



## ГОСУДАРСТВО И ПРАВО В СОВРЕМЕННОМ МИРЕ

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Research Article

### LEGAL AND THEORETICAL APPROACHES TO THE DEFINITION OF CORRUPTION

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**Abstract.** In legal literature there is a big amount of definitions of corruption due to the complexity of this phenomenon. The article considers various legal and theoretical approaches to the definition of corruption. The Author mentions the problem of notional proximity of different definitions of corruption and proposes a method of identification of definitions which are close in meaning. The author also proposes to consider social and psychological aspects in definition of corruption as these aspects are regarded as an integral part of corruption.

**Key words:** corruption, definition of corruption, bribery, abuse of office

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## **Introduction**

Corruption, as well as various methods in struggling against this phenomenon is a subject of profound interest of scientists for many years. However, it is obvious that corruption becomes a topic for discussion and consideration among ordinary people. This circumstance indicates that corruption is a complex phenomenon, which affects various spheres of social life. For instance, according to the survey of Vologda Scientific Center of the Russian Academy of Sciences, 21.9% of people are deeply concerned by the level of corruption. This research mentions corruption among such vital problems for Russian citizens as social vulnerability, unsatisfactory quality of engineering infrastructure and others (Berkovich, Dukhanina, Maksimenko, Nadutkina, 2019:161–178).

The consequences of corruption are diverse and may be structured into several groups. The economic consequences of corruption include reduction in tax revenues, weakening competition, rising prices, weakening investment climate and others. In social domain the negative consequences of corruption may result in weakening the middle class and widening the gap between the living standards of the rich and poor layers of society. Corruption weakens the legitimacy of power since empowered state representatives fail to fulfill their obligations as prescribed. Corruption becomes a burden on various targeted financing programs, as allocated funds do not reach their purpose.

It is also important to note that corruption is a source of criminalization of society because corruption increases the second economy. We share the opinion of those who describe corruption as a source of another crime — money laundering — because illegal property needs to be reintegrated in legal economy as if it is legally acquired (Batyeva, Matushkin, Proshunin, 2009:20).

Despite the fact that the vast majority of researchers agree on the negative consequences of corruption and the need for decisive and comprehensive measures to combat this phenomenon, a number of scientists substantiate the thesis according to which corruption is an instrument of market self-regulation and in general should not be totally banned (Timofeev, 2000:5).

Similar position may be observed in Russian society. According to the survey, in response to the question “Imagine that all officials in Russia stopped taking bribes. How can this, in your opinion, influence the solution of problems of ordinary people?” 15.1% of Russian citizens answered that “solving problems will become more difficult”, 33% answered that “this will not significantly affect solution of problems of ordinary people”, and 15% of the citizens assessed the consequences of such sit-

uation as totally negative because “this would only complicate the solution of problems” (Dolinko, 2008:204–205).

Based on the above, we believe it is necessary to quote Yu. A. Tikhomirov, who, in our opinion, made a good point describing formation of a tolerant attitude towards corruption in society: “Corruption as a social disease of a society leads, directly or indirectly, to the involvement of many citizens in its network. A “corruption chain” adds to the general process connecting many people with so called *corrupt relay race*, *i.e.* extortion, bribes, selfish use of the rules, profit as a motive for activity, *etc.* Chain breaking depends not only on organizations, bodies and other structures, but primarily on the fundamental change in the values, motives and behavior of people” (Tikhomirov (ed.), 2013:11–12). We presume this to be the reason why it is important for people who understand all negative consequences of corruption to spread this information in order to contribute to the process of breaking such chains.

It is worth mentioning that corruption is usually recognized as a totally negative phenomenon and in this respect, there are no serious scientific disputes.

The definition of corruption is a more complex issue which triggers debate in the scientific community. Considering various to the definition of corruption, one may note that the phenomenon of corruption is an object of scientific researches of various academic disciplines.

