**Artículo de investigación**

# Corruption Risks as a threat to the national security: A comparative analysis of their prevention and minimization

Los riesgos de corrupción como una amenaza para la seguridad nacional: un análisis comparativo de su prevención y minimización

Коррупционные Риски Как Угроза Национальной Безопасности: Сравнительный Анализ Их Предупреждения и Минимизации

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**Abstract**

*The purpose of the study* is to identify the impact of corruption risks on the national security based on the global anti-corruption practices by using the interdisciplinary approach. Methods: the comparative legal, dialectical formally legal, statistical, and other methods of the scientific knowledge have been applied during the study. Contents. The concept of "risk" developed by economic scientists has been studied. Based on this, it is extrapolated to the concept of "corruption risk". The practice of minimizing corruption risks in various countries, including Russia, has been analyzed. The legal expertise of Russia has been compared to the measures on reducing corruption risks and ensuring the national security taken in other countries. It has been substantiated that the category of "uncertainty" that is the basis for the concept "risk" developed by economists is also important for determining corruption risks, but at the same time corruption risks are not limited only to the uncertainty of legislation or the powers of state bodies. Conclusion. Based on the analysis of global practices related to minimizing corruption risks, the absence of measures for their

**Аннотация**

Цель исследования – выявить воздействие коррупционных рисков на национальную безопасность на основе мировых практик борьбы с коррупцией и использованием междисциплинарного подхода. Методология исследования: в процессе исследования применялись: сравнительно-правовой, диалектический формально-юридический, статистический, а также иные методы научного познания. Основное содержание. Исследуются понятие «риск», разработанное учеными-экономистами, на основе чего происходит его экстраполяция на понятие «коррупционный риск». Анализируется практика минимизации коррупционных рисков в различных странах, в том числе и России. Сопоставляется правовой опыт России с мерами по снижению коррупционных рисков и обеспечению национальной безопасности, которые существуют в других странах. Обосновывается, что категория «неопределенности», которая лежит в основе понятия «риск», разработанного экономистами, обладает значением и для

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comprehensive reduction in Russia has been proved, because the possibilities for establishing an institution of civil liability and liability of legal entities for committing corruption offences, as well as civil confiscation widely applied in other countries are not taken into account. The legislation uncertainty is not the only factor that predetermines and increases corruption risks. It goes together with social, economic, political and other factors. Corruption risks are directly related to the national security.

**Keywords:** corruption, corruption prevention, corruption risks, types of corruption risks, comparative law, corruption offence, minimization of corruption risks, international cooperation.

определения коррупционных рисков, но одновременно коррупционные риски не сводятся исключительно к неопределённости законодательства или полномочий государственных органов. Выводы. На основе анализа мировых практик минимизации коррупционных рисков доказывается отсутствие мер по их комплексному снижению в России, так как не учитываются возможности установления полноценного института гражданско-правовой ответственности и ответственности юридических лиц за совершение коррупционных правонарушений, а также гражданско-правовой конфискации, что широко применяется в других странах. Неопределенность законодательства является не единственным фактором, которые предопределяют и увеличивают коррупционные риски, она действует в совокупности с социальными, экономическими, политическими и иными факторами. Коррупционные риски находятся в прямой зависимости с национальной безопасностью.

**Ключевые слова:** коррупция; предупреждение коррупции; коррупционные риски; виды коррупционных рисков; сравнительное правоведение; коррупционное правонарушение; минимизация коррупционных рисков; международное сотрудничество.

