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INTERNATIONAL LEGAL PRINCIPLE OF GOOD FAITH AS A BASIS FOR REGULATION OF PRIVATE LEGAL RELATIONS

Abstract of a Dissertation

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Relevance of the research topic. The current historical period of neglect of the established norms of international law, the use of unilateral restrictive measures by states for their own economic expansion by methods of unfair competition is a violent breakdown of the established values reflected in the norms of international law, the revision of the principles of good faith and fairness, serving as the basis of modern international law, reflecting a coordinated understanding of national legal cultures on the basis of natural law. In this regard, there is a need to enshrine in the norms of international and national law prohibitions of those types of bad faith behavior that have been identified by judicial practice to date. Such norms-prohibitions are essential to any rule of law and to the prevention of all types of bad faith in society at all levels. However, it is first necessary to determine which types of negation of bad faith behavior and the legal means correlating to them are universal to all legal systems.

There is an objective need for constant study of the concept of "bad faith behavior" due to the fact that good faith, as a legal concept and as a principle of law, cannot be understood without its antipode (bad faith, bad faith behavior). The author substantiates that "good faith" and "bad faith" exist in dialectical unity. The concept of good faith can be defined through the cognition of actively developing bad faith, that is, through the analysis of specific practical situations of bad faith behavior that develop in various spheres of legal relations.

It is necessary to develop qualifying features of bad faith behavior and formulate a generalizing definition of the legal concept of "bad faith behavior" due to the fact that at the moment the normative legal acts of international and national law, judicial positions of the EAEU Court, the ECHR, the highest courts of the Russian Federation use different terms: "bad faith behavior", "unfair actions", "unfair practice" and other analogues.

There is a need to understand how the principle of good faith, which emerged within the international legal system, correlates with such legal concepts as: "general principles of law"; "general principles of law recognized by civilized nations"; "principle generally recognized in civilized states"; "peremptory norm of general

international law (jus cogens)"; "generally recognized principles and norms of international law"; "prevailing peremptory provisions"; "norms of direct application"; "provisions from which it is not permitted to derogate by agreement"; "public policy"; "super-imperative norms".

The UN International Law Commission is currently working on draft conventions on peremptory norms of general international law (jus cogens) and on general principles of law. The Commission's tasks are to eliminate confusion in the definition of concepts, to create uniformity and unification of the use of these legal concepts, to formulate norms on the definition of concepts, scope, criteria of identification, bases, requirements for the adoption and recognition of both peremptory norms of general international law (jus cogens) and general principles of law as one of the sources of international law - "general principles of law recognized by civilized nations" according to paragraph 1(c) of Article 38 of the Statute of the International Court of Justice dated 1945, the predecessor of which was the Statute of the Permanent Court of International Justice (League of Nations, 1920).

It should be taken into account the existence of "objective good faith" as a subsidiary source of legal regulation, in connection with which the author singles out the normative autonomy of the principle of good faith as an independent type of negation of bad faith behavior.

Undoubtedly, relevant for private international law and civil law is the author's justification of the presence of normative autonomy of the principle of good faith, which implies the possibility of deducing by the law enforcer from the principle of good faith legal rights and obligations for the parties to a legal relationship, even if these rights and obligations were not specifically formulated by the parties in the contract or were not fixed by the norms of positive law. This position of the author "breaks" the legal oxymoron existing in legal science, which consists in the statement that good faith is not capable of generating rights and obligations, but is capable of creating principles and norms of law, which, in turn, regulate rights and obligations.

In order to most effectively apply the principle of good faith, it is necessary to prove that it has its own method of legal regulation in international law, private international law and national law, which consists in the negation of bad faith behavior, in this regard, the development of the category of "negation" in law is relevant.

The norms-prohibitions of current unfair practices revealed by judicial practice that have appeared in modern international law require detailed analysis. Such sources of international law, being part of national legal systems, directly regulate legal relations of private persons.

Modern international and national sources of law (mandatory and advisory) prohibit the known types of unfair behavior, setting out exhaustive and non-exhaustive lists of unfair practices in different spheres, for example: (1) the OECD's fundamental international rules against tax evasion - General Anti-avoidance Rules (GAAR), which are general principles for the detection of tax abuse; (2) thirty-one types of unfair commercial practices (exhaustive list) specified in the Directive of 11.05.2005 No. 2005/29/EC of the European Parliament and of the Council of the European Union "On unfair commercial practices towards consumers in the internal market (Unfair Commercial Practices Directive)"; (3) nine prohibited unfair trade practices that arise in connection with the sale of agricultural and food products and six more prohibited trade practices in the same field, unless they have been previously agreed in clear and unambiguous terms in the supply contract or in a subsequent agreement between the supplier and the buyer (the "minimal" exhaustive list), specified in the Directive of 17.04.2019 No. 2019/633 of the European Parliament and of the Council of the European Union "On unfair trade practices in business relationships in the agricultural and food supply chain"; (4) a non-exhaustive list of unfair practices in the financial market contained in the Agreement on Cooperation and Exchange of Information, including confidential information, between the Central Bank of the Russian Federation and the National Bank of the Republic of Kazakhstan in the field of financial market supervision dated 07.06.2018; (5) anti-competitive practices at tenders, which are counteracted by

Article 17 of Federal Law No. 135-FZ dated 26.07.2006 "On Protection of Competition". Thus, the most effective in this area is to regulate the behavior of subjects of relations by establishing direct legal prohibitions of specific types of unfair behavior. It is this "backward-looking" approach that allows to clarify the current state of the legal concept of "good faith principle".

At the same time, the excessive appearance of norms-prohibitions, on the one hand, reduces (limits) the measure of freedom of economic entities, on the other hand, relying on the principle of balance of interests, allows to promptly and effectively limit the spread of bad faith in any of the spheres of social relations, where new unfair practices of behavior actively begin to emerge. The purpose of the norm-prohibition is to immediately stop unfair behavior and prevent its spread and mass application.

In order to ensure proper legal protection of a subject of law acting in good faith, it is relevant for the author to identify types of negation of bad faith behavior and systematization of legal means of negation of bad faith corresponding to these types. Any subject, facing the behavior of a partner or counterparty, which he considers bad faith, should know in what limits and situations he can counteract such behavior and with the help of what legal mechanisms. The justification of the integrative application of the principle of good faith seems relevant for application by courts.

Despite the fact that philosophers, theologians, sociologists and legal scholars in Russia and abroad have written multi-volume studies on the very definition of integrity, these works explore the genesis of the concept only in relation to the mentality of a civilizational group. However, in relation to the legal sphere, there is practically no research of the influence on a person's choice of a model of legal or non-legal behavior exerted by: earlier - civilizational and religious differences, and nowadays - by decisions made by artificial intelligence (neural network); high humanitarian technologies ("Hi-Hume technologies"), which is understood as a convergence of social, information, communication, neurophysiological and other technologies that change human consciousness and control human behavior as a

socio-technical system; and other technologies that change human consciousness and control human behavior. The law in the current moment does not fully take into account both civilizational differences of states and the influence of Hi-Hume technologies on the behavior of individuals and does not use the fact that these technologies can destroy the mechanisms of human self-regulation, in connection with which the behavior of the subject of legal relations under the influence of technologies could be referred to the behavior with a defect of will.

