INSTITUTE OF INDEPENDENT EXPERTS IN CARRYING OUT ANTI-CORRUPTION EXAMINATIONS OF REGULATIONS AND THEIR PROJECTS

Gennadij A. Borisov, Lyudmila V. But'ko, Ivan N. Kuksin, Evgenij E. Tonkov, Vladislav Y. Turanin
Belgorod State University, 85 Pobedy Street, Belgorod, Belgorod region, 308015, Russia
E-mail: turanin@mail.ru

ABSTRACT
Need of improving work on training of independent anti-corruption experts of regulations and their projects are proved by authors. It is noted that the expert has to have special knowledge, at the same time now the given aspect at accreditation of experts is not considered that leads to conducting low-quality examinations.

The system of criteria for accreditation of the person as the independent anti-corruption expert of regulations and their projects is formulated. In particular, new criteria which will allow strengthening expert community are offered, to order work of each independent anti-corruption expert: existence special, including, legal knowledge (for natural persons); conclusion of agreement about cooperation between the accredited person and the Ministry of Justice of the Russian Federation (for natural and legal entities).

Keywords: corruption, expert, independent anti-corruption examination, regulatory legal act, draft of the regulatory legal act, special knowledge.

INTRODUCTION
The common problem of fight against corruption is rather actively investigated in works of various Russian and foreign scientists: C. Dardenne [1], M. Johnston [2], P. De Leon [3], etc. Let's note that in Russia since 2009 the Federal law "About Anti-corruption Examination of Regulations and Drafts of Regulations" in which the status of the independent experts authorized for conducting anti-corruption examination of regulations and their projects [4] is defined works.

Concerning need of existence of such group of experts, efficiency and efficiency of their work for the scientific environment there are brisk discussions recently. The institute of independent anti-corruption examination needs similar discussions as problems in this sphere collected quite a lot. In particular, in foreign countries much attention is paid to questions of need of unity in approaches to conducting examinations, and also systemacity of training in this sphere [5, page 24]. New training courses in the sphere of a judicial expert science are actively developed [6, c.13]. Let's note that, for example, the accurate development of legal regulation of various questions of examination is characteristic of an Anglo-American legal family [7, page 54] what gives an impetus for development of legal support of expert activity and in the countries of the Romano-German legal family.

RESEARCH TECHNIQUE
In work various general scientific methods and ways of logical knowledge are used. Methods of the analysis and synthesis were applied for studying of essence of independent anti-corruption examinations of regulations and their projects. System and structural, functional and formal and logical approaches were involved for detection of system and logical features of formation of criteria for accreditation of the person as the independent anti-corruption expert of regulations and their projects. Application of legalistic and comparative and legal methods allowed to carry out the comparative analysis of these criteria and to draw a conclusion on need of their improvement.
RESULTS AND DISCUSSION

Now in the territory of the Russian Federation more than two thousand independent experts authorized for conducting anti-corruption examination of regulations and their projects - natural persons and 358 legal entities are accredited.

The main criteria for accreditation of natural persons are now:

- citizenship of the Russian Federation;
- higher education;
- length of service as not less than 5 years.

For legal entities:

- existence in the state not less than 3 workers answering to accreditation conditions as the independent expert - the natural person.

In scientific legal community these criteria (the requirement to candidates) it is quite proved are exposed to criticism. So,

T. Y. Habriyeva notes that "quality of conducting anti-corruption examination by the persons who are not possessing legal education, and also experience of conducting such examination will be low" [8, page 13]. E. R. Rossinskaya, E. I. Galyashina and M. L. Podkatilina pay attention that "anti-corruption expertize has to be carried out by the experts competent of the field of law, legal linguistics and branches of knowledge corresponding to a subject of legal regulation of the regulatory legal act and also adjacent areas.

Requirements which are imposed by the Ministry of Justice of the Russian Federation to candidates at accreditation as "independent" experts, first, are underestimated, and secondly, formulated is incomplete and not specifically (from the point of view of ensuring necessary competence)” [9, page 71]. According to O. V. Andryukhina, as the independent anti-corruption experts accredited by the Ministry of Justice of the Russian Federation "a large number of the persons having education of the engineer (the electrical engineer, the engineer-aero hydromechanics, the systems engineer, the metallurgical engineer, etc.), the doctor, the musicologist, etc. meets. In this regard expediency of obtaining such status is unclear, and quality of examinations from such experts is very doubtful or comes down to the narrow sphere of Russian law" [10, page 98].

To the word "independent" in Russian it is possible to pick up several synonyms at once: "free", "sovereign", "original", "uncontrollable", etc. All of them reflect essence of independent anti-corruption examination. But there is also one more synonym - "casual". And so, that the independent anti-corruption expert was not a casual subject in expert activity, and process of independent anti-corruption examination did not turn into imitation of such activity, some additional requirements also have to be imposed to the expert.

