Formation of anti-corruption legal consciousness of state and municipal officials of Russia

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Abstract. The article is devoted to the state of public legal consciousness of society as a whole, and one of its strata – the governing elite, state and municipal officials, regarding issues related to corruption in Russia. On the way of movement of the Russian state to the civilized principles of construction of modern society there are a lot of difficulties, which should be overcome both by the state power, and the Russian citizens. Such problems are: stereotypical thinking, traditionally forming a neutral and tolerant attitude of Russians to the manifestations of corruption; lack of strict state control of corruption actions of the ruling elite; resistance of the ruling class to the spread of international requirements for the state to fight against corruption, and so on. Bringing Russian anti-corruption legislation into requirements of compliance with the rule of law is a slow-moving process, but the need to improve it has become an urgent need not only for the Russian Federation, but also for the Supreme power.

1 Introduction

The problem of corruption in the system of state and municipal board of Russia has its own history and has not been resolved up to date. The criminal union between state and municipal officials with business representatives and employees of law enforcement agencies has made such incredible influence on society, which resulted in protests and sharp criticism on social networks. This reaction tells not only about public discontent, but also indicates a decrease in the legitimacy of the government.

According to the Prosecutor General of the Russian Federation in the first nine months of 2018, the total amount of bribes in Russia amounted to 1.8 billion rubles, and the average size of bribes has exceeded 600 thousand rubles. For example: in 2016 the total amount of bribes was 2.3 billion rubles, officials received 946,8 million rubles, in 2017 the total amount of 6.7 billion rubles, including bribes to officials amounted to RUB 4.5 billion.

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The number of suspects for these nine months of 2018 amounted to more than 1 thousand people, including 300 - Internal Affairs Officers, 76 – the Federal Penal Correction Service, 41 – the Federal Court Bailiff, 48 – the Ministry of Defense of the Russian Federation, 77 – local government officials, 39 – the Executive bodies [1].

As a matter of fact, it is necessary to investigate and get understanding of the roots of the destructive phenomenon of corruption, which has become widespread in recent years in government at different levels, and to justify the importance of the state's fight against this type of crime, which has reached the level of threat to national security.

2 Results and discussion

One of the criteria characterizing the prevalence of corruption in the country is the level of legal culture of its citizens. The influence of western culture on the Russian identity, which began in the XVII century, could not fully assimilate it due to the inertia and continuity of the national consciousness of Russians. Social and legal stereotypes of public justice were the most stable in the sphere of relations to the supreme authority, which still affects the course of social processes in Russia.

The most widespread stereotypes in the legal and political consciousness of Russians can be found in their attitude to the head of state. Traditionally, throughout the centuries-old Russian history, the head of state in the public consciousness has a place outside the legal hierarchy, above the law and the rights. The power of the Tsar, the Emperor-autocrat, the General Secretary, the President was on the unconditional subordination of all people to one person – the Supreme leader, the leader of the nation. That secretly disavows him as a citizen and subject of law. The Russian system of law has been built on the authority of the individual as an exponent of strong, tough, but fair authority. It seems that in the public consciousness there is also a religious side, as a preserved memory that the king-Emperor was the anointed of God, the representative of God on earth.

Feature of the Russian legal system, as Soviet and in modern time too, is «decree» law, reflected in the fact that the rule-making by the head of state in the form of decrees is based on other canons, mandatory procedures for adoption of laws that legislative body – the Federal Assembly of the Russian Federation. Since the presidential decrees have the force of law, it leads to the expansion of the interpretation of categories «law» and «legislation» sometimes creates problems in law enforcement.

The «decree» law is reflected in the public legal consciousness in its projection on the legislation, in relation to it as something secondary, theoretical, temporary, optional, since the will of the official is more important and effective. Furthermore, in the USSR and in post-reform Russia, the phenomenon of «telephone» law is a consequence of a shift in public legal consciousness due to the discrediting of the imperative nature of the law and has become one of the mechanisms of corruption in the country. «Telephone» law is also expressed in the processes of the emergence of many by-laws, departmental instructions, orders and other regulatory documents that distort the meaning of the law, often contradict the law, but quite satisfied with the governing class.

The governing class, self-styled «elite», is a group of ruling people with political and economic power, which includes state and municipal officials, also called bureaucracy, as well as professional politicians from the leading political parties. The theory of elites, developed by western science at the beginning of the XX century, contains the definition of the elite as a group of people who have achieved the highest standards in their activities, have moral and intellectual superiority over other people and have a heightened sense of responsibility [2].