For example, in economic theory, an approach that describes corruption as a form of rent-seeking behavior is common to find. For instance, in the the works of V.F. Komarova and I.A. Morozova we may read: “Our understanding of corruption is based on a fundamental scientific fact: “any administrative (imperative) service can be performed: (a) strictly according to instructions or (b) by the means of personal involvement, especially if this is accompanied by personal benefit for the officer. The difference between formal and creative performance of duties forms an “increase” (discretion) to the result of an administrative act. A corrupt official can sell this “gain” by extracting discretionary (corrupt) rents” (Komarov, Morozova, 2016:76). We may also find in the works of economists the attempts, using formulas, to anticipate the commitment of a corruption act depending on such variables as the above-mentioned rent, official wages, severity of punishment, *etc.* (Rauscher, Willert, 2019).

Despite the fact that corruption is within a scope of interests of various scientific disciplines it still remains a complex phenomenon, which may not be defined in a few words. We have to admit that any attempt to define corruption considers a minor aspect of it, which a researcher wants to specify. For example, legal approaches to the definition of corruption usually do not take into account the psychological, social, economic aspects of corruption.

Due to the peculiarities of legal science, a comprehensive study of a certain phenomenon, including corruption, requires double aspect analysis: legal provisions of a certain legal system and theoretical approaches.

The normative approach to the definition of corruption should be considered as a narrow, since the system of legal provisions governing social relations seeks to

consolidate clear patterns of behavior, which is sanctioned by the force of public enforcement. In this context we should agree with M.V. Chinnova, who notes that with the help of definitions, a proper understanding of the legal provisions, internal consistency of legislation, as well as the most convenient for perception and short presentation of the legal provisions is achieved by the interested parties (Chinnova, 2004:12).

It is important to note that in legal provisions there is often no definition of corruption, and the meaning implied in corruption may be understood via the analyses of illegal actions, which are understood by the law as acts of corruption.

It should be noted that the fact that legal systems of many countries contain provisions, which state certain aspects of corruption, there are still no grounds to state that theoretical understanding of corruption is developed. Normative legal regulation until the end of the 20<sup>th</sup> century was limited to announcing certain actions in the domain of corruption as illegal. Retrospective analysis indicates that the list of unacceptable actions expanded but still there is scarcity of theoretical research in this domain. For instance, if unfair legal proceedings were initially sanctioned as a result of bribing a judge, then subsequently these acts were supplemented by unfair taxation (in the time of viceroyalty in Russia), bribing representatives of the government, voters.

Today, a significant number of anti-corruption laws have been adopted in the field of international law, which indicates the concern of the world community about the problem of corruption, which, with the simplification of the transnational movement of capital, is no longer a domestic problem of a certain state but a global issue which demands global cooperation.

A comparative analysis of various sources of international law shows that the definition of corruption is found only in a small number of international acts. Thus, the Council of Europe Convention on Civil Liability for Corruption (Strasbourg, 11.04.1999) (Civil law convention on corruption, 1999<sup>3</sup>), in Art. 2 defines corruption as requesting, offering, giving or accepting, directly or indirectly, a bribe or any other undue advantage or prospect thereof, which distorts the proper performance of any duty or behavior required of the recipient of the bribe, the undue advantage or the prospect thereof.

In Art. 1 of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which was adopted by the OECD on 11.21.1997<sup>4</sup>, corruption is defined as the criminal offence manifested in offering, promising or giving any undue pecuniary or other advantage, whether directly or through intermediaries, to a foreign public official, for that official or for a third party,

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<sup>3</sup> Civil law convention on corruption (Strasbourg, November 4, 1999), available at: [https://eurasiangroup.org/files/documents/conventions\\_eng/CE%20Civil%20law%20Convention%20on%20corruption.pdf](https://eurasiangroup.org/files/documents/conventions_eng/CE%20Civil%20law%20Convention%20on%20corruption.pdf) (Accessed 04 January 2020).