New variations of bad faith behavior emerged together with the development of digitalization of different spheres of activity - this occurred as a result of equipping bad faith behavior with digital technologies. At the present stage, society is faced with a new direction of development of unfair behavior - abuse of digital technologies (cyber unfairness), in connection with which the issues of realization by subjects of relations of the right to protection from unfair behavior in cyberspace have undoubted relevance.

Legal relations in cyberspace, which has no territorial boundaries, and the cross-border availability of digital technologies give rise to the concept of "digital bad faith behavior" in relation to other participants of digital legal relations. Identification of previously unknown types of unfair conduct in cyberspace seems possible, primarily due to the globalization of economic practices and due to the universality of society's understanding of what is unfair in real and virtual life.

Estoppel as a principle of law regulating private legal relations has not yet developed in the Russian legal system. In this regard, at the current historical moment it is more correct to refer to estoppel as a legal mechanism of protection of the principle of good faith and as a sanction for violation of the requirements of the principle of good faith.

Degree of development of the scientific problem. Review of domestic doctrine. In the development of the main provisions concerning the disclosure of the peculiarities of legal cultures of different states and ethical, moral and religious foundations of law, it was fruitful to attract the works of jurists S.N. Baburin, A.A. Vasiliev, A.M. Velichko, Y.V. Romanets, V.V. Sorokin.

The role of the principle of good faith in international law has been studied by such scholars as G.K. Dmitrieva, A.Y. Kapustin, P.A. Kalamkarian, I.I. Lukashuk, R.A. Mullerson, T.N. Neshataeva, A.V. Popova, O.I. Tiunov, G.I. Tunkin, T.Y. Khabrieva, S.V. Chernichenko. Detailed analysis of the provisions of the UNIDROIT Principles devoted to good faith has repeatedly become the subject of research by such scientists as N.G. Vilkova, K.V. Nam. Consideration of the inadmissibility of circumvention of the law required the author to refer to the works of jurists in the field of private international law A.M. Abdullaev, A.V. Aleshina, L.P. Anufrieva, E.S. Barinova, P.V. Batora, D.V. Belova, N.G. Vavin, V.A. Kosovskaya, S.B. Krylov, P.R. Lukyanchikova, L.A. Luntz, A.I. Muranov, O.A. Ryapolova, I.S. Peretersky, I.V. Sazanova, E.D. Suvorov, V.L. Tolstykh and others. The author's conclusions regarding the inadmissibility of violation of the reciprocity principle as one of the types of denial in international law are made taking into account the analysis of the works of L.P. Anufrieva, A.I. Bessonov, V.N. Borisov, K.L. Branovitsky, G.M. Veliaminov, N.V. Vlasov, N.G. Doronin, D.V. Litvinskiy and others.

The merit of a number of domestic scientists is the development of the relationship between the general principles of justice and good faith in law: V.A. Vaipan, G.A. Gadzhiev, A.G. Didenko, I.A. Ilyin, A.Y. Kurbatov, G.V. Maltsev, A.V. Konovalov, L.L. Kofanov, V.A. Letyaev, M.V. Presnyakov, L.S. Yavich and others. Studying the principle of good faith in law as a basis for the negation of bad faith behavior, the author relied on the works of scientists in the field of civil law: E.V. Vavilin, V.V. Vitryansky, D.V. Vitryansky, D.V. Vinnitsky, A.V. Gabov, V.G. Golubtsov, T.Y. Epifantseva, O.A. Kuznetsova, K.I. Sklovsky, V.V. Yarkov and others.

In terms of studying from the point of view of sociology and political science the processes of globalization, religious postulates that establish the prohibition of unfair behavior, immersion in the deep history of mankind, the author was helped by the conclusions set forth in the works of: A. Berzin, A.I. Litvinenko, A.I. Malkovskaya, D.V. Yurevich.

The author studied the works of the following scientists in the field of general theory of law to substantiate each of the legal concepts ("denial"; "bad faith behavior"; "method of legal regulation", etc.) and the acceptability of their use: S.S. Alekseev, Y.B. Baturina, V.A. Belov, V.M. Gorshenev, V.V. Ershov, O.A. Krasavchikov, G.V. Maltsev, Y.B. Masyagina, G.G. Pashkova, B.I. Puginsky, V.A. Sapun, E.A. Sukhanov, M.V. Syrykh, Y.K. Tolstoy and others.

In order to study bad faith behavior as an object of negation, the author familiarized himself with the conclusions about "legal and non-legal behavior", "lawful and unlawful behavior", about the norms of right and wrong behavior, differentiation of the concepts of "abuse of right" and "bad faith behavior" in the works of M. Varyushin, P.G. Vinogradov, V.L. Wolfson, V.N. Kudryavtsev, M.V. Novikov, T.P. Podshivalov, N.A. Pyanov and others.

To analyze the inadmissibility of behavior that goes beyond the established limits of the exercise of rights, to study approaches to the definition of abuse of right, legal grounds for the application of estoppel, the author used the works of V. A. Belov, A.V. Volkov, V.P. Gribanov, A.A. Dzhagaryan, N.V. Zaitseva, M.F. Lukyanenko, E.Y. Malikov, A.A. Malinovsky, I.A. Pokrovsky, A.P. Sergeev, G.P. Tolstopiatenko, A.M. Erdelevsky and others.

In the process of studying the legal means of countering the abuse of digital technologies (cyber unfairness), the author analyzed the conclusions from the works of legal scholars A.A. Antopolskiy, N. A. Voronina, I.V. Vorobyeva, V.S. Klementieva, S.E. Nesmeyanova, V.D. Salakhutdinov, M.S. Salikov, A.P. Sergeev, M.Y. Sereda, T.A. Tereshchenko, A.I. Husnutdinov, A.S. Shatilina, K.S. Yuchinson and others. For the purposes of defining the concept of cyber bad faith and its types, as well as the problems of establishing the rules of regulation of legal relations in globalized cyberspace, where there is a problem of implementation of the establishment of state sovereignty in international law, the author studied the scientific works and articles of legal scholars V.V. Zhemerov, D. Moshnikov, M.A. Rozhkova, V.N. Rusinova, E.V. Talapina, L.V. Terentyeva, M.S. Dashyan, M.V. Mazhorina, E.K. Matevosova, I.E. Mikheeva, N.A. Molchanov.

