

# Ways to Combat Corruption in the Municipal Service System

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## ABSTRACT

The article is devoted to the problems of combating corruption, identifying the sources of anti-corruption activities in the system of municipal service. A study of the specifics of anti-corruption activities in the system of municipal service was undertaken. The regulation of anti-corruption issues in the municipal service system involves the use of a restrictive or prohibitive effect on the behavior of municipal employees in the form of restrictions, prohibitions, duties, responsibility, and punishment. It has been established that restrictions on the rights of persons entering the municipal service are aimed at ensuring their efficient professional activities in the exercise of full powers of municipal structures, establishing obstacles to probable misuse of municipal employees, guaranteeing the implementation of civil rights. Instrumental psychophysiological studies are carried out using a technical device - polygraph, designed to assess the reliability of the received information as part of resolving the issue of person's behavior in a corrupt situation.

**Keywords:** *municipal service, corruption, anti-corruption activities, anti-corruption policy, legal regulation, conflict of interest, prohibitions and restrictions, disciplinary regime, polygraph*

## 1. INTRODUCTION

One of the most crucial aspects of the internal policy of the Russian state is anti-corruption activities, which is understood as a set of measures of an organizational, political, legal, economic, social nature aimed at preventing, minimizing and eliminating the negative consequences of corruption in all spheres of domestic life, including the municipal service system.

Corruption in Russia is considered to be a negative systemic characteristic of state and municipal government institutions, which seems to be a significant obstacle to ensuring sustainable economic growth.

Corruption is one of the principal problems of the country, along with low incomes of citizens and insufficient development of infrastructure. It causes direct harm to the rights and freedoms, legitimate interests of citizens, and creates the basis for a comprehensive violation of rights in various spheres of society, including socio-economic sphere. A considerable part of corruption-related crimes are committed by municipal employees.

The purpose of this paper is to study the application of various methods of combating corruption in the system of state and municipal service. It is essential to study the organizational foundations of anti-corruption activities, as well as explore the basic areas of combating corruption to achieve the purpose.

The legal basis for combating corruption is the Constitution of the Russian Federation, federal constitutional laws, generally recognized principles and norms of international law and international treaties of the

Russian Federation, the Federal Law "On Combating Corruption" and other federal laws, regulatory legal acts of the President of the Russian Federation.

Besides, anti-corruption is conditioned by regulatory legal acts of the Government of the Russian Federation and other federal government bodies, regulatory legal acts of government bodies of the constituent entities of the Russian Federation and municipal legal acts (Art. 2 of the Federal Law of December 25, 2008 No. 273-FZ "On Combating Corruption", hereinafter referred to the Federal Law No. 273 "On Combating Corruption"). Corruption offenses are prohibited by law and provide for legal liability. Part 1 of Article 13 of the Federal Law No. 273 "On Combating Corruption" establishes that citizens of the Russian Federation, foreign citizens and stateless persons bear criminal, administrative, civil and disciplinary responsibility for committing corruption offenses in accordance with the legislation of the Russian Federation.

Thus, there are three main types of corruption offenses: 1) civil law tort; 2) administrative offenses; 3) crimes.

Civil corruption torts include violations of the donation rules that have signs of corruption and are not a crime. These torts are provided for the relevant articles of the Civil Code of the Russian Federation. In addition, the procedure violations for the services provision are envisaged by the relevant articles of the same Code.

Administrative corruption offenses include those with signs of corruption and are not crimes, for which administrative responsibility has been established.

Corruption crimes are those designated by the Criminal Code of the Russian Federation, directly encroaching on the authority and legitimate interests of the service, which are expressed in the illegal receipt of any advantages, or in

the provision of such advantages, including by state and municipal employees [1].

A significant role is played by normative acts containing measures to prevent corruption, to identify and eliminate its causes in the structure of the legal foundation for combating corruption. The given purpose is realized through administrative and legal regulation, since the preventive anti-corruption activities of the state are generally expressed in the improvement of prohibitions, restrictions, responsibilities in the field of state and municipal service. In view of the foregoing, the legal basis for combating corruption is made up of legislative acts on various types of service, regulations that determine the status of persons substituting public offices. A crucial role is played by the Federal Law of the Russian Federation of 02.03.2007 "On municipal service in the Russian Federation."

## **2. CORRUPTION AS A SOCIO-ECONOMIC PHENOMENON**

Any person with discretionary power, the ability to distribute any resources that do not belong to him at his judgment, may be subjected to corruption (official, deputy, judge, law enforcement officer, administrator, examiner, doctor, etc.)

The General Prosecutor of the Russian Federation Y. Ya. Chaika stated in one of his speeches that the damage from corruption crimes in Russia in 2012 amounted to almost 21 billion rubles. At the same time, the number of corruption crimes committed by organized groups has tripled. The number of crimes committed on a large and extra-large scale increased by 80%. Moreover, 349,000 violations of anti-corruption laws were identified in 2012. 889 employees of local government bodies were brought to criminal responsibility, including 284 heads of municipalities, 114 deputies. 1,159 law enforcement officers were convicted in a year [2].