**Resumen**

El propósito del estudio es identificar el impacto de los riesgos de corrupción en la seguridad nacional sobre la base de las prácticas globales contra la corrupción mediante el uso del enfoque interdisciplinario. Métodos: durante el estudio se aplicaron los métodos comparativos legales, dialécticos, jurídicamente formales, estadísticos y otros del conocimiento científico. Contenido. Se ha estudiado el concepto de "riesgo" desarrollado por científicos económicos. Sobre esta base, se extrapola al concepto de "riesgo de corrupción". Se ha analizado la práctica de minimizar los riesgos de corrupción en varios países, incluida Rusia. La experiencia legal de Rusia se ha comparado con las medidas para reducir los riesgos de corrupción y garantizar la seguridad nacional adoptada en otros países. Se ha comprobado que la categoría de "incertidumbre" que es la base del concepto "riesgo" desarrollado por los economistas también es importante para determinar los riesgos de corrupción, pero al mismo tiempo los riesgos de corrupción no se limitan solo a la incertidumbre de la legislación o la Poderes de los organismos estatales. Conclusión. Sobre la base del análisis de las prácticas mundiales relacionadas con la minimización de los riesgos de corrupción, se demostró la ausencia de medidas para su reducción integral en Rusia, debido a las posibilidades de establecer una institución de responsabilidad civil y de responsabilidad de las entidades legales por cometer delitos de corrupción, así como No se tiene en cuenta la confiscación civil ampliamente aplicada en otros países. La incertidumbre de la legislación no es el único factor que predetermina y aumenta los riesgos de corrupción. Va de la mano de factores sociales, económicos, políticos y otros. Los riesgos de corrupción están directamente relacionados con la seguridad nacional.

**Palabras clave:** corrupción, prevención de la corrupción, riesgos de corrupción, tipos de riesgos de corrupción, derecho comparado, delito de corrupción, minimización de riesgos de corrupción, cooperación internacional.

## 1. Introduction

The corruption is recognized by the world community as an international problem that has long overgrown national borders, penetrated international organizations, and threatens the world law and order, as a whole. If the corruption is defined as one of the threats to the national security, it becomes obvious that a corrupt official is a public officer who must fight against the corruption and ensure the national security. Being a kind of "a cog" of the state mechanism, it starts working against state interests, and in systemic cases it can make the mechanism of an entire state body function for the purpose of organized criminal groups. If in the state mechanism the number of such officials increases, it internally reconstructs the entire state body in a hidden manner. The name and authority of such body becomes a "screen" that serves as a cover for its illegal functioning. If there are such bodies, it is difficult to state about the democracy, the rule of law and civil society, because the true and main goal of the state is to protect the rights and freedoms of a man and a citizen, and the national and international security are not realized.

The concept of the national security is very capacious and is used in various government documents. The term "national security" is considered to be introduced into policy by T. Roosevelt, the US President, in 1901. He used it in his message to the Congress. In particular, it focused on achieving social justice. It was the social area where the US government suffered the greatest problems at that time. The message noted that the discontent of the masses caused by the growth of corruption and the dominance of monopolies was getting more and more intense (Mitchell, Davies, 1969).

Over the time, priorities of the national security may change. Besides, they have their own specifics for a particular state at a certain stage of its development. In Russia, the National Security Strategy is defined by the Decree of the President of the Russian Federation dated December 31, 2015, where the national security is interpreted as "the protection of an individual, society and the state from internal and external threats, which ensures exercising of constitutional rights and freedoms of citizens of the Russian Federation, decent quality and standard of their life, sovereignty, independence, state and territorial integrity, and sustainable socio-economic development of the Russian Federation". It is noteworthy that the concept of "ensuring the national security" provides for taking measures, including legal ones, not only by state bodies, but also by local authorities and civil society institutions. It is necessary to note that the corruption is mentioned as one of other threats in the strategy of the Russian national security. In addition, it is stated that "special attention is paid to the liquidation of the reasons and conditions causing the corruption that is an obstacle to the sustainable development of the Russian Federation and the implementation of strategic national priorities. For these purposes, the National Anti-Corruption Strategy and National Anti-Corruption Plans are implemented, an atmosphere of unacceptability of this phenomenon is being formed in the society, the level of responsibility for corruption crimes is increasing, and law enforcement practice in this area is being improved" (clause 44). The anti-corruption strategy itself was approved by the Decree of the President of the Russian Federation dated April 13, 2010.