The legal doctrinal approach to the nature and content of the sovereignty of states is studied in the works of S.N. Baburin, N.I. Grachev, B.M. Klimenko, R.A. Mullerson, L.D. Timchenko, G.I. Tunkin and S.V. Chernichenko in order to consider the problem of establishing sovereignty in cyberspace due to the absence of territory in it, and its component - territorial supremacy of the state.

Review of foreign doctrine. In the study of the category of justice and its criteria there was an appeal to the philosophical aspects of the problem. The ideas of justice were studied in the works of Plato, Aristotle, Thomas Aquinas, in the legal works of Hugo Grotius, G. Kelsen, J. Rawls. To analyze the general principles of law and generally recognized principles of international law were studied the works of A. D'Amato, C. von Bar, L. Delbez, E. Clive, C.T. Kotuby, O. Lando, A. Prum, L.A. Sobota, R. Zimmerman. The principle of good faith was disclosed in detail by O'Connor J., M.W. Hesselink, M. Hiscock, V. Michel, R.E. Santoni, D. Stack and in the provisions of the UNIDROIT Principles - G. Robin, Al. Farnsworth.

The property of normative autonomy of the principle of good faith in law was studied by such international scholars as T. Voon, R. Kolb, A. Mitchell, M. Sornarajah.

Inadmissibility of estoppel violation is considered by the author taking into account the opinions of foreign jurists R. Good, K. Ghali, A.Th. Denning, E. Coke, A.F. Lowenfeld, L. Raape, S. Wilken.

The history of legal thought is represented in the dissertation by the studies of ancient Chinese thinkers: Lao Tzu (founder of preacism, VI-V centuries BC), Confucius (ancient China, VI century BC), Gunsun Yang (Shang Yang) (political figure of ancient China, 390-338 BC), Guan Zhong (political figure, VII century BC).

Regulatory material and judicial practice. The normative-legal basis of the study includes the following number of international acts: 27 sources are attributed to international treaties and recommendations, 14 sources are included by the author in the section of international law, integration groupings of states, unions. Regarding the national legal systems, the normative-legal basis of the research is 57 acts of the

Russian Federation, and also the comparative-legal analysis of the norms of the Russian law with the corresponding legislation of the following countries was carried out: Austria, England, Germany, Greece, Italy, China, USA, France, Switzerland, Japan. The dissertation considers the following acts of judicial and arbitration practice: decisions of the UN International Court of Justice, the EU Court, the EAEU Court, the ECHR, some dissenting opinions of judges of international courts, definitions, rulings, information and reviews on certain issues of judicial practice of the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation, the Supreme Arbitration Court of the Russian Federation, the Supreme Arbitration Court of the Russian Federation, acts of regional Russian courts.

Aim and objectives of the research. The purpose of this work is to formulate universal types of negation of bad faith behavior inherent in different spheres of legal relations in the legal systems of different countries in order to substantiate the possibility of regulating private legal relations directly by the international legal principle of good faith due to its attribute of normative autonomy and its inherent independent method of legal regulation.

Achievement of the specified goal was realized by means of solving the following tasks:

1) to determine the place in law of the principle of good faith as a general principle of law, jus cogens norm, super-imperative rule of law;

2) to study the process of formation and development of the principle of good faith in the international legal system from custom through the position of the court to the enshrinement in the norm of positive law of national legal systems;

3) to reveal the influence of cultural traditions, norms of religion, morality and law on the formation of the idea of bad faith behavior;

4) characterize the systemic relationship between the principles of justice and good faith;

5) to substantiate that "good faith" and "bad faith" exist in dialectical unity, in connection with which it is impossible to know and recognize good faith without its antipode;

6) to reveal the application of the concept of "bad faith behavior" and its many analogs in the norms of law and judicial practice (ECHR, the EAEU Court, the highest courts of the Russian Federation);

7) to formulate the author's legal concept of "bad faith behavior" and qualifying characteristics of bad faith behavior;

8) provide recommendations on resolving the issue of whether it is necessary to fix the jurisdiction of a certain state over cyberspace for the purposes of state control over violation of the principle of good faith in cyberspace;

9) to investigate the established practices of "digital bad faith behavior" in cyberspace for the purpose of formulating appropriate legal remedies against cyber bad faith;

10) formulate the differences between error and bad faith actions, justifying why error does not belong to bad faith behavior;

11) classify types of bad faith behavior;

12) to define the concept of "negation of bad faith behavior" and its significance in law as a method of legal regulation inherent in the principle of good faith;

13) to classify and establish the content of types of negation of bad faith behavior;

14) to investigate what legal means are used to protect the principle of good faith in each type of negation of bad faith behavior, as well as to establish the correlation of the latter with legal means for the most effective application of the principle of good faith in practice;

15) to prove the existence of the property of normative autonomy of the principle of good faith for the purposes of its application by courts within the framework of judicial discretion;

16) to substantiate the possibility of integrative enforcement of the principle of good faith;

17) to justify the enforcement of estoppel as a sanction for violation of the principle of good faith.

Object of the dissertation research. The object of the dissertation research is the types of bad faith behavior known today in different spheres of legal relations, including cyberspace, on the basis of which the author was able to identify universal types of negation of bad faith behavior for effective application of the principle of good faith.

Subject of the dissertation research. The subject of the dissertation research is: the emergence of the principle of good faith within the international legal system; the inseparable relationship of justice and good faith as "the measure of rights" and "the quality of the use of these rights by the subjects of legal relations" respectively; the system (co-existence) of legal antipodes: "good faith" and "bad faith", which are considered by the author in dialectical unity and from the position of compensatory complementarity, i.e. complementation of opposites with each other - since both concepts in the perspective of dialectical analysis are legal categories that affirm each other in the system of law; definition of the concept of "bad faith behavior" and its analogues used in sources of law; negation of bad faith behavior revealed by judicial practice as of today in various areas of public relations; norms-prohibitions of bad faith behavior in public international law, private international law and civil law; peculiarities of qualification of bad faith behavior and protection of legal rights of a bona fide party in disputes by means of interdisciplinary application (on the basis of the developing integrative approach to the application of law) of appropriate legal remedies against bad faith.

Theoretical and methodological basis of the research. The following groups of works form the theoretical basis of the research: works on international law, private international law, legal theory, other legal disciplines of national law; works on philosophy, history and psychology. The methodology of the research is similarly constructed, as the analysis of legal issues is consistently carried out in the

context of their significance and conditionality within the framework of international law, private international law, civil law, while using the concepts of general theory of law and branch legal sciences, philosophy, history, sociology and psychology.

The main direction of this dissertation is the substantiation of the development of such a method of legal regulation of social relations as the negation of bad faith behavior by forming prohibitions of known types of such behavior in the norms of public and private international law. This method is applicable in all branches of international and national law. The author has identified and systematized the types of negation of bad faith behavior known to the law as of today, and identified correlating with them legal means to protect against bad faith behavior, some of which modern Russian law has implemented from international law and private international law (e.g., estoppel, waiver, the doctrine of "clean hands", etc.). For the purposes of harmonizing the author's concept with general theoretical conclusions, the definitions developed in the theory of law were used: "method of legal regulation", all types of "negation", "method of legal regulation (prohibition, permissive, obligation)", "legal means".

