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Anti-corruption efforts in Switzerland: An overview

The system of law enforcement in Switzerland is regarded as one of the most efficient in Europe, and the level of corruption in this country is considered one of the lowest. Thus, according to the annual police criminal statistics (*Polizeiliche Kriminalstatistik. Jahrbuch. 2015*)¹, in 2015 only 46 corruption-related crimes were found in Switzerland, including only 10 bribery-related crimes. The authors emphasize that in 2015 in Switzerland there were only five cases of people accepting a bribe.

On the 27th January of 2017, Zurich's newspaper "*Blick*" printed the surprising headline "Switzerland is becoming corrupt!" ("*Die Schweiz ist korrupter geworden*")². The following lines explain the satire. What happened was an international organization "*Transparency International*" moved Switzerland down from fifth to seventh place on the list of countries with the lowest level of corruption³. Nevertheless, the above-mentioned fact gave rise to grave concern in Swiss society.

The newspaper claimed that the most corrupt aspects of Swiss life were the financial backing of election campaigns, expert activity (internal and external auditors) in different public bodies and the banking sector⁴. The

¹ URL: www.bfs.admin.ch/bfs/portal/de/.../publikationen.Document.191708.pdf (last seen – 30.05.2017). The detailed statistical data are given below.

² URL: <http://www.blick.ch/news/schweiz/korruption-korruption-in-der-schweiz-nimmt-laut-transparency-international-zu-id4610773.html> (last seen – 30.05.2017).

³ The Zurich Reporter also states that Denmark has been on the 1st place for two years in a row, North Korea and Somalia are at the bottom of this list.

⁴ URL: <http://www.blick.ch/news/schweiz/korruption-korruption-in-der-schweiz-nimmt-laut-transparency-international-zu-id4610773.html> (last seen – 30.05.2017).

authors of the article examined the websites of Swiss judicial authorities and the periodic press of Switzerland. Based on this information, the authors may claim that over the past several years⁵ in Switzerland no police officer or Prosecution Service official has been convicted of committing a corruption-related crime. Any occurrence of corruption in Switzerland's judicial system appears to be a quite rare.

The “*Neue Zürcher Zeitung*” newspaper in its edition dating from the 11th November of 2016 introduced the results of a survey questionnaire which demonstrated that “the overwhelming majority of the Swiss do not regard corruption as a serious problem”⁶. Thus, the authors of the article may claim, without exaggeration, that the problem of corruption is not considered urgent for Switzerland.

The effectiveness of actions against bribery, unlawful enrichment and other acts in this country have been stated an unlimited number of times by the international governmental and non-governmental organizations (*OECD, Transparency International* etc.) which monitor this activity.

At the same time, anti-corruption efforts in law enforcement authorities in Switzerland have not received a proper assessment in Russian science literature, and are only fragmentarily and rarely investigated. The authors of the article managed to find only two papers concerning this problem: the article of R.R. Sakaeva and E.A. Ogrokhina “On the modern anti-corruption efforts in Switzerland”⁷ and the work of A.G. Fedotov “A brief comment on Swiss legal acts regarding the restitution of unlawfully procured objects of value of politically exposed persons”⁸ (the authors emphasize that the above-mentioned legal acts have now become invalid).

The fast-moving development of Switzerland's anti-corruption legislation also indicates the timeliness of the topic. Another interesting fact is that Swiss researchers emphasize the “anti-corruption criminal law” (*Anti-Korruptionsstrafrecht*)⁹ on a doctrinal level; an “anti-corruption audit” (*Antikor-*

⁵ The Swiss press only mentions old cases. Thus, the Basel newspaper *Tages Woche* in its number dating from March of 2017 stated that in 1994–1998 in the town of Chiasso (a town on the south of the canton of Ticino in Switzerland, located at the border with Italy) the police chief had patronized smugglers and had received 370 thousand francs of funds (http://www.tageswoche.ch/de/2014_33/schweiz/665665/).

⁶ URL: <https://www.nzz.ch/schweiz/korruption-schweigen-aus-angst-vor-konsequenzen-ld.128526> (last seen – 30.05.2017).