Not only Russia, but the entire world community have realized the danger of the corruption, recognized it as an international problem, which caused the adoption of a number of fundamental international normative legal acts aimed at fighting against the corruption, namely: the UN Convention "Against Corruption" (adopted by the UN General Assembly at the 51st plenary meeting on October 31, 2003), the UN Declaration "On Fighting Against Corruption and Bribery in International Commercial Transactions" dated 16.12.1996, the International Code of Conduct for Public Officials (adopted by Resolution 51/59 of the UN General Assembly), etc. Russia has ratified the above international regulatory legal acts (Collection of the legislation of the Russian Federation, 1996; 1997; 2006). In addition, a number of regional conventions aimed at fighting against the corruption was adopted.

Over the time, the forms and types of the corruption behavior, as well as the penalties for committing them, have changed. It is important to note that the corruption was characteristic of all states in all historical epochs of their development. However, since the late 20th century, the corruption has grown beyond national boundaries, and coexisted with the organized and international crimes. It started defeating the mechanism of not only state bodies, but also international organizations and was inevitably associated with laundering of money and other property obtained by criminal means. Bribery by officials is used as a means of committing such dangerous international crimes as the slave trade, illegal migration, and drug

trafficking. In total, these crimes are dangerous not only for a single state, but also for the world community, as a whole. As a rule, a separate act of the corruption behavior is a way or means of another equally dangerous act. Thus, the corruption causes other crimes that in their turn lead to new crimes in the new round of the "criminal spiral". It is not possible to completely defeat the corruption. It is only possible to reduce its level by minimizing corruption risks.

According to the statistics, the corruption is directly related to the national security and life quality. Thus, a simple comparative analysis suggests that in the countries with a low level of corruption, there is a high standard of living of the population, while in the countries with a high level of corruption, the standard of living is extremely low.

State power is the sphere that is initially characterized by increased risks of corruption actions taken by its holders – certain state and municipal employees. Figuratively speaking, it is akin to a source of a heightened danger, because there can always be a power holder who has little legal awareness and informally cooperates with organized criminal groups or private business or starts extracting bribes. This results in the urgency of studying various corruption risks that should be taken into account in the anti-corruption and national security strategy. At the same time, during the study it seems to be promising to use the method of comparative legal analysis that allows showing the best international practices or identifying the problems when fighting against the corruption, as well as analyzing corruption risks, seems promising. Besides, the scientific research on corruption risks should be characterized by interdisciplinarity and use the achievements of various sciences. Thus, it seems relevant to address the concept of "risk" developed in economics and other sciences.

## 2. Methods

The research design is related to identifying the nature of corruption risks based on the general concept of risk and developing recommendations for minimizing them. The research design presented in the work is based, among other things, on a comparative legal analysis of legislative and other measures aimed to minimize the risks of corruption that are implemented in Russia and other states. In addition, since the concept of corruption risk is relatively new for jurisprudence, understanding of risks in economics and sociology is the basis for its development. We used the dialectical method of scientific research of corruption risks, from the point of view of which they were considered in their development and dynamic, as well as in connection with the facts of social reality. The formal legal method was applied as well, based on which contradictions and uncertainties in the legislation leading to legal corruption risks were identified. Based on the comparative legal method, the legal experience of various countries of the world community in minimizing corruption risks was studied. The empirical basis of the study was the legislation of Russia, the USA, Canada, Singapore and other countries, as well as legal and other practices aimed to minimize the risks of corruption, which served as baseline data for analyzing the risks of corruption. The study used data obtained from a survey of the population, which shows their perception of corruption, as well as statistical data, based on which it is possible to assess the effectiveness of measures to reduce corruption risks. The methods of deduction and induction, analysis and synthesis, observation and comparison were also used.

