

ON THE ISSUE OF COMBATING CORRUPTION

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Abstract. The problem of corruption crimes is one of the most important problems, facing humanity as a whole. The victory over corrupt practices is comparable to the victory over terrorism and organized crime. Researchers calculated that the economic costs of corruption in Russia are measured in billions of dollars per year (Barry, 2009). It should be noted, that many foreign researchers call corruption a key problem, facing not only the Russian Federation (Dininio, 2004), but the world as a whole. Furthermore, this problem has been standing for a very long time. So, according to James Scott, the birth of corruption in its current form, is dated the end of the XVIII the beginning of the XIX centuries (Scott James, 1972).

Keywords: criminal law, criminal procedure, criminology, fight against corruption, corruption, crime, bribe, commercial bribery, corrupter.

1 Introduction

Socially dangerous actions, provided for by criminal law, infringing upon the authority and legal interests of the service, and which are expressed in the illegal use of any privileges, for example, benefits, services or money, by the state or municipal employees, or employees of commercial or other organization – are corruption-related crimes (Rupp et al, 2010).

Legal responsibility is always connected with public enforcement and is characterized by certain deprivations, which the guilty must be subjected to. In legal theory, legal responsibility is understood as the reaction of the state to a committed offense (Kondrat, 2014). And, according to V.I. Gojman, deprivations – are not the obligations, which the subject must have performed previously; the discharge of duty is not a responsibility; the responsibility – is an additional (except of performed duties) adverse consequences, necessary for execution (Gojman, 2015).

2 Materials And Methods

The general scientific (logical and historical, system-structural approaches, analysis and synthesis, etc.) and specific scientific methods (rather-legal analysis, specifically sociological, formal-logical, comparative law methods) were used in the research. The use of various methods allowed to make the main theoretical conclusions and proposals on the statutory regulation of the analyzed legal relationships.

3 Results

The state's activity, aimed to fight against corruption, is of course, the endless and multifaceted process of crime prevention. Science and practice know many ways of crime prevention, which are successfully used now. However, it should be noted, that this process is multidimensional, and it is impossible to single out only one direction of fighting against corruption, which is basic for the state authorities and local government bodies. Any action, aimed at fighting against corruption is important and should be carried out within the framework, prescribed by law.

In order to combat corruption, the legal and organizational basis for defeating corruption has been made in Russia: basic international agreements have been ratified, conceptual strategic and national planning anti-corruption documents, as well as regulatory legal acts aimed at their implementation, have been

adopted (Khabrieva, 2012). To date, many effective anti-corruption measures have been made, various mechanisms have been put in place, which allow to identify corrupt schemes at any level, to work purposefully, responding in time, and, if necessary, to isolate corrupt officials from the public (Verbatim report of the President of the Russian Federation V.V, 2016).

The analysis of legislation in the sphere of defeating corruption allowed to divide conditionally the whole amount of normative legal acts into:

1. regulating the general issues of fighting against corruption;
2. regulating the issues of anti-corruption expertise of normative legal acts and draft of normative legal acts;
3. regulating general issues of state civil and municipal services;
4. regulating the issues of representation the information on incomes, expenses, property and property-related obligations;
5. regulating the issues of compliance with the requirements for employees' behavior and clearing the conflict of interest.

However, it should be noted, that no matter how ideal laws and strategies for combating corruption crime are adopted - the implementation of the meaning, implied in them, depends on specific people. In this regard, an accurate and unswerving compliance with the regulations of the current legislation deserves special attention in the process of fighting against corruption.

Foreign researchers define corruption as the subtraction of politicians, executives of state apparatus, businessmen and other persons, for the sake of personal, family or group interests, in order to gain and big up their social status. (The New Institutional Economics of Corruption. L., 2004)

An interesting concept is the "related party" used in the UK Bribery Act. Related party in the Law is defined very broadly as a person (physical or legal) "who renders services in the interests or on behalf of" the company. These can be employees of the company, agents, subsidiaries and joint venture partners (Dogra, 2008).

As for the Russian legislation, Article 1 of the Federal Law № 273-FZ "On Combating Corruption" defines a conceptual apparatus and gives a legal definition of the "corruption" concept. First of all, corruption is the abuse of official position, giving bribe, acceptance of bribe, abuse of power, commercial bribery or other illegal use by a physical person of his/her official position, in defiance of the legitimate interests of the society and the State, for the purpose of profiting in the form of money, valuables, other property or services of material nature, other rights of property for oneself or for third parties, or illegal provision of such benefits to the said person by other physical persons. According to the subparagraph "b)" of the given paragraph, the corruption is regarded as commitment of acts, on behalf of or in the interests of a legal entity (Gumerov et al, 2015).