The generalized understanding of the legal standards of good faith and bad faith in different branches of law allowed the author to focus on the development of the concept of "bad faith behavior" as a common practice that is discovered in legal disputes by courts during conflict resolution. In this regard, the prohibition of bad faith by the fact of its discovery during the consideration of the dispute allows to generalize practices and develop a scientific concept of "bad faith behavior".

In fact, the negation of all manifestations of bad faith behavior, as a method of legal regulation, is socially necessary for the purpose of protecting the principles of justice and good faith in law.

Thus, the prohibitions of bad faith arise initially from practice (economic activity in this study) and then receive their formalization in the norms of law. The algorithm of law action in this case looks as follows: general principle of law - violation of the general principle of law - prohibition of such bad faith behavior - formalization of the prohibition in the norm of positive law. Consequently, the

development of law comes not only from a specific principle of law, but from a specific violation of this principle.

Methodological basis. In the process of research the author applied formal-legal (dogmatic method), comparative-legal and historical methods, as well as general scientific research techniques (analysis, synthesis, deduction, induction, generalization, analogy, description, observation, comparison, classification).

Information base of the research. The complex of 765 sources used by the author in researching the topic of the thesis constitutes the empirical basis of the research and includes: 366 sources of domestic scientists; 60 sources in foreign languages; 22 international treaties and recommendations; 14 sources related to the law of integration groupings of states, unions; 69 decisions and acts of international courts; 6 dissenting opinions of judges of international courts; 49 acts of legislation and recommendations of the Russian Federation; 13 acts of legislation of foreign states; 69 acts of the highest Russian courts; 12 information and reviews of the highest courts of the Russian Federation; 19 decisions of regional and local Russian courts; 45 sources related to electronic resources; 21 other resources.

Validity and reliability of the research results are confirmed by: the analysis of legal positions of international and national judicial practice; comparison of the obtained results with related scientific developments in the field of public international law, private international law and civil law of Russia and foreign countries. In order to objectively and comprehensively study the principle of good faith, the study of the practice of enshrining both good faith itself and its antipodes in different branches of law was conducted, which allows us to qualify the material as reliable and reasonable.

Scientific novelty of the study. The novelty of the scientific research lies in the fact that the author:

- substantiated that the principle of good faith, as a general principle of law, jus cogens norm, super-imperative norm of law, has such a property as normative autonomy, which allows international and national courts to apply the principle of good faith directly for the purpose of creating rights and obligations derived from it

as such, even if the contract or normative act does not contain these rights and obligations.

On the basis of normative autonomy of the principle of good faith, the author substantiates the possibility of the court to deny bad faith behavior even in the absence of a clearly formulated rule in law prohibiting a particular type of bad faith behavior. The existence of normative autonomy of the principle of good faith is confirmed by: (1) the fact that the principle of good faith is the basis, the foundation for the formation of new norms of law, and therefore, can create new obligations; (2) the fact that there is lex mercatoria as an array of sources united only by the sphere of legal regulation, from different legal systems (international and national) and of different legal force (mandatory and recommendatory); (3) in private international law through the criteria of formulation of implied obligations in the sphere of regulation of international trade, when the obligations of the parties are derived not from the external economic contract, but from honest and business practice in this sphere; (4) integrative law enforcement; (5) the presence of the principle of good faith of its own method of legal regulation - negation of bad faith behavior.

The author gives his own definition of the concept of "principle of good faith" - it is a norm-principle (general principle of law and jus cogens norm): (1) possessing super-imperative legal force; (2) being an integral part of public orders (international and national); (3) being a norm of direct action, not only subsidiary; (4) possessing its own method of legal regulation, namely, it regulates social relations through the negation of all types of bad faith behavior; (5) criteria, characteristics, features and requirements of which are contained in international and national sources of law (mandatory and recommendatory), judicial legal positions, dissenting opinions of judges (arbitrators); (6) having normative autonomy, i.e. on its basis the court has the right to formulate obligations of the parties to a dispute that are not fixed by a contract or a rule of law; (7) characterized by the possibility of integrative law enforcement, i.e. a law enforcer or any other subject of law protecting his/her legitimate interests is entitled to apply criteria, characteristics, attributes and

requirements of the principle of good faith once formulated in legal norms (irrespective of the branch of law and their legal force), judicial legal positions, special opinions of judges (arbitrators); (8) which is the basis of inter-branch analogy; (9) the legal content of which is constantly clarified and developed in situations of conflict (disputes) in order to prohibit unfair behavior and prevent the spread of the latter;

- proved that modern international law in order to quickly stop the development of new practices of bad faith behavior in different economic spheres goes on the way of creating norms-prohibitions of known to date types of bad faith revealed by judicial practice;

- developed author's definitions of legal concepts: "bad faith", "bad faith behavior" and "negation of bad faith behavior as a method of legal regulation" - which have not previously acted as independent objects of scientific research in the domestic science of law. Russian legal science focuses mainly on the study of the principles of justice, good faith, their criteria and abuse of rights, while it is required to study the system (joint existence) of legal antipodes: "good faith" and "bad faith" - which should be considered in dialectical unity and from the position of compensatory complementarity, i.e. complementation of opposites with each other;

- showed a new problematic of the developing cyber unfairness on the basis of the analysis of known for the current period types of unfair behavior in the Internet and with the use of digital technologies of artificial intelligence, which have a transboundary influence on the choice of an individual located in any jurisdiction, the model of behavior and control the behavior of a person as a socio-technical system. Human behavior due to the influence exerted on it by high humanitarian technologies can be regarded as behavior with a defect of will;

- developed a new extra-territorial (since cyberspace has no territory) general legal concept of negation of bad faith behavior and its unification into established types, to which within the framework of any legal system correspond legal remedies against bad faith, consisting of a set of principles of law, existing legal international and national norms, doctrines, norms of religion, morality, morals and cultural

traditions. The development of this concept required the involvement not only of works on international law, private international law and civil law, but also works on the theory of international law and general theory of state and law, as well as some studies of historical, philosophical and psychological nature;

- performed not only the classification of types of negation of bad faith behavior, but also correlated them with their correlated legal remedies against bad faith, which is set out in a separate table (Appendix 1 of this study) for practical use in the activities of courts at all levels;

- showed the peculiarities of estoppel as a sanction for violation of the principle of good faith, revealing the conditions of its application as a legal mechanism in substantive and procedural law. Also, new within the concept of estoppel is the identification of abuse of estoppel, which refers to bad faith behavior.

