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MODERNIZATION OF HEALTH SYSTEM IN THE CONTEXT OF NATIONAL SECURITY OF RUSSIA

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ABSTRACT

The article is devoted to actual problems of the health system reform in Russia as one of the most important components of the national security system. Today, health population questions become relevant, they are not disregarded by politicians, the scientific community, public figures, and the media. The state in this area determines largely a perception of the state, both domestically and in the international arena. Such indicators as health and life expectancy are considered by the World Health Organization as the country's development criteria, the level and quality of life that is an essential component of human development.

The study is based on official statistics of public health and statistics authorities, regulatory analysis of the legislative framework being under consideration from both the historical point of view, and in the long run, as well as with the use of the general scientific methods of analysis.

The study has revealed that the problems of the health system and public and individual health of citizens in Russia is systemic. Moreover, a number of problems cannot be solved in the short term since their overcoming has objectively prolonged character (for example, the problem of staffing when the training of professionals should take an extended period of time).

Keywords: *Modernization, health system, modernization policy, national projects, normative component of health care.*

INTRODUCTION

The need to study the health system modernization issues in the context of Russia's national security is due to a decrease in population, the unresolved acute medical and social problems that requires the need to develop and implement innovative organizational, legal, social and other governance practices as well as advanced medical technologies what is impossible without improving the health care system. Thus, improving the efficiency of the government actions in the sphere of health protection goes beyond the competence of the medical paradigm and must meet the needs of today's social and political institutions in availability of a controlled and predictable system responsible for the condition and development of the nation's health potential.

Considering the process of reforming the health care system we can say that this stage in the Russian Federation has started with adoption of the Health Insurance Act in 1991.

A characteristic of the post-Soviet period is a significant stratification of society which has led to its marginalization. For this reason, mortality and life expectancy rates do not improve at this stage of socio-economic reforms.

METHODS

The study is based on official statistical data of state bodies: the Ministry of Health of the Russian Federation and the Federal State Statistics Service. Statistical analysis included also the comparative approach. Normative analysis of the legislative framework in the field of health, and the information component associated with it, has made according to regulatory legal acts placed in the online legal information systems. This analysis was carried out from both the historical point of view, and in the long run. The information has been considered from the standpoint of structural-functional and system paradigms by general scientific methods of analysis.

RESULTS

So, our studies show that in 2001, male life expectancy in Russia was 59 years, female - 72.3 years, as opposed to developed countries, where it was possible to observe the male life expectancy of 72 years, and female - 77 years (e.g., in France there was recorded the following: the male life expectancy in 1999 was 74.5 years, female - 82.3 years). And today we can say that the life expectancy in Russia does not increase. During this period, such index as the mortality rate has acquired new characteristics. In addition to decline of the life expectancy indexes, the researchers have also registered outstripping growth rates in mortality for adolescent and young employable people. In the reform period, the trend of mortality in young people groups (20-39 years old) has increased in comparison with the pre-reform period.

During the period from 1992 to 2014, in Russia 15.40 million children have been born, but the number of deaths have exceeded 17,990,000. Accordingly, the mortality rate in the mentioned years has exceeded the birth rate by 16.8%.

Analysis of the effectiveness of the material stimulation measures for birth rate growth shows that the increase in the total fertility rate in Russia for the period 2006-2012 was largely achieved due to the regions where higher fertility rates than the national average value have been observed before.

Since the beginning of the 2000s, a dramatic increase in the number of 0-14 years aged children diseased, as well as those who born ill have been registered. All this is confirmed by the figures obtained in 2005. During this period, 1415799 children born alive, including 575,943 child (over 40%) were sick to the one year of age. Unfortunately, the negative dynamics is preserved today.

According to the statistical data of the Federal State Statistics Service, the total incidence rate since 2000 has increased each year. The vast majority of diseases are neoplasms (in 2000 - 8.4 per 1,000 people, in 2012 - 16.6 per 1,000 people), and complications of pregnancy, childbirth and the postpartum period, circulatory diseases (in 2000 - 17.1 persons per 1,000 people; in 2012 - 26.6 per 1,000 people) that leads to a high mortality rate.