<sup>4</sup> Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (2011), available at: [https://www.oecd.org/daf/anti-bribery/ConvCombatBribery\\_ENG.pdf](https://www.oecd.org/daf/anti-bribery/ConvCombatBribery_ENG.pdf) (Accessed 04 January 2020).

in order that the official act or refrain from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage in the conduct of international business (Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 2011).

However, as mentioned above, international acts mostly do not contain a definition of corruption but instead list the actions which are understood to be corruptive. Some researchers explain this by the fact that the abstract definition of corruption can lead to discrepancies due to differences in understanding of permitted and unacceptable behavior in different cultures (Martin, 2011).

For example, the UN Convention against Corruption (2003), which is a cornerstone legal act of international anti-corruption law, recognizes the following acts as corrupt:

- theft, misappropriation or other misuse of property by a politically exposed persons (PEPs),
- misuse of PEP or another person's influence for personal gain,
- abuse of office committed by PEPs,
- bribery of national officials,
- bribery of foreign PEPs or officials of public international organizations,
- illegal enrichment of PEP,
- bribery in the private sector,
- laundering of proceeds of crime,
- concealment of property acquired further to the commission of a crime,
- obstruction of justice.

In the Russian legal system, the legislative definition of corruption may be found in paragraph 1 of Art. 1 of the Federal Law of December 25, 2008 No. 273-FZ On Combating Corruption, where corruption is defined as the illegal use by an individual of his official position contrary to the legitimate interests of society and the state in order to obtain profit or the illegal benefit granting to a certain person by other individuals. The same acts committed on behalf of a legal entity are also recognized as corruption. Thus, the term *corruption* is understood by the Russian legislator as any abuse of office, entailing in one form or another material gain. The proposed wording of corruption goes beyond the scope of acts among officials and equally applies to the same acts committed on behalf of and in the interests of legal entities.

In the UK, due to the peculiarities of the national legal system, anti-corruption standards are found in various laws. So, in Art. 2 of the UK Act on the Prevention of Corruption of 1916, corruption is examined through the concept of corrupt action. In the UK Act Against Corruption 2010 (Bribery Act, 2010)<sup>5</sup>, corruption is divided into two main groups: the group of illegal actions includes an offer, a promise, as well as

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<sup>5</sup> Bribery Act (2010), available at: <http://www.legislation.gov.uk/ukpga/2010/23/contents> (Accessed 12 June 2019).

the actual giving of a bribe, the second group of illegal actions — the inclination to receive, consent to receive and receipt of a bribe.

In the United States corruption is a felony (serious crime, which entails imprisonment) under the Federal laws and under the laws of all states. Public corruption cases are governed by the Federal law. The main role of the federal anti-corruption legislation is the regulation of the most dangerous cases of corruption. For example, Section 201 of the US Federal Law applies when, firstly, a person provides, offers or promises to provide something of value with corruption intent to another person who acts on behalf of the United States, and secondly, when such a person tries to influence a public servant in order to make him commit fraudulent acts and, thirdly, inclines a public servant to commit or refrain from fulfillment of his official obligations.

At the federal level the actions, which are understood as corruption are spread in various legal acts. Federal law prohibits various forms of corruption:

- directly or indirectly offering, giving, demanding, receiving, or agreeing to receive anything of value in exchange for being influenced in the performance of an official act (U.S. Code § 201. Bribery of Public Officials and Witnesses<sup>6</sup>);
- soliciting or accepting anything of value from a person doing business with the individual's employing entity or from someone whose interests may be substantially affected by the performance or nonperformance of the individual's official duties (U.S. Code § 7353. Gifts to Federal employees<sup>7</sup>).

Among the sources of anti-corruption legislation at the federal level we may also name the Hobbs Act (2404. Hobbs act — under color of official right)<sup>8</sup>, which sanctions corrupt acts committed by public servants in circumstances where there has been extortion by the latter.

Various understandings of corruption we may find at the level of certain states.

Under Code of Virginia § 18.2-447<sup>9</sup>, the offering, giving, receiving, and soliciting of bribes to public servants and party officials is a finished crime regardless to the fact if a bribed person performed his obligation.

