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**Organized crime in the elections  
and in the Russian authorities**

Monograph

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The book deals with actual problems of the participation of organized crime in the formation of the governing bodies in the Russian Federation undertaken by the State measures to combat the criminalization of public authorities, proposals for improving the anti-crime and anti-corruption policy. The book is intended for civil servants, law enforcement officials, teachers and graduate students of universities and faculties, representatives of political parties, media and human rights organizations.

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## CONTENTS

	INTRODUCTION.....	4
1	THE ROLE AND PLACE OF CRIMINAL ORGANIZATIONS (COMMUNITIES) IN THE POLITICAL SYSTEM OF THE RUSSIAN SOCIETY.....	9
2	THE PARTY LIST FOR THE ELECTIONS TO THE STATE DUMA OF THE FEDERAL ASSEMBLY OF THE RUSSIAN FEDERATION SIXTH CONVOCATION: CANDIDATES WITH CRIMINAL RECORDS AND ANTI-CRIME STATE POLICY.....	26
3	MUNICIPAL AND REGIONAL ELECTIONS IN THE CONTEX OF THE ASPIRATIONS OF A CRIMINAL ORGANIZATION (COMMUNITY).....	38
4	MAIN AREAS TO COUNTER CRIMINALIZATION PUBLIC AUTHORITIES IN THE RUSSIAN FEDERATION .....	56
5	THE INTERNATIONAL LEGAL FRAMEWORK AND INTERNATIONAL EXPERIENCE OF COUNTERACTION TO CRIMINALIZATION OF THE PUBLIC	134
6	AUTHORITIES..... IMPROVEMENTS TO SOME LEGISLATIVE ACTS OF THE RUSSIAN FEDERATION IN THE COUNTERMEASURES AS PART OF CRIMINALIZATION OF THEPUBLIC	169
	CONCLUSION.....	184
	LIST OF REFERENCES .....	198
	APPENDIX.....	210

**To the bright memory of Artjushina  
Larisa**

## **INTRODUCTION**

Merging of criminal organizations with state and municipal authorities in the Russian Federation, their claim to political participation and access to the management of the state and the regions now are one of the main threats to the Russia's security. Organized crime is seeking to expand its sphere of influence and trying to make active use of the process of organizing and holding elections. Therefore, in the course of state control over the legality of the electoral process, to protect the political rights of Russian citizens, legal responsibility for the violation of constitutional rights of participants in elections burning issue is the opposition to governments, electoral commissions and law enforcement infiltration of criminals in the state authorities and local self-government.

Candidates associated with organized crime, as well as persons previously convicted of serious crimes, participate in the elections to the State Duma of the Federal Assembly of the Russian Federation and the legislative bodies of the Russian Federation. Such facts were noted in the Kabardino-Balkaria Republic, the Republic of Tuva, Altai, Krasnodar, Primorsky and Khabarovsk Territories, the Arkhangelsk, Kamchatka, Magadan, Moscow, Murmansk, Novosibirsk, Omsk, Orenburg, Penza, Perm, Rostov, Ryazan, Samara, Saratov, Sverdlovsk , Tambov, Tomsk, Chelyabinsk regions, the cities of Moscow and St. Petersburg and<sup>1</sup> others.

According to the data held by the Fund "Public opinion" is a nationwide survey of urban and rural population of 44 subjects of the Russian Federation, 76% of citizens say that in the authorities of the region where they live, there are

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<sup>1</sup> The reference of the Prosecutor General's Office of the Russian Federation to the coordination meeting of heads of law enforcement agencies of the Russian Federation of July 28, 1999 "On the Mechanism of Information Support for the Rule of Law in the Period of Election Campaigns." p.2.

representatives of the criminal world, individuals associated with organized crime. 63% of respondents state that such examples are<sup>2</sup> many.

Many people think that today in regional governments there are more representatives who are criminals than 90 years ago (14% consider that the proportion of crime in the power remains the same, 10% - it decreased).

70% of respondents said that in their regions representatives of the criminal world are running for various elected positions in the government, and 56% believe that it happens quite<sup>3</sup> often.

Obvious examples of the personal involvement of known organized crime figures in the federal and regional elections are the nomination of the leader of a criminal group "Uralmash" A. Khabarova in the elections to the State Duma of the Federal Assembly and the election of the Legislative Assembly of Sverdlovsk region, receiving a deputy mandate of the Tula Regional Duma criminal leader N. Novikov, the election of the Legislative Assembly of the Krasnoyarsk Territory A. Bykova.

In 1995, in the struggle for deputy mandates of the State Duma of the Federal Assembly of the Russian Federation involved 87 previously convicted or under investigation applicants. During the federal election campaign in 1999 the MIA, the FSS and the Russian Central Election Commission has already hundreds of such cases have been identified and<sup>4</sup> disclosed. Based on materials from the security forces, more than 50 candidates had a criminal<sup>5</sup> record.

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<sup>2</sup> Public Opinion Foundation. All-Russian survey of urban and rural population in 100 settlements 44 regions and republics of all economic and geographical zones. Interrogation method - interview at the place of residence. The statistical error does not exceed 3.6%. June 24, 2004. 1500 respondents. See Petrova A. Crime in power is a common phenomenon? //bd.fom.ru/report/map/projects.

<sup>3</sup> Polunin A. "Bratki" gathered in power // Work. 2004. 10th of August.

<sup>4</sup> Zlotnikova E.V. The impact of organized crime on the political security of the Russian Federation. Author's abstract. ... cand. polit. sciences. M., 2011.

<sup>5</sup> Mokhov E.A. Organized crime and national security of Russia. Moscow: The University Book, 2006. P. 46.

Only one of the election campaigns for elections of deputies of the Legislative Assembly of the Novosibirsk region in 1998 was attended by 10 people with criminal records, including well-known leaders of criminal<sup>6</sup> organizations.

Numerous facts of nomination and registration of candidates with criminal records were recorded during the elections to the bodies of state power of subjects of the Russian Federation September 8, 2013.

The largest number of registered candidates, representing the interests of criminal organizations, was noted in the elections of deputies of the State Assembly - Kurultai of the Republic of Bashkortostan - 13.

11 previous convictions of candidates ran in the elections of deputies of the Legislative Assembly of the Trans-Baikal Territory and the election of deputies of the Legislative ceiling elements Assembly of Vladimir region.

10 previous convictions of candidates to participate in elections of people's deputies of the Republic of Sakha, 8 - on elections of deputies to the People's Khural of the Republic of Buryatia, 7 - in the elections to the Legislative Assembly of the Rostov region.

Exceptional situation was in the Republic of Mari El after the election in January 1997 to the post of President of the Republic, V.A. Kislitsyna in respect of which the internal affairs authorities instituted over 5 criminal cases on economic crimes under different articles of the Criminal Code of the RSFSR. As a result of management positions in the Presidential Administration and the Government of the Republic has repeatedly taken to prosecute: V.N. Smirnov - Minister of the Government and R.I. Repin - Deputy Head of the<sup>7</sup> Government.

The most attractive for representatives of criminality remains municipal level elections, where the aspirations of the criminal organizations (communities) aimed at filling positions of heads of local self-government and to obtain seats in the representative bodies of municipalities. So much publicity gained election as mayor of Leninsk-Kuznetsk, Kemerovo region thrice convicted G.V. Konyakhina,

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<sup>6</sup> *Mokhov E.A.* In the same place. p. 29.

<sup>7</sup> *Kokotkin A.* Sour, Repa and other officials // Top secret. 1998. № 8. Qu. by Mokhov E.A. FSB: the fight against organized crime. Moscow: The University Book, 2006. p. 37.

the election of the mayor of the city of Nizhny Novgorod twice convicted A.A. Klymentyev.

In the municipal elections of September 8, 2013 in the lists of candidates in the Yekaterinburg City Duma, 7 citizens were registered with a criminal past, the Volgograd City Duma run for 5 candidates with criminal records.

In connection with the resonant criminal cases should be mentioned in the Kuban deputies on Razdolnensky constituency S.Y. Tsepovyaz and the Council of the municipality deputy Kushchevskaya district S.V. Tsapka.

Formation and functioning of the authorities, who protect organized crime, causing damage to the economy, infringe the constitutional rights and freedoms of citizens and contribute to the growth of social tension, discrediting state institutions and disappointing people in democratic values.

The current crime situation is aggravated by the Russian Federation held in penal policy. The current state of criminal law legislative characterized by erratic and inconsistent approach to attempt to counteract crime.

The dominant trend of law making: exemption from criminal responsibility of the perpetrators of large-scale economic crimes; refusal of a real fight against illicit enrichment through the confiscation; the introduction of monetary penalties system, which allows to use it to wealthy citizens, for exemption from the real punishment in the form of deprivation of liberty; simulation of crime reduction through the decriminalization of socially dangerous acts, and others. It is the alignment of discriminatory social system in criminal matters on the basis of material inequality of opportunities of<sup>8</sup> citizens.

The problem of criminalization of the authorities and of the anti-criminal policy of the state is of particular importance in connection with the development of destructive processes in the socio-economic and socio-political spheres (the monopolization of political power, party corruption, protest activity of the population, the aggravation of interethnic and interfaith relations, degradation and

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<sup>8</sup> *Damaskin O.V.* Criminological aspects of the formation of modern criminal law policy // *Modern law.* 2013. № 5.

discrediting the institutions of power etc.), as well as the need to make proposals for their neutralization.

Bearing it in mind, this paper attempts to identify and disclose the place and role of criminal organizations (communities) in the political system of the Russian society, to examine the electoral campaign for the election of deputies of the State Duma of the Federal Assembly of the Russian Federation, regional and municipal elections in the context of the aspirations of the criminal structures, prove the basic direction counter state and municipal criminalization of public authority in the Russian Federation to formulate suggestions to improve the legislative acts of the Russian Federation in the sphere of combating the criminalization of public authorities.



## **1. THE ROLE AND PLACE OF CRIMINAL ORGANIZATIONS (COMMUNITIES) IN THE POLITICAL SYSTEM OF THE RUSSIAN SOCIETY**

The criminalization of the Russian society rightly considered the leading Russian lawyers as a threat to the constitutional order. According to the Chairman of the Constitutional Court V. Zorkin, "with each passing day it is becoming increasingly clear that the merging of power and crime on the model, which is now called " Kushchevskaya "- is not unique. The same thing (or something similar) happens in other places - in Novosibirsk, Engels, Gus-Crystal, Berezovsky and so on ... Crime undermines our fragile legal system, the foundations of our social, political and economic life. It encroaches on all the social ties. It breaks down the fabric of our very immature civil society. And sometimes it acts as a competitor for the role of social beginning, a substitute for a civil society. Crime undermines the foundations of the social well-being and stability. And, of course, it becomes a major obstacle to social"<sup>9</sup> development.

Increased activity of organized criminal organizations (communities), associated with attempts to be elected to bodies of the state power and local self-government, due to the interest of criminal organizations in a constant building-up of their income, the direct dependence from the formal and informal economic activities on the political situation in the Russian Federation, the desire of managers and participants criminal structures to ensure personal<sup>10</sup> safety.

For representatives of criminality election to public office and obtaining parliamentary mandate are presented solely significant.

Firstly, the fact of granting of authority bandits legalize their criminal past and casts doubt on the connection with criminal societies (organizations).

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<sup>9</sup> *Zorkin V.* Constitution against the crime // Ros. gas. 2010. 10 December.

<sup>10</sup> *Krasinsky V.V.* Legal protection of the constitutional system of Russia in the electoral process: Monograph. M. : New index, 2010. P. 42.

Secondly, the replacement of elected public office and membership of the bodies of the people's representatives give the appearance of bandits implementing powers in the name of and on behalf of the people.

Thirdly, the formal involvement of material, financial, informational, legal and other resources of the state significantly extends the scope and power of influence of criminal societies (organizations) on social processes in the country and abroad.

The social base of the updated criminal organizations becomes generation of the late 80-ies of XX century, whose outlook was formed in the criminal subculture, anti-social norms and glorification of representatives of criminality in the media. In connection with the expansion of powers of local governments on land relations (Land survey work, re-registration of land rights, the approval of land use and development, management of land) is the most attractive segment of candidates employment, representing the interests of criminals.

To work in the authorities persons, who used criminal elements, change their names, delete their personal data from the regional databases of law enforcement bodies, as well as the promotion of "unexposed" proxies (often relatives) who have no criminal record and have no obvious links to organized crime.

Studying the composition of organized crime groups indicates that a prominent part in them are former soldiers and officers of special services, merging them with law enforcement<sup>11</sup> authorities.

In a number of subjects of the Russian Federation, the materials of information MIA centers, police, Department of Internal Affairs of the Russian Federation are deliberately distorted by corrupt law enforcement officials, the police and the judicial system are serving amnestied members of illegal armed groups and individuals against whom criminal prosecution was stopped for the statute of limitations and the reconciliation of the parties.

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<sup>11</sup> *Damaskin O.V.* The Russian Army in modern society: problems and prospects. Moscow: Yurlitinform, 2011. p. 207.

The analysis of the materials of electoral campaigns shows that all the political parties (and their regional offices) included and continue to include in their lists candidates who have criminal past.

The potential of organized criminal groups are actively used at all stages of the electoral process.

At the stage of the nomination, criminal organizations on a reimbursable basis include their candidates in the lists of electoral associations and carry out the threat in the candidate address - competitors. The attacks on party activists taking part had been convicted of serious crimes citizens. During the election campaign which is carried out by criminal agitators bribery of voters, spread false and anonymous propaganda materials, which allow other violations of the electoral legislation.

So, September 15, 2010 the police of the Republic of Tyva "broke up" voters' meeting with the representatives of the regional branch of the political party "Fair Russia" in a Buddhist monastery Ustuu-Khuree. 6 candidates arrived to the Supreme Hural of Tuva by invitation of the ceremony for prosperity that would ensure the election victory party. After the ceremony the "meeting" with voters was scheduled.

At 15:30, the duty of the ATS-Dzun Khemchik district received a call from an unknown that the territory Ustuu-Khuree collects individuals previously subject to criminal liability. According to the results of the audit to the district department 42 people were taken for identification. With respect to 5 are drawn up on an administrative offense under Article 20.1 of CAO for providing resistance during the arrest. One of the citizens seized substance with a characteristic odor of wild hemp. After hearing all of the detainees they were released. Where in the temple turned 42 previously convicted person, the Ministry of Interior of the Republic of Tyva could not<sup>12</sup> explain.

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<sup>12</sup> Elections in Russia on October 10, 2010. Analytical report. M.: Golos, 2010. P. 102.

Criminal organizations carry out covert and legal financing of election campaigns of individual candidates and electoral associations, resulting in the election process are transformed into "purchase and sale" of<sup>13</sup> power.

An example would be a criminal case against a deputy of the State Duma of the Federal Assembly of the Russian Federation V. Golovleva. Golovlev, as a deputy head of the Chelyabinsk region administration, illegally carried out privatization of some state enterprises in the region for the benefit of specific economic entities, for which he later transferred money, after the nomination of its candidate for the State Duma of the Federal Assembly of heads of economic entities in the amount of 97 million rubles in its electoral<sup>14</sup> fund. Another example of corruption in the electoral process is a criminal case against 14 members of the Tver City Duma, headed by its former chairman B. Pochtarev. This group of "people's representatives" work off the money financial sponsors of the campaign by taking illegal<sup>15</sup> regulations.

In 1995, the organized criminal community "Uralmash" provided financial support and otherwise actively contributed to the election of one of the contenders for the post of governor of Sverdlovsk region.

Meanwhile, the links with the criminal information can be used to discredit rival candidates or refusals to register candidates. For example, during the elections in March 13, 2011 candidate for deputy of the Council of People's Deputies of Vladimir the twenty-sixth convocation of the single-mandate constituency № 10 in Martynov V.N. (supposedly "in criminal circles - Martin"), was attributed to 6 articles of the Criminal Code, although the site of the election commission has not confirmed the information relating to the candidate's unwithdrawn convictions.

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<sup>13</sup> It is estimated that criminal organizations spend up to 50% of the profits to promote their proteges in the legislative and executive authorities.

<sup>14</sup> Op. by P.A. Kabanov, GI Raikov, Chirkov D.K. Political corruption in the conditions of reforming of the Russian state at the turn of the century: Monograph. M.: Friendship of Peoples, 2008, S. 63. This criminal case was dismissed in connection with the murder of V. Golovleva unidentified persons.

<sup>15</sup> Andrianov O.V., Ivanova T. Tverskaya Zastava // Ros. gas. 2007 August 25; Nikitin M. Corruption dozen // Ros. gas. 2007 7 December.

During the election campaign, scheduled for October 10, 2010, in the Samara region a candidate A. Demin has been denied a registration who was for four convocations the deputy of the Samara Regional Duma, on the basis of that information was not specified in the signature lists on the absence of her criminal<sup>16</sup> record.

These examples demonstrate the relevance of the problem of criminalization of the political system of the Russian society and the need for adequate resistance to the participation by criminal organizations (communities) in the organs of state power and local self-government.

As domestic researchers note, "a direct impact on the criminal networks of political and legal processes in Russian society favors their recognition as a separate component of the political system of the Russian<sup>17</sup> Federation."

According to V.M. Syrich, "Organized crime in the Russian Federation is now a well-known and indisputably established fact, which should be considered as a state and jurisprudence. In line with the realities of modern life must lead and theoretical understanding of the political system of the Russian Federation, expanding it so specific, but an effective component as the criminal<sup>18</sup> community".

Another position is held by O.V. Martyshin: "The elements of the political system are exactly legal and not prohibited by law organizations, whose activities are not aimed at the destruction of the prevailing system. ... the organization can not be considered as a part of the political system, seeking to overthrow the existing order, to destroy the prevailing political system and install a new<sup>19</sup> one".

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<sup>16</sup> In accordance with paragraph 9 of Article 37 of the Federal Law "On Basic Guarantees of Electoral Rights and the right to participate in the referendum RF citizens' criminal records are subject to the instructions of the signature sheet only if present in the candidate. Information about the absence of a criminal record can not be directed, so the denial of registration on this basis can not be considered legitimate. See. Analytical review of the results of the monitoring of regional and municipal elections of 10 October 2010 M.: Association of non-profit organizations for the protection of electoral rights "Civilian control". p. 2.

<sup>17</sup> Raw V.M. Theory of State and Law: Textbook. - M.: Legal House "Yustitsinform", 2001. p.430.

<sup>18</sup> Theory of State and Law: Textbook / Ed. V.C. Babayev. M.: Lawyer, 2007, p. 140.

<sup>19</sup> Theory of State and Law: Textbook / Ed. O.V. Martyshin. M.: Norma, 2007. p. 183.

The argument of O.V. Martyshin seems debatable, since the vast majority of criminal organizations (communities) are not pursuing extremist goals - the violent overthrow of the constitutional system and the destruction of the prevailing political system. Criminal organizations, by contrast, tend to use the existing mechanism of the state and municipal unit to take advantage of, as quickly and seamlessly to legalize their status in the political system.

To separate the criminal organizations (community) from other social phenomena and institutions of the political system, let's carry out the terminological analysis of the subject.

In accordance with Paragraph 4 of Article 35 of the Criminal Code the criminal community (criminal organization) can carry out their criminal activities in the form of structured organized group or in the form of associations of organized groups operating under a unified leadership.

Structured organized group should be a group of persons who combine beforehand to commit one or more serious or especially serious crimes, consisting of units (sub-groups, links, etc.), characterized by the composition of the stability and consistency of their actions. Structured organized group, in addition to the unified leadership, characterized by the interaction of its various departments in order to implement the common criminal intent, the distribution of functions among them, the presence of a possible specialization in carrying out specific actions in the commission of the crime and other forms of security activities of a criminal community (criminal<sup>20</sup> organization).

Association of organized groups presupposes a unified leadership and stable ties between independent actions by organized groups, joint planning and participation in the commission of one or more serious or especially serious crime, the sharing of other activities related to the functioning of such an<sup>21</sup> association.

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<sup>20</sup> Paragraph 3 of Resolution of the Plenum of the Supreme Court on June 10, 2010 № 2 "On judicial practice in criminal cases on the organization of a criminal community (criminal organization) or participation in it (her)" // Ros. gas. 2010. June 17.

<sup>21</sup> Paragraph 5 of the Resolution of the Plenum of the Supreme Court on June 10, 2010 number 2.

Guide criminal community (organization) can be expressed: in the definition of objectives, the development of common action plans of a criminal community (criminal organization), in preparation for the commission of certain serious or especially serious crimes in the distribution of roles between the members of the community, the organization of logistics, in developing ways to commit and conceal the crimes committed, in the adoption of security measures against members of the criminal community, in conspiracy and in the distribution of resources, which were got by the crime.

The head of a criminal group resolves all internal conflicts and controls the way of life of group members, requiring them to comply with external law-abiding behavior in order to prevent the conspiracy and the exposure of the group. It ensures the integrity and stability of the<sup>22</sup> group. V.A. Zhbakov draws attention to the existence of a system of regional and inter-regional relations, aimed at expanding organized criminal<sup>23</sup> activity.

The functions of the head of a criminal community (criminal organization) should also include the adoption of decisions and giving appropriate guidance to participants of criminal community (criminal organization) on issues related to the distribution of income derived from criminal activity, with the legalization (laundering) of funds obtained by criminal means, the recruitment of new members with the introduction of the criminal community members (criminal organizations) in the state, including law enforcement,<sup>24</sup> agencies.

Analysis of judicial and investigative practice shows that the distribution of roles between the criminal members of the community (organization) requires a qualified exercise coordinated with the leadership of a criminal group of professional activities within the framework of:

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<sup>22</sup> Volyn V.A. *Tishutina I.V.* Detection and investigation of banditry - the initial phase. M.: Mchs MIA of Russia, Book World, 2005. p.6.

<sup>23</sup> *Zhbakov V.A.* On the issue of studying the individual leaders of organized criminal groups / problems of technical and forensic detection and investigation of crimes: Mat. scientific and practical. Conf. M.: Mchs Russian Interior Ministry, 1997, p. 137-139.

<sup>24</sup> Ibid.

- criminal activity planning and "crosstalk" (selection of objects of criminal interest and obtaining initial information about them);
- operational support of the operation and maintenance of own safety criminal community (criminal intelligence and counterintelligence);
- combat support criminal activities (individual use of force);
- financial and logistical support of criminal activities (distribution of the proceeds of crime and money laundering, housing, transportation, weapons, means of communication, and others.)
- legal support of entities under control of criminal organizations and enterprises, legal protection of members of the criminal community - defendants in criminal cases;
- administrative, informational and political cover for organized criminal activity.

According to V.M. Syrigh, from legally operating NGOs criminal community is distinguished by two<sup>25</sup> features:

- 1) it acts illegally (organization and activity is expressly prohibited by law);
- 2) community aims to commit grievous or especially grievous crimes such as the seizure of power by unconstitutional means, propaganda, national or religious hatred, commit theft of property on a large scale, committing assassinations and others.

Depending on the scope of illegal encroachments, criminal groups are divided by V.M. Syrigh on criminal and<sup>26</sup> political.

Criminal community's interests are primarily in the economic sphere. These communities usually do not rise to the level of political activity and does not put its immediate purpose obstructing the activities of the state, its agencies, the change of

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<sup>25</sup> Theory of State and Law: Textbook / Ed. V.C. Babayev. M.: Lawyer, 2007. p. 141. It is necessary to make an important qualification relating to the fact that at the moment the criminal community (organization) partially legalized in the political system of the Russian society and have an extensive network of open governance structures, public organizations and business entities.

<sup>26</sup> Ibid. 142.



power or the political regime. Political criminal groups, on the contrary, have as their direct purpose unconstitutional seizure of power by armed force, organization of riots, as well as the commission of acts that impede the normal functioning of the state, its agencies and officials.

Such a classification of criminal organizations needs to be adjusted. At present, there are almost no "pure" political criminal or criminal groups. Any criminal community is interested in a stable funding, a solid economic base and secure (legal) administrative and political cover. Therefore, in the vast majority of the activities of criminal organizations (communities) is shown the political aspect of the desire for conquest (retention, the use of) the government, associated with the subsequent reorientation of state and municipal political institutions on a permanent service of criminal interests.

The analysis of the place and role of criminal organizations (communities) in the political system should be subjected to the requirements (criteria) apply to all the institutions of the political system.

In accordance with the theory of the state institutions of the political system of society must have two basic criteria: organizational and<sup>27</sup> political.

Organizing criterion means the internal order and design elements (the presence of specific tasks, functions, hierarchy, autonomy), but the political criterion involves the political nature of an element of activity, which is revealed in several ways:

- a) ability to express the political interests of a particular social group;
- b) ability to participate in political life, i.e., have a direct or indirect relationship to the conquest, retention or use of state power;
- c) ability to follow in their activities of a certain political program and be guided by political standards.

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<sup>27</sup> There are different views on the number of criteria for the selection of elements of the institutional subsystem of the political system (political organization) community. Thus, F.M. Burlatskii and V.E. Chirkin offer seven such criteria, VN Zhukov, S.A. Mosquitoes and M.N. Marchenko - three. Despite the diversity of opinions, all of the authors acknowledge the existence of institutional and political criteria.

Modern criminal organizations (community), acting on the territory of the Russian Federation, called the match criteria.

This specific tasks of criminal organizations (communities) should be attributed for them to participate in the political system:

- replacement of elected and appointed positions for subsequent use of power in the interest of criminal organizations (communities);
- formation of federal and regional bodies of state power of the deputies, lobbying adoption of normative legal acts, political, administrative or other official decisions in the interests of criminal organizations (communities);
- acquired immunity of elected officials and parliamentary immunity.

The listed policy objectives of criminal organizations (community), participating in the political system, are inextricably linked with economic:

- legal redistribution of commodity markets, real estate, goods and services for the benefit of organized criminal groups;
- establishment of control over profitable enterprises and budget-highly profitable sectors of the economy (construction, fuel and energy sector, mining industry, institutions, credit and financial sphere);
- unlawful obtaining additional privileges and preferences (export-import operations, taxes, licensing activities, quotas);
- unlawful access to credit and budgetary management in the interests of criminal organizations (communities).

Decision by criminal organizations of their economic problems contributes to the dependence of the judiciary on the federal and regional executive authorities, which, in combination with selective enforcement allows criminal leaders to carry out the raider seizures of property complexes, to carry out "hostile takeovers" interests of economic entities, to use bankruptcy of specific enterprises in the interests of criminal organizations.

According to the Russian Interior Ministry, in 2, 7 thousand criminal cases on economic formulations were investigated by internal affairs bodies in January-

March 2013, it was established that there was an involvement of organized groups and criminal organizations.

One of the most criminalized relations are financial and credit ones, which revealed more than 19.5 thousand trained<sup>28</sup> crimes.

Criminal groups are seeking to "accompany" even the implementation of priority national projects. For example, in 2012-2013, there has been major embezzlement of public campaigns, intended for investment in housing development, industry, transport infrastructure. During the prosecutor's checks the facts of embezzlement of funds were allocated from the Fund for Housing Reform and intended for capital repairs of apartment buildings. Identify cases of transfer of funds to the accounts of affiliated businesses and bring to fulfillment the work of intermediary organizations that have signs of one-day firms. Commonly management companies and public organizations commit criminal attacks on cash paid by citizens for housing and communal services. Overall, in 2010 prosecutors in the field of housing identified more than 130 thousand law violations. Law enforcement agencies on the content posted by prosecutors filed 200 criminal<sup>29</sup> cases.

Supervisory practice of the Russian Federation Prosecutor General's Office shows that the areas of high risk of corruption are the expenditure of budgetary funds, public procurement and federal programs, placement of orders for goods, works and services for state and municipal<sup>30</sup> needs. Prosecutors revealed a significant number of violations of the law in the performance of the revenue and expenditure side of the budget, including the misuse of budgetary funds. As the

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<sup>28</sup> Criminality and the main results of the operational activity of internal affairs agencies in January-March 2013 / DAO Ministry of Internal Affairs of Russia. p. 5.

<sup>29</sup> *Subanova N.V.* Prosecutor's supervision as a means of strengthening the rule of law in the sphere of economy // Journal of Russian law. 2012. № 1.

<sup>30</sup> Proceedings of the meeting of the Board of the Russian Federation Prosecutor General's Office on the results of the prosecution authorities to ensure law and order in the first half of 2013 and the definition of objectives for improving prosecutorial practice in the second half of 2013 URL // <http://genproc.gov.ru/smi/news/genproc/news-83866> (reference date: 19 August 2013).

President of Russian Federation said, non-target costs, including outright theft and "kickbacks", are not less than a trillion<sup>31</sup> rubles.

There is a steady upward trend in the number of detected violations at all stages of the procurement (especially when placing an order). Thus, according to the results of checks carried out by the prosecution authorities in 2008, more than 14 thousand violations of corruption laws on placing orders for delivery of goods, works and services for state and municipal needs were revealed - almost 20 thousand; - in 2009 in 2010 - more than 32 thousand illegal activity unscrupulous representatives of state customers and entrepreneurs a real threat to national security, undermines the authority of the government, prevents competition and hinders social and economic development of the<sup>32</sup> country.

Despite the efforts taken by law enforcement authorities, the crime situation in the Russian Federation continues to remain tense. So, in 17 regions of Russia increased the number of grievous and especially grievous crimes. In January-March 2013 nearly 6 thousand crimes were revealed, committed by organized group or criminal community. A particular danger to society are organized forms of crime related to violence, terrorism, extremism and drug trafficking and weapons suppressed the activity of 23 thousand leaders and active members of organized groups. Registered 68 crimes connected with the organization of a criminal association or participation in it.

According to the statistics in 2012, 49 513 crimes of corruption were registered. Most of them (90.1%) identified the bodies of internal affairs. The proportion of corruption crimes in the structure of crime in the Russian Federation is 2.2%. At the same time, the proportion of damage from corruption crimes reaches 7.8% (20,821,800,000 rubles) of the amount of damage from across the country identified in the crime. Among the corruption-related crimes, cases and materials which are in production in the reporting period, 75.8% (37 546) sent to the court.

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<sup>31</sup> Message from the President of the Russian Federation to the Federal Assembly on November 30, 2010 // Ros. gas. 2010 December 1st.

<sup>32</sup> *Subanova N.V.* Prosecutor's supervision as a means of strengthening the rule of law in the sphere of economy // Journal of Russian law. 2012. № 1.

In 2012, 13 565 persons who have committed crimes of corruption were<sup>33</sup> revealed.

As the materials of the criminal statistics, based on the corruption component organized criminal activity is carried out with the participation of law enforcement officials who cooperate with criminal<sup>34</sup> organizations. At the same time, if previously the most highly profitable illicit activities were under the tacit control of crime bosses, at the present time there is a tendency to implement crime (including corruption) schemes heads of major commercial organizations and officials of bodies of state power and administration.

Analysis of corruption crime structure shows growth in the proportion of fraud committed using his official position (from 23% in 2011 to 31% in 2012). Of persons prosecuted for corruption-related crimes, the majority working in the executive bodies of state power at the level of the Federation - 57%; in local government employees - 21.6%, in government agencies at the federal level - 21.5%. Among the law enforcement officers involved in the criminal liability for corruption offenses, the vast majority (63%) were employees of the Interior<sup>35</sup> Ministry.

It should be stated that the liability for corruption offenses involved mostly from the lower levels of the state apparatus and local governments. The proportion of representatives of state power and governance among the convicted bribe-takers

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<sup>33</sup> GIAC statistics Russian Interior Ministry - "Summary Report on Russia on the state of crime and the results of the investigation of crimes" (Form 494); "Summary Report of Russia on the results of law enforcement (enforcement) agencies to combat crimes committed through abuse of office by officials, public servants and employees of local governments, as well as persons who perform administrative functions in commercial or other organization" (Form 590 ); statistics Crime Statistics Directorate of the General Prosecutor's Office - "Information on the work of the public prosecutor on supervision over the implementation of anti-corruption legislation and on the results of investigation of criminal cases on crimes of corruption" (form A) for 2012 and similar forms for 2008-2011 .

<sup>34</sup> Alarming, that criminal groups are sometimes run by persons officers of the law enforcement agencies (the Republic of Ingushetia, Tula region).

<sup>35</sup> The state of law and order in the Russian Federation and the work of the prosecution. 2012: Informational and analytical note / under total. Ed. Rector of the Academy of the Prosecutor General of the Russian Federation Dr. jurid. Sciences, prof. OS Kapinus. M., 2013. 343 p.

is less than 1%. The share of the facts of bribery on a large scale in the total number of identified - only<sup>36</sup> 7.6%.

According to statistics Ministry of Internal Affairs of Russia disclosed 47.4% in January-March 2013 crimes committed by persons previously violated the law (152.6 thousand.), including: 108.5 thousand - previously convicted. Over 25% of solved crimes are classified as serious and very serious (38.5<sup>37</sup> thousand.).

The sphere of accounting crimes is under concern, which forms criminal legal statistics and crime detection. Law enforcement authorities, especially police, improperly react to the received signals of the crimes. Persist method of concealing them from the account. In the first half of 2013 more than 425 thousand crimes, including over 106 thousand serious crimes, remained unsolved.

Continuing reduction in the number of registered crimes committed by members of organized criminal groups. There is an expansion and strengthening of the economic base, increasing the negative impact of organized criminal groups on the territory of our country, both within and outside<sup>38</sup> Russia.

The scale of the challenges facing the criminal organizations (communities), determines the selection of the representatives of criminality appropriate methods of struggle for state and municipal authorities.

The role of criminal organizations (communities) in the political system of the society expressed in their functions, which include:

- a) representation of socio-political interests of a particular section of society;
- b) actual implementation of individual public authority ( "shadow" justice, education and employment of young people from disadvantaged families, etc.);
- c) development and implementation of political strategy and tactics of the struggle for state power in the elections.

The function of representation of social and political interest is manifested in the fact that the candidates of criminal organizations (communities) represent the interests of certain social groups and have some support in the community.

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<sup>36</sup> *Damascin O.V.* Corruption: state, causes a reaction. M.: Arc de Triomphe, 2009. P. 32.

<sup>37</sup> State crime and the main results of the operational activity of internal affairs agencies in January-March 2013 / DAO Ministry of Internal Affairs of Russia. p. 5.

<sup>38</sup> Resolution of the All-Russian Coordination Meeting of the Heads of Law Enforcement Agencies of the Russian Federation of 21.02.2011 No. 1 "On Urgent Measures to Counteract Crime, Enhance the Protection of Public Order, Enhance Prevention of Illegal Conduct."

As rightly pointed O.V. Damascin, "the underdevelopment of party political system in Russia, the lack of full-fledged political party, actually expressing interests of specific social groups, led to the fact that the parties have become to develop in two directions: either represent beliefs ticked executive or turn into some kind of business projects on earning assets by receiving support from the government in exchange for votes at the Research Institute Consider an issue in the legislature."<sup>39</sup> In a view of these circumstances, a corruption component of a political process was expressed in the lobbying of some bills and the can torus other in the interests of specific financial and industrial groups, to finance-industrial party and economically stimulate the activity of deputies, comrade, may influence the decisions of legislative bodies. Since the criminal community has considerable influence in the resource sphere of the economy, some politicians and party functionaries, in essence, to the rank of expressing not only the economic, but also criminal group interests.

Traditional practices in many regions of the Russian Federation has been appointed to the post for the money or corrupt rents. The absence of real mechanism of formation of personnel potential of power, inefficiency forms of training and retraining of personnel for the state and of municipal services, the complete absence of a system of rotation of administrative staff of senior - all this led to systemic crisis management, it is about occupational<sup>40</sup> degradation.

Not surprisingly, that in these conditions the population supported the affluent, active, businesslike and organized representatives of the criminal world. Thus, according to survey carried out by the Fund "Public opinion" is a nationwide survey of urban and rural population of 44 of the Russian Federation, 4% of citizens believe that only representatives of organized criminal groups can restore order in the country, because "criminals used to discipline ',' order more in their environment." 2% of respondents believe the representatives of the criminal environment honest, fair, intelligent people with great life experience, who know

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<sup>39</sup> *Damaskin O.V.* Corruption: state, causes, resistance. Moscow: Triumphal Arch, 2009. p. 54-55.

<sup>40</sup> *Ibid* p. 25.

how to keep the word ( "they understand life better", "they are often more honest than<sup>41</sup> politicians").

In the public consciousness of the population of some subjects of the Russian Federation formed tolerance and sympathy among the population regarding elected to bodies of state power and local self-government representatives of criminal organizations and related criminal among the candidates for elective office. A number of representatives of the Russian Federation criminals are well respected among the population. It should be noted that members of organized crime groups actively support the strengthening of criminal influence in society, including among the youth. Such cases are known by sports, clubs, entertainment centers and discotheques, under the influence of organized crime and are funded from their sources.

The actual implementation of criminal organizations (communities) of individual public authority, the public appeal for help to the criminals due to the presence of criminal structures constructed by the control system, which combines the formulation of clear and realistic objectives, minimization of bureaucracy, the distribution of roles, strict subordination, control and mutual the perpetrators, as well as an apparatus of coercion.

As noted above, criminal organizations (the community) are actively involved in the struggle for state<sup>42</sup> power. The economic viability of criminal organizations (communities) and the financial and industrial structures under their control allow representatives of criminals to become the main sponsors of election campaigns, to control the activities of judges, election commissions, law enforcement agencies and the media.

During the preparation and conduction of the election candidates, representing the interests of criminal organizations, act as active supporters of the implementation of party programs, demonstrate a willingness and ability to solve socially important questions: asphalt road, install plaques soldiers of the Great

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<sup>41</sup> *Petrova A.* Crime in power - a common phenomenon? //bd.fom.ru/report/map/projects. See also. Polunin A. "Bratki" gathered in power // Work. 2004. 10th of August. No. 148.

<sup>42</sup> For more details, see Krasinsky V.V. Problems of struggle against criminals in the course of election campaigns // The legal world. 2003. № 9. With. 4-8; Krasinsky V.V. Participation of organized criminal groups in electoral campaigns // Politics and Society. 2008. № 4. With. 7-13.



Patriotic War, build playgrounds, eager to participate in the implementation of cultural, educational and patriotic events.

Despite this, imbued with criminal elements and located them on the content of corrupt officials and law enforcement personnel, formed from the proceeds of crime, expressing personal and narrow corporate interests of the state mechanism of power gradually loses its social and political value in the public eye. State power exercised by anti-state elements and opposes itself to the state, can not be effective and durable running of public affairs. Such a control unit will always be strategically focused on reproduction and protection of their criminal links.

The monopolization of the representatives of underworld property complexes, financial flows and law-making procedures of individual municipalities of the Russian Federation allows them to save and transform the favorable socio-economic and political relations, taking into account the dynamics of the changing environment. Availability of legal cover in the federal and regional authorities, security services, law enforcement, supervisory and financial authorities significantly complicates the decriminalization of the administrative mechanism.

The analysis of the place and role of criminal organizations (communities) in the political system of the Russian society shows the partial institutionalization and legalization of criminal organizations in the political system and an exceptional public danger of this phenomenon.

## **2. THE PARTY LIST FOR THE ELECTIONS TO THE STATE DUMA OF THE FEDERAL ASSEMBLY OF THE RUSSIAN FEDERATION SIXTH CONVOCATION: CANDIDATES WITH CRIMINAL RECORDS AND ANTI-CRIME STATE POLICY**

One of the most important and large-scale social and political events in our country are the elections of deputies of the State Duma of the Federal Assembly of the Russian Federation. During this election campaign, each of us carries a choice between political leaders and their programs and nominated by the party candidates competing for the exercise of state power and popular representation. Taking political decisions we base their preferences on personal likes and available at the polling stations on the particulars of party leaders and most prominent regional functionaries.

In addition to biographical candidate data, information about their income and assets, unwithdrawn and the conviction that, in the supervision and auditing service at the election commissions received information about the involvement of the proposed candidates to the criminal liability of the election in respect of some of them a preventive measure in the form of detention, grounds for termination of the criminal prosecution of these persons, the revealed facts of concealment of information about the candidates unwithdrawn (outstanding)<sup>43</sup> convictions.

Unfortunately, the voters have a very superficial understanding of criminological characteristics formed by the deputies and legal "purity" of their future representatives in the State Duma of the Federal Assembly of the Russian Federation.

In accordance with paragraph 2.1 of Article 33 of the Federal Law of June 12, 2002 № 67-FZ "On Basic Guarantees of Electoral Rights and the right to participate in the referendum of russian citizens" candidates and candidates for

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<sup>43</sup> A person convicted of a crime is considered to be tried from the day the guilty verdict enters into legal force until the date of repayment or removal of conviction. The person's outstanding or unexplained criminal record gives rise to special legal and legal relations that develop on the basis of criminal law regulation and the state.

elected office are required to indicate in the application for consent to run about the presence of the candidate and unwithdrawn outstanding conviction. This obligation has appeared in the Federal Law "On Basic Guarantees of Electoral Rights and the right to participate in the referendum citizens of the Russian Federation" from July 25, 2005.

According to the paragraph 3.2 of Article 4 of the Federal Law "On Basic Guarantees of Electoral Rights and the right to participate in the citizens' referendum the Russian Federation" from December 5, 2006, in force until 1 June 2012, it was forbidden to be elected by the citizens, sentenced to imprisonment for committing grave and (or) very serious crimes and having on the day of voting in the elections and unwithdrawn outstanding conviction for such offenses.

The State Automated System "Elections", starting from July 2005, recorded only the presence and unwithdrawn outstanding conviction. Indication of other information, such as the presence of a candidate in the last cancellation of conviction, the candidate participate as a party in criminal proceedings, and the like are not required, and because the databases SAS "Elections" are not<sup>44</sup> recorded. To check the reliability of the information about the presence (absence) unexpunged and (or) a conviction that electoral commissions directed to the relevant representations to the police, who provided the information.

In this study, the author analyzes the relevant information about the candidates nominated by political parties that participated in the election of deputies of the State Duma of the Federal Assembly of the Russian Federation of the sixth convocation, and prepared proposals to improve the legislation on individual lines to counter the criminalization of public<sup>45</sup> authorities.

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<sup>44</sup> Information and analytical materials of the Central Election Commission of Russia "On participation in election campaigns 2008-2012. as candidates for elected positions of persons with unexpunged and (or) outstanding conviction ". p.1.

<sup>45</sup> Problems of criminalization of the Russian political system and mechanisms to counteract attempts to promote their candidates to the authorities by criminal organizations (communities) were investigated by V.D. Zorkin, V.V. Krasinsky, A. Petrova, N.V. Shchedrin. See Zorkin V.D. The constitution against crime // Ros. gas. 2010. 10 December; Krasinsky V.V. Problems of fighting criminals in the course of electoral campaigns // Jur. Peace. 2003. № 9.

