

Prevention of Corruption Offenses in Criminal Executive Inspectorates of the Federal Penitentiary Service of Russia

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ABSTRACT

The urgency of solving problems in combating corruption is a manifestation of the fight against corruption not only in the department, but also on a national scale. The main goal of ensuring the own security of the bodies and institutions of the FPS of Russia is to combat betrayal among the department staff, to identify, prevent, eliminate, and suppress informal and corrupt ties between employees and convicted. It should be admitted that the given anti-corruption tasks are not completely implemented by the relevant CES departments. Corruption crimes continue to be committed by FPS of Russia employees, and the latency level of such crimes is still high, which undermines security not only in the department, but also in the entire system of executive authorities. Such facts form a negative public opinion about the venality of officials of some state power structures, indicate the weakness of the authorities, and thereby damage the nation as a whole.

Keywords: *corruption, criminal executive system, convicted, employee, execution of punishment*

1. INTRODUCTION

The messages of the President of Russia to the Federal Assembly of RF emphasize that corruption is one of the main barriers to the state development, and that the fight against it should be carried out in all directions: from improving legislation, the work of law enforcement and judicial systems to fostering intolerance in citizens of any, including domestic, manifestations [1].

The head of state at a meeting of the Russian Presidential Council for Countering Corruption noted that one of the "priority areas is to improve the efficiency of law enforcement in the anti-corruption sphere, besides, the crucial task is to form anti-corruption legal awareness in society. Aversion to breaking the law should be nurtured from the school bench - both in schools, and in higher educational institutions, and in secondary schools, and, certainly, at work and in the family» [2].

Unfortunately, manifestations of corruption also occur in the activities of the FPS of Russia. This circumstance is of particular concern, since corruption-related crimes are committed by individuals vested with authority powers, designed to protect the legal rights and freedoms of ordinary citizens, the interests of society and the state.

Note that FPS of Russia has specific functions that can also provoke the commission of corruption crimes. Corruption crimes in FPS of Russia can take place in its different links. The link that develops relationship between the FPS employee and the convicted is of particular concern. Foremost, it is bribery committed in the interests of the convicted.

The closedness and sole responsibility in decision-making by the senior commanding staff of CS (Corrective Services), as well as the presence of corruption components inherent in the regulatory legal acts regulating the service in the penal system, pose a serious threat to the normal functioning of the entire penitentiary system, including institutions, executing punishment that are non-custodial.

At present, corrupt crime can be confidently called a traditional and fairly widespread type of crime that exists not only in our state, but also in many other civilized countries of the world. Supporting the above mentioned fact, the opinion of well-known scientists who define corruption as total should be noted. They define Russia as the most bribable state in the world, where corruption has become almost the fundamental way of the country's economic collapse, destruction of the system of state power and management, and disruption of market reforms and criminal deformation of society legal consciousness [3].

The analysis begins with the statement that the state is a solely bureaucratic structure, which is sometimes facetiously designated as “servants of the people.” The state system, possessing no resources other than administrative ones, will strive to turn its sole administrative resource (that is, the ability to influence forcefully) into specific material benefits “for itself” under certain conditions. This is the source, or the spring from which the complex disease of the state structure flows, which is corruption [4].

Corruption (from the Latin word *corrumpere* - to spoil) is the official’s use of his power and rights entrusted for personal gain to him, contrary to the established law and rules [5]. Perhaps, the most succinct (and accurate) is “abuse of public power for private gain” (Joseph Senturia). Corruption has accompanied humanity since ancient times. The punishment for corrupt practices (bribery) was provided by the laws of Hammurabi (four thousand years ago) and was established by the Egyptian pharaohs.

The definitions of *corrumpere* in Roman law were understood in a general way, as breaking, spoiling, destroying, damaging, falsifying, bribing and denoted an illegal act, for example, against a judge [6]. This concept comes from a combination of the Latin words “*correi*” - several participants in one of the parties to an obligation on a single subject, and “*rumpere*” - to break, damage, violate, and cancel. As a result, an independent term was formed, which assumed the participation in the activities of several (at least two) persons whose purpose was to “damage”, “spoil” the normal course of the trial or the process of managing society affairs [7]. “Corruption is one of the very severe issues that we inherited from the past,” V.V. Putin, the President of the Russian Federation, repeatedly emphasized in his interviews.