⁷ Sakaeva R.R., Ogrokhina E.A. On the modern legislative anti-corruption efforts in Switzerland Materialy Vserossiyskoy nauchno-prakticheskoy studencheskoy konferentsii [The materials of the all-Russian scientific and practical students conference] (North-West Institute (branch) of the Kutafin Moscow State Law University) Vologda, 2013 pp. 113–120.

⁸ URL: http://www.lecs-center.org/index.php?option=com_content&view=article&id=107:law-against-clepto&catid=39&Itemid=30&lang=ru (last seen – 01.06.2016).

⁹ URL: http://www.transparency.ch/de/PDF_files/Divers/2011_Ethos_TI_D.pdf (last seen – 01.06.2016).

ruptionsaudit)¹⁰ is performed on a regular basis in this country. The approaches used in the Swiss system of justice may be taken into consideration in adapting Russian anti-corruption policy for the modern era.

Mechanisms of internal and external control over corruption

One article dedicated to the fight against corruption on the official legal website of Switzerland is headed by the following headline: “Corruption enriches a few people, but it weakens the whole society, the economy and the government. Expanding corruption hinders any positive development. Corruption challenges the democratic order of the constitutional state. It leads to the misuse of community resources, strains business competition, makes trade difficult and defeats investments. For this reason, nowadays people are equal in their opinion that corruption is to be regarded as a serious vice. But corruption shall not be an inevitable vice. International efforts made to fight against corruption on every scale have been intensified over the last several years. For this purpose, Switzerland has played an active role in the development of international instruments and initiatives related to anti-corruption efforts. In addition, Switzerland encourages developing and emerging countries which are fighting against corruption and its causes. Switzerland bilaterally and multilaterally promotes the initiatives and programs of anti-corruption efforts”¹¹.

The anti-corruption efforts of Switzerland primarily include the following elements:

- 1) Criminal liability for committing corruption-related crimes;
- 2) Submission of public positions to competitive tenders;
- 3) High legal and ethical demands made of public officials;
- 4) Adequate financial security of public officials.

The legal mechanics of anti-corruption efforts are based on the following international, national and cantonal legal acts.

United Nations Convention against Corruption adopted by the General Assembly by its resolution 58/4 of the 31st October 2003¹² was ratified by Switzerland the same year. Article 20 of the Convention is of particular importance. According to Article 20, a public individual in case of a conside-

¹⁰ Id.

¹¹ URL: https://www.seco.admin.ch/seco/de/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/Korruptionsbekämpfung.html (last seen – 22.04.2017).

¹² URL: http://www.un.org/ru/documents/decl_conv/conventions/corruption.shtml (last seen – 22.04.2017).

rable increase in his or her revenue must prove, in accordance with the applicable procedure, that the revenue was derived from lawful activities. In this regard, corruption shall be regarded as “a considerable increase of the public individual’s revenue that goes beyond this public individual’s lawful revenue that this public individual is able to justify in a reasonable way”.

The Criminal Code of Switzerland (*Strafgesetzbuch*)¹³ of 1937, as in force of the 1st January 2017, provides criminal liability for committing corruption-related crimes cited in Articles 322^{ter} – 322^{novies}: bribery of a Swiss public individual (Art. 322^{ter}), accepting a bribe¹⁴ (Art. 322^{quater}), giving advantage (Art. 322^{quinqies}), accepting advantage (Art. 322^{sexies}), bribery of a foreign state’s public individual (Art. 322^{septies}), bribery of private individuals (Art. 322^{octies}), accepting a bribe¹⁵ (Art. 322^{novies}). The basis and the terms of the liability are also elaborated and detailed in Article 322^{decies}.

The Federal Act against unfair competition (*Bundesgesetz gegen den unlauteren Wettbewerb*)¹⁶ of 19th December 1986, as in force of the 1st July 2016, provides liability for so-called “private corruption”¹⁷. The above-mentioned act is dedicated to ensuring the freedom of enterprise and to creating a level playing field for operating a business in Switzerland and for Switzerland’s integration in the European Economic Space¹⁸.

