

# Anti-corruption compliance in Russia and minimization of criminal legal risks of business operations

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## Abstract

The definition of anti-corruption compliance is formulated, the reasons properly identified to introduce it into Russian and other companies operating in Russia. The concept and classification of corruption risks are set forth, including unreasonable risks, – the risks of illegal criminal prosecution of the owners and employees of the company. To build up an effective anti-corruption compliance system, it is necessary to establish coordinated work of compliance officers, corporate security agents, and lawyers with specialization in criminal cases of corruption crimes.

**Key words:** corruption risks, anti-corruption compliance, corruption crimes, criminal lawyer.

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## 1. Introduction

For decades, the international organizations and national governments in most of the states focused attention on preventing and combating corruption in the public sphere, in local administrations, and in self-governed bodies.

Meantime, at the end of the 20<sup>th</sup> and the beginning of the 21<sup>st</sup> century, the business began playing a greater role in preventing corruption. The companies of the non-state sector of the economy began implementing anti-corruption compliance gradually. This process did not leave out the Russian, primarily large, companies (Garmaev, Ivanov, & Markuntsov, 2020, p. 7).

E. A. Ivanov believes the anti-corruption compliance is a management process allowing you to specify applicable legal norms, identify and assess bribery risks, establish in-house rules based on ethical principles, and then take steps aimed at upholding adherence to legal standards, internal regulations of the organization and prevention of corruption risks by company and persons interacting with it (Ivanov, 2015, p. 15).

Let's consider what factors we should take into account so that to establish an anti-corruption compliance system for a company operating in Russia in present-day conditions.

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## 2. Methodology

As a methodological basis of this research, the author's comprehensive approach to properly understand the risks of corruption in Russia is adopted. This approach, which has no analogs in the scientific jurisprudential literature proceeds from the understanding the corruption risks can be both grounded and ungrounded. Additionally, the formal-logical, systemic-structural methods were used, the methods of comparative jurisprudence, statistical ones – to summarize the materials of judicial practice; sociological – for conducting inquiries and interviewing respondents.

As the empirical materials, there were used statistical and other data on combating corruption crime in Russia and certain foreign countries. The materials of 65 criminal cases of corruption and other crimes committed by business representatives in Russia were meticulously studied.

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Queries and interviews were held, the method of expert assessments was applied to 55 investigators, 27 employees of the prosecutor's office of Russia, as well as 76 citizens – business representatives from four

constituent entities of the Russian Federation: Moscow, Irkutsk and Novosibirsk regions, the Republic of Buryatia.

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### **3. Results**

#### **3.1. Legal basis and reasons for introducing the anti-corruption Compliance**

Mandatory requirements at the law level obligating the companies to introduce the anti-corruption measures are a rare occurrence in the world. In Russia, the adoption of preventive measures against corruption by the companies is set forth by Art. 13.3. Federal Law of December 25, 2008 No. 273-FZ "On Combating Corruption".

1. Organizations are obligated to develop and undertake measures to prevent corruption.
2. Appropriate steps to prevent corruption by an organization may include:
  - assignment of units or officials responsible for the effective prevention of corruption and other offenses;
  - cooperation of a company with appropriate law enforcement authorities;
  - elaboration and putting into practical use of standards and procedures to ensure responsible operations of a company;
  - adoption of the code of ethics and official conduct of employees of an organization;
  - prevention and settlement of conflicts of interest;
  - denial of unofficial reporting and use of forged documents.

The Methodological Guidelines of the Ministry of Labor and Social Protection of the Russian Federation on the development and adoption by organizations of measures to prevent and combat corruption are of great recommendation value (Methodological recommendations for the development and adoption by organizations of measures to prevent and combat corruption (approved by the Ministry of Labor and Social Protection of the Russian Federation on November 8, 2013), 2013). The purpose of these Recommendations is to set up a unified approach to ensuring work to prevent and combat corruption in organizations, regardless of their ownership status, organizational and legal forms, industry affiliation, and other circumstances.