In the Large Legal Dictionary, corruption is understood as “a socially dangerous phenomenon in the sphere of politics or public administration, expressed in the deliberate use of official status by the authorities’ representatives to illegally obtain property and non-property benefits and advantages in any form, as well as bribery of these persons” [8].

Primarily, the term “corruption” is indispensable to define, since there is no univocal understanding of the phenomenon in society, in the scientific world, and in the practical sphere.

Corresponding to any complex social phenomenon, corruption does not have a single canonical definition. Corruption is defined variously in different sources. States are guided, first of all, by international experience in the fight against corruption and the provisions of international acts, fixing the definition of this term in their national legislation [9].

However, it should be noted that this concept is formulated in two ways in international law: in some cases, a clear definition, outlining the phenomenon scope, is given; in others, there is no such definition, but only a reference to the list of corruption offenses [10]. It is the last method with the listing of offenses cases that is used more frequently.

When developing the definition of corruption in the Federal Law No. 273 of December 25, 2008 “On

Combating Corruption” [11], the legislator focused on the international legal approach, took into account the international nature of the corruption phenomenon, the tendency towards unification of legislation and the need for international cooperation in this area. In Article 1 of the given Law, corruption is determined by listing illegal actions that are the most prominent manifestation of corruption. Indications of the essential sign of corruption are illegal use by a person of his official position contrary to the legitimate interests of society and the state, associated with obtaining a benefit, or illegal provision of such benefit to the specified person by other persons.

It is obvious that often employees of the criminal executive system are susceptible to corruption “infection”, which causes not only a wide public resonance, but also acts, to a certain extent, as a factor that destabilizes the situation both in the department and in society.

In 2018, 29.634 corruption crimes were recorded. The number of crimes under the article on bribery has decreased by 40% in six years, and their share has reduced from 1.9% to 1.4%. Statistics show that bribery, as a clear manifestation of corruption, has signs of stability with unfavorable tendencies, occupying the position of the “leading” group of illegal acts committed by employees of CES institutions and agencies.

Herewith, the relevance is the study and implementation of preventive measures in the field of combating the facts of bribery and venality in CES, as well as making appropriate adjustments to the regulatory framework, national and departmental policies and law enforcement practice in this area.

Thus, the effectiveness of preventive measures aimed at eradicating corruption largely overlaps with the educational level and the level of professional skills of employees, whose functional duties include participation in combating corruption:

- on an ongoing basis, candidates who are accepted for service in CES are familiarized against signature with the general principles and ethics of official behavior of civil servants;
- legal education of penitentiary workers is carried out on anti-corruption topics, including seminars, trainings, lectures, meetings and other forms of exchange of relevant information;
- professional development of specialists is conducted, whose job duties include participation in combating corruption [12].

Structural subdivisions of the FPS of Russia perform many tasks on the penal policy implementation in accordance with their competence. In connection with the “taken course” of combating corruption in the executive authorities, significant attention is currently paid to the anti-corruption fight in the department. Almost all subdivisions of the FPS of Russia perform tasks in the field of realization of the current anti-corruption legislation.

Particular attention should be paid to the fact that corruption risk is an opportunity inherent in the system of state and municipal administration for the action (inaction) of public individuals and ordinary employees in order to

illegally extract material and other benefits in the performance of their official powers.

2. RESULTS

We conducted a survey as part of a study to assess the emerging corruption risks in the performance of official duties and full powers by institutions' employees executing punishments not related to imprisonment. The survey consisted of a questionnaire including the following:

1. Do you know what corruption means?
2. Have you heard about the measures taken by the leadership of our state to combat corruption?
3. In your opinion, is the FPS leadership taking enough action to prevent corruption in the Corrective Services?
4. Indicate legal acts you are guided by in your official activities to prevent corruption.
5. In your opinion, are there any facts of corruption in the Corrective Services where you work?
6. Have you ever encountered corruption?
7. Have you ever been offered a bribe?
8. Have you accepted gifts from the convicted registered with the Corrective Services?
9. Indicate the causes of corruption in the Corrective Services among employees.

