

## A constitutional status of the economic security system of the Russian Federation

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**Abstract.** This article considers the problem of a constitutional status of economic security, one of the key functions of any state. It outlines the role of economic security as a fundamental subsystem of national security of any country. Here an approach of Russian and foreign scientists to the studied problem is analyzed as far as it concerns the existing methods of government control at the presence of various authorities engaged in the process of economic security provision and at the absence of common centre responsible for control management, in order to solve general strategic problems for the benefit of national security of any country in the absence of proper systematization of the current legislation of many countries in the field of economic security and federal laws governing the status of authorities in charge of its provision.

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### Introduction

The need to study the constitutional status of the economic security system of the Russian Federation is caused first of all by principal changes in the legal framework and social environment in the whole current Russian state and society as well as in certain Russian regions [1]. These changes have significantly affected performance of the whole mechanism of national economic security, exercise and enforcement of rights, freedoms and liabilities of parties engaged in economic activity.

National security is one of the key factors of stable development of a sovereign state. On the basis of and with reference to a national security policy a military doctrine, a foreign policy concept, a strategy of environmental, social, informational and other types of security are worked out [2]. All these types of national security are closely interconnected and mutually complimentary: each type of national security may quite evidently be present in the domain of the other, amplifying or diminishing its influence.

Economic security holds a special place in the structure of national security. This is caused by the fact that none of the security types can be sufficiently guaranteed or implemented without the economic component. Thus, for instance, military security can't be provided in case of shaky or inefficient economy, just as well as neither military, nor economic security can be guaranteed in a society riven with social conflicts [3].

Reforms of the legal mechanisms have created prerequisites for further gradual and stable

development of the Russian state and improvement of the quality of life of its population. Under these conditions the problems of economic security, prevention of new challenges and threats to economic stability and development of the state, its entities and municipal units, as well as to well-being of legal entities and individual citizens play a special part.

### The essential part

Study of the problems of economic security in the Russian Federation in the framework of the constitutional law is caused by changes of the nature of legal influence on economic relations in the society. It becomes necessary to consider the stated problem with regard to protection of vital interests of an individual, the society and the state. Unfortunately, the existing national legal system of economic security is far from perfect. The reasons are in insufficient definiteness of government control methods, in abundance of authorities engaged in provision of economic security and at the same time in the absence of a common centre responsible for control management and solving general strategic problems for the benefit of the national security, in the lack of proper systematization of the current legislation regarding economic security and of federal laws defining the status of authorities engaged in its provision, in imperfect legal framework for efficient organized crime and corrupt practices prevention, in the lack of distinctness of organization of law enforcement authorities involved in state and legal mechanism of economic security and etc.

It should be noted that establishment and maintenance of the Russian economic security system is one of the country's key and long-term national interests based on constitutional provisions [4]. The Constitution of the Russian Federation of 1993 has stipulated the basics of its policy by establishing national interests and some international interests. As Kabyshev, V.T., notes "being established by the Constitution of a state, human values take on the properties of the constitutional ones" [5].

Nowadays social life is actively constitutionalized. As Zametina, T.V., says the constitutionalization of different spheres of social life is objective and indicates regulation, legalization, structuring and democratization of methods and ways of scheduling social relations [6]. This also concerns the issues of economic security. Constitutional regulation of economic security and establishing the constitutional status of the economic security system of the Russian Federation become especially important in the context of globalization of international relations [7].

Some countries have gained certain experience in different forms of arrangement of work of local government institutions related to economic security of economic and social systems [8]. However they are exceptions. In most cases, including in the Russian Federation, the properly arranged system of economic security with appropriate institutions and mechanisms of economic threats prevention has not yet been formed.

It is obvious that within over than twenty years reformation of the Russian economy on the basis of new market principles has great positive effect. Market environment has been created, though by halves; certain mechanisms of economy self-regulation have started working. At the same time far-reaching changes of social and political pattern have been accomplished at the cost of significant economic and social losses. Immense opportunities offered by the democratic reforms within the modern Russian state are implemented very slowly and inefficiently. This results in uncompetitiveness of the national economy, unbalanced development of its branches and geographical distribution, corruptive criminalization of social relations and amplifying extremist tendencies [9].

Therefore the crucial condition and prerequisite for stable development either of Russia or any other country is providing economic security of the state as a whole and development of its regions and municipal institutions.