Provisions put forward for defense and having scientific novelty. The dissertation research corresponds to points 1, 2, 6, 8, 21, 29 of the passport of scientific specialty 5.1.5 "International legal sciences" and points 1, 2, 3, 4, 10 of the passport of scientific specialty 5.1.3 "Private law (civilistic) sciences".

Scientific novelty of the research is detailed in the following provisions put forward for defense:

1. The place in law of the principle of good faith as a general principle of law, jus cogens norm, super-imperative rule of law is substantiated. The principle of good faith is: (1) a general principle of law (according to the preamble of the Vienna Convention on the Law of Treaties of 1969); (2) a generally recognized principle of international law (according to Article 2 of the UN Charter and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations of 24.10.1970, where this principle is formulated as "good faith fulfillment of international obligations"); (3) a peremptory norm of general international law (jus cogens) (the term "peremptory norm of general international law (jus cogens)" is contained in Article 53 of the Vienna Convention on the Law of Treaties of 1969, and it is similar in its content to the term "generally recognized principles of international law" used

in part 4 of article 15 of the Constitution of the Russian Federation and paragraph 1 of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 5 of 10.10.2003 "On the application by courts of general jurisdiction of generally recognized principles and norms of international law and international treaties of the Russian Federation").

General principles of law as norms-prescriptions are common to all legal systems (international and national), as by their content these principles coincide in international and national law, represent a categorical imperative of legal force (peremptory norms of law possessing the highest legal force). The generally recognized principles of international law represent a super-categorical imperative of legal force (super-imperative norms of law possessing the highest legal force), as they have an additional quality - all treaties and norms that do not comply with them are legally invalid from the moment of their appearance.

International and national normative acts use a number of legal terms denoting norm-principles and emphasizing the super-imperative nature of their legal force: 1) "general principles of law recognized by civilized nations"; 2) "principle generally recognized in civilized states"; 3) "peremptory norm of general international law (jus cogens)"; 4) "generally recognized principles and norms of international law"; 5) "general principles of law" or "general legal principles"; 6) "prevailing peremptory provisions"; 7) "rules of direct application"; 8) "provisions from which no derogation by agreement is permitted"; 9) "public policy". All these legal terms in the definition of their concepts (doctrinal or normative) contain the principle of good faith.

2. Demonstrates the process of formation and development of the principle of good faith in the international legal system from custom through the positions of the courts to the consolidation in firm norms of international law and national law of different countries. As a result of the study of the process of formation of the principle of good faith, it was established that good faith includes requirements for the behavior of subjects of any legal relationship, and the totality of such requirements constitutes norms-prescriptions of imperative nature, which were

developed by custom through repeated practice, which was influenced by the norms of religion and morality, then formulated in judicial positions, later recognized as a legally binding rule, and finally enshrined in various rules of international law, private international law and national law.

The principle of good faith arises in the regulation of legal relations of parties having equal legal status, which requires a good faith attitude to each other, and such a thing became possible for the first time in international law at the conclusion of ancient international treaties of alliance and peace.

The principle of good faith (bona fides) has existed in international law since the ancient world as a custom for the observance of international treaties based on religion and morality, where the performance of an international obligation was supported by religious fear of divine punishment in case of non-compliance. Roman law has influenced the formation of all modern national legal systems, including the implementation (taking into account national peculiarities) of such categories of Roman law as "fides" and "bona fides", which were of fundamental importance for international relations.

It has been established that modern law takes into account the legal positions of courts (international and national), which identify new types of unfair practices in different spheres of social relations (financial, consumer, etc.) and give content to the principle of good faith in the consideration of specific disputes, denying the protection of bad faith behavior. So far, judicial practice follows the path of subsidiary application of the principle of good faith, while the principle of good faith assumes its direct application, being the basis for the creation of other norms of law.

3. The influence of cultural traditions, norms of religion, morality and law on the formation of the idea of bad faith behavior has been proved. The legal system of each state in qualifying behavior as bad faith relies not only on the norms of law, enshrining the principle of good faith, but also on cultural traditions, norms of religion and morality. It should be noted that, as a rule, to national public policy (except for fundamental legal principles, requirements for good conduct and compliance with explicit and unambiguously expressed (imperative) prescriptions

of laws, fundamental principles of law, prohibitions on committing acts expressly prohibited by super- imperative norms of legislation), legal doctrine refers to good morals and cultural traditions, which are diverse according to the historical experience of each state. The traditions of the societies of some states may not correspond to the public orders of other states, but they all share the most famous formulation of prohibitions of unscrupulous behavior in centuries-old history, which is contained in such religious sources as: the Bible - a collection of texts that are sacred in Judaism and Christianity and constitute the Holy Scriptures in these religions; the Koran - the Holy Book of Muslims, which contains the Revelations transmitted by Allah to the Prophet Muhammad.

Religious sources initially followed the way of fixing prohibitions of unscrupulous behavior: (1) the Ten Commandments according to the Synodal translation of the Bible contain prohibitions of unscrupulous behavior; (2) according to the Koran it is possible to distinguish thirty-five most important behavioral prohibitions in Islam; (3) in Buddhism it is recognized as useful to abstain from ten wrong actions of body, speech and mind. Uniformity of prohibitions of behavior contained in religious sources, formed in the world community (humanity as a single subject) predominantly the same idea of bad faith behavior. Thus, so far the most effective and fastest way of protection from bad faith is to establish in normative legal acts norms-prohibitions of emerging new types of bad faith behavior.

4. The system dialectical interrelation of the principles of justice and integrity is established. The principle of good faith exists in interrelation with the principle of justice, as two sides of the same coin, embodying one of the basic laws of dialectics - the law of transition of quantitative changes into qualitative ones, where: (1) justice - a quantitative characteristic, representing the measure of freedom of everyone in the use of their rights, and (2) good faith - a qualitative characteristic, answering the question of how conscientiously a person uses his rights. The principles of justice and good faith are general principles of law, forming the public order of states, as well as possessing super-imperative, which means the regulation of social relations by these principles even in the absence of clear norms of positive law in those areas

where new types of unfair behavior arise. Such regulation of relations by the principles of fairness and integrity is possible due to their systemic nature - the overall quality of work in the system due to a set of interrelated elements that behave as a whole.

5. It is substantiated that "good faith" and "bad faith" exist in dialectical unity, in connection with which good faith is impossible to know and recognize without its antipode. There is systematicity of the concepts of "good faith" and "bad faith" both in social relations and in law. Social relations consist of people's behavior, which can be classified by the criterion of its good faith and bad faith, so in law it is equally useful to develop the concepts of "good faith" and "bad faith", which are characterized by systematicity, meaning that good faith cannot be cognized without its opposite - bad faith.

Thus, "good faith" and "bad faith" should be considered in dialectical unity and from the position of compensatory complementarity, i.e. complementation of opposites with each other: the negation of bad faith behavior affirms good faith in law.