It has to have special knowledge, first of all. Now at accreditation of the person as the independent anti-corruption expert this aspect is not considered (we cannot lean here only on the higher education, which, unfortunately, now, often, at all not an indicator of existence of special knowledge). The expert is not just the expert with the diploma, this person who is highly qualified abilities to apply the knowledge and experience to the solution of the tasks set for it. In this case diagnostic and predictive skills, competence of the person, depth of its knowledge of an object of research are important.
The expert is a person who faultlessly understands the business. Has to devote to studying of the sphere of people a lot of time and forces, to be down on to it. The most striking examples are here collectors, people of absolutely different specialities who besides the primary activity with enthusiasm collect coins, stamps, pictures, icons, etc. May they act as experts in these directions? Can and very often act. Other question is in what an object of research is and whether the person who does not have special knowledge thoroughly will be able to understand this subject?

At the description of corruptogenic factors rather difficult legal concepts are used: "discretion", "dispositive establishment of a possibility of commission of actions", "blanket and referential norms", "standard collisions", "abuse of the right", "law-linguistic uncertainty". Knowledge of deep essence of these concepts is the key to implementation of high-quality independent anti-corruption examination of the regulatory legal act (or the project). For the subject who does not have special legal knowledge their understanding and operating by them is represented difficult. Special knowledge can be gained as by means of vocational legal education, and independently, initiative. Everything depends on intellectual potential of the specific person.

In this regard additional criterion for accreditation of the person as the independent anti-corruption expert of regulations and their projects is existence special, including, legal knowledge.

There are offers on an occasion of introduction of a qualification examination on knowledge of a technique and order of conducting independent anti-corruption examination of regulations and their projects, requirements imposed to a form of the conclusion of independent anti-corruption examination and also for check of skills on detection of corruptogenic factors in the text of regulations.

Proceeding from the second expert's sign allocated with us - it has to be the subject who specially is attracted for a research, consultation, elaboration of judgments, the conclusions, offers, that is for conducting examination.

Now independent anti-corruption examination of regulations and their projects is based on desire of the expert, this, by and large, initiative research. The independent expert independently makes the decision, to carry out to it expertize or not, considering that its work according to the provision of Art. 5 of the Federal law "About Anti-corruption Examination of Regulations and Drafts of Regulations" will not be paid. This expertize is carried out at the expense of own means of the expert. Whether it is correct? By and large, implementation of expert work has to be based on the contract which in compliance with item 1 of Art. 779 of the Civil Code of the Russian Federation is the services agreement. The mutual trust of the parties has to be the basis for this contract, and the performer has to receive a payment or other counter rendering of services for execution of the duties. The expert opinion has to be the final document of such agreement.

At the same time we understand that in practice at the conclusion of these contracts with independent anti-corruption experts there will be the whole complex of problems: since establishment of the party customer and finishing with the mechanism of the payment of work of the expert. Not to mention disputes over an occasion of leveling of independence of the expert. Therefore, probably, this "correct" concept in this case is hardly feasible. And nevertheless some system of stimulation of activity of independent anti-corruption experts (moral and material) is necessary.

We consider that option of ordering of activity of the independent expert (which, from our point of view, is extremely important), his attraction to expert work, is conclusion of agreement about cooperation between it and the Ministry of Justice of the Russian Federation (as the Ministry of Justice will accredit independent anti-corruption experts). The cooperation agreement, from our point of view, has to consist together with issue of the certificate on accreditation of the person as the independent anti-corruption expert. Readiness to work under such agreement is one more additional criterion for accreditation of the person as the independent anti-corruption expert of regulations and their projects. In it, in particular, the
legal role of the expert is shown. In this regard, the opinion of A. V. Nesterov who points to a special legal role of the expert, to inadmissibility of mixture of the concepts "expert" and "researcher", "expert" and "scientist" is interesting: "the expert is not knowing and skilled person, and a legal role of the competence-based person, at the same time examination is not a research, but an element of legally significant expert activity in which the persons appointing it, the interested persons and persons designated on its carrying out" [11] are involved.

Let's note that the cooperation agreement is directly not settled by the Russian legislation, but according to part 2 of article 421 Civil Code of the Russian Federation it quite has the right for existence. Moreover, now such agreements are actively applied in the enterprise environment.

The cooperation agreement has some frame character, but it is obligatory for performance by the parties and in is mute it is possible to register, in particular, the rights, duties, responsibility of the expert, and also a guarantee of realization of his power both those moral and material incentives. In this agreement also the minimum threshold of examinations which needs to be overcome for calendar year can be defined. Let's note that having received accreditation, experts have to carry out preparation of examinations not once, this activity has to have system character.

CONCLUSIONS
The institute of independent experts in conducting anti-corruption examination of regulations needs in system scientific the analysis and some adjustment. In particular, the system of criteria for accreditation of the person as the independent anti-corruption expert of regulations and their projects, from our point of view, has to be added with such criteria as: existence special, including, legal knowledge (for natural persons); conclusion of agreement about cooperation between the accredited person and the Ministry of Justice of the Russian Federation (for natural and legal entities).

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