In the elections to the State Duma of the Federal Assembly of the Russian Federation of the sixth convocation participated 7 political parties: Political party FAIR RUSSIA, the Liberal Democratic Party of Russia, PATRIOTS OF RUSSIA, the Communist Party of the Russian Federation, the Russian United Democratic Party "Yabloko", All-Russian political party "UNITED RUSSIA" and the All-Russian political party "FAIR<sup>46</sup> CAUSE".

The federal list of candidates of a political party FAIR RUSSIA was 576 candidates, federal part list included 8 candidates and 73 regional groups.

The list of the Liberal Democratic Party of Russia consisted of 307 candidates, including 10 candidates in the federal part of the list of 292 candidate and as part of 82 regional groups.

In "PATRIOTS OF RUSSIA" The CEC registered Russian federal list of candidates of a political party were 298 names, including 10 - in the federal part of the list and 288 - as part of 83 regional groups.

List of the Russian Federation Communist Party consisted of 590 candidates, including 10 candidates in the federal part of the list, and 580 - in 73 regional groups.

The federal list of the Russian United Democratic Party "Yabloko" consisted of 10 candidates in the federal part of the list and 350 candidates in 78 regional groups.

As in the previous elections, the All-Russian political party "United Russia" has registered the most numerous federal list of 597 names. The federal part of the list of 1 candidate was included - Russian President Dmitry Medvedev 596

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With. 4-8; Krasinsky V.V. Participation of organized criminal groups in electoral campaigns // *Politics and Society*. 2008. № 4. p. 7-13;

*Krasinsky V.V.* Criminal organizations (communities) as an element of the political system of Russian society // *Human Capital*. 2011. № 1. P. 95-99; Petrova A. Crime in power - a common phenomenon? // *Work*. 2004. August 10; Shchedrin N.V. Criminal past as the basis for limiting passive electoral right // *Sb. materials of the International Scientific and Practical Conference on Memory of the Doctor of Law. prof. Gorobtsova.CH.1. Krasnoyarsk, 2005. p. 300 - 303.*

<sup>46</sup> Federal lists of candidates to the State Duma of the Federal Assembly of the Russian Federation of the sixth convocation, nominated by political parties and registered by the Central Election Commission of the Russian Federation. Special Information Issue of the Central Executive Committee of the Russian Federation // *Ros. gas*. 2011. December 4th. p. 200.

candidates were included in the 80 regional groups. Regional groups of "United Russia" headed by senior officials of the Russian Federation (head of the republic, governors, heads of administrations), deputies of the State Duma of the Federal Assembly of the Russian Federation, deputies of the legislative bodies of the Russian Federation, senior officials of the Russian Federation and federal<sup>47</sup> ministers.

In the federal list of candidates of the political party "Right Cause" there were 576 candidates, federal part list included 10 candidates and 77 regional groups.

The most "dirty" in respect of the criminal was a federal list of candidates of the political party FAIR RUSSIA. In this federal list numerically compared with the lists of other political parties that participated in the federal elections of 2011, contained the largest number of candidates being prosecuted and having a criminal record<sup>48</sup> repaid.

From nominated by a political party FAIR RUSSIA federal list of candidates for deputies of the State Duma of the Federal Assembly of the Russian Federation of the sixth convocation of the three candidates with criminal records were excluded prior to registration.

In the list of registered party FAIR RUSSIA 46 candidates left to prosecute, including 10 with the redeemed and 1 with a<sup>49</sup> conviction.

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<sup>47</sup> At the head of the regional groups of the registered list of United Russia were 52 senior officials of the subjects of the Russian Federation, 12 deputies of the State Duma of the Federal Assembly of the Russian Federation, 3 deputies of the legislative bodies of state power of the constituent entities of the Russian Federation, 6 senior government officials, and 2 federal ministers.

<sup>48</sup> It is necessary to make a reservation that a number of representatives of the criminal environment have (never had) convictions. In addition, to penetrate into the federal and regional legislative bodies, criminal elements use conscious distortion of the set data (patronymic, date of birth), remove information about themselves from regional law enforcement bases, and promote "unseen" henchmen (often close relatives), not having criminal record and identified links with organized crime. This makes it difficult to verify these citizens on the accounts of the "GIAC of the Ministry of Internal Affairs of Russia" and the information centers of the territorial bodies of the Ministry of Internal Affairs of Russia and gives them the opportunity to be elected to government bodies.

<sup>49</sup> Unclear conviction for part 2 of Art. 129 of the Criminal Code of the Russian Federation indicated one candidate (regional group No. 30).

3 candidates have been convicted of crimes against freedom, honor and dignity ("slander"), 3 candidates - for crimes against public safety (two for disorderly conduct, one for illegal carrying, storage, acquisition, manufacture or sale of weapons, ammunition or explosives), 3 - for crimes in the sphere of economic activity ("illegal entrepreneurship"), 2 - for crimes against public order ("insulting a representative of the authorities" and "forgery, manufacture or sale of counterfeit documents, state awards, stamps, seals, forms"), 1 - for an offense against the constitutional rights and freedoms of man and citizen ("violation and patent rights").

From among persons having a criminal record repaid, four - members of legislative bodies of state power of subjects of the Russian Federation and representative bodies of the municipalities, one is the head of the municipality, three - Chairman of the local branch of the party, one - the chairman of the primary branch of the party. 4 convicted persons were released from the punishment decision of the State Duma of the Federal Assembly of the Russian Federation on amnesty.

The ratio of 6 candidates is prosecuted (including 4 deputies), criminal proceedings were discontinued on the article 24 of the Criminal Procedure Code of the Russian Federation in connection with the expiration of the statute of limitations, one of the candidates (Member of the legislative body of state authority of the Russian Federation on a temporary basis) in 2008, prosecuted under part 1 of article 141 of the Criminal Code ("Obstruction of electoral rights or the work of election commissions").

In the 5 candidates (one MP), criminal proceedings have been discontinued under Art. 25 Code of Criminal Procedure in connection with reconciliation of the parties or of art. 9 Code of Criminal Procedure in connection with reconciliation with the victim. In the 5 candidates (two of them - members of) criminal cases were discontinued due to an act of amnesty (claims 3 Clause 1, Article 27, Code of Criminal Procedure and Article 5 of the Code of Criminal Procedure to claim 4.), In respect of 5 (three - MPs) - in connection with active repentance (Article 28,

Code of Criminal Procedure.). One of the candidates (Deputy of the State Duma of the Federal Assembly of the Russian Federation) is the federal wanted list (preventive measure - arrest), in relation to another candidate (MP on a temporary basis of the municipal assembly) search was discontinued in January 2010. The two candidates were under investigation.

From nominated by a political party "Communist Party of the Russian Federation, "federal list of candidates for deputies of the State Duma of the Federal Assembly of the Russian Federation of the sixth convocation of the two candidates were eliminated before registering with a criminal record.

In the list of the registered party "Communist Party of the Russian Federation" 37 remaining candidates to prosecute, including 11 with the cancellation of conviction.

One candidate had two previous convictions.

1 Candidate has been convicted of a crime against freedom, honor and dignity ( "illegal deprivation of liberty"), 4 candidate - for crimes against property (one for theft, one for robbery and two for fraud), 2 - for crimes in economic activities ( "tax evasion and (or) fees to the organization", "illegal business activities"), 2 - for crimes against traffic safety and operation of transport, 1 - for committing a crime against the state, the interests of government service and service in local government ("negligence"), 1 - for an offense against justice (unlawful acts against property subjected to the inventory or arrest or subject to confiscation").

From among persons having a criminal record repaid, four - members of legislative bodies of state power of subjects of the Russian Federation and representative bodies of the municipalities, one is the first secretary of the city branch of one - the first secretary of the district branch of the party. 4 convicted persons were released from the punishment decision of the State Duma of the Federal Assembly of the Russian Federation on amnesty.

With regard to 3 candidates (among them 1 MP) criminal cases were discontinued for item 3 of the article 24 of the Criminal Procedure Code of the

Russian Federation in connection with the expiration of the statute of limitations. With regard to the candidates 6 (4 of them are members of) criminal proceedings were suspended under art. 25 Code of Criminal Procedure in connection with reconciliation of the parties or of art. 9 Code of Criminal Procedure in connection with reconciliation with the victim. With respect to 2 candidates (one of them - the secretary of the committee of the regional branch, the other - a member of the Regional Committee of the Bureau) criminal proceedings were suspended due to the Amnesty Act (claims 3 Clause 1, Article 27, Code of Criminal Procedure and Article 5 of the Code of Criminal Procedure to claim 4. ), in the ratio of 2 (one - the first secretary of the republican branch of the Committee) - in connection with active repentance (Article 28, Code of Criminal Procedure)..

With respect to the two candidates was carried out a preliminary investigation in respect of one of them was elected as a preventive measure in the form of detention (art. 98 Code of Criminal Procedure).

From nominated by a political party "Yabloko" federal list of candidates for deputies of the State Duma of the Federal Assembly of the Russian Federation of the sixth convocation before the registration was excluded seven candidates with criminal records.

The registered list of "Yabloko" party left 16 candidates to prosecute, including 10 with the cancellation of conviction and 1 with a<sup>50</sup> conviction.

3 candidates have been convicted of crimes against freedom, honor and dignity ( "libel", "insult"), 2 candidates - for crimes against property ( "Causing damage to property by deception or abuse of trust" and "embezzlement of public property, committed by swindling "), 2 - for crimes in the sphere of economic activity (" consumer fraud "," illegal business activities "), 2 - for crimes against traffic safety and operation of transport, 2 - for perfect s crimes against the government, interests of public service and service in local government ( "bribery", "receiving bribes"), 1 - for a crime against public security, public order and public

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<sup>50</sup> Outstanding conviction under part 3 of Art. 129 of the Criminal Code ("slander"), one candidate (regional group No. 66) indicated. The conviction was not repaid in connection with the refusal of the convicted person to comply with the court's decision.



health ( "the purchase or sale of the property obviously extracted criminal by "), 1 - for a crime against life and health (" beating") and 1 - for an offense against the constitutional order and security of the state ("calls for forcible change of the constitutional order<sup>51</sup>").

Of those with criminal records, one was a deputy of a representative body of the municipality on a temporary basis, the two - the chairmen of the regional branch of the party, one - the chairman of the local branch of the party.

1 convicted person has been released from the punishment decision of the State Duma of the Federal Assembly of the Russian Federation on amnesty.

With respect to 1 candidate is prosecuted (a member of the Federal Council of the party), the criminal case was dismissed due to the expiration of the statute of limitations. With regard to the candidate 1 (member of the Regional Council of the party) the criminal case was dismissed in connection with the reconciliation of the parties. With regard to the candidates 2 criminal cases were terminated as a result of an amnesty (claims 3 clause 1, article 27, Code of Criminal Procedure and Article 5 of the Code of Criminal Procedure to claim 4.), In the ratio of 2 (one - chairman of the regional branch of the party) - in connection with the active repentance (art. 28 Code of Criminal Procedure).

Two candidates were under investigation in respect of one of them (the deputy of a representative body of the municipal entity on a temporary basis) was elected as a preventive measure in the form of detention (art. 98 Code of Criminal Procedure).

The most "pure" in the criminal plan became federal lists of candidates, registered by the political party "Liberal Democratic Party of Russia" and the All-Russian political party "UNITED<sup>52</sup> RUSSIA".

From the federal list of candidates for deputies of the State Duma of the Federal Assembly of the Russian Federation of the sixth convocation, nominated

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<sup>51</sup> Some candidates were convicted of a combination of crimes.

<sup>52</sup> The registered federal lists of these parties contained the smallest number of persons who had been brought to criminal responsibility and who had repaid convictions.

by a political party "The Liberal Democratic Party of Russia" two candidates were eliminated before registering with a criminal record.

In the list of the registered party "Liberal Democratic Party of Russia" 9 candidates were left to prosecute (two of them - the State Duma of the Federal Assembly), including 3 with cancellation of conviction.

1 Candidate has been convicted of a crime against public safety ("hooliganism"), 1 candidate - for a crime against life, health, freedom and dignity ("rape"), 1 candidate - for a crime against justice ("escape from prison , from arrest or detention").

From among persons having the cancellation of conviction, one candidate is a deputy of the State Duma of the Federal Assembly of the Russian Federation, a member of the State Duma Security Committee.

With respect to 2 candidates is prosecuted (member of legislative body of the government of the Russian Federation and a member of the representative body of the municipality), criminal proceedings have been discontinued under Art. 25 Code of Criminal Procedure in connection with reconciliation of the parties or of art. 9 Code of Criminal Procedure in connection with reconciliation with the victim. With regard to the candidate 1 (deputy legislative body of the government of the Russian Federation), the criminal case was dismissed in connection with active repentance (v. 28 Code of Criminal Procedure).

From the extended Russian political party "UNITED RUSSIA" federal list of candidates for deputies of the State Duma of the Federal Assembly of the Russian Federation of the sixth convocation, one candidate with a criminal record has been removed prior to the registration.

As a registered federal list of candidates for the State Duma of the Federal Assembly of the Russian Federation of the sixth convocation of the party "UNITED RUSSIA" 10 candidates were left to prosecute, including 2 previously convicted.

1 Candidate has been convicted of a crime against public safety ("illegal carrying, storage, acquisition, manufacture or sale of weapons, ammunition or

explosives"), 1 - for an offense against the constitutional rights and freedoms of man and citizen ("violation of the rules of protection labor").

With regard to the candidate 1 criminal case was dismissed due to the expiration of the statute of limitations in respect of one candidate (MP legislative body of the government of the Russian Federation on a temporary basis) - in connection with the reconciliation of the parties.

From nominated by a political party "PATRIOTS OF RUSSIA" federal list of candidates for deputies of the State Duma of the Federal Assembly of the Russian Federation of the sixth convocation before registration were excluded nine candidates with criminal records.

In the list of the registered party "PATRIOTS OF RUSSIA" leaving 14 candidates to prosecute, including 4 with cancellation of conviction.

1 Candidate has been convicted of a crime against life, health, freedom and dignity ("intentional grievous bodily harm"), 1 candidate - for a crime against property ( "intentional destruction or damage of property"), 1 - for a crime against traffic safety and transport operation ("violation of safety rules and operation of transport"), 1 - for committing a crime against the state, public service and in the interests of the local self-bodies detecting ("exceeding official authority").

One candidate had numerous convictions.

As for 4 candidates, who were prosecuted, criminal proceedings were terminated under Art. 25 Code of Criminal Procedure in connection with reconciliation of the parties or of art. 9 Code of Criminal Procedure in connection with reconciliation with the victim.

In respect of one candidate (the deputy of a representative body of the municipality), a criminal case was pending at the trial stage.

From the extended Russian political party "just cause" of the federal list of candidates for deputies of the State Duma of the Federal Assembly of the Russian Federation of the sixth convocation of ten candidates with criminal records were excluded prior to registration.

2 candidates have been convicted of crimes against freedom, honor and dignity ( "slander"), 2 candidates - for crimes against property ( "fraud" and "embezzlement"), 1 - for a crime against the population and public morals health ( "illegal acquisition, storage, transportation, manufacturing, processing narcotics, psychotropic substances or their analogs, as well as illegal acquisition, storage, transportation plants containing drugs or psychotropic substance, or parts thereof, containing narcotic drugs or psychotropic substances"), 1 - for committing a crime against the state, the interests of public service and service in local government ("exceeding official authority").

Among persons who had the cancellation of conviction, one candidate was a deputy of a representative body of the municipality on a temporary basis, two - members of the political council of the regional branch of the party.

With regard to the candidate 1 (a member of the political council of the regional branch of the party), the criminal case was dismissed due to the expiration of the statute of limitations. Regarding to 3 candidates (two of them - the heads of local party branches) criminal cases were terminated in connection with the reconciliation of the parties. With regard to 3 candidates (one of them - a member of the political council of the regional branch of the party), criminal proceedings have been discontinued due to an act of amnesty (claims 3 Clause 1, Article 27, Code of Criminal Procedure and Article 5 of the Code of Criminal Procedure to claim 4.), in the ratio of 1 (Chairman of the regional branch of the party) - in connection with active repentance (Article 28, Code of Criminal Procedure.).

The ratio of 1 candidate for the State Duma carried out a preliminary investigation in relation to the candidate 1 criminal case was sent to the court in relation to the candidate 1 was carried out further investigation in a criminal case.

The results of the election of parliamentary seats were distributed among the four political parties. All-Russian political party "UNITED RUSSIA" won 238 seats in parliament, political party "Communist Party of the Russian Federation" -

92 Political party FAIR RUSSIA - 64 Political Party "Liberal Democratic Party of Russia" -<sup>53</sup>56.

The list of elected deputies of the State Duma of the Federal Assembly of the Russian Federation of the sixth convocation 9 deputies prosecuted, 2 - have a criminal record<sup>54</sup> repaid.

Analysis of the results of elections of deputies of the State Duma of the Federal Assembly of the Russian Federation of the sixth convocation poses vital questions. Can a person be held criminally liable, to work in the committee of the State Duma of the Federal Assembly of the Russian Federation for Civil, Criminal, Arbitration and Procedural Legislation? Can a person be held criminally responsible for crimes against property, to work in the State Duma Committee on Economic Policy and Entrepreneurship? May be the deputies of the State Duma, members of the security of citizens involved in criminal cases, the State Duma Committee, in whose apartments the police during operatively-search activity found machines without license plates with silencers, shops, hundreds of rounds of ammunition and grenades RGD-5?

According to the author's opinion, the current situation, in which the possibility of electing the bodies of state power and local self-government persons in the federal wanted list detained, involved as an accused in criminal cases, has repeatedly convicted, including the grievous crime is unacceptable .

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<sup>53</sup> Russian Central Election Commission Resolution dated December 9, 2011 № 70 / 576-6 "On the results of the elections of deputies of the State Duma of the Federal Assembly of the Russian Federation of the sixth convocation" // Ros. gas. 2011. December 10th.

<sup>54</sup> The list of elected deputies of the State Duma of the Federal Assembly of the Russian Federation of the fifth convocation of 8 deputies prosecuted, 2 - had a criminal record repaid.

### **3. MUNICIPAL AND REGIONAL ELECTIONS IN THE CONTEX OF THE ASPIRATIONS OF A CRIMINAL ORGANIZATION (COMMUNITY)**

The wide media coverage of the federal election campaign, the essential material costs of political parties and candidates, greater control over the legality and transparency of the electoral process by the federal regulatory and supervisory authorities lead to the fact that modern conditions of the most massive canal of criminalization of the Russian political system is a participation of the criminal organizations (communities) in the municipal and regional elections.

February 25, 2009, speaking at an enlarged meeting of the Collegium of the Russian Federation Prosecutor General's Office of the Russian Federation President Dmitry Medvedev pointed out that at the municipal level, there is a fairly high representation of criminals. "Criminal elements, authorities and authorities of local scale should not be in the local authorities, and they are there a sufficient amount of", - said the head of<sup>55</sup> state.

Criminalization of Russia's political system is carried out in two main ways: by the participation of organized crime in the elections, followed by the election of the authorities and by the appointment of representatives of criminality in key positions corrupt officials of state and municipal vehicles.

These devices show the CEC of Russia on the constancy of the election campaign the proportion of individuals with unexpunged conviction. The total value for the elections at all levels ((election of deputies of the State Duma of the Federal Assembly of the Russian Federation and the election of the Russian President's elections to legislative (representative) bodies of state power of the Russian Federation and the election of senior officials of the Russian Federation in October 2012.; Elections legislative (representative) bodies of municipal government administrative centers (capitals) of the Russian Federation and the election of the heads of administrative centers (capitals) of the Russian Federation; the elections of representative bodies of local self-government of municipalities

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<sup>55</sup> <http://archive.kremlin.ru/text/news/2009/02/213299.shtml>

(urban districts and municipal districts) and heads of municipalities)) in the period from July 2008 to October 2012 were as follows: July - December 2008 - 7 human; January - June 2009 - 17 persons; July - December 2009 - 9; January - June 2010 - 15 persons; July - December 2010 - 19 persons; January - June 2011 - 26 persons; July - December 2011 - 17 persons; January - June 2012 - 19 persons; July - October 2012 - 10 people.

Crimes which are committed under consideration of category of persons, distributed in accordance with the Criminal Code of the Russian Federation by type as follows: 35 convictions for crimes against property; 23 convictions for crimes against the government, interests of public service and service in local government; 20 convictions for crimes against life and health; 17 convictions for crimes in the sphere of economic activity; 12 convictions for offenses against public order; 11 convictions for offenses against the administration of justice; 9 convictions for crimes against freedom, honor and dignity of the individual; 5 convictions for crimes against public security, crimes against the constitutional order and security of the state, environmental crime; 4 convictions for crimes against public health and public morality, crime against traffic safety and operation of transport; 3 convictions for crimes against the constitutional rights and freedoms of man and citizen, crimes against interests of service in commercial and other organizations; 1 conviction for crimes against military<sup>56</sup> service.

Official statistics of election commissions at odds with those of law enforcement and intelligence agencies. This is due to the fact that the electoral commission analyzed the participation of persons with criminal records in electoral campaigns only in the option of having a criminal record for committing grave and (or) very serious crimes, while for information and reference Records of the law enforcement bodies and special services of recorded data on criminal connections , the participation of citizens in the activities of criminal organizations (communities), about the procedural and investigative actions carried out against

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<sup>56</sup> Informational and analytical materials Office of the CEC of Russia "On the election campaign of 2008-2012 as candidates for elective office unexpunged persons and (or) a conviction." p.5.

citizens of bodies of inquiry and investigation, as well as other operational-relevant information.

The practice of regional and municipal elections that took place in 2006-2013 indicates **new trends in** the involvement of organized criminal groups in election<sup>57</sup> campaigns.

*Firstly*, the amount of representatives of organized criminal groups, directly running for MPs or elected positions, currently decreased markedly. Now the criminal environment leaders offer promising candidates their participation in the financing of election campaigns, either alone advance preparing for the introduction of the state authorities and local self-government of their "unexposed" proxies (often relatives) who have no criminal record, not compromised identified connections with organized crime groups .

*Secondly*, despite the legalization of the status and income, none of the deputies or elected officials, who are the leaders of the criminal environment, did not dismiss their combat groups ("militants"). As a rule, these structures operate under the guise of private security firms or security services. Thus, in the course of organizing and conducting elections, the representatives of organized criminal groups may be possible to use the force on the electoral process in order to influence political decision-making, destabilize and intimidate the population. In addition, leaders of ethnic criminal groups operating in the territory of the Russian

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<sup>57</sup> See .: *Krasinski V.V.* Involvement of organized criminal groups in election campaigns // *Politics and Society*. Number 4. 2008. p. 7-13. See also report Chairman of the Russian Central Election Commission V.E. Churov "On amendments of the electoral legislation in connection with the implementation of the Russian Federation of the provisions of the President's Address to the Federal Assembly in 2008, the problems of electoral commissions in connection with these changes and proposals of electoral commissions to improve the legislation of the Russian Federation on elections and referendums" / *Materials of the meeting with the chairmen election commissions of the Russian Federation, members of the Central federal District (Krasnogorsk, May 21, 2009)*; Report by Deputy Chairman of the Russian Central Election Commission, L.G. Ivlev "Experience of election commissions and problems of the electoral commissions of the Volga Federal District for the preparation and conduct of elections" / *Materials of the meeting with the chairmen of election commissions of the Russian Federation, included in the Volga Federal District (Kazan, June 5, 2009)*; The Assistant Plenipotentiary of the Russia's President in the North-West Federal District E.I. Makarova / *Materials of the meeting with the chairmen of election commissions of the Russian Federation, members of the Northwestern Federal District (Gatchina, September 3, 2009)*.



Federation may use their combat units during the ethnic clashes periodically arise in certain regions of the Russian Federation.

*Thirdly*, taking into account the increasing role of political parties in the electoral process, the most important task of criminal intelligence and counterintelligence was to establish control of organized criminal groups over the leading political parties (regional branches of political parties) and promotion of their representatives in the bodies of state power, local self-government and the election commission using party<sup>58</sup> structures. Leaders of political parties (regional offices), instead of the declared personnel policy to counter criminals (verification of candidates for members of the party, revealing the facts of party corruption and the transfer of the collected materials to law enforcement agencies, audit of party members who stand for elections under party lists, expulsion from the party people, compromised links with extremist organizations and organized criminal groups) uses the existing system of lists of candidates for inclusion in the *vozmez* Noah through individuals associated with criminal environment in the so-called "Closed" of the party lists. There have been instances where parties on the proposals of candidates representatives of the criminal environment are made for election as the highest official of the Russian Federation.

*Fourth*, members of organized criminal groups had virtually ceased to be carried out money laundering during the elections. This circumstance is due to the presence of organized criminal groups of diverse legal sources of financing of election campaigns and the tightening of legal liability for the violation of election financing.

These trends are the involvement of organized criminal groups in election campaigns hamper the purposeful activity of law enforcement agencies to prevent

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<sup>58</sup> For example, during the elections October 11, 2009 in the local government of the Republic of Ingushetia, the regional offices of the political party "United Russia" and "Fair Russia" has been nominated 51 associated with the criminal world, 27 of them were elected deputies of the municipal, district and rural councils of the Republic of Ingushetia. Following the elections October 11, 2009 in the local government of the Murmansk region Kandalaksha District Council of Deputies became deputies 2 representatives of the "United Russia", with strong ties with the leaders of the organized criminal group "Sorokovuha" and involved in the illicit trafficking of narcotic drugs.

criminality representatives to bodies of state power and local self-government elections and strengthen public danger of such processes.

Its features is the interference of criminal organizations in the electoral process in the North Caucasus region. In addition to the ordinary criminal organizations that seek to promote their representatives to the authorities in the North Caucasus are active extremist groups ("Jamaat"), which are covered with Koranic verses and hadiths of the Prophet to carry out their criminal activities (murder, kidnapping, robbery, extortion, banditry, illegal manufacture of weapons, etc.).

The members of these criminal organizations are promoting the replacement of secular ("godless", "infidels") public authorities power shariah institutions reject the value of the popular representative institutions and the constitutional and legal procedures of their formation.

Calls of the North Caucasian bandit groups to boycott the elections and political activities may be carried out under the guise of fighting a corrupt state power and crime.

So, March 7, 1999 in the Republic of Dagestan there were elections for the People's Assembly of the Republic. Jamaat "Kadar zone" blocked their conduct in the settlements Karamahi, Chabanmakhi, Kadar, and Chankurbe Vanashimahi.

"There," above ", they say that among the deputies there are many ex-felons. And we all this dirt is not needed. We - Muslims - for their actions are accountable to Allah on the Day of Judgment. Money and power are more important for them. They have forgotten Islam. Or when they need they salute the name of Islam. I repeat, we do not need this hypocrisy.." This is how he explained the refusal to vote for military "emir" Jamaat Dzharulla.

In response to the request of management to the population of these villages karamahinsky Jamaat sent to Makhachkala document, which stated: "Due to the fact that the country is not capable of its constitution and numerous laws to introduce elementary order in Dagestan should establish Allah's laws. Only by

establishing Sharia law, it is possible to restore order, such as in the villages and Karamahi Chabanmakhi<sup>59</sup>".

The ideology of denial of participation in political life and the need to replace the constitutional public authorities of Sharia extends through numerous so-called appeals "Amir" Wilayat "Caucasus Emirate" and fatwas about making Takfir (accusation of unbelief) to all Muslims who take part in the elections.

Thus, the "emir" Ghulam Muhammad Dagestan on an extremist website "Caucasus Emirate» [www.daavat.me](http://www.daavat.me) about Muslim participation in political life wrote: "It is good that the first Muslims did not hear about the magic words "democracy" , "tolerance", "rights man", "humanism". As well, they were not European-educated, and did not know that Muslims can participate in the elections! It was good that they did not know that Kufr and Islam have much in common, common goals and objectives, common friends and enemies, the general principles outlined crafty wording "human<sup>60</sup> values"!

"Amir," Abu Khalid, referring to Muslims, calling out: "Subhaan Allaah, the Muslims, wake up! You will not get what you need by participating in the elections, meetings, conferences and other rotten government projects!<sup>61</sup>

"On the day of elections of the President of the Russian Federation, March 4, 2012 on extremist websites and VDagestan.com Ummanews.com the so-called "Caucasus Emirate Cadia " headed by Sheikh Ali Abu Muhammad was published, in which he warned Muslims to participate in democratic elections that are "explicitly attribute kufr and shirk, disguised nice words and expressions."

According to Ali Abu Muhammad, "the concept of Taghut (false worship besides Allah) includes everyone who has made himself a legislator instead of Allah, whether he is a ruler or a slave, or deputy of the legislative power, or the

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<sup>59</sup> Mantayev A.A. "Wahhabism" and the political situation in Dagestan. Sciences. M., 2002. p. 208.

<sup>60</sup> Ghulam Muhammad Dagestan. Harem Chekist // URL: <http://www.davaat.me/p=3665#more-3665> (reference date: 05/11/2013).

<sup>61</sup> Abu Khalid. ".Ih courage equal to the width of the heavens and the earth, because they are not afraid of Svoqe Creator» // URL: <http://www.islamdin.biz/2013/01/blog-post-2927.html> (reference date: 11.05. 2013).

one who ran it from the number of voters Avoid tagut Do not go to the elections and not take part in them We declare the following as representatives of Ahlu-Sunnah-wal-Jama'ah, as representatives of the Caucasus Emirate:!!! If someone someday Muslims who consider themselves Muslim, go and take part in the elections and vote for some of the president or of any party, no matter - it's a presidential election, the party or parliamentary, there is no difference. If it is not coercion to participate in these elections, this very action, he places himself outside the religion of Islam! That is, it comes out of Islam! His blood, honor and property are permissible for all Muslims. He does not help, does not help neither Putin nor Zyuganov nor any party or their henchmen, or their slaves, no one will!<sup>62</sup>".

As a tool for the gradual replacement of the constitutional "infidel" government to "Sharia" are the incessant attacks on the life and acts of terror against deputies, officials and employees of government and management, law enforcement<sup>63</sup> structures.

The criminalization of the political system of the Russian society and attempts to influence of criminal organizations on the formation and activities of the authorities of serious concern not only among government agencies at various levels of heads, but also representatives of civil society.

So, November 16, 2010 at a meeting of the Coordinating Council for the Protection of citizens' electoral rights, which took place in the Public Chamber of the Russian Federation, Chairman of the Russian Central Election Commission Churov V.E. He said that during the elections of different levels of the number of candidates with criminal records has increased markedly, running for elective office. This is typical for the municipal elections. Thus, the elections to the single day of voting October 10, 2010 representatives of the criminals were put forward

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<sup>62</sup> Qadiy Imarat Caucasus Abu Muhammad: "Anyone who heard our argument, but still went to the polls and voted, left Islam and became a murtad" // URL: <http://www.ummanews.com/opinions/5848-2012-03-04-04-54-10.html> (date of circulation: 11/05/2013).

<sup>63</sup> *Rasulov Ya.* Why are policemen killed in Dagestan // Chernovik. 2004. 16 April; Kurbanov R. The Spread of Jihad: Primary Factors and the Scope of Radicalization of Islam in the North Caucasus // Central Asia and the Caucasus. 2004. № 6 (36). p. 51-58.

in the Moscow Region, the Murmansk Region (Kandalaksha, Apatity) and a number of other regions (the Republic of Dagestan, Rostov, Novgorod, Samara region). Churov V.E. He noted that the organization of these elections three candidates were identified previously convicted for the most serious crimes.

In the elections of March 13, 2011 and was attended by a significant number of persons with criminal records. In only one of the Vladimir region for deputies and elected officials run for 170 candidates with criminal records. After informing the regional branches of political parties such candidates was 120. Due to the unwithdrawn convictions for serious and very serious crimes from the list of four candidates were excluded.

During the elections, March 13, 2011 as a candidate for the Kaliningrad Regional Duma deputy Polessky urban settlement Z. was nominated, known ATC Kaliningrad region as an organizer and active member of the "Polessk an organized criminal group."

In February 2011, the election commission of the Tambov region, a statement about the audit of legality self-candidate in the Tambov regional Duma crime boss P. approached by a group of members of the regional branch of the Communist Party. However, in the MIAC Russian Interior Ministry information about that P. ("Pop") is the leader of an organized criminal group and has criminal connections, not confirmed. Later, out of fear for their lives and health management committee of the Tambov regional branch of the party said that the members of the Tambov regional branch of the Communist Party are not relevant to this<sup>64</sup> appeal.

Numerous facts of nomination and registration of candidates with criminal records were recorded during the elections to the bodies of the state power of the subjects of the Russian Federation and local government administrative centers of the Russian Federation September 8, 2013.

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<sup>64</sup> Information on appeals (complaints and applications) received by the election commissions concerning violations of the electoral legislation during the election campaigns for the election of deputies of legislative (representative) bodies of state power and bodies of local self-government of the administrative centers of the constituent entities of the Russian Federation on March 13, 2011. M.: CEC of Russia, 2011. p. 394-396.

The largest number of registered candidates, representing the interests of criminal organizations, it was noted at the election of deputies state Assembly - Kurultai of the Republic of Bashkortostan - 13

11 previous convictions of candidates to stand for election s deputies of the Legislative Assembly of the Trans-Baikal Territory and the election of deputies of the Legislative Assembly of the Vladimir region.

10 previous convictions of candidates to participate in elections of people's deputies of the Republic of Sakha, 8 - on elections of deputies to the People's Khural of the Republic of Buryatia, 7 - in the elections to the Legislative Assembly of the Rostov region.

Less prominent criminal office was typical for the nomination and registration of candidates for deputies of the People's Khural of the Republic of Kalmykia, the Parliament of the Chechen Republic and Arkhangelsk Oblast Duma - 3 candidates respectively. The Supreme Council of the Republic of Khakassia put forward 2 citizens with criminal records.

The maximum number of representatives of the underworld in the municipal elections September 8, 2013 was registered in the lists of candidates in the Yekaterinburg City Duma - 7 people - and the Volgograd City Duma - 5 people. In elections in Arkhangelsk City Duma and the Krasnoyarsk City Council MPs participated on 1 previous convictions.

The most "pure" in the criminal plan of the parliamentary party "UNITED RUSSIA" has put forward three candidates with criminal records, are subject to criminal liability under Art. 206 of the Criminal Code of the RSFSR "hooliganism" under Art. 158 of the Criminal Code "theft" and Art. "Exceeding official authority" 286 of the Criminal<sup>65</sup> Code.

6 previously convicted citizens were in the lists of the Communist Party. One candidate was convicted under Art. 103 of the Russian SFSR's Criminal Code for murder, one - under Art. 158 of the Criminal Code for theft, one - under Art.

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<sup>65</sup> The registered lists of the parliamentary party contained the least number of persons who had been brought to criminal responsibility and who had repaid convictions.

315 of the Criminal Code for failure to fulfill a court judgment, court order or other judicial act, one - under art. 198 of the Criminal Code for tax evasion in especially large amounts. One of the citizens included in party lists in the past to hold public office, was convicted on set of crimes provided for by Articles 290 and 159 of the Criminal Code - for bribery and fraud. This person has been released from prison under an amnesty.

One candidate for deputy had been convicted under the criminal law of the foreign state, and also was released under an amnesty.

Political party FAIR RUSSIA nominated 16 candidates with criminal records. 8 candidates have been convicted of crimes against property ( "theft", "fraud", "robbery", "extortion"), 2 candidates - for crimes against public safety ( "hooliganism"), 2 - for crimes in the sphere of economic activity ( "tax evasion"), 2 - for crimes against interests of public service and service in local government ("abuse of power"), 2 - for crimes against traffic safety and operation of transport ("violation of traffic and operation of vehicles"), 1 - for a crime against public order ("the use of violence against a government representative"), 1 - for the commission of crimes against life and health ("beating"), 1 - for committing a crime against the family and minors ("violation of the dereliction of duty on the raising of minors").

The Liberal Democratic Party of Russia ran previously convicted 13 people, including 1 - repeatedly tried, 1 - with unexpunged criminal record, 2 - convicted on set of crimes.

7 candidates prosecuted for crimes against property (1 - for embezzlement, 1 - for fraud, 5 - for stealing). 2 candidates are prosecuted for crimes against life and health ("beating", "intentional infliction of grievous bodily harm"). 2 candidates have been convicted of crimes against public order ("forgery, manufacture or sale of forged documents, state awards, stamps, seals, forms"). One candidate had a previous conviction for crimes in the sphere of economic activity ( "contraband"), crimes against public health and public morals ("illegal acquisition, storage, transportation, manufacturing, processing of narcotic drugs, psychotropic

substances or their analogues"), a crime against the interests of service in commercial and other organizations ("abuse of power", "commercial bribery").

With regard to the candidate 1, the criminal case was dismissed due to the amnesty law (claims 3 clause 1, article 27 Code of Criminal Procedure).

PATRIOTS OF RUSSIA nominated 7 candidates who had a criminal record. All candidates are prosecuted for crimes against property (3 - for theft, 2 - for fraud, 1 - for embezzlement, 1 - for extortion). 1 candidate was convicted on aggregate compositions.

The lists of the Russian United Democratic Party "Yabloko" was attended by 5 candidates with criminal records. 4 candidates have been convicted of crimes against property ("theft", "fraud", "embezzlement"), 1 candidate - for a crime against public safety ("hooliganism"). 1 candidate prosecuted on set of crimes.

It should be noted that the campaign for elections to bodies of state power of subjects of the Russian Federation and local government administrative centers of the Russian Federation September 8, 2013 was carried out in conditions of significant growth of political competition. According to the Federal Law of 11.07.2001 № 95-FZ (as amended on 02.04.2012, № 28-FZ) "On political parties" minimum mandatory number of members to 40 thousand was reduced political party up to 500 people, which significantly simplified the procedure of registration of parties. In this regard, the number of subjects to nominate candidates for election to the authorities and local government significantly increased. Along with the parliamentary parties admitted to distribution of deputy mandates in the State Duma of the Federal Assembly of the Russian Federation and the legislative bodies of the Russian Federation, participated in the elections and the newly registered political parties.

Among the representatives of 25 non-parliamentary parties nominated by the distribution of the elections September 8, 2013 candidates with criminal records is as follows: Civic Platform - 7, GREEN Russian Ecological Party - 5, Communists of Russia - 4, Communist Party of Social Justice - 4, the Russian Party of Pensioners justice - 4 home country - 4, Motherland - 4, born in the Union of



Soviet Socialist Republics - 4, the Agrarian party of Russia - 3, the Workers' party of Russia - 3, the Green Alliance - People's party - 3, Civil position - 2, Republican Party of Russia - People's Freedom Party - 2, the Party for Justice! - 2, the Russian National Union - 2, Party Veterans Russia - 2. According to one previously convicted Candidate which was nominated by the Party of Social Solidarity, the Russian Political Party of Peace and Unity, United agro-industrial batch of Russian Cities Russian Social Democratic Party of Russia, the Democratic Party Russia, the Party of free citizens, Defenders of the Fatherland and honest / person.

The lists of Civic Platform had 3 persons who were sentenced for crimes against property ("robbery", "theft", "extortion"), 2 - for crimes against the government, interests of public service and service in local government ("exceeding official authority", "abuse of power", "receiving a bribe") to 1 candidate - convicted of a crime against public safety ("hooliganism") and crimes against life and health ("intentional infliction of bodily harm").

Russian Ecological Green Party nominated 5 candidates who had convictions, 2 of whom were convicted of crimes against the government, interests of state service and service in local government ("bribe-taking" and "abuse of power"), 1 - for a crime in the sphere of economic operations ("the illegal circulation of precious metals, natural precious stones or pearls"), 1 - for a crime against public health and morals ("illegal acquisition, storage, transportation, manufacturing, processing of narcotic drugs, psychotropic substances or their analogues"), 1 - for a crime against life and health ("beating"). 1 candidate had numerous convictions.

From the Party of Communists of Russia ran 4 convictions of the candidate, including 1 - three convictions. 2 candidates have been convicted of crimes against life and health ("beating"), 1 - for a crime against public order ("insulting a government official"), 1 - for a crime against military service ("desertion"). One of the candidates had a criminal record of crimes committed aggregate ("theft", "fraud" and "beating").

In the lists of the Communist Party of Social Justice attended the 4 candidates with criminal records. 2 candidates prosecuted for crimes against property ("theft" and "robbery"), 1 - for a crime against public health and morals ( "illegal acquisition, storage, transportation, manufacturing, processing of narcotic drugs, psychotropic substances or their analogues" ), 1 - for a crime against life and health ( "intentional infliction of grievous bodily harm" ). One of the contenders for the deputy's mandate had been convicted of hooliganism and illegal acquisition, storage, transportation, production, processing of narcotic drugs, psychotropic substances or their analogues.

The party "Native Country" nominated 4 candidates with criminal records. 1 has been convicted of an offense against the state, the interests of public service and service in local government ("bribe-taking"), 1 - for a crime against property ("theft"), 1 - for an offense against traffic safety and operation of transport ("violation traffic rules and operation of vehicles"), 1 - for crimes against sexual inviolability and sexual freedom of the individual ("sexual assault").

Homeland representatives prosecuted for crimes against the government, interests of public service and service in local government ("bribe-taking") - 1, against property ( "robbery" ) - 1, against public safety ( "hooliganism" ) - 1, against public order ("evasion of military and alternative civilian service") - 1.

"Born of Soviet Socialist Republics in the Soviet Union" put forward three candidates with a criminal record for committing transgress against property ("theft", "fraud", "robbery"). One of the candidates for deputies of the legislative body of the government of the Russian Federation was convicted for multiple offenses compositions ( "forgery, manufacture or sale of forged documents, state awards, stamps, seals, forms," "forgery", "negligence", "abuse of power or official position "and" theft of state or public property by fraud " ).

The Agrarian Party of Russia put forward 3 candidates with criminal records. 1 candidate was convicted of crimes against public security ("hooliganism", "illegal carrying, storage, acquisition, manufacture or sale of weapons, ammunition or explosives"), 1 - for a crime against property

("embezzlement") 1 - for a crime against public order ( "forgery, manufacture or sale of forged documents, state awards, stamps, seals, forms"). 1 of the candidates has been released from prison under an amnesty, 1 - exempted from punishment due to expiry of the statute of limitations of a court sentence.

The lists of the Workers' Party of Russia consisted of 3 citizen with a criminal record (1 - for fraud, 1 - repeatedly convicted for hooliganism, 1 - convicted on aggregate compositions for theft and illegal carrying, storage, acquisition, manufacture or sale of weapons, ammunition or explosives) .

Green Alliance - People's Party put forward three candidates with criminal records (1 - for theft, 1 - for rape committed by a group of persons, or rape of a minor, 1 - on the federal wanted list for committing crimes in the sphere of economic activity).

Representatives of the Civil position had been convicted for crimes against property ("robbery") and against the constitutional rights and freedoms of man and citizen ("violation of copyright and related rights").

The lists of the Republican Party of Russia - People's Freedom Party run for 2 citizens convicted of crimes against property ("theft" and "robbery").

From the Party for Justice! 2 nominated citizens, convicted of bribery and forgery, manufacture or sale of forged documents, state awards, stamps, seals, forms, as well as abuse of power.

