

PEDTR 2019**18th International Scientific Conference “Problems of Enterprise Development:
Theory and Practice”****ANTI-CORRUPTION AT ENTERPRISES IN RUSSIA**

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ewg-28@yandex.ru***Abstract***

The article is developed to certain aspects of combating corruption offenses committed in enterprises, organizations and corporations. Corporate corruption is one of many manifestations of corruption and is particularly detrimental to the country's economy, therefore, anti-corruption activities in enterprises should be considered as one of the main and priority areas of the anti-corruption policy of the Russian state. The paper reveals certain aspects of combating corruption in enterprises - the fight against corruption and its prevention. The fight against corruption in enterprises involves the activities of law enforcement agencies and other entities in identifying, preventing, suppressing, disclosing and investigating corruption offenses by both criminal and administrative means. The authors analyze the statistics of corruption crimes and offenses in Russia, judicial and prosecutorial practice. Prevention of corruption is a priority in anti-corruption activities in enterprises, in which frameworks there are measures to warn about corruption, including to reveal and subsequently to eliminate the causes of corporate corruption. An important role in warning is given to enterprises and organizations themselves, which, in according to the law, must create conditions and take measures to prevent corruption. On the one hand, the Prosecutor's office constantly checks how well and effectively organizations carry out the requirements of the law on measures warning corruption, and on the other hand, conducts educational and promotional activities of anti-corruption orientation. It is concluded that anti-corruption activities in enterprises should be continuous and systemic.

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Keywords: Counteraction, corporate corruption, criminal, administrative, responsibility.

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1. Introduction

Corruption is a complex socio-cultural phenomenon that has evolved in parallel with the development of society. It poses a serious threat to society and the state in all spheres of life. In Russia, the level of corruption is quite high. According to the International Anti-Corruption Movement Transparency International, which annually publishes the Corruption Perception Index, Russia took 137th place in 2019, gaining 28 points out of 100 (Center for Anti-Corruption Research and Initiatives "Transparency International-R", 2020). This index is measured in different countries as the level of perception of corruption, and is published every year since 1995. All countries are distributed among themselves on a scale from 0 to 100 points, where 0 is the highest level of corruption, and 100 is the smallest.

According to official facts of the Prosecutor General's Office of the Russian Federation on the state of crime, the number of corruption increased by 2.9% in 2018 (30,495), and by 0.5 % in the 11 months of 2019 (29,066) (Prosecutor General's Office of the Russian Federation, 2019a, 2019b). The number of acts under article 290 of the Criminal code of the Russian Federation dated 06/13/1996 N 63-FZ (taking bribe) for 2018 increased by 9.8%, for 11 months of 2019-by 13.5 %; according to article 291 of the criminal code (giving bribe), the increase in acts was 15% in 2018 and 23.8% in the period from January to November 2019. And these are only officially registered crimes. Taking into account the high latency of this type of crime, you can only guess with a high degree of conditionality about its real state.

Being multi-faceted, corruption creates obstacles not only for state and municipal services, but also for business activities, hinders the solution of political and economic problems, and complicates the development of trade and economic relations with other countries. According to the report of the Prosecutor General Chaika (2019) at the meeting of the Federation Council of the Russian Federation in 2018, the damage from corruption crimes amounted to 65.7 billion rubles, which is 66 percent more than in 2017 (39.6 billion). Corruption is not only a national, but also an international problem that has eclipsed almost all countries. Anti-corruption issues are also highlighted in foreign publications (Dasgupta, 2019; Hellmann, 2019; Jahnke & Weisser, 2019; Kolstad & Wiig, 2016; Li, Tang, & Huhe, 2016; Mocetti & Orlando, 2019; Reynolds, 2019).

2. Problem Statement

The state of the economy of the country as a whole and of the regions is of fundamental importance for the development of society. The objective result of the process of transformation of the Russian economy should be the acquisition of competitive positions in the world market, and, consequently, the role of the business sector should increase.

The development of competitiveness is hindered by corruption in enterprises and organizations, the so-called corporate corruption (Podolnyi & Podolnaya, 2013). This type of corruption is manifested in a situation where a management decision is made not for the benefit of the enterprise, organization, or company, but for the personal enrichment of the persons involved in making this decision. The consequence of making such decisions as manifestations of corruption are negative consequences in the form of increased costs of the enterprise, increasing the cost of purchased goods and services by the end user, shadow cash flows, damage to the reputation of the enterprise, etc.