10. In your opinion, is the work being carried out sufficiently to prevent corruption in the Corrective Services?

11. Indicate which category of the convicted registered in your branch is more susceptible to corruption?

12. What measures would you take to impede corruption in the Corrective Services?

Moreover, the territorial body for filling in the questionnaire was known. The questionnaire survey was conducted among the branches of the criminal executive inspectorates located in the Volga Federal District, namely: Republic of Bashkortostan, Kirov region, Republic of Mari El, Republic of Mordovia, Nizhny Novgorod region, Orenburg region, Penza region, Perm region, Samara region, Saratov region, Republic of Tatarstan, Udmurt Republic, Ulyanovsk region, and Chuvash Republic.

In total, 847 questionnaires were gained, suitable for recording in the database. The first four questions of the questionnaire made it possible to structure the data: by age of CS FPS of Russia employees, their marital status, education, and length of service.

The tables below show the results of a survey of CS FPS of Russia employees on corruption issues, which, undoubtedly, is of practical interest for improving measures to combat this illegal phenomenon.

Table 1 Questionnaire distribution by age characteristics of CS FPS of Russia employees

20-30 years	30-40 years	40 and years more
45 %	24 %	31 %

Table 2 Questionnaire distribution by marital status of CS FPS of Russia employees

Married	Single (not married)
63 %	37 %

Table 3 Questionnaire distribution by education of CS FPS of Russia employees

Higher (Master's degree)	Incomplete higher education (Bachelor's degree)	Secondary vocational education	Secondary education
86 %	14 %	0 %	0 %

Table 4 Questionnaire distribution by length of service of CS FPS of Russia employees

Length of service - less than 5 years	From 5 to 10 years	From 10 to 20 years	More than 20 years
12 %	28 %	58 %	2 %

Table 5 Questionnaire distribution of CS FPS of Russia employees by answers to the question: "Do you know what corruption means?"

Yes	No
100 %	0 %

Table 6 Questionnaire distribution of CS FPS of Russia employees by answers to the question: "Have you heard about the measures taken by the leadership of our state to combat corruption?"

Yes	No
97 %	3 %

Table 7 Questionnaire distribution of CS FPS of Russia employees by answers to the question: “In your opinion, is the FPS leadership taking enough action to prevent corruption in the CS?”

Yes (enough) 46 %	No (not enough) 54 %
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Table 8 Questionnaire distribution of CS FPS of Russia employees by answers to the question: “In your opinion, is the work being carried out sufficiently to prevent corruption in the Corrective Services?”

Yes 74 %	No 26 %	Other 0 %
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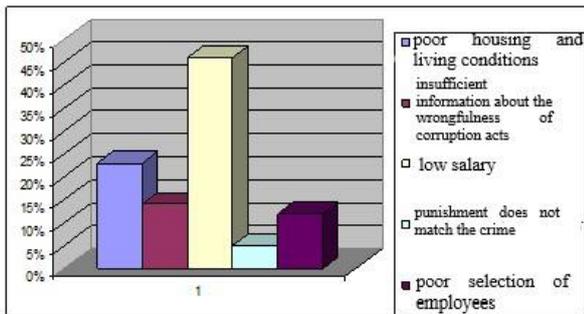


Figure 1 Questionnaire distribution of CS FPS of Russia employees by answers to the question: “Indicate the causes of corruption in the Corrective Services among employees”

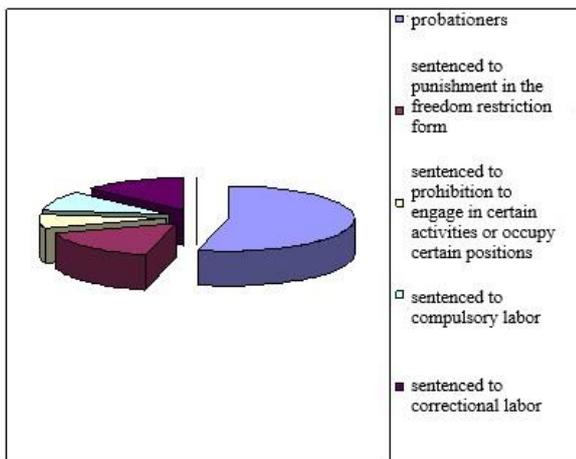


Figure 2 Questionnaire distribution of CS FPS of Russia employees by answers to the question: “Indicate which category of the convicted registered in your branch is more susceptible to corruption.”