Chronic non-communicable diseases control is a major item of expenditures on health in countries where high proportion of the elderly population was registered; they also include Russia, and this figure increases each year. For example, if to look at the figures in the EU and other developed countries we will see that the average life expectancy of patients with chronic non-communicable diseases after the first time diagnosis is 18-20 years, while in Russia only 7 years.

Unfortunately, there has been registered a deterioration in health status for all classes of diseases for such a category of people as children and adolescents. Dynamics of socio-related

diseases such as alcoholism, drug addiction, tuberculosis, diseases, and sexually transmitted diseases remains unchanged for this cohort.

Thus, the incidence of the population has increased, the proportion of the elderly population has increased, and the cost of health care has increased, too, due to the advent of high technologies, but the level of public funding of the sector is insufficient by far.

DISCUSSION

Thus, we can say that there is a need to modernize health care system in Russia.
As part of this process, the researchers have identified three key areas:

1. People lifestyle improvement, and especially reducing the level of alcohol abuse. In this area, one of the health promotion technologies may be public service ads;
2. The health care focusing on reducing preventable loss of health;
3. The improvement of living conditions and poverty reduction.

From 1 January 2006, there is the existing national project "Health" being a program on enhancement of medical care quality. The project was designed and is aimed at improving health care to the population, improvements in health and overcoming such accumulated problems as:

- A high level of total mortality;
- Low life expectancy;
- Low staffing of primary health care, small salary of doctors;
- Unsuitable material and technical base of medical and preventive treatment institutions;
- Obsolete medical institutions management practices (inefficient use of resources in this sector);
- Underfunding the industry from state budget sources.

Overcoming the problems identified creates conditions for further modernization of the Russian health care system.

In order to implement the priority national project "Health" it was necessary to create the legal framework that would create practical mechanisms for the implementation of the planned activities. It is this stage in the modernization of health care system which has to be a solid foundation for future improvements.

The purpose of the Federal Law N 323-FZ "On the basis of public health protection in the Russian Federation" is to improve the legal system in the sphere of health protection for citizens and to provide them with medical care. This law establishes the legal framework to regulate the whole health sector of the Russian Federation in the capacity of the basic normative document for it. The main directions of this Act are:

1. Concrete definition of the constitutional rights of citizens;
2. Health protection of citizens and provision them with medical care;
3. Affirming the guarantees and mechanisms for their implementation in the current conditions within the existing health system;
4. Clearing powers of the executive bodies in the health care sector.
5. Introduction of a new approach to the classification and implementation of health services.
6. Introduction of the criteria for classifying high-tech medical care as common medical care services that allow a list of high-tech medical care to create in order to optimize the system and expenses on its provision.

On January 1, 2011, most of the provisions of the Act dd. November 29, 2010 N 326-FZ "On Mandatory Medical Insurance in the Russian Federation" (hereinafter - the Law N 326-FZ) which regulate legal relations arising in connection with the implementation of compulsory health insurance came into force. Article 50 of this law establishes that in the period 2011 - 2012, implementation of the regional healthcare modernization programs of the Russian Federation and the modernization programs of the federal government agencies that provide health care is carried out. The main objective of these programs is to improve the quality and accessibility of medical care provided to the insured persons.

Financial support of regional healthcare modernization programs in the Russian Federation is provided at the expense of revenues going into the budget of the Federal Fund from contributions for compulsory health insurance at the rate of two percentage points in accordance with the Act N 212-FZ dated July 24, 2009, "On Insurance Contributions to the Pension Fund of the Russian Federation, the Social Insurance Fund of the Russian Federation, the Federal Compulsory Medical Insurance Fund, and regional obligatory medical insurance funds", the budget funds of the Russian Federation, and budgets of regional funds. Thus, we can say that it was created a more structured legal framework which should be the basis for future improvements.