## 3. Results

### 3.1. Analyzing the Concept of Risk and Corruption Risk

It is necessary to consider representatives of the economic science and sociology as the founders of studying the "risk" concept. Thus, Niklas Luhmann noted that "a risk is the existence of threats and probable losses for an individual" (1990, p. 135). He considered that the risk was based on the notion "decision" that caused the risk. It is necessary to note that N. Luhmann was a sociologist, and representatives of economics associate risk with the uncertainty and a large proportion of probabilities (Luhmann, 1990, p. 135). Accordingly, the reduction of uncertainty causes the decrease in risk occurrence. If the provision of the economic theory is extrapolated to a legal language, it is possible to immediately identify two factors of the corruption risk. Firstly, the uncertainty of some provisions of regulatory legal acts or the entire regulatory legal act, as a whole, is the basis for a double interpretation of a legal norm, and, accordingly, the risk of committing corruption acts. Secondly, the lack of clear certainty in the powers of state bodies, duplication of powers, in particular, controlling, increase the risk of corruption. Thirdly, the uncertainty of powers causes similar actions, secondary legal acts (official requests, letters of instruction), etc. that are of an indefinite nature. When predicting various kinds of risks, the

economic theory does not study historical experience, and prefers probability judgments (Knight, 2003; Keynes, 2002). N. Luhmann associated risks with the "decision" category, but while in business activities decision making is based on various external and internal market factors, and the subject is given a freedom of actions within the legal formula "everything that is not directly prohibited by the law is allowed", the state power is exactly the opposite, and is based on the rule "only what is expressly provided by the law is allowed". Thus, legal uncertainties that make up the basis of decisions taken by public authorities and their officials are a corruption risk.

Ulrich Beck, the German sociologist and political philosopher, defines risk as follows: "a risk is the systematic interaction of the society and the threats and dangers induced and produced by the modernization itself. Risks unlike dangers of the past epochs resulted from the threatening power of modernization and its feelings of uncertainty and fear" (Beck, 2000, p. 122). Beck does not base on one factor that can have an impact on a risk and does not associate it with uncertainty. Baron Anthony Giddens, the English sociologist, argues in a similar way, and focuses on the modernization and globalization, as well as on the increasing number of complex social connections (relationships). At the same time, he indicates that risks are beyond the control of individuals and the state, as a whole (Giddens, 2004, p. 40). If this provision is applied to jurisprudence, it is possible to speak on the reverse of globalization – the occurrence of international corruption relations, transnational corruption, and the penetration of corruption into international organizations.

Far from all provisions developed by economists can be applied to the legal regulation. For example, it is noted that insurance is a means of preventing risks (Giddens, 1994). It is impossible to insure against a corruption act of command. Moreover, the effect rather than the cause is insured. G.A. Satarov, the Russian researcher, defines "a corruption risk as a chance to refuse from a corruption situation by contacting government officials. The risk of corruption is determined by the corruption enthusiasm of bribe takers who create a shortage of public services and from bureaucratic barriers to the primitive extracting of bribes. The risk of corruption is an assessment of the probability that getting into a certain situation (solving a problem), a respondent will be found in a corruption deal" (Satarov, 2008, p. 280). In terms of providing public services and performing activities by state bodies, this interpretation of the corruption risk is little or inefficient, because in the context of the increasing role of the state in providing various types of services and regulating public relations, in their everyday activity more and more citizens address state bodies due to both conflict and nonconflict social relations. It is necessary to focus not on the fact that the subject becomes a participant in legal relations with the state, but on the situations on how to minimize the risk of committing corruption he acts against it. In addition, such interpretation of the corruption risk focuses only on one side of the relationship – an ordinary citizen. Meanwhile, the appellant himself may provoke a corruption act, and it may be beneficial to him. It is necessary to note that, unlike Russia, Western countries began studying the corruption much earlier. For ideological reasons, the existence of corruption was denied in Russia during the Soviet period. Meanwhile, as early as in 1968, Myrdal, the well-known economist, related corruption risks to the discretion of power, i.e. granting officials the right to take decisions on their own (Myrdal, 1968, p. 707).

