC of Russia.

For purpose of informational ensuring of rotation mechanism a database of available vacancies and information about the reserve of candidates for rotation was created. It seems, that the most important information, which allowed ensuring exactly the planned implementation of rotation, in this case was the staff reserve, because the decisions on replacing vacant posts, and even more, the decisions about the feasibility of replacing particular officials allow to exercise only point impact, what does not involve planned nature. The Instruction stipulated the timing of occupying posts by officials of customs authorities:

-5 years for the officials who are in the basic nomenclature of posts of SCC;

-3 years for the officials who are in the basic nomenclature of posts of a regional customs office;

-3 years for other officials of customs bodies.

Rotation in customs authorities could take place either within of a customs authority, as well as between customs authorities. It envisaged the need to obtain the consent of an employee in the case of moving to the customs office, located in a different area. In such cases renewal of a contract was also needed. In the case of transfer of an employee to another structural unit of the same customs body the consent was not required. The Instruction contained a norm prohibiting the termination of fixed-term employment contract (contract) at the will of an employee. This norm, of course, is unconstitutional and greatly detracts labor rights of a public servant.

The requirement of signing by a moved employee a statement, which "in necessary cases" must be agreed with higher customs authorities, seems to be excessive. If the rotation is carried out within one customs authority without the consent of an employee, then, obviously, it is, at least, illogical to require a statement from him in which he requests to appoint him to the position for which he is moved against his will. It looks like a "cover-up" operation of a management decision through the initiative of an employee. In such cases it is sufficient to apply a law enforcement act of an authorized supervisor, with which an employee has to agree. In case of disagreement, refusal of an employee to occupy new position, it could be dismissed from a public authority.

If shakeup assumes change in the nature of official duties, the provision on compulsory passage by moved employees of appropriate course of theoretical and practical training on the profile of a structural unit, to which they are transferred, deserves positive evaluation. Admission to the independent performance of official duties is permitted by the head of a customs authority after apprenticeship of a moved employee.

Rotation between customs authorities was carried out after the examination of suggestions on the need in the appointment of specialists to fill specific vacancies in customs authorities and lists of employees recommended for service in other customs authorities, which represented appropriate information to the Office of Personnel and educational institutions of the SCC of Russia.

Obligatory condition of employees moving between customs authorities in the procedure of rotation was ensuring social guarantees regarding the size of salaries, fringe benefits and privileges, the possibility of booking of premises at the former place of service, providing living space for an employee and his family in the new place of service, compensation associated with moving. After the expiration of employment contract (contract) an employee had to be provided the opportunity to return for further service at the customs body where it had been moved from in the procedure of rotation, which did not impede further movement to another location.

Of course, the conditionality of connection between the rotation (in particular, held without the consent of an employee, to some extent, against his will) and service (production) necessity created a threat of conflicts, for the solution of which lacked the necessary legislative framework. A movement of employees between customs authorities was hindered by the lack of necessary material resources, first of all, official residential accommodation. As a result, the SCC of Russia failed to ensure stable operation of the rotation mechanism as had been planned. Separate

facts of movements had always been driven by the need for filling vacancies or displacement of particular employees in order to settle various conflicts

Another drawback of the procedure of personnel rotation established by the order of the State Customs Committee of Russia in 1996 was the lack of exact dates. The Instruction established time terms in the formula "as a rule", which always allowed to complete the "experiment" with a particular employee prior to expiration or, conversely, leave it in the service in a new position for a longer period of time.

In the bodies for control over drug trafficking the rotation of employees was introduced by the order of the Russian Drug Control Service No. 36 from February 17, 2004 "On approval of the Instruction on the procedure of admission citizens of the Russian Federation to service, appointment, removal from office and assigning special ranks in the bodies for control over the traffic of narcotics and psychotropic substances" [8]. Its ground was the paragraph 71 of the Provision on law enforcement service in the bodies for control over the traffic of narcotics and psychotropic substances, approved by the Decree of the President of the Russian Federation No. 613 from June 05, 2003, providing for the possibility of transferring an employee to another position in the same body of Federal Drug Control Service, in other body of Federal Drug Control Service in the same area or to serve in a different location on the initiative of the Federal Drug Control Service body's head and with the consent of the employee [5].

The Instruction required obtaining of the consent in writing. At that, there were several types of transfer:

- to a higher position (higher salary or special rank) – by way of elevation in office;
- to an equal position (same salary and same special rank) – when a need of service; in view of the rotation of staff; in other cases;
- to a lower position (lower special rank or lower salary) – on the base of the conclusion of an attestation commission; during conducting organizational and staffing activities; for reasons of health in accordance with the opinion of the military-medical commission; at the request of employee; in other cases.

The Instruction also considered employee's report and presentation of appointment signed by the head of the body, in which the employee serves, as a basis for the transfer of the employee. Moving between bodies also requires negotiation between heads of the bodies concerned.

Thus, in this case also, there was also a mismatch between the rotation objectives and the form of its implementation. If rotation is carried out in a planned

manner, the positions, between which the transfer is made, are pre-defined, and the employees are moved in accordance with the approved schedule set by taking into account a number of important parameters, including the level of skills, organizational skills and business acumen, an employee's report can never be the basis of rotation. A report is required for a decision to transfer an employee to another position or to another locality according to his own will, which does not always coincide with the interests of service. Rotation must always be geared to the interests of service.

In addition, it should be noted that in the bodies of the Russian Federal Drug Control Service normative-legal, organizational-technical and material support of rotation was lower than in the Russian State Customs Committee. The considered order of the FDCS did not take into account peculiarities of rotation that distinguished it from other types of moving in service; did not regulate the procedure of rotation, did not required to conduct analytical work to identify vacant positions and positions, the most exposed to corruption, to draw up the list of employees to be moved in way of rotation, to create personnel reserve and draw up plans, schedules for rotation.

In our opinion, the lack of control and monitoring mechanisms is a common disadvantage of both considered acts. Rotation is provided, as it were, "for show", or at the discretion of the authorized managers. As a consequence, there is no analytical information on the impact of rotation on the level of corruption offences, on the productivity of employees, and on the level of their professional qualification.

However, the heads of customs authorities note in annual reports since 2006 that the ongoing rotation is regarded as one of the most effective mechanisms for combating corruption. It should be borne in mind that anti-corruption activities are required by the World Customs Organization. In particular, the requirements of control, accountability, staff turnover, increase of salaries, establishment of incentive mechanisms of staff and others are contained in the Arusha Declaration, approved by the Session of the Council of the World Customs Organization in June 2003.

In pursuance of the requirements of the Arusha Declaration, Federal Customs Service of Russia adopted analytical program to combat manifestations of corruption and malfeasance, which provided for a set of measures in the period up to 2009. As part of its implementation, on September 03, 2007 was issued the order of the FCS of Russia No. 1050 "On the procedure of formation of service housing and registration of residential premises in customs bodies of the Russian Federation under the jurisdiction of the Federal Customs Service of Russia" [9].

The order required:

- to approve the estimated demand for office residential premises, necessary to ensure the rotation of executive staff, and an Instruction on the procedure of registration and the provision of the residential premises;

- to approve distribution plan for budgetary funds allocated for buying housing;

- to strictly control the purchase of service apartments at the State border of the Russian Federation and in areas with unfavorable climatic and environmental conditions;

- to perform an unscheduled rotation only after comprehensive elaboration of housing question.

Despite all the above, the examination of reports of customs authorities shows that they do not completely comply with the principle of planning. So, in 1995, were moved 18 Customs chiefs, 22 Deputy Customs chiefs, 29 employees filling other posts, total of 74 employees. Next mass rotation was carried out only after 10 years. In 2005 73 Customs chiefs were reassigned, but of them were actually rotated 43 persons, and 30 chiefs were newly appointed.

In 2008 were rotated 7 heads and 15 deputy heads of the central office, more than 50 Customs chiefs, and 150 Heads of customs terminals.

Basing on the retrospective analysis it seems possible to formulate some requirements for the normative-legal regulation and organization of executive staff rotation:

1) legal basis of rotation shall be laid down by federal law;

2) a comprehensive approach to the organization of rotation, which includes as a mandatory step analysis of the state of a public authority personnel, and the level of corruption offenses, is needed;

3) must be created material conditions for moving public servants to the new place of service;

4) rotation of management positions is held in the interest of public service, so the reason for moving a particular employee should be a motivated law-enforcement act, rather than a statement (report) of the employee. At that, of course, the act of moving has to be agreed with the employee that must be entitled the right to refuse to move with the subsequent dismissal from public service (in the absence of good cause, which must also be normatively defined);

5) rotation must be seen as purposeful activity that involves monitoring of progress towards objectives;

6) monitoring over rotation, and disciplinary impact on officials responsible for violations of the requirements and procedure for implementation rotation of leadership are required.

It is necessary to note one important fact: employees who occupy positions of leadership must be rotated. At the same time, by orders of the leaders of public authorities are approved lists of positions, replacement of which is associated with a duty to provide information on the property and property obligations. These positions are, by definition, prone to corruption. Researchers note that it is particularly desirable to create a flexible system of personnel rotation of executive authority bodies, whose functions include direct contacts with persons and structures of entrepreneurial activity [12]. These positions of law enforcement service include the positions of inspectors that implement powers of control (supervision), registration and authorization.

Domestic experience of conducting rotation of the state inspectors of Gosgortechnadzor of Russia, officials of customs authorities and the Russian Federal Drug Control Service indicates the presence of the problems faced by the law enforcer, allows identifying common mistakes and formulating the requirements for the organization of rotation among the leaders of the bodies of Internal Affairs. Unlike Gosgortechnadzor of Russia, in which the rotation was applied in respect of the state inspectors occupying the most exposed to corruption positions, in law enforcement bodies the executive staff was subjected to rotation.

The main problems faced by the law enforcer were related to the lack of (at that time) legislative consolidation of staff rotation, which prevented the use of coercive measures in order to ensure implementation of personnel decisions, the lack of regulations and methodological support, as well as the lack of material resources necessary to ensure the rights of moved employees.

The main disadvantage of the made personnel rotation should be recognized its episodic nature in the absence of distinct planning. There were cases of relocation of staff in respect of which appeared information about involvement in corruption, conflict of interest. As the rotation were presented the cases of moving to higher positions, to positions with other nature of the work. There was no rotation monitoring. There was no analytical work regarding the assessment effectiveness of rotation, monitoring of its impact on the productivity of employees, on the performance of services and departments, the heads of which had been moved in way of rotation.

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NORMATIVE LEGAL PROTECTION OF PUBLIC MORALITY IN RUSSIAN ADMINISTRATIVE LAW

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Basing on the analysis of the legislation here is stated that to protect public morals legislator uses two main tools: the transfer of the most important social relations governed by moral norms to the category of legal relations (morality norms are implemented by the legislator in legal system and become law norms); and the establishment of legal prohibitions and sanctions for their violation.

The author emphasizes the disunity of federal legislation, that establishment of prohibitions, restrictions and duties is fragmentary carried out, that none of the federal law provides a legal definition of the concept of "morality", which significantly expands the discretion of a law enforcement official, creates conditions for corruption.

Keywords: morality, public morals, legal protection of public morals.

Public morality – a human value, which has a public value. Therefore, it is no accident that norms aimed at regulating social relations in various areas of public life have to do with public morality.

At the same time, the very category of "public morality" and more general in respect to it the category of "morality" as social, philosophical concepts do not have a clear and unambiguous definition. Close to morality the philosophical category of "moral" is widely known. These categories are often used as synonyms [33, 429]. However, most scientists point to a fundamental difference between them. Kant and his followers considered moral as human internal beliefs ("moral law"), and morality – as the practical implementation of these beliefs, actions (or inaction) based on them ("moral action") [30, 183].

For Hegel, the most important feature of moral principles was their reliance on their own, independent thinking of a man about right and wrong. Moral norms, in his view, were of over individual nature, were part of collective consciousness, and focused on the external content of human actions [29, 36].

