

Legal and Organizational Principles of Preventing Corruption

Stanislav I. Golubev

Kazan (Volga Region) Federal University, Kremlevskaya Str., 18, 420008 Kazan, Russia

Abstract: The present study touches upon legal and organizational principles of preventing corruption. The researcher points to the fact that corruption related crimes have penetrated deeply into all spheres of public life. With regard to personal experience and opinions of various scholars, the researcher singles out main organizational measures of preventing corruption related crimes.

Key words: Corruption, crime, confronting corruption, decree, criminal law, income certificate

INTRODUCTION

At a modern stage of development of Russia, crime prevention is viewed as a complicated and demanding challenge which can be met only by involving a number of subjects from international to municipal organizations from civic institutes to private persons. Unfortunately, we should point to the fact that any attempts to face the challenge have given just a few positive results so far. Corruption is one of the factors affecting legitimacy and progress.

It should be mentioned that corruption, like a worm has penetrated deeply into all life spheres of a sound and normal society. There is no country in the world that could be released from corruption. Like a worm it crept into all spheres of a normal society including health care. Its real scale in a state or worldwide can be hardly estimated, taking into account that turnover of the global healthcare industry has surpassed 3 billion US dollars (Polukarov and Kurakin, 2013). Corruption has become widely spread in such sphere of health care as transplantology (Gumerov, 2014).

What are crimes involving corruption pre-conditioned by? According to Gary Backer when choosing an area of activity an individual takes into account four factors. Firstly, his abilities; secondly, his moral values and possible restrictions rooted in his upbringing and family; thirdly, restrictions determined by environment; fourthly, his or her attempts to get the most profit possible (Becker, 1985).

Taking into account that the issue is quite serious and expecting numerous questions from the opponents we suggest dwelling into fundamentals of crime prevention.

THEORY

Presently, almost no document describing political or social and economic situation in Russia avoids

mentioning the necessity of crime prevention. The law maker keeps working out measures of crime prevention with regard to its causes and mainly to the understanding that crime prevention should meet all requirements of the related field.

Some analysts mention that “before the French revolution corruption was almost a constitutionally determined phenomenon” (Tiihonen, 2003). However when speculating about corruption, a number of scholars suggest that the lawmaker should regard the following:

- Development of anti-corruption laws with the help of various fields of law or a complex approach
- Regular analysis of corruption and its causes
- The rationale of the law, rather than subordinate acts
- Specialized training of human resources and establishment of special departments in law enforcement agencies
- Strategies for crimes prevention with regard to actual political, social and economic conditions and legal conscience

One of the most viable mechanisms of crime prevention is management of legal and regulatory framework of the state.

The most significant document related to legal prevention of corruption is the constitution of the Russian Federation. Article 2 stipulates that a man his rights and freedoms are the supreme value. Accordingly, the primary obligation of the state should be observance of rights and freedoms of man and citizen. Therefore, when confronting to corruption on legal basis, rights and freedoms of a man in Russia should be observed. The next provision to be taken into account when performing crime prevention can be found in Article 21 stipulating that human dignity should be protected by the State and some other norms.

In accordance with Article 15, part 4, the universally-recognized norms of international law and

international treaties and agreements of the Russian Federation shall be a component part of its legal system. The fact that Russia joins conventions has consequences not only in part of international obligations in particular but in part of development of the Russian legislation in general which presupposes that main conventional provisions should be formalized in Russian laws. Thus, by virtue of the UNO convention against corruption, the Russian Federation not only confirmed its involvement into the international anti-corruption campaign but adopted Federal Law from 25 December 2008 No 273-FL "on anti-corruption". The draft law was admitted for consideration several times but the legal act was finalized only after the President signed it by the end of 2008. This law determines legal and organizational fundamentals of crime prevention, anti-corruption campaign, basic principles of crime prevention and elimination of consequences of corruption crimes.

The following legal acts regulating the system of the ministry of internal affairs of the Russian Federation is Federal Law "on service in internal affairs agency", "on police" which contain provisions corresponding to Federal Law "on anti-corruption". For instance, Article 29 of Federal Law "on police" stipulates that all prohibitions, restrictions and obligations set forth by Federal Law from 25 December 2008 No. 273-FL "on anti-corruption" applies to police officers too. These prohibitions and obligations are set to prevent crimes involving corruptions.

This plan document to determine a number of measures for crime prevention is the National anti-corruption strategy. There was a need to adopt the national strategy representing a constantly developing system of legal, organizational and informational measures regarding federative structure of the Russian Federation including federal, regional and municipal levels and designed to remove root causes of corruption.