V.V. Astanin, the Russian legal theorist, defines a corruption risk as the probability of corruption behavior caused by the failure to comply with the obligations, prohibitions and restrictions established for public officers due to their public service, and the fulfillment of powers when performing their professional activities as public officers (Astanin, 2011, p. 115). The definition of corruption risk as made by Transparency International is interesting in terms of jurisprudence. Thus, "corruption risks are considered as risks of corruption phenomena and/or the occurrence of corruption situations". Indicators of corruption risks in a particular area include the lack of transparency in administrative procedures and decision making, the lack of mechanisms and tools to identify and prevent conflicts of interest of officials, the lack of public control" (Assessment of Corruption Risks in Draft Laws Amending Existing Legislation in the Field of State and Municipal Orders, 2011).

Corruption risks are based not only on the legislative uncertainty. Their basis includes the irrational methods of government, formal responsibility and actual irresponsibility of the authorities, lack of transparency in the activities of state bodies, low wages of employees, lack of publicity (public disclosure) in the activities of state bodies and weak mechanisms of the social control.

E.V. Okhotsky subdivides corruption risks into several large groups: legislative, organizational and technical risks that are found when taking management decisions, departmental risks caused by departmental lawmaking (Okhotsky, 2016, p. 239). It is not difficult to notice that, being a sociologist by education, he actually writes about the interrelated groups of causes that come down to the imperfection of the legal superstructure over basic social relations. He does not take into account that the decisions taken (according to the author's terminology, organizational risks) are based on legislation, and a state body or an official cannot do otherwise; they act only on the basis of a law or other regulatory legal act. If to consider the departmental risks associated with the by-law rule-making, their minimization should be provided for in the normative legal acts that establish powers for such rule-making. It is very strange that the sociologist associated corruption risks exclusively with the sphere of law and its imperfection, and, in other words, with uncertainty. After all, there are many other factors that affect the corruption risks found in the social sphere. For example, the environment where there may be tolerant attitude towards corruption, or not only tolerant, but provoking it, when a subject initially characterized by positive moral and ethical attitudes enters a state body with a vertical chain of corruption existing there. Being legal theorists, nevertheless, the authors do not associate corruption risks only with the imperfection of the current legislation. The causes of corruption are also found in the social environment itself, they are due to the low level of legal awareness and other negative phenomena. Corruption risks are complex in their nature, which is primarily substantiated by the systemic nature of corruption, its various causes and conditions.

The legal definition of a corruption risk is given in the Methodological Recommendations of the Ministry of Labor and Social Protection dated February 13, 2013 "On Assessing Corruption Risks Arising when Fulfilling State Functions". The document notes that "corruption risks are conditions and circumstances that provide an opportunity for actions (inaction) of the individuals holding posts of the federal state service and positions in state corporations (state-owned company) in order to illegally extract benefits when exercising their official powers". In the documents, these are functions of public authorities on controlling and supervising, managing state property, providing public services, as well as powers on licensing and registration. Thus, the state recognized these areas as the most dangerous in term of corruption with a high proportion of risks.

When taking legal measures aimed at minimizing the corruption, it is reasonable to use the scientific statements (conclusions) made in other sciences and related to the category of "risk".

### 3.2. Analysis of the Experience of Low-Corruption Countries in Minimizing Corruption Risks

For the purpose of the study, the authors will analyze the expertise of foreign countries. According to Transparency International, the international nongovernmental organization, the countries with the lowest level of corruption include Denmark and Singapore. These two countries were taken for comparison for a certain reason, because they implemented entirely different models for reducing corruption risks and fighting against the corruption.

Ordinary citizens and legal theorists often have a common belief that long periods of deprivation of freedom contribute to minimizing corruption risks, because the very fear of punishment can restrain the offender from the corruption behavior. Meanwhile, according to the criminal code of Denmark, the maximum term of imprisonment for bribing for a public officer is six years, and in the private sector this is four years (EU Anti-Corruption Report, 2014). Thus, either long or insignificant periods of deprivation of freedom act as a factor reducing the corruption and, accordingly, decrease the risks of corruption.