One of the most difficult problems of philosophy is the problem of the objectivity of moral and ethical norms. Norms designed to regulate, to form person›s internal beliefs, reflecting in its mind, acquire very subjective nature, refract in the mind under influence of personal attitudes, education, effects of the environment. At the same time, the norms of morality, as regulators that operate independently of the will and desires of people, are the imperatives, and this is their objectivity. The objectivity of moral norms, in our opinion, is most pronounced in Kant›s categorical imperatives: "Act only according to that maxim, guided by which you can at the same time to wish that it should become a universal law" [30, 260.270]. Indeed, if a person choosing this or that action assesses its consequences, and applying them on itself it wants such actions in respect of it from other people – it will act only in accordance with moral principles, that is, ethically. In other words, do not do to others what you do not want to be inflicted to you.

Thus, morality is protected by moral norms that establish requirements for human behavior, define public relations. However, taking into account the public importance of certain moral norms, protecting social values, there is a need for a more effective means of protection. Such, of course, are legal means.

Analysis of the legislation allows conclusion that to protect public morality legislator uses two main tools. First, he transfers the most significant public relations governed by moral norms to the category of legal relations, and approves the relevant legal norms. Secondly, he establishes legal prohibitions and penalties for their violation (administrative and criminal responsibility).

S. V. Tasakov argues that the notion of "morality" is used in administrative and criminal legislation [32]. Relatively circumscribed picture of public morality and its administrative and legal protection found in the special literature.

So, O. A. Dizer, exploring legislation of the Russian Federation in the field of public morality, does not go beyond chapter 6 of the Code on Administrative Offences of the RF and focuses on offenses of sexual nature [28]. Some authors talk about the offences (or crimes) related to drug trafficking [31]. As if morality governs exclusively the sexual sphere of public life. We cannot agree with such a limited point of view. The term of "morality" is widespread in the Russian legislation. And there are objective reasons. The fact is that the category of "moral" is strongly correlated with the category of "justice". Injustice is immoral, unethical. But justice is the goal of law. That is, the goals of morality and law as social regulators, by and large, are the same. Therefore, often moral norms are implemented by the legislator in legal system and became the rules of law.

In the Russian legislation the term of "public morality" appears in 22 federal laws, and the term of "morality" – in 42 federal laws.

On the basis of the provisions of part 3 article 55 of the Constitution of the Russian Federation, allowing restriction of the rights and freedoms of man and citizen by federal law to the extent, to which this is necessary for the protection of morality, a number of federal laws have introduced such restrictions, and, as a rule, textually repeating the constitutional norm. Thus, part 2 of article 1 of the Civil Code of the Russian Federation No. 51-FL from November 30, 1994 allows "on the basis of a Federal law" the restriction of civil rights in order to protect morality [1]; the restriction (also by federal law) the rights of citizens to exercise local self-government for the protection of morality is allowed by article 3 of the Federal Act No. 131-FL from October 06, 2003 "On the General Principles of Organization Local Self-Government in the Russian Federation" [18]; the possibility of restriction of housing rights is provided for by part 3 article 1 of the Housing Code of the Russian Federation No. 188-FL from 29.12.2004 [2], and the restriction of citizens' rights in a family is provided for by part 4 article 1 of the Family Code of the Russian Federation No. 223-FL from December 29, 1995 [3].

In addition, the possibility of restriction the rights of citizens is provided for by Federal Law No. 149-FL from July 27, 2006 "On Information, Information Technologies and Protection of Information" (restriction of access to information) [21], Federal Law No. 125-FL from August 22, 1996 "On Higher and Postgraduate Professional Education" (right to education) [9], No.125-FL from September 26, 1997 "On Freedom of Conscience and Religious Associations" (the right to freedom of conscience and freedom of religion) [10], No.3-FL from January 08, 1998 "On Narcotic Drugs and Psychotropic Substances" [11].

Foreign citizens and stateless persons may be subject to restriction of rights.

Such a possibility is provided for by article 25.10 of the Federal Law No. 114-FL from August 15, 1996 "On the Procedure for Leaving and Entering the Russian Federation" [8].

Federal laws that set restrictions on the exercise of certain activities form a separate block of legislative acts. For example, the Federal Law No. 244-FL from 29 December 2006 "On the State Regulation of the Organization and Conduct of Gambling and on Making Amendments to some Legislative Acts of the Russian Federation" stipulates the legal basis for state regulation and imposes restrictions on the implementation of activities for the organization and conduct of gambling in the territory of the Russian Federation in order to protect morality (article 1) [23].

The establishment of prohibitions and restrictions in order to protect morality is quite common. For example, article 23 of the Federal Law No. 82-FL from May 19, 1995 "On Public Associations" calls as grounds for refusal of registration of a public association the choice by the founders the name of this public association that offends morality [6] (a similar provision is contained in article 23.1 of the Federal Law No. 7-FL from January 12, 1996 "On Noncommercial Organizations" [7]). In order to protect morality the accreditation of the branch of a foreign legal entity can be denied (see article 21 of the Federal Law No. 160-FL from July 09, 1999 "On Foreign Investments in the Russian Federation" [14], article 22.1 of the Federal Law No. 129-FL from August 08, 2001 "On State Registration of Legal Entities and Individual Entrepreneurs" [15]). Article 13 of the Principles of customs legislations of the CIS states-participants provides for a ban on the import to the territory of a State and export from the territory of a State certain goods and vehicles for reasons of the protection of public morality.

Articles 331, 351.1 of the Labor Code of the Russian Federation from December 30, 2001 No. 197-FL (as amended on 18.07.2011) [4], Article 17 of the Federal Law No. 436-FL from December 29, 2010 "On the Protection of Children from Information Harmful to their Health and Development" [25], article 127 of the Family Code of the RF restrict the admission of certain categories of persons (with current or spent criminal record, have been or are subjected to criminal persecution (except for persons, in respect of which criminal persecution was terminated on rehabilitative grounds) for crimes against life and health, freedom, honor and dignity of an individual (for except unlawful confinement in a psychiatric hospital, slander and insults), sexual inviolability and sexual freedom of an individual, against family and minors, public health and public morals) to work with children.

There are federal laws which provide for the implementation of public functions or creation of state agencies to protect morality. So, in accordance with part 1

of article 4 of the Federal Law No. 109-FL from July 18, 2006 "On Migration Registration of Foreign Citizens and Stateless Persons in the Russian Federation" migration registration is exercised for the protection of morality by way of countering illegal migration [20]. In accordance with part 1 article 5, and part 3 article 14 of the Federal Law No. 124-FL from July 24, 1998 "On Basic Guarantees of Children›s Rights in the Russian Federation" the powers of public authorities on the implementation of ensuring the rights of children include the choice of priority actions for the protection of its morality, expert analysis of table, computer and other games, toys and gaming facilities for children [12]. In accordance with article 8 of the Basics of customs legislations of the CIS states-participants from February 10, 1995 [27] and article 12 of the Federal Law No. 311-FL from November 27, 2010 "On Customs Regulation in the Russian Federation" [24], customs authorities contribute to the implementation of the measures for the protection of public morality.

It should also be said about the acts of federal legislation to ensure the protection of morality. For example, the Federal Law No. 127-FL from October 26, 2002 "On Insolvency (Bankruptcy)" establishes that the federal state unitary enterprises and joint stock companies, the shares of which are federal property and are engaged in the manufacture of goods (works, services), which are of strategic importance for the protection of morality, are strategic [17]. Special procedure for the privatization of state and municipal property of strategic enterprises and joint-stock companies is established by the federal law No. 178-FL from December 21, 2001 "On Privatization of State and Municipal Property" [16] (See also article 15 of the Federal Law No. 39-FL from February 25, 1999 "On Investment Activity in the Russian Federation Implemented in the Form of Capital Investment» [13], article 4 of the Federal Law No. 160-FL from July 09, 1999 "On Foreign Investments in the Russian Federation" [14]).

Federal laws No. 152-FL from July 27, 2006 "On Personal Data" [22] and No. 98-FL from July 29, 2004 "On Commercial Secrets" [19] establish a special information and legal regimes (cross-border transfer of personal data, trade secrets), objectives of which include protection of morality. Federal Law No. 7-FL from January 12, 1996 "On Non-commercial Organizations" in order to protect morality establishes the control over the activities of non-commercial organizations [7], and the Federal Law No. 178-FL from December 21, 2001 "On Privatization of State and Municipal Property" introduces the mode of "golden share" in order to protect morality in the field of open joint-stock companies [16].

In order to protect morality federal laws may establish duties of the subjects of law. For example, part 2 article 9 of the Federal Law No. 152-FL of July 27, 2006

"On Personal Data" establishes the obligation of certain persons to provide their personal data to process them [22].

Jurisdictional norms take a special place in the Russian legislation. Among them there are norms that guarantee the protection of morality (for example, the rule of the review of the legal cases held in closed session was established by the Federal Constitutional Law No. 1-FCL from July 21, 1994 [5]); determine the legal consequences of acts committed with intent opposing the basics of morality (for example, article 169 of the Civil Code of the Russian Federation on the invalidity of transactions), including administrative and criminal responsibility; require cessation of the activities of organizations (See article 14 of the Federal Law No. 125-FL from September 26, 1997 [10]); provide for the establishment by the court restriction of the rights of citizens and the establishment of "administrative supervision" (see article 3 of the Federal Law No. 64-FL from April 06, 2011 [26]).

The analysis of provisions aimed at protecting morality of the considered by us acts of federal legislation indicates, first of all, of their disunity, fragmentary establishment of prohibitions, restrictions, and duties. And, more important, that none of the federal laws provides a legal definition of the concept of "morality", what significantly expands the discretion of a law enforcer, creates conditions for corruption. As an example, let's consider the rule contained in part 1 of article 127 of the Family Code of the RF, which establishes the signs that prevent citizens to be adoptive parents.

In the presented norm as independent values stated:

- life;
- health;
- freedom;
- the honor and dignity of a person;
- the sexual inviolability and sexual freedom of an individual;
- family and minors;
- the health of population;
- public morality;
- public security.

Taking into account that in special literature under illegal encroachments on public morality, as a rule, understand the encroachment on inviolability and sexual freedom of an individual, and the health of population (infection of sexually transmitted diseases), family values, including the education of minors, the content of each of these concepts to clarify and separate one concept from contiguous does not seem to be possible.

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SIGNIFICANCE OF INFORMATION IN PREVENTING TAX DELINQUENCY

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In the article is given the review of normative legal acts that regulate the circulation of information, including the emphasizing and consolidation of statuses of information types according to its content or the owner.

Because of the significance of information resources to ensure sustainable economic growth, various types of security, directions of government policy are focused in the field of collection, processing, and storage of information by the tax authorities.

The author justifies the creation of an Inter-Regional Inspectorate for centralized processing of data and the need for a comprehensive analysis of all the information about taxpayers before selection of objects for field tax audits.

Keywords: tax delinquency, tax control, information about a taxpayer, classification of information about a taxpayer, exchange of information.

Information as a core component of a single global information space has a universal impact on virtually all aspects of human life, society and the state. Informational legal relations are intensively being established and implemented in various areas of public administration. An important direction in their development is a legislative regulation of the activity, through the formation of a national legislation governing the collection, processing, storage and dissemination of information, the exercising of the right to seek and receive information, the creation and mobility of informational systems and technologies, their reliability, safety, and protection of data [11, 308-322].

In Russian, Latin term informatio acquires multiple meanings: expound, explain, and get acquainted with something. Presumably, because of the multiplicity of meanings, there are many different definitions of the notion "information". For the first time a legal definition of the notion "information" was given in the article 2 of the Federal Law No. 24-FL from February 20, 1995 "On Information, Informatization and Protection of Information" [2]: "Information is data on persons, objects, facts, events, phenomena and processes, regardless of the form of their providing".