However, the theory of Western European scientists does not quite coincide with the Russian reality, as evidenced by sociological surveys of public opinion research centers about the attitude of Russians to the governing class – the administrative elite of Russia. For example, the Levada Center has been monitoring public approval of the activities of
state and regional authorities for many years. The results of the latest survey in August 2019 showed that the total number of respondents approve of Vladimir Putin as President of Russia 67% of respondents, the activities of Dmitry Medvedev as Prime Minister with 36% of the Russian Government – 44%, Governor his region (President of the Republic, in Moscow, mayor) – 61%, State Duma – 37% [3]. The most actual problems of Russian society are currently considered by citizens are price increases (62% of respondents, there were several possible answers), poverty (44%) and corruption in the country (41%) [4].

A series of high-profile scandals in 2019 with the arrests of senior officials did not significantly change the attitude of citizens to the governing classes. It was found by a study of public opinion in April 2019 by the Levada Center about the attitude of Russians to the arrests of government officials. For example, detention in the Federation Council Senator from Karachay-Cherkessia Rauf Arashukov, and then his father Raul, the citizens regarded as diverting public attention from the real problems in the economy – 23% of respondents, the manifestation of a real fight against corruption in the state apparatus – 25%, the fight for redistribution of influence between senior officials 31%. Sociologists noted that 21% of citizens found it difficult to answer, which correlates with the weak trust and interest of Russians in demonstrating their intention to seriously fight corruption. They followed with interest the arrests of representatives of the upper elite «... mostly or the near-political public, or the elderly provincial population, which just perceives it as a real fight against corruption» [5].

Informal and illegal connections between officials have reached the level and scale of network nature, spread both horizontally and vertically, permeating all levels of government. Describing the state of corruption in the country, experts wrote in the early 2000s that these ties are aimed at committing corruption transactions for personal enrichment, embezzlement of budget funds, obtaining super profits, providing competitive advantages to financial and commercial structures involved in the corruption network [6, p.72]. The analysis of the current state of the corruption component of public administration in Russia suggests that the anti-corruption policy of the state is conducted with great expenditure of efforts of law enforcement agencies, civil society, but it is too early to talk about breakthrough successes in the fight against corruption. Corruption will decompose the economy, spiritual life and legal consciousness of citizens, as long as it will feed the flow of offerings – money, privileges, etc., only the overlap of this flow will contribute to the destruction of corruption networks.

To tell the truth, the maintenance of the state apparatus of officials spends a large amount of taxpayers. The state should perform its mediating function for the implementation of social policy, which serves as a compensatory mechanism against the growth of the protest potential of the population. The growth of manifestations of mass protests pushed the world's elite to the idea of reducing the cost of the content of the bureaucracy. And real results of fight against corruption pushed businessmen to reduction of non-productive expenses, including on illegal payments (so-called «kickbacks») on the maintenance of officials.

The fight against corruption in a state-organized form is an expression of the crisis that Russia is experiencing. The fight against corruption is a symptom of the fact that the state intends to control the collection of budget revenues, blocking the flow of money in the shadow sector, making them legal. The anti-corruption policy of the state has become tougher in the direction of reducing the influence of business structures, foreign agents on the activities of political parties, public associations, non-profit organizations, including the opposition. This policy of the state aims to block financial flows, including foreign ones, aimed at supporting extremism, terrorism and attempts to commit a coup using the technology of «color revolutions».
The Federal law of the Russian Federation «on combating corruption» adopted in 2008 defines corruption as «abuse of official position, bribery, taking bribes, abuse of authority, commercial bribery or other illegal use by an individual of his official position contrary to the legitimate interests of society and the state in order to obtain benefits in the form of money, valuables, other property or property services, other property rights for itself or for the third parties or illegal providing such benefit to the specified person by other individuals» [7].

The Federal law gave an effective legal mechanism to fight corruption in the environment of state and municipal officials, the formation of a negative anti-corruption legal consciousness. The emphasis is not on the redistribution of financial flows from the shadow sector to the legal one, but on the illegal income received by officials. Corruption actions are actions for which the official receives a bribe in any form specified in the law, while these actions are necessarily provided.