Very interesting is the definition of corruption given by Professor B.V. Volzhenkin: "corruption is the crime, committed by persons, who are publicly engaged in management (state and municipal employees and other persons, authorized to carry out state activities), in various ways using their available possibilities for illegally getting their own benefits" (Kabanov et al, 2013).

It should be noted, that the Russian criminal legislation does not use the term "corruption". But it does not mean that the criminal law does not include the liability rules for this type of crime. The norms on bribery, abusing of official position (Article 285 of the Criminal Code of the Russian Federation), forgery (Article 292

of the Criminal Code of the Russian Federation) and others are used for this purpose. In our opinion, it would be reasonably to make a definition of "corruption" and a list of corruption crimes in the General Part of the Criminal Code of the Russian Federation. This will allow more fully ensure the statistical accounting of corruption crime in our country, trace its dynamics and help to fill the gaps in the Criminal Code of the Russian Federation.

As a rule, socially dangerous actions, provided for by criminal law, infringing upon the authority and legal interests of the service, and which are expressed in the illegal use of any privileges, for example, benefits, services or financial gains, by the state or municipal employees, or employees of commercial or other organization, are considered as corruption-related crimes. First of all, these are the crimes, provided for by criminal legislation, directly related to bribery of corrupt officials:

- illegal acquisition and disclosure of information, constituting commercial or bank secrecy, committed by bribery (Article 183 of the Criminal Code of the Russian Federation);
- bribery of participants or organizers of professional sports competitions and entertainment commercial competitions (Article 184 of the Criminal Code of the Russian Federation);
- obstruction the use of electoral rights or the work of election commissions, tied to bribery (Article 141 of the Criminal Code of the Russian Federation);
- commercial bribery (Article 204 of the Criminal Code of the Russian Federation);
- acceptance a bribe (Article 290 of the Criminal Code of the Russian Federation);
- giving a bribe (Article 291 of the Criminal Code of the Russian Federation);
- crimes, committed by persons, carrying out executive functions in commercial and other organizations (Articles 201, 204 and 184 of the Criminal Code of the Russian Federation).

In addition to the above, other acts of corruption are classified as corrupt crimes by the Criminal Code of the Russian Federation. These include the following: the registration of illegal transactions with real estate (Article 170 of the Criminal Code of the Russian Federation); abuse of authority (Article 201 of the Criminal Code of the Russian Federation); fraud (Article 159 of the Criminal Code of the Russian Federation); embezzlement, committed using official position (clause "c" Part 159 and 160 of the Criminal Code of the Russian Federation); obstruction of lawful entrepreneurial or other activities (Article 186 of the Criminal Code of the Russian Federation), forgery by an official (Article 292 of the Criminal Code of the Russian Federation) (Burlakov,2012).

4 Deductions

Speaking about the specifics of corruption crimes, it is important to highlight the uniqueness of their subjects. On the one hand – it is the corrupter, i.e. private or a legal person, for remuneration enjoying the privileges, services, position or contacts of state or municipal employee, or a person, performing managerial functions in commercial or other organization, to achieve personal, narrow-group or corporate purposes (Kabanov et al, 2015). And on the other hand – there is a corrupt official, who recognizes the bribe addressee or other benefits, obtained by illegal means. A corrupt official - is an official with certain powers and authority, who abuses his official position in favor of the bribe-taker and accepts a bribe for this.

Thus, corruption crime is a single, conditionally mass complex of crimes, infringing upon the authority of the state service or service in local government bodies, which is expressed in the making of corrupt transactions, initiated by corrupter or corrupt officials, creating criminal liability.

There is a classification, given in the Decree № 3, from December 31, 2014, adopted by the General Prosecutor's Office of the Russian Federation and the Ministry of Internal Affairs of the Russian Federation, "On the enactment of lists of articles of the Criminal Code of the Russian Federation, applicable in the process of preparation of statistical reporting." This Directive introduced the List № 23 "Corruption-related offences". In accordance with the List, there are 4 mandatory criteria for all crimes of this category (The instruction of the Prosecutor General's Office of Russia,2014):

1. Connection of the action with the official position of the subject; his derogation from direct rights and duties.
2. The presence of appropriate subjects, which are noted in the Criminal Code of the Russian Federation. These are the following:
 - a) a civil servant, who is acting permanently, temporarily or by special authority, as a representative of the authority, or performing organizational-management, administrative and economic activities in state bodies, local self-government bodies, state and municipal institutions, state corporations, as well as in the Armed Forces of the Russian Federation;
 - b) persons, carrying out executive functions in a commercial or other organization, and acting in the interests and on behalf of a legal entity, as well as in a non-profit organization, that is not a state body, a local government body, a state or municipal institution.
3. The subject has a mercenary motive. The action must be related with the gaining of property rights and benefits for himself/herself, or for the third parties.
4. The crime must be committed only with specific intent.