Resolutions of the Government of the Russian Federation No. 30 from January 19, 2005 "On the Model Regulation of Cooperation between Federal Bodies of Executive Power" [4], and No. 452 from July 28, 2005 "On the Model Regulation of the Internal Organization of Federal Bodies of Executive Power" [5] enshrine: the basic principles of interaction and organization of activities of the federal bodies of executive power; the procedure for coordination and control between the federal executive authorities; the procedure for cooperation between the federal bodies of executive power in providing, exchange and receiving information; the procedure for interaction between departments of the federal executive body designed for the creation and updating of information resource, etc. The effectiveness of the use of information in the activities of tax authorities depends on "... its connection with the main tasks and functions of the body" [10, 51].

Currently in effect the Federal Law No. 149-FL from July 27, 2006 "On Information, Information Technologies and Protection of Information" [3] (hereinafter: the Law "On Information"). By the adoption of the Law the legislator has made a significant contribution to the formation and consolidation of such definitions as: "information system", "information technology", "information and telecommunication network" and others. Article 2 introduces the concept of information – "facts (messages, data) regardless of their presentation form". Allocation and enshrining of the statuses of information types, depending on its content or the owner, has

become a very important step in the development of legislation on information, which undoubtedly reflects on the quality of the executive authorities' work for the collection, processing, exchange of information.

Information – is not any data, but only those that are objectified, i.e. fixed, and perceived as such. With the development of information technologies society acquires an opportunity to form a unique potential – national information resources that ensure sustainable economic growth, the provision of different types of security.

Information makes an invaluable contribution to the prevention of tort in all spheres of public life. The significance of information in everyday activity of executive authorities can hardly be overestimated. So, the activity of tax and customs authorities for the implementation of fiscal and control functions involves the introduction and use of modern information technologies.

Due to the high importance of information in the activities of tax authorities, among the directions of the state policy in the field of collection, processing, and storage of information by the tax authorities should be highlighted:

- creation of the All-Russian data bank on taxpayers, subjects and objects of taxation;

- creation and development of federal and regional systems and networks of informatization with ensuring their compatibility and interaction in the common information space of Russia;

- formation and protection of information resources, and ensuring the interests of the safety of information dissemination and secrecy of information dissemination;

- ensuring the unity of departmental standards in the collection, accounting, accumulation, storage and transmission of information;

- development and implementation of a common policy on the issues of collection, receipt, accumulation, storage and transferring information, which meets modern world level;

- support for informatization projects that contribute to the development of information networks and systems.

All the information, depending on the category of access to it, is divided into a publicly available (taxes and fees system, the principles of legislation on taxes and fees, information on the state registration of a taxpayer, and others), as well as information, access to which is limited by federal law (restricted access information). Diversity of information possessed by the tax authorities is subdivided into:

1) publicly available or free information;

2) information provided under an agreement of persons participating in the relevant relations;

3) information that is in compliance with federal laws shall be subject to provision or dissemination (by request of judicial authorities, police, bailiffs, etc.);

4) information, dissemination of which is restricted or prohibited in the Russian Federation [11, 308-322].

Publicly available information includes common knowledge and other information to which access is not restricted. The main source of publicly available or free information is the official website of the Federal Tax Service of Russia, the media, etc. Publicly available information may be used by any persons at their discretion. Part 2 article 7 of the law "On Information" stipulates the regime for the use of publicly available information.

Currently, the activity of tax authorities to collect, receive, process and store information received widespread legal regulation. Only since January 2007 have been prepared and are operating now more than 70 acts of various content (mostly departmental acts) governing the collection, processing, storage, exchange of information and etc. The study of these acts allowed classifying them.

1. By types of acts: resolutions, orders, instructions, and letters;
2. By the body, which passed an act: acts of the Government of the Russian Federation, Russian Ministry of Finance acts, acts of the Federal Tax Service of Russia, Russian Central Bank acts, joint acts of ministries and departments;
3. By range of persons: acts for internal use; acts of interagency use; acts, which can be spread among an unlimited range of persons;
4. By functionality:

- acts on how to obtain, provide, disseminate information;
- acts on the procedure of accounting, storage, accumulation of information;
- acts on the procedure of interaction;
- acts on the exchange of information;

5. By accessibility of information:

- acts on the information that is freely available;
- acts on the use of secret information.

Classification can be continued on such signs as, for example: by time, by the action in space, by volume, by confidentiality, etc.

Significance of the issues of information support in the activity of tax authorities in connection with the prevention of tax offenses and giving stability for incomes of the budget system was noted in the Letter of the Federal Tax Service

of the Russian Federation No. MM-18-1/54 from 23 March, 2009 "On the Measures of Tax Administration".

Tax authorities process large volumes of information during tax administration. This is due to the increasing number of taxpayers, as well as the growing volume of information received from various agencies and organizations. Tax administration's effectiveness is severely restricted by a large amount of labor-intensive, routine operations performed by the employees of tax authorities at all levels. This is largely due to the fact that the main stream of information comes to the tax authorities on paper. The share of information processed manually is still high.

Electronic exchange of information with other public authorities, engaged in tax administration, will allow prompt receiving and use in analytical work of indirect information about the economic activity of taxpayers needed to monitor, reveal, prevent and suppress violations of the legislation on taxes and fees.

An important element of informational interaction is the exchange of information with tax and customs authorities, in particular to reduce the potential evasion of payment value added tax in export-import transactions. To address this challenge the Government has proposed the establishment of interregional inspectorates for centralized data processing as part of the Federal Tax Service of the Russian Ministry of Finance. Interregional inspectorates are territorial bodies performing functions of automated control and supervision over observance of legislation on taxes and fees, maintaining in the established order of federal information resources and information support of the Federal Tax Service of Russia, state and local governments, taxpayers, in accordance with the current legislation of the Russian Federation [6]. Interregional inspectorates implement automated processing and input of information received from taxpayers, payers of fees; transfer the processed information to the territorial bodies of the Federal Tax Service of Russia; maintain background information and classifiers, as well as the fund of algorithms and programs of the Federal Tax Service of Russia; implement reporting on forms approved by the Federal Tax Service of Russia, perform archiving of federal information resources of the FTS of Russia on the basis of electronic data storage and centralized archival storage of information submitted on paper; in due order provide information to state and local governments, taxpayers in the cases established by the legislation of the Russian Federation, provide the exchange of information in electronic form with public authorities in accordance with interagency agreements. Interregional Inspectorate for the centralized data processing maintains: the Uniform State Register of Legal Entities (EGRYuL in Russian), the Unified State Register of Individual Entrepreneurs (EGRIP in Russian), the Unified State Register of

Taxpayers (EGRN in Russian), registers of licenses, permits, certificates and other federal information resources.

Creating the Interregional Inspectorate for centralized data processing significantly facilitated the work of tax authorities and the work of the International Federation for Documentation in Russia. Especially in matters of detection, prevention and suppression of violations of legislation on taxes and fees, since monitoring functions of the Federal Tax Service of Russia and organizational activity of the Interior Ministry of the RF to prevent crime are based on the information support of this activity.

Substantiated selection of sites for field tax audits is not possible without a comprehensive analysis of all the information submitted to tax authorities, both from internal and external sources. Selecting objects for field tax audits is carried out by analyzing the information received in the tax authorities from both internal and external sources. At that, the information received by the tax authorities from internal sources includes information about taxpayers received by the tax authorities in the process of implementation functions entrusted to the tax service. Information from external sources include information about taxpayers collected by the tax authorities in accordance with current legislation or on the basis of agreements on the exchange of information with controlling and law enforcement agencies, state and local governments, as well as other information, including publicly available [8] .

Analysis of economic-financial performance of taxpayers' activities, in order to select taxpayers for conducting field tax audits, contains several levels, including:

- analysis of the amounts of calculated tax payments and their dynamics, which allows one to identify taxpayers who have reduced the amount of accruals of tax payments;

- analysis of the amounts of paid tax payments and their dynamics, conducted for each type of tax (fee) in order to check the completeness and timeliness of transfers of tax payments;

- analysis of the indicators of tax and (or) accounting reporting of taxpayers, allowing to determine significant deviations of indicators of financial and economic activity of the current period from the respective figures for the previous periods or deviations from the average reporting rate of similar businesses entities for a certain period of time, as well as to identify contradictions between the data contained in submitted documents, and (or) inconsistency with information available to tax authorities;

- analysis of the factors and reasons affecting the formation of tax base.

In case of selection an object for a field tax audit, tax authority shall determine the feasibility of field tax audits of the counterparties and (or) affiliates of an auditable taxpayer (see, for example: article 4 of the Law of the RSFSR No. 948-1 from 23 March 1991 "On Competition and Restriction Monopolistic Activity on Commodity Markets" [1]). Choosing objects does not depend on the form of ownership and the amounts of tax liabilities of taxpayers. The priority for inclusion in the plan of field tax audits are those taxpayers, in respect of which the tax authority has information about their involvement in tax evasion schemes or schemes minimizing tax liabilities, and (or) the results of the conducted analysis of financial and economic activity of the taxpayer shows alleged tax violations.

At present, to the Tax Service has been implemented and operates automated information system (AIS) for the processing of information, which includes system-wide and applicable software, country-wide submitting of tax reports to the tax authorities by taxpayers – organizations as part of program "taxpayer", as well as the Unified State Automated Information System of accounting (EGAIS in Russian) [7, 9] to record the volume of production and turnover of ethyl alcohol and alcohol-containing products. AIS of information processing performs the function of collecting, storing, processing and dissemination of data used in the work of tax authorities in the following key processes: accounting, control and processing of tax returns and reporting; accounting information about taxpayers received from external sources; control over payment taxes and fees; registration of legal entities and individual entrepreneurs, and registration of taxpayers; information interaction with taxpayers; revealing violations of the legislation on taxes and fees; debt management; management of sanctions and exactions.

Centralized data processing has to create an array of complete information on the economic activities of taxpayers, electronic passport of a taxpayer, that is, provide a solution to the current tasks of tax control. Informatization is intended for the use in the activities of the units of the Federal Tax Service of Russia, for accelerated processing of incoming information, and includes maintenance of the state register of taxpayers, integrated, multi-level database of bank accounts, database of mandatory reporting documents, and database of tax legislation violations.

Use of information by tax authorities in their daily activities on tax administration and for prevention of tax torts assumes certain requirements to such information: the accuracy, completeness, regularity, continuity, timeliness, updating, and possibility of machine processing. Efficiency of use of information in tax

administration depends on "its connection to the main objectives and functions of the body" [10, 51].

Correct and clear organization of the work of tax authorities to collect, process, store, exchange, and transmission of information, the legal regulation of this activity, and the formation of a uniform information base on taxpayers will allow tax authorities:

- to increase efficiency in the performance of fiscal functions and implementation of measures of tax control;
- to minimize material and human resources;
- to create a single information space of the tax authorities of the Russian Federation;
- to reveal and prevent tax tort more effectively;
- to optimize the structure of tax authorities through their specialization and functional organization and etc.

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PECULIARITIES OF STATE REGULATION OF LEGAL SERVICES MARKET IN THE COUNTRIES OF POST-SOVIET SPACE

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Comparison of normative definitions of advocacy in the national legislation of former Soviet republics is provided in the article. Here is noted that presented definitions of advocacy come from the legislative enshrining of some theoretical signs of advocacy, as general ones applicable to all the definitions considered, and special specific to individual definitions. Emphasized the attempt to characterize advocacy in Georgian legislation through its individual types without specifying common signs that characterize these types.

The conclusion is done that there is a gradual change in the conceptual approach to normative regulation of advocacy in the national legislation of former Soviet republics.

Keywords: legal services, advocacy, practice of law, legal assistance, legal services market, national legislation on the practice of law.

After carrying out the analysis of the legislation on barrister's activity and the bar of several countries of the former Soviet Union, can be concluded that all the considered normative-legal acts are divided into two groups, depending on the manner in which they define the concept of barrister's activity.