Since anti-corruption compliance is not mandatory in most of countries, its enforcement in companies is prompted by various reasons, which can be divided into several groups.

As noted in the literature (Garmaev, Ivanov, & Markuntsov, 2020, pp. 22-24), the first group includes reasons that may be called ethical. These are, in fact, the personal value preferences of managers and owners of companies about the unacceptability of using corruption in their business.

The second group relates to a purely pragmatic desire of the company's owners to protect it from losses and increase profits by reducing the risks of corruption at the level of middle managers and employees.

The third group includes legal reasons. This reflects the wish to minimize the risk of personal criminal or administrative liability, the liability of legal entities.

The fourth group contains market reasons, the partners' risks. Assuming the company may be dragged into corruption-related offenses, the owners (especially of large companies) prudently demand their

business partners to follow the anti-corruption compliance. Respective requirements can be included into the anti-corruption clause to contracts. Since the clause is an integral part of the contract, its violation may be the basis for the unilateral termination of the deal.

The fifth group includes requirements related to participation in collective anti-corruption business initiatives or in joint initiatives of the state and business. Collective anti-corruption initiatives have spread to more than 200 countries around the world. Anti-corruption compliance may be a prerequisite for companies to participate (Zapata, 2018).

In Russia, the most famous collective anti-corruption initiative is the Anti-Corruption Charter of Russian Business<sup>1</sup>, adopted by the Chamber of Commerce and Industry and leading business associations – the Russian Union of Industrialists and Entrepreneurs, the All-Russian Organization “Business Russia” and the All-Russian public organization of small and medium-sized businesses “OPORA RUSSIA” (Anti-Corruption Charter of Russian Business, 2012).

Notably, we should single out the risks of large Russian companies being subjected to foreign anticorruption legislation, which has an extraterritorial effect. Particularly, this refers to the US Foreign Corrupt Practices Act 1977 (Foreign Corrupt Practices Act, 1977) and the UK Bribery Act 2010 (United Kingdom Bribery Act, 2010). For a smaller number of foreign companies, the French Law on Transparency, Fight against Corruption, and Modernization of Economic Life of 2016, known as Sapin II (LOI, 2016) may also be applied.

On the background of the global economic crisis, the extraterritorial enforcement of anti-corruption legislation (primarily, of the United States and Great Britain) on foreign companies can not only contribute to the international fight against corruption, but be used by interested countries as an effective method of replenishing their budgets. In this respect, the risks of extraterritorial application of foreign anticorruption legislation to Russian companies will only be increasing. In other words, the notorious criminalcorruption “accusatory bias” can manifest itself not only at the national but also at the international level.

### **3.2. The concept and types of corruption risks of companies**

It is as well essential to define the concept of “corruption risk” of a commercial organization and its owners, managers, employees. In the literature, it is pointed out that, although this term is considered to be legal, it is used only in bylaws and has not been normatively defined. In modern science, there is no uniform interpretation of the term. For example, the definition of a corruption risk as a generalized assessment of the likelihood of fraud and its threat to social relations (Pomazuev, 2016, pp. 62-64), for all its scientific validity, can hardly reflect the proper understanding of the relevant processes in the business environment by entrepreneurs themselves. Representatives of this population group are rather pragmatic. They are interested in a specific result – minimization, or even better, – complete elimination of risks:

- not only and not so much inflicting harm to certain “social relations” oftentimes understood as some abstract category, but as damage to the company and its representatives following criminal and other prosecution;
- not only corruption but also collateral, criminal, and others (there are many types of compliance other than corruption: tax, anti-monopoly).

In this regard, under the corruption risk of a company, we propose to understand the likelihood of committing a real or imaginary corruption or other offense by an employee of the organization and

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<sup>1</sup> At XI Investment Forum in Sochi with the participation of the Chairman of the Government of the Russian Federation, D.A. Medvedev

associated persons, as well as the probability of harmful consequences entailed for the business and its representatives.