CS FPS of Russia employees to the question: “What measures would you take to impede corruption in the Corrective Services?” answered that measures should be mainly associated with better recruitment, the need take a polygraph test, an increase in employment training. CS FPS of Russia acts as the basis for the normal functioning of the entire state apparatus, and the state as a whole.

3. DISCUSSION

The manifestation and entrenchment of corruption relations in the law enforcement system entail extremely negative consequences for ensuring the legitimacy and law order in the country, directly contradict the tasks of combating crime, undermine faith in the FPS of Russia effectiveness, and in the ability to guarantee the economic security of the state.

In current conditions of the fight against corruption, it is essential to provide mechanisms for influencing them, which would ensure not only to reduce, but also to eliminate this phenomenon.

The problem of combating corruption crimes in CS FPS of Russia should be solved comprehensively.

In this regard, the following questions arise. What should be understood as a mechanism in general and a mechanism in law? Is it reasonable to talk about mechanisms in relation to one or another legal institution and, in particular, to the anti-corruption institution in CS FPS of Russia?

In the juridical literature, the “mechanism” is presented as a way of functioning, a system of means [13].

Such concepts as “mechanisms for the realization of rights and freedoms”, “mechanisms for ensuring rights and freedoms”, “mechanisms for ensuring the execution of sentences”, as well as “mechanisms for countering criminal acts” are generally distinguished in addition to the mechanism for limiting rights and freedoms in criminal law science [14].

The question of the mechanism structure for the implementation and restriction of rights and freedoms remains controversial. Some divide the realization mechanism of citizens’ rights into two subsystems: a subsystem for ensuring the implementation of rights and a subsystem of actions (acts of behavior) of citizens to use the assigned rights, that is, the direct implementation of the right.

In our opinion, given the position of social and legal realities, law mechanisms form a system, and the mechanisms of legal regulation take the top in it. Then there are mechanisms for limiting human and civil rights and freedoms, and after them - mechanisms for ensuring the execution of sentences.

The application of corruption-related norms by CS FPS of Russia employees for the sake of personal interests is not only a kind of penitentiary crime, but also poses a threat to the correct functioning of CS FPS of Russia through its impact on penitentiary security.

The fundamental measure in CS FPS of Russia is to conduct professional training of employees. The event is regulated by the order of the Ministry of Justice of Russia dated August 27, 2012 No. 169 "On approval of the manual on the organization of professional training of the penal system employees" [15]. The manual determines the procedure for organizing professional training of privates and commanding officers of the penal system.

An employee of CS FPS of Russia studies legislative and other regulatory legal acts of the Russian Federation in the classroom for special training of the penal system in the relevant areas of official activity. Among them are the content of the newly adopted housing legislative and other regulatory legal acts of the Russian Federation, laws and other regulatory legal acts of the constituent entities of RF, the Ministry of Justice of Russia and the FPS of Russia in terms of various types of activities of institutions and penal system bodies.

Moreover, the issues of drawing up documents and filling in formalized forms are studied; as well as means and methods to ensure the effective performance of various operative and service tasks; issues arising in operative and service activities and requiring study and working out in practical classes.

Within the boundaries of the above activities, CS FPS of Russia employees gain information about the main changes in criminal and penal legislation, about incidents occurred in the law enforcement sphere. Employees get acquainted with the main regulatory acts of anti-corruption legislation, methodological materials and reviews that prevent them from committing corruption crimes [16].

However, measures aimed at improving and raising the level of professional training of CS FPS of Russia employees do not lead to the desired result. On frequent occasions, vocational training classes in CS FPS of Russia are conducted formally. This fact repeatedly attracts attention in various territorial bodies and is indicated as a shortcoming by intradepartmental verification commissions. Classes are written for form only and not really held. The problem lies in several dimensions:

- a large amount of lecture material for mastering in a short time (1 hour per week);
- reluctance of employees responsible for this direction to perform their official duties in good faith;
- not all employees receive the material, since most are involved in the official activities of CS FPS of Russia (during the class hours).