The first group includes laws that explicitly formulate the definition of barrister's activity. So, in accordance with parts 2, 3 article 1 of the Law of Turkmenistan [1], which entered into force on July 01, 2010 – article 48 of the law – barrister's activity is a professional legal assistance of counsel provided by law for the protection of human rights and freedoms, the legitimate interests of legal persons, and

the promotion and strengthening of the rule of law in society. Barrister's activity is non-entrepreneurial and payment, received by counsel for legal assistance, is its salary. From the above definition it is clear that it combines both modern ideas about the nature of barrister's activity (the content, professional and non-entrepreneurial nature of the activity of a special subject – barrister, goals) and features of the normative regulation of the tasks of the Bar contained in article 1 of the Law of the USSR "On the Bar of the USSR" from 30.11.1979 regarding the mentioning of such purpose of barrister's activity as promotion of the rule of law in society.

Interesting structure is presented in the legislation of Tajikistan [2], according to which barrister's activity is the activity of lawyers to provide legal assistance. Legal aid – a kind of social assistance provided in the legal field to physical and legal persons, which consists in the use of all legal means and methods to protect the legitimate rights and interests of these persons (article 2 of the Law of the Republic of Tajikistan). Thus, this normative regulation has certain specificity, which lies in the fact that the essential features of barrister's activity are given indirectly – through the definition of legal aid as its content. In addition, the indication of the possibility to use any legal means and methods in providing assistance should be limited by the indication of their legal nature, which emphasizes the possibility of purposeful influence on the problem of a person, which lies in a lawful manner, by legal means and methods.

Description of the essence of barrister's activity through its theoretical basis is a characteristic of the Armenian legislation. In accordance with the Law of the Republic of Armenia "On the Bar" [3], barrister's activity – a kind of advocacy aimed at the implementation of legitimate interests pursued by the recipient of legal aid through lawful means and methods (article 5 of the Law of Armenia).

In accordance with article 1 of the Law "On the Bar and Barrister's Activity in the Republic of Belarus" [4], barrister's activity – legal aid provided on the professional basis by lawyers in the manner prescribed by this Law to individuals, including individual entrepreneurs, legal entities, as well as to the State (hereinafter, unless otherwise provided, the clients) for the implementation and protection of their rights, freedoms and interests, as well as ensuring access to justice. Under the legal aid in the said Law refers an activity to assist clients in understanding, proper use and compliance with the legislation, which is aimed at the implementation and protection of rights, freedoms and interests of clients, as well as at representing clients in courts, government agencies, other organizations and against individuals. In the considered legal structure the assignment of the state to the recipients of lawyer's legal aid seems to be interesting. Paragraph 1 article 11 of the Law

provides that lawyers shall be entitled to carry out legal activity only after obtaining a license by way provided for by legislative acts, and becoming a member of a territorial Bar Association, which is obliged to accept a lawyer. Permissive beginning for admission to the profession of lawyer is further enhanced by a normative requirement, under which the renewal of the license is done by the Ministry of Justice of the Republic of Belarus at the request of counsel in light of its compliance with the legislation on the Bar, according to the results of attestation carried out in the manner prescribed by law (article 11 the Law). The Bar is involved in legal education of citizens (article 5 of the Law). The latter provision could also be considered as a borrowing from an earlier act – article 1 of the Law of the USSR "On the Bar in the USSR" from November 30, 1979.

The Law of Ukraine "On the Bar and Barrister's Activity" [5] establishes that barrister's activity – an independent lawyer's professional activity on the implementation of protection, representation and providing of other forms of legal assistance to a client (paragraph 1 article 1 of the Law). The law under consideration recognizes protection as a form of barrister's activity, which lies in ensuring the protection of the rights, freedoms and legitimate interests of a suspect, accused, convicted, acquitted one, a person concerning which is provided for the application of compulsory measures of medical or educational nature or a decision on application them in criminal proceedings is being taken, a person, with respect to which is being considered the issue of extradition to a foreign government (extradition), as well as a person, which is brought to administrative responsibility during the proceedings of a case on an administrative offense.

The closest to the current legislation of the Russian Federation on the Bar is the definition of barrister's activity given in article 2 of the Law of Kyrgyzstan [6]: barrister's activity is an activity of a lawyer to provide competent legal assistance to individuals and legal entities in the defense of their rights, freedoms and legitimate interests. With these, an indication of the state licensing of barrister's activity testifies the application of state permissive order of implementing the activity, as well as the subsequent control by the public authorities over the implementation of barrister's activity.

Thus, these definitions of barrister's activity are based on legislative consolidation of some theoretical signs of barrister's activity, both common for all considered definitions and special specific to individual ones.

However, there is an attempt to characterize barrister's activity through its individual types without indicating common features that characterize these types. Article 2 of the Law of Georgia [7] indicates that barrister's activity includes: giving

legal advice by counsel to persons applying to him for help (clients); representation of a client in the course of the constitutional dispute in criminal, civil and administrative cases in court, arbitration, bodies of pre-trial detention, interrogation and investigation; preparation of legal documents in relation to third parties and the submission of any document on behalf of a client; provision of legal assistance not related to the representation against third parties. Article 2 of the Law of Georgia on "Legal Assistance" [8] points out that legal assistance is a drafting of legal documents, representation in court and administrative body regarding administrative and civil cases, as well as at the expense of the State at criminal proceedings. In accordance with article 3 of this Law, types of legal aid are:

a) drafting of legal documents;

b) protection of the interests of the accused and convicted during the process of criminal law;

c) protection of a victim during the criminal procedure in accordance with the Criminal Code of Georgia, in the case of protection at state expense;

d) representation in court in connection with administrative and civil cases;

e) representation in an administrative body

The second group of legislative acts includes laws, in which the notion of barrister's activity is not directly enshrined, but its essence is defined through the concept of the Bar and its tasks. For example, part 1 article 1 of the Law of Azerbaijan "On Barristers and Barrister's Activity" [9] stipulates that the Bar in the Republic of Azerbaijan is an independent legal institute that professionally carries out activities on juridical protection. The main tasks of the Bar are protection the rights, freedoms and lawful interests of individuals and legal entities, and providing them with high-quality legal assistance (article 3 of the Law of the Republic of Azerbaijan). The feature of considered act is that the concepts of juridical and legal assistance are used interchangeably, which follows, for example, from the wording: lawyers are involved in the following matters relating to the provision of legal aid (part 3 article 4 of the Law of the Republic of Azerbaijan).

In accordance with part 1 article 1 of the Law of Moldova "On the Bar" [10] barrister's activity is carried out by qualified persons authorized by law to speak and act on behalf of their clients, to practice law, to be brought before a judicial instance or advise and represent clients in legal matters. From the presented definition it is clear that the term "barrister's activity" is disclosed through separate types of legal assistance.

The following definitions are close enough both in respect of the period of adoption of appropriate acts and the juridical technology. The Law of Uzbekistan

"On the Bar" [11] provides that the Bar is a legal institute, which includes independent, voluntary, professional association of persons engaged in barrister's activity, and individuals engaged in the private practice of law. The Bar in accordance with the Constitution of the Republic of Uzbekistan provides legal assistance to citizens of the Republic of Uzbekistan, foreign citizens, stateless persons, companies, institutions, organizations (article 1 of the Law of Uzbekistan). A similar juridical technology is used in a later act – the Law of Estonia "On the Bar" [12], which provides that the Estonian Bar Association is a professional association of lawyers established June 14, 1919 and acting on the principles of self-government, the purpose of which is to organize the provision of legal services in private and the public interests, as well as the protection of professional rights of lawyers. The Bar is a public-law legal entity (paragraphs 1, 2 article 1 of the Law of Estonia).

In addition to the above definitions, there is a definition of the Bar through its purpose. In accordance with paragraph 1 article 1 of the Law of Kazakhstan "On Barrister's Activity" [13] the Bar in the Republic of Kazakhstan is intended to facilitate to the implementation of guaranteed by the government and enshrined by the Constitution of the Republic of Kazakhstan human rights on the legal protection of their rights and freedoms, and getting qualified legal assistance. The Law of the Republic of Kazakhstan No. 523-IV LRK from December 28, 2011 amended the norm of article 1 by paragraph 3, according to which barrister's activity is a qualified legal assistance provided in a professional manner by lawyers in the way prescribed by this Law, in order to protect and promote the realization of the rights, freedoms and legitimate interests of individuals, as well as the rights and legitimate interests of legal persons. This fact also leads to the conclusion that there is a gradual change in the conceptual approach to normative regulation of the Bar.

From the given definitions it is clear that they are formulated with use of the terms of "legal assistance", "qualified legal assistance", i.e. the part of normative structure is the same as the one used for the interpretation of barrister's activity in the Russian Federation. This aspect corresponds to the respective constitutional right of a person.

One of the latest trends in government regulation of the legal services market is the adoption of new normative acts, which evidence of conceptual change in the relevant legislation. This trend can be fully traced through the example of Belarus and Ukraine that passed new legislation in the area of the Bar, which has enshrined the definition of barrister's activity and completed the transition of these countries from the second group to the first one.

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PROBLEMS OF LEGAL REGULATION OF MEDICAL SECRECY IN THE LEGISLATION OF THE RUSSIAN FEDERATION

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Here are noted differences in the legal and medical understanding of the content of medical secrecy. Criticized normative consolidation of regulation of medical secrecy associated with a large list of exemptions from the rule to keep medical secrecy, as this situation allows not only the variability of interpretation, but also – that is more dangerous – the possibility of administrative discretion by the subject of interpretation.

Argued that medical secrecy is often represented by the enumeration of the data that constitute it, that does not express the essence of the considered phenomenon, and therefore occurring normative definition of medical secrecy cannot be considered a scientific definition.

The necessity of regulation of such special kind of secrecy as reproductive secrecy is substantiated in the article.

Keywords: medical secrecy, personal data, protection of medical secrecy, reproductive secrecy, the circle of persons obliged to keep medical secrecy.

It is obvious that the problem of ensuring patient confidentiality acquires special significance in modern life – when electronic document workflow gets increasing distribution, and the threat of leakage of any information about a person, including personal data, to the Internet is more than real. Taking into account uncertainty and some legal "fuzziness" of the category of "personal data" under which, in accordance with the provisions of paragraph 1 part 1 article 3 of the Federal Law of the Russian Federation No. 152-FL from July 27, 2006 "On Personal Data" [4], is defined "any information directly or indirectly relating to an identified physical person (the subject of personal data)", the greatest danger, in our opinion, represents a threat of the dissemination of information about the health of the person. Information that has been traditionally being classified as medical secrecy and (or) patient confidentiality. The greatest threat because the lack of legislative regulation of a certain group of public relations complicates their protection, and in some cases, makes it virtually impossible to protect them.

So, the first problem: the unresolved issue on the ratio between medical secrecy and patient confidentiality. In the Soviet and post-Soviet legislation the institute of patient confidentiality was not fixed; and in the legislation of the Russian Federation of a new period of Russian statehood the term of "medical secrecy" first appeared in the Basics of the Legislation on Public Health Care from July 22, 1993 No. 5487-1 [1], which become invalid in connection with the adoption of the Federal Law No. 323-FL from November 21, 2011 "On the Basis of Health Protection in the Russian Federation" [5]. In accordance with the provisions of article 61 of the Basics of the Legislation on Public Health Care, patient confidentiality was constituted of information regarding seeking medical help, the health of a citizen, the diagnosis of its disease, and other information obtained during examination and treatment. This provision has been fully interpreted in the norms of part 1 article 13 of the new, mentioned above, Federal Law "On the Basis of Health Protection in the Russian Federation". Under part 2 of this article it is prohibited to disclose information constituting medical secrecy, including after the death of a person, by persons to whom they became known at training, the performance of job, official and other duties, except as required by law. At that, according to part 3 article 13, with the written consent of a citizen or his legal representative it is permitted to disclose information constituting a medical secrecy to other citizens, including officials, for medical examination and treatment of the patient, conducting medical research, and its publication in scientific journals, use in the educational process and for other purposes.