The Federal Act on arrest and imposing restitution on unlawfully procured objects of value of politically exposed persons (*Bundesgesetz über die Sperrung und die Rückerstattung unrechtmäßig erworbener Vermögenswerte ausländischer politisch exponierter Personen*)¹⁹ of the 18th December 2015, as in force of the 1st July 2016²⁰. Under Article 1, this legal act governs the arrest, confiscation and restitution of property holdings of foreign politically exposed persons or their relatives that were supposedly procured due to corrupt practices, improper performance of one’s official duties or other criminal wrongdoings. The above-mentioned legal act is oriented to non-residents of Switzerland who are to be trying to hide and (or) legitimate their unlawful revenue within the territory of Switzerland. Article 1 point “a”, states that foreign politically exposed persons also include offi-

¹³ URL: <https://www.admin.ch/opc/de/classified-compilation/19370083/index.html> (last seen – 22.04.2017).

¹⁴ In this context it referred to a public individual.

¹⁵ In this context it referred to a private individual.

¹⁶ The authors do not consider this law since it does not refer to anti-corruption efforts in law enforcement authorities.

¹⁷ URL: http://www.transparency.ch/de/PDF_files/Divers/2011_Ethos_TI_D.pdf (last seen – 22.04.2017).

¹⁸ Switzerland is considered to be a part of the European free trade area.

¹⁹ URL: <https://www.admin.ch/opc/de/classified-compilation/20131214/index.html> (last seen – 22.04.2017).

²⁰ This law replaced the Federal Act *On the restitution of unlawfully procured things of value of politically exposed persons*. It can be seen that *arrest* was added to the title of the new law.

cers of the judicial authorities (police, Prosecution Service, courts etc.). The above-mentioned legal act does not apply to law enforcement authorities of Switzerland.

The Federal Act on government service (*Beamtengesetz*)²¹ of the 30th June 1927, as in force of the 13th March 2001, determines the category “public servant”, enshrines the duties of the corresponding position, prescribes the career pattern and defines the penalties for a breach of discipline. According to Article 1 of this legal act, a public servant is considered a person appointed to a service career by the Federal Council (the Government), inferior bodies, the Federal Assembly (Parliament) or a Swiss court. The Federal Council determines the list of officers that are defined as public servants. The above-mentioned list is approved by the Federal Assembly.

Under Article 2 of this Federal Act, individuals who have an unchallenged reputation may be appointed to governmental service. People with disabilities and those who are unable to perform their public duties shall not be appointed to governmental service. Persons without Swiss citizenship may be appointed to governmental service through an exception only with the consent of the Federal Council.

Public servants shall be appointed according to a competitive tender (Art. 3). If the competitive tender gives no result, the government authority may either announce its decision to repeat the competitive tender or appoint an individual without any competitive tender at all. Before an individual is appointed, the relevant legal requirements such as age, aptitude to performing duties, educational background and Swiss military service are taken into account. The results of the examination or of the probation period shall also be considered.

The above-mentioned legal act describes a rather high salary for public servants. This fact is regarded as a significant anti-corrupt element. Article 36 contains the table of “schedule of fees” (*Besoldungsklasse*), also mentioning minimum and maximum service reward (Swiss francs per year):

To calculate how much Swiss public servants earn per month in roubles, consider the following: as of 24.03.2017, according to the official web-site of the Central Bank of the Russian Federation²², the Swiss franc’s rate to the rouble was 57.9. Therefore, a public servant with the 1st schedule of fee earned from 181 thousand roubles up to 209 thousand roubles per month; a public servant with the 15th schedule of fee earned from 228 thousand roubles up to 339 thousand roubles per month and a public servant with the 31st schedule of fee earned from 537 thousand roubles up to 694 thousand roubles per month.

²¹ URL: http://europam.eu/data/mechanisms/FD/FD%20Laws/Switzerland/Switzerland_Law%20on%20Civil%20Servants_1927%20amended%202001.pdf (last seen – 22.04.2017).

²² URL: <http://www.cbr.ru/> (last seen – 30.05.2017).