Economic security of Russia is provided not only at the federal level, but also at the level of sub-federal entities, at this the local level of economic security is based on the federal structure of Russia

[10]. In the system of Russian national security this level of economic security is determinative in many respects, since Russia is a federated state consisting of its territorial units, entities; that is why Russian economy can be defined as a sum of economies of its entities and integral economy of Russia does not exist apart from its regions. Nowadays differences in development of entities of the Russian Federation with regard to the main social and economic parameters have become critical. Extreme interregional differentiation inevitably causes increase of weak regions, weakening of mechanisms of interregional economic interrelation and development of interregional conflicts. This significantly hinders carrying on general Russian-wide policy of social and economic reforms.

This situation results from not always consistent and insufficiently effective performance of the government machine which has maintained features of the command management of society and is not fully adjusted to accomplishing strategic missions [11]. That is why it is no coincidence that upgrading of the government machine to an effective and compact management mechanism is the key substantial element of an administrative reform; this becomes evident and relevant during the period of globalization of economic space.

Optimization of the management mechanism and its orientation to the issues of economic security will provide clear definition of functions performed by a state and distribute them between relevant public institutions and clarification of list of functions of certain federal institutions.

At the same time they create prerequisites for development of general theoretical concept of categorical machinery of constitutional aspect of economic security of Russian Federation entities. For this reason in the face of evidently insufficient regulation of the processes of implementation of economic security issues these scientific research and development make the case for application in law enforcement processes of not only the Russian regulatory framework but also of regulations of international legal acts being both binding and advisory for the Russian state according to article 15 of the Constitution of the Russian Federation.

Thus, study and analysis of the current legislation governing this legal institution as well as development of fundamental approaches to investigating the procedures of legal protection of economic security from any misguided actions, are quite timely.

For the recent years issues related to investigation of the economic security system have become subject of research of Russian and foreign scientists. However, until nowadays the serious

attempts of scientific legal analysis have been related mainly to procedural issues of economic security. At this, constitutional aspects of establishment and performance of a system of state participation in economic security procedures and theoretical legal assessment of this system have not almost been observed in scientific researches based on the regulatory framework being in force until 1993 before adoption of the Constitution of the Russian Federation.

Foreign countries have different forms of administrative control of economic processes. The main ones are English and French patterns [12]. In the English pattern more autonomy in taking and implementing managerial decisions and lesser dependence upon the central authorities are observed. In the French pattern mechanisms of subordination to the central authorities prevail over regions autonomy [13].

Synthesis of foreign experience permits to note that at the level of territorial entities (municipal institutions) issues of managing property and municipal enterprises, providing security and transparency of credit and financial system performance, developing vital infrastructure and many others are decided.

Scientific researches dedicated to studying the economic security system and its constitutional status has been reported in terms of criminal, civil and administrative law. These issues have not been studied with regard to constitutional law, that is why a number of essential aspects are still beyond the framework of scientific legal analysis. Many authors have expressed attitudes of debating nature [14-17], but generally they have indicated a problem which required additional legal reasoning.

Change in the regulatory framework governing these issues and establishment of new institutions of the economic security system require a fundamentally new approach to studying issues of constitutional relations with participation of all the entities of the economic security system based on elaborate theoretical study which results can be used for developing proposals for creating a flexible institutional mechanism of efficient performance of the stated system [18]. Solution of many problems depends on the level of development and understanding of the Russian law system and its structural elements including first of all legal rules.

According to Malumova, G.Y., a Candidate of Juridical Science, the problem of the constitutional status of the economic security system is large-scale and one of the most pressing problems of public law [19].

Being the part of national security, economic security has become the subject of study in certain

articles and monographs, but the range of its problems is still insufficiently investigated [20, 21]. In particular, due to the fact that previous studies has only considered its certain aspects (resistance to internal and external threats, business activity and etc.) outside its reference to the development level of social relations, the scope of research considerably diminishes.

Content and legal nature of the constitutional status of the economic security system still require serious scientific consideration, more profound theoretical study and elaborate analysis. At this issues related to constitutional regulation and the mechanism of managing a system of state and legal provision of economic security as well as issues related to inclusion in the current legislation of regulations concerning bringing constitutional action against violators of conditions and requirements of economic security of the Russian Federation, should be legally settled.

The authors consider that the economic security system is a structure (mechanism) specially created on the basis of principles and standards of the Constitution of the Russian Federation for cooperation of special entities (governmental and law enforcement authorities). Its activity provides stability and protection of social relation in the field of production, exchange, distribution and consumption of material and cultural wealth from influence of external and internal factors presenting a threat to their performance and development as well as hindering exercising constitutional rights and freedoms, legitimate interests of all parties of economic cooperation and securing existence and progressive development of individuals, society and the state and consistent implementation of national interests.