In Florida bribery is understood as knowingly and intentionally giving, offering, or promising to any public servant, or, if a public servant, to knowingly and intentionally request, solicit, accept, or agree to accept for himself or herself or another, any pecuniary or other benefit not authorized by law with an intent or purpose to in-

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<sup>6</sup> 18 U.S. Code § 201. Bribery of Public Officials and Witnesses, available at: <https://www.law.cornell.edu/uscode/text/18/201> (Accessed 04 January 2020).

<sup>7</sup> 5 U.S. Code § 7353. Gifts to Federal employees, available at: <https://www.law.cornell.edu/uscode/text/5/7353> (Accessed 04 January 2020).

<sup>8</sup> 2404. Hobbs act — under color of official right, available at: [http://www.justice.gov/usao/eousa/foia\\_reading\\_room/usam/title9/crm02404.htm](http://www.justice.gov/usao/eousa/foia_reading_room/usam/title9/crm02404.htm) (Accessed 04 January 2020).

<sup>9</sup> Code of Virginia § 18.2-447, available at: <https://law.lis.virginia.gov/vacode/title18.2/chapter10/section18.2-447/> (Accessed 04 January 2020).

fluence the performance of any act or omission, which the person believes to be, or the public servant represents as being, within the official discretion of a public servant, in violation of a public duty, or in performance of a public duty (Florida Statutes, 2017)<sup>10</sup>.

As it can be seen from the examples above, the most dangerous cases of corruption acts fall under federal regulation.

French law also does not contain a statutory definition of corruption, and features of corruption can be detected by studying various legal acts that regulate public relations in this area.

The central regulation in the domain of corruption in France is the French Penal Code. In total, the French Penal Code applies to sixteen component elements of a crime and includes such constituents as: commission of corrupt acts as a result of conspiracy; corruption acts committed using official position; the use of influence on decision-making in exchange for certain benefits; favoritism; interference with the resolution of a case in the outcome of which there is a personal interest (Andrichenko, Tsirin, 2012:69). The report of the French Central Anti-Corruption Service attempted to define corruption: “Corruption is the action by which a person with certain functional responsibilities, both public and private, seeks or agrees to a gift, offer or promise for the purpose of postponement of the commission or non-fulfillment of an action directly or indirectly included in his duties” (Vlasov (ed.), 2009).

In view of the foregoing, we can conclude that the definition of corruption both at the international level and at the level of national legal systems is often absent, however, an analysis of legal norms indicates that corruption does not boil down to giving and receiving a bribe to an official. We can see that representatives of the private sector are included among the subjects of corruption, who violate the law not only when they bribe public officials, but also when they bribe representatives of commercial structures. The concept of bribery has been significantly expanded, which is now limited not only by the provision of funds, but also includes various other benefits, including non-property ones. Systematic interpretation of corruption requires the inclusion of a number of corruption offenses of actions, which, although they are an independent corpus of other offenses, almost always accompany corruption. First of all, recognition of the UN Convention against Corruption of 2003 of money laundering as corruption offenses should be noted.

Quite diverse are the approaches to the definition of corruption, adopted in the legal scientific community. At the same time, a comparative analysis indicates that most approaches to the definition of corruption are based on a description of the interaction of the three basic categories of corruption: involved parties; gratification received by a corrupt official; illegal actions that must be performed in order to obtain gratification.

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<sup>10</sup> Florida Statutes, available at: <https://www.flsenate.gov/Laws/Statutes/2017/838.015> (Accessed 04 January 2020).

For example, S.V. Maximov defines corruption as the use by state, municipal or other public servants (including deputies and judges) or employees of commercial or other organizations (including international) of their status to illegally obtain any goods (property, property rights, services or privileges, including non-property ones) or to gain such advantages.

According to this definition the involved parties of corruption offenses are state, municipal or other public servants, or employees of commercial organizations, as well as persons who offer illegal goods in order to obtain a certain goal. As we can see, both public and private representatives are recognized as subjects of corruption offenses.