Thus, Denmark is characterized by developed institutions of the civil society, and the mechanisms of control over state bodies by it. High civic engagement of citizens makes a corruption transaction unprofitable due to the high probability of bringing the subject to the legal responsibility. Here it is necessary to return to the thesis expressed by C. Beccaria, the well-known humanist scientist, that "the effectiveness of punishment is expressed not in its cruelty, but in inevitability" (Beccaria, 2004). It is necessary to note that in Denmark there are several state bodies whose main functions are not so much to struggle the consequence, but to reduce anti-corruption risks. These include the Danish International Development Agency, Danish Trade Council, Danish Export Credit Agency, Confederation of Danish Industry, and Industrialization Fund. For example, the Danish International Development Agency implements anti-corruption projects to fight again the high-

level corruption (Ministry of Foreign Affairs of Denmark, n.d.).

Singapore has become one of the countries with a low level of corruption due to a completely different model for preventing corruption. It is necessary to note that this is the country with the largest dynamics in reducing the corruption. Thus, when it obtained its independence (1965), Singapore belonged to the countries with the highest level of corruption, and now, according to the estimates made by various organizations, this is the country with the most favorable conditions for business development, trade, investment and other financial transactions. To fight against the corruption, Singapore had founded the Bureau of Corruption Investigation that had rather broad legal powers. At the same time, the existing legislation abolishing the immunities of public officers was amended. It was also important to adopt the rule that the discrepancy between the income and the property was a ground for the investigation and confiscation of property if the official could not prove the legitimacy of the property origin. At the same time, there was a principle of presumption of the official's guilt in case of the income discrepancy. In addition, the punishment for various corruption actions varied from fines and imprisonment for long periods to the death penalty. Since 1968, more than 400 state officers have been sentenced to death for various forms of corruption in Singapore (Lee, 2013).

However, it was impossible to solve the problem on reducing the corruption by only taking legal measures. At the same time, salaries of state officers were considerably raised. In particular, the salaries of heads of state bodies and judges were comparable to the salaries of top managers, and the salaries of lower-ranking officers were the same as the salaries of middle and lower level managers in the private sector. The salary is still calculated according to the following formula: the officer's salary is defined as 2/3 of the income earned by employees of a comparable rank in the private sector and stated in their tax returns (Lee, 2013).
According to the comparison, the combination of two levels of influence: public and state prevails in the Danish anti-corruption policy model, while the Singapore model is characterized by the dominating role of the government influence that is notable for excessive severity of criminal responsibility for the corruption. In addition, both models are characterized by high salaries of state officers and strict certainty of their powers, as well as institutions for the civil confiscation of property along with criminal prosecution.

The expertise of Canada is also interesting (the country is one of those with a low level of corruption). Here since 2010, about $10 million of the state budget has been annually spent on training "special" officers who, in addition to the ordinary activities, prevent and detect corruption crimes. Every level of all branches of government has such an officer. All other employees are not aware of who exactly is a "special" officer. This is a striking example of internal fighting against the corruption (Canada Today, n.d.).

However, despite the importance of legal and organizational measures that reduce corruption risks, considering one or another expertise related to fighting against the corruption, it is also necessary to take into account the general economic well-being of the majority of the population, national mentality, traditions existing in the society, a general structure and rate of crime, a level of general and legal culture in the country, the development of civil society institutions, as well as a number of other factors.

**4. Discussion**

Comparative Legal Analysis of Legislative and Other Measures to Minimize Corruption Risks Carried Out in Russia by Using the Expertise of Other States

According to Transparency International, Russia is ranked 141 in the corruption list of states. Now, Russia is not ranked lower, and its indicators for the recent decade can be assessed as stably low. At the same time, based on the research made by Transparency International, the most common types of corruption crimes in Russia are bribing high-ranking politicians or parties, and bribing public officials. Meanwhile, according to the official statistics of the Ministry of Internal Affairs of the Russian Federation, based on the number of detected facts of bribery, public sector employees — teachers, university lecturers, and ordinary police officers — are the most corrupt ones (Ministry of Internal Affairs of Russia, n.d.). The comparison of the data provided by the international organization and official statistics of the Ministry of Internal Affairs shows that the fight is focused on the lowest level of corruption that is called "everyday" both in Russian and international studies (Robertsm 2010; Taylor, Walton, Young, 1973; Wiliams, 2012). Obviously, political, legislative or so-called elite corruption is the most dangerous for the society and national security. In addition, the analysis of various departmental regulatory legal acts of the