Russian National Union has put forward a candidate who had a previous conviction for assault and intentional destruction of or damage to property, as well as the candidate convicted of premeditated murder.

1 representative of the Russian Party of Veterans of the elections to the legislative body of state authority of the Russian Federation brought to criminal responsibility for the hostage-1 - had several previous convictions for embezzlement with disqualification to hold public office.

For crimes in the sphere of economic activity HONESTLY candidates / persons were convicted. Joint responsibility and agro-industrial Party of Russia ("smuggling" and "concealment of funds or property of the organization or

individual entrepreneur, the expense of which should be made the recovery of taxes and fees"). Candidates of the cities of Russia and the Democratic Party of Russia brought to justice for crimes against life and health ("intentional infliction of bodily harm" and "intentional infliction of grievous bodily harm"). In this case, one of the candidates had on the Election Day unexpunged conviction.

Repeatedly tried representative of the Russian Political Party of Peace and Unity has been at different times convicted for hooliganism, torture, willful grievous bodily harm, threat murder, grievous bodily harm or destruction of property. This citizen was released from prison under an amnesty.

The candidate of the Party of free citizens subjected to criminal prosecution for abuse of office, with disqualification to engage in activities as an officer.

A candidate for deputy of the legislative body of the government of the Russian Federation of Defenders of the Fatherland had been convicted of fraud and abuse of office.

In the criminal liability for offenses against public order attracted candidates of the Party of Social Solidarity and the Social Democratic Party of Russia ("arbitrary", "avoidance of military and alternative civilian service" and "beatings").

The election campaign for elections to the bodies of state power of subjects of the Russian Federation and local government administrative centers of the Russian Federation September 8, 2013 was attended by 6 previous convictions self-nominated candidates. 3 self-nominated candidates have been convicted of crimes against property ("theft", "robbery"), 2 - for crimes against the constitutional rights and freedoms of man and citizen ("unjustified refusal to hire or groundless dismissal of a pregnant woman or a woman, with children under the age of 3," " violation of copyright and related rights"), 1 - for a crime against the state, the interests of public service and service in local government (" abuse of sex dip"), 1 - for a crime against public safety (" illegal carrying, storage, acquisition, manufacture or sale of weapons, ammunition or explosives ") and 1 - for a crime against life and health ("intentional infliction of grievous bodily harm" ). Two self-nominated candidate, prosecuted on set of crimes.

The analysis of the registered lists of candidates for municipal and regional elections held on September 8, 2013, shows that among persons convicted of crimes against property in the election there is a significant proportion of candidates with criminal records. This category of citizens ran as self-nominated and in the party lists.

Also in the lists of candidates from political parties as there is a significant criminal representation of citizens who have been convicted of crimes against public security, crimes against life and health, crimes against the government, the civil service and the interests of service in local government, crime in the sphere of economic activity and for crimes against order management.

The registered lists of parliamentary parties included 29 people sentenced for crimes against property, 4 were convicted of crimes against public security, 4 - for crimes against life and health, 3 - for crimes against the government, interests of state service and service in local authorities, for crimes in the sphere of economic activity and for crimes against public order. One candidate prosecuted for crimes against public health and public morals, for crimes against traffic safety and operation of transport, for crimes against the family and minors, as well as for crimes against interests of service in commercial and other organizations.

Convicts of corpus in the registered list of non-parliamentary parties is as follows: 20 people prosecuted for crimes against property, 12 - for crimes against life and health, 10 - for crimes against the government, interests of state service and service in local authorities. 7 candidates had a criminal record for offenses against public order and against public safety. 4 candidates prosecuted for crimes in the sphere of economic activity, 3 - for crimes against public health and public morals, 2 - for crimes against sexual inviolability and sexual freedom of the individual, and 1 candidate - for crimes against military service, against traffic

safety and transport operation, against the constitutional rights and freedoms of man and<sup>66</sup> citizen. One of the candidates was on the federal wanted list.

The parliamentary parties' lists run for 43.8% of the total number of candidates with criminal records. The proportion of candidates with criminal records, representing the newly registered parties, amounted to 56.1% of the total number of candidates with criminal records. As part of the registered lists of parliamentary and non-parliamentary parties ran citizens with unexpunged convictions (one candidate respectively).

To work in the bodies of state power of subjects of the Russian Federation and local self-government representative's criminals use a variety of tricks.

In order to obtain seats in the federal and regional legislative bodies of criminals deliberately distort its setting data (first name, date of birth), candidates remove information about yourself from the regional databases of law enforcement<sup>67</sup> bodies, as well as seeking to promote the "unexposed" proxies (often relatives) who do not have a criminal record and well-known links to organized crime. This makes it difficult to check these people to integrate FGBU "GIAC Ministry of Internal Affairs of Russia" and the information centers of territorial bodies of the Russian Interior Ministry.

Some previously convicted candidates standing for elections to bodies of state power and local self-government of the Russian Federation, in which they do not reside permanently.

Some candidates quickly change party affiliation and running for another party lists.

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<sup>66</sup> It is necessary to take into account two factors: 1) In calculating the composition repeatedly crimes are not taken into consideration, the composition of crime taken into account once; 2) Some citizens have been condemned by the aggregate of crimes.

<sup>67</sup> In a number of subjects of the Russian Federation noted the fact that when the materials are ready reference counts MIA information centers, police, Department of Internal Affairs of the Russian Federation distorted by corrupt law enforcement officials.

A note as an occupation "temporarily unemployed" is sometimes used by candidates, against whom preventive measure in the form of detention (art. 98 Code of Criminal Procedure).

#### **4. MAIN AREAS TO COUNTER CRIMINALIZATION PUBLIC AUTHORITIES IN THE RUSSIAN FEDERATION**

The current political and socio-economic systems of criminal situation require a response from the country's leadership, the formation and the consistent implementation of tougher anti-crime policy in the Russian Federation.

Legal provisions aimed at combating the criminalization authorities, represented in the laws "On the status of the Federation Council and the status of the deputy of the State Duma of the Federal Assembly", "On the Government of the Russian Federation" and "On General Principles of Organization of Legislative (Representative) and Executive Bodies government of the Russian Federation", "On the Russian Federation "state civil service," On municipal service in the Russian Federation ns "," On the Procuracy of the Russian Federation "," On the Status of Judges in the Russian Federation ","On Police "and" On the Status of Servicemen ","On Military Duty and Military Service"," On Combating Corruption", "On the conformity control costs of persons holding public office, and other persons of their income," "On the prohibition of certain categories of persons to open and operate accounts (deposits), to store cash and valuables in foreign banks located outside the Russian Federation, to own and (or) use foreign financial instruments" and others.

In the direction of legal regulations legal framework to counter the criminalization of governments can be represented as a system of anti-corruption standards, aimed at the identification, prevention, suppression, detection and investigation of corruption offenses and anti-criminal legal mechanisms aimed at countering infiltration by organized crime and persons with criminal records in the bodies of power and administration, municipal institutions.

On ways of realization in relation to a particular order of the formation of public authorities should be to distinguish between anti-criminal legal mechanisms related to the appointment and the implementation of certain power activities as well as anti-criminal mechanisms associated with the election for elective positions in representative bodies.



As it was already noted, the most important component to counter organized crime is merging with power structures favor the anti-corruption activities of the state and civil society institutions.

Anti-corruption standards can be viewed in several ways:

- as a part of the legal structure that defines the requirements for appointment (election) to the corresponding position, and requirements for the implementation of certain power activities (executive and administrative, parliamentary, judicial proceedings, civil, military, municipal service, service in the prosecutors and police);

- as an investive legal fact, projecting the basis for early termination of the Federation Council of the member, deputy of the State Duma of the Federal Assembly of the Russian Federation, the highest official of the Russian Federation, parliamentary powers, the termination of powers of the judge, termination of a service contract, employment contract with a municipal employee, dismissal civil and military service;

- as a basis for bringing to disciplinary responsibility for corruption offenses;

- as the basis for the temporary suspension of the displaced post (official duties), and the suspension of powers of the judge's resignation, transfer of a soldier in order commander (chief).

Anti-corruption standards that define requirements for appointment (election) to the corresponding position, and requirements for the implementation of certain power activities (executive and administrative, parliamentary, judicial proceedings, civil, military, municipal service, service in the prosecutor's office and police are set out in Article 12.1 of the Federal Law "On Combating corruption.

In accordance with this article, a person, holding public office of the Russian Federation, public office of the subjects of the Russian Federation, municipal offices does not have the right to:

- engage in entrepreneurial or other gainful activity, except for teaching, scientific and other creative<sup>68</sup> activities;

- be a member of the management body of the economic company or other business organization,

- be a part of the governing bodies, trustees or supervisory board and other bodies foreign non-profit non-governmental organizations operating in the territory of the Russian Federation, their structural units, unless otherwise international treaty of the Russian Federation or the Russian Federation is envisaged;

- receive in connection with the implementation of the relevant authority is not stipulated by the Russian Federation of remuneration (loans, cash and other consideration, services, entertainment, payment, recreation, transportation costs) legislation by legal entities and individuals;

- travel in connection with the respective powers of the territory of the Russian Federation at the expense of individuals and legal entities, except for business trips, carried out in accordance with legislation Russian and international treaties of the Russian Federation or agreements on a reciprocal basis, federal government agencies, public authorities subjects of the Russian Federation with the state authorities of foreign states, international and foreign governmental organizations;

- used for purposes not related to the implementation of the relevant authority, means of logistics, finance and information systems, designed for performance management;

- disclose or use for purposes not related to the implementation of the relevant authority, information classified in accordance with the federal law to restricted information, or proprietary information, which became known to him in connection with the implementation of the relevant authorities;

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<sup>68</sup> At the same time, teaching, scientific and other creative activities can not be financed exclusively at the expense of foreign states, international and foreign organizations, foreign citizens and stateless persons, unless otherwise stipulated by an international treaty or the legislation of the Russian Federation.

- to open and operate accounts (deposits), to store cash and valuables in foreign banks located outside the Russian Federation, to own and (or) use of foreign financial instruments.

In the event of a possible conflict of interest as a result of ownership of profitable securities, shares (stakes in the authorized capital of organizations), an officer-holder is obliged to pass belonging to him these securities, shares (stakes in the authorized capital of organizations) in<sup>69</sup> trust.

Similar requirements for appointment (election) to the corresponding position, and requirements for the exercise of public power operations established in Article 6 of the Federal Law "On the status of the Federation Council and the status of the deputy of the State Duma of the Federal Assembly", article 11 of the Federal Constitutional Law "On the Government of the Russian Federation ", articles 12 and 18 of the Federal law " On general principles of organization of legislative (representative) and executive bodies of state power Russian Federation ", article 40 of the Federal Law" On General Principles of Local Self-Government in the Russian Federation ", article 16 of the Federal Law" On Russian State Civil Service ", Article 13 of the Federal Law" On Municipal Service in the Russian Federation ", article 40.2 of the Law Russian Federation "On the Prosecutor's Office of the Russian Federation", article 3 of the law of the Russian Federation "On the status of judges in the Russian Federation", article 17 of the Federal law "On the Investigation Committee of the Russian Federation", article 29 of the Federal Law" On Police ", article 10 of the Federal Law "On status of servicemen", article 51 of the Federal Law" On Military Duty and Military Service."

Federal Law "On Combating Corruption" establishes the duty of citizens applying for positions of state or municipal service positions in state corporations, positions of state leaders (municipal) institutions, to provide the employer information about your income, property and property obligations, as well as

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<sup>69</sup> A conflict of interests means a situation in which the personal interest of an official affects or can affect the objective performance of his official duties and in which there arises or may arise a contradiction between the personal interest of that person and the legitimate interests of citizens, organizations, society, the state, the subject of the Russian Federation, a municipal formation capable of causing harm to these legitimate interests.

income, property and property obligations of his wife (husband) and minor children.

In accordance with the Federal Law of December 3, 2012 № 230-FZ "On the control of the relevant persons expenses, holding public office, and other persons of their costs" which establishes a procedure for monitoring the expenditure of the President of the Russian Federation, members of the Russian Federation, members of the Council Federation and deputies of the state Duma of the Federal Assembly of the Russian Federation, other persons holding public office of the Russian Federation, judges, members of legislative bodies of state power of subjects of the Russian Federation, other persons holding public office of the Russian Federation, municipal offices on a regular basis, the position of the federal public service and state civil service of the Russian Federation, municipal service positions. Control measures are also carried out with respect to their spouses and minor children.

Specified persons in this law are obliged to report on each transaction involving the acquisition of land, other real estate, vehicle, securities, shares, interests, shares in authorized capitals of the organizations, as well as on the sources, due to which they were purchased. When this information is provided, if the costs will exceed the total income of the person and his wife (husband) at the principal place of their service (work) in the three years preceding the transaction. The period of control measures the test person can be removed from office.

These anti-corruption requirements are reflected in sector-specific<sup>70</sup> legislation.

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<sup>70</sup> Article 10 of the Federal Law "On the Status of a Member of the Federation Council and the Status of a Member of the State Duma of the Federal Assembly of the Russian Federation", Article 10 of the Federal Constitutional Law "On the Government of the Russian Federation", Article 12 of the Federal Law "On General Principles for the Organization of Legislative (Representative) and Executive Bodies of the State authorities of the constituent entities of the Russian Federation ", Article 20 of the Federal Law " On State Civil Service of the Russian Federation ", Article 15 of the Federal Law" On Municipal Service in the Russian Federation ", Article 40.2 of the Law of the Russian Federation" On the Prosecutor's Office of the Russian Federation", Article 8.1 of the Law of the Russian Federation" On the Status of Judges in the Russian Federation", Article 29 of the Federal Law" On Police", Article 27.1 of the Federal Law" On the Status of Servicemen".

Validation of information about income, expenses, assets and liabilities of material nature is carried out by personnel departments of state bodies and officials of the personnel services in charge of work on the prevention of corruption and other offenses. Some government agencies, these functions are carried out by specialized units.

According to the Russian President's decision, the Head of the Presidential Administration of the Russian Federation or specially authorized by them official of the Presidential Administration of the Russian Federation, the Russian President's Office for Civil Service and Personnel may, in the prescribed manner to verify the accuracy and completeness of information about income, expenses, assets and liabilities material nature to be submitted by citizens claiming to fill *any powers* which entails the obligation to submit information about income, property and property obligations, as well as the accuracy and completeness of any other information submitted by the said nationals.

As an example may be the check of accuracy and completeness of information about citizens, applying for the position of the highest official of the Russian Federation.

For example, due to the changes in the procedure for allocating powers of the highest official of the Russian Federation Federal Law "On political parties" was supplemented with article 26.3. According to this article, political parties, lists of candidates that have been admitted to distribution of deputy mandates shall be entitled to submit to the President of the Russian Federation proposals on candidatures for the appointment of the highest official of the Russian Federation. Together with the proposals political parties represent to the President of the Russian Federation the following information about each candidate:

- statement of the nominated persons consents to his nomination<sup>71</sup>;

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<sup>71</sup> The application shall include the surname, name, patronymic, date and place of birth, address of residence, series, number and date of issuance of the passport or document replacing the passport of the citizen, name or code of the authority issuing the passport or document replacing the passport of the citizen, citizenship, education, the main place of work or service, the position (in the absence of the main place of work or service - occupation) of the nominated person.

- copy of passport or document replacing the passport;
- copies of documents confirming the information in a statement on education, main place of work or service, a position (occupation), as well as that put forward by the person is a member;
- information on the amount and sources of income nominated persons as well as property belonging to the person nominated by the right of ownership (including joint ownership) of bank deposits, securities;
- information on the amount and sources of income, assets, on bank deposits, securities spouse (wife) and minor children nominated person;
- information about the immovable property belonging to the person, his spouse (wife) and minor children , which is situated outside the territory of the Russian Federation, on the sources of receipt of means by which acquired the said property, on property obligations outside the territory of the Russian Federation nominated person, as well as information about such obligations his wife (wife) and minor<sup>72</sup> children;
- information on the costs which are put forward by a person, his spouse (wife) and minor children of each transaction for the acquisition of land, other real estate, vehicle, securities, shares (participation interests, shares in the authorized (share) capital of organizations), perfect for the last three years, if the transaction amount exceeds the total income of the person nominated, and his wife (wife) for the last three years prior to the transaction, and on the sources of obtaining funds with which to make a deal.

Advanced person is required at the time of making his candidacy for the President to close the accounts (deposits), to stop the storage of cash and valuables

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<sup>72</sup> Decree No. 546 of the President of the Russian Federation of June 6, 2013, "On Verifying the Reliability of Information on Property and Obligations of a Property of Nature Outside the Territory of the Russian Federation, on Costs for Each Purchase of Real Estate, Vehicles, Securities and Shares Submitted by Candidates for elections to public authorities, elections of heads of municipal districts and heads of city districts, as well as political parties in connection with the submission to the President of the Russian Federation of proposals for a candy duturah for the post of the highest official (the head of the highest executive body of state power) of the subject of the Russian Federation" // Ros. gas. 2013. 11 June.

in foreign banks located outside the Russian Federation and (or) dispose of foreign financial instruments.

If a nominated person has convictions, the statement also includes information on his criminal<sup>73</sup> records.

The Order of the Ministry of Internal Affairs of Russia on November 7, 2011 № 1121 "On approval of the Administrative Regulations of the Ministry of Internal Affairs of the Russian Federation for the provision of public services in the issuance of certificates of presence (absence) convictions and (or) the fact of a criminal prosecution or to discontinue the criminal prosecution of" the procedure for obtain information about the presence (absence) convictions and (or) criminal prosecution of fact and a list of relevant information contained in this document.

If there is a criminal record, as well as withdrawn and cancellation of conviction - in the column "There are (not available) information about the criminal record (including quenched and removed) in the territory of the Russian Federation" conviction date, name of the court, sentencing, the point part, the article of the Criminal Code of the RSFSR, the republic of the USSR, on the basis of which the person has been convicted, time and type of punishment, release date, the repayment of a base or overturned are stated;

- if the fact of prosecution or termination prosecution of bases provided claim point 3, 4 p. 1 art. 24, art. 25, n. 3 p. 1 art.27, art.28, art.28.1 h. 1 art.27 p.4 art. 443 p. 2 art. 443 Code of Criminal Procedure - in the column "There are (not available) information about the fact of a criminal prosecution or to discontinue the criminal prosecution on the territory of the Russian Federation" shall indicate the

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<sup>73</sup> As the Constitutional Court of the Russian Federation indicated in Decree No. 3-P of March 19, 2003 "On the case on the verification of the constitutionality of the provisions of the Criminal Code of the Russian Federation regulating the legal consequences of a person's conviction, repeated and recidivist crimes, and paragraphs 1-8 of the resolution of the State Duma Of the Federal Assembly of the Russian Federation of May 26, 2000, "On the Announcement of the Amnesty in Connection with the 55th Anniversary of the Victory in the Great Patriotic War of 1941-1945" in connection with the request of the Ostankino intermunicipal (district) the court of the city of Moscow and the complaints of a number of citizens "," the conviction is a legal status of a person, due to the fact of conviction and appointment to him on a court verdict of punishment for the committed crime "// Ros. Gas. 2003. 2 April.

date of a criminal case, name of the body that made the decision, the point of the article of the Criminal Code, the date and the base termination of criminal case (criminal prosecution);

- in determining whether the location of the inspected person wanted for committing a crime on the territory of the Russian Federation in the point "More Information" shows the date on the wanted list, the body that made the decision, as well as the point of the article of the Criminal Code, under which the test person is drawn to criminal liability.

Check the authenticity and completeness of the relevant information about the candidates for the post of the highest official of the Russian Federation also carries Russian Federation President Office of Civil Service and Personnel using the capabilities of the authorized state bodies.

Checking the accuracy and completeness of information on income, property and property obligations, submitted by citizens, aspiring to fill the posts of federal public service, the purpose and liberation from which are made by the Government of the Russian Federation, as well as data provided by the named citizens; reliability and completeness of information on income, property and property obligations submitted by the named civil servants, replace the post of the federal public service; requirements of the named civil servants *are carried out* by a decision of the Chief of Staff of the Government of the Russian Federation, member of the presidium of the Presidential Council of the Russian Federation in the fight against corruption *a specialized unit of the Russian<sup>74</sup> Government*.

The legislative (representative) bodies of state authority validation and completeness of the information about income, expenses, assets and liabilities of material nature of the conduct authorized by the Commission.

On the basis of article 10 of the Federal Law "On the status of the Federation Council and the status of the deputy of the State Duma of the Federal

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<sup>74</sup> Decree of the President of the Russian Federation of May 18, 2009, No. 559 "On Representation of Information on Income, Property and Property-Related Obligations by Citizens Claiming to Substitute Federal Public Service Positions and Federal State Employees" // Ros. gas. 2009. 20 May.



Assembly," the Federation Council and State Duma of the Federal Assembly shall annually submit to the specialized commissions of the chambers of the Federal Assembly of the Russian Federation, information about their income, expenses, property and property obligations, as well as information about income, expenses, assets and liabilities of the property nature of his wife (husband) and minor children. This parliamentary commission on law enforcement information, the governing bodies of political parties and public associations, media checks: reliability and completeness of information about income, expenses, assets and liabilities of material nature, submitted by deputies; compliance deputies restrictions and prohibitions stipulated by the current legislation.

Regardless of the parliamentary commission checks on the Russian President's decision, the Head of the Presidential Administration of the Russian Federation or of a specially authorized official of the Russian Federation, a similar check of the Presidential Administration of the Russian Federation may exercise the President Office of Civil Service and Personnel.

Information about the presentation of deputy deliberately false or incomplete information about income, expenses, assets and liabilities of material nature identified by the Commission, shall be published in an official publication of the Federal Assembly of the Russian Federation and the placement on the official site, respectively, of the Federation Council and the State Duma.

A similar procedure for the submission of data and of their inspection is provided by Article 12 of the Federal Law "On general principles of organization of legislative (representative) and executive bodies of state power of subjects of the Russian Federation."

On the basis of article 8.3 of the Law of the Russian Federation "On the Status of Judges in the Russian Federation", information on income, property and property obligations of the judges present at the court in which they replace his position. According to the Russian President's decision, the Head of the Presidential Administration of the Russian Federation or specially authorized by them official of the Presidential Administration of the Russian Federation, the

Russian President's Office for Civil Service and Personnel may, in the prescribed manner to verify the accuracy and completeness of information about income, expenses, assets and liabilities material nature represented by the judges.

May 7, 2013, the Federal Law "On the prohibition of certain categories of persons to open and operate accounts (deposits), to store cash and valuables in foreign banks located outside the Russian Federation, to own and (or) use of foreign financial instruments" . This law is aimed at ensuring national security and improving the efficiency of anti-corruption by prohibiting makers on duty decision involving issues of sovereignty and national security of the Russian Federation, to open and operate accounts (deposits), to store cash and valuables in foreign banks, located outside the territory of the Russian Federation, to own or use a foreign financial instruments. This category includes persons holding public office of the Russian Federation, the office of the federal public service, the purpose of which, and liberation from which are made by the President of the Russian Federation, the Russian Federation Government, the post of deputy heads of federal executive authorities, heads of urban districts, heads of municipal districts and a number of other posts. In addition to this, it sets the procedure for verifying compliance with the above persons of this prohibition and penalties for its violation.

Anti-corruption standards set forth in the Russian legislation and how investive legal fact, projecting the basis for early termination of the Federation Council of the member, deputy of the State Duma of the Federal Assembly of the Russian Federation, the highest official of the Russian Federation, parliamentary powers, the termination of powers of the judge, termination of a service contract, the employment contract with municipal employees, dismissal from the civil and military service.

Thus, the failure of official duties to provide information about income, expenses, assets and liabilities of a material nature; providing deliberately false or incomplete information; availability of accounts (deposits) in foreign banks outside the territory of the Russian Federation, possession or use of foreign financial

instruments entail an exemption from the replaced (their position) and dismissal from the civil, military and municipal<sup>75</sup> service.

Building on these provisions, Article 4 of the Federal Law "On the status of the Federation Council and the status of the deputy of the State Duma of the Federal Assembly" provides for early termination of powers of the Federation Council and State Duma deputy in case of opening (availability) of accounts (deposits), storage of cash and values in foreign banks located outside the Russian Federation, the ownership and (or) use of foreign financial instruments a member of the Federation, the State Duma, their spouses and minor children.

In accordance with paragraph 3.9 of Article 12 of the Federal Law "On general principles of organization of legislative (representative) and executive state power bodies of the Russian Federation" in respect of deputies elected in single-mandate or multi-mandate constituency, or a deputy elected in the composition of the candidates of the political list party, whether the discovery or existence of accounts (deposits), storage of cash and valuables in foreign banks located outside the territory of the Russian Federation, ownership and (or) use of foreign financial instruments in the period when he was registered as a candidate on the respective elections, is the basis for early termination of parliamentary powers.

According to paragraph 6.1 of Article 36 of the Federal Law "On General Principles of Local Self-Government in the Russian Federation" powers of the head of the municipal district, the head of city district prematurely terminated due to the loss of the Russian Federation President's confidence in the following cases:

1) non-compliance with the head of the municipal district, the head of city district, their spouses and minor children of the ban established by the Federal law

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<sup>75</sup> Articles 36 and 74.1 of the Federal Law "On General Principles of Organization of Local Self-Government in the Russian Federation", Articles 20, 20.1, 59.2 of the Federal Law "On State Civil Service of the Russian Federation", Articles 15, 19, 27.1 of the Federal Law "On Municipal Service in the Russian Federation ", Article 43 of the Law of the Russian Federation " On the Prosecutor's Office of the Russian Federation ", Article 14 of the Law of the Russian Federation " On the Status of Judges in the Russian Federation ", Article 16 of the Federal Law " On the Investigative Committee of the Russian Federation " "On Police", Article 51 of the Federal Law "On Military Duty and Military Service", Article 27.1 of the Federal Law "On the Status of Servicemen".

"On the prohibition of certain categories of persons to open and operate accounts (deposits), store cash Supplementary Accessories Islands and values in foreign banks located outside the Russian Federation, to own and (or) use of foreign financial instruments";

2) in respect of the elected in the municipal elections of the head of the municipal district, the head of the discovery or existence of accounts (deposits fact urban district), storage of cash and valuables in foreign banks located outside the Russian Federation, the ownership and (or) use of foreign financial instruments in the period when the said persons were registered as candidates in the elections, respectively head of the municipal district, the head of city district.

Article 74.1 of the Federal Law "On General Principles of Local Self-Government in the Russian Federation" establishes the legal regime for the removal of the head of municipality to resign. One of the reasons of the enforcement of this mode performs non-compliance with restrictions and prohibitions, and dereliction of duty by the Federal Law "On Combating Corruption".

Having considered the anti-corruption standards as a legal investive fact, let's analyze corruption offenses as grounds for instituting disciplinary proceedings.

According to Article 59.3 of the Federal Law "On State Civil Service of the Russian Federation" penalties for corruption offenses shall be imposed on the basis of the report of the specialized unit personnel department or public body on the basis of recommendations of the commission to resolve the conflict of interest. Garnishment period shall not exceed 6 months from the date of receipt of information on corruption offenses.

The legislator provided administrative (the commission on business disputes) or a judicial procedure to appeal foreclosure.

A similar procedure for bringing disciplinary proceedings is enshrined in Article 51.1 of the Federal Law "On Military Duty and Military Service" as well as Article 27.1 of the Federal Law "On Municipal Service in the Russian Federation."

It should be stated that the potential of anti-corruption standards are not fully realized, since the legislation of the Russian Federation there are some half-measures and anti-corruption "indulgences" in relation to a number of officials.

First, the information about income, expenses, assets and liabilities of a material nature are required to submit, not all officials and citizens only applying for positions of civil and municipal service, included in the list established by regulations of the Russian Federation, as well as civil and municipal employees, replacing the position of this list.

Second, the requirements of the Federal Law of December 3, 2012 № 230-FZ of expenditure of officials on each transaction involving the acquisition of land, other real estate, vehicle, securities, shares, participating interests, shares in the authorized capital organizations, as well as on the sources, due to which they were purchased, suggest the possibility of an unlimited number of transactions and the failure to official statements if the costs exceed the total income of a person and his wife (husband) at the principal place of their service ( work) for the three years preceding the<sup>76</sup> transaction.

In the third, the anti-corruption restrictions on officials of deposits in foreign banks and foreign financial instruments shall apply only to persons holding the Russian Federation public office, office of the federal public service, the purpose of which, and liberation from which are made by the Russian President, the Russian Federation Government, positions of deputy heads of federal executive authorities, heads of urban districts, heads of municipalities Iona and a number of other posts from the corresponding list.

In this case, statutory limitations do not affect the financial basis of corrupt activity - opportunities to freely withdraw the funds from the territory of the Russian Federation and invest in real estate abroad.

Fourth, the anti-corruption standards contain different approaches to the assessment of financial position, income sources, legality and transparency of the

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<sup>76</sup> Officials in order to avoid control measures resort to various tricks: they make a fictitious divorce, register property rights to other relatives (grandparents) etc.

costs of individual officials and the legal consequences of a conflict of interest in these persons, failure to these officials information about income, expenses, assets and property obligations within the prescribed deadlines and submission of deliberately false or incomplete information.

So, in articles 9-11 of the Federal Constitutional Law "On the Government of the Russian Federation" in the list of grounds for dismissal of the Vice-Presidents of the Russian Federation and federal ministers are absent: the identification of corruption, non-settlement of the conflict of interest, failure to provide information about their income, expenses, assets and property obligations, as well as income, expenses, assets and liabilities of material nature of his wife (husband) and minors their children or knowingly providing false or incomplete information.

Article 19 of the Federal Law "On General Principles of Organization of Legislative (Representative) and Executive Bodies of State power of the Russian Federation" among the early termination of the authority of the highest official of the Russian Federation does not provide failure to provide information about their income, expenses, assets and liabilities of material nature as well as income, expenses, assets and liabilities of material nature of his wife (husband) and minor children or knowingly providing false or incomplete information.

In the Russian Federation "On the Status of Judges in the Russian Federation", paragraph 5 of Article 8.1 of the Law provides that in the event of failure to provide information about income, expenses, assets and property obligations in a timely manner, as well as deliberate submission of false information judge **may be** disciplined .

It turns out that the law enforcement bodies, the military, civil and municipal employees can be dismissed from the service, and the named officials - will continue to perform their duties and to replace the position. Moreover, the law requires only **the possibility of** bringing judges to responsibility, and the responsibility for knowingly providing incomplete information is not provided. On the inevitability of applying legal sanctions are also out of the question.

Questions responsibility of judges for corruption offenses and non-settlement of the conflict of interest problem actualize reassessment of bringing judges to legal liability. However, due to the fact that the qualification collegium of judges rarely reacts to the evil use of judicial powers, and to evaluate the facts of unethical and improper use by judges of their judicial status given to qualifying panel of judges who are often management are corporate interests, a process of purifying the judicial community by corruption is extremely<sup>77</sup> slow.

It seems that such wording should be brought into the line with the uniform requirements of the anti-corruption standards. Neither for members of the Government of the Russian Federation, nor for senior officials of the Russian Federation, nor for judges should be exceptions in matters of transparency of financial position, the sources of their income, the legality of expenditure and impeccable reputation.

Consider anti-criminal legal mechanisms that determine the requirements for appointment to the respective position and the implementation of certain activities of the power (executive and administrative, parliamentary, judicial proceedings, civil, military, municipal service, service in the prosecutor's office and the police).

As a rule, among the circumstances precluding the appointment and the passage of the civil, military, law enforcement and municipal services, include:

- presence of a criminal record;
- conviction of a person to punishment, which excludes the possibility of execution of official duties by a court decision, which came into force;
- submission of false documents or false information when applying for a service appointment.

This may be as any criminal record, and on and unwithdrawn outstanding conviction.

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<sup>77</sup> *Damaskin O.V.* Corruption: state, causes, resistance. Moscow: Triumphal Arch, 2009. p. 42.

State criminal records is urgent. A conviction occurs when a conviction for an offense from the date of a court verdict in force until maturity or withdrawal. Criminal record is taken into account when recidivism and sentencing.

**Cancellation of conviction** - automatic termination of its action after the expiry of the statutory period.

In accordance with Part 2 of Article 86 of the Criminal Code conviction is extinguished:

a) in respect of persons convicted conditionally - upon expiration of the probationary period;

b) in respect of persons sentenced to milder punishment than imprisonment - after the expiration of one year after the departure or the execution of punishment;

c) in respect of persons sentenced to imprisonment for a crime of minor or medium gravity - after three years after serving his sentence;

g) in respect of persons sentenced to imprisonment for serious crimes - eight years after serving the sentence;

e) in respect of persons convicted for grave crimes - upon the expiry of ten years after serving his sentence.

If the convicted person has been released early from serving the punishment or the unserved part of the punishment has been replaced with a milder penalty, the repayment period is calculated based on a criminal record of actually serving a sentence from the date of release from serving the basic and additional penalties.

When a person has committed several crimes conviction repayment terms are calculated for each crime separately.

Cancellation of conviction does not require the application of a person and a motivated decision of the judge.

**Removal criminal** record, unlike maturity performed before expiration maturity conviction provided good conduct convict and binding imposition of the judge by the subject.

In addition to the removal of criminal records at the request of persons Criminal Law (Part 2 of Art. 84 and Part 2 of Art. 85 of the Criminal Code)



provides for the removal of a criminal record of persons who have served their sentence, an act of amnesty or pardon act.

Legal consequences of conviction allows strict requirements for the possible criminal background of applicants to fill the positions of judges, prosecutors, police and intelligence services.

According to paragraph 1 of Article 4 of the Law of the Russian Federation "On the Status of Judges in the Russian Federation", paragraph 2 of Article 40.1 of the RF Law "On the Russian Federation Prosecutor's Office", paragraphs 2 and 3 of Part 1 of Article 29 of the Federal Law "On Police", subparagraph 4 of paragraph 5 article 18 of the Federal law "On state protection", paragraph "c" of part 3 of article 16 of the Federal law "On Federal security service", paragraph 2 of part 4 of article 16 of the Federal law "On the Investigative Committee of Russia" citizen with a criminal record (including withdrawn or expired), and in respect of which the prosecution terminated by the expiration of the period of limitation, in connection with the reconciliation of the parties, as a result of an amnesty or in connection with active repentance will never be able to enter the service or work in the prosecutor's office, police, organs of the state guard, the federal security service, the investigating authorities may not be appointed as a judge.

These requirements would seem logical.

After all, no one has any objection to the ban on labor activity in the field of education, education, juvenile development, the organization of their rest and recovery, health care, social protection and social services, in the field of youth sport, culture and art with the participation of minors, have or had a criminal record, have been or are prosecuted (except persons, the prosecution in respect of which terminated on rehabilitative grounds) for crimes against life and health, freedom, honor and dignity of the person (except for illegal placement in a psychiatric hospital, slander and insults), sexual inviolability and sexual freedom of the individual against the family and minors, public health or public morality, the constitutional order and security!

In accordance with Article 351.1 of the Labor Code of the Russian Federation for all persons listed above presence information about the presence or absence of a criminal record is a mandatory document for the conclusion of an employment contract.

However, domestic legislation formulates softer requirements for civil servants, members of election commissions, lawyers and military men on an appeal.

According to Article 16 of the Federal Law "On the Russian Federation Civil Service" citizens with removed or cancellation of conviction can be taken to the civil service and to pass it.

Sub-paragraph "n" of paragraph 1 of Article 29 of the Federal Law "On Basic Guarantees of Electoral Rights and the right to participate in the referendum RF citizens" allows previously convicted citizens to be members of the election commissions.

Individuals with criminal records shall be entitled to claim the status of the lawyer acquisition and implementation of advocacy (item 2 of Part 2 of Article 9 of the Federal Law "On Advocacy and the Legal Profession in the Russian Federation").

In accordance with paragraph 3 of Article 23 of the Federal Law "On Military Duty and Military Service" citizens having to remove or cancellation of conviction, shall be subject to military conscription.

Citizens deprived of military rank, after the withdrawal or cancellation of conviction can be restored in the same military rank official having the right to confer the rank is. Federal Law of March 28, 1998 № 53-FZ "On Military Duty and Military Service" does not directly address the possibility of recovery in the military ranks, lost in court. Paragraph 2 of its Article 48 stipulates that a citizen deprived of military rank, after the withdrawal or cancellation of conviction can be restored in the same military rank official having the right to confer this military rank, at the request of a citizen in the presence of the positive reviews of the internal affairs and the committee's decision of military Commissariat.

Interpretation of the listed regulations in their relationship, in which for the persons deprived of misconduct rank of court on the basis of force prior to the adoption of the said Federal Law regulations, the possibility of being reinstated in rank excluded, would put them in a worse position compared with those deprived of military rank by a court sentence for committing grave and especially grave crimes for which this is available. Such an approach would violate guaranteed by Article 19 of the Constitution the principle of equality. Accordingly, the inability of citizens to seek the removal of restrictions in the rights identical to those which are the consequences of adjudication, merely on the grounds that he had been subjected to them out of court, put it in the notoriously worse position compared to persons whose rights and freedoms were restricted by court order. This differentiation has no objective and reasonable justification and does not pursue a constitutionally significant<sup>78</sup> goals.

Based on the foregoing, in its decision of April 2, 2009 № 483-OP "on the complaint of a citizen Boris V. Tsygankov a violation of his constitutional rights by paragraph 2 of Article 48 of the Federal Law" On Military Duty and Military Service " and Paragraph 1 of Article 25 Regulations on the procedure of military service", the Constitutional Court of the Russian Federation came to the conclusion that" the current system of legal regulation, paragraph 2 of article 48 of the Federal law "on military duty and military service" and paragraph 1 of article 25 of the regulation on the procedure of doing military service can not be an obstacle to the recovery in the former military rank of persons deprived of military rank of court<sup>79</sup>.

Requirements, excluding the appointment and the passage of a particular type of service can be differentiated depending on the conviction of a person to a particular type of punishment.

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<sup>78</sup> Definition of the Constitutional Court of the Russian Federation of April 2, 2009 No. 483-O-P "On the complaint of citizen Tsygankov Boris Viktorovich on the violation of his constitutional rights by paragraph 2 of Article 48 of the Federal Law" On Military Duty and Military Service" and paragraph 1 of Article 25 of the Regulation on order of military service "// Bulletin of the Constitutional Court of the Russian Federation. 2007. № 1.

<sup>79</sup> Ibid

In the design of the relevant articles of the federal laws there are different formulations of "conviction of a person to punishment, which excludes the possibility of execution of official duties of civil service positions (civil service), by a court decision, which came into force" (paragraph 2 of Part 1 of Article 16 of the Federal law "on the Russian Federation state civil service"), "a sentence, which excludes the possibility of execution of official duties of the post of municipal service, by a court decision, which came in force "(paragraph 2 of Part 1 of Art. 13 of the Federal Law "On Municipal Service in the Russian Federation"), "a sentence, which excludes the ability to replace civil service positions, by a court decision, which came into force" (p. 1 part 2 Art. 37 Federal law "On state civil service Russian Federation"), "appointment penalty of imprisonment" (p. 3, v. 50, pp. "e" p. 1, v. 51 Federal law "On military duty and military service "), " the imposition of punishment in the form of deprivation of the right to hold military positions in those ix certain period "(paragraphs. "Z" p. 1 tbsp. 51 of the Federal Law "On Military Duty and Military Service"), "the imposition of punishment in the form of deprivation of the right to occupy certain positions of the civil service or engage in certain activities" (1 Part 1 of Art. 40 of the Federal Law "On State Civil Service of the Russian Federation"), " the deprivation of the right to hold civil service positions for a certain period of time "(Part 2 of Art. 40.1 of the Russian Federation" On the Prosecutor's office of the Russian Federation "of the Act)," the appointment of a sentence of imprisonment conditionally for a crime committed intentionally "(paragraphs" e1 "p. 1, v. 51 Federal Law" On military duty and military service ")," appointment penalty of prison or prison conditionally "(paragraphs" d "1 Article . 57.8 of the Federal law "On military duty and military service"), "the appointment of the penalty of deprivation of military rank" (pp. "e" of Clause 1, Article. 51, paragraphs "d" of Clause 1, Article. 57.8 of the Federal law "On military duty and military service ").

Article 44 of the Criminal Code lists the types of penalties, the analysis of which allows you to emphasize punishment, which excludes the possibility of execution of official duties of the post. These may include: deprivation of the right

to occupy certain positions or engage in certain activities, restriction of liberty, forced labor, arrest, and imprisonment for a specific term, life imprisonment, and death penalty.

Thus, civil and municipal employees may substitute positions and served on conviction to the punishment of a fine, and mandatory labor.

The most detailed list of punishments implied in paragraph "e" of Part 1 of Art. 4 of the Federal Law "On the status of the Federation Council and the status of the deputy of the State Duma of the Federal Assembly", pp. "Well," Clause 1, Article. 19 of the Federal Law "On General Principles of Organization of Legislative (Representative) and Executive Bodies of State power of the Russian Federation", item 6 of Art. 36, n. 10 st. 37, n. 10 st. 40 of the Federal Law "On General Principles of Local Self-Government in the Russian Federation", p. 8 Part 1 of Art. 14 RF Law "On the Status of Judges in the Russian Federation", item 2 Part 1 of Art. 29 of the Federal Law "On Police", item 8 of Article. 29 of the Federal Law "On Basic Guarantees of Electoral Rights and the right to participate in the referendum citizens of the Russian Federation."

In these pieces of legislation as the basis for early termination of the Federation Council of the member, deputy of the State Duma of the Federal Assembly of the Russian Federation, the highest official of the Russian Federation, deputy member of an elective body of local self-government, an elected official of local self-government, the head of the local administration, the head of municipal education, judges, police, election commission member with a decisive vote called entry into Zuko hydrochloric virtue of a judgment of conviction.

The constitutionality of the termination of parliamentary powers in connection with the entry into force of conviction the court addressed in the definition of the Constitutional Court on May 12, 2003 № 168-O "On the refusal to accept for consideration the complaint of citizen Bykov A.P. a violation of his constitutional rights by paragraph "c" of paragraph 3 of Article 35 of the Charter of the Krasnoyarsk Territory and subparagraph "c" of paragraph 1 of Article 4 of the

Law of the Krasnoyarsk Territory "On status of deputy of the Krasnoyarsk Territory Legislative<sup>80</sup> Assembly."

According to the Constitutional Court of the Russian Federation, the early termination of parliamentary powers does not affect the right of citizens to elect and be elected to public authorities. Legal provisions on early termination of parliamentary powers not deprive a convicted person conditional voting rights, without prejudice to its constitutional status as a citizen and therefore not at variance with Articles 32 and 55 of the Constitution.

For the legislator and enforcer in this situation it does not matter what the conviction was decreed by a court:

- linked to sentence the convicted person;
- related to sentencing and release from serving;
- without sentencing.