At the same time, it can be argued that the project is not present as such, and even more so, the national project "Health" is not a reform. It is only about solving some particular problems. The volume of budget financing is insufficient: the share of GDP spent for health care in the Russian Federation in 2005 was 3.3%, and in 2006 - 3.45%.

CONCLUSIONS

Thus, the priority national project "Health" in Russia has the following features:

1. It is focused on a comprehensive modernization, as well as to addressing certain problems such as material and technical modernization of health care institutions, partial vaccination and medical examination of citizens, increase in wages for some categories of health professionals, and development of high-tech care;
2. Activities carried out are weakly interlinked, and are not a single system;
3. The exact timing and project implementation phases are not determined, and specific expected results are not identified;
4. The specifics of project financing leads to a disparity in implementation of social safety of citizens and violation of the social justice principle;
5. There are discrepancies between social philosophy of the project (which basis is the social justice) and fragmented core activities.

The main objectives of healthcare modernization set out in the Presidential Decree on May 7, 2012: “On improvement of public health policy” (No. 598) and “On measures to implement the population policy in the Russian Federation” (No. 606) are a significant improvement in public health. Such acts involve an increase by 2018 the total life expectancy of citizens up to 74 years, while the population is expected to reach 145 million people. Although none of the official demographic projection scenarios (for a medium variant of development) does not suggest those indicators.

At the end of 2012, the State program of health care development until 2020 was approved; it is divided into two phases of implementation of its activities: the first stage - from 2013 to 2015, the second phase - from 2016 to 2020. The program is focused on the country development strategy until 2020 and the concept of demographic policy up to 2025, as well as

laws adopted in 2011: "On fundamental healthcare principles in the Russian Federation" and "On Compulsory Medical Insurance in the Russian Federation".

Experts and health care professionals believe that the State program will not be implemented in full, as there are still no strategic guidelines and awareness of the future health system model.

Today we can talk about the intermediate results of the health care reform:

1. In the Russian Federation, the budget-insurance model of financing the health care institutions has been developed.
2. The program of government guarantees for providing citizens with free medical care is being realized. However, there are problems in its implementation even here.
3. Particular attention is paid to the mechanisms of additional drug supply.
4. The national project "Health" is implemented.

Despite the steps taken from 2005 to 2015 to modernize the health care sector, there are still significant problems. The most important of these problems are:

1. The total deficit in the financial and logistical health care support.

Thus, in 2009, in the Russian Federation the public expenditures share on health care amounted for 5.6% of GDP, by comparison, in Portugal - 10.7%, in Greece - 10.6% which is 2 times higher than in Russia. It should be noted that these countries are close to the Russian annual GDP per capita.

The concept suggests that between 2010 and 2015, the volume of the Russian healthcare market will increase almost twice - from $ 82 to $ 155 billion. The value of annual growth will be 14%, and Russia would significantly outpace Western Europe by this indicator.

However, the Ministry of Finance has provided information on reducing expenses by 17.8% in 2015. The modern medicine is very expensive yet.

2. The deficit and the imbalance in the structure of the medical staff.

In the coming years in Russia, a sharp decline in the health workforce was predicted. Causes of this tendency are: the lack of competitiveness of this profession by wages, high proportion of doctors of pension and retirement age (about 50%), and demographic collapse.

3. Poor quality of health care. Today we cannot speak about high quality of the medical care, too. We have inadequate qualification of medical personnel and, as a consequence, poor quality of medical care. It is necessary to pay attention to the extremely low wages of the teaching staff of medical and pharmaceutical institutes that does not stimulate improvement of student learning.

4. Inadequate medical care provided to the population under the State Guarantees Programme.

5. Low volumes of high-tech medical care.

6. Ineffective management of the industry at all levels.

The reasons for the failure of the health system modernization can be not only funding shortfall, but also the use of inefficient management practices. Studies show that, thanks to the effective management, hospitals are able to maintain or improve the quality of health services, even in conditions of limited funding. Thus, the lack of strategic planning and responsibility of leaders at all levels to achieve results is an obstacle to performance efference.

