



Theoretical Aspects of Anti-Corruption Enlightenment as Factor of System Increase of Efficiency of Activity of Federal Executive Authorities (On the Example of the Federal Bailiff Service of Russia)

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Abstract

Relevance of the research problem due to increased theoretical and legal principles in understanding the condition and the level of corruption in the Russian Federation in conjunction with the teleological context of development of legal consciousness and legal mentality and anti-corruption enlightenment, acting as factor reducing corruption risks and the system increasing of activity efficiency of Executive Power's Federal bodies. In this regard, this article aims to identify patterns and correlating factors determining the impact of anti-corruption enlightenment to improve the efficiency of the Federal bailiff service, taking into account the main activity of the service - enforcement of acts of jurisdictional bodies, which is characterized by a high level of corruption risks. The leading approach to the study of this problem is a scientific-oriented desire to use a set of basic methods of obtaining new knowledge, taking into account General scientific and private scientific methods that allow a comprehensive review of the most important theoretical aspects of anti-corruption enlightenment in the context of the legal relations studied in the work. The article reveals and substantiates the regularities of the theoretical level of understanding of the problems of anti-corruption enlightenment as one of the factors of systemic improvement of the efficiency of the Federal Executive bodies (on the example of the Federal bailiff service). The materials of the study presented for publication, their results and conclusions can be useful in the in-depth study of certain problems of public administration and the search for ways to solve them effectively; the development and practical application of methods to improve the efficiency of the Federal Executive authorities; and can also be used in the course of work to improve the theoretical foundations and enhance practical activities in the field of combating corruption. The novelty and originality of the study lies in the fact that for the first time it attempts to conceptualize the importance of anti-corruption enlightenment as one of the factors that can have a devastating impact on the components of the institutional framework of corruption, which will allow in the foreseeable future to improve the efficiency of the Federal bailiff service.

Keywords: Corruption, Anti-corruption enlightenment, Anti-corruption mentality, Public service, Bailiff.

1 Introduction

Corruption is a complex, multifaceted socio-legal phenomenon of a systemic nature, significantly complicating the economic and socio-political modernization of society, penetrating all levels of public life, ensuring the priority of

private interests in the management of complex processes of society's reconstruction, subordinating the political will of the state to the narrow interests of mercantile officials and other interested and involved persons by all its practices undermining the trust of ordinary citizens to power. The

destructive impact of corruption is particularly evident in the sphere of activity of those public authorities that have the closest and systemic contact with public institutions, the population and ordinary citizens. Such state bodies are courts and police, tax, customs and other agencies. Federal bailiff service is among them, of course.

The researchers note that the concept of corruption has firmly entered the lexicon of modern man, although it has no unambiguous interpretation in the public consciousness (22). Analyzing the sociological aspects of corruption S.V. Alekseev points out its creeping, network distribution that allows figuratively associating it with the society's cancer, which is deadly is being eroded and is becoming uncompetitive (1).

Corruption is so multifaceted and latent that it is difficult to give it a correct statistical assessment. According to the official website of the international non-governmental organization *Transparency International*, which annually since 1995, based on surveys of experts and entrepreneurs conducted by independent organizations around the world, is engaged in the development and creation of a composite Index of perception of corruption (CPI), measuring the level of perception of corruption in the public sector in different countries, Russia in the CPI at the end of 2018 took 138 place in the list of 180 countries and was rated at 28 points out of 100 maximum possible (when corruption is hypothetically absent). To understand the trend of changes in the analyzed indicator over time, we note that in 2014-2017, Russia scored 29 points, and in 2018, losing one point fell by three places in the ranking of countries in terms of perception of corruption. In a press release on the results of the 2018 corruption perceptions Index, Delia Ferreira Rubio, Chairman of the Transparency International Board, noted that the probability of corruption flourishing significantly increases where there are weak democratic foundations, stressing that the organization's studies have established a clear relationship between the existence of a healthy democracy and a successful fight against corruption in the public sector.

World science has been investigating corruption as a social phenomenon for a long time. According to scientists, corruption can be understood in at least four meanings: General social, political economic, criminological and criminal legislative (4,12).

The factors determining corruption processes are defined, in particular, socio-economic, political, socio-psychological, legal, organizational, personnel factors are singled out (3).

Socio-economic factors include property polarization of the population; adherence of individuals and business entities to the "ethics of efficiency, which is derived from the calculation of capital", that is, the desire to maximize their well-being and to shift to the shoulders of society their costs; periodic economic and financial crises and unemployment.