If we consider the conviction to sentence, it is a question of any conviction of the court, which entered into force, according to which a person was sentenced to a fine, deprivation of the right to occupy certain positions or engage in certain activities, deprivation of a special, military or honorary title , class rank and state awards, compulsory work, corrective labor, restriction in military service, restriction of liberty, forced labor, arrest, detention in disciplinary military unit, imprisonment for a fixed term of life imprisonment, the death penalty.

According to article 311 of the Code of Criminal Procedure in the event of a conviction without sentencing; conviction to sentence and release him from serving; conviction to sentence not related to deprivation of liberty, or a sentence of imprisonment, suspended the defendant under arrest, he must be released immediately in the courtroom.

In accordance with Part 2 of Article 86 of the Criminal Code a person released from punishment, **is considered criminal** record.

The problem of criminal records due to the fact of punishment, or the fact of its actual serving solved in Sec. 5 of the Resolution of the Plenum of the Supreme

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<sup>80</sup> Bulletin of the Constitutional Court of the Russian Federation. 2004. № 1.

Court on March 18, 1970 № 4 (rev. And ext., As amended by Resolution of the Plenum of the Supreme Court dated 21 September 1977. № 11, from April 26, 1984 №7)"on the Calculation of the maturity of a criminal record": "When the judgment of conviction without sentencing, as well as the release of the convicted person from punishment due to amnesty or in connection with the expiration of limitation period guilty, a person serves a mandate of recognized not having a criminal record, regardless of the duration of detention." Thus, in the jurisprudence criminal record is associated with the fact that the serving (or not serving)<sup>81</sup> punishment.

Release from serving a sentence of the court should be distinguished from conditional release from serving a sentence.

Article 79 of the Criminal Code stipulates that a court may release a person who has completed specified in the law of the imposed sentence of imprisonment, including life, parole, if it considers that its remedy this person does not need any further punishment. The court is designed, as follows from Articles 19, 46 (part 1), 50 (part 3), 118 and 123 (part 3) of the Constitution in their relationship, to ensure a fair procedure for the decision to parole the convict from serving penalties, including real judicial guarantees for the protection of his rights and legitimate interests.

The constitutionality of Article 79 of the Criminal Code, which establishes the bases of application of parole from serving a sentence, and the third part of Article 399 Code of Criminal Procedure regulates the procedure for resolving issues related to the execution of the sentence, was challenged in the complaint of the citizen A.A. Gruzdev<sup>82</sup>.

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<sup>81</sup> Resolution of the Plenum of the Supreme Court of the USSR of March 18, 1970 No. 4 "On the calculation of the period of repayment of criminal record" // Sat. Decisions of the Plenum of the Supreme Court of the USSR 1924-1977. Part 2. Moscow: Izvestiya, 1978; Resolution of the Plenum of the Supreme Court of the USSR of September 21, 1977 No. 11 "On amending and supplementing the Resolution of the Plenum of the Supreme Court of the USSR of March 18, 1970 No. 4" On Calculating the Term of Repayment of Criminal Records. " [The text has not been published.]

<sup>82</sup> The definition of the Constitutional Court of the Russian Federation of July 11, 2007 No. 406-O "On the complaint of a citizen Gruzdev AA. on violation of his constitutional rights

In the ruling dated July 11, 2007 № 406-O "On the complaint of the citizen A.A. Gruzdev a violation of his constitutional rights in Article 79 of the Criminal Code and Part 3 of Article 399 of the Criminal Procedure Code of the Russian Federation ", the Constitutional Court concluded that the provisions of Article 79 of the Criminal Code in its constitutional and legal sense does not prevent the application of conditional release from punishment of persons who are appointed by a court sentence a sentence of death was replaced by pardon of imprisonment. Procedure for consideration of issues related to the execution of the sentence, as defined in Part 3 of Art. 399 Code of Criminal Procedure in its constitutional and legal meaning involves the provision of a convicted person the opportunity to participate in the court's consideration of the issue of parole, to state its position and to confirm its necessary evidence. Granted the petition of the convicted person on parole or denying its satisfaction, the judge does not only agree with the received to his statement of the convicted person and (or) materials of the administration, and also makes a reasoned decision based on the analysis of all issues related to the feasibility of further serving prisoners punishment for the convicted and having no less important than the issues that may be decided by the court itself during the consideration of the criminal case on the merits or checks e legality and validity of the judgment on appeal and supervisory<sup>83</sup> procedures.

The dispositions of paragraph "e" of Part 1 of Art. 4 of the Federal Law "On the status of the Federation Council and the status of the deputy of the State Duma of the Federal Assembly", p."zh," Clause 1, Article. 19 of the Federal Law "On General Principles of Organization of Legislative (Representative) and Executive Bodies of State power of the Russian Federation", item 6 of Art. 36, n. 10 st. 37, n. 10 st. 40 of the Federal Law "On General Principles of Local Self-Government in the Russian Federation", p. 8 Part 1 of Art. 14 RF Law "On the Status of Judges in the Russian Federation", item 2 Part 1 of Art. 29 of the Federal Law "On Police"

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under Article 79 of the Criminal Code of the Russian Federation and Part 3 of Article 399 of the Code of Criminal Procedure "// Bulletin of the Constitutional Court of the Russian Federation. 2007. № 1.

<sup>83</sup> Ibid.



securing the grounds for early termination of powers, focuses on the introduction of conviction in force.

This legal position is fully consistent with the principle of presumption of innocence, according to which the accused is presumed innocent until his guilt in committing a crime is proved and established by a court<sup>84</sup> verdict.

A conviction can not be based on assumptions and decides only on the condition that during the trial the defendant guilty of committing a crime is confirmed by the totality of evidence examined by the<sup>85</sup> court.

In cases, unless an event of crime, the defendant was not involved in the crime, the act does not constitute a crime of the defendant, the defendant the jury handed down a not-guilty verdict, the court decreed the acquittal.

In accordance with Article 390 Code of Criminal Procedure verdict of the trial court enters into force upon the expiration of its appeal in the appeal, if it was not contested by the parties.

The verdict of the appellate court shall enter into force from the date of its publication and may be revised only on appeal, in the order of supervision, according to a new or newly discovered facts. Where an application is presented in the appeal verdict comes into force on the date of the decision by the appellate court, if it is not canceled by the appellate court to transfer the case to a new trial or to return the criminal case to the prosecutor.

Anti-corruption anti-criminal legal standards and mechanisms could be implemented in the form of suspension from an official replacement positions (job execution), suspending power.

In paragraph 1 of Article 32 of the Federal Law "On the Russian Federation Civil Service" is fixed *as* a representative of the employer to dismiss a civil servant from the displaced post of civil service if the person involved as a defendant and the court ruling on his suspension from office.

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<sup>84</sup> The principle of the presumption of innocence is enshrined in Article 49 of the Constitution of the Russian Federation and Article 14 of the Code of Criminal Procedure.

<sup>85</sup> Part 4 of Article 302 of the Code of Criminal Procedure.

At the same time representative of the employer *shall be entitled to* remove from the displaced post of civil service (do not allow to perform duties) a civil servant for the period: the conflict of interest and the inspection data provided by the state (municipal) employees, observance of the restrictions and prohibitions.

Article 42 of the Law of the Russian Federation "On the Prosecutor's Office of the Russian Federation, "Part 2 of Article 29 of the Federal Law "On the Investigative Committee of Russia" refers to the removal from office during the investigation initiated against a prosecutor (an employee of the Investigative Committee) of the criminal case. Article 42 of the Federal Law "On Military Duty and Military Service" provides the opportunity to perform military service in military posts in the case of finding the disposal of the commander (chief) in connection with the institution in respect of a military criminal case - until a decision on the criminal case.

Sub-paragraph 4, Article 29.1 of the Federal Law "On general principles of organization of legislative (representative) and executive state power bodies of the Russian Federation" contains a provision that the President of Russian Federation in the procedure established by the criminal procedural law, has the right of proposal of the General Prosecutor of the Russian Federation to suspend the higher an official of the Russian Federation of his duties in the event the said charges of committing a person crime. Such a decision to suspend the highest official of the Russian Federation of his duties in the form of a decree adopted.

In accordance with Article 114 of the Criminal Procedure Code of the Russian Federation temporary suspension applies to measures of procedural coercion.

If necessary, a temporary dismissal of the suspect or the accused investigator with the consent of the head of the investigative body and an investigator with the consent of the Attorneys before the court at the preliminary investigation corresponding application. Within 48 hours of receipt of the application the judge shall issue an order to suspend the suspect or the accused from office or to refuse

it. Temporary suspension is canceled by order of the Investigator, when the application of this measure is no longer necessary.

Suspension of judicial powers carried on similar grounds. But, in contrast to the temporary removal from office, the decision to suspend (resume) the powers takes Qualifying Collegium of Judges.

According to Article 13 of the Russian Federation's Law "On the Status of Judges in the Russian Federation," the powers of the judges and the resignation of the judge suspended the decision of the Judicial Qualifications Board in the case of a criminal case against a judge or bringing him in as a defendant in another criminal case.

Thus, the analysis of the legal prescriptions indicates the presence of non-mandatory (possible) and mandatory (compulsory), common and preferred bases for the temporary removal of the official position of the replacement (official duties), suspension of powers.

Dispositive reasons include: settlement of conflicts of interest and conduct verification of information submitted by the state (municipal) employees, observance of the restrictions and prohibitions.

Mandatory grounds include: the initiation of criminal proceedings against a person, bringing him in as a defendant in another criminal case.

General grounds relating to similar circumstances and dismissal procedures on the substitution positions (his duties), suspension of powers.

Preferred bases provide a special procedure for the removal of his duties, suspension of powers of individual officials.

Thus, the preferred procedure is established regarding the procedure of temporary suspension of the highest official of the Russian Federation of his duties. In accordance with Part 5 Art. 114 Code of Criminal Procedure the decision to remove the highest official of the Russian Federation of his duties in case of accusation of committing serious or especially serious crimes made by the President of the Russian Federation requires the submission of the Prosecutor General of the Russian Federation and shall be fixed in the form of a Presidential

Decree. Preferred base suspension judicial powers require appropriate solutions of the Qualifications Board.

In some cases, the legislator defines the list of information directly related to the organization and functioning of the anti-criminal legal mechanisms.

Thus, article 17 of the Federal Law "On Police" contains data on citizens to be included in departmental specialized databases and documents.

Adding to the data banks is subject to information about:

- persons suspected or accused of committing a crime;
- persons convicted of committing a crime;
- persons who have committed a crime or a socially dangerous act, and in respect of which the court applied compulsory measures of a medical nature;

- persons against whom the decision about the termination of the criminal prosecution of the expiration of the period of limitation, in connection with the reconciliation of the parties, as a result of the amnesty act in connection with active repentance;

- juveniles released from criminal responsibility or exempted by the court from punishment with application of compulsory educational measures; Juvenile offenders and (or) anti-social actions of their parents or other legal representatives who do not perform their duties on education, training and (or) the maintenance of children and (or) negative influence on their behavior or ill-treated;

- persons against whom the sentence before the entry into force of the act has been applied to a pardon or an amnesty exempting from punishment;

- persons against whom the crime was committed;
- persons who have committed an administrative offense;
- persons on the wanted list;
- persons unaccounted for;
- persons consisting under preventive supervision;
- persons against whom proceedings were instituted operational accounting;
- persons passed the state fingerprint registration.

Police provides protection of the information contained in the data banks, from unauthorized or accidental access, destruction, copying, distribution and other illegal acts independently fragment regulatory array counter criminalization authorities are legal acts regulating combating criminals in terms of election campaigns.

The legal basis of counteraction of criminalization of public authorities during the elections in the Russian Federation is the Federal Law "On Basic Guarantees of Electoral Rights and the right to participate in the referendum citizens of the Russian Federation."

Requirements for candidates in elections to the bodies of state power and local self-government established by the Constitution and the Federal Law of June 12, 2002 № 67-FZ, dated January 10, 2003 № 19-FZ, dated May 18, 2005 № 51-FZ .

According to paragraph 3 of Article 32 of the Constitution citizens who do not have active and passive suffrage are found incompetent by a court or kept in places of imprisonment upon conviction.

In accordance with paragraph 3.2 of Article 4 of the Federal Law of June 12, 2002 № 67-FZ

" The citizens of the Russian Federation do not have the right to be elected if they are:

a) condemned ever to imprisonment for committing grave and (or) a particularly serious crime, except in cases where, in accordance with the new criminal law, these acts are not recognized as a serious or especially serious crimes;

b) convicted of extremist crimes under the Criminal Code of Russian Federation, and having on the day of voting in the elections and unwithdrawn outstanding conviction for such offenses;

c) subjected to administrative punishment for administrative offenses provided for in Articles 20.3 and 20.29 of the Code of Administrative Offenses, if

the election vote will take place before the end of the period during which a person is considered to be subject to administrative punishment

d) in respect of which came into force a court decision set violation of the restrictions imposed by paragraph 1 of article 56 hereof, or committing acts referred to subparagraph "g" of paragraph 7 and sub-paragraph "g" of paragraph 8 of Article 76 of this Federal Law, if such violations or acts committed prior to the day of voting in the elections for the statutory term of office of a public authority or local government, in which the elections are appointed or officer whose election scheduled elections."

As stated in the Decision of the Constitutional Court of the Russian Federation, dated October 10, 2013 № 20-P "On the case on the constitutionality of" a "sub-paragraph 3.2 of Article 4 of the Federal Law" On Basic Guarantees of Electoral Rights and the right to participate in the referendum RF citizens " , the first part of article 10 and paragraph 6 of article 86 of the Criminal Code in connection with complaints of citizens G.B. Egorova, A.L .Kazakova, I.Y. Kravtsova, A.V. Kupriyanov, A.S. Latypova and V.Y. Sinkova", "restriction of passive suffrage introduced by the federal legislator as a special constitutional and legal disqualifying obstacles for holding elective public office, coupled with the increased reputational requirements for holders of public (political) power, which is due to their direct participation in the adoption of legal acts (regulations and individual) and responsibility, which is associated with the exercise of their"<sup>86</sup> powers.

Particularly noteworthy are the constitutional and legal constraints imposed by the peculiarities of the legal status of the candidates.

The election legislation establishes two groups of additional restrictions passive suffrage: *the limitations associated with the nomination of candidates* (lists of candidates), and *limitations relating to the registration of candidates* (lists of candidates).

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<sup>86</sup> Ros. gas. 2013. 23 October

Limitations associated with the nomination of candidates established by paragraphs 4-7 of Article 32 of the Federal Law of June 12, 2002 № 67-FZ. A citizen of the Russian Federation is replaced by the post of President of the Russian Federation and to prematurely terminate execution of the Russian Federation President's powers in case of resignation, persistent inability for health reasons to exercise the powers vested in him or *removal from office* may not be nominated as a candidate at elections to be held in connection with these circumstances.

A citizen of the Russian Federation is replaced by the post of the highest official of the Russian Federation (head of the highest executive body of state authority of the Russian Federation) and detached from the post of the Russian Federation President, *for two* years, calculated from the date of dismissal of its entry into force of Presidential Decree from office until the day of announcement of the election of the highest official of the Russian Federation (head of the supreme executive body of the government authorities of the Russian Federation), may not be nominated as a candidate for this position in any region of the Russian Federation.

A citizen of the Russian Federation, shall be replaced as head of the municipality, and departed with the specified positions to resign at his own request, including in connection with his election as a deputy or to another elected office, the replacement of which is incompatible with the status of head of the municipality, or *removal from office of the head of municipal education the highest official of the Russian Federation (head of the highest executive body of state authority of the Russian Federation)*, we can not be nominated as a candidate at elections to be held in connection with these circumstances. Commented paragraphs place restrictions of passive suffrage for those replacing some state and municipal offices in elections for these positions.

In paragraph 7 of article 4 of the Federal Law of June 12, 2002 № 67-FZ fixed limit on the registration of candidates: "If there is in respect of a citizen of the Russian Federation came into force a court decision depriving him of the right to hold the state and (or) municipal offices for certain period of time that a citizen can

not be registered as a candidate, if the vote in elections to the bodies of state power, local self-government bodies will be held before the expiration of that period."

In addition, paragraph 6 of Article 3 of the Federal Law of January 10, 2003 № 19-FZ established: "A citizen of the Russian Federation in respect of which entered into force court decision depriving him of the right to hold public office for a specified period if this penalty is provided federal law, can not be registered as a candidate for the post of President of the Russian Federation, if the vote in the election of the President of the Russian Federation will be held before the expiry of the term set by the court."

Similarly, the restriction stipulated in paragraph 5 of Article 5 of the Federal Law of May 18, 2005 № 51-FZ "of the Russian Federation shall, in respect of which entered into force of the court sentence depriving him of the right to hold public office for a specified period not It may be registered as a candidate in elections to the State Duma, if the vote in the election will be held before the expiry of the term set by the court."

In order to prevent the nomination and registration as candidates for elective positions of persons in the criminal investigation, paragraph 5 of Article 33 of the Federal Law of June 12, 2002 № 67-FZ, paragraph 10 of Article 34 of the Federal Law of January 10, 2003 № 19 FZ, require applicants to submit documents in person when registering the corresponding election commission.

In accordance with sub-paragraphs "a" paragraphs 24 and 26 of the article Article 38 of the Federal Law of June 12, 2002 № 67-FZ of the candidate's lack of passive electoral right is grounds for refusal of registration of the candidate, the candidate exclusion of the certified list of candidates. When making a decision on registration of the candidate, list of candidates Election Commission is obliged to ensure the presence of passive suffrage for all registered<sup>87</sup> candidates.

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<sup>87</sup> *Neronov I.* On the issue of verification of the electoral commission whether candidates possess passive suffrage in the light of changes in the legislation // About elections. 2012. № 5. p. 37.



Paragraph 2.1 of Article 33 of the Federal Law of June 12, 2002 № 67-FZ establishes the obligation to indicate in the statement of the candidate's consent to run information about the presence of his or unwithdrawn outstanding conviction. The requirements for the indication of a candidate information about the former convictions, including for serious and (or) the most serious crimes, federal law does not contain.

According to paragraph 4 of Article 61, paragraph 7 of Article 63, paragraph 9 of Article 37 of the Federal Law of June 12, 2002 № 67-FZ; paragraph 4 of Article 66, paragraph 6 of Article 67, sub-paragraph 3 of paragraph 6 of Article 34 of the Federal Law of January 10, 2003 № 19-FZ; Part 4 of Article 72, paragraph 6 of Article 73, paragraph 4 of Article 38 of the Federal Law of May 18, 2005 № 51-FZ information about unexpunged and outstanding candidate's conviction should be indicated in the signature list, information stands and on the ballot. Subparagraph "h" of paragraph 7 of Article 76 of the Federal Law of June 12, 2002 № 67-FZ notes that the candidate registration may be canceled by the court if it determines that candidate concealed the information about his unexpunged (outstanding) conviction. Similar sanctions provided for in subparagraph 7 of paragraph 5 of Article 84 of the Federal Law of January 10, 2003 № 19-FZ, and sub-paragraph 4 of Part 9 of Article 91 of the Federal Law of May 18, 2005 № 51-FZ. These legal measures are used to prevent the entry of criminal and extremist elements in the state authorities and local authorities in the electoral<sup>88</sup> process.

As already mentioned, the passive suffrage deprived citizens of the Russian Federation condemned ever to imprisonment for committing grave and (or) very serious crimes, except in cases where, in accordance with the new criminal law, these crimes are not recognized as a serious or especially serious crimes .

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<sup>88</sup> *Franskevich M.P., Shchedrin N.V.* Criminal history as the basis of a limited passive suffrage / Actual problems of struggle against criminality in the Siberian region. Sat. International scientific-practical conference. Part 1. Krasnoyarsk, 2005, p. 300-303; *Duksin P.A.* Deprivation of the passive electoral rights of persons subjected to measures of legal responsibility for acts of an extremist / Problems of political and legal sciences. Vol. 1. Saratov: Izd Sarat. University Press, 2007, p. 190-194.

From the content of the rule should be that the person in respect of which entered into force of a judgment established the fact of a serious and (or) a particularly serious crime for which he was sentenced to imprisonment, it has no right to be elected. The presence of such circumstances as sentencing probation, exemption from punishment, a delay of serving the sentence, amnesty, pardon, redemption or withdrawal of a criminal record does not entail recognition of the right of the citizen to be elected.

Resolution of the Constitutional Court of the Russian Federation dated October 10, 2013 № 20-P "On the case on the constitutionality of" a "sub-paragraph 3.2 of Article 4 of the Federal Law" On Basic Guarantees of Electoral Rights and the right to participate in the referendum citizens of the Russian Federation ", the first part article 10, paragraph 6 of article 86 of the Criminal Code in connection with complaints of citizens G.B. Egorova A.L. Kazakova, I.Y. Kravtsova, A.V. Kupriyanov, A.S. Latypova and V.Y. Sinkova "sub" a "paragraph 3.2 article 4 commented Federal Law recognized not relevant articles 3 (sections 2 and 3), 15 (part 4) 17 (part 3), 19 (Part 1 and 2), 32 (Part 1 2 and 3) and 55 (parts 2 and 3) of the Constitution to the extent that it has found indefinite and undifferentiated restriction of passive voting rights in respect of Russian citizens, sentenced to imprisonment for committing grave and (or) very serious crimes<sup>89</sup>.

According to the Constitutional Court of the Russian Federation, the terms imposed by federal law restrictions of passive suffrage, as a general rule, should be set accordingly differentiation periods criminal record, provided the Criminal<sup>90</sup> Code. In exceptional cases, for certain serious and heinous crime, based on the increased degree of danger to society, a federal law may be limitations of passive

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<sup>89</sup> Ros. gas. 2013 on 23 October.

<sup>90</sup> According to the bill introduced in the State Duma after the adoption of the Constitutional Court of the Russian Federation Decree of October 10, 2013 № 20-P, condemned ever to imprisonment for committing grave crimes, except in cases where, in accordance with the new criminal law, these acts are not recognized as serious crimes will not be able to run for 10 years from the date of withdrawal or cancellation of conviction, and sentenced ever to imprisonment for the most serious crimes - for 15 years from the date of withdrawal or cancellation of conviction.

suffrage and for a longer period in accordance with constitutional criteria of proportionality and<sup>91</sup> necessity.

Please be aware that if subsequently the case against a citizen acquitted and (or) he had the right to rehabilitation, this person is justified and (or) rehabilitated. In accordance with Part 1 of Article 133 of the Criminal Procedure Code of the Russian Federation (CPC RF) right to rehabilitation includes, inter alia, the restoration of labor, pension, housing and other rights. Paragraph 4 of part 2 of article 133 of the Code of Criminal Procedure established that the right to rehabilitation is convicted in the case of full or partial cancellation of an enforceable guilty verdict of the court and the termination of criminal proceedings on the grounds provided for in paragraphs 1 and 2 of paragraph 1 of Article 27 of the Code.

According to the position of the Constitutional Court of the Russian Federation, expressed in its Resolution of October 10, 2013 № 20-P, legal democracy requires reliably protect her from abuse and criminalization of public authority, the legitimacy of which is largely based on the trust of society, on the basis of this, a ban from holding public positions for persons committing grave and especially grave crimes, pursuing a constitutionally significant goals.

However, the Constitutional Court of the Russian Federation ordered the federal legislator to establish procedural safeguards to ensure the ability to recover the passive electoral rights of citizens, a conviction which charged or paid, in the case of adoption of the new criminal law, according to which their acts are no longer recognized as serious or very serious crime.

As already mentioned, the parent entity to counter the criminalization of public authorities in terms of election campaigns are the election commissions.

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<sup>91</sup> Resolution of the Constitutional Court on October 10, 2013 № 20-P "On the Constitutionality of subparagraph" a "of paragraph 3.2 of Article 4 of the Federal Law" On Basic Guarantees of Electoral Rights and the right to participate in the referendum citizens of the Russian Federation ", the first part article 10, paragraph 6 of article 86 of the Criminal Code in connection with complaints of citizens G.B. Egorova A.L. Kazakova, I.Y. Kravtsova, A.V. Kupriyanov, A.S. Latypova and V.Y. Sinkova "// Ros. gas. 2013 on 23 October.

There are a number of interrelated organizational forms of the anti-criminal activities of election commissions in terms of election campaigns:

- validation of candidates submitted information unwithdrawn (outstanding) convictions, convictions for serious and (or) particularly serious crimes;

- validation of the information submitted by the candidates on the income and property of the bank deposits and securities, information about accounts (deposits), cash and values in foreign banks located outside the Russian Federation;

- appeal to the law enforcement agencies with requests: on persons suspected or accused of committing a crime; on persons convicted of committing a crime; the persons against whom the decision about the termination of the criminal prosecution of the expiration of the period of limitation, in connection with the reconciliation of the parties, as a result of the amnesty act in connection with active repentance; the persons against whom the sentence before the entry into force of the act has been applied to a pardon or an amnesty exempting from punishment; on persons who have committed an administrative offense; about the persons consisting under preventive supervision; on the persons on the wanted list; about checking links candidates with the criminals, criminal organizations controlled organizations and lending institutions;

- exclusion of the candidate (candidate group) of certified lists;

- refusal to register a candidate (list of candidates);

- cancellation of registration of a candidate (list of candidates) higher commission;

- appeal to the court to cancel the registration of the candidate (list of candidates);

- control over the sources, proper accounting and use of funds of election funds;

- verification of the financial reports of candidates;

- anti-corruption expertise of normative acts of election commissions;

- informing the law enforcement and intelligence agencies to test signals, suppress unlawful propaganda activities, proceedings on administrative offenses or preliminary investigation;

- proceedings on administrative violations in the field of elections, within the competence of the members of election commissions with decisive votes.

Analysis of the results of checking the data on the availability of the facts of conviction for committing grave and (or) particularly serious crimes of candidates for deputies of legislative (representative) bodies of state power of subjects of the Russian Federation and representative bodies of the administrative centers of the Russian Federation for the election of 14 October 2012 showed that among members election commissions and employees of their staffs there is no common understanding of the requirements of the current version of the sub-item "a" of paragraph 3.2 of article 4 of the Federal Law. In the Commission there are also problems with the definition of categories (severity) of crimes based on conviction of persons for the duration of the different editions of the criminal law. This is largely due to the lack of enforcement practices in these<sup>92</sup> circumstances.

The Russian CEC device has stated that, as of September 28, 2012 in the number of registered candidates for deputies of the legislative (representative) bodies of state power of subjects of the Russian Federation and representative bodies of the administrative centers of the Russian Federation had about 20 people who, on the basis of data MIAC Russian Interior Ministry, the law had no right to be<sup>93</sup> elected.

As a result of the CEC of Russia in cooperation with the Russian MIAC MIA's measures of the number of registered candidates for deputies of the legislative (representative) bodies of state power of the Russian Federation and

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<sup>92</sup> The information of the Central Election Commission of the Russian Federation "On the practice of applying the new version of subparagraph" a "of paragraph 3.2 of Article 4 of the Federal Law" On Basic Guarantees of Electoral Rights and the Right to Participate in the Referendum of Citizens of the Russian Federation ". p.2.

<sup>93</sup> In total, the GIAC of the Ministry of Foreign Affairs of Russia provided information on the facts of conviction for serious and (or) especially grave crimes against 53 nominated and registered candidates at these election levels. Earlier, as a result of personal explanations of the positions of federal legislation, several candidates lost their registered status.

representative bodies of the administrative centers of the Russian Federation on elections of October 14, 2012 are excluded (on personal application solutions election commission or court decisions) 17 persons, for which there were data on conviction to imprisonment for committing grave and (or) special cord of their crimes.

In connection with the specification of the severity of the crimes, taking into account the period of the different editions of the criminal law allowed to participate in the election lawfully 13 candidates, eligibility is<sup>94</sup> confirmed.

However, a candidate for deputy of the State Council of the Udmurt Republic of the fifth convocation, for which validated information on conviction to imprisonment for a serious crime, and participated in the elections October 14, 2012 and was<sup>95</sup> elected. Information relating to the candidate of the above restrictions was brought leadership of the CEC of the Udmurt Republic September 27, 2012, but the deadline to submit the application to the court to cancel the registration of the territorial election commission was passed, and subsequently by the court is not restored.

In addition to the participation of election commissions and law enforcement agencies in the implementation of the anti-crime policy against further penetration of criminal organizations (communities) to the authorities and their merging with other institutions of the political system of the Russian society requires immediate and systematic work of both public authorities and civil society in the framework of the following main directions:

close coordination of law enforcement, the media, political parties and public organizations to prevent corruption and the party election (appointment) of representatives of criminality in the state authorities and local self-government;

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<sup>94</sup> At present, the crimes committed by these persons do not qualify as serious or particularly serious.

<sup>95</sup> The information of the Central Election Commission of the Russian Federation "On the practice of applying the new version of subparagraph" a "of paragraph 3.2 of Article 4 of the Federal Law" On Basic Guarantees of Electoral Rights and the Right to Participate in the Referendum of Citizens of the Russian Federation ". p.3-4.

undermining the economic base of criminal organizations, representatives of the displacement of criminals from legitimate businesses;

formation of a negative public attitude towards the activities of criminal groups, criminal leaders and promotion of anti-crime measures;

the improvement of the electoral legislation, state and municipal service through the establishment of legal restrictions on electing (appointing) the state authorities and local government officials who are under investigation, in the search, as well as citizens, against whom criminal proceedings were discontinued for the expiry limitation, in connection with reconciliation sides due amnesty act in connection with the active repentance;

increasing demand for the replacement of the state posts of the Russian Federation, state posts of the Russian Federation, for civilian, military, law enforcement and municipal services;

introduction of anti-crime mandatory inspections of all candidates entering into the civil, military, law enforcement and municipal service;

expanding the list of officials representing the information about their income, expenses, assets and liabilities of material nature, as well as income, expenses, assets and liabilities of material nature of his wife (husband) and minor children; clarification of the requirements of the costs of these officials; the introduction of anti-corruption restrictions on the ban be registered outside the Russian Federation ownership of the property;

regular anti-corruption (anti-crime) investigations;

improve the methods of anti-corruption expertise of legal acts;

liquidation (limitation of the number and content) immunities of elected officials and parliamentary immunity;

expand the list of grounds for exclusion of candidates from a list of certified, as well as failure candidate registration and de-registration of the candidate by the court in connection with the submission of false documents or false information.

Formation and consistent implementation of these directions to counter the criminalization of public authorities requires carefully coordinated activities of all

law enforcement agencies and governments. This operating level must necessarily dwell on the President and Prime Minister of Russia.

The most important area to counter the criminalization of public authorities seems to undermine the economic base of criminal organizations and representatives of the displacement of criminals from legitimate business.

In order to counter criminal income legalization of the competent authorities in accordance with the Federal Law "On counteraction to legalization (laundering) of proceeds from crime and financing of terrorism", the following measures may be carried out by the authorized bodies:

- internal control (detection of transactions subject to mandatory control and other operations with money or other property related to money laundering);
- binding control (control over the operations with money or other assets, as well as the corresponding check information);
- suspending operation;
- failure in fulfilling customer orders for the operation;
- refusal to conclude a contract of bank account (deposit) (when trying to open a deposit for an anonymous owner, to open a deposit without a personal presence, opening contribution, with failure to provide the necessary documents for the identification of the client);
- blocking (freezing) non-cash or non-documentary securities;
- blocking (freezing) the client's property;
- ban on informing clients and other persons about the measures taken to counteract the legalization (laundering) of proceeds from crime.

According to Paragraph 2 of Article 6 of the Federal Law "On counteraction to legalization (laundering) of proceeds from crime and terrorist financing" operation with funds or other property are subjects to mandatory control, if at least one of the parties is an organization or individual, in respect of which there is evidence of their involvement in extremist activities or terrorism, or a legal entity directly or indirectly owned or controlled by such organizations or persons, or



private or legal body acting on behalf or at the direction of such organization or person.

The bases for inclusion of organization or individual in the list of organizations and individuals, in respect of which there is evidence of their involvement in extremist activities or terrorism, are:

1) the court's decision which came into force on liquidation or prohibition of the organization's activities due to its involvement in extremist activities or terrorism;

2) the court's decision on recognition of a person guilty of committing at least one of the offenses under Articles 205, 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279, 280, 282, 282.1, 282.2 and 360 of the Criminal Code;

3) the decision of the Prosecutor General of the Russian Federation and subordinate prosecutors or the federal executive authority in the field of state registration (its corresponding territorial body) to suspend the activities of the organization in connection with their appeal to the court for bringing the organization to liability for extremist activity;

4) the procedural decision on recognition of a person suspected of at least one of the offenses under Articles 205, 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279, 280, 282, 282.1, 282.2 and 360 CC the Russian Federation;

5) the investigator on the person as accused of committing at least one of the offenses under Articles 205, 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279, 280, 282, 282.1, 282.2 and 360 of the Criminal Code;

6) compiled by international organizations engaged in the fight against terrorism, or their authorized bodies and recognized by the Russian Federation lists of organizations and individuals associated with terrorist organizations or terrorists;

7) recognized in the Russian Federation in accordance with international treaties of the Russian Federation and federal laws sentences or court decisions and decisions of other competent authorities of foreign countries in relation to organizations or individuals engaged in terrorist activities.

Part 2.2 of Article 6 of the Federal Law "On counteraction to legalization (laundering) of proceeds from crime and financing of terrorism" contains the following reasons for exclusion of the organization or individual from the list of organizations and individuals, in respect of which there is evidence of their involvement in extremist activity or terrorism:

1) the quashing of the force of the Russian court on liquidation or prohibition of the organization's activities due to its involvement in extremism or terrorism and the termination of the proceedings;

2) the quashing of the laws of the Russian Federation of a court judgment on the recognition of a person guilty of committing at least one of the offenses under Articles 205, 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279, 280, 282, 282.1, 282.2 and 360 of the criminal Code, and the termination of criminal proceedings against a person on rehabilitating grounds;

3) cancellation of the decision of the Prosecutor General of the Russian Federation and subordinate prosecutors or the federal executive authority in the field of state registration (its corresponding territorial body) to suspend the activities of the organization in connection with the bringing to justice of extremist activity;

4) termination of criminal proceedings or criminal proceedings against a person suspected or accused of having committed any of the offenses under Articles 205, 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279, 280, 282, 282.1, 282.2 and 360 of the Criminal Code;

5) elimination of an organization or an individual component of the international organizations engaged in the fight against terrorism, or their authorized bodies and recognized by the Russian Federation lists of organizations and individuals associated with terrorist organizations or terrorists;

6) cancellation recognized in the Russian Federation in accordance with international treaties of the Russian Federation and the federal laws of sentences or court decisions and decisions of other competent authorities of foreign states in respect of organizations or individuals engaged in terrorist activity;

7) availability of documented data on the death of a person included in the list of organizations and individuals, in respect of which there is evidence of their involvement in extremist activities or terrorism;

8) presence documented data for settlement or overturned with persons convicted for scoring at least one of the offenses under Articles 205, 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279, 280, 282, 282.1, 282.2 and 360 of the Criminal Code.

In paragraph 2 of Article 7 of the Federal Law commented lists the grounds for documenting information on operations with money or other property, customers and other persons. In accordance with the rules of internal control to the number of such bases include:

an intricate or unusual nature of the transaction, which has no obvious economic sense or apparent lawful purpose;

mismatch transaction goals of the organization established by the constituent documents of the organization;

repeated transactions or transactions, the nature of which gives grounds to believe that the purpose of their implementation is the evasion of mandatory control procedures;

scoring operation, a customer transaction, for which a competent authority or organization directed previously directed a request;

refusal of the client from committing a single transaction in respect of which the organization of workers suspect that this operation is carried out to legalization (laundering) of proceeds from crime or financing of terrorism;

other circumstances give reason to believe that the transactions are carried out in order to legalization (laundering) of proceeds from crime or financing of terrorism.

Article 7.4 of the Federal Law "On counteraction to legalization (laundering) of proceeds from crime and financing of terrorism" establishes a special legal regime of additional measures to counter the financing of terrorism - blocking (freezing) of cash or other assets of organizations and individuals. If there are

sufficient grounds to suspect the involvement of the organization or individual terrorist activities (including the financing of terrorism), provided that no grounds for the inclusion of such an organization or an individual in the list of organizations and individuals, in respect of which there is evidence of their involvement in the extremist activity or terrorism, inter-ministerial coordination body carrying out the functions to counter the financing of terrorism, it may be decided i.e. to freeze (freezing) of cash or other property of the said organization or person.

In our opinion, the Federal Law "On counteraction to legalization (laundering) of proceeds from crime and terrorist financing" unreasonably limits the possibility of blocking (freezing) of criminally acquired property involved in terrorist and other extremist activity.

The legal regime of blocking (freezing) of cash or other assets of organizations and individuals should be extended to any proceeds of crime, and not only on the property of organizations and individuals suspected of involvement in extremist activities or terrorism.

One of the most effective measures to counter organized crime and corruption acts confiscation of property.

In connection with the liberalization of criminal legislation in the Russian Federation confiscation as a punishment involving the use of economic sanctions to criminals, it was removed from the Criminal Code. Federal Law of July 27, 2006 № 153-FZ confiscation restored, but the legislator attributed to other measures under criminal law.

It appears that the existing legal form of confiscation of the Institute requires serious modernization of a number of reasons:

- it allows criminals to keep most of the property obtained by crime;
- it does not undermine the material base of the commission of crimes;
- it does not eliminate the material damage caused by the crime.

According to the experts, in the Criminal Code there is a restrictive list of confiscated property obtained by<sup>96</sup> crime. The questions arise: on what grounds the selected range of offenses for which the use of confiscation is possible? Why it did not include other acts, a result of which it becomes property benefits? This applies particularly acquisitive crime against property: that they had not been on the list of causes at least<sup>97</sup> bewilderment.

Article 104.1 of the Criminal Code provided for confiscation of property used or intended to finance criminal activity, namely terrorism, the establishment and activities of an organized group, illegal armed formation, a criminal community (criminal organization). This is due to the provisions of international conventions on combating crime, ratified by Russia.

Experts rightly wonder why among this group of crimes attacks, which are closely related to terrorism, are not mentioned as well as the legalization of criminally acquired property? Such as Art. 211 "hijacking an aircraft or water transport or railway rolling stock" subpar. 221 "Theft or extortion of nuclear materials or radioactive substances," Art. 226 "Theft or extortion of weapons, ammunition, explosives and explosive devices", p. 174 "Legalization (laundering) of money or other property acquired by other persons by criminal means" art. 174.1 "Legalization (laundering) of money or other property acquired by a person in the commission of a<sup>98</sup> crime. "Meanwhile, in many countries, confiscation applies to property used or intended for the financing of all, not just listed in the Russian Criminal Offenses Act.

In order to undermine the economic basis of the actual criminal organizations, rather than imitation of the fight against crime confiscation of property should be returned to the category of types of criminal punishment. In this

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<sup>96</sup> *Luzhbin A.V., Volkov K.A.* Confiscation of property - the "new" measure of criminal law and new problems // Ros. justice. 2006, № 9. S. 34; *Zacepin M.N.* Confiscation of property as an anti-corruption measure // Ros. jurid. Journal. 2012. № 5.

<sup>97</sup> *Zacepin M.N.* Confiscation of property as an anti-corruption measure // Ros. jurid. Journal. 2012. № 5.

<sup>98</sup> *Luzhbin A.V., Volkov K.A.* Confiscation of property - the "new" measure of criminal law and new problems // Ros. justice. 2006, № 9.

case, the list of offenses for which confiscation is possible to use, needs to be supplemented compositions, result of which is to obtain property benefit.

The most important direction to counter the criminalization of public authorities in the Russian Federation advocates the formation of a negative public attitude towards the activities of criminal groups, criminal leaders and promotion of anti-crime measures.

Systemic propaganda of legal knowledge is required which may informs the general public about the legal consequences of participation in criminal activity and to provide assistance of panderly criminal structures.

In modern conditions an active outreach and preventive work among young people is demanded, also an increase of educational and cultural level of adolescents, especially from "dysfunctional" families.

When municipal educational, cultural and educational institutions is advisable to establish community centers of crime prevention. The structure of these centers in addition to officials of municipalities and regional authorities should comprise representatives of science, education, culture, authoritative representatives of religious organizations and public organizations, heads of local associations and national-cultural autonomies. One of these centers tasks should be in-depth study of modern criminal ideology and a criminal subculture, and the opposition to them.

In order to undermine the social base of criminality need to discredit the positive image of the "bandit heroes" in the literature, the media, the Internet, promotion in the media and online editions of successful operations of law enforcement and intelligence agencies on the development of criminal networks and corrupt officials government and management.

Independent problem is an ideological support of the prosecution of the organizers and active participants criminal groups and their associates.

Keep in mind that advocacy to combat the criminalization of public authorities in the Russian Federation should be wearing is not an abstract theoretical character, and be practically oriented to the target audience.

'Serious' assistance in the implementation of the anti-crime policy could have a prosecutor's office and the Investigative Committee. A key provision of the prosecutor's office due to the coordinating role in the activities of law enforcement agencies to combat crime, the specifics of the sphere of legal regulation of public prosecutor's supervision over the implementation of the election legislation, as well as the powers established by the legislation the prosecutor for the implementation of surveillance activities.

The bodies of the Investigative Committee reported the election commissions (according to the level of elections) for consent to criminal prosecution or election as a measure of preventive detention of registered candidates for elective office.

The decision to open a criminal investigation or to prosecute an accused in relation to the candidate for President of Russian Federation, a registered candidate for the State Duma of the Federal Assembly of the Russian Federation adopted by the Chairman of the Investigative Committee of Russian Federation, in respect of a registered candidate for deputy of the legislative body of the government of the Russian Federation - the head of the investigative body of the investigative Committee of the Russian Federation with the object of the Russian Federation.

The petition before the court on the election as a measure of preventive detention can be initiated by an investigator or inquiry officer in relation to a registered candidate for the State Duma of the Federal Assembly of the Russian Federation, a candidate for the President of Russian Federation with the consent of the Chairman of the Investigative Committee of Russian Federation, and in relation to a registered candidate members of the legislative body of the government of the Russian Federation - with the consent of the head of the trail Twain Investigative Authority of the Russian Federation on the subject of the Russian Federation Committee.

Analysis of the Code of Criminal Procedure indicates privileged procedural status of a candidate for the Russian presidency. Exceptions to the general criminal proceedings on the candidate to President of Russian Federation subject since his

nomination as a candidate, and candidates for the State Duma of the Federal Assembly of the Russian Federation, deputies of the legislative body of state authority of the Russian Federation - from the moment of registration as a candidate.

The bodies of the Investigative Committee are involved in legal proceedings and investigations against deputies, judges and members of the election commissions of different levels.

Criminal proceedings and involvement as a member of the Federation Council of the accused and the deputy of the State Duma of the Federal Assembly of the Russian Federation is carried out with the approval of the Chairman of the Investigative Committee of the Russian Federation with the consent of the Federation Council and State Duma received on the basis of the submission of the Prosecutor General of the Russian Federation.