7. Lowering of attention paid to preventive activities, health education of the population, and promoting a healthy lifestyle.

The task of improving the health care system as a source of human capital development is formulated today on a broad cross-sectoral and interdisciplinary level which includes both fundamental and modern applied sciences, with all the achievements of modern informational technologies industry for the successful achievement of the ambitious tasks of modernization. So, from a scientific point of view, we should seek ways to improve the health care system aimed at both the study of the health system informational needs, and improvement of an

information quality, and creation of new methods of its acquisition, storage and distribution, including through the efficient use of available resources.

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PUBLIC CONTROL IN THE RUSSIAN FEDERATION AS A MEANS OF ANTI-CORRUPTION ENFORCEMENT

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ABSTRACT

The object of study for this article is a regulatory consolidation of provisions on public control in anti-corruption enforcement in the Russian Federation. In the article, the authors examine in detail the importance of public control in combating corruption.

The study states that public control is one of the most important institutions of civil society with an already proven significance in the capacity of an effective instrument for ensuring the rule of law and prevention of various offenses at all tiers of authority, including corruption-related offenses.

In the process of writing this article, we have used both scientific methods of research (logical analysis and synthesis, functional and historical and legal methods), and special methods

The methodology of the study has included primarily normative legal acts of the Russian Federation, as well as works of Russian scientists; we have also studied the international experience on the issue.

As a result of the study, the authors conclude that in order to carry out an effective anti-corruption policy, the state and its authorities need to implement the policy which is aimed to involve various institutions of civil society and the population in the fight against corruption, development of civil society activity, and the formation and the establishment of public control in the Russian Federation needs their further improvement, including in order to be an effective means of combating corruption.

Keywords: *corruption, anti-corruption enforcement, civil society, public control, public authorities, anti-corruption policy*

INTRODUCTION

In the modern conditions, corruption in the Russian Federation, and in other countries indeed, becomes a real threat to society. Therefore, study of its nature, causes of occurrence and distribution has become an urgent task. Russia develops and adopts various comprehensive programs to combat corruption within the state anti-corruption policy.

One of the most effective tools for combating corruption in both the Russian Federation and throughout the world is the civil society, so the study of legal forms and mechanisms of civil society participation in anti-corruption, and its anti-corruption component is one of the priority directions of scientific research in the field of law.

METHODOLOGY

In the process of writing we have used general methods of scientific knowledge. The specifics of the theme led to the use of formal legal and comparative legal research methods. Thus, the technical approach was used in determining the methodological aspects of civil society participation in the fight against corruption in the Russian Federation. The comparative legal method was used in the analysis of international experience on the subject under study, as well as for the analysis of various provisions of legislation in the Russian Federation.

The empirical base of the research were primarily normative legal acts of the Russian Federation, as well as the research of Russian and foreign scientists.

MAIN PART

In modern legal reality the fact becomes quite obvious that corruption as an anti-social phenomenon acts extremely destructively onto all legal institutions, and therefore the established rules of law that are regulatorily enshrined, have been replaced by rules that are dictated by the interests of the persons who can have an impact on public authorities and local self-government and being ready to finance such actions.

Corruption is a phenomenon which reflects the level of development of the society and the state, and the entire legal and political system. Corruption is born, exists and changes simultaneously with a state and its institutions.

Corruption is one of the most dangerous factors in public life a destructive effect of which not only on the state of national security in general, but also on the condition of all its parts. The essence of the anti-state and socially dangerous affect of corruption is that the destructive effects on the fundamentals of the mechanism of the government and the constitutional framework of legal regulation of social life.

According to P.A. Kabanov, "fight against corruption is a difficult and responsible task which requires efforts not only from public authorities but also civil society institutions."