The Federal law is also aimed at achieving a political goal: the state seeks to increase the level of public confidence in the state apparatus of governance, legitimizing the power, which has become especially important in the conditions of external pressure and the increasing information war. In addition, the public recognition by the state of the presence of corruption in state bodies has already marked the movement of our society along a civilized path, and the initiation of criminal cases against previously untouchable persons from the governing elite, despite the skeptical attitude of society to the «planting», only confirms this trend.

Also the change in the legal consciousness of society and the state was the critical attitude of the authorities to business, seeking to maximize profits for themselves and minimize social costs (decent wages to employees, social benefits, benefits provided by labor legislation, etc.).

And an important message of power to the ruling administrative elite is a warning about the inadmissibility of turning the public cause, which it has pledged to serve, into private business.

In pursuance of the anti-corruption law in Russia there is a national plan anti-corruption measures for 2018-2020, introduced by presidential decree No. 378 of June 29, 2018 [8].

State and municipal officials are the political and administrative elite not because they control political, administrative and economic resources, but because they, as representatives of the Executive power, are the representatives of public interests, and, therefore, they must share with the people the cultural values developed by the nation, must be organized and responsible in the performance of their professional duty. Only then can the government ensure the effective and efficient development of the country.

The government will be legitimate provided that the activities of the Executive bodies will be aimed at preserving public resources. In modern Russian conditions, such legitimacy is possible when the intra-group interests of the administrative elite change to national ones. «Nationalization of elites» is a necessary condition for its self-preservation, which, in the end, will help to give the social system of Russia a more stable position.

The state authorities are taking effective steps towards achieving greater openness and transparency of the civil service, there is an «electronic government», through which citizens can get acquainted with the actions and strategies of the authorities at any level on the websites of their structures, including the competitive selection of candidates for positions of civil servants. Internal security agencies have been set up in the ministries, commissions have been set up to review situations of conflict of interest, and compliance with the code of ethical conduct for government officials is monitored.

Civil society plays an important role in combating corruption in government. Russia, pursuant to Article 14 of the United Nations Convention [9] has adopted a number of laws promoting civil control over the implementation of the Convention, such as the Federal law
of 9 February 2009 (No. 8-FL) «on ensuring access to information on the activities of state bodies and local self-government bodies», the Federal law of 3 December 2012 (No. 230-FL) «on monitoring the compliance of expenses of persons holding public office and other persons with their income» [10, 11] and others. However, the enforcement of the adopted laws is rightly criticized by civil society as ineffective.

Tougher punishment for corruption crimes has become a necessary measure for the implementation of the Russian legal policy. To reduce the level of corruption, the efforts of society to change the anti-corruption consciousness, both officials and society, are of great importance. Perhaps the thesis «the rulers of morality should be forced» [12, p. 117] are valid only in part, and in terms of the openness and transparency of activities of state bodies will help the competition mechanism of the ruling elites: «...to start, perhaps, is with creating instance of collective supervision over the prevailing Bank data would be stored and aggregated information about the political process and techniques of exposing some of the ruling front of others...» [12, p. 120].

Perhaps, then, the cynical formula of inequality will not be so real: «Morality is the lot of the lower positions, and political interest is the privilege of the higher»? Corruption is not only necessary, but also possible to defeat, only with such a nationwide message can the anti-corruption policy of the Russian state be implemented. Although there are many justifications for the thesis that corruption can not be completely destroyed, it can only be limited. As an example, the experience of China is cited, where the criminal punishment for corruption of senior officials is execution, but corruption crimes continue to be committed. The fact that even in developed countries there is corruption is an argument for the pessimistic attitude of some critics to the state's fight against corruption, which over the past decade, despite increasing evidence of successful struggle, continue to call the state anti-corruption policy another campaign. But the example of Western countries in the fight against corruption shows that some of them have achieved a low level of corruption schemes. At the same time, in such countries there is a direct link between the level of development of democratic culture and legal consciousness. The most corrupt area of public relations is the interaction of government and business. But under the strict control of the state, this scheme of relations significantly changes in the direction of its legalization and transparency, which indicates the importance of such control even in countries with liberal ideology. The anti-corruption position of the state affects the legal consciousness of society, asserting the principle of meeting the needs of citizens on an equal basis, regardless of the level of wealth.