Corruption (and other) risks can be high, medium, and low. The specific task of the owners and other members of the company is to rigorously exclude any criminal law (or administrative law) risk or minimize it. Suppose that formally something thoughtless has been committed in the company, yet clearly unlawful

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or questionable in terms of the law. However, owing to the adoption of timely measures under anticorruption compliance and professional protection, a criminal case has either been not started or already initiated one - terminated.

For instance, the Law Office “Criminal Defense” has had a successful case - defense of the general director of a large commercial company and an employee of the Ministry of Defense of the Russian Federation in a criminal case of giving and receiving a bribe on especially large scale. Whereas this refers to part 6 of Art. 290 and part 5 of Art. 291 of the Criminal Code of the Russian Federation, the suspects had faced punishment - from 8 to 15 years of incarceration with a penal fine of tens of millions of rubles. Indeed, a number of reckless actions were committed, albeit quite legitimate. Jointly, these actions did not make up a “full-scale” body of evidence of the criminal offenses they were charged with. However, on a standalone basis, according to the investigation, they contained signs of crimes. So, usual transactions, the negotiations about the prospects for contracts’ conclusion, and other absolutely lawful actions were interpreted as being criminal. The lawyers succeeded in proving there was no corpus delicti in the actions of their clients. The criminal case initiated against our clients was terminated even without formal charges, detentions, arrests, or searches. The situation could have been even more “comfortable” for the company and the Ministry, had the anti-corruption conformity measures been carried out in a preventive manner if the lawyers had been contacted in advance and their consultations had been included in the compliance program.

However, such a successful case in modern business realities is not a rule, but rather an exception. Notwithstanding that over the past decade, the amendments have been made to the Criminal Code of the Russian Federation and the Criminal Procedure Code of the Russian Federation to stop “harassing” business, the entrepreneurial climate in Russia is not improving. In its report back in 2017, the Center for Strategic Research investigated the problem of law-enforcement authorities’ pressure on business: it estimated the number of criminal cases in the field of business to be at the level of 5-15 thousand per year, which is “over the top” (The Business Remains in Proceedings, 2021).

### **3.3. The problem of illegal and unjustified criminal prosecution of business representatives for corruption and other crimes**

In 2020, the business ombudsman Boris Titov presented to the President of Russia a report on the criminal prosecution of entrepreneurs. It notes that criminal prosecution destroys business in almost 85% of cases. It’s the result of the bank accounts’ arrests, seizure of documents, law enforcement agencies’ extensive contacts with contractors of entrepreneurs, incarceration of businessmen. The research has revealed 23.8% of the participants were put under arrest (9.5% - under house arrest). Meanwhile, some businessmen were held in a pre-trial detention center for more than two years without any charges.

Boris Titov noted, in 2019 a significant part of entrepreneurs is still prosecuted under Art. 159 of the Criminal Code of the Russian Federation – “Fraud” (as a rule, it’s a “corruption” article). It accounted for 55.5% of all complaints of businessmen for criminal prosecution. In this connection, the entrepreneurs when questioned pointed out the reason for initiation of a criminal case was:

– conflict with another businessman (37,6%),

– or personal interest of law enforcement officers and other authorities (41.3%).

As a result, the distrust of law enforcement agencies on the part of the business has increased from 45 to 70.3%, while distrust towards the judicial authorities has been estimated at 57.7%. As many as 73.8% of respondents stated the lack of independence and impartiality of the Russian judicial system. 93.7% of entrepreneurs specified the lack of protection from unjustified criminal prosecution (Titov, 2020).

At the same time, as S.V. Bazhanov has rightly stated, oftentimes the entrepreneurs themselves turn to law enforcement agencies seeking not so much for the protection of their business under generally accepted legal means, but for the purpose of unlawful influence on counterparts (partners) under contractual relations. Among such methods is the so-called “ordered criminal prosecution”, which has become an effective tool in unfair competition. The information letter of the Prosecutor General of Russia, dated September 12, 2016 No. 36-39-2016, “On the shortcomings of supervision over the observance of the rights of business entities at the pre-trial stage of criminal proceedings by law enforcement agencies” specifically addresses this particular circumstance (Bazhanov, 2017, pp. 17-25).