Firstly, we propose to consider the most significant topics, problems, situations in training classes in the activities of CS FPS of Russia, a specific branch. If an employee is absent in the classroom for valid reasons, the immediate supervisor should bring all the necessary material to him, in case of failure, bring him to disciplinary responsibility.

Secondly, the heads of the FSI CS FPS of Russia, as well as their deputies in the areas of activity, must conduct

quarterly briefings in which they should consider and analyze the legal framework of CES of Russia, make known provisions on the prohibition of violations of regulatory legal acts with signature confirmation, and on the prohibition entering into off-duty relations with the convicted under threat of punishment, etc.

It is required to pay attention to the fact that off-duty interactions of employees with the convicted have a negative impact on the procedure for the execution of sentences not related to imprisonment.

4. CONCLUSION

Improvement of the current legislation, the eradication of the use in corruption practice (with corruptogenic factors) and contradictory norms of the criminal executive legislation, containing the possibility of applying more than one single rule of conduct, should be of paramount importance. It should be noted that even the most excellent regulatory framework will not provide adequate effectiveness in preventing and combating corruption in the absence of adequate implementation mechanisms.

Concluding that in the complex of measures to improve a number of norms of the criminal executive legislation, we examined and determined the criminological characteristics of corruption manifestations in CS FPS of Russia, and the role and place of the heads of branches in the implementation of preventive and prophylactic measures of anti-corruption legislation. Moreover, proposals and recommendations for the implementation of the mechanism for combating corruption crimes in CS FPS of Russia were developed.

It should be stated that there is no single concept uniting employees serving and working in CS FPS of Russia, and the concept of an official of CS FPS of Russia. The major responsibilities for the execution of punishments not related to imprisonment, as well as measures of restraint, are assigned to the employees of CS FPS of Russia.

A set of measures is needed to combat corruption among CS FPS of Russia employees, including changes in legislation, as well as socio-economic and socio-political measures that contribute to the formation of respectful attitude towards CES officials. The problem of committing malfeasance in CS FPS of Russia is that the persons, whose duties include compliance with the law and carrying out work to rehabilitate the convicted, commit crimes themselves. Both objective and subjective circumstances contribute to the commission of illegal acts in CS FPS of Russia.

In our view, it is essential to create an inspectorate for the observance of the criminal executive legislation in CS FPS of Russia, which will resolve issues related to the urgent problems of the convicted (for instance, for sentenced to restraint of freedom - the opportunity to leave the territory specified by the court verdict, etc.). The inspection should consist of representatives of the public observational commission operating in the territory of the controlled region, as well as members of other public organizations implementing the so-called "people's control" in the

sphere of the criminal sentences execution. The inspection, to our mind, should be directly subordinate to control and supervisory authorities, or be under their jurisdiction.

The introduction of this measure will reduce corruption risks when making sole decisions by the heads of CS FPS of Russia.

We offer the following anti-corruption mechanisms in CS FPS of Russia.

First, they must work in all the above-mentioned links of relations in which corruption is manifested in CS FPS of Russia.

Second, these mechanisms are different in terms of anti-corruption levels. In this regard, they are envisaged by: a) norms of international law (international information mechanisms); b) regulatory legal acts of the Russian Federation (federal mechanisms); c) departmental normative acts (departmental mechanisms).

Third, departmental-level mechanisms and local-level mechanisms can have both direct and indirect impact on corruption in CES.

Within the framework of these areas, mechanisms for combating corruption crimes do not work automatically, they will be efficient when they are implemented by trained, highly qualified personnel. It is obligatory to use organizational measures in the activities of officials of CS FPS of Russia to implement anti-corruption mechanisms in CS FPS of Russia. We consider it necessary for an employee to take a polygraph test when appointed to a position in FSI CS FPS of Russia. Further research will reduce the level of corruption offenses.

Therefore, corruption crimes committed by CS FPS of Russia employees are their components through gaps in the penal legislation, personal injudicial acts and other forms of penitentiary omissions, posing a threat to both penitentiary security and the national security of our state.

The problem of combating corruption in the penitentiary system will not be solved only by passing laws and cannot be solved in a short time. It is necessary to change the consciousness of people, instill intolerance both to bribable officials and to corrupt relations among employees of the criminal executive system. The problem of corruption crimes will be solved if all anti-corruption mechanisms work at full capacity.

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