From the point of view of the benefits provided, the author takes a broad approach and includes property, property rights, services and benefits, including non-property ones.

It seems important to emphasize that the benefits that a corrupt official receives when committing illegal actions are not often defined due to their diversity. The point of view which distinguishes *hard type corruption*, which involves transfer of money, securities or other property and *soft type corruption*, which involves the provision of certain intangible advantages such as favoritism, nepotism (nepotism), protectionism, lobbyism and others is worth mentioning (Sulashkin, Maksimov, Akhmetzyanova, 2008:72–73). According to the categorization of corruption, the majority of researchers consider corruption in both *hard* and *soft* types.

As for the third element of corruption — illegal actions the commission of which leads to gaining illegal benefits — it is important to note that the essence of these actions is to replace public interest with private. In the parsed definition, this action is described as the use of one's official position to illegally obtain goods.

Highlighted categories of corruption allow, in a variety of approaches to the definition of this phenomenon, to identify features that distinguish definitions from each other. This should not undermine the value of various approaches to the definition of corruption, but can become an important tool in search for new observations regarding their phenomenon.

Bearing in mind the proposed thesis, we may address the definition of corruption proposed by Professor O.I. Tiunov, which interprets corruption as the unlawful use by an official or other person of his position to obtain improper benefits for himself or for third parties, to enjoy benefits provided by others, and to act as a mediator or offer other forms of assistance (Tiunov (ed.), 2012:9).

As we may see, this definition of corruption is close to the definition proposed by S. Maksimov, but it also includes persons who contribute to corruption offenses, which, of course, is an advantage of this approach. O.I. Tiunov's approach to the definition of corruption is also supported by T.Ya. Khabrieva (Khabrieva, 2014:25).

Despite the fact that this approach to the definition of corruption prevails, it is not the only one, and other definitions of this phenomenon may also be found in the domain of legal science.



Some approaches to the definition of corruption do not seem entirely successful.

For example, A.V. Sokolov defines corruption as follows: corruption, being a complex antisocial and/or socially dangerous phenomenon, whose roots lie in the historical, political, and economic processes, is manifested in the decomposition of power, affecting the public administration apparatus, leading to the decomposition of the economic, political and other systems of the state. Corruption is expressed in bribery, theft of state property and other types of illicit enrichment with the use of official position, in the venality of officials and public figures, in intergrowth with mafia structures, manifesting itself in various fields of activity — politics, science, art, journalism, lawmaking, law enforcement — when two or more individuals or groups jointly act in their own interests, to the detriment of a third party, contrary to the legitimate interests of society and the state, in in order to obtain benefits (Sokolov, 2012:28).

This approach does not seem to be useful in defining corruption. Firstly, the definition does not meet its main purpose — a short logical text which establishes the essential distinguishing features of the subject, and concept (Frolov, 2001:153). Secondly, the author tries to list most of the conditions contributing to corruption, name all forms of its manifestation and other aspects, which seems to be an impossible task. In this regard, we should agree with John Warburton, who notes that corruption is an artefact of social and political organization and, as such, is a phenomenon of infinite complexity. Therefore, there is a low chance to work out a definition or paradigm that comprehensively describes corruption in all its guises and manifestations (Warburton, 2001:234). M.I. Farrales defines corruption as a cross-systemic, cross-temporal and cross-cultural phenomenon (Farrales, 2005).

Considering the definitions of corruption, we should mention an opinion that defining corruption as various forms of abuse of office, including its *soft* types, is highly disputable.

For example, we may find the following opinion in N.F. Kuznetsova's article: "To consider as corruption the whole system of self-interested official crimes, for example abuse of office, forgery, is not only impractical, but also inconsistent with the principle of differentiation of guilt, responsibility and punishment. In criminal law, this would greatly complicate the legislative regulation of economic and administrative crimes and confuse classification of crimes and their punishability" (Kuznetsova, 1993:22–23).

