

# *Improper work of Russian law-enforcement agencies as determinant of corruption-related crimes committed by government officials*

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**Abstract** — Today, the issue of corruption is one of the most crucial issues along with the economic crisis, distrust of government officials and social unrest. The topicality of the issue is due to the increase of the corruption level and the need for improvement of the control of corruption. Studies on corruption in Russia help to reveal its characteristics, to develop efficient anti-corruption measures and to prevent corruption in the future.

**Keywords** — economics, bribery, corruption, law-enforcement agencies, state, public officials.

## I. INTRODUCTION

The Preamble of the Council of Europe Criminal Law Convention on Corruption of 27 January 1999 says that corruption threatens the rule of law, democracy and human rights; undermines good governance, fairness and social justice; distorts competition; hinders economic development and endangers the stability of democratic institutions and the moral foundations of society.

Nowadays, “criminal society is more and more organized, armed, corrupted, globalized. It uses scientific and technical achievements as well as loopholes in the law” [6].

Threats of corruption offences are evident. The degree of corruption in Russia threatens the national security [2]. According to the legal and economic studies, a high level of

corruption lowers the country’s attractiveness as a foreign investment destination.

There is no doubt that the higher the level of corruption, the higher the level of the shadow economy. Corruption behavior can undermine confidence in public bodies, has a negative impact on social psychology. Modern corruption is closely connected with organized crime, being its component. It creates a negative image of Russia on the world stage that arouses serious concern in the society [8].

Historical written artifacts show that bribery, as a social phenomenon, appeared when the first public offices were established. The Old Testament, the first part of the Christian Bible, mentions venality of judges: “For I know your manifold transgressions and your mighty sins: they afflict the just, they take a bribe, and they turn aside the poor in the gate from their right.” (Amos 5:12). Josaphat, the king of Southern Juda in 866-847 BC, mentioned in the Bible, fought against injustice and venality of judges. Data on corruption of judicial and law-enforcement agencies in different countries can be found in multiple historical sources.

In this context, the issue of criminal liability for corruption offences, committed by heads of law-enforcement agencies, is of special interest.

In the USSR, during the period of the personality cult, the former Prosecutor General of the RSFSR N.M. Yanson, the acting Prosecutor General of the RSFSR F.E. Nyurina, the first

Prosecutor General of the USSR I.A. Akulov, the former Prosecutor General of the RSFSR N.V. Krylenko, the former prosecutor V.A. Antonov-Ovseenko were convicted and shot for counter-revolutionary activities.

Further, all of them were rehabilitated, but their criminal dossiers lack data on corruption offences. One should take into account that during the Stalinist period, the only function of law-enforcement and judicial agencies was to administer the law of the totalitarian state.

From the beginning of the 1970s till nowadays, there are numerous attempts to prosecute heads of law-enforcement agencies. Unfortunately, it was difficult to find any special research on that issue. It made the authors study sources of controversial quality.

One of the perpetrators of corruption is Army General N.A. Shchelokov, who served as an interior ministry (1966-1982). After being fired from his post in December 1982, Shchelokov was found guilty of multiple crimes.

N.A. Shchelokov caused damage to the USSR in the amount of 500 000 rubles. On 7 December 1984, he was expelled from the Communist Party for major violations of party and state discipline, abuse of powers for personal gain. The prosecutors dropped criminal charges against him only after his suicide on 13 December 1984.

In 1995 and 1999, Russian central TV channels showed hidden cams videos of V.V. Kovalev, the minister of justice, and Yu.I. Skuratov, the Prosecutor General who were dallying with prostitutes. As a result, V.I. Kovalev resigned. Later, he was convicted for large scale embezzlement and bribery. Yu. Skuratov was also fired and prosecuted.

One central newspaper said that “Skuratov is guilty of paying for prostitutes with money of his friend, a bank chairman of the board who was being prosecuted at that time. There are serious reasons for suspicion that Skuratov paid for girls providing some services. That is pure corruption which requires dismissal ...”.

S. Dorenko, a famous Russian journalist, said: “For me, corruption, not the sexual scandal, was an issue. I paid attention to Valentin Kovalev and Yury Skuratov’s stories because they did not pay out of their own pockets for dallying with prostitutes. I wonder who paid for their dalliances. There is no difference what you accept as bribes – greyhounds or prostitutes”.

D. Hellman, G. Jones and D. Kaufmann reasonably refer to that behavior as *administrative corruption* [9].

In October 1995, the President of Russia issued an executive order on resignation of A.N. Ilyshenko, the Prosecutor General of Russia. In February 1996, A.N. Ilyshenko was arrested in relation to the criminal case against Balkar-Trading company, where his wife held an important post. He was charged with passive bribery and abuse of powers. On 15 February 1998, A.N. Ilushenko was released on his recognizance. The case was sent for re-investigation. The accused was undergoing long-term treatment of tuberculosis and familiarizing with case materials (97 volumes), but on 11 May 2001, the General Prosecutor’s office dropped criminal

charges against him. In 2001, the Prosecutor General dropped charges against Yu.I. Skuratov as well.