It is obvious that corruption cannot be overcome only with the help of strict regulation by the state. Common efforts of both the state and society are needed. Russians will eventually have to overcome the historical stereotypes that corruption in Russia is normal. Perhaps because of disbelief in the possibility of a weak civil society in the country, apolitical and legal nihilism of a large part of the population attitude to corruption in the country by people remains pessimistic and neutral. That feeds the environment in which corruption is reproduced.
The problem of ineradicable corruption is based on the fact that the state has no control over the financial sector, which indicates the dual power in the country. The good goals of one government implementing national projects and programmes to support and restore economic and social sectors in Russia are blocked by another government – the power of corrupt criminals who steal millions and billions from construction sites that ensure the future of the country, in fact, they steal this future from their people. But this is how sovereign power is delegitimized in the eyes of the people. Corruption creates illegal power, giving rise to civil and ethnic wars, terrorism, extremism, nationalism, dramatically reduces the standard of living in the country, causes aggressive, violent protests, creates conditions for the withdrawal of capital abroad.

Anti-corruption legislation has created a legal Foundation for combating the destructive phenomenon of corruption and has strengthened the trust of citizens in the state. But along with the legal registration of public relations in the field of corrupt behavior, it is necessary to break the existing negative behaviors and stereotypes of legal consciousness, both among citizens and among representatives of state power – state and municipal employees. Legal education of the younger generation also has a strategic potential for the development and preservation of the Russian state.

Using all available tools in a rational way will effectively achieve the desired level of legal consciousness and legal culture of the population. One of the tools to achieve the strategic goals in this direction is a clear example of reducing corruption in the public service. That is why the violation of the law, disregard for the observance of ethical norms by the authorities, the manifestation of double standards of compliance with legal norms «for their own» and «for the masses» lead to legal nihilism, the growth of crime in society, protest moods, social tension, make largely useless measures taken by the state in the fight against corruption. Justice as a complex structural phenomenon, due to its place and role in the creation and implementation of the law, plays an important role in the formation of the rule of law.

Moreover the implementation of the anti-corruption policy of the state is the contradiction between the legal ideology and legal psychology. But here the traditional inertia of the legal consciousness of Russians towards the head of state, which consists in the traditionally deep respect of citizens for the head of state and his decisions, can play a positive role. When adopting the law on corruption, two positive moments coincided: the law was introduced into the public legal field by the decision of the Supreme power, but it was adopted at a time when it became urgently necessary, when the objective need to eliminate corruption as an obstacle to the development of the Russian state matured. But the reality is that the fight against corruption must continue as necessary, its mechanisms must be improved and brought into line with international norms.

The UN Convention against corruption adopted in 2003 [9] was ratified by Russia in 2006 by Federal law No. 40-FL «on ratification of The UN Convention against corruption», but at the same time Russia declared that it has jurisdiction and obligation to perform not all articles of the Convention. Thus, Article 20 of the Convention «Illicit enrichment», Article 26 «Liability of legal persons», Article 54 «mechanisms for the seizure of property through international cooperation in confiscation», Article 57 «Return of assets and their disposal» and others have not yet been ratified. Over the following years, the state Duma has repeatedly submitted draft laws on the ratification of articles of the Convention, for example, Article 20 of the Convention «illicit enrichment», which refers to criminal penalties for the illegal enrichment of a public official if the increase in his assets exceeds his legal income, and which he cannot reasonably justify. The last proposal was made by the faction of the party «Fair Russia» in 2017, considered in 2018 by the State Duma and rejected by the results of the vote. Such decisions cause fair criticism not only from the opposition, which claims that the government is afraid of the adoption of this legal norm,
because half of the government will be prosecuted, but also from the rest of the Russian society. It seems that the adoption of Article 20 and other articles of the UN Convention against corruption will testify to the real political will of the authorities to fight corruption not only at the grassroots level, prohibiting teachers in schools to accept any gifts except flowers and calendars, but also with the «top» corruption, measured in billions of rubles.

3 Conclusions

There are other measures to increase the effectiveness of measures to combat corruption in the state and municipal service:
- the legal income of state and municipal employees should have a level capable of providing a decent maintenance to him and his family;
- adoption of legal norms that ensure strict control over the income and expenses of officials at all levels, the ethical aspects of their behavior, including in order to prevent conflicts of interest;
- ensuring the implementation of the system of personnel policy, using systems of personnel rotation and education of personnel reserve in order to implement the principle of successful operation of social elevators;
- an important component is to ensure the protection and security of persons who are the subjects of law enforcement agencies fighting corruption, etc. [13].

Reducing the level of corruption offenses in Russia is impossible not only without improving the work of the police, improving the professional skills of employees of the investigative apparatus, improving legislation, but also without changing the legal consciousness and legal culture of the ruling administrative elite.

References