state and municipal bodies of Russia shows that all bodies have established anti-corruption commissions, consisting of heads of bodies and their deputies. If to assume that the corruption of persons vested with significant powers is the most dangerous one, they happen to fight against themselves. The countries with a low level of corruption focus on public control and interdepartmental control, rather than intradepartmental control. However, the mentality of the Russian society, the lack of an active civil position of the majority of citizens, their misunderstanding of the social danger of corruption also hinder the public control.

In Russia, 1,500 respondents were interviewed by using the interview method. This survey has shown that the problem of high level of corruption (39%) is interesting for the interviewees a bit less than the economy (61%) of the country as a whole and health care (56%), but more than education (26%) and unemployment (26%). More than one third of the respondents (33%) believe that ordinary citizens cannot resist corruption in any way, and a quarter of the respondents (25%) think it is possible to fight against the corruption by refusing to give bribes. It is interesting that from 28% to 62% of the respondents could not answer the question about assessing the degree of corruption in certain institutions of the state power, which means, first of all, their fear to criticize officials (The Barometer of the World Corruption 2017, 2016). Thus, there is a vicious circle. On the one hand, public control is required to reduce corruption risks. On the other hand, the society itself is not ready for it and has a fear of corruption. Finally, on the third hand, it is naive to believe that corrupt officials will start fighting against one another. At best, they will focus their activity on preventing the grassroots corruption.

Now, it is possible to make very disappointing conclusions for Russia: the level of corruption is not growing, but remains consistently high, the fight is carried out against the grassroots corruption, or the so-called "everyday" part of it, there is no developed civil society, which minimizes public control over state bodies and their officials. Due to this, the problem of reducing the level of corruption remains relevant today. It seems that in addition to other measures, it is necessary to use foreign expertise on fighting against the corruption by using civil legal means. Thus, in 2012 paragraph 8, part 2 of Art. 235 of the Civil Code of the Russian Federation was amended. It provided that the basis to terminate the ownership in public interests was the court's decision about the forfeiture of the property to the Russian Federation if in accordance with the anti-corruption legislation of the Russian Federation there was no evidence that it had been acquired legally. However, the law itself raises a number of questions regarding the list of persons it is applied to. It uses the concept "state and municipal offices", but it does not mention state and municipal employees who report on their income and expenses only if the office they take is included in one of the lists accepted at various levels. This law does not stand up to the anti-corruption criticism for a number of reasons. Firstly, it does not clearly define the list of persons it covers. Secondly, the number of relatives is limited to the wife, husband and under-age children. Essentially, the rule is "dead" and is used extremely rarely. In Russia, civil-law mechanisms for confiscating property whose origin cannot be explained by a public official are not actually used. There are no penalties for legal entities that make the corruption unprofitable and make the legal entity itself almost a bankrupt. The situation is different in other states. Thus, "in 2008, Siemens agreed to pay more than $1.3 billion to the authorities of the United States of America and Europe to settle charges of paying $1.4 billion as bribes to conclude large contracts for the construction of infrastructure around the world. In addition, the company paid €850 million as the remuneration to lawyers and auditors" (Rupchev, 2015). In Russia, there are only formal, but not actual, mechanisms of civil liability that do not allow confiscating the property in relation to bribe takers and other persons the property is transferred to in order to confer legal status on it.