The decision to initiate criminal proceedings against deputies of the legislative body of the government of the Russian Federation, deputies, members of the elected bodies of local self-government, elected officials of the local government and the involvement of this group of citizens as defendants carried out with the approval of the head of the investigative body of the Russian Federation Investigative Committee on the subject Russian Federation.

April 10, 2001 Legislative Assembly of the Krasnoyarsk Territory on the basis of Articles 13 and 14 operated version of the Federal Law "On General Principles of Organization of Legislative (Representative) and Executive Bodies of State power of the Russian Federation" has refused to give consent to the transfer of the criminal case, the court in relation to the MP A.P. Bykov.

In this regard, the issue of immunity of deputies of legislative (representative) bodies of state power of subjects of the Russian Federation and the resulting status of a deputy special procedure for criminal or administrative liability were the subjects of the Russian Federation Constitutional<sup>99</sup> Court.

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<sup>99</sup> See also the Decisions of the Constitutional Court of the Russian Federation of 30 November 1995 on the case on the verification of the constitutionality of articles 23 and 24 of



In its Resolution of 12 April 2002 № 9-P "On the case on the constitutionality of the provisions of Articles 13 and 14 of the Federal Law" On General Principles of Organization of Legislative (Representative) and Executive Bodies of State power of the Russian Federation "in connection with the complaint of a citizen A.P. Bykov, and requests the Supreme Court of the Russian Federation and the Legislative Assembly of the Krasnoyarsk Territory ", the Constitutional Court came to the conclusion that the legislature of the Russian Federation, regulating within the competence of the deputy status issues, can not provide for exemption from criminal and administrative liability established by the federal law, as it would be an invasion of the sphere of reference and powers of the Russian<sup>100</sup> Federation. The issue of immunity of deputies to the extent is that it affects the scope of the criminal law and criminal procedure law and the basic principles of administrative responsibility within the competence of the Russian Federation. Therefore, **for the deputies of the legislative (representative) bodies of subjects of the Russian Federation, the special conditions of criminal and administrative liability laws of the Russian Federation can not be established.**

According to the Constitutional Court of the Russian Federation, Institute of parliamentary immunity is designed to protect MPs from unlawful interference with his efforts to implement the mandate of the attempts to put pressure on him, including on the part of the executive power by attracting or threat of criminal or administrative liability. However, **immunity can not be regarded as a personal privilege of the deputy, which frees him from responsibility for criminal and**

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the Provisional Regulations on the Provision of Activities for Deputies of the Kaliningrad Regional Duma, of 20 February 1996 on the verification of the constitutionality of the provisions of Articles 18, 19 and 20 of the Federal of the law "On the status of a deputy of the Federation Council and the status of the State Duma of the Federal Assembly of the Russian Federation", dated December 10, 1997, on the verification of the constitutionality of a number of provisions of the Charter of the Tambov Region, as well as the Definitions on the Requests for the Verification of the Constitutionality of Articles 37 and 39 of the Law of the USSR "On the Status of People's Deputies in the USSR" (of January 8, 1998 No. 3-O), Articles 19 and 20 of the Law of the Voronezh Region "On the Status deputy of the Voronezh Regional Duma "(from June 4, 1998 N 96-O), a number of provisions of the Irkutsk Oblast Law" On the status of a deputy of the Legislative Assembly of the Ikut region "(November 5, 1998 N 147-O).

<sup>100</sup> Ros. gas. 2002. 25 April.

**administrative** offenses. A specific amount of immunity that provides deputy inadmissibility of prosecution in connection with his parliamentary activities in order to influence it, is determined by federal law.

Based on the purpose of parliamentary immunity Institute, part of the legislative (representative) body of state authority of the Russian Federation in the deprivation of immunity of deputies procedure is only possible in respect of acts done by them in the exercise of parliamentary powers. Providing the Parliament, is either the prosecuting authority or judicial authority to order the release of legitimate criminal or administrative responsibility is incompatible with the objectives of the institute of parliamentary immunity. This is all the more unacceptable when the inquiry, preliminary investigation or proceedings in the administrative offense has been completed and, therefore, we are essentially talking about the need for consent to transfer the case to court, i.e. in fact about whether to allow the court to examine the<sup>101</sup> case.

Taking into account the stated position of the Constitutional Court of the Russian Federation recognized the provisions of paragraphs 1, 2 and 3 of Article 13, paragraphs 1, 2 and 4 of Article 14 of the Federal Law "On General Principles of Organization of Legislative (Representative) and Executive Bodies of State power of the Russian Federation" - in that extent that they have installed a ban on the involvement of the deputy to the criminal and administrative liability imposed by the courts, and in the implementation of these measures due to the criminal procedural and administrative procedural nature without the consent of the legislative (representative) body of state authority of the Russian Federation - not compliance with the RF Constitution, its articles 10, 19 (part1), 46 (part1), 118 and 126.

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<sup>101</sup> Decision of the Constitutional Court of the Russian Federation of 12 April 2002 No. 9-P "On the case on the verification of the constitutionality of the provisions of Articles 13 and 14 of the Federal Law" On general principles of the organization of legislative (representative) and executive bodies of state power of the subjects of the Russian Federation "in connection with the complaint of a citizen A.P. Bykov, as well as the requests of the Supreme Court of the Russian Federation and the Legislative Assembly of the Krasnoyarsk Territory" // Ros. gas. 2002. 25 April.

The provisions of paragraph 4 of Article 13 of the Federal law "On general principles of organization of legislative (representative) and executive bodies of state power of the Russian Federation", according to which in the event of legal action, providing for criminal or administrative responsibility imposed by the courts in respect of the deputy activities not related to the exercise of its powers, at the conclusion of the inquiry, preliminary investigation or proceedings in administrative law such a thing can not be transferred to the court without the consent of the legislative (representative) body of the subject the Russian Federation, as well as the provision of paragraph 3 of article 14 of the Act, on the basis of which to obtain such consent, the prosecutor of the subject of the Russian Federation shall submit a legislative (representative) body of state authority of the Russian Federation, it was also found not to comply the Constitution of the Russian Federation, its Articles 10, 19 (part 1), 46 (part 1), 118 and 126.

The excitation of criminal case against a judge Constitutional Court of the Russian Federation and the involvement of the said person as a defendant by decision of the Chairman of the Investigative Committee of the Russian Federation with the consent of the Constitutional Court; - in the case of a judge of the Supreme Court of the Russian Federation, the Supreme Arbitration Court of the Russian Federation, the Supreme Court of the Republic, territorial or regional court, the federal city court, court of an autonomous region or autonomous district court, the Federal Arbitration Court, a military court - the decision of the Chairman of the Investigative Committee of Russian Federation with the consent of the Supreme qualification Collegium of judges; - in respect of other judges - the decision of the Chairman of the Investigative Committee of the Russian Federation with the consent of the Judicial Qualifications Board.

According to paragraph 7 of Article 16 of the RF Law on June 26, 1992 № 3132-I «On the Status of Judges in the Russian Federation", the implementation of a judge of search operations, as well as investigative actions (if against a judge is not a criminal case or he is not involved as an accused in a criminal case), related

to the restriction of his civil rights or in violation of their immunity, it shall be allowed only on the basis of a decision taken by the relevant judicial board.

Federal Law of August 12, 1995 № 144-FZ "On operative-search activities" provides in Section 9 that the examination materials to limit citizens' constitutional rights to privacy of correspondence, telephone conversations, postal, telegraph and other messages transmitted over networks electricity and postal services, to inviolability of the home during the search operations carried out by the court, as a rule, at the venue of such events or the place of finding the body, an applicant their conduct; these materials are considered authorized by the judge alone and without delay; A judge shall not refuse to consider such materials when they are submitted.

The territorial jurisdiction of the question of giving permission to carry out with regard to the person holding the office of a judge of the district court, the operational-search activities related to the restriction of his civil rights or in violation of their immunity was considered in the Decision of the Constitutional Court on 9 June 2011 number 12- P «on the case on the constitutionality of the provisions of paragraph 7 of article 16 of the RF law" on the status of judges in the Russian Federation "and part 1 of article 9 of the Federal law" on operative-tracking activity "in connection with the complaint of a citizen Anosova <sup>102</sup>I.V."

Resolution of the judicial panel of three judges of the Krasnodar Regional Court on 9 July 2009 the Office of the Federal Security Service of Russia in the Rostov region was given permission to limit the rights of a judge of the district court of the city of Rostov-on-Don I.V. Anosov on the mystery telephone and other conversations, the inviolability of their occupied premises and accommodation, service and personal vehicles and conduct in relation to his respective search operations, in order to verify information on the activities I.V. Anosov, containing signs of a particularly serious crime. His appeal to the Court of Krasnodar Regional Office of Russian Federal Security Service in Rostov region motivated by the fact that I.V. Anosov has extensive contacts in the judiciary of the Rostov region, where he works for a long time, so getting in the Rostov regional

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<sup>102</sup> Ros. gas. 2011. 22 June.

court authorization to conduct search operations could lead to a breach of secrecy. June 28, 2010, taking into account the results of operatively-search actions against I.V. Anosov was prosecuted for the crime under part three of Article 290 of the Criminal Code "Bribe".

In its judgment of June 9, 2011 № 12-P of the Constitutional Court noted that the procedure, which sought court permission to conduct search operations, related to the restriction of constitutional rights do not apply in full the rules in force in the proceedings on the criminal case, and even in the preparatory activities for the trial: the data are no legal relationship of the parties, which is typical for criminal proceedings in cases where, for example, criminal proceedings have been instituted on the fact of, and the person who has committed a crime is not established; in this procedure can not be openness, transparency and the adversarial principle, the test person party to it is not, and to know should not be on it (determination of July 14, 1998 number86-O, by November 24, 2005 №448-O, dated February 8, 2007 № 1-O and № 128-O-P et al.).

The Constitutional Court of the Russian Federation acknowledged the position article 16, paragraph 7 of the Russian Federation "On the Status of Judges in the Russian Federation", of the Law and the first part of Article 9 of the Federal Law "On operative-investigative activities", as that can be considered to hold the materials in the case of a judge of the district court of operatively-search activities related to the restriction of his civil rights and violation of their immunity, the judicial panel of three judges of the supreme Court of the republic, territorial, regional court, court of ode federal, court of an autonomous region, autonomous district court is not the place of carrying out of operatively-search actions, and not the location of the competent authority of the applicant on its conduct, **are not contrary to Constitution, the Russian** because it is assumed that if there are reasonable concerns about the possibility of declassifying planned operatively-search actions related materials may be taken for consideration by the equivalent court, which is defined by the decision of the Chairperson of the Supreme Court or

his deputy, the accepted authority on the request of carrying out of operatively-search activity.

The decision to initiate a criminal case and to prosecute an accused in respect of the Russian CEC members voting, the chairman of the election commission of the Russian Federation adopted by the Chairman of the Investigative Committee of Russian Federation, in respect of an election commission member, referendum commission with a decisive vote - the head of the investigative body Investigative Russian Federation on the subject of the Russian Federation Committee.

It appears that the presence of existing immunities and exemptions from the general criminal proceedings makes it difficult to make decisions on the implementation of operational and investigative activities in relation to persons with special procedural status, delaying the production of operational-search measures and investigative actions, provides leak important information, which often leads to concealment and destruction of traces of crimes.

On the instructions of the prosecutor's office during the organization and conduct of elections can be organized in checking the legality of the cessation of production and the refusal to initiate criminal proceedings against the claim to power of representatives of organized criminal groups and groups.

Law enforcement officials should be considered a real possibility as the promise of material and other benefits, as well as pressure, including the threat of physical destruction by the individual candidates.

As practice shows, the criminal investigation structures provide "dummy" of witnesses, putting pressure on investigators and operational staff with the help of corrupt relations with the authorities and law enforcement agencies, hiring highly qualified lawyers, bribed and intimidated participants of the criminal process. With this in mind, efforts should be focused on ensuring the safety of persons conducting the proceedings, relatives and members of the staff of the family, judges, using a set of security measures provided for by the Federal Law of April

20, 1995 № 45-FZ (rev. And add.) "On state protection of judges, law enforcement officials and regulatory authorities"<sup>103</sup>

..in accordance with Article 5 of the Federal Law for the protection of life and health of the protected persons, the safety of their property, the following security measures may be applied:

- 1) personal protection, protection of home and property and
- 2) issuance of weapons, special means of individual protection and hazard communication;
- 3) temporary placement in a safe place;
- 4) ensuring the confidentiality of protected persons;
- 5) transfer to another job, change of place of work (service) or study;
- 6) relocation to another place of residence;
- 7) replacement of documents, change of appearance

If necessary to ensure the suspect safety or the accused, which concluded a pre-trial agreement on cooperation, his close relatives and close persons apply security measures under Art. 11 and claim 4 Part 2 of Art. 241 Code of Criminal Procedure. All measures of state protection of victims, the pigs are distributed on a suspect or accused person who has signed a pre-trial agreement on cooperation, Ethel and other participants in criminal<sup>104</sup> proceedings.

Federal Law of August 20, 2004 № 119-FZ "On state protection of victims, witnesses and other participants in criminal proceedings" regulates the system of security and social protection of victims, witnesses and other participants in criminal proceedings (suspects, accused, defendants, their lawyers and legal representatives, convicted, acquitted, persons against whom a criminal investigation or prosecution has been discontinued, private prosecutors, experts, specialists, interpreters, witnesses, civil plaintiffs and defendants, their<sup>105</sup> representatives).

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<sup>103</sup> Ros. gas. 1995. 26 April.

<sup>104</sup> Art. 317.9 Code.

<sup>105</sup> Ros. gas. 2004. August 25.

With regard to the protected person can be applied simultaneously or several of the following safety measures:

- personal protection, protection of housing and property;
- issuance of special means of individual protection, communication and Alert;
- ensuring the confidentiality of information about the protected person;
- relocation to another place of residence;
- replacement of documents;
- change of appearance;
- change of place of work (service) or study;
- temporary placement in a safe place;
- application of additional safety measures in respect of the protected person in custody or is in a place of serving the sentence.

Article 14 of the commented Law states that in order to ensure the security of protected persons detained or held in prisons may be subjected to measures such as the replacement of documents, change appearance, temporary placement in a safe place, separate the contents of the protected person, transfer from one detention or serving the sentence to another, changing the measure of restraint or punishment.

The need to apply security measures can be illustrated by the example of the criminal proceedings on the fact of attack on the gangs of Nalchik on October 13-14, 2005. In the framework of the criminal case runs trial on 12 counts of armed attack on Nalchik in the following order - with "Lily" , Ministry of Interior in the CBD, №1 ATS Nalchik, 2 ATS number in Nalchik, the Center "E" GU MVD of Russia in North Caucasus Federal District, the store "Hunter", Federal Security Service of Russia in the CBD and the shop "Gifts" ATS number 3 in Nalchik , CBD FPS of Russia, riot police, FSS of Russia in the CBD, the airport "Nalchuk" ESAP Ministry of Interior in the CBD. From 2009 to 2012. 6 killed witnesses and law enforcement officers carried out the maintenance of the criminal process. Into the death of witnesses also observed in the course of criminal proceedings against



the leader of the organized criminal group, Chelyabinsk Oblast Duma deputy A. Morozov<sup>106</sup>.

Comparative analysis of the security measures provided by the Federal Law dated April 20, 1995 № 45-FZ "On state protection of judges, law enforcement officials and regulatory authorities," and security measures established by the Federal Law of August 20, 2004 № 119-FZ "On State protection of victims, witnesses and other participants in criminal proceedings ", shows the different legal regimes applicable state protection.

Firstly, these security measures apply to different entities.

Secondly, in relation to victims, witnesses and other participants in criminal proceedings applies a limited list of security measures. For example, relocation to another place of residence, replacement documents, change appearance, change of place of work (service) or study are used as security only in criminal cases of grave and especially grave crimes. Victims, witnesses and other participants in the criminal proceedings are not issued weapons. In contrast to the judges, officials of law enforcement and regulatory authorities, confidential information about protected victims, witnesses and other participants in criminal proceedings can be provided in the pre-trial investigation authorities, prosecutor's office or the court, not only in connection with the production of the criminal but also in civil proceedings.

Third, the implementation provided for judges, law enforcement officials and regulatory authorities of security measures provided by the operational-search activities.

A serious problem is the safety of sources of operational law enforcement agencies involved in the development of criminal organizations (communities).

Due to various circumstances (violation of secrecy, betrayal of corrupt law enforcement officials, and others) the offender may be known the person behind the scenes involved in the operational-search activities. If the "decrypted" criminals source is a full-time staff of the Authority, engaged in the operational-

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<sup>106</sup> "Bold, decisive, worthy of" Alexander Morozov got 20 years URL:// <http://www.kommersant.ru/doc251939>

search activity, its safety must be ensured in accordance with the Federal Law of April 20, 1995 № 45-FZ "On state protection of judges, law enforcement officials and regulatory authorities" . On the operational sources (confidants), non-regular employees of law enforcement bodies, this law does not apply.

If operatively-search activity resulted in the criminal case, there is a need confidant interrogation as a witness for the application to it of the security measures provided for by the Federal Law of August 20, 2004 № 119-FZ "On state protection of victims, witnesses and other persons assisting in criminal proceedings".

Current legislation does not regulate the use of safety measures for the operational source, when the results of operational-search activities are not allowed to start the prosecution of criminals, and the criminals open confidant is not a law enforcement officer.

The theory of operational and investigative activities proposed the following solution to this<sup>107</sup> situation.

1. Decoded criminals operative source of must given jurisdiction to declare to the investigating authority of the threat of committing against his criminal acts of revenge for their cooperation with law enforcement authorities. Such a statement is a reason for instituting criminal proceedings and is subject to pre-investigation probe.

In this statement, or float on the investigator's name confidant seeks the application to it of the security measures provided for by the Federal Law of August 20, 2004 № 119-FZ "On state protection of victims, witnesses and other persons assisting in criminal proceedings."

2. The investigator based on the application confidant makes a decision on the application of security measures and forward it for execution to the relevant

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<sup>107</sup> *Brusnitsyn L.V.* How to protect confidant at the failure of the operational-search activities? // Operative (detective). 2013. № 3 (36). S. 15-16. See. Also *Brusnitsyn L.V.* On the absence of security guarantees citizens who cooperate with law enforcement authorities // Operative (detective). Number 1. 2010. p. 10.

territorial unit of the Office to ensure the safety of persons subject to state protection.

In order to improve the legal protection of persons assisting law enforcement agencies, it is proposed to empower the use of security measures provided for by the Federal Law of August 20, 2004 № 119-FZ "On state protection of victims, witnesses and other persons assisting in criminal proceedings" not only the investigator and other persons in charge of the reported crimes and criminal cases, but also the heads of departments, engaged in the operational-search activity, just as is done, for example, in Australia, Austria, Great Britain, Canada, Latvia, the Netherlands, Norway and Ukraine. This change in the law is a prerequisite for the protection of citizens, assisting in the implementation of operational and investigative activities through the development of criminal organizations<sup>108</sup> (communities).

A supervision and auditing service of election commissions play an important role in the implementation of the anti-crime policy in the process of organizing and conducting elections. Seconded by them law enforcement and other state bodies assist the electoral commissions in the form established by legislation (control over the expenditure of funds allocated to the Commission on the conduct of elections, monitoring of the sources, proper accounting and use of funds of election funds; audit of financial reports of candidates, electoral associations; validation of any information presented candidates; suppression of illegal th campaign activities, monitoring of budget return allocated to the election funds of registered candidates, electoral associations).

The importance of the work of control and audit services electoral commissions for validation of data submitted by candidates of income and assets can be shown by the example of the federal elections of deputies of the State Duma of the Federal Assembly of the Russian Federation of the fifth and sixth convocations.

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<sup>108</sup> *Brusnitsyn L.V.* How to protect confidant at the failure of the operational-search activities? // *Operative (detective)*. 2013. № 3 (36). p. 15-16.

In this study, the author analyzes the existing federal party lists and documents of election commissions' information about income and property of candidates' sources nominated by political parties that participated in the election of deputies of the State Duma of the Federal Assembly of the Russian Federation of the fifth and sixth<sup>109</sup> convocations.

In the Russian Federation Communist Party list in the elections to the State Duma of the Federal Assembly of the Russian Federation of the fifth convocation no information about the sources of income, bank deposits, securities and property in the ownership of the 2<sup>110</sup> candidates.

3 FAIR RUSSIA candidates did not provide any information about income and<sup>111</sup> property.

As a registered federal list of the Liberal Democratic Party of Russia, there was no information on income and property 4<sup>112</sup> candidates.

Raises the question of the accuracy of the information about the sources of income, bank deposits, securities and property on the right of ownership of the rector of the "Institute of world civilizations" B., who at a total income of 440 thousand rubles acquired ownership homes in Vladimir, Kursk and Chelyabinsk regions apartments in the Sakha Republic, Stavropol and Kamchatka territories, Arkhangelsk, Belgorod, Vladimir, Vologda, Ivanovo, Irkutsk, Kemerovo, Kurgan, Moscow, Novosibirsk, Tomsk, Tula, Chelyabinsk, Chita regions and the city of<sup>113</sup> Moscow.

In the "UNITED RUSSIA" there is no information about income and property of 1<sup>114</sup> candidate.

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<sup>109</sup> The two electoral cycles, the federal elections of 2007 and 2011. attended "Communist Party of the Russian Federation", "FAIR RUSSIA", "Liberal Democratic Party of Russia", "UNITED RUSSIA", Russian United Democratic Party "Yabloko" and "PATRIOTS OF RUSSIA". Lists of these parties, mainly, and have been the subject of comparative studies.

<sup>110</sup> Information on the amount and sources of income, property owned by the candidate on the ownership of the bank deposits, securities (based on the data submitted by the candidates) // Ros. gas. 2007 December 2. S. 120.

<sup>111</sup> Ibid. p 151, 154.

<sup>112</sup> Ibid. p. 139, 140, 142.

<sup>113</sup> Ibid. p. 138.

<sup>114</sup> Ibid. p. 174.

At the federal elections in 2007 the list of the party "PATRIOTS OF RUSSIA" had the maximum number of candidates, failed to provide information on sources of income, bank deposits, securities and property ownership - 13. Among them: the third party in the federal part of the list, and 3 deputies' municipal and regional representative<sup>115</sup> bodies.

In the list of the party "Yabloko" in the elections to the State Duma of the Federal Assembly of the Russian Federation of the fifth convocation no information about the sources of income, bank deposits, securities and property in the ownership of the 2<sup>116</sup> candidates.

Candidate X. concealed information or forgot about the two stores in the Yaroslavl region, land plots in the Yaroslavl region the size of 1259 square meters and 732 square meters, retail space in the shopping complex measuring 202,2 m and 225<sup>117</sup> m<sup>2</sup> did not report 18 plots of land in the Pskov region the total area of 1 million. 31 thousand. 395<sup>118</sup> km<sup>2</sup>.

Let us compare the 2007 data with information about the sources of income, bank deposits, securities and property ownership rights submitted by candidates in federal elections in 2011.

A number of candidates from the federal list of the political party FAIR RUSSIA in the elections to the State Duma of the sixth convocation of the Russian Federation Federal Assembly had no source of income, bank deposits, securities, and property ownership. As an example, MP, Vice-Chairman of the National Assembly of the Republic of Dagestan of Youth, Sports and Tourism, MP, Deputy General Director of LLC "Regiongazlizing", deputy of the Legislative Assembly of the Perm Territory on a temporary basis, L., Secretary of regional branch of the Bureau of the Council in Perm B. Territory, General Director of LLC

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<sup>115</sup> Ibid. p. 155, 156, 157, 160, 161.

<sup>116</sup> Ibid. p. 175, 177.

<sup>117</sup> Ibid. p. 208.

<sup>118</sup> Ibid. p. 208.

"Corporation" Greenwich ", the deputy of the Legislative Assembly of the Perm Territory on a temporary basis<sup>119</sup> MM.

The Liberal Democratic Party of Russia was also attended by "poor" and "homeless" candidates. 6 of them did not have any source of income, bank deposits, securities, and property<sup>120</sup> ownership.

Compared with the registered list of the federal elections in 2007, in the list of the party "PATRIOTS OF RUSSIA" in 2011 significantly reduced the number of candidates who did not provide information on sources of income, bank deposits, securities and property ownership. In 3 candidates did not have any property by right of ownership, in addition to the<sup>121</sup> car. Only one candidate has information about the size and sources of income<sup>122</sup>.

At the same time the candidate A. did not mention landscaped territory 1 295,20 m<sup>2</sup> (for exterior measurement) and heat networks (544, 4 m<sup>2</sup>) in the city of Omsk, as well as on the vehicles: GAZ 3302 (2005) GAZ 3302 (2006), ZIL 431 412 (2006), ZIL 431 410 (2006), GAZ 3302 (2006), GAZ 3302 (2006), Mitsubishi Canter (2009), GAS 330 210 (2003), KAMAZ 5320 (2004 ), AF-47821A (2011), ZIL 431 410 (2006), GAZ 3302 (2004), ZIL MMZ 554 (2011), KAMAZ 53212 (2011), GAZ 3302 (2004), ZIL 433360 (2010), ZIL 433360 (2010 ), 2775-01 (2009), 270 710 (2009), 270 701 (2009), GAZ 3302 (2007), ZIL 433362 (2004), ZIL 433362 (2007), ZIL 5301B0 (2007), ZIL 5301B0 (2007) 27901 -000010-21 (2009), ZIL 130 (2009), KAMAZ 5320 (2008), ZIL 431412 (2010) and GAZ 3302 (2006)<sup>123</sup>.

In contrast to the federal election of 2007, the federal list of candidates for the election of deputies of the State Duma of the Federal Assembly of the Russian

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<sup>119</sup> Information on the amount and sources of income, property owned by the candidate on the ownership of the bank deposits, securities (based on the data submitted by the candidates) // Ros. gas. 2011. December 4. p. 94, 97, 110.

<sup>120</sup> Ibid. p. 111, 114, 115, 116.

<sup>121</sup> Ibid. p. 118, 119, 120, 123.

<sup>122</sup> Ibid. p. 118.

<sup>123</sup> Information on the amount and sources of income, property owned by the candidate on the ownership of the bank deposits, securities (based on the data submitted by the candidates) // Ros. gas. 2011. December 4. S. 192.

Federation of the sixth convocation of the Communist Party of the Russian Federation candidates, gave no details about the size and sources of income, were absent.

However, candidate A. "forgot" about the four plots in the Karachay-Cherkess Republic (10 000 square meters, 648,000 square meters; 60,000 square meters; 1540 ft<sup>2</sup>) plot of land in the Stavropol region (600 m<sup>2</sup>) and a residential facility (33.8 m) in<sup>124</sup> Karachay-Cherkessia.

Candidate B. did not have three plots of land in the Khanty-Mansiysk Autonomous Okrug (1231 m; 900 m, 28 m), two apartments in the Tyumen region (167 sq m and 76.9 m) part of the house (83.9 sqm), living room (42.7 square meters), three buildings (structures) in the Khanty-Mansiysk Autonomous Okrug (26 m, 48 m, 28 m) and three buildings in the Tyumen region (48.3 m; 192.7 m; 31.2<sup>125</sup>m).

Candidate G. did not have a non-residential premises in the Krasnodar Territory (5 m, 109, 7 m, 38 m, 53.4 m, 681.6 m, 15.8 m, 241, 7 m, 37 m 6; 39, 7 m, 99.1 m, 38, 5 m, 107.9 m; 31, 7 m, 83, 6 m; 101, 5 m, 38, 2 m, 38, 8 m, 105 m 3; 101, 9 m, 36, 5 m, 298, 5 kV .m; 36, 4 m, 38 m 2; 102, 5 m, 36 m 6; 155, 7 m; 36.9 m; 102 m 1; 37, 4 m, 36, 7 m, 37, 1 m, 365, 5 m, 684, 8 m, 209, 6 m; 106 m<sup>126</sup>).

In the Russian united democratic party "Yabloko" there was no information about this property, deposits, securities and income sources of the 3<sup>127</sup> candidates.

The list of the political party "UNITED RUSSIA", like the Communist Party of the Russian Federation, the candidates did not indicate any information about the size and sources of income.

It is questioned the accuracy of the information about the sources of income, bank deposits, securities and property in the ownership of the President N. of LLC

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<sup>124</sup> Ibid. p. 195.

<sup>125</sup> Ibid. p. 195.

<sup>126</sup> Information on the amount and sources of income, property owned by the candidate on the ownership of the bank deposits, securities (based on the data submitted by the candidates) // Ros. gas. 2011. December 4. p. 195.

<sup>127</sup> Ibid. p. 139, 144, 145.

"New technologies", that with a total revenue of 408,000 rubles has owned land in the Moscow region (1221 m - together property), a house in the Moscow region (284.9 ft<sup>2</sup> - joint ownership), apartment in Moscow (92.9 ft<sup>2</sup> - joint ownership), passenger cars "Lamborghini Diablo" (1994), BMW 540 (1998 YG), deposits in banks: OJSC "bank" ROSEVROBANK "- 679 thousand 195 ruble. 12 cents; shares of "Ka-Four" - 80%, "Company Cascade Via" - 100% of "Cascade VIA-M" - 100% of CJSC "Brain and Co" - 1320 shares of "Brickyard" Ponezhukaysky " (Adygea) - 60% of "Nadra Kuban" - 50% of "Your New House" - 51% of "Gold pretzels" - 100% of LLC "Logistics company" - 100% of LLC "EvroIndustriya" - 100 % of "professional information" - 100% of LLC "Plant of non-metallic materials" Teuchezhsky "- 50%, JSC" Company Plastic "- 80 shares, Ltd." K-Finance "- 100% of LLC" Longlife "- 70% "TehRechFlot" LLC - 2%, JSC "The Hobbit" - 450 thousand shares of JSC "Profile Service" -. 75 shares of CJSC "Lamy" - 325 and ktsy, LLC "Aster-M" - 100%, Ltd. "Diamond" - 50% of "New Technology" - 70% of "K-Fix Consult" - 100% LLC «TST- groups" - 100% LLC "Profplast-Ekaterinburg" - 100%.<sup>128</sup>

At the All-Russian political party "Right Cause" information on the amount and sources of income, bank deposits, securities and property ownership are not presented 6<sup>129</sup> candidates.

"Right Cause" party candidate B. did not report belonging to him dwelling in the Krasnodar area of 64.4 square meters, as well as non-residential premises in the Sochi area of 938.9 square meters (1/3 share in the right ) 362.5 m (1/3 share in the right), 2854 m (1/3 share in the right) and 1320.6 m (1/3 share in the<sup>130</sup> right).

G. did not mention a 3-room apartment (67.27 m<sup>2</sup>), 2 room (42.7 square meters) and 1 room (40.5 m<sup>2</sup>) apartment in<sup>131</sup> Kostroma.

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<sup>128</sup> For information about the size and sources of income, property owned by the candidate on the ownership of the bank deposits, securities (based on the data submitted by the candidates) // Ros. gas. 2011. December 4. p. 161.

<sup>129</sup> Ibid. p. 172, 175, 176, 178.

<sup>130</sup> Ibid. p. 200.

<sup>131</sup> Ibid. p. 200.



Candidate I. "forgot" about belonging to him entrance to Elista from the highway M-6 "Caspian", a residential area in Elista area of 89 square meters and 151.2 square meters, production facilities in Elista (224 , 63 square meters, 292.49 meters and 365.3 square meters), non-residential premises in Elista (318.39 m, 292.75 m, 24.24 m, 1711 7 m, 19.5 m), land settlements in Elista (3384 m, 4428 m, 4024 m, 1828 m, 946 m, 18 456 sq. m, 421 m, 2306<sup>132</sup>m).

Candidate P. did not report about the land plots in the village. Krupshevo Kalinin district of Tver region an area of 24,000 square meters, 41,000 square meters, 75,000 square meters, 66,000 square meters, 60390 square meters and 61935 square<sup>133</sup>meter.

Candidate M. did not mention he owned barge 3985 BB<sup>134</sup> 2004.

In the elections of deputies of the State Duma of the Federal Assembly of the Russian Federation in 2011 the maximum number of candidates who have submitted false information about the amount and sources of income, has been on the federal list of the political party FAIR RUSSIA - 134 15 Just Russia candidates submitted false information about real estate, 2 - of<sup>135</sup> vehicles.

38 candidates of the Liberal Democratic Party of Russia pointed out false information about income, 3 - about real estate, 3 - about the<sup>136</sup> vehicles.

57 candidates of the political party "PATRIOTS OF RUSSIA" provided false information about income, 20 - about real estate, 10 - on the<sup>137</sup> vehicles.

94 political party candidate "Communist Party of the Russian Federation", stated false information about income, 22 - about real estate, 13 - on the<sup>138</sup>vehicles.

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<sup>132</sup> Ibid. p. 200.

<sup>133</sup> Information on the amount and sources of income, property owned by the candidate on the ownership of the bank deposits, securities (based on the data submitted by the candidates) // Ros. gas. 2011. December 4. p. 200.

<sup>134</sup> Ibid. p. 200.

<sup>135</sup> Ibid. p. 187-190.

<sup>136</sup> Ibid. p. 190.

<sup>137</sup> Ibid. p. 191-192.

<sup>138</sup> Ibid. p. 193-196.

False information about income provided 74 of the Russian United Democratic Party "Yabloko" candidate, 18 candidates have incorrect information about real estate, 6 - on the<sup>139</sup> vehicles.

52 the candidate of the political party "Right Cause" stated false information about income, 27 - about real estate, 1 - on<sup>140</sup> vehicles.

The minimum number of candidates, reporting false information about their income and real estate, has been on the federal list of the political party "UNITED RUSSIA" (3 and 6, respectively). False information about the vehicles of United Russia candidates was<sup>141</sup> submitted.

It should be stressed that the failure of candidates information about their income and property or the provision of false information may not have any relation to the criminal past (present) candidates and violation of the order of election campaign funding. The reasons for this neglect can be both forgetfulness and technical errors of candidates, and the need for intentional introduction of election officials and voters astray. In any case, the identified control and audit service of election commissions facts of false information about the candidates, according to the "quality" of the deputies, the legal "purity" of the people's representatives and for future MPs to their constituents. In this regard, unacceptable formal approach leadership election commissions and law enforcement officials to check the material conditions of the candidates, the source of the origin of their income generated in the period of election campaign expenses, as well as candidates for relations with the underworld controlled by criminal structures organizations and lending institutions.

It seems that increase the responsibility of political parties, candidates for deputies and improve the quality of people's representation could be returned to the practice of exclusion of candidates from party lists for the provision of false information and false documents. Submission of candidate forged documents or

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<sup>139</sup> Ibid. p. 196-198.

<sup>140</sup> Information on the amount and sources of income, property owned by the candidate on the ownership of the bank deposits, securities (based on the data submitted by the candidates) // Ros. gas. 2011. December 4. p. 199-200.

<sup>141</sup> Ibid. p. 198.

false information should be secure as grounds for refusal of registration and de-registration by the court of the candidate.

Strengthening the requirements for the replacement of the state posts of the Russian Federation, the state posts of the Russian Federation, for civilian, military, law enforcement and municipal services including regarding the submission of information about income, expenses, assets and liabilities of material nature should be systematically complemented by legal mechanisms of regular anti-corruption (anti-criminal) investigations.

Anti-corruption (anti-criminal) investigations related to the study of the facts and circumstances which have a negative impact on the crime situation and the state of law in the state.

The subject of anti-corruption (anti-crime) investigations should include:

1) facts of corruption in government agencies and local government, law enforcement and supervisory bodies, state corporations, state and municipal authorities;

2) circumstances relating to the election of persons involved in organized crime, the legislative authorities, elected local authorities, representative bodies of municipalities, for elective office;

3) circumstances relating to the appointment of persons involved in organized criminal activity, to public office of the Russian Federation, the state posts of the Russian Federation, municipal offices, office of law enforcement and military service positions in state corporations, state and municipal authorities;

4) evidence of lobbying officials of state and local government, law enforcement and audit bodies, state corporations, state and local government interests of enterprises, organizations, institutions and businesses owned by or affiliated with persons involved in organized criminal activity;

5) facts of illegal financing of election campaigns of candidates, electoral associations, money laundering, gross violations of financial discipline, reflected in the misuse of budgetary funds and state budget funds, misuse of credit, management and disposition of the federal, regional and municipal property.

These investigations are not a substitute for the inquiry, the preliminary investigation and trial.

Anti-corruption (anti-criminal) investigation can be carried out by the Public Chamber of the Russian Federation, Public Chamber of the Russian Federation, the Human Rights Ombudsman of the Russian Federation, the Commissioner for Human Rights in the Russian Federation, anti-corruption NGOs.

The imperfection of the existing procedures of anti-corruption (anti-crime) investigations due to the unsettled legal status of participants in the investigation, the issues of financial, logistical and other support of the investigation, the order of interaction of public institutions with the state (municipal) bodies are brought to the investigation, as well as advisory nature of the investigation.

In our opinion, the organizational form of such investigations should be the work of the commission created by the initiators of the anti-corruption (anti-criminal) investigations. This commission is offered to endow rights: to request from the state and municipal bodies, institutions and organizations with information and documents necessary for the investigation; invite for questioning under investigation the facts and circumstances of officials, experts and specialists; go to the place of the events under investigation. Financial and logistical support could be at the expense of budgetary funds allocated for the maintenance of the public chambers, ombudsmen.

According to the results of anti-corruption (anti-criminal) investigation, the Commission is preparing a report, which is published in the prescribed manner, is placed on the Internet and sent to the President of the Russian Federation (the highest official of the Russian Federation), the chambers of the Federal Assembly (the legislative body of state authority of the Russian Federation) , the Russian Government, Chairman of the investigative Committee of the Russian Federation (the head of the Investigative Committee on the subject of the Russian Federation), the General Prosecutor of the Russian Federation (the public prosecutor of the Russian Federation). The final report of the commission may contain proposals to the President of the Russian Federation (the higher official of the subject of the

Russian Federation) for the release of officials of substitutable positions, proposals to improve regulations, organizational and practical measures to optimize the activities of public authorities and local government, law enforcement and control and auditing bodies, state corporations, state and local government agencies in terms of eliminating conditions conducive to corrupt practices, ousting the representatives of the criminal world of data structures. The adopted decision on the report of the President of the Russian Federation (the highest official of the Russian Federation) within one month notify the initiator of anti-corruption (anti-criminal) investigations.

In accordance with the Federal Law of July 17, 2009 № 172-FZ "On the anti-corruption expertise of legal acts and draft regulations" part of the national anti-corruption mechanism is the anti-corruption expertise of normative legal acts and normative legal<sup>142</sup> acts. Federal Law of July 17, 2009 № 172-FZ secured binding of anti-corruption examination of draft laws and regulations; the need to assess the normative legal act in conjunction with other laws and regulations; the principles of reasonableness, objectivity and verifiability of the results of anti-corruption expertise of legal acts; requirements for the competence of those conducting anti-corruption expertise of normative legal acts (draft regulations); Cooperation priority development of normative legal acts of the institutions of civil society in conducting anti-corruption expertise of legal acts.

Procedures for anti-corruption expertise of legal acts detailed in the Resolution of the Russian Federation from February 26, 2010 № 96 "On the anti-corruption expertise of legal acts and draft laws and regulations", in which four anti-corruption expertise of legal regime<sup>143</sup> provided.

The first mode of anti-corruption expertise extends to draft federal laws and regulations of the federal executive bodies, other state bodies and organizations. Corruption provisions of the legal acts are checked and corrected in the course of their legal expertise.

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<sup>142</sup> Ros. gas. 2009. 22 July.

<sup>143</sup> Ros. gas. 2010. March 5.

The second legal regime includes projects concepts and terms of reference for the development of draft federal laws, draft amendments to the Government of the Russian Federation draft federal laws prepared by the federal executive authorities, other state bodies and organizations. Corruption standards are checked and corrected in the course of their legal expertise.

regular anti-corruption (anti-crime) investigations;

improve the methods of anti-corruption expertise of legal acts;

liquidation (limitation of the number and content) immunities of elected officials and parliamentary immunity;

expand the list of grounds for exclusion of candidates from a list of certified, as well as failure candidate registration and de-registration of the candidate by the court in connection with the submission of false documents or false information.

Formation and consistent implementation of these directions to counter the criminalization of public authorities requires carefully coordinated activities of all law enforcement agencies and governments. This operating level must necessarily dwell on the President and Prime Minister of Russia.

The most important area to counter the criminalization of public authorities seems to undermine the economic base of criminal organizations and representatives of the displacement of criminals from legitimate business.

In order to counter criminal income legalization of the competent authorities in accordance with the Federal Law "On counteraction to legalization (laundering) of proceeds from crime and financing of terrorism", the following measures may be carried out by authorized bodies:

- internal control (detection of transactions subject to mandatory control and other operations with money or other property related to money laundering);

- binding control (control over the operations with money or other assets, as well as the corresponding check information);

- suspending operation;

- failure in fulfilling customer orders for the operation;

- refusal to conclude a contract of bank account (deposit) (when trying to open a deposit for an anonymous owner, to open a deposit without a personal presence, opening contribution, with failure to provide the necessary documents for the identification of the client);

- blocking (freezing) non-cash or non-documentary securities;

- blocking (freezing) the client's property;

- ban on informing clients and other persons about the measures taken to counteract the legalization (laundering) of proceeds from crime.

According to Paragraph 2 of Article 6 of the Federal Law "On counteraction to legalization (laundering) of proceeds from crime and terrorist financing" operation with funds or other property subject to mandatory control if at least one of the parties is an organization or individual, in respect of which there is evidence of their involvement in extremist activities or terrorism, or a legal entity directly or indirectly owned or controlled by such organizations or persons, or a physically or entity acting on behalf or at the direction of such organization or person.

The bases for inclusion of organization or individual in the list of organizations and individuals, in respect of which there is evidence of their involvement in extremist activities or terrorism, are:

- 1) came into force, the Russian Federation, the court decision on liquidation or prohibition of the organization's activities due to its involvement in extremist activities or terrorism;

- 2) entered into force verdict Russian court on recognition of a person guilty of committing at least one of the offenses under Articles 205, 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279, 280, 282, 282.1, 282.2 and 360 of the Criminal Code;

- 3) the decision of the Prosecutor General of the Russian Federation and subordinate prosecutors or the federal executive authority in the field of state registration (its corresponding territorial body) to suspend the activities of the organization in connection with their appeal to the court for bringing the organization to liability for extremist activity;

4) The procedural decision on recognition of a person suspected of at least one of the offenses under Articles 205, 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279, 280, 282, 282.1, 282.2 and 360 CC the Russian Federation;

5) the investigator on the person as accused of committing at least one of the offenses under Articles 205, 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279, 280, 282, 282.1, 282.2 and 360 of the Criminal Code;

6) compiled by international organizations engaged in the fight against terrorism, or their authorized bodies and recognized by the Russian Federation lists of organizations and individuals associated with terrorist organizations or terrorists;

7) recognized in the Russian Federation in accordance with international treaties of the Russian Federation and federal laws sentences or court decisions and decisions of other competent authorities of foreign countries in relation to organizations or individuals engaged in terrorist activities.