Political factors include the presence of the political will of the leadership to really (that is, not declaratively), purposefully and consistently counter corruption crime.

Speaking of socio-psychological factors, the authors of this theory include, first, the problem of the blurring of the concept of moral duty by economic imperative.

The legal factors are the imperfection of the legal system, inconsistency and absence of consequences of the reforms carried out in the country.

Organizational factors include, in particular, insufficiently effective organization of control over the activities of civil servants, excessive closeness and sometimes-unjustified corporate solidarity of the majority of state bodies, lack of transparency in their activities, weakness of internal, departmental control.

Finally, staffing factors include shortcomings in the selection and training of civil servants and, as a consequence, their low professionalism and competence.

The main causes of corruption by science are also investigated and outlined. Thus, the first component of the institutional basis of corruption is considered the presence in society of a constant immanent system of power relations (4,6). The basis of corruption relations is the discretionary power – the possibility and ability of any dominant entity to distribute resources that do not belong to it at its own discretion. The main motive for corruption is the possibility of obtaining economic profit associated with the use of power.

As the pre-revolutionary Russian lawyer B.N. Chicherin wrote, "The government, which is not restrained by anything, is easily inclined to arbitrariness" (7).

The scientific literature even suggests that corruption is a direct violation of article 3 of the Constitution of the Russian Federation, according to which the bearer of sovereignty and the only source of power in the country is a multinational people; it exercises its power directly and through freely elected deputies and other people's representatives. Involving the state power entrusted by the people in the shadow market turnover, the corrupt official not only deceives voters, but also appropriates unconstitutional powers in contradiction with the requirements of justice and law (14).

Under the above circumstances, the behavior of the authorities is clearly traced to the influence of political, socio-psychological, legal, and organizational and personnel determining factors taken together.

The second component of the institutional framework of corruption is the most important economic institution of society – the market. Each country has a historically developed market of corruption services. The scale of this specific market depends on the level of socio-economic development of the country, the nature of its political regime, the characteristics of the political culture of certain segments of the population (6).

In this case, it is also possible to note the influence of all previously identified factors determining corruption processes taken together.

The third component of the institutional framework for the development of corruption is, according to scientists, the imperfection of political and legal institutions. In particular, we are talking about the inconsistency of the official status of civil servants. The state gives them the right to make decisions affecting the interests of different persons at their discretion, on the one hand. On the other hand, there are no barriers for entering into corruption relations of such state employee and those individuals who are interested in favorable decision (6).

The writer, philosopher and sociologist A.A. Zinoviev (2009) at one time designated corruption as a universal law of distribution and redistribution of life's benefits, according to which every normal active member of society snatches for him/herself as much life's benefits as his/her social position

and the level of impunity allowed in society allows (Zinoviev, 2009).

That, of course, confirms the working hypothesis put forward by us earlier about the impact on the development of corruption of all the above-mentioned determining factors taken together.

In addition, it seems appropriate in this work to analyze the impact on the development of corruption of the modern legal consciousness of the population, considering this determinant as a component of the institutional framework of corruption. Earlier in the works devoted to the study of this issue, it was already suggested, including by one of the authors of this article, to talk about legal nihilism as the institutional basis of corruption (16). But further developments in this direction have shown that in this case it is necessary to talk not only about legal nihilism, as a form of legal consciousness, expressed in the denial of law as a social institution and characterized by negative or indifferent attitude to the rules of law. This issue should be investigated wider and deeper, so its detailed study will allow developing the main directions of combating corruption by eliminating its main determinants.

2 Methodological Framework

The methodological basis of the study was General scientific and specific scientific methods.

Logical methods made it possible to highlight the system of factors determining corruption offenses in the Federal Executive authorities in their diversity as an appropriate element of the multidimensional phenomenon of corruption (analysis), as well as to consider the anti-corruption legal mentality and anti-corruption enlightenment as categories in which the unity of combating corruption (synthesis) is manifested. Teleological method of research provided the possibility of target determination of legal norms and legal phenomena in the aspect of the theoretical foundations of anti-corruption enlightenment.

A method that allows you to move from the particular to the General (induction), allowed investigating the level of anti-corruption enlightenment of civil servants of the Federal service of bailiffs to draw conclusions applicable to many Federal bodies of Executive power.

