

POTENTIAL CORRUPTION FACTORS IN THE LEGAL REGULATION OF MUNICIPAL SERVICES

Olga V. Yakhina^{1*}, Tatyana S. Smirnova², Pavel M. Chernyshev³

¹Tutor of Mari State University, RUSSIA, olgeens@mail.ru

²Postgraduate of Mari State University, RUSSIA, smirnova803@mail.ru

³ Tutor of Mari State University, RUSSIA, chernyshev_pashka@mail.ru

* Corresponding author

Abstract

Municipal services in Russia are a variety of public services. The main purpose of these services is to cover the basic requirements of individuals and legal entities which are located in a certain area. However, the legal regulation of this sphere at the present time is incomplete. One of the main problems of legal support of municipal services is the presence of potential corruption factors which are contained in the administrative regulations of providing municipal services. Potential corruption factors are the provisions of a legal act, which further can give rise to corruption. The research of such factors and suggestion ways of leveling is the aim of the present study. The research methods are consisting in the analysis of scientific works and legal practice, synthesis, classification. The results of the research show that administrative regulations of providing municipal services contain sufficient grounds for the emergence of corruption today. So there is the need to introduce obligatory anti-corruption expertise for these legal acts.

Keywords: Local self-government, administrative regulations of providing municipal services, potential corruption factors, anti-corruption expertise

1. INTRODUCTION

Corruption is a problem which have faced not only Russia. Nowadays the corruption offense is punishable by law in different countries. The anti-corruption legislation has its own characteristics in each of these countries. The laws of the Federal, regional and even local levels are involved in combating corruption in the Russian Federation. This is the division of regulatory legal acts vertically. Horizontal layer of legislation on combating corruption related to various branches of law: constitutional, criminal, administrative, municipal law and some others. Corruption as a socially dangerous act is harmful on all levels of government, however, special attention should be paid to combating corruption at the local level, as this level most closely approximates to the population, and the authorities should work in interests of citizens (Mikheev, Kudryavtsev, 2016). These authors believe that democratic transformation is effective when there is a

successful introduction to the closest to each citizen level – municipal. (Kudryavtsev, Mikheeva, 2015). The preconditions for the emergence of corruption are contained in law itself, in this regard, as the object of study selected factors of local laws that encourage corruption. The subject of research is a separate category of municipal legal acts – regulations of the local authorities.

2. METHODOLOGY

Various sources of information are the study materials. Normative legal acts are the most important of them. Particularly, they are laws at the Federal level, and also administrative regulations of local authorities. Legal doctrine as the research material represents scientific ideas and thoughts of scientists on the problem under study.

The own methodology of scientific work, which consists of principles and proper methods is important for a complete study of the selected sources of information. The main principles are objectivity, scientific character, the relationship of theory and practice. Objectivism excludes influence on results of research of subjective factors; the scientific approach involves the following general laws of logic, the validity of all conclusions. The relationship of theory and practice implies that the study has an applied character, the results can be used to improve the current legislation.

Analysis, comparison, generalization, classification are methods of research. Analysis involves identifying essential features of the studied phenomena. The comparison involves a confrontation of legislative requirements to the practice of combating corruption at the local level and the real state affairs in this area. The synthesis involves the formulation of general rules governing certain phenomena. Classification involves combining similar phenomena into groups based on the identified characteristics.

3. LITERATURE REVIEW

Scientists argue that there is a lack of well-developed and adapted techniques, methods of suppressing and preventing corruption in local authorities (Mikheeva, Smirnova, 2014, p. 15)

The concept of potential corruption factors set out in part 2 of the article 1 of the Federal law from July, 17th, 2009 N 172-FZ "About anticorruption examination of regulatory legal acts and drafts of normative legal acts". According to the legislative definition corruption-factors are the provisions of normative legal acts (drafts of regulatory legal acts) that establish for law enforcer unreasonably wide limits of discretion or opportunity of unreasonable application of exceptions from general rules and also the provisions containing uncertain, exigent and (or) burdensome requirements to applicants: citizens and organizations, and thereby such factors are creating conditions for corruption.

In more detail concepts such as "the unreasonably wide limits of appreciation", "uncertain, exigent and (or) burdensome requirements", "the possibility of unreasonable application of exceptions from general rules" are contained in the regulations of the Government of the Russian Federation: Rules of conducting anticorruption examination of normative legal acts and drafts of normative legal acts and methodology for conducting anti-corruption expertise of normative legal acts and drafts of normative legal acts.

However, only some authors find the definition corruptogenic factors successful. So, S. D. Khazanov and M.S. Bakhtina believe that the potential corruption factor should be interpreted as legal structure (separate normative order or set of regulations), which creates the risk of making corruption offenses during implementing regulations by subjects. Such situation can be caused by legal act in generally by itself or in conjunction with other regulatory provisions or administrative codes of practice. The subjects refer to the state (municipal) servants, citizens and organizations exercising their rights and responsibilities in the process of interacting with state and municipal government. Thus, the potential corruption factor is a kind of defect in regulatory requirements or their systemic relationship, with a high probability of the perpetration of corruption offences. And although these defects can be used for other purposes, to commit offences which are not corruption, or do not lead to any offences, the likelihood of their relationship with different forms of corruption was quite high for the recognition of their corruption-factors (Khazanov, Bakhtina, 2016, p.55)

S. M. Bydatarov shares a similar view: "The concept of potential corruption factors must derive from the definition of corruption, to meet the goals and objectives of anti-corruption expertise. Corruption is a substitution of the interests of society the interests of a private nature by the authorities. Anti-corruption expertise involves the verification of the legal act (draft legal act) for compliance stipulated in the acts of the authorities with the public interest. Although their main purpose, as suggested by Yuri Buyanov, T. Mikheeva, is to meet public interests, needs (Buyanov, Mikheeva, 2017). Therefore, under corruption-generating factor should be understood stipulated in the legal act (draft legal act) the actions of the

authorities which does not meet the interests of society or the absence of the legal act (draft legal act) the actions of the authorities, necessary for the proper interests of society.