Part 2.2 of Article 6 of the Federal Law "On counteraction to legalization (laundering) of proceeds from crime and financing of terrorism" contains the following reasons for exclusion of the organization or individual from the list of organizations and individuals, in respect of which there is evidence of their involvement in extremist activity or terrorism:

1) the quashing of the force of the Russian court on liquidation or prohibition of the organization's activities due to its involvement in extremist field or terrorism and the termination of the proceedings;

2) the quashing of the laws of the Russian Federation of a court judgment on the recognition of a person guilty of committing at least one of the offenses under Articles 205, 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279, 280, 282, 282.1, 282.2 and 360 of the criminal Code, and the termination of criminal proceedings against a person on rehabilitating grounds;

3) cancellation of the decision of the Prosecutor General of the Russian Federation and subordinate prosecutors or the federal executive authority in the field of state registration (its corresponding territorial body) to suspend the



activities of the organization in connection with the bringing to justice of extremist activity;

4) termination of criminal proceedings or criminal proceedings against a person suspected or accused of having committed any of the offenses under Articles 205, 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279, 280, 282, 282.1, 282.2 and 360 of the Criminal Code;

5) elimination of an organization or an individual component of the international organizations engaged in the fight against terrorism, or their authorized bodies and recognized by the Russian Federation lists of organizations and individuals associated with terrorist organizations or terrorists;

6) cancellation recognized in the Russian Federation in accordance with international treaties of the Russian Federation and the federal laws of sentences or court decisions and decisions of other competent authorities of foreign states in respect of organizations or individuals engaged in terrorist activity;

7) availability of documented data on the death of a person included in the list of organizations and individuals, in respect of which there is evidence of their involvement in extremist activities or terrorism;

8) presence documented data for settlement or overturned with persons convicted for scoring at least one of the offenses under Articles 205, 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279, 280, 282, 282.1, 282.2 and 360 of the Criminal Code.

In paragraph 2 of Article 7 of the Federal Law commented lists the grounds for documenting information on operations with money or other property, customers and other persons. In accordance with the rules of internal control to the number of such bases include:

intricate or unusual nature of the transaction, which has no obvious economic sense or apparent lawful purpose;

mismatch transaction goals of the organization established by the constituent documents of the organization;

Repeated transactions or transactions, the nature of which gives grounds to believe that the purpose of their implementation is the evasion of mandatory control procedures;

scoring operation, a customer transaction, for which a competent authority or organization directed previously directed a request;

refusal of the client from committing a single transaction in respect of which the organization of workers suspect that this operation is carried out to legalization (laundering) of proceeds from crime or financing of terrorism;

other circumstances give reason to believe that the transactions are carried out in order to legalization (laundering) of proceeds from crime or financing of terrorism.

Article 7.4 of the Federal Law "On counteraction to legalization (laundering) of proceeds from crime and financing of terrorism" establishes a special legal regime of additional measures to counter the financing of terrorism - blocking (freezing) of cash or other assets of organizations and individuals. If there are sufficient grounds to suspect the involvement of the organization or individual terrorist activities (including the financing of terrorism), provided that no grounds for the inclusion of such an organization or an individual in the list of organizations and individuals, in respect of which there is evidence of their involvement in the extremist activity or terrorism, inter-ministerial coordination body carrying out the functions to counter the financing of terrorism, it may be decided i.e. to freeze (freezing) of cash or other property of the said organization or person.

In our opinion, the Federal Law "On counteraction to legalization (laundering) of proceeds from crime and terrorist financing" unreasonably limits the possibility of blocking (freezing) of criminally acquired property involved in terrorist and other extremist activity.

The legal regime of blocking (freezing) of cash or other assets of organizations and individuals should be extended to any proceeds of crime, and not

only on the property of organizations and individuals suspected of involvement in extremist activities or terrorism.

One of the most effective measures to counter organized crime and corruption acts confiscation of property.

In connection with the liberalization of criminal legislation in the Russian Federation confiscation as a punishment involving the use of economic sanctions to criminals, it was removed from the Criminal Code. Federal Law of July 27, 2006 № 153-FZ confiscation restored, but the legislator attributed to other measures under criminal law.

It appears that the existing legal form of confiscation of the Institute requires serious modernization of a number of reasons:

- it allows criminals to keep most of the property obtained by crime;
- it does not undermine the material base of the commission of crimes;
- it does not eliminate the material damage caused by the crime.

According to experts, in the Criminal Code established a restrictive list of confiscated property obtained by<sup>144</sup> crime. The questions arise: on what grounds the selected range of offenses for which the use of confiscation is possible? Why it did not include other acts, a result of which it becomes property benefits? This applies particularly acquisitive crime against property: that they had not been on the list of causes at least<sup>145</sup> bewilderment.

Article 104.1 of the Criminal Code provided for confiscation of property used or intended to finance criminal activity, namely terrorism, the establishment and activities of an organized group, illegal armed formation, a criminal community (criminal organization). This is due to the provisions of international conventions on combating crime ratified by Russia.

Experts rightly wonder why among this group of crimes not mentioned attacks, are closely related to terrorism, as well as the legalization of criminally

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<sup>144</sup> *Luzhbin A.V., Volkov K.A.* Confiscation of property - the "new" measure of criminal law and new problems // Ros. justice. 2006, № 9. S. 34; *Zacepin M.N.* Confiscation of property as an anti-corruption measure // Ros. jurid. Journal. 2012. № 5.

<sup>145</sup> *Zacepin M.N.* Confiscation of property as an anti-corruption measure // Ros. jurid. Journal. 2012. № 5.

acquired property? Such as Art. 211 "hijacking an aircraft or water transport or railway rolling stock" item. 221 "Theft or extortion of nuclear materials or radioactive substances," Art. 226 "Theft or extortion of weapons, ammunition, explosives and explosive devices", p. 174 "Legalization (laundering) of money or other property acquired by other persons by criminal means" art. 174.1 "Legalization (laundering) of money or other property acquired by a person in the commission of a<sup>146</sup> crime." Meanwhile, in many countries, confiscation applies to property used or intended for the financing of all, not just listed in the Russian Criminal Offenses Act.

In order to undermine the economic basis of the actual criminal organizations, rather than imitation of the fight against crime confiscation of property should be returned to the category of types of criminal punishment. In this case, the list of offenses for which confiscation is possible to use, needs to be supplemented compositions, result of which is to obtain property benefit.

The most important direction to counter the criminalization of public authorities in the Russian Federation advocates the formation of a negative public attitude towards the activities of criminal groups, criminal leaders and promotion of anti-crime measures.

Requires systemic propaganda of legal knowledge, informing the general public about the legal consequences of participation in criminal activity and to provide assistance posobnicheskoy criminal structures.

In modern conditions demand an active outreach and preventive work among young people, increasing educational and cultural level of adolescents, especially from "dysfunctional" families.

When municipal educational, cultural and educational institutions is advisable to establish community centers of crime prevention. The structure of these centers in addition to officials of municipalities and regional authorities should comprise representatives of science, education, culture, authoritative

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<sup>146</sup> *Luzhbin A.V., Volkov K.A.* Confiscation of property - the "new" measure of criminal law and new problems // Ros. justice. 2006, № 9.

representatives of religious organizations and public organizations, heads of local associations and national-cultural autonomies. One of these centers tasks should be in-depth study of modern criminal ideology and a criminal subculture, and the opposition to them.

In order to undermine the social base of criminality need to discredit the positive image of the "bandit heroes" in the literature, the media, the Internet, "deromantization" criminal leaders, promotion in the media and online editions of successful operations of law enforcement and intelligence agencies on the development of criminal networks and corrupt officials government and management.

Independent problem is ideological support of the prosecution of the organizers and active participants criminal groups and their associates.

Keep in mind that advocacy to combat the criminalization of public authorities in the Russian Federation should be wearing is not an abstract theoretical character, and be practically oriented to the target audience.

'Serious' assistance in the implementation of the anti-crime policy could have a prosecutor's office and the Investigative Committee. A key provision of the prosecutor's office due to the coordinating role in the activities of law enforcement agencies to combat crime, the specifics of the sphere of legal regulation of public prosecutor's supervision over the implementation of the election legislation, as well as the powers established by the legislation the prosecutor for the implementation of surveillance activities.

## **5. THE INTERNATIONAL LEGAL FRAMEWORK AND INTERNATIONAL EXPERIENCE OF COUNTERACTION TO CRIMINALIZATION OF THE PUBLIC AUTHORITIES**

The main directions of countering the criminalization of public authorities in the Russian Federation should take into account the existing international legal framework and international experience. State strategy to combat organized crime in the public authorities seems to be multi-dimensional and include priority measures includes opposition party and electoral corruption due to the attempts of criminals to penetrate political parties and governments.

The successful implementation of criminals into the political sphere is largely due to corruption within the party and state apparatus. As rightly pointed E.A. Mokhov, "corruption purposefully stimulated and provoked by organized crime... Organized crime is actually trying to replace a system of state bodies, and corruption creates the necessary prerequisites, weakening the political will of the state and its ability to influence the processes in the society and the<sup>147</sup> economy".

Given criminological relationship, a similar methodology to the criminal investigation, proceedings, application of measures of state protection of participants of legal proceedings in cases of corruption and organized crime, issues of combating criminals in this section are considered in conjunction with the anti-corruption in the party structures and public authorities.

In connection with the increased rate of prevalence of corruption of the state apparatus, the significance of the anti-crime policy, opposition to the criminalization of public authorities, party and electoral corruption in modern conditions is carried out not only at national but also at international level.

Universal UN acts have paramount importance in the structure of the international legal framework which counters the criminalization of public authorities, party and electoral corruption.

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<sup>147</sup> Mokhov E.A. Organized crime and national security of Russia. M.: High school book, 2006, p 47.

Anti-crime and anti-corruption standards are enshrined in the UN International Code of Conduct for Public Officials (UN General Assembly Resolution number 51/59 «Fight against corruption» on December 12, 1996), the UN Convention against Transnational Organized Crime (Palermo, December 15, 2000) and The UN Convention against corruption (58 session of the UN General Assembly, November 21, 2003).

The International Code of Conduct for Public Officials formulated definition of public office, the general principles of the official functions of government officials, the position on the inadmissibility of conflict between the duties and private interests of public officials, fixed requirements for communication by public officials to disclose personal assets and liabilities, as well as the assets and liabilities of a spouse and dependents.

Art. 8 of the UN Convention against Transnational Organized Crime provides a list of criminal offenses forms of corruption, and Art. 9 contains of measures to identify and prevent corruption among public officials and punishment.

Priority is given to measures of state protection of witnesses in cases of involving corruption and organized crime. In accordance with Article 24 of the UN Convention against Transnational Organized Crime, States Parties shall take appropriate measures to ensure effective protection from retaliation or intimidation for witnesses who give testimony in cases involving transnational organized crime. The measures include physical protection, relocation and the complete or partial non-disclosure of information about the identity and location of witnesses and evidentiary rules allowing testimony to be given in such a way that the safety of the witness has been provided.

State parties to the Convention must adopt such legislative and other measures as it may be necessary to enable it to confiscate or otherwise deprive the instrumentalities and proceeds of criminal offenses or property, the value of which corresponds to such proceeds.

The most important international instrument in the field of counter party and electoral corruption is the UN Convention against Corruption. In Art. 7 of this document capacity of States to establish criteria concerning candidature for and election to public office, to take legislative and administrative measures to enhance transparency in the funding of candidatures for elected office and political party financing are secured.

The Convention also discussed issues of state protection of participants of legal proceedings in cases of corruption and organized crime. Articles 32, 33 and 37 to the states - participants are encouraged to take appropriate measures to protect witnesses from retaliation or intimidation in connection with testifying. Under the Convention, protection should be provided not only to witnesses who cooperate with the investigation, but also to victims who have witnessed, and it can be extended to relatives of witnesses and persons close to them. Measures provided for in the Convention include the establishment of physical protection procedures, including relocation to another place and non-disclosure of the identity and whereabouts of the witness; evidentiary rules ensuring the safety of witnesses when giving evidence in court; the conclusion of agreements between the States Parties to facilitate the relocation of witnesses procedure abroad.

At the regional level, a significant contribution to the fight against the criminalization of public authorities, party and electoral corruption makes the Council of Europe.

The basic document, which laid the foundation for a pan-European regulation of the fight against corruption has become a Resolution of the Council of Europe Committee of Ministers on 6 November 1997 (1997) 24 "on the twenty guiding principles for the fight against<sup>148</sup> corruption. "The guidelines suggested implementation of a system of anti-corruption measures, including: the development of preventive measures to prevent corruption; criminalization of national and international corruption; establishing the responsibility of officials for corruption; measures to ensure the confiscation and deprivation of the proceeds of

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<sup>148</sup>URL: [http://www.coe.int/t/dghl/monitoring/greco/documents/Resolution\(97\)24\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/documents/Resolution(97)24_EN.pdf)



corruption; limited immunity from the preliminary investigation and prosecution of corruption cases; conducting anti-corruption investigations; the adoption of codes of conduct for elected officials and anti-corruption rules for the financing of political parties and election campaigns; specialization of officials and bodies responsible for the fight against corruption; international cooperation in the fight against corruption.

The next step in the Council of Europe in the fight against corruption was the resolution of the Council of Europe Committee of Ministers from May 1, 1999 (1999) 5 "On creation of the Greeks". Since its adoption not only a mechanism for monitoring compliance with the Guiding Principles for the Fight against corruption has been created, but also the monitor of the implementation of international treaties in the sphere of fight against corruption.

The leading role of the Council of Europe in the European anti-corruption law-making emerged in the development and adoption of the Convention of the Council of Europe Criminal Law (Strasbourg, 27 January 1999)<sup>149</sup> and the Council of Europe Convention on civil liability for corruption (Strasbourg, 4 November<sup>150</sup> 1999). In these international legal instruments are reflected measures taken at national level to establish criminal and civil liability for corruption (the creation of specialized bodies to combat corruption, the sanctions to individuals and legal persons, witness protection measures to facilitate the gathering of evidence and the confiscation of proceeds, compensation for damages from corruption, the limitation period for damages, etc.). As the O.I. Tiunov A.A. Kashirkin and A.N. Morozov, "ratification by the Russian Federation of the anti-corruption conventions entailed the improvement of a number of legislative acts of the

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<sup>149</sup> Council of Europe Convention and the Russian Federation: Sat. Doc. M .: jurid. Lighted., 2000, p. 281-289. Ratified by the Federal Law of July 25, 2006 № 125-FZ "On the ratification of the Council of Europe Criminal Law Convention on Corruption."

<sup>150</sup>URL:

//<http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?CL=RUS&NT=174>

Russian Federation in respect of those branches of law as constitutional, criminal, administrative, financial, labor, etc".<sup>151</sup>

Agreed framework of the Council of Europe in the field of combating the criminalization of public authorities, party and electoral corruption is closely connected with the codes of conduct for local and regional elected representatives and civil servants. In the development of anti-corruption provisions of the International Code of Conduct for Public Officials (UN General Assembly Resolution number 51 / 59 "Fighting corruption" on December 12, 1996), the Council of Europe June 17, 1999 and May 11, 2000 European Code of conduct have been taken to the local and regional representatives and the model code of conduct for civil<sup>152</sup> servants. According to Article 13 of the European Code of conduct for local and regional elected representatives of the elected representatives of the inaugural carefully observe any in respect of the publication of sources and amounts of income requirements of the legislation, which was intended for the financing of election campaigns, the nature and amounts of expenses. In the model code of conduct for civil servants Council of Europe established anticorruption s restrictions, obligations and responsibilities of civil servants.

Among the acts of the Council of Europe, dedicated to combating the criminalization of public authorities, party and electoral corruption, occupy a prominent place PACE Recommendation 1516 (2001), "On the financing of political parties" and guidelines on financing of political parties of the Venice Commission (2001).

PACE Recommendation 1516 (2001) secured legal measures aimed at preventing violations of the procedure of financing of election campaigns and political parties: a ban on donations from state-owned enterprises or in government organizations; a ban on donations from organizations registered in offshore; restrictions on donations from legal entities; maximum size limit donations; a ban on donations from religious organizations. Case of violation of party funding

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<sup>151</sup> *Tiunov O.I. Kashirkin A.A., Morozov A.N.* The influence of international law on the development of national legislation // Magazine of the Russian right. 2010. № 6.

<sup>152</sup> URL: // [http://www.coe.int/t/dghl/monitoring/greco/documents/Rec\(2000\)10\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/documents/Rec(2000)10_EN.pdf)

should be subject to sanctions, including complete or partial loss of state funding, compulsory compensation of public expenditure. In the case of personal responsibility sanctions involve deprivation of the person elected parliamentary mandate or temporary<sup>153</sup> disqualification.

In accordance with the Guidelines on the financing of political parties of the Venice Commission (2001) (Strasbourg, 9-10 March 2001), public funding should be getting all the parliamentary parties. Funding of parties should be controlled by specially authorized state bodies (for example, the Chamber of Accounts). In the «b» are the possible limitations of private financing: the maximum size of donations to the election fund; a ban on receiving donations from industry, commercial and religious organizations; overriding control of donations of party members running for election. Each party must publish an annual financial report for the previous year, which should contain a list of all donations other than membership<sup>154</sup> fees.

In contrast to the PACE Recommendation 1516 (2001), Guidelines on the financing of political parties of the Venice Commission (2001) as the sanctions for violation of the procedure of financing of election campaigns and political parties, along with the possibility of full or partial loss of state funding for the next year include the cancellation of the election results. At the same time, in this document there is no direct mention of the mandatory compensation of public spending on campaign financing.

Specialized legal act in the field of combating the criminalization of public authorities, party and electoral corruption was the adoption of 8 April 2003 the Council of Europe Committee of Ministers Recommendations "On general principles of the fight against corruption in the funding of political parties and election campaigns."

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<sup>153</sup>URL: <http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta01/EREC1516.htm> (reference date: 20 March 2012)

<sup>154</sup> URL: [http://www.venice.coe.int/docs/2001/CDL-INF\(2001\)008-e.pdf](http://www.venice.coe.int/docs/2001/CDL-INF(2001)008-e.pdf) (reference date: 20 March 2012)

In accordance with Art. 9 of the named recommendations state must prevent excessive financial expenses of political parties and to establish the overall size of the costs for conducting the election campaign. "Although the legal support and should allow to elect candidates to expend sufficient resources to convey their political messages to voters, there are no minimum standards that would suggest an opportunity to" buy<sup>155</sup> elections."

Each political party and each candidate should maintain records of all expenditures for the election campaign. The reports of political parties should be information on all donations received by the party, including the type and amount of the donation (Articles 10 and 12 of Recommendation Rec (2003) 4 of the Committee of Ministers of the Council of<sup>156</sup> Europe).

Article 14 of the Recommendation Rec (2003) 4 of the Committee of Ministers assigned the need for States to ensure independent monitoring of the funding of political parties and electoral campaigns.

In order to combat corruption in the electoral process Article 15 of Recommendation Rec (2003) 4 of the Council's Committee of Ministers of Europe contains the obligation of States parties to the Council of Europe to prepare and to "support the specialization of the judicial, police and other personnel in the fight against illegal funding of political parties and electoral campaigns<sup>157</sup>".

The next element of the structure of the international legal framework to counter the criminalization of public authorities, party and electoral corruption are OSCE acts.

OSCE Charter for the European Security (Istanbul, 19 November 1999) strengthened the obligations of States Parties to combat corruption in all dimensions of the OSCE. The Bucharest Declaration of the OSCE Parliamentary

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<sup>155</sup> International electoral standards. Sat. Documents // Ed. Ed. : candidate jurid. Sciences A.A. Veshnyakov; scientific. Ed. : Dr. jurid. Science V.I. Lysenko. M. : Publishing House Ves Mir, 2004. p. 451.

<sup>156</sup> International electoral standards. Sat. Documents // Ed. Ed. the doctor jurid. Science V.I. Lysenko. M. : CRC Russia, 2009. p. 382-383.

<sup>157</sup> International electoral standards. Sat. Documents // Ed. Ed. the doctor jurid. Science V.I. Lysenko. M. : CRC Russia, 2009. p. 383.

Assembly (Bucharest, 10 July 2000) set forth the requirement to pass laws that prohibit secret funding of political parties and candidates.

At the signing of the Paris Declaration of the OSCE Parliamentary Assembly (Paris, 10 July 2001) adopted a resolution "On the fight against corruption and international crime in the OSCE region". The resolution calls for: to encourage the publication of government officials, political parties and candidates for elected office information about its financial position; to assist in the conduct of free and fair national, regional and local elections, public access to information about the activities of state institutions, as well as interaction with the civil society in the fight against corruption; to take decisive action to carry out in conflict zones of free and equal elections, with the necessary condition of participation in the elections of the total population living in these areas prior to the conflict, as a prerequisite for the fight against corruption and organized crime; for a possible ratification and implementation of existing international agreements on the fight against corruption.

As part of the financing of political parties and election campaigns is necessary to pay attention to the OSCE / ODIHR recommendations on the analysis of Legal Framework for Elections (Warsaw, January 2001) and commitments for democratic elections in the OSCE participating States (Warsaw, June 30, 2003).

In accordance with the OSCE / ODIHR recommendations public funding provided to political parties and candidates on the basis of equality before the law. OSCE experts consider deficient legal framework, which provides exclusively public financing of election campaigns. **Any prohibitions or restrictions of private funding may be in violation of the individual's right to freedom of association and freedom of expression.**

This provision of recommendations, which consider any restrictions on private financing as an infringement of individual rights, contrary to the other part

of the recommendation, which recognized the admissibility of reasonable limits the size of private donations and the total amount of expenses of<sup>158</sup> candidates.

The commitments for democratic elections in the OSCE participating States in 2003 year, in contrast to the recommendations of the OSCE / ODIHR 2001, the OSCE's position on the limitations of private financing is softened. In paragraph B of Section VII it is stated that "the State may impose reasonable restrictions on the amounts of private funding of political parties and candidates in order to ensure fair competition in elections and reduce the incentives for corruption and the provision of undue influence on policy." The commitment to extend the list of unacceptable sources of funding of political parties and candidates, States may prohibit or restrict the provision of financial or other material and other support to political parties and candidates from foreign citizens and organizations, state agencies and state-owned enterprises.

An independent unit of the international legal framework for combating the criminalization of public authorities, party and electoral corruption in the CIS format constitute form the Commonwealth.

The structure of the legal framework of CIS member states in combating the criminalization of public authorities, party and electoral corruption includes both normative treaties binding and recommendatory international legal acts.

In 2001, the Russian Federation took the initiative to develop the Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the States - CIS member states (hereinafter - the Convention), signed on October 7, 2002 in Chisinau, the Presidents of Armenia, Georgia, Kyrgyzstan, Moldova, Russia, Tajikistan and Ukraine and came into force on 11 November 2003. This document is binding for the parties to the Convention. The Convention gives standards for democratic elections and the mechanisms for their implementation, contains provisions relating to financial and informational support of the election. According to Art. 12 of the Convention prohibits foreign donations

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<sup>158</sup> Section X of the OSCE / ODIHR Recommendations on the Analysis of Election Legislation / International Electoral Standards. Sat. Documents // Ed. Ed. the doctor jurid. Science V.I. Lysenko. Moscow: CEC of Russia, 2009. p. 230-232.

to candidates, political parties participating in elections, public associations, which are influenced by the candidates (political parties), or facilitate the realization of their goals. Candidates and political parties must present at specified intervals in the electoral bodies information and reports on the flow of donations to the election funds of depositors, as well as all expenditures of these funds to finance the election campaign.

Among the acts of the Commonwealth, a group of model laws in the sphere of combating corruption (including the party and electoral).

According to h. 1 subp. 8 CIS Model Law on November 25, 2008 "On Combating Corruption", h. 1 subp. 5 CIS Model Law on November 15, 2003 "Fundamentals of Anti-Corruption Policy legislative", the implementation of the electoral rights and political parties are among the **priority areas** of legal regulation in the sphere of combating corruption.

Model legislation of CIS member states in the field of anti-corruption is a form of legal integration in the CIS format. According to the claims "c", "d" Art. 4 Convention on the Interparliamentary Assembly of CIS Member States on 26 May 1995, p. 15 of the Rules of the Interparliamentary Assembly of CIS Member States (adopted on 15 September 1992, amended March 18, 1994), p. 1.2 and 1.4 of the Regulation on the development of model laws and recommendations of the Interparliamentary Assembly of CIS Member States (adopted April 14, 2005, amended November 25, 2008) model laws are international legal acts of a recommendatory nature. They accepted the Interparliamentary Assembly to guide coordinated legislative activities and convergence of the Commonwealth legislation.

The presence of the alignment of rules governing the financing of election campaigns in the CIS, it is essential to fight of the Commonwealth with the party and electoral corruption, laundering of funds in the election environment, ensure targeted nature of the funding of the electoral process subjects and their public reporting.

The CIS model law "Fundamentals of Anti-Corruption Policy Legislation" as one of the anti-corruption policy objectives envisaged creation of a legal mechanism that prevents citizens bribery at elections and referendum. The elements of such a mechanism are to establish responsibility for electoral violations and crimes, as well as the development of anti-corruption and anti-crime standards in the implementation of electoral rights and the activities of political parties.

Based h. 4 subp. 8 Fundamentals of legislation on anti-corruption policy, to administrative corruption offenses electoral focus include: interference with the work of the election commission; bribery of voters; failure or non-publication of the report, information on the receipt and expenditure of funds for the preparation and conduct of elections; illegal use cash candidate registered candidate, selective combining, a selective block initiative group for the Referendum; the use of illegal material support to a candidate, registered candidate, an electoral association, electoral bloc, initiative group of the referendum; campaign financing in addition to the election funds, and to otherwise prohibited by law material support; misuse of public funds.

The list referred to in the basis of legislation of administrative offenses of the electoral focus seems appropriate supplemented by the inclusion of the following illegal acts: "the exercise during the election campaign advertising and (or) charitable activities in violation of the legislation on elections and referendums," "violation of the ban on in election campaign, referendum campaign lotteries and other games based on risk related to elections and referendums, "" Receive of the voter (a party referendum) the benefits of the material and (or) the intangible nature of the exercise of will. "

In accordance with Part 5 of Article 8 of corruption offenses electoral pattern in the form of bribery are obstructing the exercise of electoral rights or the work of election commissions, prohibited under penalty by the Criminal Code, in the case of the act by means of bribery. The author's opinion, the effectiveness of anti-corruption legislation in the electoral process could be enhanced by the



introduction to the basics of anti-corruption policy of the criminal liability legislation for the falsification of election documents (referendum documents) related to bribery.

Legal prohibitions set forth in the disposition of administrative law and criminal law, supplemented by a system of anti-corruption and anti-crime standards in the implementation of electoral rights and the activities of political parties.

Anti-corruption standards presented uniform safeguards, limitations and restrictions, provides a reduction in the impact of corruption on the functioning of this sector. The system of anti-corruption and anti-crime standards in the implementation of electoral rights and the activities of political parties is enshrined in Article 18 of the Fundamentals of Legislation on anti-corruption policy.

In order to counter the criminalization of public authorities, party and electoral corruption in the conduct of elections for the positions of state power and local self-government are established by national legislation:

1) *warranty*: equal participation in the election commissions representatives of candidates for these positions since the nomination of candidates; Returns the budget candidates not chosen for the offices, funds allocated for the election campaign;

2) *prohibitions* on: the provision of the candidates or on behalf of property rights to it, services or property benefits voters; candidates use financial and other support to individuals and legal entities except for cases stipulated by law; use cases and procedures expressly provided by law, during the election campaign, the candidates for the offices of its public status and related opportunities to achieve the objectives of the campaign; assignment to the confidential information data about the property, property liabilities, income and expenses of the candidates, their spouses and close relatives; participation in the electoral commissions (referendum commissions) persons who have or have ever had a previous conviction for corruption offenses or subject to administrative or disciplinary action for corruption offenses; registered as candidates for the offices of persons

who have or have ever had a previous conviction for corruption offenses.

As we can see, the system of anti-corruption and anti-crime standards built on the model of "security - bans." The third element of anti-corruption and anti-crime standards in the implementation of electoral rights and the activities of parties in elections - "restrictions" - is provided in the model law "On Combating Corruption".

According to Article 12 of the Model Law "On Combating Corruption" for persons applying for the posts of deputies of legislative bodies, local authorities, as well as persons occupying these positions may be subject to certain restrictions and prohibitions relating to the performance of their duties. At the same time they must be informed of the need to comply with these restrictions and bans, and the measures of responsibility in the event of non-compliance.

Proportionality, the admissibility and legitimacy of the establishment of a number of states limits the passive electoral rights of citizens has been discussed repeatedly in the jurisprudence of the European Court of Human Rights.

Article 25 of the International Covenant on Civil and Political Rights allows the introduction of reasonable restrictions on the right and opportunity of every citizen to be elected at periodic elections which shall be by universal and equal suffrage by secret ballot, guaranteeing the free expression of the will of voters. As noted in the Court's rulings of the Human Rights Affairs' Mathieu-Mohin and Clerfayt against Belgium", "Doyle against the United Kingdom", a person's right to stand for election is not<sup>159</sup> absolute. Since Article 3 of the Protocol number 1 for the Protection of Human Rights and Fundamental Freedoms, recognizing this right does not specify it, much less give him the legal definition, there is an opportunity for the introduction of the so-called implicit or implied restrictions (judgment in the case "Mathieu-Mohin and Clerfayt v. Belgium"); States are free enough within its constitutional order to establish the status of parliamentarians, including the

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<sup>159</sup>The European Court of Human Rights judgment of 2 March 1987 in the case of Mathieu-Mohin and Clerfayt v. Belgium // The European Court of Human Rights. Selected decisions: in 2 vol. M: Norma, 2000; Decision of the European Court of Human Rights on February 6, 2007 in the case of Doyle V. The United Kingdom // Bulletin of the European Court of Human Rights. The Russian edition. 2007. № 8.

eligibility criteria (judgment in the case "Gitonas and others against Greece", "Podkolzina v. Latvia", "Doyle against the United Kingdom"). These criteria vary depending on the historical and political characteristics of each country.

The legal structure of anti-corruption and anti-crime standards in the implementation of electoral rights and the activities of political parties involves the allocation of two fragments: a) the standards relating to the legal status of the subjects of the electoral process (in the first place, the organizers of the election and the candidates); b) the funding of the election campaign standards.

The Model Law defines the conditions of incompatibility status of members of electoral commissions and the registered candidates. Persons who have or have ever had a conviction for corruption, as well as for crimes related to corruption, can not be members of electoral commissions and registered candidates for elected positions in government. Candidates can not use their public status (so-called "administrative resource") to achieve the campaign objectives. This group of standards concerns the legal status of the electoral process subjects.

The second group of anti-corruption standards associated with the financing of the election campaign. This should include: a return to the unsuccessful candidates of budgetary funds allocated for the election campaign; ban on candidates or on behalf of property rights to it, services or property benefits voters; a ban on the use of the candidates financial and other support businesses and individuals that are not directly provided by the legislation; a ban on the allocation to the confidential data information about the property, property liabilities, income and expenses of candidates to fill positions in the respective authorities, their spouses and close relatives.

Consider the system of international instruments in the field of combating the criminalization of public authorities, party and electoral corruption, should pay attention to the trends and prospects of development of international anti-corruption legal framework in this area.

Based on the elaboration of the array of anti-corruption (anti-crime) international instruments and content of the legal anti-corruption measures, there

are several main stages in the evolution of the international legal framework for combating corruption (including the party and electoral):

1. The end of the 70s. XX century. - the beginning of the 90s. XX century.
2. Mid 90s. XX century. - the end of the 90s. XX century.
3. The beginning of the XXI century. - Present

In the *first stage* (the end of 70-ies of XX century -.. The beginning of the 90-ies of XX century) By the United Nations have been attempts to formulate a definition of corruption as well as to consolidate the international community's position and international organizations in relation to corrupt conduct.

In the *second phase* (mid-90s of XX century -....the end of the 90-ies of XX century), the Council of Europe was set up a pan-European legal system of anti-corruption, set priority areas for the prevention of corruption, developed a program to combat corruption and established a specialized anti-corruption organization GRECO. In the OSCE Charter for European Security to be secured obligations of States Parties to combat corruption in all dimensions of the OSCE.

*The third stage* (beginning of XXI century -. Present) associated with the accession of the majority of the CIS countries to GRECO, the participation of the CIS member states in the formation of the international anti-corruption (anti-criminal) legal framework and the development of specific acts of the Council of Europe and the CIS anti-party and electoral corruption.

During this period, international agreements of the Council of Europe on combating the criminalization of public authorities and corruption have been supplemented by a model code of conduct for civil servants, specialized recommendations on the financing of political parties, on the general principles of the fight against corruption in the funding of political parties and election campaigns, measures of state protection of witnesses and other participants in cases of legal proceedings relating to corruption and organized crime. On Russia's initiative by some CIS member states signed and ratified the first legally-binding international instrument, which recognized set of standards for democratic elections (including election financing, election of political parties and campaigns

of candidates) - Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the states - members of the CIS.

IPA CIS adopted basic legislation on anti-corruption policy and the model law "On Combating Corruption", containing the anti-criminal and anti-corruption standards in the implementation of electoral rights and the activities of political parties.

As a promising evolution of the international legal framework to counter the criminalization of public authorities, party and electoral corruption in the CIS are: the further ratification of the convention agreements in the field of combating corruption; international regulation of the order of financing the use of information technology in the electoral process, the regulation of the cost of the election campaign on the Internet; the conclusion of agreements on legal assistance in criminal and civil cases of corruption offenses and organized crime; legal regulation of bilateral and multilateral anti-corruption (anti-crime) investigations; bringing the legislation states - participants of CIS on elections and political parties in line with the anti-corruption (anti-crime) standards model laws of the CIS Interparliamentary Assembly.

After analyzing the international legal framework, will focus on foreign experience to counter the criminalization of public authorities. As in the Russian Federation, anti-criminal policy in most foreign countries is carried out in the conditions of the electoral process and the appointment of the contenders for the post.

Within the framework of the electoral process at the stage of drawing up voter lists, as well as the nomination and registration of candidates for elective posts in foreign countries in order to counter the criminalization of the government, the party and electoral corruption is actively used by deprivation of electoral rights of individual<sup>160</sup> citizens.

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<sup>160</sup> *Ignatov A.V.* Limitations of universal suffrage in the right to be elected to the national parliaments of the CIS countries / Proceedings RAYUN. Vol. 9. V.1. M.: Lawyer, 2009, pp 965-969; *Kurakin S.I., A.S. Tsybisova* Restrictions in the electoral law: International Practice / IV Derzhavinsk reading in the Republic of Mordovia. Materials of scientific-practical. Conf.

In theory the election law and constitutional-legal practice of "disenfranchised" should be considered as a measure of prevention of deviant behavior of individuals or punishment applied to the offenders.

Deprivation of the right to vote is in temporary or perpetual loss of the subject of the right of the subjective suffrage, which is a measure of a preventive or punitive nature. Disfranchisement may be associated with both legitimate (incapacity) and illegal behavior legal subjects. Deprivation of the right to vote except for legal restrictions of disabled persons is a primary or secondary criminal penalties, which is enshrined in the authorization rules of law is personal in nature and is appointed by the court taking into account the public danger of the offense. In many foreign countries, persons serving sentences in prison under the sentence of the court are limited to the electoral law, or lack of<sup>161</sup> it. In Austria, Belgium, France, Germany, Greece, Italy, Luxembourg, Malta, Netherlands, Norway, Poland, Romania and Turkey, there are limitations of the electoral rights of prisoners. In Armenia, Azerbaijan, Bulgaria, Estonia, Georgia, Ireland, Latvia, Liechtenstein, Moldova, the Russian Federation, Slovakia and the United Kingdom are deprived of voting rights.

In this connection, the practice of the European Court of Human Rights relating to the protection of the electoral rights of convicted persons. October 6, 2005, the Grand Chamber of the European Court of Human Rights issued a final judgment in the case "Hirst v. United Kingdom" (complaint number 74025/01).<sup>162</sup> The applicant, John Hirst, who was sentenced to life imprisonment for murder,

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Saransk, 2008, pp 199-200; R. *Safarov* The problem of illegal restriction of the electoral rights of citizens in foreign countries / Problems of protection rights: past and present. Proceedings of the International scientific-practical. Conf. St. Petersburg, 2007, p. 88-93; *Strashun B.A.* The right to vote of the socialist states. M.: IMO, 1963. p. 41, 42, 44-84, 87-93.

<sup>161</sup> *Duksin P.A.* Disenfranchisement of persons found incompetent by a court, and persons held in custody under a court sentence: fairness and appropriateness / Collection of competitive activities in the field of electoral law, electoral process and legislation on the referendum carried out by students and graduate students of higher legal education of the Russian Federation, institutions in 2004-2005. M.: RTSOIT, 2005, p. 125-138.

<sup>162</sup> European Court of Human Rights judgment of 6 October 2005 in the case of "Hirst v United Kingdom" (complaint № 74025/01) // Bulletin of the European Court of Human Rights. Russian edition. 2006, number 4.

appealed against the provisions of Art. 3 Representation of the People Act of 1983 on the prohibition of participation in the elections to the Parliament or local authority. The Court found a discrepancy of Article 3 of the Law on the Representation of the People Protocol № 1 of the Convention on Human Rights. According to the Court, the ban on prisoners participating in elections should apply to all convicted persons, in addition, this restriction should be applied depending on the length of the sentence imposed and the gravity of the offense. The Court gave to the United Kingdom the right to choose the method of providing electoral rights to<sup>163</sup> prisoners.

Constitutionally significant aims of disenfranchisement are: maintaining the authority of the law, removing the possibility of criminal influence on the formation of organs of popular representation, preventing offenders in elected bodies. In contrast to the limitations of the electoral law, deprivation of the right to vote in foreign countries may be either disposable (upon completion of sentence, pardon, amnesty) or ineradicable character (life imprisonment with perpetual deprivation, disability due to an incurable mental illness). Specific grounds, the scope and duration of action, mechanism of realization of disenfranchisement established constitutional, electoral and criminal law.

By the time of action are distinguished lifetime disenfranchisement and deprivation of the right to vote for a certain period. According to Articles L 5-8 of the Election Code of the French persons convicted of a crime, are deprived of voting rights for life. With regard to those convicted of offenses in the sphere of electoral law disenfranchised may be<sup>164</sup> temporary.

In accordance with § 45 of the Criminal Code of Germany deprivation of passive suffrage carried out for a period of 2 to 5 years. § 22 Sec. 2 of the Regulation on the procedure for elections to the National Council of Austria

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<sup>163</sup> In countries where prisoners have the right to vote (Albania, Bosnia and Herzegovina, Cyprus, Croatia, Czech Republic, Denmark, Finland, Former Yugoslav Republic of Macedonia, Iceland, Lithuania, Portugal, Slovenia, Spain, Sweden, Switzerland and Ukraine ), it is to exercise their right to vote by postal ballot, proxy, and other ways provided for by law.

<sup>164</sup> Electoral Code of France // Journal Officiel de la République Française, 26 janvier 1985. № 21.

(Nationalratswahlordnung 1992) provides for the deprivation of the convicted suffrage for 6<sup>165</sup> months. In China political (including election) rights for life deprived perpetrators of counter-revolutionary crimes and sentenced to the death penalty and life<sup>166</sup> imprisonment.

According to the scope of the deprivation of the right to vote may apply to the election in a particular constituency (local deprivation) or to all types of elections throughout the state (the universal deprivation of rights). A person who commits the offense of corruption in the sphere of electoral law of Great Britain (fraud, undue pressure on voters, exceeding the size limits of election expenses, bribery, falsification of nomination papers), deprived of passive suffrage for 10 years throughout the country. For illegal practices (violation of various legal requirements of authorized representatives, the use of premises, advertising, coverage of the election campaign, voting more than once, voting, despite the loss of voting rights, etc.) To the offender apply deprivation of passive suffrage for 5 years in the territory a particular<sup>167</sup> constituency.

Deprivation of the right to vote is divided by the content of the legal personality of seizures in the deprivation of active suffrage and passive suffrage deprivation. Decision of the State Tribunal of the Republic of Poland a person who commits an offense involving a violation of the Constitution or laws, can be deprived of both active and passive suffrage in the election of all kinds (p.1 Art. 23 of the Law "On State tribunal" dated March 26, 1982<sup>168</sup>). In Canada, passive

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<sup>165</sup> Bundesgesetz BGBl. Nr. 47/1992; BGBl. I Nr. 28/2007.

<sup>166</sup> Foreign suffrage: Textbook. M.: Norma, 2003. P. 168.

<sup>167</sup> In accordance with the Representation of the People Act 1983 (the Representation of the People Act 1983) in the UK electoral law all offenses are divided into 2 types - corruption and illegal practices (corrupt or illegal practices), which entails limiting the passive electoral rights. A similar classification of offenses in the sphere of suffrage is also adopted in Canada. See Foreign suffrage: Textbook. M.: Norma, 2003. p. 86.

<sup>168</sup> Modern electoral systems. Issue. 1: Great Britain, Canada, Mexico, Poland. Moscow: Norma, 2006. p. 370.



suffrage deprived persons serving sentences in places of deprivation of liberty for more than two<sup>169</sup> years.

According to the discretion necessary to distinguish between law-mandatory and discretionary disenfranchised. In the case of imperative disenfranchised all grounds of deprivation of subjective rights expressly provided by applicable law, and the law enforcer is obliged to be guided by them<sup>170</sup>(Mexico). Discretionary disenfranchisement is at the discretion of the court taking into account the public danger of the offense, the offender and other legally significant circumstances<sup>171</sup> (France).

The particular types of deprivation of the right to vote can be attributed to foreign countries: the suspension of the electoral law (Mexico); registration ban as a candidate of a particular political party (Mexico); Ads ineligibility for a certain period (France). Special forms of deprivation of the right to vote have a number of common features that define their legal nature: removability (legal entity retains the ability to restore the right to vote), a preventive or punitive (punitive elements of deprivation of rights aimed at ending the legal subject of anti-social or illegal behavior).

Modern penal policy in most foreign countries combines an orientation to prevent deviant and illegal behavior of citizens; savings repressive measures applied to offenders subjected to deprivation of the right to vote; rational addition of various kinds of punishment, taking into account the degree of social danger of the violations of the law.

After examining the main "anti-criminal" (anti-corruption) steps in the electoral process, the international experience was considered to counter the criminalization of public authorities in the form of law-making and law-enforcement activities of the state.

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<sup>169</sup> Ibid. p. 207.

<sup>170</sup> Modern electoral systems. Issue. 1: Great Britain, Canada, Mexico, Poland. M. : Norma, 2006. p. 292.