Statistical method of analysis allowed determining trends in the evolution of load on the Federal service of bailiffs. In turn, the sociological method predetermined the possibility of using the corruption perception index in society.

Formal legal method, as well as other methods of scientific knowledge, which allowed to comprehensively disclosing the theme of the work are widely used.

3 Results

The results of the study should include the fact that the authors have identified and justified the laws of the theoretical level of understanding of the problems of anti-corruption education as one of the factors of systemic improvement of the effectiveness of the Federal Executive authorities (for example, the Federal bailiff service). The results of the study can also be the following conclusions of doctrinal and practice-oriented character:

The totality of the identified factors determining corruption processes is inherent in the complex nature, which

in turn determines the objective need for a systematic approach to the problems of combating corruption in the Russian Federation.

Legal awareness and legal mentality of the population have a key role to play in the prevention of corruption offenses committed by civil servants of the Federal Executive authorities of the state, including employees of the Federal bailiff service.

Anti-corruption enlightenment of the population in General and employees of the Federal Executive bodies, in particular, should become an integral part of the priority tasks of combating corruption in the country. Despite the fact that such tasks are in the competence (sphere of discretion) of the subjects of law designated by the Constitution of the Russian Federation, they are largely complex, multidimensional in nature, because they are determined by a plurality of factors relating to, including the problems of the ratio embodied in the public institutions of government activities of the state and the activities of non-state institutions of society, the perception by the population of a particular state body, trust in its officials, consent to the forms and methods in which such a body (official) carries out its activities.

All this testifies to the urgent need to develop the scientific basis of anti-corruption enlightenment as a factor of systematic improvement of the effectiveness of the Federal Executive bodies. Only a well-thought-out and doctrinally verified approach to these issues can lead to the formation of a positive perception of state power in General and the results of its activities, in particular.

4 Discussions

4.1 Anti-Corruption Legal Mentality

The study of the literature allows us to state the absence of special studies devoted directly to the problem of anti-corruption legal mentality formed in the sphere of activity of Federal Executive authorities, including the Federal bailiff service.

Some issues devoted to the study in the whole of legal consciousness, legal culture and legal mentality were studied in the works of I.N. Senin (2014), R.A. Osipov (2016), T.G. Evseeva (2014), N.B. Bobrov (2015), and other authors. Anti-corruption awareness in different aspects was studied in papers of M.V. Shediya (2014), E.V. Shorokhova (2018), A.V. Kuchenev (2018), anti-corruption enlightenment in the works of Yu.V. Truntsevsky (2015), A.V. Kuchenev (2017), E.B. Kozlova (2017), etc (5,10,16,18,19,26,28,29,30,32).

Anti-corruption enlightenment, being a significant factor in the systematic improvement of the efficiency of the Federal Executive bodies, including the Federal bailiff service, should be based on the anti-corruption legal mentality. The process of research and analysis of these concepts should begin with the study of the category of legal consciousness.

Legal consciousness as one of the essential moments of the General process of socialization of the individual associated with the assimilation of socio-cultural values of the environment (20) is defined as:

– spiritual integrity of the legal and partly social ideas, perceptions, attitudes, beliefs, feelings, emotions, moods, etc., ideologically and psychologically which defines and aware of legal phenomena (2);

– a specific form of public consciousness, a set of views, ideas, representations and feelings of people (groups, classes of society) about the law, which is acting and desirable (23,24).

These definitions of legal consciousness are subject to some criticism, but not from the point of view of the proposal of a radically new definition, but as a statement of the expediency of inclusion in the legal study of a new layer of legal spirituality, not reducing legal awareness exclusively to the processes of psychophysical reflection of the products of law and order (31). There is a reasonable point of view that legal consciousness is something more than a mentally or socially oriented reflection of *real legal institutions*, reducing it to such an understanding means replacing this phenomenon with socio-economic and formal legal reasons, in connection with which the phenomenon of legal consciousness needs modern reconstruction – its liberation from purely causal dependence on positive law and positive state (31,33).

The doctrine proposes to highlight the following features of legal consciousness as a system of knowledge, relationships and feelings:

- Strong-willed sign, which means that the decision of the individual to implement a certain type of behavior is taken on the basis of convergence of ideological and sensory element of awareness in the field of law;
- Sensory sign of legal consciousness is transmitted through the perception, reflection and expression of legal knowledge and legal assessments, human behavior;
- The ideological sign is expressed by the sum of the theoretical aspects of law, reasoning of representatives of science (19).