6. The application of the terms "bad faith behavior", "bad faith actions", "unfair practice" and more than thirteen derivative analogues in the norms of international and national law, judicial practice (the ECHR, the EAEU Court, the highest courts of the Russian Federation) has been revealed. The term "bad faith conduct" and its derivative analogues are used by standard-setters and courts to express in the norms of law the extreme degree of unacceptability of a certain type of behavior and to emphasize its inconsistency with the standards of good faith and reasonable exercise of rights, as well as to strengthen the focus on the establishment of legal prohibitions of certain types of bad faith behavior, to increase its denial.

The legal terminology of unfairness denial includes: (1) norms of international law that use the term "unfair practice" for its prohibitions in various spheres of international trade turnover (in the CIS and EU: in the e-commerce market, in the sphere of consumer protection, in the market of goods and services in the digital space). It is found that the examples of unfair practices formulated over the last five

years by countries in different spheres of international trade turnover, including online space and services without state borders, indicate the development of the concept of "unfair behavior" in both soft (recommendatory) and hard (mandatory) norms of international law; (2) the ECHR operates with the term "unfair conduct" in different categories of cases: home foreclosures without compensation; tax matters; unfair competition; unfair medical practice; (3) the EAEU Court has applied the concept of "bad faith" in cases of unfair competition, unfair interpretation of EEC powers, and the term "unfair behavior" in matters of leasing activities.

Russian law follows a similar path to international law in developing the municipal good faith principle: through the establishment of direct and specific prohibitions of its violation by unfair behavior of participants in commercial turnover. The concept of "bad faith behavior" is applied and disclosed in a number of provisions of the Russian legislation. Since 01.09.2022 amendments to Article 16 of the Law of the Russian Federation dated 07.02.1992 № 2300-I "On Protection of Consumer Rights" came into force, which introduced the term "inadmissible terms of the contract, infringing on the rights of the consumer" and listed fifteen inadmissible conditions (unfair practices) known to practice today.

It has been established that unfair behavior always has individualization (i.e., it depends on the characteristics and personal qualities of the individual who allowed deviant behavior), in connection with which there appeared psychological and legal definitions of such types of unfair behavior as "deviant (deviant) behavior" and "negative deviations in human behavior" developed by the Ministry of Education and Science of Russia in 2017. Russian jurisprudence actively uses the terms "bad faith actions" and "bad faith behavior" when considering disputable situations in various branches of law. Over the last five years Russian court practice, taking into account the actual circumstances of cases, has added to the register of bad faith actions of participants of legal relations, having formulated specific situations in which the behavior of a party to a dispute was recognized as bad faith (including by establishing its contradiction to paragraph 4 of Article 1 of the Civil Code of the Russian Federation).

In all norms bad faith behavior is described through the enumeration of its individual features in different areas of legal relations, but the definition of its concept is not given.

7. For the first time formulated the author's legal concept of "bad faith conduct" in law - is the conduct of a subject of law, which has a sign of reality (it can not be hypothetical), has a direct causal relationship with negative economic and legal consequences arising from other subjects of law, has individualization (it is associated with a specific carrier of conduct) and, as a result of comparison with all types of negation of bad faith conduct clearly indicates bad faith (obvious deviation from the law).

The characteristics of bad faith behavior that are relevant for its qualification as such are: (1) volitional choice of bad faith behavior by the actor; (2) its unpredictability for the counterparty (inconsistency with legal expectations); (3) antisociality of its purpose, knowingly contrary to the foundations of law and order or morality; (4) aiming at imbalance of interests of participants of legal relations, infliction of harm, violation of rights and freedoms of other persons; (5) inconsistency of intentions with committed actions; (6) use of rights not in accordance with the purpose of legal regulation.

8. Recommendations are made to resolve the question of whether it is necessary to fix the jurisdiction of a certain state over cyberspace for the purposes of state control over violations of the principle of good faith in cyberspace. Due to the rapid development of scientific and technological progress, the movement of information flows and unfair practices beyond national borders through the Internet is becoming uncontrollable, and disputes arise about the jurisdiction and sovereignty of states in cyberspace.

The refusal to limit the jurisdiction of states to their geographical territorial boundaries for the purposes of state control over legal relations in cyberspace is possible with the following measures proposed by the author of the thesis: (1) recognition of extraterritorial jurisdiction, which implies the possibility of exercising the national jurisdiction of a state outside its territory; (2) the criteria for choosing

the national jurisdiction of a state to be exercised outside its territory may be not only those used as conflict of law bindings for the settlement of disputable legal relations in cyberspace complicated by a foreign element, but also the criterion of the place of registration of an international legal entity created by an international treaty for the purposes of managing cyberspace as a commercial product (following the example of an Enterprise created under the 1982 Convention on the Law of the Sea). Such an international legal entity is created by states by international treaty; it does not have any state affiliation; it has no legal form of organization known to national law; it enjoys most-favoured-nation legal treatment without the requirement of reciprocity; it has absolute international immunities; it carries on commercial activities with a view to generating income for the benefit of mankind as a whole; it is free from the control of any state or group of states, and hence there is no international legal personality; (3) creation of international private digital (network) law to prevent the development of self-regulation of cyberspace. A role in creating model universal laws for cyberspace regulation is also seen for specialized international organizations, which could create bodies with subject matter expertise on global threats of unfair digital behavior in cyberspace. The jurisdictional competence of such bodies would include the right to adopt binding decisions on these issues, which would have the same legal effect as national law in the territory of a member state without transformation. The establishment of a body specializing in the legal regulation of problematic issues of a private nature in cyberspace is possible at the level of a union of states; (4) it is necessary to define the types of unfair behavior in cyberspace, for the purposes of being able to correctly apply to them the legal means of negating unfair behavior (including in the form of technical rules) and the corresponding liability; (5) it is necessary to revise international double taxation treaties, which should establish taxation principles for situations where an electronic service provider from one state can provide services to consumers in different countries of the world without being present in the countries of the consumers of the services.

9. The practices of "digital bad faith" in cyberspace have been identified for the purposes of formulating appropriate legal remedies against cyber bad faith. Preventing the spread in cyberspace of the types of cross-border digital unfair behavior (cyber bad faith) identified by the practice depends on the enshrinement of digital remedies in the rules of law. The problems of unfair behavior are related to the development and cross-border availability of digital technologies. The thesis identifies the following currently known types of cyber unfair behavior: copyright and related rights infringement; cybersquatting; dip-fakes; cyberbullying; illegal content posted by ISPs; defamation; sms interception; use of Internet resources as a means of radicalizing the sentiments of Internet users; phishing (installation of malicious programs, including the theft of personal data with a ransom demand for their non-use and return to the operator); cyberattacks that block the operation of digital systems of corporations - in this regard, modern scholars have begun to study the characteristics of antisocial digital behavior.