<sup>171</sup> Foreign suffrage: Textbook. M. : Norma, 2003. p. 93.

Special attention is given to the "anti-criminal" US experience in the early 30s and in the 60s of the XX century.

In the 30-ies against the background of "dry law" in several major US cities (most notably - Chicago) rapidly increased the number of criminal gangs. The answer to this crime wave was the creation in the United States two special agencies to combat organized crime - the so-called "Office for tobacco, alcohol and firearms" under the Ministry of Finance and the "Bureau of Investigation" at the Ministry of the Attorney General (later - the FBI). These bodies, which received very broad powers, recruit the most qualified experts in the fight against crime, all of which are carefully selected by the personal qualities which prevented them from entering the casual or even more criminalized figures. And after two or three years the majority of criminal gangs in the country were, if not defeated, then sharply suppressed. In this case, the main weapon in the fight against organized crime began to legislative measures providing "anti-corruption" and "anti-criminal" content of the authorities and law enforcement agencies. For example, in the United States in the police system is not only a special internal security units were created. In addition, the FBI received the right and the duty control of appointments to the "sensitive" positions in the law enforcement system. And most importantly - through the FBI has been strengthened federal control over all local law enforcement agencies.

In addition, legislation has been enacted, which requires mandatory testing FBI all persons entering government service. And this is not a formal inspection. Checked biography and track the person list, checked his family and friendly ties, if necessary, he checked on a polygraph. And not only criminal events in his past, but even not too reasonable suspicion of the presence of such events are an insurmountable obstacle to promotion even on grass-roots, local levels of government.

This practice has long been a subject of criticism from the American defenders. However, American society as a whole supports it, believing that such

an infringement of the rights of civil service applicants have accepted and justified fee for non-corrupt and non-criminal<sup>172</sup> authorities.

In the 60s of the twentieth century America faced with a new, more powerful wave on the scale of organized crime, which began to gain more and more distinct transnational character, and be actively involved in the field of activity of legal business. Trying to respond to this challenge by adopting a separate law of specific offenses of organized criminal groups gave half-hearted results. And then, after a long debate in the legal and political environment, the US Congress passed the so-called "act of RICO" (the Racketeer Influenced and Corrupt of 1970, which is very significantly expanded the scope of the jurisdiction of the criminal community (organization), to include not only racketeering and corruption, but also several dozen other compositions "of organized crime" offenses. In addition, the RICO act very much increased the penalties for crimes committed by organized criminal groups.

Congress formulated the purpose of the law as follows: "In addition to bringing to responsibility of individuals, the main purpose RICO law - the destruction of a criminal organization as such." The main legal instruments for this institution become the confiscation and liability of legal persons.

As a result of the application of RICO Act, most criminal cases against criminal groups, excited prosecutors, was completed in convictions, and organized crime in the United States has declined<sup>173</sup> substantially.

The RICO Act 1970 also included procedural protection of victims and witnesses. RICO act according to US Attorney General is authorized to ensure the safety of witnesses who agreed to give truthful testimony in cases involving organized crime and other serious crimes. Under the authority of the Minister of Justice of the United States Federal program to ensure the safety of witnesses (VITSEK) provides for the protection of threatened witnesses from physical

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<sup>172</sup> *Zorkin V.* Constitution against the crime // Ros. gas. 2010. 10 December.

<sup>173</sup> *Zorkin V.* Ibid.

danger, mainly through their relocation to a new, undisclosed place of residence with the change of name and other personal<sup>174</sup> data.

It is a successful Japanese experience in fighting organized crime and combat the criminalization authorities.

So, in the 80s Japanese experts identified the following strategic directions to combat specific criminal<sup>175</sup> communities:

- a violation of the organizational structures of criminal groups through criminal prosecution of their leaders, allowing for more effective work among the rank and file members of organized criminal groups to achieve its dissolution and ultimately , Elimination criminal formation;

- undermining the financial base of the criminal organization by closing its channel the proceeds of crime, as well as the seizure of illegally acquired capital, in particular, with the active use of the tax legislation;

- elimination of the causes and conditions conducive to the existence and functioning of the criminal organization, including through socio-economic measures to reduce the reserve army of organized crime and "containment policy, resorting to the services of criminal groups."

In many foreign countries, the most important tool to undermine the economic basis of criminal acts communities confiscation of property. In the criminal law of Japan, France, Azerbaijan secured confiscation as an additional penalty. In Denmark, Spain, Portugal, Bosnia and Herzegovina, Macedonia and a number of other European countries confiscation is seen as a measure of criminal law for crimes.

The Criminal Code of the foreign states fixed various approaches to the definition of the list of property to be confiscated. In some countries refer to it: the items included in the law or regulations of a number of harmful; items and income received as a result of the crime; income derived from the use of such property. In

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<sup>174</sup> Recommended practices in the field of witness protection in criminal proceedings related to organized crime. United Nations Office on Drugs and Crime. New York, 2008. C.7 // URL: [http://sartraccc.ru/Pub\\_inter/protwitn.pdf](http://sartraccc.ru/Pub_inter/protwitn.pdf) (circulation date: September 4, 2013).

<sup>175</sup> Organized Crime in Japan: Scientific and Analytical Review. M., 1990. P. 39-40. Cit. by Mokhov E.A. Organized crime and national security of Russia. M., 2006. p. 73.

other countries (Austria, Germany, Netherlands, Poland, and others.) confiscation of these items if they are hiding or used up can be replaced with a collection of criminal monetary amount corresponding to their<sup>176</sup> cost. In England in 1973 on the powers of the criminal courts, the law gives the courts the right to issue orders for the confiscation of any property in the possession or under the control of the perpetrator, which was used in the commission of any crime, contributed to its commission, or intended for such<sup>177</sup> use.

In the study of foreign experience to counter the criminalization of authorities it seems important Finnish anti-corruption and anti-crime model. It is based on the concept of Good Governance («good governance») - implementation of effective economic, political and administrative authorities at all levels. It is assumed that such control is based on the democratic principles of separation of powers, democracy, elected and subject to recall officials, executive accountability to the legislature institutions, rule of law, political pluralism and independence of the media. At the same time the efficiency of management is understood and how to achieve the goals on time and with minimal costs of public resources. The combination of democratic and efficiency and requires mutually interdependent.

The major component of public administration is trust. Confidence in the state is at a high level and put at the forefront in the process of construction and operation of a developed civil society.

In Finland, the high public confidence in the objectivity, impartiality and legality of government and public institutions. Democracy, non-politicized access to key civil service positions, as well as transparency in the process of preparation and adoption of decisions of the state and municipal authorities makes public confidence in the authorities. All this contributes to the maintenance of civil consciousness of the high level of rejection of corruption.

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<sup>176</sup> Op. by *Zacepin M.N.* Confiscation of property as an anti-corruption measure // Ros. jurid. Journal. 2012. № 5.

<sup>177</sup> *Kapinus NI Kapinus O.S.* Confiscation of property in criminal law in modern countries // Act. 2004. № 6. S. 64.

The basic principle of the Finnish anti-corruption policy is the understanding that corruption is not an isolated phenomenon. Therefore, it does not require separate legislation, special bodies, a separate strategy or action plan. On the contrary, this policy is integrated into the general policy of the state, since corruption is regarded as part of the criminal world, and as a result of unsatisfactory work of the authorities, including law enforcement<sup>178</sup> agencies.

It should be noted that opposition to the criminalization of public authorities in foreign countries is carried out with the use of overt and covert means, forms and methods of work.

The main source of information for police units involved in the development of criminal organizations (communities) are persons involved in tacit cooperation.

"The use of confidential informants and undercover agents – as it is said in a decision of the US Supreme Court - have a legitimate and correct practice of law enforcement, which is justified by the interests of citizens. Without the use of informants, many crimes would remain unpunished, and perpetrators have escaped"<sup>179</sup> prosecution. The procedure for the use of special agents for carrying out the operational-search activities regulated by the guidance of special agents approved by the US Congress in 1960 and letters of instruction from the Attorney-General's December 15, 1976.

The most important aspect of the use of secret sources of the line counter criminals is to ensure their safety.

In Section 6.1 - 6.4 of the Circular on the use of informants and other informants from 30 March 1982 (Germany) provides:

6.1. In the interest of the police when dealing with informants must constantly use all opportunities to preserve confidentiality, which fully corresponds to the interests of the few, are at particular risk, contingent.

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<sup>178</sup> Sustained immune to corruption: the Finnish model of combating bribery. Based on materials from the Institute of Europe. Presidential control. Number 2013. 7. p. 42-46.

<sup>179</sup> Countering crimes terrorist and extremist. Questions of the theory and practice of operational and investigative activities / Ed. V.V. Volchenkova, B.P. Mikhailov. M.: UNITY-DANA Law and the Law, S. 2013.

6.2. In order to ensure confidentiality (secrecy) information about the identity of the informant (informant), the unauthorized disclosure of which threatens an important public interest, are recognized as an official secret.

6.3. Cooperation informants (whistle-blowers), the content of the information and assessment of their activity are recorded in the materials of the investigation only to the extent necessary for the understanding of its results. At the same time care must be taken that these records could not come to a conclusion about the identity of informants, their whereabouts and the links with the police.

6.4. In accordance with the wording of resolution on the testimony of police officers (paragraph 54 section 6 of the Criminal Procedure Code of Germany 1950 (as amended on April 7, 1987). Section 37 of the Law of Germany in 2008 on the regulation of the legal status of employees of the federal states), it is determined that questions about the conspiratorial activities in the judicial process are not allowed to<sup>180</sup> answer.

Of key importance in the fight against organized crime is part of informants (whistleblowers) in witness protection programs.

In Australia, Austria, Canada, Latvia, the Netherlands, Norway and the United Kingdom of Great Britain and Northern Ireland informants participate fully in witness protection programs. The situation is different in Germany, Slovakia and the United States, where the right to state protection are only those witnesses who are involved in criminal proceedings and give testimony. Police officers who use informants as sources of information to keep secret the names and information about their identity and, under certain conditions and on an ad hoc basis provide them with physical protection.

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<sup>180</sup> 229. Gesetz zur Regelung des Statusrechts der Beamtinnen 2008 (BGBl I S. 1010.); Strafprozessordnung (StPO) in der Fassung der Bekanntmachung vom 7. April 1987 (BGBl. I S. 1074, 1319). See. Also Countering crimes terrorist and extremist. Questions of the theory and practice of operational and investigative activities / Ed. VV Volchenkova, BP Mikhailov. M.: UNITY-DANA: Law and Law, 2013. p. 236.

At the same informants included in the protection program should terminate its relationship with the investigating authorities and the authorities responsible for the collection of intelligence<sup>181</sup> information.

Today, the protection of witnesses as a means for combating organized crime.

Consider the experience of some foreign countries, which have implemented a witness protection program.

The legal basis for the Colombian witness protection program is the 1991 Constitution, according to which among the main responsibilities of the General Prosecutor's Office assigned the protection of witnesses, victims and other participants in criminal proceedings. Law number 418 of 1997, it was established three distinct witness protection programs, access to which is subject to appeal to the Prosecutor General. The first program provides for the supply of witnesses information and advice to ensure their own safety, and the second involves the observation of the witnesses, and the third involves a change of personal data and covers victims, witnesses, stakeholders and employees of the General Prosecutor. In accordance with the law of participants may be excluded from protection program on any of the following reasons:

- a) unreasonable refusal to submit to the court procedure;
- b) disagreement with the plans or programs relocation;
- c) commission of unlawful acts, seriously affect the protection procedure;
- d) refusal to participate on their<sup>182</sup> own.

In 2001, Germany adopted a law on the harmonization of measures to protect witnesses at risk (Gesetz zur Harmonisierung des Schutzes gefaehrderter Zeugen<sup>183</sup> This law regulates the following issues:

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<sup>181</sup> Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Organized Crime. United Nations Office on Drugs and Crime. New York, 2008. P.22 // URL: [http://sartracc.ru/Pub\\_inter/protwitn.pdf](http://sartracc.ru/Pub_inter/protwitn.pdf) (reference date: September 4, 2013)

<sup>182</sup> Ibid. p.12 // URL: [http://sartracc.ru/Pub\\_inter/protwitn.pdf](http://sartracc.ru/Pub_inter/protwitn.pdf) (reference date: 10 September 2013).

<sup>183</sup> BGBl. I S. 3510.



a) category of witnesses who can be considered as potential participants in the program, and the relevant criteria for inclusion and exclusion from it. In accordance with the law to participate in the program may be permitted individuals at risk because of their willingness to testify in cases involving serious crimes or organized criminal<sup>184</sup> groups;

b) decision-making powers and the implementation of protection measures. Questions included in the program are resolved protection unit, together with the<sup>185</sup> prosecutor. Units for the protection of the right to take independent decisions on necessary actions, guided by the severity of the offense, the degree of risk, the rights of the accused and the probable consequences of the<sup>186</sup> measures;

c) maintaining the confidentiality of personal data of protected witnesses. Personal files are maintained to protect witnesses and attached to the materials of the investigation. Information about the persons protected is only available to the prosecution<sup>187</sup> request;

d) conditions of supply conspiratorial personal information and certifying their personal documents, as well as benefits provided to protect the<sup>188</sup> future.

Witness protection program in Germany is provided by the Witness Protection Bureau established at the federal level and at the level of each of the land. Federal Department of Criminal Police is responsible for the protection of witnesses in cases of federal significance and the coordination of work at national and international levels.

Noteworthy experience Italian witness protection in criminal cases related to criminal activities of the Mafia.

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<sup>184</sup> Paragraphs 1 and 2 of paragraph 1 of the German Act on 11 December 2001 on the harmonization of measures to protect witnesses at risk.

<sup>185</sup> Section 4, paragraph 2 of the Law on Unification of protective measures for witnesses at risk.

<sup>186</sup> Paragraph 2 of paragraph 2 of the Law on the harmonization of measures to protect witnesses at risk.

<sup>187</sup> In accordance with paragraph 1 of section 4 of the Act of Germany in 2001 on the harmonization of measures to protect witnesses at risk, the protection of witnesses in order to ensure security bureau has the right to refuse access to personal data of the protected person.

<sup>188</sup> Paragraph 5 of the Law on the harmonization of measures to protect witnesses at risk.

In accordance with the Italian Legislative Decree number 82 dated March 15, 1991, as amended in 2001, defines categories of protected persons used types of protection, the procedure for decision-making for inclusion in the protection<sup>189</sup> program. Among those that can provide protection include:

- witnesses and informers in cases related to drugs, mafia activity and homicides;
- witnesses of any offense punishable by imprisonment for a term of 5 to 20 years;
- are in danger of similar individuals who cooperate with the judicial authorities.

If protection is granted to persons sentenced to imprisonment, such persons shall prior to their inclusion in the witness protection program serve at least one-quarter of his sentence or if they are sentenced to life in prison for at least 10 years in prison.

The protection can be carried out under the "interim plan", "special measures" and "special protection program". "Interim Plan" provides for the relocation and allowance for 180 days. "Special measures" include the protection and social reintegration of displaced persons. "Special Protection Program" provides relocation, issuing temporary identity cards, financial support, and (as a last resort) new legal registration of personal data. Changes to personal data shall be subject to approval by the Central Protection Service, responsible for the implementation of protection measures and their enforcement.

Central Commission for a decision on inclusion in the program are accepted as a part of:

- Deputy State Secretary of the Ministry of Internal Affairs;
- two judges or prosecutors;
- five experts on organized crime.

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<sup>189</sup> Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Organized Crime. United Nations Office on Drugs and Crime. New York, 2008. p.13-14 // URL: [http://sartracc.ru/Pub\\_inter/protwitn.pdf](http://sartracc.ru/Pub_inter/protwitn.pdf) (reference date: September 4, 2013).

Protection of witnesses may also be carried out through regular and ad hoc international criminal tribunals (the International Criminal Court, the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda).

Element in ensuring the safety of sources of operational law enforcement agencies is to ensure the confidentiality of their personal data. So, in 1982 the US Congress passed an amendment to the National Security Act 1947, which criminalizes the disclosure of the names of undercover officers and informants FBI embedded in criminal organizations. Persons who have committed the disclosure of such information shall be subject to a fine of up to 50 thousand. Dollars or imprisonment for up to 10 years, or combination of these penalties.

Information about the identity of undercover officers and informants intelligence and counterintelligence in Germany deemed a state secret. Their intentional or negligent disclosure shall be punished with imprisonment from 6 months to 5 years (see paragraphs 95 and 97 of the Criminal Code of the Federal Republic of Germany in 1871 (in the red. On November 13,<sup>190</sup> 1998)).The same data, but related to the police officers and informants, make departmental secrets, the disclosure of which, in accordance with paragraph 353 of the Criminal Code in Germany punishable by a fine or be punished by imprisonment for a term of 5<sup>191</sup> years.

In the fight against the most dangerous types of crimes foreign criminal police practice of conducting covert operations against criminal groups (organizations).

This activity is regulated by the instructions of the Attorney General, issued in January 1981, and is recognized by the Federal Congress an extremely effective weapon in the fight against corruption and organized crime.

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<sup>190</sup> Strafgesetzbuch (StGB) in der Fassung der Bekanntmachung 1998 (BGBl. I S. 3322)

<sup>191</sup> Ibid

The secret operation usually ends trial in which a secret agent acts as the main prosecution<sup>192</sup> witness.

In the judgment of the European Court of Human Rights in the case "Bykov against the Russian Federation" (application № 4378/02) to challenge the admissibility of evidence obtained by the investigating authorities in the course of an undercover operation (covert operative-search activities), and the interpretation of court evidence and<sup>193</sup> testimony.

In September 2000, allegedly ordered V. Bykov, representative of their environment, to kill his former business<sup>194</sup> partner W. did not fulfill the order, reported it to the FSB of Russia and gave the gun allegedly received from Bykov.

After the criminal case against Bykov on suspicion of plotting the murder of law-enforcement bodies and the Federal Security Service have developed a plan of covert operation to obtain evidence of intent Bykov.

September 29, 2000, the police staged the discovery of two bodies in the house of S. information was officially distributed through the media that one of the dead was identified C. The other was his business partner Ivan

October 3, 2000, acting on the instructions of police visited the applicant at his place of residence. His body was hidden radio conversation secretly recorded located on the street police officer. V. Bykov was adopted in the "guest house". In accordance with the instructions of V. Bykov tied to the conversation, telling him that he had committed murder. As proof of its commission he gave Bykov several items taken from the north and I.: a certified copy of the feasibility study of the mining project, tagged with a chemical substance, two watches belonging to S. and

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<sup>192</sup> Countering crimes terrorist and extremist. Questions of the theory and practice of operational and investigative activities / Ed. V.V. Volchenkova, B.P. Mikhailov. M.: UNITY-DANA: Law and Law, 2013. p. 243.

<sup>193</sup> The judgment of the European Court of Human Rights in the case "Bykov against the Russian Federation" (application № 4378/02) // Bulletin of the European Court of Human Rights. Russian edition. 2009. № 6.

<sup>194</sup> From 1997 to 1999, the Bulls was the chairman of the Krasnoyarsk Aluminum Plant Board of Directors (KrAZ). Before his arrest in October 2000, he was a major shareholder and officer of the corporation of "Krasenergomash-Holding", the founder of a number of affiliated organizations, the Legislative Assembly of the Krasnoyarsk Territory.

I., and 20 thousand USD At the end of the conversation V. Bykov took the money for the proposal.

October 4, 2000 Bykov's home was searched. A few hours, including belonging to S. and I. Chemical analysis revealed the presence of Bykov hands of chemicals that have been tagged feasibility study were seized. He was arrested.

February 27, 2001 Bykov complained to the prosecutor of the North-Western district of Moscow, saying that his prosecution is unlawful because of the abundance of procedural violations of his rights, including unauthorized intrusion into his home and the use of a radio transmitter. March 2, 2001 the public prosecutor dismissed his complaint, in particular, the finding that the Bulls let V. in his home voluntarily, therefore, the invasion did not take place. He also came to the conclusion that the legal permission to use the radio transmitter is not required, as in accordance with the Federal Law "On operative-search activity", it is necessary for the control of messages transmitted over networks of electricity and postal services, which, given the covert operations are not were used.

June 19, 2002, the Meshchansky District Court of Moscow sentenced recognizing Bykov guilty of conspiracy to murder and conspiracy to acquisition, storage and carrying of firearms. Bykov court sentenced to six and a half years in prison, but counted term of preliminary detention, admitted conditional sentence with five years' probation.

October 1, 2002, the Moscow City Court upheld the sentence imposed by Bykov unchanged.

June 22, 2004 the Supreme Court examined the applicant's case in order of supervision. He changed the judgment of 19 June 2002 and the appeal decision of the court on October 1, 2002, to clarify the legal qualification of one of the offenses committed by the applicant. He found the applicant guilty of "incitement to commit crimes, including murder."

Turning to the circumstances of the present case, the Court noted that the Bulls had been detained before and during the trial 1 year, 8 months and 15 days. During this period the courts examined the applicant's request for the release of at

least 10 times, each time on the basis of denying the severity of the charges and the likelihood that he would abscond, obstruct the criminal case and put pressure on witnesses. In addition, since September 7, 2001 in the decisions to extend the applicant's detention did not specify the period, which meant that he should be detained until the end of the trial.

The Court concluded that the authorities were unable to specify the relevant and sufficient reasons to justify the extension of the applicant's detention. Accordingly, there has been a violation of Article 5 § 3 of the Convention (right to a trial within a reasonable time or to release pending trial).

Considering the applicant's complaint against the illegal invasion of his home and the violation of the right to respect for private life and listening to the recording of his conversation with V. The Court concluded that the applicant had enjoyed very minor guarantees in the procedure of organization and implementation of the listening of his conversation with V. Accordingly, the Court's opinion, there has been a violation 8 of article (right to respect for private and family life).

The applicant also complained that the law-enforcement bodies forced him by deception to testify against himself in a conversation with V. and that the court has made a record of the conversation as evidence in the case. He pointed out that his conversation with V. in fact constitute a disguised interrogation, not accompanied by any procedural safeguards.

The Court noted that in the present case the Bulls in the absence of any pressure took V. in his "guest house", talked to him and made specific comments on the issues raised by V. Unlike the applicant in the case, "Allan v United Kingdom" he is not detained, but was on the loose in his room, which was attended by guards and other<sup>195</sup> personnel. The nature of his relations with V. - the latter a subordinate position in relation to the applicant - not to prescribe it to any particular form of behavior. In other words, the Bulls could have on their own to

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<sup>195</sup> European Court of Human Rights judgment of 5 November 2002 in the case "against the United Kingdom Alan» (Allan-United Kingdom) (Bulletin of the European Court of Human Rights. Russian edition. 2003. № 4.

meet the east and talk to him, or to refuse to do so. It appears that he showed a willingness to continue the conversation begun V., as the topic of personal interest to him. Thus, the Court is not convinced that the taking of evidence has been dishonored element of coercion or repression. The Court also gave weight to the fact that, in assessing the facts, national courts expressly relied on the applicant's record of the conversation with B. Furthermore, the covert recording played a limited role in the complex system of evidence which have been assessed trial.

Having examined the safeguards accompanying assessment of the admissibility and reliability of the above evidence, the nature and extent of the alleged coercion and character of the use of material obtained by covert operation (covert operative-search activities), the Court came to the conclusion that the whole proceedings in the applicant's case is not contrary to the requirements of a fair judicial trial.

Many years of international experience shows that the introduction of operational employees in a criminal group needs to be addressed such important issues as:

- introduction of a legal framework in the criminal organization (community);
- selection of the candidate for rapid implementation;
- preparation for the introduction of employee;
- operational cover staff and the implementation of its management activities;
- financial and technical support for operational implementation;
- adaptation of the employee (after its withdrawal from the development of the criminal organizations) to work in normal conditions.

In the US, the decision to implement the operational staff, the problem of procedural or substantive nature, arising from the use of these staff must necessarily be consistent with the prosecution. If such an agreement in a timely manner could not be carried out for any reason, the prosecutor's office should be immediately informed about it. She was granted the right to address the issue of the

admissibility of the further use of the operative worker. This solution makes the head of the respective prosecutor's offices or directly to his subordinate<sup>196</sup> prosecutor.

The introduction of the criminal community officers and informants are widely practiced and German law enforcement authorities. However, the implementation of such operations is significantly hampered their legal<sup>197</sup>unsettled.

The analysis of the international legal framework and international experience to counter the criminalization of public authorities indicates the presence of an effective legal and institutional arrangements to prevent the appointment and election to the "responsible" positions of representatives of criminality, disclose and investigate corruption schemes within the party and state apparatus, to attract leaders and members of criminal organizations (communities) to justice. Taking into account the Russian specificity certain elements of the international and foreign law-making and enforcement practices can be used to domestic legislator in improving the legal framework to counter the criminalization of public authorities.

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<sup>196</sup> Ibid. p. 248.

<sup>197</sup> For example, the use of operational cover of documents establishing appropriate legendirovannyh organizations and institutions requires special permission from the Minister of Internal Affairs of the Federal Republic of Germany. In accordance with paragraph 1 of section 5 of the Federal Republic of Germany from 11 December 2001 on the harmonization of measures to protect witnesses at risk, identity card and passport cover can not be granted to non-Germans (German citizens) / Gesetz zur Harmonisierung des Schutzes gefaehrderter Zeugenschutz-Harmonisierungsgesetz - ZSHG)) //I S. 3510.



## **6. IMPROVEMENTS TO SOME LEGISLATIVE ACTS OF THE RUSSIAN FEDERATION IN THE COUNTERMEASURES AS PART OF CRIMINALIZATION OF THE PUBLIC AUTHORITIES**

The practical implementation of these in the areas of countering the criminalization of public authorities is based on the improvement of legislative acts regulating corresponding social relations.

In order to modernize the existing legislation is necessary to strengthen the requirements for the replacement of the state posts of the Russian Federation, state posts of the Russian Federation, for civilian, military, law enforcement and municipal service.

According to the "strange" coincidence in the Russian legislation requirements for the people's representatives - MPs and elected officials at all levels - much softer than, for example, requirements for judges, prosecutors, law enforcement bodies and special services.

According to paragraph 1 of Article 4 of the Law of the Russian Federation "On the Status of Judges in the Russian Federation", paragraph 2 of Article 40.1 of the RF Law "On the Russian Federation Prosecutor's Office", paragraphs 2 and 3 of Part 1 of Article 29 of the Federal Law "On Police", subparagraph 4 of paragraph 5 article 18 of the Federal law "On state protection", paragraph "c" of part 3 of article 16 of the Federal law "On Federal security service", paragraph 2 of part 4 of article 16 of the Federal law "On the Investigative Committee of Russia" citizen with a criminal record (including withdrawn or maturity), and in respect of which the prosecution terminated by the expiration of the period of limitation, in connection with the reconciliation of the parties, as a result of an amnesty or in connection with active repentance will never be able to enter the service or work in the prosecutor's office, police, organs of the state guard, the federal security service, the investigating authorities may not be appointed as a judge. However, the same citizen to freely elect the State Duma of the Federal Assembly of the Russian Federation, the legislative organ of state power of subjects of the Russian Federation, the representative body of the municipality, for any elective post!

The Federal Law "On Basic Guarantees of Electoral Rights and the right to participate in the referendum RF citizens" would be appropriate to make the following changes. Sub-paragraphs "a" and "b" of paragraph 3.2 of Article 4 of the Federal Law commented in the wording: "I do not have the right to be elected to the citizens of the Russian Federation: a) have a criminal record, including the withdrawal or<sup>198</sup> redemption; b) in respect of which the prosecution has been discontinued for the statute of limitations in connection with reconciliation of the parties, as a result of the amnesty act in connection with active repentance".

If these proposals to amend the federal law "On the status of the Russian Federation State Duma, the Federation Council and the status of the deputy of the Federal Assembly," the Federal Law "On general principles of organization of legislative (representative) and executive state power bodies of the Russian Federation" and the Federal Law " on basic guarantees of electoral rights and the right to participate in the referendum RF citizens "will not receive the full development in legislation Russian Federation, the minimum necessary means of dealing with the criminalization of public authorities seems to make at least bound by candidates for deputies directions and (or) in the elective offices of all available criminal records (including shot and canceled).

Paragraph 58 of Article 2 of the Federal Law "On Basic Guarantees of Electoral Rights and the right to participate in the referendum citizens of the Russian Federation" is offered in the following wording: "criminal record of the candidate - Criminal record indicating the number (s) and name (s) of article ( articles) of the criminal Code of the Russian Federation, on the basis of which (which) has been convicted candidate, the name of the court, sentencing, duration and type of punishment, release date, and the article (s) of the Penal Code, adopted in accordance with the Fundamentals of Criminal Legislation of the USSR and the Union Republics, article (s) of the law of a foreign state, if the candidate was

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<sup>198</sup> A person must be convicted of acts recognized as criminal under the current Criminal Code of the Russian Federation.

convicted under these legislative acts for actions recognized as a crime by the current Criminal Code of the Russian Federation."

Effective legislative counter the criminalization of elected authorities could be improved by adding to paragraph 3.2 of Article 4 of the Federal Law "On Basic Guarantees of Electoral Rights and the right to participate in the referendum RF citizens" subparagraph "e" - "convicted of offenses under articles 141, 141.1, 142, 142.1 of the Criminal Code of the Russian <sup>199</sup>Federation". Similar legal provisions should be included in Section 4.2 of Article 5 of the Federal Law "On elections of deputies of the State Duma of the Federal Assembly of the Russian Federation" and paragraph 5.2 of Article 3 of the Federal Law "On elections of President of Russian Federation." Thus, persons convicted in cases related to the violation of the election and referendum legislation, can not be elected to bodies of state power and local self-government.

Applicants to fill government posts of the Russian Federation, state posts of the Russian Federation, for civilian, military, law enforcement and municipal service should appear to undergo mandatory anti-criminal checks for ready reference accounting and automated information system of the Interior and security agencies.

In view of this initiative would require changes in claim 31 Part 1 of Art. 12 of the Federal Law "On Police" after the phrase "taken in response to these measures" as follows:

"to provide for the needs of the election commissions, referendum commissions and agencies of the Federal Security Service of information: the existence of a criminal record; the facts of the criminal proceedings or to terminate criminal prosecution for the expiration of the period of limitation, in connection with the reconciliation of the parties, as a result of an amnesty act in connection with active repentance; of the fact that in the search; Institution's affairs operative account in patients who are candidates for the post of President of Russian

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<sup>199</sup> This proposal will become relevant if the measures formulated by the author to restrict passive electoral rights in connection with the termination of criminal prosecution after the expiration of the limitation period are not implemented, in connection with the reconciliation of the parties, as a result of the amnesty act, in connection with active repentance.

Federation, the candidate of the legislative (representative) bodies of state power, candidates for elective offices of local government, candidates for substitution state of the Russian Federation posts of civil service positions of the Russian Federation, civil positions, military, law enforcement and municipal services; etc. - no change "to Article 10 of the Federal Law" On Federal Security Service "should be supplemented by the following rule: "The bodies of the Federal Security Service carried out checks of applicants to fill the government of the Russian Federation posts of civil service positions of the Russian Federation, the civil and military posts, law enforcement and municipal service."

Strengthening the requirements for the replacement of Russian state positions, state posts of the Russian Federation, for civilian, military, law enforcement and municipal services should be inextricably linked to the expansion of the list of officials representing the information about their income, expenses, assets and liabilities of material nature, and as income, expenses, assets and liabilities of material nature of his wife (husband) and minor children; clarifying the requirements of the costs of these officials; the introduction of anti-corruption restrictions on the ban be registered outside the Russian Federation ownership of the property.

In our opinion, the factor of corruption-current version of anti-corruption laws will be eliminated, if part 1 of Article 3 of the Federal Law of December 3, 2012 № 230-FZ "On the control of the relevant persons expenses, holding public office, and other persons their costs" and related anti-corruption laws will be included the wording: The substitute (occupies) one of the posts referred to in paragraph 1 of part 1 of article 2 hereof shall be obliged to submit information on their costs, as well as on consumption x his wife (husband) and minor children of each transaction for the acquisition of land, other real estate, vehicle, securities, shares (participation interests, shares in the authorized (share) capital of organizations), if **total** cost will exceed the total income of the person and his wife (husband) at the principal place of their service (work) **in the year preceding the transaction and** on the sources of obtaining funds with which to make a deal.

At present, anti-corruption restrictions on officials of deposits in foreign banks and foreign financial instruments shall apply only to persons holding the

Russian Federation public office, office of the federal public service, the purpose of which, and liberation from which are made by the Russian President, the Russian Federation Government, titles deputy heads of federal executive authorities, heads of urban districts, the heads of municipalities and areas and a number of other posts from the corresponding list. In this case, statutory limitations do not affect the financial basis of corrupt activity - opportunities to freely withdraw the funds from the territory of the Russian Federation and invest in real estate abroad.

Citizen, resident in the Russian Federation the right to ownership of property, in accordance with paragraph "d" of Part 3 of Article 16 of the Federal Law "On the Federal Security Service", subparagraph 6, paragraph 5 of Article 18 of the Federal Law "On State Protection" is subject to dismissal from the federal security or public health. But if this citizen is elected or already elected to the State Duma of the Federal Assembly of the Russian Federation, deputy of the legislative body of the Russian Federation, deputy of a representative body of the municipality, the highest official of the Russian Federation, was appointed Chairman of the Accounts Chamber of the Russian Federation, the Vice-President or an auditor of the Accounts Chamber of the Russian Federation, a member of the election commission with decisive voting rights, there are no problems for him there!

At the same time the powers of deputies, elected officials, persons holding public office, and the nature of which they have adopted political and legal decisions directly affect the rights and freedoms of citizens. Misuse of authority may pose a threat to the unity and territorial integrity, national defense, the unity of the legal and economic space of the Russian Federation. The presence of the property on the property right outside of the Russian Federation affects the objective performance of his duties, and parliamentary powers, could lead to harm the legitimate interests of citizens, organizations and the state.

In order to eliminate these "double standards" part 1 of article 4 of the Federal Law "On the status of the Federation Council and the status of the deputy of the State Duma of the Federal Assembly of the Russian Federation" proposed to add paragraph "k", which as independent grounds for early termination of powers

of the Federation Council member, deputy of the State Duma will be fixed purchase the registered outside the Russian Federation ownership of the property.

Determining whether the discovery or existence of accounts (deposits), storage of cash and valuables in foreign banks located outside the Russian Federation, the ownership and (or) use of foreign financial instruments, acquisition of registered outside the Russian Federation to the property rights should be secure as grounds for an early release from the post of the Russian Federation, Chairman of the Accounts Chamber, the Deputy Chairman and the auditors of the Accounting n ALT Russian Federation ch.8 Article 7, Article 8 and part of 10 ch.8 Article 9 of the Federal Law "On the Accounts Chamber of the Russian Federation."

Paragraph 4 of Article 12 of the Federal Law "On General Principles of Organization of Legislative (Representative) and Executive Bodies of State power of the Russian Federation" should be worded as follows: "The loss of a deputy of the Russian Federation citizenship, its acquisition of a foreign nationality or obtaining a residence permit or another a document confirming the right of permanent residence of a citizen of the Russian Federation on the territory of a foreign state, the acquisition registered outside the Russian Federation ownership of the property, it is the reason for the early termination of parliamentary powers."

A similar rule could be included in subparagraph "g" of paragraph 8 of Article 29 of the Federal Law "On Basic Guarantees of Electoral Rights and the right to participate in the referendum citizens of the Russian Federation" (grounds for termination of the commission of the member voting):

Determining whether the discovery or existence accounts (deposits), storage of cash and valuables in foreign banks located outside the Russian Federation, the ownership and (or) use of foreign financial instruments, sold tenie registered outside the Russian Federation ownership of the property.

Anti-corruption laws contain different approaches to assessing the financial position, sources of income, the rule of law and transparency in spending of individual officials and the legal consequences of a conflict of interest in these persons, failure to these officials information about income, expenses, assets and

property obligations in a timely manner, as well as submission of deliberately false or incomplete information.

For example, in the case of failure to provide information about income, expenses, assets and property obligations in a timely manner, as well as the submission of deliberately false information, law enforcement agencies, the military, civil and municipal employees subject to dismissal from the service, and members of the Russian Government, senior officials subjects of the Russian Federation, members of election commissions, judges continue to perform their duties and to replace the position.

Therefore, the list of the Russian Federation for dismissal of the Vice-President of the Government of the grounds and the federal ministers in Articles 9-11 of the Federal Constitutional Law "On the Government of the Russian Federation" is proposed to add the following:

identification of corruption, non-settlement of the conflict of interest, failure to provide information about their income, expenses, about assets and liabilities of a material nature, as well as income, expenses, assets and liabilities of material nature of their wife and minor children or knowingly providing false or incomplete information.

Among the grounds for early termination of powers of the highest official of the Russian Federation set out in Article 19 of the Federal Law "On General Principles of Organization of Legislative (Representative) and Executive Bodies of State power of the Russian Federation", it is advisable to include the failure to provide information about their income, expenses, assets and property obligations, as well as income, expenses, assets and liabilities of material nature of his wife (husband a) and minor children or knowingly providing false or incomplete information.

In paragraph 8 of Article 29 of the Federal Law "On Basic Guarantees of Electoral Rights and the right to participate in the referendum RF citizens" logical add a subparagraph "z" as follows: office of members voting terminated in the event ... "failure to provide information about their income, expenses, assets and liabilities of material nature, as well as income, expenses, assets and liabilities of

material nature of his wife (husband) and minor children or the head of representation of unreliable or incomplete information " .

Paragraph 5 of Article 8.1 of the Law of the Russian Federation "On the Status of Judges in the Russian Federation" is proposed to be amended as follows:

"In the event of failure to provide information on incomes, expenses, property and liabilities of a property nature in a timely manner, as well as submission of knowingly inaccurate information, the powers of the judge cease."

This rule should correlate paragraph 1 of Art. 14 of the Law of the Russian Federation "On the Status of Judges in the Russian Federation", in which it is necessary to add "failure to provide information on their incomes, expenditures, property and liabilities of property nature, as well as income, expenditure, property and property obligations of their spouse, and minor children or the submission of knowingly unreliable or incomplete information."

Thus, the unification of restrictions, prohibitions and duties of state and municipal employees, persons who replace public positions of the Russian Federation, public offices of the constituent entities of the Russian Federation, the posts of heads of municipalities, and municipal positions will correspond to the policy of pursuing a unified policy of countering corruption in the Russian Federation.

Strengthening the requirements for the replacement of the state posts of the Russian Federation, the state posts of the Russian Federation, for civilian, military, law enforcement and municipal services including regarding the submission of information about income, expenses, assets and liabilities of material nature should be systematically complemented by legal mechanisms of regular anti-corruption (anti-criminal) investigations.

It is proposed to initiate the development and adoption of the Federal Law "On Anti-Corruption (Anti-Criminal) Investigations."

The subject of anti-corruption (anti-crime) investigations should include:

1) the facts of corruption in government agencies and local government, law enforcement and supervisory bodies, state corporations, state and municipal authorities;



2) the circumstances relating to the election of persons involved in organized crime, the legislative authorities, elected local authorities, representative bodies of municipalities, for elective office;

3) the circumstances relating to the appointment of persons involved in organized criminal activity, to public office of the Russian Federation, the state posts of the Russian Federation, municipal offices, office of law enforcement and military service positions in state corporations, state and municipal authorities;

4) the evidence of lobbying officials of state and local government, law enforcement and audit bodies, state corporations, state and local government interests of enterprises, organizations, institutions and businesses owned by or affiliated with persons involved in organized criminal activity;

5) the facts of gross violations of financial discipline, reflected in the misuse of budgetary funds and state budget funds, misuse of credit, management and disposition of the federal, regional and municipal property.

This federal law should be consolidated list of entities that have the right to initiate and conduct anti-corruption (anti-criminal) investigation, the guarantee of organizational, financial and logistical support of ongoing investigations, the rights and obligations of the parties involved in the investigation.

Anti-corruption (anti-criminal) investigation can be carried out by the Public Chamber of the Russian Federation, Public Chamber of the Russian Federation, the Human Rights Ombudsman of the Russian Federation, the Commissioner for Human Rights in the Russian Federation, anti-corruption NGOs. Organizational form of such investigations may be the work of the commission created by the initiators of the anti-corruption (anti-criminal) investigations. This commission is offered to endow rights: to request from the state and municipal bodies, institutions and organizations with information and documents necessary for the investigation; invite for questioning under investigation the facts and circumstances of officials, experts and specialists; go to the place of the events under investigation. Financial and logistical support could be at the expense of budgetary funds allocated for the maintenance of the public chambers, ombudsmen.

An integral part of national mechanism for combating corruption and criminalization of the government is anti-corruption expertise of normative legal acts and normative legal acts.

To improve methods of anti-corruption expertise of normative legal acts of a number of federal laws and regulations need some adjustment.

The wording of parts 7-10 of Article 91 of the Federal Law "On elections of deputies of the State Duma of the Federal Assembly of the Russian Federation", associated with the possibility of cancellation of the decision of the Central Election Commission of the Russian Federation on the registration of a list of candidates to refuse its registration, the deletion candidate group from the list of candidates, with the cancellation of registration of a federal list of candidates, the cancellation of registration of candidates included in the registered federal list of candidates, with the exception of the regional group candidates from the federal list, is subject to selective enforcement and violation of the equal status of the subjects of the electoral process. Corruption factor is a dispositive establishment of the possibility of a public authority acts against citizens and organizations. Therefore, the phrase "may be" in parts 7-10 of Article 91 of the Federal Law "On elections of deputies of the State Duma of the Federal Assembly of the Russian Federation" is proposed to replace the phrase "should be".

Corrupt opportunity is enshrined in paragraph 7 of Article 70 of the Federal Law of June 12, 2002 № 67-FZ "On Basic Guarantees of Electoral Rights and the right to participate in the referendum citizens of the Russian Federation." The legislator provides that if a candidate without compelling circumstances not resigned as incompatible with the status of a deputy, elected officials, resulting in repeated elections are appointed, the candidate must be fully or partially compensate the relevant election commission produced its costs related to the re-election. The volume of reimbursement depends on the discretion of the Election Commission, indicating the presence of corruption factor. In order to eliminate the possibility of selective enforcement of the commented article it is proposed to delete the phrase "in whole or in part".

The Decree of the Government of the Russian Federation of February 26, 2010 № 96 should be restored withdrawn from the previous method of anti-

corruption expertise of corruption-factors to be considered in the expert work of the (lack of an act of the provisions on the disclosure of information about the activities of the authorities; the absence of prohibitions, restrictions and measures of responsibility for civil servants, lack of control options, including public, the activities of state bodies and officials; regulatory conflicts). Such an addition order of the anti-corruption expertise of legal acts and their projects appear to serve the interests of a real and effective fight against corruption, including in the electoral sphere.