On 30 June 2009, Moscow city court upheld a nine-year sentence to D.P. Dovgy, a former head of the Central Investigation Department of the Investigation Committee of the General Prosecutor’s Office of Russia.

He was found guilty of accepting bribes (750 000 Euros) and abuse of powers. His accomplice A. Sagura, a former chief of the Investigation Department of the Chief Military Prosecutor’s Office, who acted as an intermediary, received eight years in prison. The sentences have already come into legal force.

One might wonder why those violations had not been brought to light earlier, why corruption behavior had not been stopped earlier.

The answer can be found in the report delivered by Professor A.V. Naumov at the International Theoretical Seminar of the General Prosecutor’s Academy on 27 May, 2009: “The efficiency of corruption measures depends not on criminal law rules but on the political will of top public officials”. Many other researchers make the same conclusions [4].

For example, corruption offences committed by N.A. Shchelokov were not secret, but friendly relations with L. Brezhnev protected him from prosecution. Criminal charges against Yu. Skuratov were launched only when he refused to resign. V.V. Kovalev was arrested only after his attempts to create an opposition political party in Russia. Criminal charges against A.N. Ilyushenko were launched only after negotiations of the Federal Security Service with General Prosecutor’s Office and Presidential Executive Office. General D.P. Dovgy was initially fired from the Investigation Committee without announcing causes and launching criminal charges against him.

But when he tried to challenge his dismissal in court and began giving interviews attracting attention to himself, he was arrested and sentenced to long terms of imprisonment.

Corruption is the abuse of entrusted powers, giving and taking bribes, excess of powers, and other forms of dishonest or unethical conduct of a person entrusted with a position of authority, aimed at acquiring benefits (money, material values, other possessions for personal or third parties’ needs).

Individual, business and political corruption is deeply ingrained in the Russian society. Corruption threatens democracy, moral state of the society, increases inequality of access to material benefits, causes distrust of the Government [1].

According to the international experts, Russia is one of the most corrupt nations in the world. It ranks only after African and Asian countries. The scale of Russian corruption is enormous. It can equal the amount of the federal budget. At present, corruption is a systematic problem which breaks economic development of Russia, undermines the total national safety.

Corruption is absorbing different social and economic areas – healthcare, education, businesses, public government, law-enforcement agencies, agriculture and defense system. Urgent measures are required to ensure the normal course of economic development and to remove social tension.

## II. METHODOLOGY

The main causes of corruption are poor legal awareness and legal culture of the society. Programs intended to build legal awareness should be meant, first of all, for public officials whose corruption behavior encourages corruption activities of other members of the society. Inefficient authorities also cause development of corruption in Russia.

Upgrading of penalties for corruption is not an efficient way out as penalties are already harsh. For example, criminal penalties for commercial bribery, bribe-giving and bribe-taking are fines in the amount of up to hundredfold sums of a commercial bribe or other bribe – from 25,000 Rubles to 500,000,000 Rubles (Article 46 of the Criminal Code of Russia).

Thus, it can be concluded that one more cause of corruption is the weakness in the judicial system and judicial inefficiency. The weakness in the judicial system might be due to the fact that executive authorities are not able to ensure efficient enforcement of judicial decisions. Inefficient work of law-enforcement agencies, which have to protect rights and legal interests of Russian citizens and their private property, encourages corruption.

Legal interests of Russian citizens and their private property encourage corruption.

Today, they protect only national interest and national property or property and interests of wealthy citizens. Corruption is an inherent element of judicial decision making as well when corrupt officials accused of severe crimes are sentenced to small penalties.

## III. RESULTS

Active anti-corruption policy is carried out at all levels of the government. Some measures have been already taken at the federal and regional legislative levels. National anti-corruption programs are adopted annually. For example, at present, Russia is carrying out the National Anti-Corruption Plan in compliance with the presidential executive order of 1 April 2016 “On the National Anti-Corruption Plan for 2016-2017”. The National Plan has been adopted for the implementation of the Federal Law of 25 February 2008 “On Anti-Corruption”. The Russian regions are also adopting anti-corruption acts.

Despite active anti-corruption measures, corruption is still a serious problem of the Russian society. It is impossible to eliminate corruption as most people prefer material benefits to moral values. However, it is possible to decrease its level. The authors believe that it is necessary to adopt a special legislative act on anti-corruption. Besides, a special independent public agency which would ensure execution of that act should be established. It is necessary to eliminate corruption in the government, create conditions for citizens excluding bribe-giving for services which are free for them by

law, eliminate causes when people are forced to find illegal financial sources, etc.

The cause of corruption is not only poor legal culture, but intellectual culture as well. The unwillingness of some people to content themselves with what they own, what they earn legally, prevent hundreds of other people from having what is theirs by right. Corruption will exist until such people work in legislative, executive and judicial bodies.