Legal consciousness is of great importance for the development of legal culture of the individual and society as a whole, as it carries the relevant legal ideas, feelings, theories of the qualitative state of legal reality.

The degree of development of the legal culture of society, the state and ways of development of the Russian legal tradition (2), and any changes in the legal life of the country will be positive if the corresponding changes occur in the legal consciousness of society.

However, it is impossible to come to such conclusions based on a simplified understanding of the legal consciousness as a psychological process of the individual. Indeed, each person within the General environment has its own individual microenvironment, which determines both human development, and his/her creative successes, and his/her overall emotional well-being (15).

However, the sense of justice acquires its importance as a form of public consciousness only when the same thoughts, ideas, concepts of law are widely spread in the minds of the whole people (11), in connection with which, individual and social sense of justice stand out.

The individual is unthinkable outside certain knowledge, concepts and values that are common in society, and the public cannot exist outside the static set of individual ideas about law (21).

Any positive changes in the legal life of the society of the country cannot be achieved by relying solely on the individual sense of justice, changes must occur in the legal consciousness of society.

In this regard, it seems that speaking of anti-corruption enlightenment as a factor in improving the efficiency of the

Federal Executive authorities, it is necessary to talk about such a category as the legal mentality.

The legal mentality is defined in the scientific literature as:

- Deep level of legal consciousness, expressed in a structured unified and integral community of legal ideas, stereotypes, habits, reactions, etc., in the nature and method of legal perception (2);
- Category reproducing the complex morphology of social and individual consciousness, which denotes all the phenomena of legal culture - both positive, symbolic and non-positive, figurative, symbolic, etc. (31);
- A set of stereotypes of legal thinking, legal activity of legal behavior, based on the system of legal values, legal traditions and priorities formed in a particular state-legal space, which are determined by relatively stable objective and subjective factors (27).

Such properties of the legal mentality are allocated as:

- Fundamental mental, emotional and psychological level of legal awareness;
- Expression of the corresponding image (method) of perception, assessment, experience, understanding of legal realities;
- Acting as a spiritual and mental legal order, characterized by cultural specificity;
- Acting as legal ethno-legal invariant culture, which is a *Keeper* of legal traditions of the society;
- Expression of the specifics of the law spirit of society, which provides the ability to permanence, the degree of stability of law and order in various stages of development, including in crisis (2).

Anti-corruption legal consciousness corresponds to the General features of the system of legal consciousness, being isolated by the private specifics of relations arising in the conditions of admission of corruption or corrupt behavior, the desire for measures to minimize it, the legal expectation of the fight against corruption and legal beliefs of intolerance of such a phenomenon (19).

Anti-corruption legal consciousness can be defined as an area of public consciousness, reflecting the views, ideas, perceptions and feelings of people regarding the prevention of corruption, the fight against corruption and the consequences of corruption offenses.

Based on the above-mentioned signs of legal consciousness, the following signs of anti-corruption legal consciousness can be identified:

- Strong-willed sign – the decision of the person on the implementation of a certain type of behavior is taken on the basis of awareness, ideological and sensual, inadmissibility of committing corruption offenses and the consequences of corruption behavior;
- Sensual sign – inadmissibility of corruption behavior is regarded by the person as an element of justice as a basic legal value;
- Ideological sign – understanding of the importance of research in the field of law in the study of corruption, the implementation of measures to prevent corruption, including anti-corruption enlightenment.

Using the above-mentioned definition of legal mentality, outlined by the researcher R.M. Ovchiev, the anti-corruption legal mentality can be defined as a set of individual and social consciousness, based on the system of legal values,

legal traditions and priorities of anti-corruption behavior, defined by stable objective and subjective factors (27).

In addition, in this interpretation, the absence of a stable anti-corruption legal mentality in society can be called another component of the institutional framework of corruption. Therefore, effective anti-corruption measures in the Federal Executive bodies must necessarily include the impact on all components of the institutional framework of corruption, including the formation of a sustainable anti-corruption legal mentality.

4.2 The Impact of Anti-Corruption Enlightenment on the Effectiveness of the Federal Bailiff Service

According to researchers, corruption is most dangerous in public authorities (17); therefore, the actual effective activity of Federal bailiff service is impossible if it, in any way, is connected with corruption risks and manifestations.