Just as before, the provision of information constituting a patient confidentiality, without the consent of the individual or its legal representative may be: for the purpose of medical examination and treatment of a citizen, who as a result of its condition is not able to express its will; with the threat of the spread of infectious diseases, and mass poisonings; at the request of an inquiry and investigation body, a court in connection with the investigation or judicial examination, at the request of a body of penal system in connection with the execution of a criminal penalty and monitoring the behavior of conditionally convicted person, sentenced one, whose sentence is delayed and a person released on parole; in the case of medical care to a minor, as well as to minors under the age established by part 2 article 54 of the Law (minors, drug addicts, over the age of sixteen, and other minors over the age of fifteen years), to inform one of its parents or other legal representative; in order to inform the authorities of the Interior on the admission of a patient, in respect of which there is sufficient reason to believe that the damage to its health has been inflicted as a result of illegal actions; in order to conduct military medical examination at the request of military recruitment offices (principally new provisions are contained in the Concept of a federal system of training of citizens of the Russian Federation to military service for the period up to 2020 [6]), HR services and military medical (flight medical) commissions of the federal executive power, in which federal law provides for military and equivalent to it service; in order to investigate an accident at work and occupational diseases; in the exchange of information between medical organizations, including posted in medical information systems, in order to provide medical care taking into account the requirements of the legislation of the Russian Federation on personal data; for the implementation of accounting and control in the system of compulsory social insurance; in order to monitor the quality and safety of medical activities in accordance with this Law..

Let us recognize that the list of exceptions from the rule to store medical secrecy is more than wide. And it's enough for some concern from the standpoint of protecting the rights of citizens in the matter of preserving patient confidentiality. In addition, the list of reasons is inaccurate from a legal point of view: any norm containing the word form "there are *reasonable grounds to believe*" is knowingly unlawful, since it allows not only the variability of interpretation, but also – what is more dangerous – the possibility of administrative discretion by the subject of interpretation.

And what is interesting, the Russian legislation stubbornly continues to evolve in this direction: in volume the rule itself is much smaller than the exceptions applied to it. Of course, the definition of patient confidentiality in two lines

is not the only example, we have already called the norms of the RF Federal Law "On Personal Data", there is one more: in accordance with paragraph 1 article 1 of the Federal Law No. 149-FL from July 27, 2006 "On Information, Information Technologies and Protection of Information" [3], information is facts (messages, data) regardless of their presentation form. On the one hand, an explanation can be given to such "non figurative" definitions of legal categories. On the other hand, often such explanation lies not in the legal field, but in the philistine one: "everything cannot be settled, and the law should spell out only general provisions". But let's be honest: perhaps it makes sense, at least, to try maximally regulate the areas of public relations, in which the violation of citizens' rights entails the greatest threat to the security of an identity (including informational one).

In article 2 of the Federal Law of the Russian Federation "On the Basis of Health Protection" the legislator has enshrined more than twenty (!) definitions, including: health, health protection, medical care, medical service, medical intervention, prevention, diagnostics, treatment, patient, medical activity, medical organization; pharmaceutical organization, a medical professional, pharmaceutical worker, hospital physician, illness, condition, underlying disease, concomitant disease, the severity of a disease or condition, the quality of medical care. And all of them are disclosed, to a greater or lesser degree of detail, but neither patient confidentiality, nor medical secrecy. An exception, however, was made: compliance with patient confidentiality was named one of the principles of health protection (paragraph 9) article 4 of the Law).

Turning to the field of professional regulation, may be called the Code of Ethics of the Russian Physician (adopted by the 4th Conference of the Association of Physicians of Russia, November 12, 1994) [10] and the Code of Medical Ethics of the Russian Federation (approved by the All-Russian Pirogovsky Congress of Physicians, June 7, 1997) [9], which also have indicated the need to respect patient confidentiality, but there is no explanation of the concept. There are several articles in section IV of the Code with "speaking" name "Patient confidentiality". According to the first of these, every patient has the right to maintain personal secrets, and a doctor, as well as others involved in the provision of medical care, is required to maintain patient confidentiality, even after the death of the patient, as well as the fact of seeking medical help if the patient does not order otherwise. The secrecy extends to all information obtained in the course patient treatment (diagnosis, treatment methods, prognosis, etc.). And already in the third article appears the category of "medical information". Note that the list of authorities and officials to whom it may be disclosed is much narrower than that presented

in the Russian legislation. In accordance with article 3 medical information about a patient may be disclosed: first, by the clear written consent of the very patient; second, on a reasoned request of the of inquiry and investigation bodies, prosecutor's office and court; third, if maintaining of the secrecy significantly threatens the health and live of the patient and (or) other persons (serious infectious diseases); fourth, in case of bringing to the treatment of other professionals to whom this information is professionally needed. The physician must ensure that persons involved in the treatment of the patient also observe professional secrecy. Persons who are entitled the access to health information are required to maintain the confidentiality of all information received about the patient. Patient confidentiality must be respected during the process of research, teaching students and raising of physicians' qualification. Demonstration of a patient is possible only with its consent (4-6 of section IV of the Code of Medical Ethics of the RF). There is also no corresponding definition in international acts: for example, the International Code of Medical Ethics of 1949 [11] contains a provision that "a doctor should keep patient confidentiality", but does not disclose it anyhow, believing, apparently, in its obvious understanding.

In the medical literature patient confidentiality, in its most general form, is understood as a deontological requirement to health workers not to disclose information about a patient. In works one way or another affecting this issue, patient confidentiality is often represented by listing of its constituent data, which does not reflect the essence of the phenomenon under consideration and therefore cannot be considered scientific definition [14, 79; 15, 31; 16, 12]. However, some works offer rather knowledge-intensive definition of patient confidentiality as the responsibility of medical staff to keep in secret any information about the patient received in the course of diagnosis, treatment or other means, the disclosure of which could cause moral, material or physical damage directly to the patient or a third persons [17, 30]. We consider literate the definition of medical secrecy given by O. V. Bogoslavskaya: "Medical secrecy – is a protected by federal law, non-public information, as a totality of information about the health of a citizen, as well as any other information obtained in its examination and treatment, which have become known to a health care professional in force of performance of its professional duties, which represents the actual or potential value for the patient (an individual) and other interested parties (relatives and relatives-in-law, heirs), the disclosure of which could cause harm to these individuals, and in respect of which appropriate measures to preserve the confidentiality have been taken" [12, 24].

The range of persons responsible to keep patient confidentiality can be defined through an analysis of the Law's provisions. Due to the patient's right of preserving patient's confidentiality in seeking and getting medical care the responsibility to keep information that constitutes patient confidentiality is applied, first of all, to medical staff (physicians, sick attendants, nurses, registrars), and pharmaceutical workers. On a par with medical and pharmaceutical workers, the persons to whom the information is given in the manner prescribed by law are required to comply with patient confidentiality (and, therefore, liable for its disclosure). And, therefore, in respect of such persons (for example, military commissioners, investigators, judges, employees of health insurance companies), it would be more appropriate to talk about medical secrecy. Moreover, that term takes place in the Russian legislation: in accordance with part 2 article 15 of the Family Code of the Russian Federation from 29 December 1995, No. 223-FL [2], the results of a survey of a person entering into marriage constitute medical secrecy and may be communicated to the person with whom it intends to enter into marriage only with the consent of the person that has passed the survey. Do not absolutely clear the logic of the legislator, who has applied in the Family Code of the Russian Federation the term of "medical mystery", but in the norms of the Russian Federation "On the basis of health protection" – "patient confidentiality". It is thought that the use of different definitions in the formulation of one and the same concept is legally incorrect.

Given the magnitude of the problem concerned, we consider it necessary to draw attention to another aspect of it: the need for regulation of such a special type of secrecy as reproduction one. First time the notion of reproductive rights was used at the International Conference on Population and Development, held in Cairo in 1994 [18] as well as at the IV World Conference on Women, held in Beijing in 1995 [19]. By results of the conferences was concluded that reproductive rights are part of human rights, and are based on the recognition the rights of couples and individuals to decide freely and responsibly on the number of children and when to birth children, including the right to make decisions about procreation without discrimination, threats and violence, as well as recognition of the right to obtain relevant information. The category of reproductive rights also covers the right to enjoy the benefits of scientific progress, which implies the right to have access to new, safe, effective and affordable technologies in the field of childbirth. Thus, the right to use the methods of assisted reproductive technologies (hereinafter - ART) is recognized internationally and is part of the broader category of reproductive rights.

However, the question of how to regulate the dissemination of information about the done ART medical procedures, persons involved in them, the actual origin of a child born in this way, and so on in the Russian legislation is practically not settled, with the exception of the Order of the Ministry of Health of the Russian Federation from February 26, 2003 "On the Use of Assisted Reproductive Technology (ART) in the Treatment of Female and Male Infertility" [8]. Prior to its adoption the order of the USSR Ministry of Health from May 13, 1987 "On the Extension of Experience in the Application of the Method of Artificial Insemination with Donor Sperm for Medical Reasons" was in force [7]. In contrast to the pre-existing document, the current Order of ART says only that donors do not assume parental responsibilities with respect to a born child, but does not include any provisions to preserve reproductive secrecy. Annex to this Order set appropriate samples of statement of obligation for spouses and donor. According to these statements, the spouses pledged not to establish the identity of the donor, and keep the secrecy of conception of their child through artificial insemination. In turn, the donor took the pledge not to identify the recipient, as well as the child born through fertilization of the women by his genetic material.

K. Kirichenko proposes to use the term of "reproductive secrecy", and believes that the rules specifying the legal regime of reproductive secrecy should be introduced to the national legislation. Under the reproductive secrecy he understands a totality of information about the real origin of a child conceived and/or carried and born with help of ART [13, 97-103]. This can include information about the use of this or that technology, information about the identity of a donor, surrogate mother, and so on. Such information may become known to medical professionals, staff of agencies for surrogate mothers recruitment, to a donor or surrogate mother, to relatives of prospective parents and to other persons. There is no doubt that the information constituting reproductive secrecy are particularly valuable for both persons recorded as parents of a child born through ART and for the child, because disclosure of the information can cause enormous harm to child's mental health.

The article touches on only some of the existing problems in the analyzed sphere of social relations. And every one of them deserves a more detailed analysis in a separate study.

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ADMINISTRATIVE-LEGAL STATUS OF A PEDESTRIAN: THE ISSUES OF IMPROVING

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Discrepancy of administrative-legal sanctions applied to violators of traffic rules, depending on the administrative-legal status of the road user, is noted in the article. Here is proposed to change the trend, when sanctions against one road user (driver) are enhanced much more serious than against others (pedestrians). The authors believe that a pedestrian's responsibility has to be more serious than the driver's one.

Attention is accented on the absurdity of some of traffic rules provisions, including when a man pushing stalled car or leading donkeys across a road is a driver and another one rolling a running motorbike on the road is a pedestrian. The author proposes to adjust the current version of the terms of traffic rules "driver" and "pedestrian" in order to avoid their ambiguities.

Keywords: traffic rules, pedestrian, administrative-legal status of a pedestrian, road users, pedestrian responsibility for violation of traffic rules.

Occurred in recent years changes in the normative legal framework in the field of road traffic, to a large extent, affected the status of its participants. One of the main categories of road users is pedestrian, features of administrative-legal status of which are investigated in the framework of this article.

Under the term of "administrative-legal status" most scientists understand the totality of contained in legal acts rights and duties, which the subject (participant of social relations) obtains to carry out its vital needs [6, 88]. Any person is a subject of legal interaction, both in general and in specific areas, so its status in public relations is governed by norms of a particular branch of law.

Analysis of the legal literature on combating road traffic accidents (hereinafter - RTA) shows that most of the authors link their researches with activities and responsibilities of drivers of vehicles as the main participants in traffic. Studying the issues connected with the status of pedestrians as road users, as we see it, is given an insufficient attention. However, pedestrians are the least protected category of road users [5, 8]. Among the victims of all RTA, pedestrians' share is about 40% (in urban areas – up to 60%).