Schedule of fee	Minimum salary	Maximum salary
31	111 347	143 890
30	111 383	137 622
29	105 452	131 388
28	99 519	125 167
27	94 341	119 721
26	89 174	114 297
25	84 007	108 863
24	78 851	103 451
23	74 470	98 848
22	70 090	94 246
21	66 649	90 624
20	63 207	87 102
19	59 766	83 399
18	56 325	79 788
17	52 884	76 164
16	49 978	73 116
15	47 280	70 279
14	44 615	67 477
13	42 533	65 127
12	41 113	62 841
11	40 493	60 594
10	40 063	58 398
9	39 793	56 182
8	39 523	53 952
7	39 263	51 778
6	39 013	49 582
5	38 763	47 375
4	38 523	46 043
3	38 283	45 173
2	38 043	44 303
1	37 563	43 443

No Code of Professional Conduct was found in the described system of justice on the federal level. The examination of the systems of justice in the cantons gave no result in finding any of such codes. The Swiss legislator tends to avoid combining moral and ethical categories and legal ones. Consequently, public servants' liability is based only on the violation of rules of law and not the rules of morality.

In the Russian Federation, there is the Federal Act "On anti-corruption measures" that has been signed into law. Unlike in Russia, in Switzerland there is no unified complex legal act with criminological content which would

determine the main directions of anti-corruption efforts and which would provide the corresponding mechanisms of fighting against corruption. This phenomenon shall doubtless be explained by the fact that corruption has not spread over Switzerland; consequently, there is no urgent need to adopt a law like the Russian law.

It is also notable that in Switzerland neither police officers nor Prosecution Service officials need to declare their income records according to the law. There is no proscription on possessing property or bank deposits in a foreign state. No legal rule concerning this question was found in any of the legal acts under consideration; there are no public servants' declarations on the official websites of the Swiss law enforcement authorities or any other governmental authorities and no articles concerning corruption are usually published²³.

As can be seen from the above, every considered legal act shall be regarded as important in the Swiss system of justice. Nevertheless, the Criminal Code of Switzerland plays a particularly pivotal role in fighting against corruption. According to the legislator, the most effective preventive measure against corruption-related crimes is the provision for punishment for committing the above-mentioned crimes.

Corruption crimes

The codification of criminal law of Switzerland, as in the majority of the European states, is considered non-exhaustive. This means that the legal rules related to this branch are stated not only in the Criminal Code of Switzerland but also in other legal acts.

In Switzerland, the criminal liability for committing corruption-related crimes is provided by the Criminal Code of Switzerland, by the Federal Act against unfair competition, by the Federal Act concerning arrest and imposing restitution on unlawfully procured objects of value of politically exposed persons. Since this chapter is dedicated to *anti-corruption efforts in law enforcement authorities in Switzerland* (police, Prosecution Service, supervisory authority) the authors only considered articles of the Criminal Code of Switzerland of 1937 (altogether there are four types of *corpus delicti* stated in Articles 322^{ter} – 322^{septies})²⁴.

First of all, it would be reasonable to examine the major peculiarities of the system of the corruption-related crimes of Switzerland:

²³ The exception is provided by the official web-site of the Swiss governmental legal information www.admin.ch.

²⁴ For this very reason, the authors do not consider bribery of private individuals (Art. 322^{octies}) or accepting a bribe (namely, a private individual) (Art. 322^{novies}).

The first peculiarity. The Criminal Code of Switzerland includes an independent chapter XIX “Bribery” (*Bestechung*). According to the Swiss system of law, bribery is not related to crimes against the state (chapter XV), or to crimes against justice (chapter XVII). *Per contra*, bribery forms an independent group of criminal acts. On condition that the authors pay attention to the arrangement of the chapters in a special section of the Criminal code (for the purposes of the importance of the objects of legal protection), it would be reasonable to underline that “Bribery” is second-last on the list (altogether there are XX chapters).

The second peculiarity. Unlike with the Russian Federation, the Criminal Code of Switzerland, like in the majority of the European states, has a single chapter that includes all legal rules concerning corruption-related crimes. In the Criminal Code of the Russian Federation these types of *corpus delicti* are divided between different chapters and have much criticism in Russian literature²⁵.

The third peculiarity. All of the considered types of *corpus delicti* are formed as inchoate crimes. A crime is considered to be inchoate if an award was promised to a public individual or, consequently, if a public individual agreed to receive an award (even if the promise was not carried out or the award was not received).

The fourth peculiarity. The considered types of *corpus delicti* have neither privileged nor efficient traits in the Criminal Code of Switzerland. In the Criminal Code, there are only the main elements of the crime.

An analysis of the elements of *corpus delicti* stated by Articles 322^{ter} – 322^{sexies} in detail.