5 Conclusion

It should be noted, that with all the variety of ways of fighting against the corruption crimes, this scourge of modern society is still not defeated, not only in Russia, but all over the world (Gumerov,2015). We believe, that the creation of a Council for combating corruption at all levels of authority, involving research scientists, legislators, investigative agencies, preliminary investigation bodies, courts, will allow to minimize the dangerous consequences of the phenomenon under consideration.

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References

1. Barry M.P. *Corruption in Russia: a model exploring its economic costs*// Caucasian review of international affairs. Vol. 3 (4). Autumn 2009. P. 387
2. Burlakov V.N. *Criminology*/ Publishing house of the law faculty of St. Petersburg State University. St. Petersburg. 2012. P. 84.
3. Dininio P., Orttung R.W. *Explaining Patterns of Corruption in the Russian Regions*. William Davidson Institute Working Paper № 727. November 2004. P. 2.
4. Dogra S., Larner J., Kerrigan Ch. *The Bribery Act and its implications for non-UK companies listed on the LSE* // Serious Economic Crime.2008. P. 226
5. Gumerov T.A., Zhadan V.N., Mukhametgaliyev I.G. *On Criminological Aspects of Corruption-Related Criminal Activity in Russia*/ Timur A. Gumerov, Vladimir N. Zhadan and Iskandar G. Mukhametgaliyev // The Social Sciences, 10 (7): 1807-1811, 2015. ISSN: 1818-5800. Medwell Journals, 2015.

6. Gumerov T.A., 2015. *Genesis of Crimes, Connected with Corruption: Investigation and Confrontment*. Research Journal of Applied Sciences, 10: 868-870.
7. Gojman V.I. *Offense and legal responsibility*// General theory of law and state: Textbook/ Ed. V.V. Lazarev. M.: Yurist. 2015, Pp. 240 - 243.
8. Kabanov P.A., Raikov G.I., Chirkov D.K. *Corruption and anti-corruption policy*// Under the general editorship of G.I. Raikov, P.A. Kabanov, D.K. Chirkov. 5 ed., revised and supplemented. M., Media Press. 2013. P. 116.
9. Kabanov P.A., Raikov G.I., Chirkov D.K. *Corruption and anti-corruption policy*// Media Press. M. 2013. P.116.
10. Kondrat E.N. *Offenses in the financial sphere of Russia. The threats to financial security and ways of counteraction*. Moscow: Yustitsinform, 2014. 928 p.
11. Khabrieva T. Ya. *Corruption and law: doctrinal approaches to the problem statement*// Journal of Russian Law. 2012. № 6. P. 5.
12. Official website of the Plenipotentiary Representative of the President of the Russian Federation in the Volga Federal District// (Electronic source) Available at: <http://pfo.gov.ru/district/dfgh/>. Accessed date: April 19, 2017; time: 21.47.
13. Rupp J.P., Amaee R., Melia A. *The Bribery Act: implications for global businesses and individual directors*// Serious Economic Crime.2010. Pp. 86 - 91
14. Scott James C. *Comparative Political Corruption*. Englewood Cliffs. N.J., 1972. P. 7.
15. The New Institutional Economics of Corruption. L., Sung H.-E. *Democracy and Political Corruption: A cross-National Comparison* // Crime Law and Social Change (2004). Vol. 41, Issue 2. Pp. 179 - 193.
16. The instruction of the Prosecutor General's Office of Russia № 744/11, the Ministry of Internal Affairs of Russia № 3, from December 31, 2014 "*On the enforcement of lists of articles of the Criminal Code of the Russian Federation, used in the formation of statistical reporting*"// Legal reference system "Consultant Plus".
17. Verbatim report of the President of the Russian Federation V.V. Putin at the meeting of the Council under the President of the Russian Federation on fighting against corruption, from January 26, 2016. (Electronic source) Available at: <http://www.kremlin.ru/events/councils/by-council/12/51207>, according to Tsirin A.M. *Prevention of corruption: problems and prospects*// Russian Law Journal. 2016. № 12. Pp. 106 - 114.