V. Pichugin stipulates a typical statement of those engaged in taking over someone else’s business: “It is easier to start a criminal case than to apply physical elimination. The outcome is the same, if not higher”. As a result of the “ordered criminal case”, it is quite possible the signs of crimes may never be found. But it turns out much later, sometimes – after many months of investigation. “And during this time, the traditional business partners will flee, the employees without a manager tend to be stealing what is possible and impossible, a real possibility of losing property will pop up... It is the actions of competitors that become the most frequent reason for the criminal prosecution of businessmen. This can be an “honest snitching scheme” when competitors collect information about not entirely lawful activities of a businessman and transfer it to law enforcement agents, who then initiate a criminal case. There might be a fabrication of criminal prosecution, crude and criminal in itself...” (Pichugin, 2009, p. 40).

Partners of the Law Office “Criminal Defense” have effectively defended the general directors of a group of companies accused of embezzlement pursuant to these ordered criminal cases. The experience of more than three years of defense has proved that the timely adoption of preventive measures, identification of weak positions, a thorough check of counterparts, clear distribution of responsibilities within the holding, and formalization of relationships at an appropriate level, would have allowed going this intricate path with lesser losses.

Unjustified criminal law risks are especially increasing when the company’s activities are very profitable, internal corporate conflicts have sharpened (intensified), and/or the owners or corporate managers have actively taken to politics.

Thus, anti-corruption policies adopted by companies must account for situations of unjustified criminal law risks, that is, the risks of illegal and ungrounded criminal prosecution. That is why our definition of a company’s corruption risk includes “the likelihood of committing a real or perceived corruption and other offenses...”. Our approach is this type of risk must not only be taken into account but also minimized.

### **3.4. Scientific approaches to unjustified corruption risks**

Let’s analyze the problem of unjustified corruption risks in more detail. So, corruption and collateral risks in terms of law may be:

- justified – the organization really committed a corruption crime or another offense;
- unjustified.

The latter can be expressed in the following forms:

- illegal operational-search activities, the provocation of a crime, falsification of the results of operational-search activities, illegal “inspections of premises”, eavesdropping on telephone and other conversations, “surveillance”, etc.;
- illegal pre-investigation and other probes, inspection visits, illegal initiation of criminal cases;
- illegal methods of investigation and judicial proceedings; – illegal actions of competitors in the market environment;
- defamation by ill-wishers and the mass media.

One needs to get prepared for these risks, tentatively speaking, in advance. We are convinced this requires not only compliance officers, corporate security officers, and “external” specialists to create a compliance program, but also the lawyers who practice on corresponding criminal cases on a daily basis. But, as a rule, lawyers do not work for prevention, but in “firefighting mode” already. This, of course, is less efficient and by an order more expensive, which we will be discussing below.

Besides, all unjustified corruption and other criminal legal risks can be conditionally classified into, as follows:

- caused by the low qualification of law enforcement officers and other persons who, while acting mostly unintentionally, nevertheless violate rights and legitimate interests of business representatives. There are reasons to believe a significant share of unjustified criminal legal risks is precisely this;
- stemming from a deliberate, intentional violation of the requirements of the law by the subject of criminal prosecution in order to inflict harm to commercial and other organizations.

The motives of the latter on the part of law enforcement bodies can be remarkably diverse: to ensure prosperous but false reports; as a form of “ordered” criminal prosecution (“order” from competitors to seize a business, etc.); out of personal, hostile attitude on the part of the law enforcement officers; out of selfish interest – as a tool for extorting bribes and other similar motives.