At present, manifestations of corruption at the international level are associated with huge assets and a significant share of state resources, which endangers not only individual industries, but also the prospects for economic development of entire countries. "Corruption is no longer a local problem, but has turned into a transnational phenomenon that affects societies and economies of all countries of the world," notes the UN Convention against Corruption [3]. Corruption phenomena have acquired a particular scope in developing and politically unstable states, which, at a certain historical stage, are unable to build a transparent mechanism for interaction between government and business [4–6].

Corruption, as a very widespread phenomenon in the contemporary world, threatens the stability of state institutions based on the rule of law, the constitutional principles of equality and social justice, the normal development of economy, becomes a cause of social upheavals and economic issues [7, 8].

Corruption acquires particular significance in modern Russia, which is successfully emerging from the crisis, despite difficult political, economic and social conditions, actively forms and successfully implements various development programs [9–11].

Contemporary domestic legislation gives the following definitions of the "corruption" concept [12]:

- misuse of office, giving a bribe, accepting a bribe, abuse of authority, commercial bribery or other illegal use of official position by an individual contrary to the legitimate interests of society and the state in order to obtain benefits in the form of money, values, other property or services of property nature, other property rights for oneself or for third parties, or the illegal provision of such benefits to the specified person by other individuals;
- commitment of the acts specified above on behalf of or in the interests of a legal entity.

Combating corruption is the activity of federal government bodies, government bodies of the constituent entities of the Russian Federation, local government bodies, civil society institutions, organizations and individuals within their full powers:

- on the prevention of corruption, including the identification and subsequent elimination of corruption causes (prevention of corruption);
- on the identification, prevention, suppression, disclosure and investigation of corruption offenses (fight against corruption);
- on minimization and/or elimination of consequences of corruption offenses.

The corruption phenomenon is prevalent at the municipal level, in the municipal service system. Anti-corruption activities seem to be relevant at the regional and municipal levels, considering the trends in the clustering of domestic economy.

## **3. REGULATION OF ANTI-CORRUPTION ISSUES IN THE MUNICIPAL SERVICE SYSTEM**

The National anti-corruption plan was approved by the Decree of the President of Russia No. 226 [13] and is aimed at solving the following major tasks:

- improving the organizational framework for combating corruption in the constituent entities of the Russian Federation;
- activating of anti-corruption education of citizens;
- ensuring the implementation of legislative acts and management decisions in the field of anti-corruption in accordance with the National anti-corruption strategy.

The work of government authorities and civil society structures should be carried out in accordance with these strategies in two main areas:

1. Adopt such legislative acts that the possibility of corruption during their execution would be minimal, and strictly comply with them.

2. To create conditions both for combating corruption and for the emergence of public participation in the process, to develop this participation and increase its effectiveness.

Thus, one of the considerable activity principles of state authorities and local self-government bodies is the principle of public law, legal payment for the performance of state and municipal staff, employees of state and municipal enterprises and institutions. They are not allowed to receive remuneration from individuals and legal entities: gifts, monetary reward, loans, services, and payment for entertainment, recreation, transportation costs and other remuneration related to the performance of official duties.

Measures aimed at preventing corruption are formulated in Article 6 of the Federal Law on "Combating Corruption" in order to prevent the commission of bribable acts, reduce the corruption level in society [12]:

- 1) formation of intolerance to corrupt behavior in society;
- 2) anti-corruption expertise of legal acts and their projects;
- 3) submission, in the manner prescribed by law, of qualification requirements for citizens applying for the substitution of state or municipal positions and positions of state or municipal service, as well as verification of information provided by these citizens as required;
- 4) establishment as a basis for dismissal of a person replacing the position of the state or municipal service included in the list established by regulatory legal acts of the Russian Federation from the position of the state or municipal service or for applying in relation to his other measures of legal responsibility for failure to provide information or submission knowingly inaccurate or incomplete information about income, property and property obligations, as well as the submission of knowingly false information about income, property and property obligations of their spouse and minor children;
- 5) introduction into the practice of personnel work of federal bodies of state power, bodies of state power of the constituent entities of the Russian Federation, local self-government bodies of the rule according to which the long-term, flawless and effective performance by a state or municipal employee of their official duties must be taken into consideration without fail when appointing him to a higher position, conferring on him a military or special rank, class rank, diplomatic rank or with his encouragement;
- 6) development of institutions of public and parliamentary control over the observance of the legislation of the Russian Federation on combating corruption.

The regulation system of anti-corruption issues in the municipal service includes:

- holding competitions, setting restrictions and prohibitions, as well as qualification requirements (when applying for municipal service);

- noticing the facts of appealing to municipal employees in order to induce the commission of corruption crimes and conflicts of interest, the establishment of mandatory requirements for official conduct, the provision of information about income, property and property obligations (when passing municipal service).

The regulation of anti-corruption issues in the municipal service system is contained in a number of legislative provisions. In particular, Articles 8, 9 of the Federal Law of the Russian Federation No. 273-FZ [12] define the obligations of municipal employees to provide information on income, property and property obligations, as well as their obligation to notify about appeals in order to induce corruption offenses. Article 9 provides for the obligation of municipal employees to notify representatives of the employer, prosecutor's office or other state bodies about all cases of inclination him to commit corruption offenses. The possibility of dismissing a municipal employee for failure to report the facts of persuading him to commit corruption offenses is provided for in this article.