Despite the presence of works dealing with the status of road users [7; 13], administrative and legal status of pedestrian as an independent subject of study has not yet been considered.

The lexical meaning of the word "pedestrian" is defined as "a person that goes by foot" [11].

Pedestrian rights are based on the provisions of part 1 article 27 of the Constitution of the Russian Federation (hereinafter – the Constitution), namely the right to freedom of movement: "everyone, who is lawfully within the territory of the Russian Federation, shall have the right to move freely" [9].

The Federal Law No. 196-FL from December 10 1995 "On the Road Safety" [2] does not contain the notion of "pedestrian", but in article 2 exists the term of "road user", which refers to a person who takes part in the process of the road traffic as a driver of an vehicle, pedestrian, passenger of a vehicle.

Chapter 1 of the Road Traffic Rules of the Russian Federation (hereinafter - RTR) contains the definition of the term of "pedestrian" – "a person who is outside a vehicle on a road and does not perform road works. Pedestrians include persons traveling in a wheelchair without an engine, pushing a bicycle, moped, motorcycle, baby buggy or a wheelchair, pulling a sledge, cart"(1.2) [4].

In addition, paragraphs 1.3 and 1.5 of the RTR impose on all road users the obligation to know and comply with the relevant requirements of RTR, traffic signals, signs and markings, as well as comply with the orders of traffic controllers,

acting within the scope of their rights and regulating traffic by special signals, and also to act in such a way that does not cause danger to traffic and does not inflict harm.

It is appropriate to note that in the ratified by Russian Federation core international legal act – the Convention on Road Traffic, concluded at Vienna on 8th of November, 1968 [10] (hereinafter – the Convention), there is no definition of the term of "pedestrian", and its fundamental rights and duties are enshrined in article 20 "Rules applicable to pedestrians" and article 21 "The behavior of drivers towards pedestrians".

Pursuant to the Convention provisions, chapter 4 of the RTR regulates the rights and duties of pedestrians.

In road infrastructure for pedestrians are designed footpaths (sidewalks), regulated and non-regulated terrestrial pedestrian crossings, as well as elevated and underground pedestrian crossings.

Pedestrians have to move on sidewalks or pedestrian paths, and in their absence – on roadsides. Pedestrians carrying bulky objects and persons traveling in a wheelchair without an engine can move along the edge of a roadway, if their movement on the sidewalks or roadsides causes interference for other pedestrians.

In the absence of sidewalks, pedestrian paths or roadsides, and in inability to move on them, pedestrians can move along bike path or go in a row on the edge of a roadway (on a road with a dividing strip – on the outer edge of the roadway).

When walking on a roadway, pedestrians must walk facing traffic vehicles. Faces of persons traveling in a wheelchair without an engine, leading motorcycle, moped, bicycle, in these cases should follow the direction of motion of vehicles.

However, the right of a pedestrian to freedom of movement is not absolute, since in accordance with part 3 article 55 of the Constitution it may be restricted by federal law. So, according to subparagraphs 7 and 20 paragraph 1 article 13 of the Federal Law No. 3-FL from February 07, 2011 "On Police" [3] (hereinafter – the Law "On Police"), to carry out its responsibilities the police is given the right to temporarily restrict or prohibit the movement of pedestrians on the streets and roads, and not to miss citizens to specific areas and facilities, oblige them to stay there or leave these areas and facilities in order to protect the health, life and property of citizens, to conduct investigative and search activities.

Administrative and legal responsibilities of a pedestrian can be divided into:

- Absolute ones, that is, directly based on the requirements of normative legal acts in the field of road safety and not dependent on any specific circumstances, imposed to each (compliance with traffic regulations, health regulations, etc.);

- Relative ones, that is, generated by the unlawful actions of a pedestrian. These include the obligation to undergo coercive measures (delivering, administrative detention, personal examination and inspection of things, the seizure of objects and documents, etc.) and the duty of the enforcement of sentences and other corrective actions used by authorized entities (payment of an administrative fine, the termination of the commission of an offense).

In the matter of administrative and legal status of a pedestrian special place is occupied by administrative responsibility. In Chapter 12 of the Code on Administrative Offences of the RF[1] (hereinafter – CAO RF) pedestrian as a person, in respect of which institutes a case on an administrative offense, appears in 3 formulations – part 1 article 12.29 (violation of traffic rules by a pedestrian or passenger of a vehicle), part 1 (violation of traffic rules by a pedestrian, passenger of a vehicle or other road user (except for the driver of the vehicle), which caused obstruction in the movement of vehicles) and part 2 (violation of traffic rules by a pedestrian, passenger of a vehicle or other road user (except for the driver of the vehicle) negligently causing mild or moderate bodily injury to a victim) article 12.30 of the CAO RF. As punishment, to a pedestrian can only be assigned an administrative fine, the maximum amount of which is 1500 RUR (under part 2 article 12.30 of the CAO RF).

On the other hand, we also should review the articles providing responsibility for violations of traffic rules by other road users – drivers, in part concerning their violations of the rights of pedestrians.

So, according to part 2 article 12.15 of the CAO RF, for driving a vehicle on pedestrian or bicycle paths or sidewalks, in violation of traffic rules, the driver shall be punished with an administrative fine in the amount of 2000 RUR.

Part 3 article 12.19 of the CAO RF, which stipulates responsibility for stopping or parking of vehicles on the pedestrian crossing and within 5 meters in front of it, except for the forced stop and the case under part 6 article 12.19 of the CAO RF, or violating the rules for stopping or parking of vehicles on the sidewalk, except the case under part 6 article 12.19 of the CAO RF, shall be punished by administrative fine of 1,000 RUR. In accordance with part 6 article 12.19 of the CAO RF, the specified above violation committed in the city of federal importance Moscow or St. Petersburg entails a penalty of a fine of 3000 RUR.

In accordance with article 12.18 of the CAO RF, failure to meet the requirement of the Traffic Rules to give way to pedestrians, cyclists or to other road users (except for drivers of transport vehicles) shall entail imposition of an administrative fine from 800 to 1000 RUR.

On the basis of the several considered by us aspects of the administrative and legal status of a pedestrian, we can draw the following conclusions.

First, should be reversed, of course, negative trend, when sanctions against one road user (driver) are much more serious than against the other (pedestrians), i.e. the legislator apparently thinks that a driver carries greater social danger, than a pedestrian.

The existing paltry sanctions against pedestrians often lead to a situation where such persons committing serious offenses are actually exempt from responsibility, what does not meet the requirements of traffic safety and causes difficulties in law enforcement practice. It seems, that noting the priorities provided to pedestrians in road traffic (see paragraphs 8.3, 6.13, 8.11, 9.9, 12.4, 13.1, 11.5, 13.8, 14.1-14.6, 17.1 of TR) their responsibility must be even stricter than the driver's one. Arguments on the need to revise administrative sanctions against pedestrians, toward tightening, were pronounced back in the 1970's [5, 435].

Second, in our view, the conceptual apparatus needs to be clarified. So, paragraph 1.2 of traffic rules states that the driver – is a person who drives a vehicle, drover leading on road pack, riding animals or herd. At that, a person leading a motorcycle is equated to a pedestrian. However, the situation seems quite illogical when a man pushing stalled car or leading donkeys across a road is a driver and another one rolling a running motorbike on the road is a pedestrian. In this connection, we believe, it is advisable to adjust the current version of the terms of traffic rules "driver" and "pedestrian" in order to avoid their ambiguities.

Third, the title of chapter 4 of traffic rules, which is directly designated to the participation of pedestrians in road traffic, needs to be amended. It is thought that the title of the chapter "Responsibilities of Pedestrians" does not exactly match the content, as it regulates not only responsibilities, but also rights. It should be noted, that there is no reference to the rights either of pedestrians or drivers, as well as of passengers, in traffic rules. However, in many countries of the world traffic rules regulate not only responsibility, but also rights of road users (e.g. by traffic rules of the Republic of Belarus) [12].

In the very chapter 4 should also be included some responsibilities similar to the contained in paragraph 2.1.1 of TR responsibilities of drivers, in particular:

- to keep identity documents about oneself and on request of police officers to transfer to them for check (stipulated in subparagraph 2 paragraph 11 article 13 of the Federal law "On Police");

- to stop at the request of police officers (this is, in our view, logically follows from the first duty);

- to pass a medical examination for intoxication at the request of officials who have the right of state supervision and monitoring of traffic safety and operation of vehicles (according to paragraph 6 part 1 article 4.3 of the CAO RF, committing of an administrative offence in a state of intoxication is an aggravating factor).

In our opinion, the theme that has been considered in the article has both theoretical and practical significance. An array of open to study and waiting for its researchers issues stay outside the normative framework and scientific papers. And we invite to discussion on the issue scholars and practitioners in the field of administrative law and road safety.

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MAN LIKE AN ANIMATED INSTRUMENT OF AN ADMINISTRATIVE OFFENCE

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Drawing an analogy with multiple subjects of crimes in criminal law here is proposed to highlight individuals who have the status of "animated instrument" of an administrative offense among the participants (subjects) of administrative offenses. The author provides examples of administrative offences where "animated instrument" of an administrative offense takes place. Here is given a different view, in the context of "animated instrument", on the norms of the main part of the Code on Administrative Offences of the RF, which exclude bringing offenders to administrative responsibility.

Keywords: administrative offence, subjects of administrative responsibility, instrument of an administrative offence, administrative responsibility.

One of the most interesting questions of the objective side of an administrative offense is provisions characterizing the instruments of this misconduct. They can be divided into two broad types: 1) animated instruments 2) inanimate instruments. They significantly differ from each other as different in its content. Moreover, the animated instruments of an offense fall into two subtypes too. In the first subtype a man is considered as an "instrument", and in the second – animals.

In this article, we will focus our attention only on "an animated instrument of administrative offence", which is people. Unfortunately, this aspect has not yet received proper development of scholars in administrative law, the theory of administrative responsibility and administrative practice. Therefore we will try to fill this gap of knowledge by offering our vision of the investigated part of the problem.

The instrument of an administrative offense may be a person who has taken an active part in the offense, without which there would not be a composition of the said misconduct, but who, for various reasons, is not a subject of administrative responsibility. The fact is that there is an article 33 in the Criminal Code of the RF, which provides for criminal responsibility of accomplices in a crime: perpetrator, organizer, instigators and accessory of a crime. There are no such accomplice in the legislation on administrative offences, although in a number of articles of the Code on Administrative Offences of the RF (CAO RF) exists persons, with help of which particular administrative offences are committed by. Moreover, these individuals can be referred neither to the subjects of an administrative offence nor to the victims.

Due to the lack in administrative law of theoretical work on the issue, let's turn to some provisions of criminal law relating to animated "instruments of a crime" to avoid the start of our research from scratch. Here are excerpts of leading scholars in criminal law who gave some attention to the above issue. For example, A. V. Naumov noted that "any person who incites a deranged or a minor, below the age of criminal responsibility, to commit a crime, should be deemed not as instigator, but as direct perpetrator. In this case, a teenager or an insane one acts as sort of an instrument or means of committing a crime and does not take responsibility for commitment of a socially dangerous deed" [8, 90].

In a commentary A. V. Pushkin wrote that "the perpetrator of a crime is just such a person, which can be held criminally responsible. That is why as the perpetrators of a crime are also recognized those persons who knowingly use to implement criminal purpose those who, by law, cannot be held criminally liable. In the theory of criminal law this kind of execution is called as *mediocre performing* (*mediate infliction).* First of all, the law binds mediocre performing with use in commission

of an offence insane ones or minors, i.e. persons that essentially act as "animated instruments" of a crime" [9, 91].

As can be seen from the said provisions, there is a significant difference between the attitude of criminal and administrative law to the issue. There is no development of the theory of implication in administrative law, as it is done in criminal law, but we can be more interested in the situation when "actual harm to an object is inflicted jointly by the subject of crime and persons lacking features of the subject" [6, 35, 5; 124-125; 4, 15; 11, 46-48], which should be recognized as animated "instruments of committing administrative offences".