It is imperative to deeply understand the essence of the accusatory bias as a mental preference and a sort of illegal actions of individual police officers, other law enforcement agents, control and supervisory bodies, and the court. In scientific and reference periodicals, the accusatory bias is defined as a certain orientation of activities of an investigator, interrogator, prosecutor, and court in criminal and administrative proceedings, in which these officials take the side of the prosecution, ignoring the arguments of defense, neglecting the evidence speaking in favor of the person sued for criminal or administrative liability. This has an impact on impartial investigation and consideration of the case (Nazarov, 2015, pp. 149-154); (Kudryavtsev, 2008, pp. 26-29). The indications of accusatory bias can be detected in all law enforcement and regulatory bodies, and sometimes in courts. And not exclusively in our country, but in all, even economically prosperous countries of the world.

### **3.5. The state and society in the fight against unjustified criminal and legal risks in the business environment**

The state has, of course, been undertaking certain measures to counter the accusatory bias and the tendencies of unreasonable criminal legal risks in the business environment. For example, criminal and procedural-criminal law stipulate special aspects of judicial proceedings to properly protect the rights and legitimate interests of entrepreneurs. Thus, in cases of the offenses under Art. 159-159.3, 159.5, 159.6, 160, 165 of the Criminal Code of the Russian Federation (if these crimes are committed in the field of business), as well as Art. 170.2, 171-174, 174.1, 176-178, 180-183, 185-185.4, part 1 of Art. 185.6, Art. 190-199.2 of the Criminal Code of the Russian Federation, legislation provides for specific rules, particularly about the order for considering reports of a crime (part 7-9, Art. 144 of the Criminal Procedure

Code of the Russian Federation) and the initiation of criminal proceedings (part 3 of Art. 20, part 1.2 of Art. 140 of the Criminal-Procedural Code of the Russian Federation), admission of objects and documents as exhibits of material evidence (Art. 81.1 of the Criminal Procedure Code of the Russian Federation), the application of a preventive measure in the form of detention (part 1.1 Art. 108 of the Criminal Procedure Code of the Russian Federation), as well as the specifics of exemption from criminal liability and termination of criminal prosecution (Art. 76.1 of the Criminal Code of the Russian Federation, Art. 28.1 of the Criminal Procedure Code Russian Federation) (Resolution of the Plenum of Supreme Court of Russia of 15.11.2016 No. 48 "On the practice of the courts' use of legislation governing the specifics of criminal liability for crimes in the field of entrepreneurial and other economic activities, 2016).

However, in the context of anti-corruption compliance, it is rather easy to notice there are no corruption-related offenses in the above-mentioned indexes of articles of the Criminal Code of the Russian Federation. That is, there are no particular rules making the life of the businessmen easier, in terms of prosecution for committing corrupt criminal crimes.

Part 3 of Art. 299 of the Criminal Code of the Russian Federation establishes the criminal liability of the law enforcement officials for illegal initiation of a criminal case in order to obstruct business operations out of selfish or other personal interest, entailing termination of such an activity or causing major damage (according to the note to the article - over 1.5 million rubles). This refers to the felony (the sanction is incarceration for a term of 5 to 10 years).

Meanwhile, as A.N. Sukharensko rightfully noted, one should be skeptical about the effectiveness of this criminal law restriction considering the need to prove the criminal purpose of initiating a criminal case against a businessman. In criminal law, there are enough articles punishing the law enforcement officers, even without the rule specified. These are: about the provocation of a bribe or commercial bribery (Art. 304 of the Criminal Code of the Russian Federation), on unlawful arrest, detention or imprisonment (Art. 301 of the Code), about the forced confession (Art. 302 of the Code), about tampering with evidence or results of operational-search activities (Art. 303 of the Code), on obstruction of legal entrepreneurial and other activities (Art. 169 of the Criminal Code of the Russian Federation). To bring the law enforcement officers to criminal responsibility, nothing but the goodwill of investigating authorities is needed, but that's just missing. According to the Judicial Department at the Supreme Court of the Russian Federation, during 2010-2015, only 12 persons in total were convicted under Art. 169, 299, 302 and 304 of the Criminal Code of the Russian Federation. Most were convicted only under parts 2 and 3 of Art. 303 of the Criminal Code of the Russian Federation - 171 persons. Article 301 of the Criminal Code of the Russian Federation remains totally uncalled (Sukharensko, 2017, pp. 60-64).