Corporate corruption, in contrast to other types of corruption, is particularly damaging to the country's economy, so anti-corruption activities at enterprises should be considered as one of the major and priority areas of the Russian state's anti-corruption policy.

3. Research Questions

In 2006, Russia ratified a number of international legal acts: the United Nations Convention against corruption of 31 October 2003, and the criminal law convention on corruption of the Council of Europe of 27 January 1999. This led to the adoption of more than half a dozen new laws, amending more than thirty existing laws, including the Criminal code of the Russian Federation dated 06.13.1996 N 63-FZ and the Code of administrative offences of Russian Federation dated 30.12.2001 N 195-FZ (as amended on 12.27.2019), adoption of more than seven hundred fifty normative legal acts of state authorities aimed at combating corruption.

Combating corruption includes not only combating it, but also, first of all, preventing corruption offenses. This activity should involve not only law enforcement agencies, state and local authorities, but also businesses, organizations and ordinary citizens. In Russia, a set of legal, organizational, financial, economic, educational, and other measures is being implemented as part of the anti-corruption policy. The subjects, mentioned above, identify, disclose and investigate corruption offenses in the fight against corruption. This activity is carried out by both criminal and administrative means.

The current criminal code of Russian Federation does not have a unified system for corruption crimes, and the rules that provide for criminal liability for such acts are located in different chapters. However, to generate statistical reports by the General Prosecutor's office and the interior Ministry of the Russian Federation establishes the list of corruption crimes.

The state actively uses criminal legal means to combat corruption, including corruption in enterprises. Corrupt officials are held criminally liable under articles of the Criminal code of the Russian Federation dated 06/13/1996 N 63-FZ: article 290 (taking a bribe), article 291 (giving a bribe), 291.1 (Mediation in a bribe), 291.2 (Petty bribery), article 204 (Commercial bribery), 204.1 (Mediation in commercial bribery), article 204.2 (Petty commercial bribery), and others. The number of detected corruption crimes and persons actually brought to criminal responsibility for their Commission increases every year. For example, according to the Russian Prosecutor General Chaika (2019), in 2018, the number of identified corruption crimes amounted to 30,495, 11.7 thousand corrupt officials were convicted, and almost 2 thousand of them had their property confiscated.

One of the effective administrative and legal means of fighting corruption in enterprises is to bring legal entities to administrative responsibility under article 19.28 Of the Code of administrative offences of the Russian Federation dated 30.12.2001 N 195-FZ (as amended on 12.27.2019). Legal persons are held administratively liable in cases when, on his behalf or in his interests, employees or managers committed corruption crimes under such articles of the criminal code as article 290 (taking a bribe), article 291 (giving a bribe), article 204 (Commercial bribery). Administrative matters are subordinate exclusively to the prosecutor.

The sanction of article 19.28 of the Code of administrative offences of Russian Federation dated 30.12.2001 N 195-FZ (as amended on 12.27.2019) provides for very high fines. The upper threshold of the

sanction is up to 100 times the amount of illegal remuneration, but not less than 100 million rubles with mandatory confiscation of the subject of the offense (money, securities).

The practice of bringing legal entities to administrative responsibility for corruption offenses is actively developed by the prosecution authorities in an upward direction. For example, in 2011, 68 cases were considered, in 2012 - 108, in 2013 - 164 cases and the amount of fines imposed on decisions issued in 2013 amounted to 334 million 720 thousand rubles (Islamova, 2014), and in 2016 the courts received 612 cases in their examination, punished by 430 persons who are sentenced to an administrative fine in the amount of 678 283 809 rubles (Mamatov & Maslov, 2017). In 2018, according to the decisions of prosecutors, more than 7 thousand citizens, officials and legal entities were brought to administrative responsibility for committing corruption offenses, and the total amount of penalties exceeded 900 million rubles.

Of course, such high fines greatly affect the financial condition of enterprises and can even lead to the bankruptcy of small companies. This is why it is extremely unprofitable for businesses. Furthermore, additional negative consequence to the legal entities involved according to article 19.28 of the Code of administrative offences of Russian Federation dated 30.12.2001 N 195-FZ (as amended on 12.27.2019), is a two-year ban on participation in procurement for state and municipal needs established by the requirements of section 7.1 of part 1 of article 31 of the Federal law "On contract system in procurement of goods, works, services for state and municipal needs" of 05.04.2013 No. 44-FZ. In order to implement this provision of the law for interested persons, a Register of legal entities brought to administrative responsibility for corruption is posted on the website of the General Prosecutor's office of the Russian Federation.