In addition, in a criminal case can be an unlimited number of subjects of the offense provided by various types of accomplices, whose legal status is relatively clearly defined in the Criminal Code of the RF. In contrast, there is always only one subject of an administrative offense in an administrative case, and the remaining participants of an administrative misconduct are not specified in the plane of complicity, but have different legal statuses, including the status of an animated "instrument of an administrative offense". These provisions are only indirectly regulated in the CAO RF, being in an embryonic legislative state. With that, even the content of these "instruments" in criminal and administrative law are significantly different from each other, as evidenced by the theory and practice. Moreover, in contrast to criminal law, CAO RF in addition establishes administrative responsibility of legal persons.

In the above quote we find interesting one very important question, about the difference between "an animated instrument of an administrative offense" and the actual subject of the same offence. These differences can be summarized in the following terms: first of all, it is the above "instruments" do not have certain features of the subject of an offence, without which corpus delicti would be absent. In various offenses and they have different content. Let's stop first at the age. In part 1 article 2.3 of the CAO RF is enshrined that "a person who has attained the age of sixteen years old by the moment of committing an administrative offence shall be administratively liable".

Therefore, persons who have not attained the age of 16 may not be the subject of an administrative offence, and act within the framework of this event in the role of "an animated instrument of an administrative offense". These provisions are clearly realized in article 20.22 of the CAO RF, where is enshrined that "appearance of minors of an age of less than 16 years in a state of alcoholic intoxication, as well as their drinking alcohol and alcohol-containing products, their consumption of drugs and psychotropic substances without doctor's prescription,

or other stupefying substances in streets, stadiums, in public gardens, parks, in a public transport vehicle and in other public places – shall entail the imposition of an administrative fine on parents or on other legal representatives of the minors in the amount of from 300 to 500 RUR".

Another important factor characterizing an animated instrument of an administrative offense is that the person acting as the "instrument" must be insane at the time of commission of an administrative offence. Then begins to act the rule provided for in article 2.8 of the CAO RF, where is enshrined that "natural person who, when committing wrongful actions (inaction), was insane, that is, could not comprehend the actual nature and wrongfulness of its actions (inaction), or could not direct them as a result of a chronic mental disorder, or a temporary mental disorder, or imbecility, or any other mental disease, is not subject to administrative responsibility".

Thus, if in the event of an administrative offense a wrongful act is actually committed by an irresponsible person, it cannot be regarded as a legitimate and independent subject of responsibility regarding this administrative offense. In our view, it should be considered only as an animated instrument of an offense, because the absence of such a feature as sanity excludes this person from the number of subjects of administrative responsibility. Moreover, in the said event of an administrative offence must be visible rationally and objectively provable relationship between the real subject of responsibility and its animated instrument of committing an administrative misconduct.

In other cases of administrative responsibility, the signs of restrictions for "a state or municipal employee (former state or municipal employee)" are taken into account when taking them to work. In this case, it is a violation of restrictions that entail administrative responsibility enshrined by article 19.29 of the CAO RF for "bringing to work or performing works or provision of services under a civil contract, in the cases stipulated by federal laws, of a state or municipal employee (or former state or municipal employee) who replaces (replaced) a post included in the list established by normative legal acts of the Russian Federation, in violation of requirements of the Federal Law "On Combating Corruption" [1].

This administrative offence can be committed only through mandatory assistance of such animate "instrument of an administrative offence" as "a state or municipal employee (former state or municipal employee) who was hired illegally. Consequently, a person without signs of the subject of the considered administrative offence must compulsorily and in turn have the following special features: 1) to be a current state or municipal employee or former state or municipal

employee; 2) it should be subjected to the restrictions provided for by article 12 of the Federal law "On Combating Corruption", which are also enshrined in a special list of posts [2].

Consequently, restrictions or bans of a public official have created a special system of signs, which, in turn, form a separate type of offenses where there is animated instrument of an administrative offense. However, all that still does not mean that other offenses will be developing under the same scenario, and only with the same prohibitions and restrictions for the respective accomplices of an administrative offense. Actually, there is a wide variety of many combinations and sequences characterizing animated instruments of an administrative misconduct in administrative practice.

Proof of this can be the next example of the CAO RF. One of the types of animated "instruments of committing an administrative offenses" is unidentified persons who were in contact with HIV-infected or infected with a sexually transmitted disease, as well as persons who had contact with the mentioned persons, creating the risk of contracting these diseases", which are called "the sources of contamination" in the legislation on administrative offences of the Russian Federation (article 6.1 of the CAO RF). In this case, "patient", who is the subject of an administrative offence, must not be confused with "the source of infection" that acts as an animated instrument of the administrative offence.

Thus, we have three categories of unidentified persons – sources of infection, acting in the role of "instruments of committing administrative offences" under article 6.1 of the CAO RF: first, it is unknown persons who have been in contact with HIV-infected patients; second, persons infected with venereal disease who have been in contact with the above patients; third, other persons who have had contacts with the mentioned persons and creating the risk of infection listed diseases, i.e. those people who have come into contact with "our" sick before or after the events of the offence, what is deliberately being remained silent by this subject.

It is likely that these unidentified persons will never be revealed to be brought to administrative responsibility, but really and actually with their "assistance" particular administrative offenses have been committed, responsibility for the commission of which is provided for by article 6.1 of the CAO RF. They should therefore be regarded only as animated "instruments of committing administrative offences" regarding this misconduct. If recompense prevails and these "unidentified persons" are detected, then they will be presented in the framework of already other elements of an offense as the subjects of administrative responsibility.

Therefore, regarding an appropriate administrative case they will just remain merely "instruments of committing administrative offences".

Consequently, delimiting sign between the real subject of responsibility and its instrument of committing an offense will be the legal fact that the patient brought to administrative responsibility really exists, is known and available to law enforcement agencies, and the other three categories of "unidentified persons" are not defined, known or available for them. Therefore, these "sources of infection" that have taken real participation in the commission of illegal deeds in the considered event of an administrative offense can only act in the role of animated instruments of committing the administrative offense.

To the following animated "instruments of committing administrative offenses" can be referred a person engaged in illegal activity organized by the subject of administrative responsibility. Although the above "instrument" commits a wrongful act, but it cannot be held liable under the considered article, as the hypothesis of this article does not contain a deed committed by the respective "instrument". An example of this is article 6.12 of the CAO RF, which provides for administrative responsibility for "deriving income from engagement in prostitution, where this income is connected with another person's engagement in prostitution". The mentioned in this hypothesis "other person" can be referred to an animate instrument of committing an offence.

It is believed that in this "business" it is also reasonably to bring to responsibility men who are the clients of prostitutes. In this case, they can be seen as "animated instruments of committing administrative offenses" too. In France, they made an attempt to introduce criminal responsibility for such "clients", which has been operating in Sweden for several years [3, 11]. In some countries disciplinary responsibility is applied to the above "instruments". For example, three agents were fired after a sex scandal during the "Summit of the Americas" in Colombia, when "United States special service officers were trying to use the services of prostitutes" [10, 10].

The main sign that characterizes this "instrument" is that this "other person" has to engage in prostitution organized exactly by the mentioned above subject of administrative responsibility (a pimp), which is brought to responsibility under article 6.12 of the CAO RF. The relations between them should be really visible and rationally proven by law enforcer. Otherwise, the administrative case will fail and the offender will remain unpunished.

Thus, the delimiting sign between the subject of responsibility and the instrument of this administrative misconduct will be the fact that a pimp organizes

prostitution, and the "other person" actually engaged in prostitution, performs it. Actions of the "other person" are incompatible with the objective side of the misconduct provided for by article 6.12 of the CAO RF. Thus, the difference of the committed wrongful deeds acts as a separator for the signs of the subject of responsibility and its animated instrument of an administrative offense. In respect of "another person", legislation establishes administrative responsibility for it, but only already under article 6.11 of the CAO RF for "engagement in prostitution".

However, in this logical chain, there is one more unpunished subject that with interest represents the demand for such services. We are talking about the consumer who is ready to pay any money to prostitutes, only to implement their intimate interests, and this, in turn, provokes, as a rule, women of easy virtue to the temptation of perverse earnings. There is no doubt that this consumer also acts here in the role of a kind of an animate instrument of committing an administrative offence".

In our opinion, if the Russian legislation is really going to fight against this social evil, it should bring to responsibility the whole range of its subjects, but not just the individual functional participants of the above process – fallen women and their pimps. Foreign experience is interesting in that regard. For example, the Israeli Knesset in first reading approved the Bill on criminal responsibility for the use of prostitutes' services. The first violation of the law supposes obligatory visit of a special seminar, the second – imprisonment of up to six months" [7, 23].

Citizenship may be a sign, which separates the subject of administrative responsibility from the instrument of an administrative offense. For example, some articles of the CAO RF recognize a foreign citizen or a stateless person as an animated "instrument of an administrative offense". We are talking about part 1 article 18.15 of the CAO RF, which provides for administrative responsibility for "attraction to work in the Russian Federation of a foreign citizen or stateless person when this foreign citizen or stateless person does not have a work permit or a patent, if such permits or patent are required under federal law".

Consequently, an entrepreneur, attracting to paid work a foreign citizen or stateless person, with their help violates relevant prohibition provided by law, and thus becomes the subject of an administrative offense under part 1 of article 18.15 of the CAO RF. He implements illegal attracting to work of a foreign citizen or person without citizenship.

In a footnote to this article an explanation is given that "for the purpose of this article, admission in any form to perform work or provide services or other use of

the labor of a foreign citizen or stateless citizenship is meant under the attraction to work in the Russian Federation of a foreign citizen or stateless person. In the case of illegal attraction to work in the Russian Federation of two or more foreign citizen and (or) stateless persons, administrative responsibility defined in this article is incurred for violation of the rules of attracting to work in the Russian Federation of foreign citizens and stateless persons (including foreign workers) in respect of each separate foreign citizen or stateless person".

On the other hand, a foreign citizen or stateless person in respect of this administrative offence acts as an animate instrument of the misconduct, with assistance of which, and to a greater extent, the very wrongful act is implemented. Without its active work, in fact, there will not be the composition of an administrative offence, but the hypothesis of part 1 article 18.15 of the CAO RF does not provide for measures of responsibility for the said foreign citizen or person without citizenship. Thus, the actions of an entrepreneur who illegally attracts to work a foreign citizen or a person without citizenship and the actions of a foreign citizen or stateless person itself, which acts into the role of an animated instrument of a misconduct, cannot be considered equal regarding committed deeds and responsibility for them.

Summing up the analysis of such animated instrument of an administrative offense as a man, we can conclude that we have considered the above "instrument" as an optional sign, located within the boundaries of the objective side of an administrative offense, but obtains its legitimacy from a completely different element of the offense, from the subject of the offense, and which has failed to materialize as such due to the unique design of the hypothesis of law norm. Therefore, the person concerned can actually participate in an administrative offence only as an animated instrument of committing an administrative offense. Moreover, for its illicit conduct this animated instrument will never be imposed an administrative penalty within this particular misconduct.

Given examples allow us to derive common features of an animated "instrument of committing an administrative offense" in the form of man, which are as follows:

1) In a considered administrative offense must be involved, at least, two real participants of the offense. One of them is a subject of the misconduct, and the other is an animated instrument of committing the same offense.

2) Animated "instruments of committing administrative offenses" never match on the content of their wrongful conduct with a wrongful deed of the subject of the relevant offence.

3) The hypothesis of legal norm in administrative legislation never contains a wrongful act committed by an animate instrument of an administrative offense, except in cases related to the failure of such person to reach appropriate age, and mental incompetence.

4) Animated "instrument of committing an administrative offense", in essence, is a person who, for whatever reasons, cannot be held administratively liable in respect of, as a rule, exactly this offense, except in cases related to the failure of such person to reach appropriate age, and mental incompetence.