Currently, considerable attention is paid to the problem of selection and arrangement of personnel in the activities of state and municipal bodies to prevent corruption offenses [14, 15]. This is due to the fact that state and municipal employees, persons substituting state or municipal positions, as well as heads of state and municipal institutions must be honest and incorruptible, principled and stable, disciplined and tactful. Instrumental psychophysiological studies are carried out using a technical device - polygraph, designed to assess the reliability of the received information as part of resolving the issue of person's behavior in a corrupt situation [16].

The Federal Law "On the use of the polygraph" has not been adopted yet, despite long period of its application in employment and admission to the state and municipal service. Nevertheless, the project, the preparation of which was carried out by specialists from more than 10 federal agencies, was worked out in 1999. The principal goal of the law is to fight corruption. However, opponents of its adoption are certain that the draft law in the presented version is unlikely to solve the problem. Moreover, special federal law on the use of a separate technical device is not envisaged, since the emergence of a new technical device will inevitably require the adoption of a new law.

The use of a polygraph does not contradict the current legislation on state and municipal service and legislation on labor protection. Federal laws on the state civil service and municipal service in the Russian Federation do not contain regulations for the polygraph use or a ban on its use. Nevertheless, this state of affairs does not give reason to consider the conduct of inspections of state and municipal employees using a polygraph as a restriction of human rights and freedoms.

Conducting inspections of state and municipal employees using a polygraph when recruiting, promotion does not differ from other restrictions and prohibitions established

for them. It seems advisable to supplement the legislation on the state civil and municipal service with the corresponding regulatory prescriptions on the possibility of using a polygraph. In particular, it is proposed, by analogy with the Federal Law of November 30, 2011 No. 342-FZ "On Service in the Internal Affairs of the Russian Federation and Amendments to Certain Legislative Acts of the Russian Federation", to supplement the Federal Law of July 27, 2004 No. 79-FZ "On the State Civil Service of the Russian Federation" Article 21.1, which would contain a list of documents submitted by a citizen for admission to the state civil service. Written consent to carry out activities related to the verification of the information reliability provided by the citizen could be indicated in the list of these documents, as well as written consent to the processing of the citizen's personal data to study the possibility of admitting him to the state civil service.

The provision is consistent with Article 44 of the Federal Law of June 27, 2004 No. 79-FZ "On the State Civil Service of the Russian Federation", dedicated to the personnel work of the state body. The article includes the organization of verification of the personal data accuracy submitted by a citizen and other information when admitting the state civil service. Part 3 of Article 16 of the Federal Law of March 2, 2007 No. 25-FZ "On municipal service in the Russian Federation" can be supplemented in the same way.

#### 4. CONCLUSION

Based on the analysis of the current legislation regulating the activities of municipal employees, as well as the so-called anti-corruption legislation, it can be concluded that the restriction of the rights and freedoms of municipal employees involves the application of a restrictive or prohibitive influence on the behavior of subjects in the form of restrictions, prohibitions, duties, responsibility, and punishment [17–19]. Generally, the development of anti-corruption activities in the municipal service system is reduced to the following:

1. Requirements for municipal employees are increasing, namely, the provision of supplementary information about their income and property, including those belonging to members of their families.
2. Municipal employees are obliged to correlate their actions with the established rules of conduct in the service, their failure to comply may entail disciplinary, and, if necessary, administrative and criminal liability.
3. Administrative responsibility of legal entities for the transfer of a bribe on behalf of or in the interests of a legal entity.

The development and transformation of anti-corruption policy in the field of municipal service along the way of tightening the limiting element, strict accounting and control over the official activities of municipal employees, will make it the most efficient and effective way to combat corruption, which presupposes information openness of the officials activities in the system of municipal service and

allows counteracting the commission corruption crimes. Combating corruption in the system of municipal service by restricting the rights and freedoms of municipal employees is one of the elements of the anti-corruption mechanism of the state and ensures the implementation of the principle of openness and publicity in the activities of local self-government bodies. The establishment of restrictions on the rights of persons entering the municipal service is aimed at ensuring effective professional activities in the exercise of full powers of municipal structures, establishing obstacles to possible misuse of municipal employees, guaranteeing the fulfillment of civil rights by employees.

The foregoing allows us to conclude that in the most general form, the rights and freedoms of persons in municipal service, their specific restriction by the Law on Municipal Service serves to perform the duties imposed on these persons.

The conducted study confirmed that the polygraph can be considered as a supplementary, rather than the primary means of preventing corruption offenses, since it does not reveal a lie in the literal sense, but only records the psychophysiological reactions of the human body to certain issues. The polygraph can solely highlight subjective crucial topics for the subject; draw the attention of the test initiator to them. However, it is essential to supplement the legislation on state and municipal service with prescriptions that allow the use of a polygraph in practice, as well as to disclose the procedure for carrying out research and interpreting its results in a separate departmental act regulating the issues of professional psychophysiological selection for the state civil service and municipal service.

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