However, no matter how effective the means of fighting corruption are, it is almost impossible to identify and bring to criminal and administrative responsibility the majority of corrupt officials. The latency of this type of crime is extremely high. Therefore, in anti-corruption activities in enterprises, the priority should be its prevention, that is, the prevention of corruption, including the identification and subsequent elimination of the causes of corruption. Enterprises and organizations themselves should play an important role here.

Article 13.3 of the Federal law "On combating corruption" of 25.12.2008 No. 273-FZ stipulates the obligation to develop and take measures to prevent corruption. The Ministry of labor and social protection of the Russian Federation published the guidelines "Measures to prevent corruption in organizations" in the 2019 edition, which proposed key tools that organizations should implement in order to effectively prevent corruption. Consider the most important of them.

First, it is the development and adoption of the organization's anti-corruption policy, which is determined by the specifics of its activities. In addition to adopting this policy, it is important for employees to be aware of the established approaches to fighting corruption in the organization.

Secondly, when implementing an anti-corruption system in an enterprise, an important step is to ensure the distribution of functions for preventing corruption within the organization. Based on the tasks, the specifics of the organization's activities, and the number of employees, it is necessary to determine whether this will be a separate structural unit or individual employees responsible for preventing corruption. When assigning anti-corruption functions in an organization to a specific employee, it is worth paying

attention to the fact that combining the above – mentioned functions with those already available to the employee can become an obstacle to the objectivity of the employee's views.

Third, the gradual development of anti-corruption work at the enterprise should be preceded by an assessment of corruption risks. Among the main principles that should be followed when assessing corruption risks, we highlight the following: analysis of business processes, not personal qualities, checking the presence of corruption risks in all business processes, rational allocation of resources, maximum specification of the description of corruption risks, regularity in assessing corruption risks.

Fourth, it is essential to identify and resolve conflicts of interest. Special attention should be paid to enterprises with state participation. For private organizations, the resolution of conflicts of interest is relevant in order to counter corporate fraud. The significance of this tool is due to the fact that its use allows you to identify the situation that precedes the Commission of a corruption offense, and take response measures in a timely manner.

The Prosecutor's office regularly checks the completeness and effectiveness of measures taken by organizations to prevent corruption, resulting in which established that organizations in most cases provided for in article 13.3 of the Federal law "On combating corruption" of 25.12.2008 No. 273-FZ the duty is performed improperly, measures to prevent corruption are not taken or are not taken in full, the measures provided for by the methodological recommendations are implemented insufficiently and not on a systematic basis. In order to eliminate the identified violations, representations are made about the violation of the law, based on the results of consideration of which measures are taken to eliminate them, organizations develop and implement specific measures to prevent corruption. According to the report of the Prosecutor General of the Russian Federation Chaika (2019, p.6), "in 2018, prosecutors identified 231 thousand violations of anti-corruption legislation, a third of them related to the failure of civil servants to perform their duties". It is obvious that most of the violations identified in the organizations, including the private sector.

Many enterprises, fulfilling the legal obligation, actively develop and take the measures recommended by them to prevent corruption. Systematic implementation of anti-corruption measures in the organization is associated with certain costs, but this work in the medium and long term can bring the organization a number of significant advantages. The organization's commitment to the law and high ethical standards in business relations help to strengthen its reputation among other companies and clients. At the same time, the reputation of an organization can serve to some extent as a protection against corruption attacks by unscrupulous representatives of other companies, state bodies and local governments. In addition, the implementation of measures to prevent corruption significantly reduces the risks of applying to the organization of measures of responsibility for bribery of officials. It is important to note that the courts when making a decision on bringing an enterprise to justice for a corruption offense under art. 19.28 of the Code of administrative offences of Russian Federation dated 30.12.2001 N 195-FZ (as amended on 12.27.2019) for illegal remuneration on behalf of a legal entity takes into account the activities of the organization to take anti-corruption measures. For example, after reviewing the case of an administrative offense, the Syktyvkar city court considered that the legal entity had taken all the measures it could to comply with the anti-corruption legislation, including the code of ethics and official conduct of employees, which established a ban on bribery (Decision of the Syktyvkar city court of October 14, 2014 in case no.