5) The formal grounds of inability to bring an animated "instrument of offense" to administrative responsibility, in our opinion, may be the following: first, minors' failure to reach sufficient age to bring them to administrative responsibility; second, mental incompetence of the subject of a misconduct; third, a real lack of understanding by the subject of responsibility of the fact that it performs a wrongful act at the behest of another person; fourth, there is an absence of responsibility for the actions implemented by an animated "instrument of committing an administrative offense" in this composition of offense, and etc.

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VOLUNTARY DISCLOSURE OF INFORMATION REGARDING THE FACTS OF CORRUPTION AND FRAUD (FOREIGN EXPERIENCE)

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On the example of the British Serious Fraud Office (SFO) are considered problems that prevent companies to start active co-operation with law enforcement authorities at the time of committing economic crimes. The author notes inability to guarantee a positive result for the companies that voluntarily disclose information on corruption and fraud.

Keywords: corruption, fraud, countering corruption, information about corruption, voluntary cooperation with law enforcement authorities, voluntary disclosing of information.

Nowadays, such a practice as cooperation with state agencies to combat corruption is quite widespread among companies in Western Europe and North America.

So, Rupp J. P. and Melia A. point to cases where companies are either involved in corrupt, fraudulent activities, or have a suspicion that some of their units are involved in such facts, and when these companies are willing to disclose all the information about the fraudulent transactions with their participate and do their utmost to promote law enforcement authorities in the investigation of such cases. It is noted that the companies that voluntarily have come to such co-operation, subject to a certain number of conditions have the opportunity to avoid qualification of such acts as criminal ones, and will be prosecuted in civil proceedings. This procedure appeared in the United States and in Britain, where there is already some success [1].

Britain's Serious Fraud Office (SFO) took the first steps to putting into practice a concept that would provide greater revealing of corruption cases. Foreign Corrupt Practices Act (FCPA) was the catalyst for this initiative in the United States.

Serious Fraud Office (SFO) was established in 1988 to identify individuals and legal persons that earn revenue by fraud, in order to protect individual persons and companies affected by financial fraud; to promote good corporate governance; of strengthening the reputation of London (the capital city of financial honesty and transparency) and ensuring the position of the UK as an outstanding international financial and business center. SFO was established to deal with serious economic crimes and help British business practices. Such assistance includes any person, organization or government both in the UK and abroad, which have undergone direct monetary losses from serious and complex fraud or corruption [2].

SFO is responsible to the Attorney General, and has jurisdiction over England, Wales and Northern Ireland, works in close collaboration with the City Police of London (Metropolitan Police), in addition also helps to conduct overseas investigations through obtaining and transmitting information necessary to investigate cases of fraud. So, according to Section 2 of the Law of the UK from 1987 on Criminal Court Proceedings, SFO has special binding powers to require any person (or business / Bank) to provide all the relevant documents (including confidential ones) and answer any relevant issues, including confidential ones. In 2010-2011 SFO has helped on such problems to more than thirty different jurisdictions [3].

In August 2009 SFO in its document "SFO's Approach to Investigation Cases of Foreign Corruption" in addition to describing the obvious advantages of this concept disclosed the basic requirements for companies that are focused on

co-operation in this field. These requirements are intended to substantiate the sincerity of companies in an effort to assist in investigation and desire to correct an arisen situation. Important is the firm intention of companies to bring qualitative changes in its structure in order to avoid a repetition of incidents. The main principle offered by the SFO is a comparison of the costs of a company, which it will incur in connection with the voluntary disclosure of corruption, with the implications for it and for its leadership that will come as a result of revealing corruption by the SFO not on a voluntary basis. Referring such cases to the category of civil, the public authority greatly facilitates the fate of a company suspected of corruption, when the latter will have to shame its own name and pay a certain amount of fine, but will avoid imprisonment of its leaders. In recent years, this form of cooperation has gained great popularity with stricter regulation of corporations' activities.

However, the evolution of approaches to the voluntary disclosure of information and cooperation is as follows. The first question, which is to be faced by a company after detecting potential criminal actions, – is it worth it or not, and if it is, then – when to disclose this information? Despite the fact that the voluntary disclosure and cooperation primarily affects on the judgment regarding an offense, the cost of this disclosure can be quite substantial. In general, in this situation, the best approach is to conduct an internal investigation to gather the necessary information to make a reasonable assessment of the need for disclosure of information about a potential problem. However, ultimately, the decision about the necessity of disclosure must be carefully considered after consulting with an attorney.

Thus, such a system has both obvious advantages and distinct disadvantages. One of these drawbacks is the fact that the SFO does not guarantee that the outcome of investigation will be considered in civil proceedings, and not in criminal one, and that the company can really lay claim to the mitigation of punishment in the course of investigation. The SFO does not enter into any agreements with companies, which would clearly mean positive consequence resulting from the collaboration, but on the contrary, the actions of the SFO in some aspects may be contrary to the independence of court, which must make a final decision. This drawback is also aggravated by the fact that even if a company receives the mitigation in the form of exception the criminal aspect of the case, those fines, which as a result will be imposed, can be extremely high, and the company will have to suspend its operations due to bankruptcy.

An example is the case of the company Innospec Ltd, which is a manufacturer of fuel additives based on lead (lead tetraethyl), with the parent company Innospec Inc. in the U.S.A. In this case, the parent and affiliate company, had been involved

in systematic violation of the UN sanctions in respect of Iraq in the period from 2000 to 2003, and they were affecting the persons who took decisions on state procurement of lead tetraethyl in Indonesia from 1999 to 2006. In the course of investigation, the British SFO and the U.S. Department of Justice and the Securities and Exchange Commission agreed that the company had to pay a substantial amount of fine, but its size must not exceed the amount, after payment of which the company could go bankrupt. As a result, the judge who conducted the case determined the fine, which was required by the SFO, inadequate and unequal to the offense committed. The judge harshly criticized the actions of these bodies, pointing out that there is no indication on such cases, moreover on the amount of fines and even their limits in the law. The judge also recommended to do not ever enter into such agreements with companies, expressing the idea that only the court ultimately determines the punishment. Thus, was created a precedent where the company had faced a risk of "revealing" itself, without getting anything in return, which showed the shortcoming of the concept.

According to the law, the SFO has no right to impose any sanctions on companies, or to enter into agreements of this kind. Eventually, it remains unclear how popular such a measure will be in the next few years and how its popularity will be affected by the failure to guarantee a positive result in the end of proceedings. However, British and American law enforcement systems are working hard to create new incentives for companies in order to disclose information on the evidence of their involvement in corruption and fraudulence.

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ADMINISTRATIVE RESPONSIBILITY FOR OFFENCES IN THE FIELD OF ROAD TRAFFIC SAFETY UNDER THE CODE ON ADMINISTRATIVE OFFENCES OF THE REPUBLIC OF KAZAKHSTAN

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Basing on the review of normative provisions of the Code on Administrative Offences of the Republic of Kazakhstan that establish responsibility for the commission of offenses in the field of road safety and comparing past changes in the legal regulation of this sphere it is argued about occurrence the problems of law enforcement among bodies of administrative jurisdiction.

The author notes the necessity to return in the national legislation to the principle of equitable liability for administrative offenses.

Keywords: administrative responsibility, road traffic safety, administrative responsibility of pedestrians, administrative fine.

Transport, traffic rules and safety on transport is an integral part of human life. Each of us, in view of the need for transportation (on any available form of transport), are involved in maritime, air and road traffic as a driver, passenger, pedestrian. By participating in the movement of vehicles (or as a passenger, pedestrian etc.), we comply with the requirements of established traffic rules. The most important of which are road traffic rules – compliance with traffic lights,

signs of a traffic controller, traffic signs and markings, as well as normative acts governing the interrelations of road users [1, 4].

In order to tighten administrative-legal sanctions for offenses in the field of road safety, and strengthen anti-corruption measures the Law of the Republic of Kazakhstan from 04.07.2008 introduced amendments to the Administrative Violations Code of the Republic of Kazakhstan in: Chapter 27 "Administrative violations in transport, highways and communications", article 461 (Violation of the rules for the operation of vehicles), 461-1 (The use of telephone or radio station by driver while driving), 462 (Exceeding established speed limit), 463 (Failure to comply with the rules of stopping route vehicles, traffic in residential areas, transportation of passengers and cargo and other serious traffic violations by the drivers of vehicles), 463-1 (Failure to comply with the rules of passage of intersections or crossing a roadway), 463-2 (Failure to comply with the rules of maneuvering), 463-3 (Violating the rules of locating a transport vehicle on the roadside, of passing each other, when driving in opposite directions, or of overtaking), 463-4 (Violating the rules of stopping or parking transport vehicles), and also in article 473 (Violating the Traffic Regulations by a pedestrian or by any other person participating in road traffic), etc. [2]. Under these amendments, sanctions of the specified articles have been converted into strict penalties and greatly increased. As administrative penalties they provide for a main measure – an administrative fine of a strictly defined amount (in the first five parts, mainly – 5 monthly calculation indexes).

Article 473 of the Administrative Violations Code of the Republic of Kazakhstan provides for administrative responsibility of pedestrians (and other road users) for failure to comply with and violation of a number of prohibitions and restrictions enshrined by the Traffic Regulations [11, 212]. Among such offences the most common is the crossing of a roadway by a pedestrian at a wrong place – responsibility under part 1 article 473 (fine in the amount of 5 MCI). It should be noted that prior to the introduction of these amendments penalties for such an offense were imposed in the form of a warning or a fine of one-fifth to one-half of MCI [9].

In the theory of administrative responsibility has long been proven the value and appropriateness of strict and relatively-strict sanctions, basic and additional penalties in the legislation on administrative offenses [8, 203]. The establishment of minimum and maximum limits for measures of administrative responsibility allowed implementing of the main objectives of proceedings on administrative offences, taking into account a number of circumstances to be clarified in considering a case concerning an administrative offense, individualizing of punishment.

A negative situation occurred with the introduction of the considered amendments (Law of the RK No. 55-IV from 04.07.2008). So, according to statistics (prior to amendment of sanctions) under part 1 article 473, only for the first quarter of 2008, the traffic police officers of Karaganda DIA brought to administrative responsibility 240 individuals [6]. When, for the entire 2012 year total number of sanctions estimated 46 (after amendment of sanctions) [7]. The downward trend is visible. However, this result is far from a qualitative increasing of legal consciousness of citizens, tightening of sanctions and, as a consequence, their preventive effect.

According to unofficial survey of representatives of the specified service, the number of offenders has not diminished. Due to the stringency of sanctions, police officers less likely record the facts of violations of rules of crossing roadways by pedestrians. Today, in accordance with article 649 of the Administrative Code, it seems impossible to impose an administrative fine in the light of the circumstances that must be clarified when imposing an administrative penalty (a form of guilt, the nature and consequences of deed, identity and property status of the subject of responsibility, mitigating and aggravating circumstances, etc.). Nowadays, the only sanction is a fine in the amount of 5 MCI [10]. In such a way the state put our traffic police officers before a "great humanistic" choice: to let go a World War veteran "limping across a road for some bread", or to act according to the law and fine him despite his military achievements, in the amount of 5 MCI.

"An important part of administrative law is administrative-tort law, the development prospects of which are associated with the updating of legislation on administrative offenses, the basis of which should be based on recognition of directly applicable, defining the meaning, content and application of laws constitutional norms on the rights and freedoms of man and citizen. Legislation on administrative offences should be maximally oriented on the restoration of violated rights, prevention of legal conflicts in society through administrative and legal measures. At that, there must be full respect for the principle of proportionality to social danger degree and the nature of an offence in the formation of administrative and legal sanctions" [3].

One could only hope that the priorities set by the Concept of legal policy of the Republic of Kazakhstan for the period from 2010 to 2020 will put the principles of fair responsibility for administrative offences back. It should be noted that this problem remains in the draft of the Administrative Violations Code of the Republic of Kazakhstan (new edition) [5].

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