## IV. DISCUSSION

Let us give some examples. The Minister of Economic Development Aleksey Ulukaev is charged with bribe-taking in the amount of two million dollars. On 15 November 2016, based on investigation measures of the Federal Security Service of Russia, the Central Department for major crimes investigation of the Investigation Committee of Russia initiated criminal proceedings against Aleksey Ulukaev for the crime stipulated in part 6 of Article 209 of the Criminal Code of the RF (passive large-scale bribery).

Aleksandr Khoroshavin, the former chief of Sakhalin oblast, Sergey Karepkin, the vice chief of the regional government, Andrey Ikramov, the advisor of the Governor, Nikolay Borisov, the minister of agriculture are charged with crimes stipulated in parts 5 and 6 of Article 290 and Article 174.1 of the Criminal Code of the RF (passive bribery, legalization of financial resources obtained as a result of criminal behavior). The investigators found that from 2009 till 2015, the members of the criminal group under the guidance of Khoroshavin were accepting bribes from businessmen. In return, they protected them, committed some actions within their powers, and encouraged commission of such actions by officials of executive agencies of Sakhalin oblast. The total amount of bribes is over 522 million Rubles.

Yury Hamburg, the first vice-governor of Omsk oblast, was found guilty of illegal sale of land on the left bank of the Irtysh river for housebuilding and sentenced to five and a half years’ imprisonment and the fine in the amount of 7.4 million rubles. According to the criminal dossier, when Yury Hamburg was working in the department for property relations of Omsk city administration, he and his course-mate Vadim Merenkov who further became a regional minister of property relations, sold 27 hectares of farmland to a commercial company. In 2011-2012, the company sold that land for housebuilding. For a short period of time, instead of planned vegetable gardens they built a premium district having caused damage to the region and city in the amount of over 4000 million rubles.

Oleg Ezhov, the vice-governor of Primorye krai supervising the building branch, caused damage to the regional budget in the amount of 24.5 million rubles. According to the investigation data, Oleg Ezhov signed a work acceptance certificate for the fire station building; however the works had not been completed. Earlier, his subordinate Ilya Sologub, the director of the united department for construction, was charged with bribery in the amount of two million rubles.

Samara oblast court found Nikolay Utkin, the former vice head of Tolyatti administration and Natalia Nemykh, the land resources manager of Tolyatti administration, guilty of extortion in the amount of 150 million rubles and abuse of powers. Utkin was sentenced to seven years of imprisonment and fined. Nemykh was sentenced to eight and a half year imprisonment and debarred from holding public offices for two years.

Moscow city court in jury trial found Dmitry Dovgy, the former chief of the Central Investigation Department of the Investigation Committee of the General Prosecutor's Office of Russia guilty of bribe-taking in the amount of 750 thousand euros and abuse of powers, and sentenced him to nine years of maximum security imprisonment. According to mass media, Dovgy investigated crimes committed by the vice minister of finances, Segey Storchak, the army general, Aleksandr Bulbov, and the Petersburg businessman, Vladimir Barsukov (Kumarin).

In 2011, the court found Artur Smatko, the former head of Ozery in Moscow oblast, guilty of taking bribes in the amount of 15.5 million rubles and sentenced him to seven years of imprisonment.

In the current legislation, there are a lot of loopholes. One can argue that different forms of corruption result from competing requirements of legislation abounding with multiple reference rules and ambiguities. According to professor V.V. Luneev, a famous Russian criminologist, "the Criminal Code of the Russian Federation was developed without special analysis and predictions, does not involve many forms and types of socially dangerous corruption. It does not prescribe penalties for:

- 1) corruption lobbyism;
- 2) corruption favoritism;
- 3) corruption protectionism;
- 4) nepotism;
- 5) secret due for political needs;
- 6) due for elections suggesting payments in public offices and lobbying;
- 7) secret privatization, funding and auctioning;
- 8) granting tax exemptions and customs privileges;
- 9) holding posts in banks and corporations by public officials after their resignation;
- 10) corruption when concluding international contracts;
- 11) combining public offices and business activities;
- 12) undue enrichment, etc." [5]

High latency of corruption crimes is due to the fact that in most cases all parties of corruption deals gain benefits and do not want law-enforcement agencies to know about their activities.

The systematic nature of corruption crimes is due to the fact that these agencies help secrete committed offences and

commit new ones. It causes formation of stable horizontal and vertical corruption relations in federal, regional and municipal agencies [3].

## V. CONCLUSION

Investigation agencies should be motivated to solve corruption crimes. To minimize dangerous consequences of corruption, combined measures of researchers, legislators, law-enforcement agencies and courts are required.

From this perspective, it can be recommended to amend Russian criminal laws prescribing criminal liability for offences against public offices in relation to any person who argues that s/he can have an illegal impact on official decision-making regardless of results of such impact.

Such amendments will allow increasing efficiency of fight against corruption and achieving purposes of criminal punishment.

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