Foreign experience shows that still no country in the world has managed to eradicate corruption in its entirety, but it is necessary to make every effort to significantly reduce the level of corruption. A state, as a mechanism of suppression of personal freedom, is not capable in itself by virtue of its origin to overcome corruption, since it is based on bureaucracy. Therefore, a real force capable of fighting corruption, besides the principle of separation of powers and "checks and balances" system, can be a civil society that is able to control the state and will not allow corruption to become a threat to the state.

Civil society must take an active part in the political life of a state. According to Yu. Habermas, "this is promoted in particular by its key institutions: voluntary associations outside the state and the economy that enable citizens to manage their own and to act in opposition to the authorities based on tradition, power and ritual."

D. Easton has formulated the concept of "civil society." According to him, it is a "sphere of self-manifestation for free citizens and voluntarily formed associations and organizations that is independent of any direct intervention and regulation by public authorities. At the same time, a civil society acts as a filter for requirements and support of society against the political system."

It should be noted that the concept of civil society is closely related to the concept of rule of law, as a legal state is a state where human and citizen rights and freedoms are really provided, and all the activities of the state and its institutions should be carried out in strict accordance with the law. A developed civil society only can serve as a basis for the rule of law.

It is intended to exercise proper control over the activities of a state legally represented by public authorities and local self-government.

Russian legislation with an anti-corruption focus provides a great opportunity for the participation of civil society in combating corruption, but, despite this, it unfortunately does not enshrine in the law the main thing: the specific content of civil society participation in the fight against corruption, specific mechanisms for interaction between a civil society and a state in this combating.

Unfortunately, in reality the legal system of interaction between a civil society institutions and public authorities and local governments are not properly built. In reality, a state control over the citizens and public institutions dominates. Control of a society over the state institutions is extremely insignificant or non-existent at all what is absolutely abnormal from legal and moral points of view.

Foreign researchers also note that there is a clear lack of real opportunities for citizens' participation in the political life of our society, the so-called "problem of participation."

Currently, the problem of creation of civil society institutions with real control powers requires an immediate solution. Any civil society institutions should have effective strangleholds which are guaranteed at the legislative level not only for social and political life, and on state affairs to an even greater extent.

One of these "strangleholds" for the state policy is public control.

Public control is one of the most important institutions of civil society, with an already proven significance of an effective instrument for ensuring the rule of law and prevention of various offenses at all tiers of authority, including corruption-related offenses.

In today's world public control is an important element of the state and society development. The purpose of public control is the establishment of a feedback between a state and society since, according to Yu. Tikhomirov, "people want to be involved in solving public issues, actually to control the state institutions, and to have more opportunities for development." The existence in a country of developed and truly effective system of public control allows many problems to solve, primarily the problem of state alienation from society, can enhance public confidence to the government authorities, and to avoid bureaucratic arbitrary behavior in their coercive powers. Public control can also be considered as "a means of familiarizing the masses to check all public affairs and their training in management."

Today, there is no question of presence of an appropriate mechanism for monitoring the state authorities in Russia. One cannot but agree with V.P. Belyaev who points out that "the socio-political system functioning in the Russia does not meet in many respects the generally accepted criteria, the most important of which is the representativeness of authorities and their responsibility to society, and availability of an effective mechanism of public control over authorities."

It should be noted that today the governmental authorities themselves admit the existence of serious problems in the system of public control activities. Thus, according to A.V. Martynov, "it is often pointed out that there is no integrated system of public control, and effectiveness of arrangements made in most cases is very small and does not significantly improve the quality of state administration, and local self-government what leads to the growth of corruption, citizens' dissatisfaction, and social unrest."

Thus, until recently, one of key problems of the existing public control system in the Russian Federation was the fact that the legal regulation of public control was fragmented and half-baked.

To remedy this situation, on July 21, 2014, the Federal Law "On fundamental principles of public control in the Russian Federation" was adopted. After two years from the date of adoption of this law, we can confidently say that the main mass of the legislation necessary for the establishment of public control system has been formed at both the federal and regional levels.