The issues of anti-corruption education as a factor of improving the efficiency of the Federal Executive authorities acquire a special meaning in the context of the latest trends of *de-ritualization* of procedural legislation. With regard to the activities of the Federal bailiff service, this trend is expressed in the search for the most optimal procedures for the execution of acts of jurisdictional bodies. Previously, the factor designed to prevent the development of corruption in the activities of the Federal bailiff service was the increase in the level of legal regulation of procedures in the framework of enforcement proceedings (13). Almost inevitably, this meant an increase in discretion on the part of civil servants and a decrease in the degree of regulation of individual procedural actions. Taking into account the described problems, anti-corruption enlightenment should come to the fore in modern conditions, allowing, on the one hand, to form valuable behavioral guidelines in the activities of employees of the Federal bailiff service, and on the other – to maintain the flexibility of the legislation on enforcement proceedings, thus ensuring the effectiveness of the Federal bailiff service (25).

It should be noted that the trend of *de-ritualization* of procedural rules and a certain desire to simplify procedures is currently manifested, in particular, in the development of simplified proceedings, the emergence of the institution of unmotivated court decisions, modification of court notices. Enforcement proceedings are just beginning to experience these trends. At the same time, the official departmental reporting of the Federal bailiff service (posted on the official website of the Federal service of court bailiffs of Russia) indicates a stable and alarming trend in the growth of the number of enforcement proceedings in the Federal bailiff service. Thus, if in 2016 there were 80.8 million enforcement proceedings in the Service, in 2017 - 86.2 million, and in 2018 – 87.6 million-enforcement proceedings, respectively. For comparison, in 2012, on the performance of the Service there was a little less than 52 million of the Executive proceedings. The current dynamics of the growth of the Service load produces objectively the situation of the impossibility of effective management of the enforcement proceedings because of the real congestion of the judicial police officer-executor. This circumstance accordingly actualizes the problem of increasing the specific amount of discretion of a civil servant in their professional activity,

which significantly increases the corruption risks in the activities of the Federal bailiff service.

In itself, the simplification of a number of procedures for the execution of acts of jurisdictional bodies with the simultaneous expansion of the scope of discretion of the bailiff is an objective need of the modern state and society due to the increase in the overall burden on the employees of the Federal bailiff service. This situation, unfortunately, inevitably increases the risks of abuse and other types of corruption by the above-mentioned civil servants. Anti-corruption enlightenment in this context is an important factor in improving the efficiency of activities and reducing the risks of corruption behavior of employees of the Federal Executive authorities, including the Federal bailiff service.

5 Conclusions

Strengthening and subsequent development of the Russian state is impossible without the existence of an effective system for execution of acts of jurisdictional bodies – the modern Federal bailiff service. Non-execution or improper execution of court decisions, acts of other public authorities undermines the foundations of the state system as a whole, disorganizes the activities of the vast majority of institutions of power, and reduces the level of public confidence in the state. The problems associated with the low quality of execution of acts of jurisdictional bodies are manifested not only in increasing the specific amount of discretion and the growth of corruption risks in the activities of the Federal bailiff service, but also in significant reputational losses of the Russian Federation in the international arena. The decision of the European Court of human rights of 15 January 2009 in the case of *V. Burdov the Russian Federation* (8,9), being a pilot in nature, had very negative legal consequences for our state and essentially recognized the existence of conceptual problems in the domestic legal system in terms of the execution of judicial decisions. Despite the General and special recommendations of the European court of Justice, no structural changes have been undertaken. The most significant of the changes was the adoption of the Federal law of 30.04.2010 № 68-FZ *On compensation for violation of the right to trial within a reasonable time or the right to execution of a judicial act within a reasonable time*.

The current state of the sphere for execution of acts of jurisdictional bodies in Russia is characterized by significant problems of both theoretical and purely practical nature, including those associated with the growth of corruption among employees of the Federal bailiff service. Analyzing the current situation, it should be noted that the identification and research at the level of theoretical understanding of the importance of anti-corruption education as one of the factors that can have a devastating impact on the components of the institutional foundations of corruption, would allow in the near future improving the efficiency of the Federal bailiff service.

6 Recommendations

The research materials presented for publication, their results and conclusions can be of scientific and practical interest for scientists, teachers, graduate students and students engaged in the study of legal relations in the field of

combating corruption in public authorities, as well as practical employees of the Federal Executive authorities (especially the Federal bailiff service) for the purpose of practical application of the results obtained by the authors in the study.

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