The emergence of a wide range of digital misbehavior has prompted the creation of new cybersecurity technologies. The means of protection against cross-border digital misbehavior are digital means that require legal enshrinement. In order to prevent the spread of unfair digital behavior, it is proposed to enshrine the following digital remedies in the norms of law: (1) blockchain or its analog "masterchain" as tools of protection against unfair actions when issuing digital bank guarantees (the Republic of Belarus has adopted a number of normative legal acts regulating the use of blockchain technologies); (2) use of such means of identification of the subject of digital rights as endowing the subject with an identification code; (3) introduction of prohibitions of unfair digital behavior influencing by means of digital technologies the behavior of large groups of people through the use of information adapted to the digital rights of the subject; (4) defining an exhaustive list of entities authorized to use Big Data and setting limits on the use of such data. The creation of rules regulating the digital behavior of Internet users is necessary due to the fact that digital technologies are used by unscrupulous participants in legal relations both to circumvent the law (for example,

the use by cartel participants of auction robots that operate in circumvention of antimonopoly legislation) and for price discrimination of consumers using Big Data.

The law in the current moment does not take into account the influence of high humanitarian technologies (Hi-Hume-technologies) on the behavior of individuals (their target groups) and does not use the fact that these technologies can destroy the mechanisms of human self-regulation, in connection with which the behavior of the subject of legal relations under the influence of technologies can be qualified as behavior with a defect of will.

10. The differences between an mistake and bad faith actions are formulated with justification of why an mistake does not refer to bad faith behavior. Mistake is not a manifestation of bad faith, in connection with which the right to correct a mistake is granted to any subjects, including state bodies (tax authorities, courts, etc.), in different spheres of legal relations (private-law and public-law). Unfair action is always characterized by a volitional decision of the subject to choose in favor of such behavior, while the mistake is characterized by randomness and lack of intent. It is important that it is allowed to correct a mistake without negative legal consequences for the person who made the mistake, if it is corrected by him within a reasonable period of time and if its correction does not worsen the situation of any subjects. The erroneous application of its competence by a state body may be corrected by it itself unconditionally, since the mistake cannot distort or level the competence of state bodies, imperatively provided by law.

11. For the first time the classification of bad faith behavior in law is carried out on seven features: (1) on subject composition (i.e., depending on who acts or fails to act in bad faith); (2) on the direction of actions; (3) on the nature of the will of the bearer of behavior (actor); (4) depending on the true intentions of the actor; (5) depending on the result (i.e., depending on who suffered damage); (6) on the nature of actions; (7) on the sphere of regulation of legal relations. The classification developed in the dissertation research (in conjunction with the qualifying features of bad faith behavior formulated by the author of the dissertation) helps to most

effectively identify the main types of behavior that can be unmistakably qualified by the court as bad faith.

12. The concept of "negation of bad faith behavior" and its meaning in law as an independent method of legal regulation inherent in the principle of good faith is defined for the first time. The principle of good faith has its own method of legal regulation expressed in negation. The method of legal regulation is a set of techniques and means of influence of law on the behavior of persons in a certain sphere of social relations. The negation of bad faith behavior as a method of legal regulation is implemented through the use of legal means enshrined in international (mandatory, advisory) and national norms of law to protect against bad faith. Denial in private international law is a substantive method of regulation and, from the perspective of private law unification, the denial of bad faith behavior consists in creating: (1) substantive rules: (a) prohibitions of bad faith practices; (b) obligations (e.g., obligations of states to ensure super-imperative prohibitions of bad faith practices); (c) permissions (e.g., regulator's veto, dissenting opinion); (2) recommendatory rules (e.g. the UNIDROIT Principles, etc.)

From the standpoint of the general theory of law, negation is a mixed method of legal regulation. The mixed method is due to the fact that good faith is a general principle of law, a norm of general international law (jus cogens), a super-imperative norm of international private law, an interdisciplinary principle of national law, which have the highest legal force (because it constitutes public policy) in the regulation of both interstate relations and relations in the sphere of international private law and national law. The precise and targeted application of the principle of good faith is realized through the application of legal means, the essence of which is to propose specific mechanisms through which certain socio-economic objectives can be addressed.

The determining significance of the negation of bad faith behavior in law is that it is a method of legal regulation, implemented through the application by participants of legal relations and courts of methods of legal regulation (prohibitions,

obligations and permissions based on the principle of good faith) and legal means corresponding to them.

Denial, as a basis for a judicial decision, is formulated through the assessment of the behavior of the subjects of the legal relationship by the court, taking into account the actual circumstances of the case. This negates behavior with the intention to cause harm, or violating public order, or resulting in the abuse of rights, or aimed at circumventing the law, or preventing the proper implementation of another specific legal requirement of an international treaty or national law, or not corresponding to the purpose of legal regulation, for the achievement of which a particular normative legal act was adopted, etc. Thus, through negation as a method of legal regulation, the court determines the boundaries of the realization of rights.

13. The first legal classification of types of negation of bad faith behavior corresponding to the current historical period is proposed. The classification is based on the way in which the modern international and national civil law implements the negation of bad faith in public law and private law relations. The author distinguishes the following twelve types of negation of bad faith behavior: (1) the property of normative autonomy of the principle of good faith; (2) inadmissibility of violation of the principle of balance of public and private interests; (3) inadmissibility of violation of the principle of reciprocity; (4) inadmissibility of violation of international and national public orders; (5) inadmissibility of behavior that goes beyond the established limits of the exercise of rights and (or) powers; (6) prohibition of discrimination; (7) anti-avoidance and anti-abuse rules (inadmissibility of unfair commercial practices and unfair practices on the financial market; inadmissibility of abuse of tax rights and tax evasion); (8) inadmissibility of abuse of digital technologies (cyber unfairness); (9) legal position of the court (arbitration); (10) dissenting opinion: dissenting opinion of a member of a corporate governance body; dissenting opinion of a member of a commission created in accordance with the procedure established by law; dissenting opinion of a judge (arbitrator); (11) veto (meaning a veto on a regulator's decision having significance for civil law relations); (12) contractual types of negation of bad faith behavior.

14. It is established that each type of negation of bad faith behavior corresponds to a relevant legal means or a composition (totality) of several legal means. It is investigated what legal means are used to protect the principle of good faith in each of the types of negation of bad faith behavior, as well as the correlation of the latter with legal means for the most effective application of the principle of good faith in practice. The Table of correlation of legal means and types of negation of bad faith behavior is Appendix No. 1 to this dissertation research.

15. The existence of the attribute of normative autonomy of the principle of good faith for the purposes of its application by courts within the framework of judicial discretion is proved. The principle of good faith has normative autonomy in connection with its ability to create legal obligations, which is characteristic mainly for international investment law, international commercial law, private international law.