Provision should be made legally responsible for the development and adoption of officials of bodies of state power of the Russian Federation, local government regulations, contrary to the Constitution of Russian Federation, federal constitutional and federal laws containing corruption rules, entailed a violation of the rights and freedoms of citizens, a threat to unity and territorial integrity, national defense, the unity of the legal and economic space a. In connection with the Chapter 30 of the Criminal Code of the Russian Federation proposed to add Article 287.1 as follows:

"The development and adoption of normative legal acts contradicting the Constitution of Russian Federation, federal constitutional and federal laws containing corruption rules entailed set by the court a violation of the rights and freedoms of citizens, a threat to the unity and territorial integrity and defense capability of the state, the unity of the legal and economic space

1. Development of state authorities, local self authorities control, their officials draft regulations that are contrary to the Constitution of the Russian Federation, federal constitutional and federal laws containing corruption rules, punishable by a fine in the amount of wages or other income for a period of 6 months to 1 year.

2. The adoption of normative legal acts in respect of which was carried out anti-corruption expertise to the conclusion about the presence of corruption standards established by the court and involve a conflict of interest, abuse of authority, or any other illegal use of the officials of state authorities or local

authorities of their official position contrary to the legitimate the interests of society and the state in order to obtain benefits in the form of money, valuables, other property or services, other property rights for themselves or for third parties, shall be punished by imprisonment for a term not exceeding two years, with disqualification to hold certain positions or engage in certain activities for up to three years.

3. The adoption of normative legal acts in respect of which was carried out legal examination of the conclusion of non-conformity of the Russian Federation Constitution, federal constitutional and federal laws, and involve a court established violation of the rights and freedoms of citizens, a threat to the unity and territorial integrity, national defense, law and unity economic space,

shall be punished by imprisonment for a term not exceeding five years, with disqualification to hold certain positions or engage in certain service for up to three years."

Securing the criminal legal responsibility for the development and adoption of normative legal acts containing norms of corruption, anti-corruption expertise of legal acts and projects of such acts will improve the quality of legislation and to strengthen public confidence in the representative bodies and local authorities.

Strengthen the responsibility of political parties, candidates for deputies and change for the better the character of the people's representatives could be returned to the practice of exclusion of candidates from party lists for the provision of false information and false documents.

Part 4 of Article 44 of the Federal Law "On elections of deputies of the State Duma of the Federal Assembly" should be amended by adding paragraph 10 to read as follows: "The Central Election Commission of the Russian Federation exclude the candidate from the federal list of candidates when the candidates presented false documents or false information when it is switched on part of the federal list of candidates. "Part 9 of Article 91 of the Act needs to be supplemented by paragraph 6: "Registration of a candidate included in a registered federal list of

candidates nominated by a political party may be canceled by the Supreme Court at the request of the Central Election Commission of the Russian Federation, a political party, federal list of candidates which is registered in the following cases: ... establish the facts before a candidate forged documents or false information."

In paragraph 24 of Article 38 of the Federal Law "On Basic Guarantees of Electoral Rights and the right to participate in the referendum RF citizens" it seems appropriate to include the item "n", whereas the grounds for refusal to register a candidate to provide representation candidate of forged documents or false information.

A similar basis for the exclusion of the candidate from the certified list of candidates, as well as to cancel the registration by the court of the candidate on the application registered with the Electoral Commission of the candidate, the candidate registered in the same constituency, could be fixed in subparagraph "a" of paragraph 26 of Article 38 and subparagraph "and "paragraph 7 of article 76 of the Federal law commented.

It would be logical to delete paragraph 4 of Article 33 of the Federal Law "On Basic Guarantees of Electoral Rights and the right to participate in the referendum RF citizens", which provides for the possibility of not presenting candidates for deputies of representative bodies of municipal entities in the election commissions the information on the amount and sources of income, as well as property owned by the candidate for ownership of bank deposits and securities.

Law enforcement agencies should be granted the right to carry out operational-search activities, investigations and prosecute the registered candidates and officials reasonably suspected of organized crime or of having links with criminal organizations, regardless of their employment status and procedural status. To do this, it is advisable to dismantle the existing Code of Criminal Procedure and in the constitutional and legal legislation immunity from prosecution (ch.8 9 Art. 40 of the Federal Law "On General Principles of Local Self-Government in the Russian Federation", h. 3, 6 and 7, Art. 16 law of the Russian Federation "on the status of judges in the Russian Federation", Art. 39 of

the Federal law "on the Accounts Chamber of the Russian Federation", p. 18, Art. 29 of the Federal law "on basic guarantees of electoral rights and the right to participate in the referendum RF citizens).

The need for modernization of operatively-search legislation should be emphasized. Given the importance solved by means of confidential sources of problems to counter the criminalization of government, as an additional legal guarantees for their activities appears necessary to supplement part 4 of Art. 18 of the Federal Law "On operative-investigative activities" position as follows: "A person who is involved in a confidential law enforcement cooperation, exempted from criminal liability for an act on behalf of such a body, if the act is committed in order to identify, prevent and combat serious crimes with provided that the harm caused to the protected interests is less significant than the harm that could be caused in the case of the prevention of crime, and provided that case, prevention and suppression of criminal activities could not be carried out in any other way. " In this connection, it is proposed to supplement Chapter 11 of the Criminal Code "Exemption from criminal liability" in Article 77 as follows: "a person who is recognized in the course of the investigation a member of a criminal organization (community), and thus committed a misdemeanor or felony may be released from criminal liability if it is to commit a criminal offense has entered into an agreement with the police and was introduced in a criminal organization (community), and then strived to expose new criminal organization (community), and his actions are no signs of other crimes."

It is necessary to repeal provisions in Part 1 of Art. 42 of the Law of the Russian Federation "On the Prosecutor's Office of the Russian Federation", Part 1 of Art. 29 of the Federal Law "On the Investigation Committee of the Russian Federation", according to which the check posts on the fact of the offense committed by the prosecutor (or an employee of the Investigation Committee), is the exclusive competence of the prosecution (the Investigation Committee). This provision establishes an unjustified exception to the general inspection by law enforcement agencies of reports of offenses and gives the benefit of corporate

solidarity "protection esprit de corps" potential discretionary powers of officials of the prosecution (the Investigation Committee).

Liquidation (limitation of the number and content) immunities of registered candidates, elected officials and parliamentary immunity would require a radical transformation of Chapter 52 Code of Criminal Procedure "Peculiarities of criminal proceedings in respect of certain categories of persons. "In particular, the number of persons in respect of which the special procedure of criminal proceedings, should be excluded: the auditors of the Accounts Chamber of the Russian Federation; Deputies of local government; members of elected bodies of local self-government; elected officials of local self-government; Justices of the Peace; investigator; lawyer; registered candidate for deputy of the legislative (representative) body of state power of subjects of the Russian Federation.

The phrase "the public prosecutor" in Article 447 Criminal Procedure Code of the Russian Federation proposed to be replaced by "the Prosecutor General of the Russian Federation and his deputies, the Russian Federation Prosecutor", the phrase "members of election commissions, referendum commissions with the right of decisive vote" - on "CEC Chairman Russia, his deputies, Chief electoral Officer of the Russian Federation."

It seems that the implementation of a set of proposed legal action is an important task of nation-building and it ensures the continuity of the anti-crime policy in the Russian Federation.

## CONCLUSION

1. In recent years, criminal groups are becoming increasingly significant place in the Russian political system. Representatives of organized crime seek to control the lucrative sector of the economy, to manage the funds that are involved in the decision-making authorities, to influence the legislative process.

Solutions to these tasks by the criminals carried out by the participation of organized crime in the elections, followed by the election of the authorities and by appointing his henchmen to key positions corrupt officials of state and municipal vehicles.

The priority is the participation of criminals in election campaigns. Increased activity of organized criminal organizations (communities), associated with attempts to be elected to bodies of state power and local self-government, due to the interest of criminal organizations in a constant build-up of their income, the direct dependence of the formal and informal economic activities on the political situation in the Russian Federation, the desire of managers and participants criminal structures to ensure personal safety.

For representatives of criminality election to public office and obtaining parliamentary mandate are presented solely significant.

Firstly, the fact of granting of authority bandits legalizes their criminal past and casts doubt on the connection with criminal societies (organizations).

Secondly, the replacement of elected public office and membership of the bodies of the people's representatives give the appearance of bandits implementing powers in the name of and on behalf of the people.

Thirdly, the formal involvement of material, financial, informational, legal and other resources of the state significantly extends the scope and power of influence of criminal societies (organizations) on social processes in the country and abroad.



Currently, leaders of criminal organizations is almost universally legalized their criminal associations and affiliated organizations, allowing them to objectively qualify for the role of an independent member of the Russian political system.

The role of criminal organizations (communities) in the political system is reflected in their functions, which include:

- a) representation of socio-political interests of a particular section of society;
- b) actual implementation of individual public authority ("shadow" justice, education and employment of young people from disadvantaged families, etc.);
- c) development and implementation of political strategy and tactics of the struggle for state power in the elections.

Conducted in the analysis of the place and the role of criminal organizations (communities) in the political system of the Russian society testifies to the institutionalization and legalization of criminal organizations in the political system and an exceptional public danger of this phenomenon.

2. The desire of criminals to expand their spheres of influence is noted at both the federal and regional levels. Socio-political significance of the elections of deputies of the State Duma of the Federal Assembly of the Russian Federation confirmed by the legal practice of election commissions and law enforcement agencies, which demonstrates the use of active attempts by organized crime of the election campaign for the penetration of the federal legislative body of the Russian Federation.

Analysis of biographical these candidates nominated by political parties that participated in the elections of deputies of the State Duma of the Federal Assembly of the Russian Federation of the fifth and sixth convocation, information about their income and assets, unwithdrawn and a conviction that, to bring to criminal responsibility, on the election in respect of some of the nominated candidates for a preventive measure in the form of detention, grounds for termination of the criminal prosecution of such persons, points to the following circumstances:

- to put forward s and the registered lists of all political parties that participated in the elections to the State Duma of the Federal Assembly of the Russian Federation, attended the candidates, to prosecute;

- among those with cancellation of conviction, in the elections to the State Duma of the Federal Assembly of the Russian Federation nominated the deputies of the State Duma of the Federal Assembly were registered members of legislative bodies of the Russian Federation, representative bodies of municipalities, chairmen of regional and local branches of parties, members of the federal and regional governing bodies of political parties;

- some candidates were convicted of crimes jointly, individuals were repeated criminal record, including the Serious formulations;

- in respect of a number of candidates to conduct a preliminary investigation and was elected a preventive measure in the form of detention;

- individual candidates were in the federal wanted list.

It should be stated that, despite the measures by election commissions and law enforcement measures, part of the citizens, to prosecute and having a criminal record repaid, was elected to the State Duma of the Federal Assembly of the Russian Federation.

3. The wide media coverage of the federal election campaign, the essential material costs of political parties and candidates, greater control over the legality and transparency of the electoral process by the federal regulatory and supervisory authorities lead to the fact that in modern conditions the most massive canal criminalization of the Russian political system is a the participation of representatives of criminal organizations (communities) in the municipal and regional elections.

The practice of regional and municipal elections that took place in 2006-2013, shows some trends involvement of organized criminal groups in election campaigns.

Firstly, one of the representatives of organized criminal groups, directly running for MPs or elected positions currently decreased markedly. The leaders of

the criminal environment offer promising candidates their participation in the financing of election campaigns, either alone advance preparing for the introduction of the state authorities and local self-government of their "unexposed" proxies (often relatives) who have no criminal record, not compromised identified connections with organized crime groups.

Secondly, despite the legalization of the status and income, none of the deputies or elected officials, who are leaders of the criminal environment, dismissed their combat groups ("militants"). As a rule, these structures operate under the guise of private security firms or security services. Thus, in the course of organizing and conducting elections, the representatives of organized criminal groups may be possible to use the force on the electoral process in order to influence political decision-making, destabilize and intimidate the population. In addition, leaders of ethnic criminal groups operating in the territory of the Russian Federation may use their combat units during the ethnic clashes periodically arise in certain regions of the Russian Federation.

Thirdly, taking into account the increasing role of political parties in the electoral process, the most important task of criminal intelligence and counterintelligence was to establish control of organized criminal groups over the leading political parties (regional branches of political parties) and promotion of their representatives in the bodies of state power, local self-government and the election commission using party structures.

Fourth, members of organized criminal groups had virtually ceased to be carried out money laundering during the elections. This circumstance is due to the presence of organized criminal groups of diverse legal sources of financing of election campaigns and the tightening of legal liability for the violation of election financing.

These trends are involvement of organized criminal groups in election campaigns hamper the purposeful activity of law enforcement agencies to prevent criminality representatives to bodies of state power and local self-government elections and strengthen public danger of such processes.

The analysis of the registered lists of candidates for municipal and regional elections held in the period from 2006 to 2013 shows that the elections constitute a significant proportion of those convicted of crimes against property among the candidates with criminal records. This category of citizens is running as a way of self, and in the party lists.

The lists of candidates from political parties as there is a significant criminal representation of citizens who have been convicted of crimes against public security, crimes against life and health, crimes against the government, the civil service and the interests of service in local government, crime in the sphere of economic activity and for crimes against order management.

Some candidates were judged on set of crimes, individuals were in the federal wanted list.

In some cases, candidates and elected officials have repeated convictions.

To penetrate the bodies of state power of subjects of the Russian Federation and local self-government representatives criminals use a variety of tricks.

In order to obtain seats in the federal and regional legislative bodies of criminals deliberately distort its setting data (first name, date of birth), remove information about yourself from the regional databases of law enforcement bodies, as well as seeking to promote the "unexposed" proxies (often relatives) do not have a criminal record and known links to organized crime. This makes it difficult to check these people to integrate FGBU "GIAC Ministry of Internal Affairs of Russia" and the information centers of territorial bodies of the Russian Interior Ministry and gives them the opportunity to be elected to state authorities.

Some previously convicted candidates are running as part of the regional groups of the Russian Federation, where they live and which are irrelevant. A part of candidates change their party affiliation for the other lists. Note as an occupation "temporarily unemployed" in some cases used by candidates, against whom preventive measure in the form of detention (art. 98 Code of Criminal Procedure).

4. The lead subject to counter the criminalization of public authorities in terms of election campaigns are the election commissions.

There are a number of interrelated organizational forms of the anti-criminal activities of election commissions in terms of election campaigns:

- validation of candidates submitted information unwithdrawn (outstanding) convictions, convictions for serious and (or) particularly serious crimes;

- validation of the information submitted by the candidates on the income and property of the bank deposits and securities, information about accounts (deposits), cash and values in foreign banks located outside the Russian Federation;

- appeal to the law enforcement agencies with requests: on persons suspected or accused of committing a crime; on persons convicted of committing a crime; the persons against whom the decision about the termination of the criminal prosecution of the expiration of the period of limitation, in connection with the reconciliation of the parties, as a result of the amnesty act in connection with active repentance; the persons against whom the sentence before the entry into force of the act has been applied to a pardon or an amnesty exempting from punishment; on persons who have committed an administrative offense; about the persons consisting under preventive supervision; on the persons on the wanted list; about checking links candidates with the criminals, criminal organizations controlled organizations and lending institutions;

- exclusion of the candidate (candidate group) of certified lists;

- refusal to register a candidate (list of candidates);

- cancellation of registration of a candidate (list of candidates) higher commission;

- appeal to the court to cancel the registration of the candidate (list of candidates);

- control over the sources, proper accounting and use of funds of election funds;

- verification of the financial reports of candidates;

- anti-corruption expertise of normative acts of election commissions;

- informing the law enforcement and intelligence agencies to test signals, suppress unlawful propaganda activities, proceedings on administrative offenses or preliminary investigation;

- proceedings on administrative violations in the field of elections, within the competence of the members of election commissions with decisive votes.

Anti-criminal activities of election commissions is an element of the national strategy to counter the criminalization of the authorities, which is carried out not only to the security services and law enforcement agencies, but also the authorities, management, media, political parties, municipalities and civil society human rights organizations.

The current political and socio-economic systems of criminal situation requires a response from the country's leadership, the formation and the consistent implementation of tougher anti-crime policy in the Russian Federation.

Opposition to further penetration of criminal organizations (communities) to the authorities and their merging with other institutions of the political system of the Russian society requires immediate and systematic work in the following main areas:

- closer coordination of law enforcement, the media, political parties and civil society organizations to prevent the party of corruption and election (appointment) of representatives of criminality in the state authorities and local self-government;

- undermining the economic base of criminal organizations, representatives of the displacement of criminals from legitimate businesses;

- formation of a negative public attitude towards the activities of criminal groups, criminal leaders and promotion of anti-crime measures;

- the improvement of the electoral legislation, state and municipal service through the establishment of legal restrictions on electing (appointing) the state authorities and local government officials who are under investigation, wanted, having a criminal record for committing a grave or especially grave<sup>200</sup> crimes, as

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<sup>200</sup> This requirement has been implemented with regard to candidates for deputies and to elected posts.

well as citizens, in respect of which the prosecution dropped the expiration of the period of limitation, in connection with the reconciliation of the parties, as a result of an amnesty or in connection with active repentance;

increasing demand for the replacement of the state posts of the Russian Federation, state posts of the Russian Federation, for civilian, military, law enforcement and municipal services;

introduction of anti-crime mandatory inspections of all candidates entering into the civil, military, law enforcement and municipal service;

expanding the list of officials representing the information about their income, expenses, assets and liabilities of material nature, as well as income, expenses, assets and liabilities of material nature of his wife (husband) and minor children; clarification of the requirements of the costs of these officials;

regular anti-corruption (anti-crime) investigations;

improve the methods of anti-corruption expertise of legal acts;

liquidation (limitation of the number and content) immunities of elected officials and parliamentary immunity;

expand the list of grounds for exclusion of candidates from a list of certified, as well as failure candidate registration and de-registration of the candidate by the court in connection with the submission of false documents or false information.

5. These trends to counter the criminalization of public authorities in the Russian Federation should be taken into account of the existing international legal framework and international experience.

Opposition to the criminalization of public authorities in foreign countries is carried out with the use of overt and covert means, forms and methods of work.

The strategic directions of counteraction of criminalization of public authorities in foreign countries, as a rule, are:

- anti-criminal checks of candidates for the civil service and the work of the law enforcement agencies (including the use of the<sup>201</sup> polygraph);

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<sup>201</sup> Unfortunately, in recent years, law enforcement agencies and special services of the Russian Federation is necessary to ascertain the spread of so-called negative practices "Custom

- control of the counter-intelligence authorities for appointments of "responsible" positions in the government and law enforcement agencies;
- increased penalties for crimes committed as part of criminal organizations (communities);
- violation of the organizational structures of criminal groups through criminal prosecution of their leaders, allowing for more effective pawn work among the rank and file members of organized criminal groups to achieve their degradation and, ultimately, the elimination of the criminal group;
- undermining the financial base of the criminal organization by covering its criminal incomes channels, as well as the seizure of illegally acquired capital, in particular, with the active use of confiscation measures and tax legislation;
- implementation of programs to protect witnesses in cases of corruption and organized crime;
- conducting specialized covert operations against criminal community (organization);
- elimination of the causes and conditions conducive to the existence and functioning of the criminal organization, including through socio-economic measures to reduce the reserve army of organized crime and "containment policy, resorting to the services of criminal groups."

Conducted in the analysis of the international legal framework and international experience to counter the criminalization of public authorities indicates the presence of an effective legal and institutional arrangements to prevent the appointment and election to the "responsible" positions of representatives of criminality, disclose and investigate corruption schemes within the party and state apparatus, attract leaders and members of criminal organizations (communities) to justice. Taking into account the Russian specificity certain

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polygraph." In the course of such an examination at the entry and appointment to senior positions objectionable leadership candidates (employees) are excluded from the destination, and "paid-for" and dependent (controlled entities or their own security personnel) candidates are appointed. Inquisitorial accusatory, the absence of any guarantees of protection of honor and good name, the opacity of the procedure, the inability to review and challenge the results greatly reduce Anticriminal potential and importance of this event.



elements of the international and foreign law-making and enforcement practices can be used to domestic legislator in improving the legal framework to counter the criminalization of public authorities.

6. The effectiveness of the implementation of anti-crime measures directly related to the quality of legislative acts regulating corresponding social relations.

In the context of the modernization of the legal framework for the minimum necessary means of dealing with the criminalization of public authorities seems to make it compulsory to indicate candidates for deputies and (or) in the elective offices of all available criminal records (including shot and canceled).

Quality legal counteraction of criminalization of elected authorities could be improved by adding to paragraph 3.2 of Article 4 of the Federal Law "On Basic Guarantees of Electoral Rights and the right to participate in the referendum RF citizens" subparagraph "e" - "convicted of offenses under articles 141, 141.1, 142, 142.1 of the Criminal Code of the Russian <sup>202</sup>Federation". Similar legal provisions should be included in Section 4.2 of Article 5 of the Federal Law "On elections of deputies of the State Duma of the Federal Assembly of the Russian Federation" and paragraph 5.2 of Article 3 of the Federal Law "On elections of President of Russian Federation." Thus, persons convicted in cases related to the violation of the election and referendum legislation, can not be elected to bodies of state power and local self-government.

Taking into account the related provisions of paragraph 1 of Article 4 of the Law of the Russian Federation "On the Status of Judges in the Russian Federation", paragraph 2 of Article 40.1 of the RF Law "On the Russian Federation Prosecutor's Office", paragraphs 2 and 3 of Part 1 of Article 29 of the Federal Law "On Police", paragraph 4 paragraph 5 of article 18 of the Federal law "on state protection", paragraph "c" of part 3 of article 16 of the Federal law "on the Federal security service", paragraph 2 of part 4 of article 16 of the Federal law "on the

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<sup>202</sup> This offer will become relevant if they are not implemented by the author formulated measures to restrict passive suffrage in connection with the termination of the criminal prosecution of the expiration of the period of limitation, in connection with the reconciliation of the parties, as a result of an amnesty act in connection with the active repentance.

Investigative Committee of Russia," establishing a restriction on the service or work in the judiciary, the State Guard, the Federal Security Service of the prosecutor's office, police, bodies of authorities, investigative bodies of persons against whom criminal prosecution is discontinued the expiration of the period of limitation, in connection with the reconciliation of the parties, as a result of an act of amnesty or connection with active repentance, these legal rules on the limitation of citizens before the law (in our case - the right to be elected) it seems logical to consolidate and federal election laws.

Existing anti-corruption laws contain different approaches to assessing the financial position, sources of income, the rule of law and transparency in spending of individual officials and the legal consequences of a conflict of interest in these persons, failure to these officials information about income, expenses, assets and property obligations in a timely manner, and as deliberate submission of false or incomplete information.

To the anti-corruption and anti-crime policy was implemented effectively, it is necessary to establish uniform legal restrictions and prohibitions on state and municipal employees, persons holding public office of the Russian Federation, the state posts of the Russian Federation, as the heads of municipalities, municipal offices.

In this regard, the list of grounds for dismissal (early termination of powers) in articles 9-11 of the Federal Constitutional Law "On the Government of the Russian Federation", Part 1 of Article 4 of the Federal Law "On the status of the Federation Council and the status of the deputy of the State Duma of the Federal Assembly of the Russian Federation " Part 8 of Article 7, paragraph 8 of Article 8 and part 10 of Article 9 of the Federal Law "On the Accounts Chamber of the Russian Federation", article 19 of the Federal Law "On General Principles of Organization of Legislative (Representative) and Executive Bodies of State power of the Russian Federation", paragraph 8 of Article 29 of the Federal law "on basic guarantees of electoral rights and the right to participate in the referendum RF

citizens", paragraph 5 of article 8.1 of the law of the Russian Federation "on the status of judges in the Russian Federation" is proposed to include be:

- failure to provide information about their income, expenses, assets and liabilities of material nature, as well as income, expenses, assets and liabilities of material nature of his wife (husband) and minor children or knowingly providing false or incomplete information;
- acquisition of registered outside the Russian Federation ownership of the property.

Thus, the exchange rate on the implementation of a unified anti-corruption policy in the Russian Federation will meet the unification of restrictions, prohibitions and responsibilities of state and municipal employees, persons holding public office of the Russian Federation, the state posts of the Russian Federation, as the heads of municipalities, municipal offices.

Applicants to fill government posts of the Russian Federation, state posts of the Russian Federation, for civilian, military, law enforcement and municipal service should appear to undergo mandatory anti-criminal checks for ready reference accounting and automated information system of the Interior and security agencies.

In order to undermine the economic basis of the actual criminal organizations, rather than imitation of the fight against crime confiscation of property should be returned to the category of types of criminal punishment. In this case, the list of offenses for which confiscation is possible to use, needs to be supplemented compositions, result of which is to obtain property benefit.

The legal regime of blocking (freezing) of cash or other assets of organizations and individuals should be extended to any proceeds of crime, and not only on the property of organizations and individuals suspected of involvement in extremist activities or terrorism.

It is necessary to repeal provisions in Part 1 of Art. 42 of the Law of the Russian Federation "On the Prosecutor's Office of the Russian Federation", Part 1 of Art. 29 of the Federal Law "On the Investigation Committee of the Russian

Federation", according to which the check posts on the fact of the offense committed by the prosecutor (or an employee of the Investigation Committee), is the exclusive competence of the prosecution (the Investigation Committee). This provision establishes an unjustified exception to the general inspection by law enforcement agencies of reports of offenses and gives the benefit of corporate solidarity "protection esprit de corps" potential discretionary powers of officials of the prosecution (the Investigation Committee).

Increase the responsibility of political parties, candidates for deputies and improve the quality of people's representation could be returned to the practice of exclusion of candidates from party lists for the provision of false information and false documents. Submission of candidate forged documents or false information should be secure as grounds for refusal of registration.

It needs to abolish the position of corruption of the electoral legislation, providing for the possibility of failure candidates of the representative bodies of municipalities in the election commissions the information on the amount and sources of income, as well as on the property belonging to the candidate on the ownership of the bank deposits and securities.

Law enforcement agencies should be granted the right to carry out operational-search activities, investigations and prosecute the registered candidates and officials reasonably suspected of organized crime or of having links with criminal organizations, regardless of their employment status and procedural status. To do this, it is advisable to dismantle the existing Chapter 52 Code of Criminal Procedure and the constitutional and legal legislation immunity from prosecution (ch.8 9 Art. 40 of the Federal Law "On General Principles of Local Self-Government in the Russian Federation", h. 3, 6 and 7 of Article . 16 law of the Russian Federation "on the status of judges in the Russian Federation", Art. 39 of the Federal law "on the Accounts Chamber of the Russian Federation", p. 18, Art. 29 of the Federal law "on basic guarantees of electoral rights and the right to participate in the referendum of the Russian Federation's citizens"). In particular, the number of persons in respect of which the special procedure of criminal

proceedings, should be excluded: the auditors of the Accounts Chamber of the Russian Federation; Deputies of local government; members of elected bodies of local self-government; elected officials of local self-government; Justices of the Peace; investigator; lawyer; registered candidate for deputy of the legislative (representative) body of state power of subjects of the Russian Federation.

It seems that the implementation of a set of proposed legal actions is an important task of nation-building, and the insurance of consistency of anti-criminal policy in the Russian Federation.

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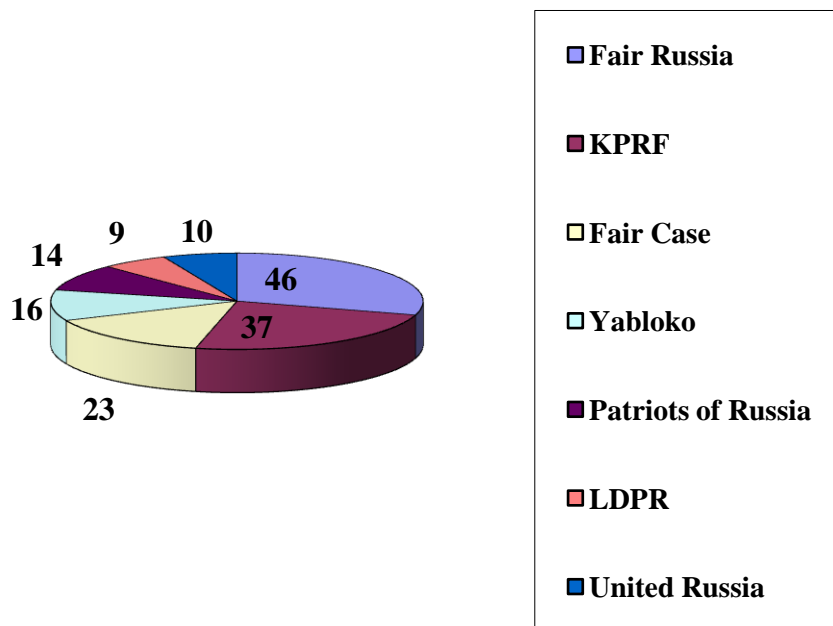
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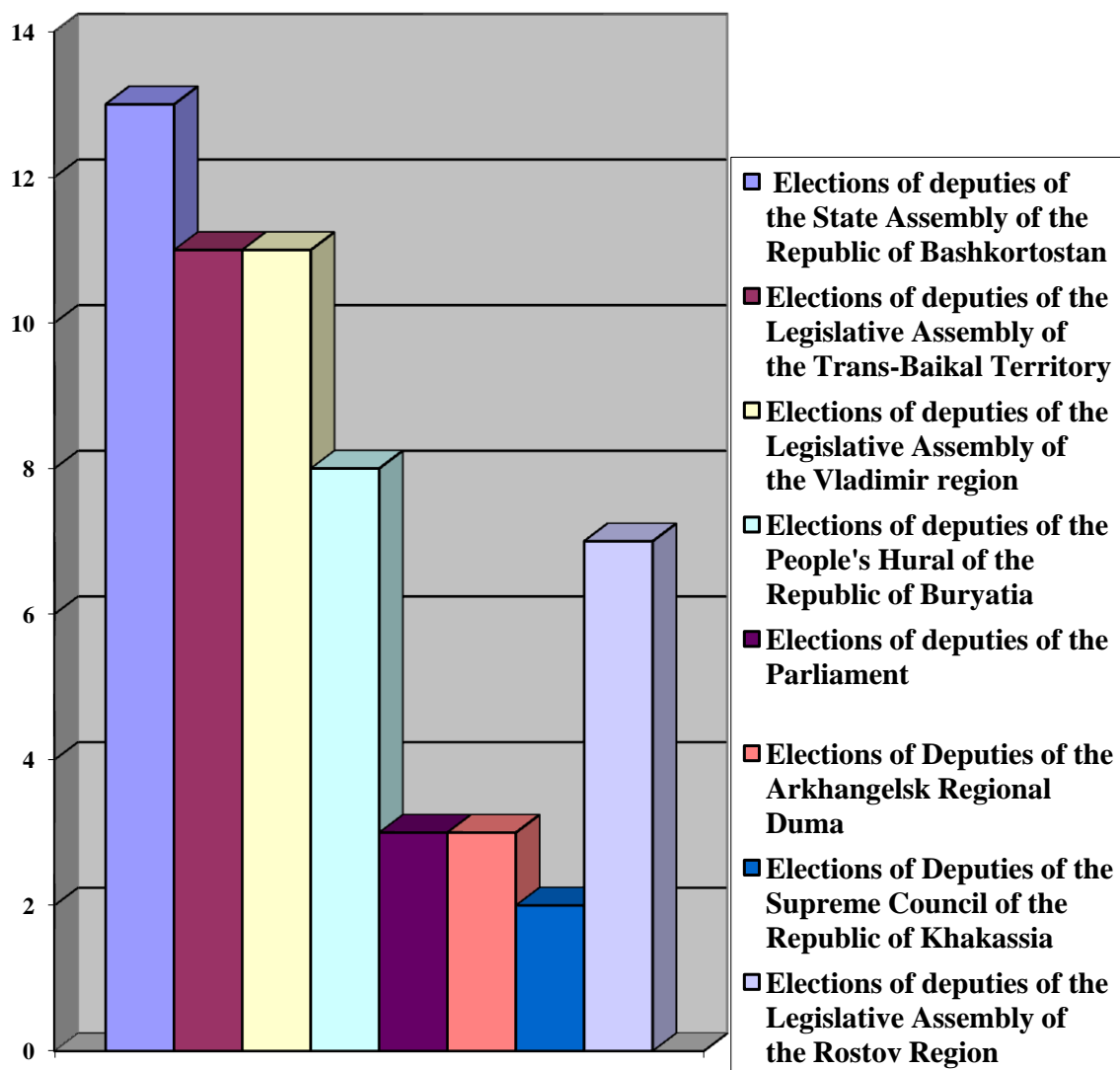
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## APPENDIX

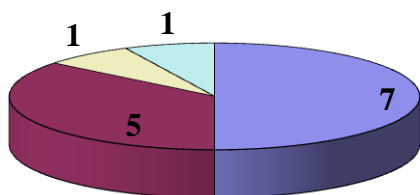
**Annex 1. Number of candidates to be criminalized in the registered lists of candidates for deputies of the State Duma of the Federal Assembly of the Russian Federation of the sixth convocation**





Number of registered candidates with a criminal record in the elections to the bodies of state power of the subjects of the Russian Federation on September 8, 2013.

**Appendix 3. Number of registered candidates to prosecute on the elections to the local self-government administrative centers of the Russian Federation 8 September 2013**

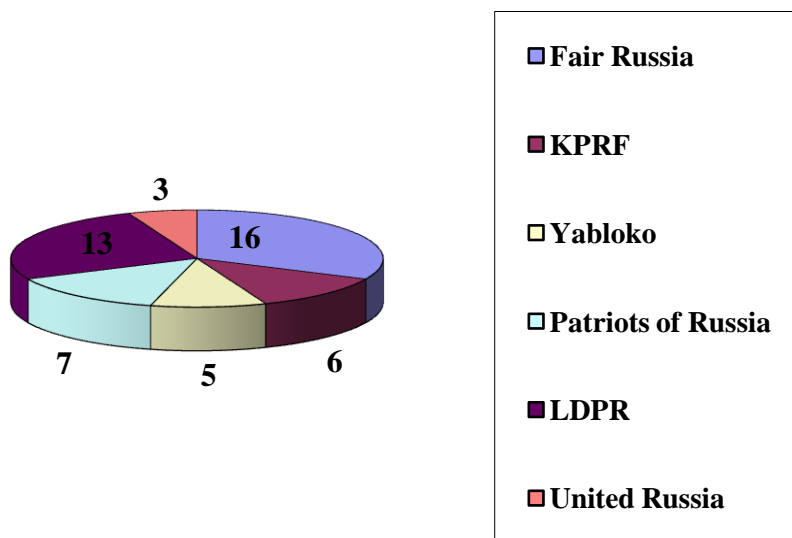


■ Elections of deputies of the Yekaterinburg City Duma

■ Elections of deputies of the Volgograd City Duma

□ Elections of deputies of the Arkhangelsk City Duma

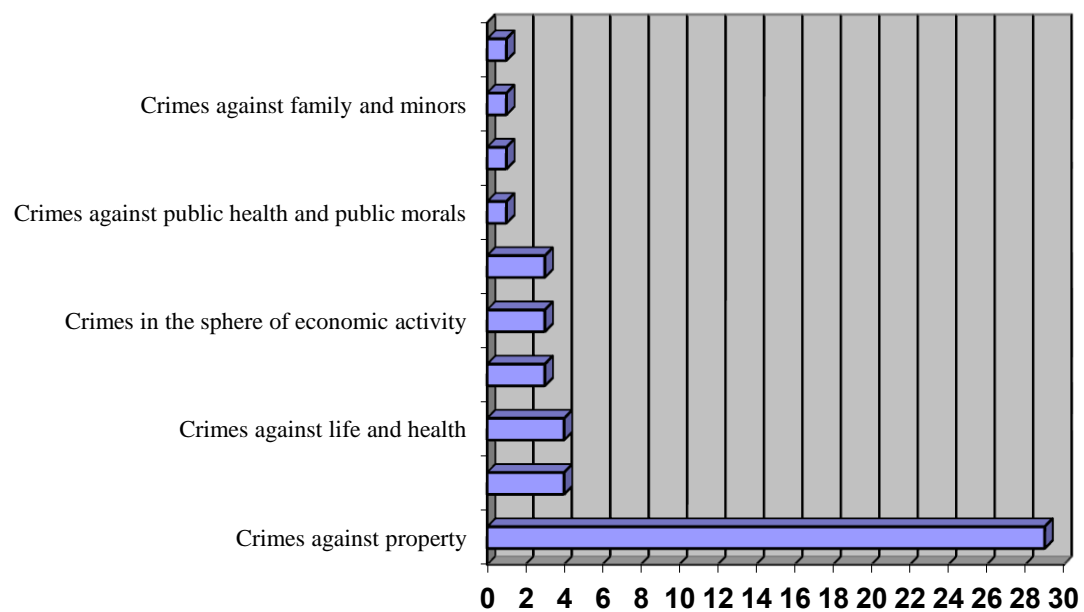
□ Election of deputies of the Krasnoyarsk City Council



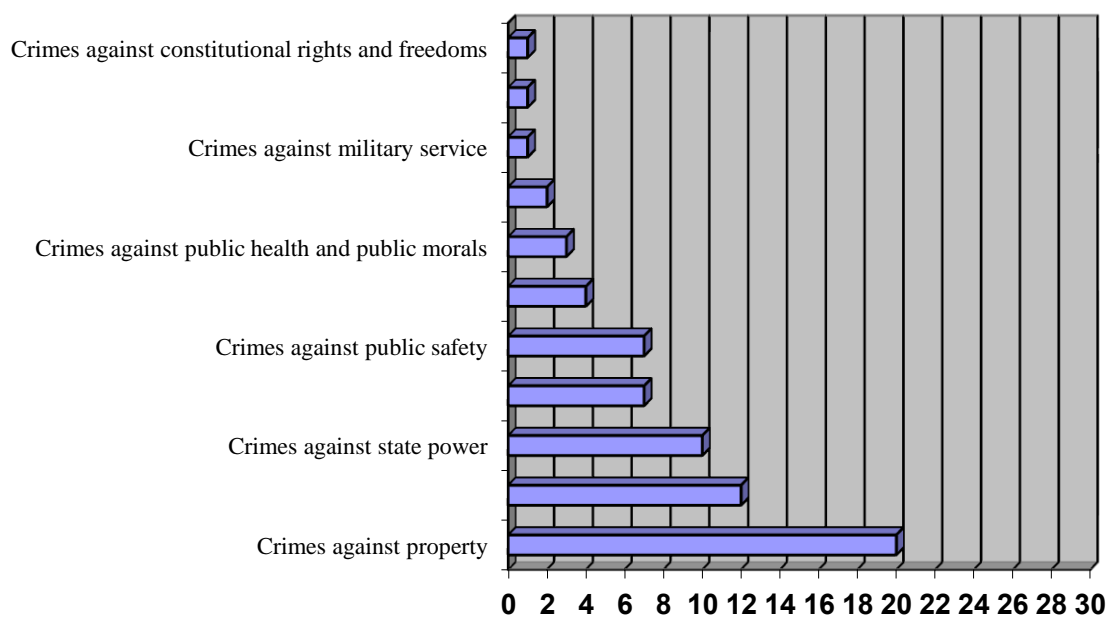
**Appendix 4. The number of candidates - representatives of the parliamentary parties, are attracted to criminal liability in elections to bodies of state power of subjects of the Russian Federation and local government administrative centers of the Russian Federation September 8, 2013**



■ Annex 5. Number of candidates - representatives of non-parliamentary parties who were brought to criminal responsibility in the elections on September 8, 2013

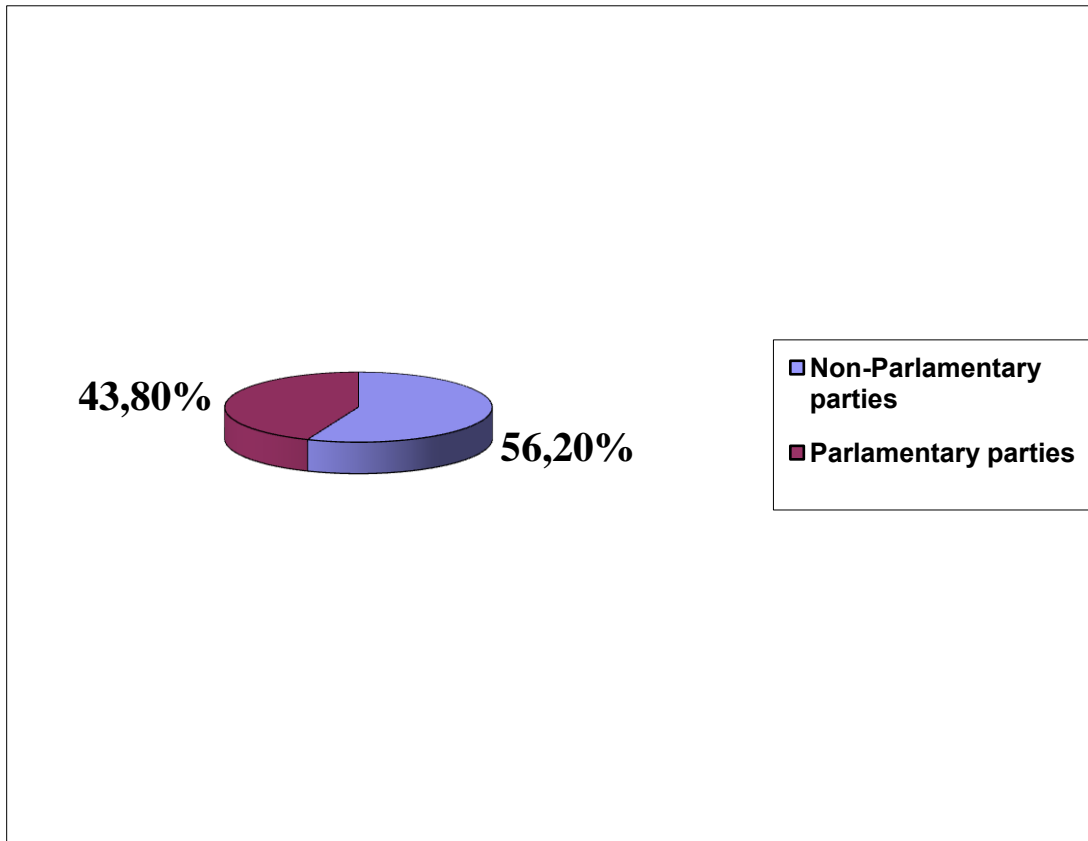


■ Appendix 6. The distribution of convicts by the composition of crimes in the registered lists of parliamentary parties in the elections on September 8, 2013



■ Appendix 7. Distribution of convicts by crimes in the registered lists of non-parliamentary parties in the elections on September 8, 2013





**Appendix 8. Percentage of candidates - representatives of parliamentary and non-parliamentary parties, to prosecute, on the elections to the State authorities of the Russian Federation and local government administrative centers of the Russian Federation September 8, 2013**