Still extremely sensitive remains the issue of timely and inevitable prosecution of judges for passing unjust sentences, decisions, or other judicial acts (Art. 305 of the Criminal Code of the Russian Federation), depriving the business representatives of their property. In recent years, only a few judges have been convicted under this article. For instance, in February 2008, a sentence came into force against the former judge of the Tagilstroyevsky District Court of Nizhny Tagil town, A. Demenko, who signed the provision which was later used in an attempt to seize the Oboronsnabsbyt market in Yekaterinburg. Earlier, the Sverdlovsk Regional Court found him guilty of committing a crime under Part 2 of Art. 305 of the Criminal Code of the Russian Federation and sentenced him to 4 years in prison (Avdeev, 2007); (Sukharensko, 2017).

A.N. Sukharensko noted that in March 2019, the heads of the Association for Strategic Initiatives, the Russian Union of Industrialists and Entrepreneurs, the Chamber of Commerce and Industry, Opora Russia, and Business Russia signed an agreement on the establishment of a specialized autonomous non-profit organization that will be supporting and developing the digital platform "For business" to accept applications from entrepreneurs due to unlawful pressure by law enforcement agencies (Sukharensko, 2020); (Sukharensko, 2019); (Sukharensko, 2020). Here is the review of the author's provisions in more

detail. The platform represents an electronic resource for receiving applications from entrepreneurs online. As of June 2020, it's received 1,1 thousand complaints, 60% of which were about the actions of police officers. Hereinafter, A.N. Sukharenko quotes G. Kolganov (Kolganov, 2019). The biggest part relates to the seizure of property during a search and delaying terms of its return, the violations during initiation of a criminal case, falsification of evidence of the case, the choice of a preventive measure in the form of detention, unjustified denials to satisfy petitions and complaints (Advokatskaya Gazeta, 2020).

The platform provides for delivering applications directly to the Ministry of Internal Affairs, the Investigative Committee, the General Prosecutor's Office, and the Federal Security Service of Russia, as well as to business associations and the business ombudsman, for an independent and prompt assessment. It will allow following the progress of consideration of an appeal in a personal account. The replies of law enforcement agencies and the attitudes of the business ombudsman and business associations will be published there as well. Meantime, the entrepreneurs may disagree with the resolution of the department. In this case, the moderators and the General Prosecutor's Office of Russia may jointly perform an expert examination or provide assistance in applying to court (Sukharenko, Criminal law and criminal procedure mechanisms for the protection of economic interests and business activities, 2020).

### **3.6. Establishment of a compliance system in the company and participation of lawyers in it**

Decidedly, for the proper implementation of anti-corruption policy in the business environment and the protection of a specific company, it is necessary not only to provide protection of entrepreneurs on the part of the state and civil society. It is imperative to proactively create an effective compliance system within the organization. Besides anti-corruption, this system should be dealing with criminal law, tax, antimonopoly issues too.

Therefore, as part of the creation of an anti-corruption compliance system, it is essential to develop a full set of necessary documentation (ethical standards, instructions, etc.), to conduct an audit and risk assessment, elaborate recommendations on the company's anti-corruption policy, arrange work with counterparts, carry out a number of IT solutions, etc.

It is exceptionally important to provide training and seminars on a regular basis within the framework of anti-corruption and anti-criminal education of employees. Moreover, individually for two target audiences: top management/owners and other employees, since corruption and other risks of these audiences differ significantly. Education classes represent a key component of anti-corruption compliance in companies.

Within the framework of such classes, in the context of unreasonable risks, all employees, including specially authorized units (compliance officers, employees of human resources and legal services departments, security services), should be educated on the most effective and modern methods of protection from both legal and illegal as well as unjustified criminal prosecution. The training will get more effective if lawyers take part in the capacity of invited speakers and instructors.