The Criminal Code of Switzerland does not expressly provide **the object** of the criminal acts (in some cases, the names of the Code’s chapters do not indicate the object of the endeavour, but the criminalized social phenomenon). According to the doctrine, the object of the corruption-related crimes shall be defined as the established order of relations between individuals and businesses with public individuals, as well as the lawful interests of an individual, of the society and of the state²⁶.

The Criminal Code of Switzerland defines **the subject** of corruption-related crimes as “advantage” (*Vorteil*)²⁷. Personal non-property goods are not

²⁵ In Volume 20 of “*The encyclopedia of criminal law*” edited by V.B. Malinin one of the paragraphs is symbolically headed as «*The problems of justification of an independent existence of Chapter 23 of the Criminal Code of the Russian Federation in the system of the Special section of criminal law*» (*Entsiklopediya ugolovnogo prava* The encyclopedia of criminal law edited by V.B. Malinin, V. 20, StP., 2012, pp. 138–185).

²⁶ URL: http://www.transparency.ch/de/PDF_files/Divers/2011_Ethos_TI_D.pdf (last seen – 30.05.2017).

²⁷ URL: http://www.transparency.ch/de/PDF_files/Divers/2011_Ethos_TI_D.pdf (last seen – 01.06.2016).

considered the subject of a bribe. Moreover, under Article 322^{decies}, the following notions shall not be regarded as an inappropriate award:

a) an award received from a stranger that is approved by official legal rules (notably, for instance, receiving books, calendars, pens in the process of a recorded event; payment for scientific, teaching or creative activity);

b) an award of little importance that is usually accepted in the society (meaning essentially small presents of moderate cost).

The Swiss system of law provides neither the minimum of the award needed to start prosecution nor privileged elements of a crime such as petty bribery, petty commercial bribery, etc.

Actus reus. The crimes stated in Article 322^{ter} (“Bribery of the Swiss public individual”) and by Article 322^{quinquies} (“Giving advantage”) differ only by their *actus reus*. According to “Bribery” (Art. 322^{ter}), the subject of the crime *offers* to a public individual an advantage that does not accrue to this public individual, or *promises* or *gives* the advantage related to the public individual’s public service for the act, that either contradicted the public individual’s duties and responsibilities or was left to the public individual’s discretion, or for the omission in favour of the bribe-giver or of the third party. An article concerning “Giving advantage” (Art. 322^{quinquies}) refers to the same actions without indicating the fact of committing the above-mentioned actions in favour of the bribe-giver or of a third party. Article 290 of the Criminal Code of the Russian Federation prescribes that the criminal liability for giving a bribe shall arise out of the act (the omission) in favour of the bribe-giver or of those whose interests the bribe-giver represents. While the Swiss legislator, in contrast, prescribes an abstract situation where neither the bribe-giver nor those whose interests the bribe-giver represents accept any advantage out of the act (the omission) of the bribe-taker. According to Swiss law, the above-mentioned actions shall also be considered criminal acts.

Actus reus of the *corpus delicti* stated in Art. 322^{quater} (“Accepting a bribe”) and Art. 322^{sexies} (“Receiving advantage”) are inverted to the above-mentioned *corpus delicti*. In one case, a public individual receives an award in favour of the bribe-giver or of the third party, and in the other case, a public individual performs the same act without the above-mentioned peculiarity.

The following statistics show that in Switzerland bribes are given for a particular act of a public individual in favour of the bribe-giver or of a third party ten times more often than for the abstract acts or omissions in spite of the interests of the service (accordingly, 30 cases per 3).

The subjects of the crimes stated in Art. 322^{quater} (“Accepting a bribe”) and Art. 322^{sexies} (“Receiving advantage”) shall be officers and members of a government authority, public servants, experts appointed by the official channel, translators and interpreters, arbitrators and military officers. The

authors may conclude that police officers and Prosecution Service officials are regarded as “members of a government authority” (“*anderen Behörde*”).

Article 322^{decies} prescribes that private individuals who perform public functions are considered public officials of the governmental authorities. For instance, the Juvenile Code of Criminal Procedure prescribes that if the action is withdrawn, a trustworthy private individual or a social institution shall be held responsible for surveillance of a juvenile defendant. Thereafter, according to criminal law, the above-mentioned persons are regarded as public officials.