According to Sopeltseva, N.S., a Candidate of Juridical Science, the constitutional status of the economic security system is an established by the constitutional framework of the Russian Federation protected condition of social relations in the field of production, exchange, distribution and consumption of material and cultural wealth from real and potential threats. This legal category represents a sum of internal and external conditions contributing to efficient active growth of the Russian economy and its capability to satisfy the needs of individuals, society and the state [22].

Tropin, S.A., a Doctor of Juridical Science, defines the constitutional status of the economic security system of an entity of the Russian Federation as an established by the constitutional standards of the Russian Federation and by the legislation of federal entities protected condition of social relations in the field of production, exchange, distribution and consumption of material and cultural wealth from real

and potential threats. This legal category represents a sum of internal and external conditions contributing to efficient active growth of the Russian economy and its capability to satisfy the needs of individuals, society and the state [23].

In the opinion of the authors, the constitutional status of the economic security system is formed by constitutional principles established by the Constitution of the Russian Federation and making a part of the constitutional standards subsystem, referred to as an “economic constitution” and consisting in the four key principles: 1) freedom of economic activity; 2) integration of economic space; 3) variety and equality of different forms of ownership and relevant types of business organization; 4) business competition protection. These constitutional provisions allow legally defining the essence of rights for business activity and private property forming the subjective basis of economic security and their protection, which is the liability of a state.

For the maximum economic security both in the Russian Federation as a whole and in its certain entities, the state should pursue the main objective: protection of national property as the basis of such security and national sovereignty by adopting relevant regulatory documents and providing uniformity of law enforcement practice. In our opinion, it is necessary not only to precipitate adoption of a fundamental law at the federal level and development of similar laws at the level of federal entities on its basis, but also to stipulate a relevant standard in the Constitution of the Russian Federation by adding provisions to article 35.

It is necessary to create an integrated federal centralized system for control over social and economic life of entities of the Russian Federation by means of mechanisms of protection of the interests of each party of economic cooperation and establishing powers of this system by a federal law.

Nowadays the essence of factors and threats to economic security is in the possibility of premeditated bankruptcy of companies including strategic ones and poor protection of any type of ownership [24]. In these terms it is necessary to improve constitutional standards governing the economic security system by means of supplementing article 35 of the Constitution of the Russian Federation, improving statutory legal acts governing privatization, bankruptcy and security of the credit and financial system. It would more reasonable to adopt a separate statutory act governing the stated field of relations at the federal level and relevant acts at the local level which would be aimed at stabilization in this sphere and protection of property, first of all, national one.

## Conclusions

In the present context economic security of a state is not in the exclusive domain of any government institution or office and is provided by a system of government institutions, all elements and structural components of the economy. The progress rate of reforming the command pattern is much higher than that of the creating a new pattern of government control over economic processes.

Taking into account the stated details of the transition period in the structure of governmental (municipal) control authorities, it is necessary to work out relevant mechanisms of providing economic security. Some of them should exist only within the transition period, while others will work in the conditions of stable market infrastructure.

In developing these mechanisms principles of functional necessity and sufficiency should be applied.

Federal entities play a significant part in the Russian economy, since in most cases it is there industrial, scientific and technological capacities, financial assets and goods are concentrated; here decisions defining the whole process of social and economic development of the Russian Federation and its regions are made up. Globalization of the Russian economy has become a powerful stimulus for profound reforms related with privatization, decentralization of power, development of a local regulation system, extending rights of the regions in regulation of social and economic processes. It is federal entities that are the first to adopt far-reaching reforms of the social and economic system of the modern Russia and to broaden interregional and intraregional relations.

Measures for providing economic security are suggested to be divided into legal, managerial, economic, investigative and criminal procedural and preventive measure.

In order to prevent and eliminate detected potential threats, activity of economic security authorities of federal entities should be carried out in the following main fields and includes the following measures:

- monitoring, detecting and preventing threats to economic security;
- improvement of statutory and legal acts governing relations in the field of economic security;
- regulation of privatization, bankruptcy processes and market activity with regard to local economic interests;
- provision of stability and security of a local credit and financial system;
- enhancement of efficiency of management and protection of national and private property.



- development of investments and innovation processes, provision of process safety;
- provision of information security, capitalization of intellectual property and development of scientific and technical progress;
- reduction of social strain factors;
- reduction of food dependence and improvement of trade balance;
- elimination of legal, economic and organizational conditions for corruptive practice and reduction of a shadow economy share.

On the basis of functions of management in the field of prevention and resistance to hostile takeovers, the main of which are maintaining the real economy of a federal entity, resistance to spontaneous property redistribution, direct help to companies subject to hostile takeover, development of protection methods, it is reasonable to establish methodical principles thus forming a mechanism of providing economic security. It is reasonable to divide ways of gaining control over the target entity into corporative, juridical, administrative and military actions.

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