The low efficiency of the anti-corruption actions is explained by legal uncertainties in the current legislation that the authors regard as factors increasing corruption risks. Thus, formally, Article 13 of the Federal Law of the Russian Federation "On Anti-Corruption" provides for civil liability for the commission of corruption offences. However, the article is a reference to the civil law. In its turn, Article 225 of the Civil Code of the Russian Federation also refers to the anti-corruption legislation, i.e. to the same normative legal act that previously referred to the civil legislation. In its turn, this kind of uncertainty increases the risk of corruption. It is possible to mention a few cases related to the confiscation of the property obtained by corruption. The Supreme Court of the Russian Federation prepared a review of the judicial practice related to the confiscation of the property obtained as a result of corruption. Analyzing the judicial statistics, the Supreme Court of the Russian Federation indicated that

since January 1, 2013 to January 1, 2017, the courts of the Russian Federation had completed 19 cases, including 12 cases (63%) where the prosecutor's claims were satisfied in full or partially, seven cases (37%) where the claims were denied. Taking into account the scope of the corruption, when Russia is ranked 142, a low level of civil confiscation is obvious. To compare, in Italy, civil confiscation measures against illegal property began to be applied as early as in the 1980s, which allowed confiscating more than 10,000 real estate objects from mafia structures. The scope of confiscation was so wide that in the early 2010 a special agency was created to manage this property (Regulation of the Institution for Confiscating Money and Property…, 2010). The very fact of real mechanisms for the confiscation of property considerably reduces corruption risks, because it makes acts of corruption behavior economically unprofitable.

The studies on preventing or reducing corruption risks show the availability of various models of their leveling that depend on many factors: the form of government, the size of the state territory, legislative traditions, and demographic characteristics of the population (Hough, 2013; Debiel, Gawrich, 2014; Ferreyra, 2017; Graycar, 2013). Russia is known to be a country with a high level of corruption, having a presidential form of government, a federal structure, a two-chamber parliament, and the largest territory as compared to other states. At the same time, neither indicator plays a decisive role in the occurrence of a corruption risk. It must closely interact with other factors. It is necessary to take into account the quality of government itself. It can play a crucial role in countering the corruption. Thus, for example, there are countries with a rather large territory, with a form of government similar to Russia, but with a low level of the corruption, e.g. the USA.

Territorial characteristics are not important for determining corruption risks. For example, Denmark is a unitary state with a low level of corruption and a small territory. The island state of Haiti is one of the leaders in the corruption ratings. It is a republic by its form of government and has a small territory. The form of the state, its structure and other factors have impact on the features of minimizing corruption risks rather than on their availability. For example, states with a large territory tend to the centralization, and, accordingly, the measures that reduce anti-corruption risks are more centralized. The population and the number of civil officials have a certain value. Theoretically, if the population and the number of civil officials increase, the risk of committing a corruption offence by anyone of them is growing, too. However, quantitative characteristics do not matter. Thus, the US population and the number of civil officials are larger than those in Russia, but the level of corruption is lower. Having larger territory and bigger size of the population, the level of corruption in the USSR was lower than in the modern Russia. Consequently, these factors cannot act as a corruption risk. They act only together with other circumstances.

## 5. Conclusion

Some achievements in the economic theory and sociology obtained as a result of studying the concept of "risk" may be quite applicable in jurisprudence. In particular, the developed notion of "risk" based on the category of uncertainty is completely extrapolated to the uncertainty of legislation, the uncertainty of the functions and powers of state bodies and their officials, and the uncertainty of anti-corruption norms that taken together are risks of corruption.

In jurisprudence the factors called corruption risks in the economic and other sciences are referred to the causes and conditions of corruption. Therefore, it is possible to differentiate risks and causes, and conditions only based on their dynamics. Thus, in its statics, the corruption risk, as well as its causes and conditions syncretize, but the dialectic of their development is as follows: their functioning and development in public relations indicate a risk of corruption.

One of the corruption risks in Russia is the weak degree of certainty of the legislation in terms of anti-corruption, as well as the absence of a number of legal mechanisms on its minimization, namely, a full-fledged institution of civil liability for committing a corruption offence that should include the liability of legal entities. In this aspect, Russia needs to borrow the progressive expertise of the states that have a low level of corruption.

The imperfection of the current anti-corruption legislation should be considered as a threat to the legal security of the subjects of public relations that is an integral part of the national security.

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