It is notable that the Criminal Code of Switzerland prescribes the list of mitigating circumstances, while it does not provide any aggravating circumstances. Consequently, the committing of a criminal offence by a police officer or by a Prosecution Service officer shall not be regarded as aggravating circumstances and serve as definitive grounds for a more severe sentence.

The subject of the crimes stated in Article 322^{ter} (“Bribery of a Swiss public individual”) and in Article 322^{quinquies} (“Giving advantage”) shall be any sane private individual (under Art. 3 p. 1 of the Juvenile Criminal Code of Switzerland, criminal liability starts from the age of 10) or any business. In fact, the Criminal Code of Switzerland in part VII provides criminal corporate liability in detail and includes in this category: 1) any business of public or private law with the exception of the territorial corporations (*Gebietskörperschaften*), 2) companies and 3) individual businesses.

The subjective aspect (the state of mind) of all the crimes under consideration must represent a fraudulent intent (*dolus malus*). The authors also add that the Criminal Code of Switzerland does not differ between express malice and implied malice²⁸. It is impossible to commit these acts by negligence.

The authors analysed the statistical data of 2015 related to the corruption-related crimes under consideration²⁹:

The name of the crime	The number of crimes with preliminary investigation	The number of registered crimes	Criminal attempts	In conjunction with other crimes
Bribery (Art. 322 ^{ter})	30	31	27	1
Accepting a bribe (Art. 322 ^{quater})	4	5	0	0
Giving advantage (Art. 322 ^{quinquies})	3	3	0	2
Receiving advantage (Art. 322 ^{sexies})	4	5	0	2

²⁸ According to Art. 12 p. 2 of the Criminal Code of Switzerland, a person, who commits a criminal act with a fraudulent intent or consciousness of guilt, shall be regarded as a person who commits a crime or a criminal act intentionally.

²⁹ URL: www.bfs.admin.ch/bfs/portal/de/.../publikationen.Document.191708.pdf (last seen – 30.05.2017).

The table above allows the following conclusions to be drawn.

Firstly, in Switzerland, corruption-related crimes account for less than 1% of all criminal offences. Corruption, as an anti-social phenomenon, is not wide-spread in Switzerland.

Secondly, in Switzerland, people give bribes more often than they take bribes. This phenomenon is probably explained by the fact that public individuals have a higher legal culture than ordinary people. In addition, only a citizen of Switzerland may act as a subject who takes a bribe, since non-residents generally³⁰ have no right to hold public office, while a non-resident may also act as a subject who gives a bribe³¹.

Thirdly, the majority of the corruption-related crimes under consideration are not committed in conjunction with other criminal offences. A person who takes or gives bribe usually does not commit any other crimes.

Criminal and disciplinary liability of law enforcement officials

Article 31 of the Federal Act on governmental service provides the measures of disciplinary liability taken towards the prosecutor and police officers for inappropriate performing of professional duties. The measures include:

- 1) Admonition;
- 2) A fine up to 500 francs;
- 3) Deprivation of driving privileges;
- 4) Temporary deprivation of office together with reduce or deprivation of salary;
- 5) Transfer to a position with the same or with a lower salary, in some cases together with a reduction or deprivation of relocation costs as a punitive measure;
- 6) Reduce of salary within the service-related office;
- 7) Reduction or forfeiture of an ordinary raise in salary;
- 8) Transfer to temporary work facilities;
- 9) Dismissal as a disciplinary measure.

The above-mentioned measures may be taken in cases when corruption-related crimes are committed which are regarded as non-punishable under the Criminal Code of Switzerland on grounds of the absence of *corpus delicti*. The authors managed to find several cases mentioned in the press.

³⁰ An exception is possible with the approval of the Federal Council (the Government).

³¹ According to the official web-site of the Ministry of Foreign Affairs of Russia, the population of this state numbers 8.2 million together with 1.98 million foreigners (24.8 %). Thus, almost 1 person out of 4 living in Switzerland is a foreigner.