It seems that this approach is somewhat controversial. First of all, it should be noted that in the system of abuse of authority, the opportunity to receive intangible benefits, including those related to the possibility of promotion, rest, employment of relatives and other benefits that are not tangible at first glance, can be no less incentive than providing cash funds and other property. The exclusion of these phenomena from the regulatory framework means simplification of corruption, cutting off its other manifestations, which is not consistent with a comprehensive approach to the fight against corruption. In criminal law (as in any other branch of law), a clear definition

of the component elements of a crime will make it possible to define various manifestations of corruption, including its *soft forms*; therefore there are no methodological obstacles to expanding component elements of corruption. The above, however, should not be interpreted as a call to criminalize any form of corruption, since the *strategy of war* on the example of China has shown its inefficiency.

At the same time, this position indicates that it is unacceptable to qualify any action that may seem suspicious as an act of corruption. It can be assumed that in the study of corruption and development of its definition, it is necessary to remember the ephemeral nature of corruption and its blurred facets. Otherwise, an integrated approach to combating corruption can turn into a fiction and an instrument of pressure. For example, promotion of a close relative of a senior official may be related to protectionism in government or recognition of his/her high professionalism.

Thus, it seems appropriate to build the definition of corruption on a variety of forms of its manifestation. At the same time, in our definition of corruption, in addition to taking into account its basic abovementioned categories (parties involved; gratification received by a corrupt official; illegal actions that must be performed in order to receive gratification), it is important to take into account the psychological and social aspects of corruption.

The psychological aspect is important because corruption is not only receiving and giving a bribe (or other goods), but also actions to minimize the risk of being caught, including when implementing financial monitoring procedures. The desire to protect themselves when committing corruption is an integral part of corruption at all stages from the moment of receipt to the time of property use.

Taking into account the social aspect is also important from the point of view of the goals of combating corruption, as in the end, corruption negatively affects the social life of the whole society.

Based on the foregoing, corruption can be defined as intentional antisocial acts committed by a representative of the public authority or the private sector, and expressed in abuse of office in order to obtain tangible or intangible assets, or provision of such assets.

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Научная статья

## **Законодательные и доктринальные подходы к определению коррупции**

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В юридической литературе наблюдается многообразие подходов к определению коррупции, что объясняется сложностью изучаемого явления. В статье рассматриваются различные подходы к определению коррупции, принятые в законодательных актах и теории. Затронута проблематика смысловой идентичности различных по форме определений коррупции, предложена методика отсеивания схожих по смыслу определений коррупции. Авторы также предлагают учитывать социальные и психологические аспекты в определении коррупции, так как они, с точки зрения авторов, являются неотъемлемой частью коррупции.

**Ключевые слова:** коррупция, взяточничество, злоупотребление служебным положением

**Конфликт интересов.** Авторы заявляют об отсутствии конфликта интересов.

**Информация о вкладе авторов:** М.М. Прошунин — введение, общий обзор; М.Ш. Кумуков — анализ и научная разработка материалов, заключение, копирайтинг.