Presently, numerous organizations offer their services to create an anti-corruption compliance system in companies. Many of which indeed provide high-quality services based on the current legislation and the best world practices. However, the reality often is not taken into account leaving out the fact the corruption risks could be unjustified. There is a certain paradigm in use: "One should not commit corruption crimes as well as other offenses in the company and everything will be fine". The services based on this paradigm are not consistently effective, since they may not account for or leave out the situations of illegal initiation of criminal cases, for example.

We believe the proper system of anti-corruption compliance from the organizational and the content point of view should include the work of lawyers. There are a number of reasons for this. If the system is being built by the specialists who have no practical experience of professional defense against criminal charges of a corruption crime (for example, specialists in the field of civil law, administrative law, international and anti-corruption law, in supporting IT services for legal operations - LegalTech), then the result will barely meet the company's expectations.

Once more, in addition to the team of experts of this kind, it is imperative to bring in lawyers specializing in criminal cases of corruption, the crimes of officials, economic offenses. Regretfully, the practice proves the employees of legal and security departments of companies, for all their value, do not provide the necessary compliance competencies. Among them, many former law enforcement officers have kept connections and rich experience, which is certainly very useful for solving various problems of the company. However, this experience, tentatively speaking, is "accusatory" and it's been in the past. It's not a secret for anyone that over time the so-called "connections" are being lost, relevant knowledge about the work of the law enforcement system and methods of protection in modern realities fade away.

Only practicing lawyers are aware of current, constantly changing investigative, supervision, and judicial practices, interact daily with the state bodies and sometimes enter a confrontation with them in the interests of a client. Lawyers constantly see and meet with the negative results of nonfulfillment of the compliance procedures by the companies (and their employees) and hence are capable of providing timely help to prevent these consequences. In addition, they are entitled not only to predict and prevent problems but provide substantial, effective assistance in the event of a pre-investigation check, operational search activities, detention, arrest of owners, employees, in other situations related to the start of both lawful and unlawful criminal prosecution. It is the lawyers who by virtue of the law (Criminal Procedure Code of the Russian Federation of 12.18.2001 No. 174-FZ, 2001), (Federal Law of 31.05.2002 No. 63-FZ On Legal Practice and Advocacy in the Russian Federation, 2002) and the code of professional ethics (Code of Professional Ethics of a Lawyer (adopted by the 1st All-Russian Congress of Lawyers on 31.01.2003), 2005) bear personal legal responsibility for the honest, reasonable, fair, qualified, principled and timely performance of their professional duties towards the client.

In turn, the persons who neither have the status of a lawyer nor the knowledge required, who bear no responsibilities as per the law, just cannot effectively protect clients at all the stages of the criminal process.

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## **4. Conclusions**

The above-said is leading to the following conclusions:

There are five groups of reasons for implementing anti-corruption compliance in companies. Among them are legal reasons. This is the desire to minimize the risk of personal criminal liability of owners, managers, and other employees of the organization as well as the risk of administrative liability for a legal entity.

As part of creating an effective anti-corruption compliance system in the company, it is necessary:

- to determine the applicable legal regulations, accounting for the specifics of the company's operations;
- to identify and assess both justified and unjustified corruption (and other legal) risks;
- to create internal norms of the organization (regulations and instructions);
- take actions to ensure the organization, as well as the persons interacting with it, comply with the legal norms, internal corporate rules and prevent all possible types of corruption risks;

– and, above all, to proactively collaborate with anti-corruption (and other) compliance professionals and practicing criminal lawyers. However, not all of the “criminal” lawyers will fit, but only those possessing a practical specialization – criminal cases of corruption, crimes of officials, economic crimes. Since the modern systems and global practices of anti-corruption compliance just do not suppose the corruption risks could be ungrounded and initiation of criminal cases and other prosecution could be unlawful.

The measures undertaken by the state and society to counteract accusatory bias, the unlawful, unjustified criminal, and other prosecution of businessmen by law enforcement agents and other state authorities have not yet produced the proper results. Therefore, the suggested concept and measures on establishing a necessary anti-corruption compliance system in companies indeed have no other alternative.

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