The normative autonomy of the principle of good faith "breaks" the legal oxymoron of asserting that good faith is incapable of generating rights and duties, but is capable of creating principles and rules of law that, in turn, regulate rights and duties. In contrast to the position of the International Court of Justice in the 1974 nuclear test cases, the author proves the existence of normative autonomy of the principle of good faith, which implies the possibility for the law enforcer to deduce from the principle of good faith legal rights and obligations for the parties to a legal relationship, even if these rights and obligations were not specifically formulated by the parties in the contract or were not enshrined in the norms of positive law.

The work of courts at all levels, international and domestic, to formulate duties based on the normative autonomy of the principle of good faith contributes to the creation of advanced legal positions of courts on complex issues of law where there are gaps in legal regulation or variability in the interpretation of existing legal norms due to their abstract nature. The study concludes that in the sphere of private international law the principle of good faith can and should be a source of obligations, especially in those spheres of social relations, where in the absence of

sufficient substantive legal regulation and contractual norms appear unfair practices, that is, the most actively developing bad faith behavior and its types.

Soft norms as a source of private international law, as part of the lex mercatoria, contain norms with implied obligations of the parties to a foreign economic transaction, arising from good faith and fair business practices, as well as general guidelines for the development of national law. The presence of "implied obligations" of a contract (conditions that are not directly defined in the contract) in the advisory norms of private international law is also evidence of the presence of normative autonomy of the principle of good faith in the sphere of regulation of international trade, as it gives the court the opportunity to formulate (deduce) the obligations of the parties to a foreign economic contract from good faith.

Examples of such soft rules of private international law: Draft Common Frame of Reference (DCFR), Principles of European Contract Law, UNIDROIT Principles, Translex Principles (Translex-Principles) online system of principles and rules, Model Civil Code for CIS Member States (Part One). In national law, the normative autonomy of the principle of good faith facilitates the application of inter-sectoral analogy of law by higher courts.

16. The possibility of integrative law enforcement of the principle of good faith is substantiated. The principle of good faith includes the totality of those norms that the law (international and national) has managed to create as of today to assess the quality of behavior of subjects of legal relations in all spheres and to deny bad faith behavior. Therefore, for the purposes of application of good faith as a general principle of law, courts and participants of the judicial process may refer to any sources of law specifying the principle of good faith. It does not matter in which norms of law the principle of good faith is described, i.e. it does not matter: (a) whether this source was created by a national or public law act; (b) what sphere of legal relations (private or public) this source is intended to regulate; (c) the legal force of the source (mandatory or recommendatory) in order to apply the principle of good faith. In order to apply the principle of good faith, courts and disputing parties need only refer to the most appropriate description of the criteria of good

faith for the dispute at hand from any source of law. The formulation of the criteria of good faith behavior in any source of law is a universal legal mechanism. At the present stage of law development, taking into account the processes of globalization, it should be recognized that it is possible to apply provisions on good faith from any source of law (at least subsidiary), regardless of the sphere (branch, type of activity) of its application, since the only thing that matters is how appropriate the criteria of good faith or bad faith behavior are formulated in this source for the resolution of a particular dispute. This way of applying the principle of good faith is referred to integrative law enforcement.

17. The application of estoppel as a sanction for violation of the principle of good faith is justified. Estoppel is a legal mechanism of protection of the principle of good faith and a sanction for violation of the principle of good faith. Estoppel protects against contradictory and inconsistent behavior, is included in the principle of good faith and is aimed at its protection by depriving a party to a conflict (dispute) of the right to refer to any facts, dispute or deny them due to its earlier statement to the contrary to the detriment of the opposite party in the process of judicial or arbitral proceedings. The principle of good faith has always had a special mechanism for its protection - it is estoppel, which maintains the quality of the principle of good faith (since good faith is a qualitative characteristic of the behavior of the subject of law). Estoppel in substantive and procedural law begins to act as a sanction for violation of the principle of good faith at the moment when the court establishes factual circumstances indicating contradictory and inconsistent behavior of a party to the dispute. Estoppel acts as a veto (protest formula) blocking all types of bad faith behavior, known and unknown as of today, as its role in law is to buy any bad faith in all cases. Therefore, even when the norm of positive law is not yet developed, when it is still being formed and exists at the level of recommendation, the principle of good faith in law is already protected, because there is a legal mechanism for its protection - estoppel.

Theoretical and practical significance of the research is confirmed by the content of the conclusions made, which expand the knowledge about the principle

of good faith as a general principle of law, jus cogens norm and super-imperative norm, its property of normative autonomy, its own method of legal regulation - negation of bad faith behavior, the possibilities of its integrative application by international and national courts, the legal mechanism protecting it - estoppel. The provisions of the dissertation research have scientific novelty and influence the development of sources of international law, private international law and national civil law, as well as the development of general legal doctrines in the field of interaction between international and domestic law. Practical significance of the research consists in the possibility of using by the courts of the table of classification of types of negation of bad faith behavior in order to determine the legal means corresponding to them. The criteria of the principle of good faith, standards of its proof, legal mechanism of estoppel for protection against bad faith and conditions of its application will be useful for practicing lawyers. The results of the study can be used in writing scientific papers on the principles of law, as well as in the process of teaching the disciplines "Public International Law", "Private International Law", "Civil Law of the Russian Federation", "Comparative Jurisprudence".

The dissertation work has practical significance, as its results can be used by state bodies and legal entities in the protection of their legitimate interests from the unfair behavior of other subjects of social relations.

Approbation of the research results. The main provisions and conclusions of the thesis were reflected in the author's reports in the framework of participation in 26 international, all-Russian, interregional and regional conferences held in Belgorod, Vologda, Kazan, Minsk, Moscow, Perm, St. Petersburg, Saratov.

The materials of the study were used for the preparation and reading of lectures on the disciplines "Private International Law" and "Legal Basis of the Common Energy Markets", taught by the author in the Federal State Budgetary Educational Institution of Higher Education "Russian State University of Justice"; at master classes on legal topics conducted by the author for masters of the International Institute of Energy Policy and Diplomacy of the Federal State Autonomous Educational Institution of Higher Education "Moscow State Institute

of International Relations (University) of the Ministry of Foreign Affairs of the Russian Federation"; on the discipline "International, European and national environmental and energy law and justice", taught by the author for magisters of the Institute of Public Service and Administration of the Federal State Budgetary Educational Institution of Higher Education "Russian Presidential Academy of National Economy and Public Administration".

List of the author's publications. The main provisions of the dissertation research were reflected in 30 publications, 19 of which - in the leading peer-reviewed scientific editions, specified in the list of the Higher Attestation Commission of the Ministry of Science and Higher Education of the Russian Federation (including publications in editions classified as K-2), 11 - in scientific journals and collections of articles, as well as in 3 monographs and 1 textbook.

Structure and scope of the thesis. The structure of the dissertation is determined by its purpose and objectives. The work consists of a logically arranged structure of the study: table of contents, list of abbreviations, introduction, four chapters, including fourteen paragraphs, conclusion, appendix in the form of a table, list of used sources and literature.