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## Реферат

Коррупция, а также стратегии противодействия данному явлению, занимают умы исследователей на протяжении многих лет, однако в последние десятилетия данная тема все чаще становится предметом дискуссий не только среди представителей научных кругов, но также вызывает интерес у рядовых обывателей. Таким образом, коррупция представляет собой многогранное явление, ущерб от которого ощущается в различных сферах жизни общества. В юридической литературе наблюдается многообразие подходов к определению коррупции, что объясняется сложностью и изучаемого явления. Как показывает анализ подходов к определению коррупции, рассматриваемый феномен изучается в рамках различных наук, что говорит о междисциплинарном характере исследований в данной области. Так, в экономической теории распространенным является подход, описывающий коррупцию как форму рентоориентированного поведения. Изучение коррупции с точки зрения различных научных дисциплин не меняет того обстоятельства, что в силу разнообразия форм проявления коррупции, участников коррупционных схем и негативных последствий коррупции невыполнимой представляется задача выработки всеобъемлющего определения коррупции, которое бы учитывало все грани данного явления. Приходится констатировать, что при формировании дефиниции коррупции исследователь вынужден акцентировать внимание на одних особенностях коррупции в ущерб другим. В частности, юридические подходы к определению коррупции, как правило, не учитывают психологические, социальные, экономические аспекты коррупции. В силу особенностей юридической науки, исследование определенного явления, в том числе коррупции, требует анализа не только теоретических подходов, но и изучение нормативных источников в целях определения смысла, который закладывается в предмет изучения законодателем. Анализ нормативно-правовых источников свидетельствует о том, что дефиниция коррупции как на международном уровне, так и на уровне национальных правовых систем зачастую отсутствует. При этом можно прийти к заключению, что коррупция не сводится к даче и получению взятки должностному лицу. Так, в число субъектов коррупции включены представители частного сектора, которые нарушают законодательство не только когда подкупают публичных должностных лиц, но и при подкупе представителей коммерческих структур. Значительно расширено само понятие подкупа, которое отныне не лимити-

руется предоставлением денежных средств, но и включает в себя различные иные блага, в том числе неимущественного характера. Вовлечение различных форм проявления коррупции в орбиту системы противодействия коррупции представляется важным, так как данный подход позволяет противодействовать этому явлению комплексно, что, с учетом сложного структурного состава изучаемого явления, полагаем необходимым. Довольно разнообразными являются подходы к определению коррупции, принятые в юридическом научном сообществе. При этом сравнительный анализ свидетельствует о том, что большинство подходов к определению коррупции строится на описании взаимодействия трех базовых категорий коррупции: субъектный состав; вознаграждение, которое получает коррупционер; противозаконные действия, которые необходимо совершить в целях получения вознаграждения. Кратко коснемся вопроса вознаграждения, которое получает коррупционер за совершение противозаконных действий в целях получения данного вознаграждения. Исследователи зачастую выделяют также формы «мягкой» коррупции, когда вознаграждение представляет собой некоторое неосязаемое благо: отдых, продвижение по службе, протекционизм и многие другие. Отметим, что некоторые авторы полагают необходимым не учитывать обозначенные «мягкие» формы коррупции, так как это зачастую не целесообразно. С данной позицией, с нашей точки зрения, нельзя согласиться, так как неосязаемые формы коррупции могут служить мощным стимулом для злоупотребления должностными полномочиями. Встречаются также и громоздкие дефиниции коррупции, построенные на попытке перечисления условий возникновения данного явления, форм проявления и способов противодействия. Данный подход представляется не вполне обоснованным, так как перечисление форм проявления коррупции и условий зарождения данного явления не кажется возможным. Представляется целесообразным построение дефиниции коррупции на разнообразии форм ее проявления. Вместе с тем в определении коррупции, на наш взгляд, помимо учета ее базовых вышеуказанных категорий (субъектный состав; вознаграждение, которое получает коррупционер; противозаконные действия, которые необходимо совершить в целях получения вознаграждения) важно учесть психологический и социальный аспекты коррупции. Психологический аспект важен, так как коррупция является не только получением и дачей взятки (или иных благ), но также и действиями по минимизации риска быть пойманным, в том числе при реализации процедур финансового мониторинга. Стремление обезопасить себя при совершении коррупционных действий является неотъемлемой частью коррупции на всех его этапах от момента получения до момента использования имущества, вшито в природу данного явления. Принятие во внимание социального аспекта также важно с точки зрения целей противодействия коррупции, так как в конечном итоге коррупция негативно влияет на социальную жизнь общества. С учетом изложенного коррупцию можно определить как умышленные антиобщественные действия, совершаемые представителем публичной власти или частного

сектора и выражающиеся в незаконном использовании служебного положения в целях получения имущественных и неимущественных выгод, либо предоставление таких выгод.

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