All potential corruption factors can be divided into three types:

1. the actions of officials under the legislation, the execution of which can harm the interests of the society;
2. the actions of the authorities provided in the legislation which are meaningless and useless for society (action for the sake of "show", "statistics", "plan", "report", "action for action");
3. the actions of the authorities, which are necessary for the proper providing of the society interests are absent in of the legal act (draft legal act)". (Bydatarov, 2013, p.20).

As can be seen from the definitions which are given above, potential corruption factors may appear in any legal act. In our view, potential corruption factors in municipal legal acts, which are widely used by the population, have a very negative impact on the relationship between the individual and the state.

Administrative regulations of local authorities rely to this category of municipal legal acts. The legal definition of these kind of legal acts is given in the Federal Law of 27.07.2010 № 210-FZ "On the organization of providing public and municipal services" (Federal law, 2010). The main purpose of administrative regulations of local governments is to regulate procedures of providing municipal services at the request of the applicants. But there are times when applicants are faced with administrative barriers on the way to its goal (Yakhina, Vavilov, Mikheeva, 2015).

4. RESULTS AND DISCUSSION

The authors analyzed some of the administrative regulations of local authorities in order to achieve the objectives of the study.

Administrative regulations of providing municipal services are common regulatory legal acts of local self-government, therefore, in order to achieve the goal of the research the administrative regulations on granting subsidies to support small and medium-sized businesses analysis had been analyzed.

The analysis showed that there are the following potential corruption factors in these acts:

- the prolongation of the overall duration of the provision of municipal services: in some areas this period is over 200 days.
- lack of period, the end date of receipt by the applicant of services in case of positive consideration of the request;
- indication of the period during which the request is considered in the absence of a beginning of calculation of such period;
- all officials responsible for reviewing the request, the unreasonable discretion in the assessment of the applicant and terms of consideration
- calculation of the length in different units (calendar and working days)
- the absence in the act any terms of administrative procedures

5. CONCLUSIONS

The administrative regulation of municipal services is on the stage of its formation currently. Because of it the legislation regulating these legal relations, is not perfect. It does not include mandatory anti-corruption expertise in relation to administrative regulations of local authorities. Such procedure is provided only in respect of municipal charters in legislation of federal level. In this regard we offer to expand the range of objects of anti-corruption expertise, including administrative regulations of local authorities. We agree with the researchers who suppose that this ensures transparency at the local level, the accountability of local government, its responsibility to the citizens (Mikheev, Kudryavtsev, Yaichnikova, 2015).

REFERENCE LIST

Khazanov S. D., Bakhtina M. S. (2016). Anti-corruption expertise of normative legal acts as a means of reducing corruption risks. *The Russian Juridical Journal*. 3. p. 53-60

- Bogaturov S. M. (2014). Potential corruption-factors: concept, types, problems of their practical application. *Monitoring of Enforcement*. No. 2 p. 19-26.
- Mikheeva T. N., Smirnova T. S. (2014). Anti-corruption legislation in local governments of foreign countries. *Legislation and Law and right*. 2014. No. 10. p. 15-16.
- Kudryavtzev, V.V., Mikheeva T.N. (2015). Publicity at the Formation of Municipal Authorities of European States. *Mediterranean Journal of Social Sciences*, 6. DOI:10.5901/mjss.2015.v6n3s7p419. 419 -423.
- Mikheeva, T.N., Kudryavtsev, V.V. and Yaichnikova, J.S. (2015). About the Strengthening of Publicity in the Formation of Local Representative Bodies: Rather-Legal Analysis. *Review of European Studies*. Vol.7. DOI:10.5539/res.v7n8p280.
- Yakhina O. V., Vavilov N.S. and Mikheev D.S. (2015). Availability of Municipal Services as a Means of Communication of Municipal Authorities and Citizens. *Review of European Studies*. Vol.7. DOI:10.5539/res.v7n8p227.
- Bujanov, Y. and Mikheeva, T. (2017). Legal Aspects of Public Control in the Regions of the Russian Federation. *Proceedings of INTCESS 2017 4th International Conference on Education and Social Sciences 6-8 February 2017- Istanbul, Turkey*. ISBN: 978-605-64453-9-2. P. 668 - 671.
- Kudryavtzev, V.V., Mikheeva T.N. (2015). Transparency in the Process of Formation of Local Administration: a Comparative Legal Analysis. *Asian Social Science*. Vol.11 No. 19. DOI:10.5539/ass.v11n19p98
- Federal Law (02.03.2007). On Municipal Service in the Russian Federation # 25-FZ. *Parlamentskaya Gazeta*.
- Federal Law (17.07.2009). On the anti-corruption expertise of regulatory legal acts and drafts of regulatory legal acts # 172-FZ. *Rossiyskaya Gazeta*.
- RF Government regulation (26.02.2010). On the anti-corruption expertise of regulatory legal acts and drafts of regulatory legal acts # 96. URL: <http://base.garant.ru/197633/#ixzz3NGMrVxpn> (update date 26.12.14)
- Federal Law of the Russian Federation (27.07.2010). On the organization of providing of state and municipal services # 210-FZ. *Rossiyskaya Gazeta*.