The fundamentals of this document include firstly, acceptance that corruption is one of the system threats to security of the Russian Federation, secondly, implementation of crime prevention measures and criminal prosecution of those who committed corruption crimes. This legal act determines basic principles of the crime prevention strategy including the following:

- Disseminating innovation technologies in the work of federal bodies of state power
- Other state agencies, state agencies of subjects of the Russian Federation and local government agencies helping to provide objectivity and transparency in making legal acts and management decisions as well as foster electronic cooperation between the agencies and their interaction with people and organizations in connection with public services performed

- Improving institutional basis for crime prevention processes in subjects of the Russian Federation
- Improving system of records of public property and evaluation of its use efficiency
- Raising public awareness of anti-corruption issues
- Improving law enforcement practices of law enforcement agencies and courts in corruption related crimes
- Ensuring execution of legal acts and management decisions in crime prevention in compliance with the National Anti-Corruption Strategy, etc.

Crime prevention treatment is revealed in the criminal code of the Russian Federation, Federal Laws and presidential decrees. Thus for instance, Decree of the President of the Russian Federation from 29 May, 2008 "on anti-corruption measures" made it possible to create presidential council for countering corruption. The tasks of the council include the following: to prepare proposals on formulation and implementation of anti-corruption state policy to the President of the Russian Federation to coordinate work of federal agencies of the executive power, agencies of the executive power of subjects of the Russian Federation and local government agencies of municipal units in anti-corruption state policy. This complex method helps to develop measures of confronting corruption related crimes.

Organizational measures countering corruption include the following: issuance of bulletins concerning expenditures and property position of non-to-profit organizations, agencies of state power, transparency returns, property position of natural persons and legal entities; compilation of data bases of economic entities and issuance of bulletins concerning expenditures and property position of high officials.

Thus, Decree of the President of the Russian Federation from 18 May 2009 No. 559 "on income, property and liabilities records reporting of nationals seeking appointment to Federal State Service and Federal Public Servants" defined the competence of submitting documents on property and liabilities of a federal public servant his spouse, underage children and income certificates.

Besides, an important element of the system of corruption crimes facts is a provision of part 15 of Decree of the President of the Russian Federation from 18 May, 2009 No. 599. The provision presupposes that in case of non-representation or false representation of income, property and liabilities an individual may not be appointed

to public service posts while a public officer is released from the position or exposed to disciplinary proceedings.

To encourage further improvement of legal anti-corruption measures alongside with requirements of income and property records reporting, validity check of the data provided by nationals seeking appointment to federal state service should take place.

These requirements were reflected in provisions of the Decree of the President of the Russian Federation from 7 May, 2012 No. 601 “on main areas of improvement of public administration system”. The Decree provides for special anti-corruption treatment subdivision within the limits of personnel of such agencies. Duties to be performed by such agencies include the following: to exclude certain actions that can be connected with personal, ownership or other interests preventing from careful execution of duties to give no preference to any professional or social groups and organizations to be independent on the influence of any individuals, professional or social groups and organizations to avoid using one’s position to influence on the work of state agencies, state-run organizations, office holders, public servants and individuals when dealing with personal matters, etc.

Such decrees should provide for control over acquisition of annual income reports by public servants in order to confront corruption in the system of state power agencies.

The next Decree of the President from 2 April, 2013 No. 309 “on measures of implementation of a number of provisions of “on anti-corruption” Federal Law” included amendments to anti-corruption measures for corresponding federal agencies of the executive power. These amendments are focused on achieving certain results thus providing for control over performing the planned actions. The Presidential Decree refers to state power agencies of the Russian Federation, pointing to the necessity to encourage the work of anti-corruption councils and anti-corruption treatment subdivisions.

CONCLUSION

In conclusion to the said above, it should be mentioned that a large majority of the suggested anti-corruption measures is actually connected with anti-corruption methods in criminal law which includes: to overelaborate the procedure of holding public or other office to strengthen responsibility of public servants and give reports on income. However, analysis of court practice and academic literature proves it to be insufficient. It would be wrong to conclude that solution to the problem of corruption crimes lies solely in hardening or inevitability of responsibility for corruption related actions because it is not only of a criminal but a social and political character. This means that crime prevention should be based on social, political, economic and moral corrective actions.

It seems reasonable to conclude that all legal and organizational principles of crime prevention in the Russian Federation should be based on the principle of openness and transparency of the executive power organs confronting corruption related crimes. This should involve mass media and wide public. The state should create the atmosphere of disapproval of immorality and intolerance to any fact of corruption at all levels.

REFERENCES

- Becker, G.S., 1985. Public policies, pressure groups and dead weight costs. *J. Public Econ.*, 28: 329-347.
- Gumerov, T.A., 2014. Presumed consent to organ and (or) tissues removal: Legal aspect *Life Sci. J.*, 11: 265-267.
- Polukarov, A.V. and A.V. Kurakin, 2013. On necessity of criminal responsibility of legal entities for corruption in healthcare on the necessity of crime responsibility of legal entities for corruption in healthcare. *Administrative Munic. Law*, 1: 24-29.
- Tiihonen, S., 2003. Central Government Corruption in Historical Perspective. In: *The History of Corruption in Central Government*. Tiihonen, S. (Ed.). IOS Press, Amsterdam, Netherlands, pp: 4-5.