12-1248/2014, in case No. 12-1248 / 2014). Although this failed to prevent the illegal actions of one of the employees, the measures taken still led to the formation of a negative attitude to corrupt practices in the team. As a result, the court decided to dismiss the case.

In addition, various legal and anti-corruption events (conferences, forums, seminars, round tables, briefings, meetings, lectures, working meetings, etc.) are held by the Russian Prosecutor's office everywhere. Representatives of various enterprises and organizations are invited by prosecutors to participate in events that discuss the prevention of corruption, the development of legislation, as well as the results of work in this area. Clarification of legislation on combating corruption in TV and radio broadcasts, in print media, and social advertising (video and audio clips, banners, billboards, citylights, street led screens, etc.) on this topic are an integral element of legal anti-corruption education and are aimed at overcoming behavioral stereotypes that contribute to corruption (Rusetsky, 2017).

4. Purpose of the Study

The purpose of this study is to consider certain aspects of combating corruption in enterprises. Achieving this goal involves solving a number of tasks. First, it is necessary to analyze the norms of Russian legislation regulating issues of combating corruption in enterprises. Secondly, it is important to follow the judicial practice and the practice of prosecutorial supervision related to the fight against corruption offenses, as well as official statistics on the subject of the study. Third, it is necessary to make a selection of legal literature that reflects the theoretical views of domestic and foreign scientists on the subject under study.

5. Research Methods

This study was conducted on the basis of both general scientific methods of analysis, synthesis, deduction, generalization, and using private scientific methods: comparative legal, system-structural. Comparative legal analysis was used to identify specific views on anti-corruption issues among Russian and foreign researchers. The system-structural method made it possible to generalize the main activities of state bodies to combat corruption in enterprises and determine the vector of their further development.

The research was based on scientific research, works, scientific articles and publications of Russian and foreign legal scholars, practitioners who consider various aspects of preventing and combating corruption in enterprises. This study was conducted in two stages. At the first stage, the existing scientific literature on the subject of the study was analyzed, as well as legislation regulating anti-corruption issues; the problem, purpose and methods of the study were determined. At the second stage, the main conclusions obtained during the analysis of scientific literature and legislation were formulated, and the publication of this study was prepared.

6. Findings

Currently, in Russia, anti-corruption in enterprises includes the fight against corruption in enterprises, that is, the activities of law enforcement agencies and other entities to identify, prevent, suppress, disclose and investigate corruption offenses by both criminal and administrative means, and the prevention of corruption, that is, its prevention, including the identification and subsequent elimination of

the causes of corruption in organizations. Despite certain successes law enforcement agencies in the fight against corruption in enterprises specified in various reports and reports should always understand that the level of latency of this type of crime is very high, and all identified and disclosed corruption offenses are only the tip of the iceberg of this huge socially dangerous phenomenon. Therefore, prevention of corruption should become a priority for the state, since it is almost impossible to bring most corrupt officials to criminal and administrative responsibility, and creating conditions in the country where it will not be profitable for businesses and their representatives to commit corruption offenses is an extremely difficult task, but more realistic than completely eradicating corruption by fighting it. Anti-corruption activities should be continuous and systematic.

And here it is important to note that corruption in enterprises is multifaceted, and this leads to difficulties in counteracting it. To begin with, within the framework of a unified anti-corruption policy of the state, one should change the approach, namely, to understand and recognize that in a whole series of seemingly disparate facts one big phenomenon is actually reflected - corporate corruption (Podolnii & Podolnaya, 2016). This will become a serious prerequisite for the formation of new methods for identifying and investigating crimes and offenses that constitute corporate corruption, for exposing the perpetrators of their commission, and will also allow for the development of an effective prevention and fight strategy common to all of them.

7. Conclusion

Significant levels of corruption in Russia pose a threat to national security interests. To counteract corruption, the country is currently implementing a whole range of legal, organizational and other measures based on the joint efforts of all authorities and society as a whole. In Russia, over the past ten years, there has been a constant process of modernizing and optimizing the legislative framework aimed at fighting corruption, and various anti-corruption structures have been created. In the legal space of Russia, well-established mechanisms for curbing corrupt behavior are beginning to be created, both in the public administration system and in the development of civil society. However, the level of corruption in the Russian Federation remains high, which certainly requires the development of new approaches and the use of modern effective methods aimed at combating this dangerous social phenomenon.

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