The Basel newspaper “*Tages Woche*” in March of 2017 printed the headline “*Sex für Informationen*” (“Sex for information”). The newspaper wrote that in the red-light district, the Zurich officers of the public morality police (*Zürcher Sittenpolizei*) acting as private individuals, received food, beverages and sexual services for free. In return for these services, the police officers provided women with information concerning the time of the police control visits. As a result, two police officers were dismissed, and three others were transferred to the other positions by the official channel³².

The Zurich newspaper “*Blick*” in its edition on the 1st November of 2016 wrote that a police officer used a service car for personal purposes. He drove more than 90 kilometres in total. A disciplinary audit followed this case³³.

Nevertheless, the majority of scandals in the police and Prosecution Service are not connected to corruption. The Zurich newspaper “*Blick*” in its edition on the 1st November of 2016 put the headline “*Basler Polizei jetzt auch noch im Sex-Sumpf*” (“The Basel police are now stuck in the sex-swamp too”). The newspaper wrote that in the canton of Basel-Stadt a police officer had sex with his colleague while the third party was recording them. Afterwards, the video was published on the Internet³⁴. “Actions like these can cause substantial damage to the reputation of the police establishment” - The Secretary-General of the Swiss Police Officers Union Max Hofman said³⁵.

Corruption-related crimes are only punishable according to the rules of criminal law (it is also notable that the administrative liability that exists in Russia is unknown in Switzerland). The authors also examined how strict this part of the Criminal Code of Switzerland is.

Bribery of a Swiss public individual (Art. 322^{ter}) and Accepting a bribe (Art. 322^{quater}) are punishable by detention for a term of up to 5 years or by fine.

Article 322^{quinqüies} (“Giving advantage”) and Art. 322^{sexies} (“Receiving advantage”) are punishable by detention for a term of up to 3 years or by fine.

A fine calculated as a multiple of the bribe is unknown in the Swiss system of justice. According to Art. 34 p. 1 of the Criminal Code of Switzerland, a fine shall only be calculated taking into account the daily fee. The fine shall not go beyond 360 daily fees. One daily fee corresponds to three thousand francs. Under Art. 35, it is impossible to replace an unpaid or expired fine by detention.

³² URL: http://www.tageswoche.ch/de/2014_33/schweiz/665665/ (last seen – 30.05.2017).

³³ URL: http://www.tageswoche.ch/de/2014_33/schweiz/665665/ (last seen – 30.05.2017).

³⁴ URL: <http://www.blick.ch/news/schweiz/basel/basler-polizei-jetzt-auch-noch-im-sex-sumpf-ein-skandal-jagt-den-naechsten-id5595575.html> (last seen – 30.05.2017).

³⁵ Id.

Therefore, in Switzerland, giving bribes and taking bribes is punishable in the same way (while according to Art. 290 p.1 and Art. 291 p.1 of the Criminal Code of the Russian Federation, the above-mentioned crimes are punished in different ways – namely, taking bribes is punished more severely³⁶). *Per contra*, the Swiss legislator presumes that the above-mentioned acts have the same character of public danger (giving bribes and taking bribes are both vices). Moreover, it is notable that the Criminal Code of Switzerland provides lenient penalties for the above-mentioned crimes. It prescribes that these crimes are punishable by a maximum of five years of detention, while the Criminal Code of the Russian Federation prescribes that these crimes are punishable three times more severely – by 15 years of detention.

Summing up, the experience of Switzerland may be useful in the development of Russian law, particularly in the scope of anti-corruption legislation, as well as in the elaboration of anti-corruption policy.

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³⁶ In the meantime, according to the Criminal Code of the Russian Federation, for instance, the maximum of penalties prescribed by the last chapters of the above-mentioned Articles is equal and shall be 15 years of detention.

Streszczenie

Zwalczanie korupcji w Szwajcarii

Słowa kluczowe: korupcja, działania antykorupcyjne, ustawodawstwo antykorupcyjne, prawo karne, Szwajcaria.

Autorzy w oparciu o akty prawne i literaturę analizują doświadczenia Szwajcarii w walce z korupcją i kwestię ochrony przed jej negatywnymi skutkami. Autorzy koncentrują się na mechanizmach kontroli wewnętrznej i zewnętrznej, funkcjonujących w Szwajcarii, analizują ustawodawstwo antykorupcyjne oraz środki odpowiedzialności karnej i dyscyplinarnej. W artykule podano konkretne przykłady z praktyki sądowej.