The Act means by public control the activity of the subjects of public control which is carried out in order to monitor the activities of public authorities in all levels, as well as local government, various state and municipal institutions, other bodies and organizations exercising various public powers in accordance with federal laws, as well as for the purposes of public inspection, analysis and public evaluation of acts issued by those bodies and the decisions taken.

The following has been referred to as public control subjects in this Act:

1) The Public Chamber of the Russian Federation;
2) The Public Chambers of the Russian Federation;
3) The public chambers of municipal formations;
4) Public councils at the federal executive authorities, public councils at the legislative (representative) and executive bodies of state power of the Russian Federation subjects.

In addition, the Federal Law "On fundamental principles of public control in the Russian Federation" provides for the possibility of establishing public monitoring commissions; public inspections; public control groups, and other organizational structures of public control.

However, the citizens are not listed as a subject of public control in the law, although Article 4 of the Act expressly set forth that the citizens of the Russian Federation shall have the right to participate in the implementation of public control both personally, and as a part of public associations and other non-profit organizations.

Article 5 of the Federal Law "On fundamental principles of public control in the Russian Federation" also points to the need to include citizens and their organizations in the list of public control subjects. This article also states goals and objectives of public control.

According to the norm analyzed, one of the goals of public control is to ensure realization and protection of the rights and freedoms of man and citizen, the rights and legitimate interests of public associations, and other non-profit organizations; and public control objectives are the formation and development of the civil sense of justice; raising the level of public confidence in government activities, and to ensure close cooperation between the state and civil society institutions; realization of civil initiatives aimed at protecting the rights and freedoms of man and citizen, the rights and legitimate interests of public associations and other non-profit organizations, and others.

Based on the goals and objectives, a citizen is a primary concern of public control, however, as noted above, a citizen is not named as a subject of public control. In these circumstances, implementation of the goals and objectives defined by the law is highly questionable.

This fact and the limited range of public control subjects does not allow overcoming another problem of public control in Russia to which the researchers pointed out before the adoption of the Federal Law "On fundamental principles of public control in the Russian Federation".

Thus, it was pointed out that the existing forms of institutionalized civic participation in public control "those forms are most developed that are associated with the power, formed by it, and are integrated into the power structure."

This was also stated by Professor S.M. Zyryanov who noted that "subjects of public control, as a rule, are appeared on their own, on the initiative of citizens, but today predominance of subjects formed according to the principle "from above" is noted, - public chambers, boards and commissions. For them, the state creates special conditions while applying restrictions to independent entities. Note, however, that the creation of institutions of civil society "from above" leads to their formalization and profanity of essentially of social activity."

Thus, the formation and establishment of public control in the Russian Federation needs further improvement, including in order to be an effective means for combating corruption.

RESULTS

The result of the study was the statement of the following provisions:

- A real force capable of fighting corruption, besides the principle of separation of powers and "checks and balances" system should be the development of civil society which could be able to control the state and will not allow corruption to become a threat to the state;
- Important components of efforts to combat corruption are prevention of corruption, including revealing and elimination of its causes, detection, prevention, suppression of corruption offenses and crimes, as well as minimization and elimination of their consequences;
- Public control is one of the most important institutions of civil society, with an already proven significance of an effective instrument for ensuring the rule of law and prevention of various offenses at all tiers of authority, including corruption offenses;
- The existence in a country of developed and truly effective system of public control allows many problems to solve, primarily the problem of the state alienation from society; it can enhance public confidence in the public authorities and to avoid arbitrary behavior in their coercive powers.

CONCLUSION

Corruption is a complex and comprehensive socio-legal problem which requires special treatment, involves an integrated approach which combines various measures and means. It needs in concerted efforts by the government and civil society, the relevant anti-corruption policy the ultimate strategic goal of the development of which is the consummation of a conceptual understanding of the prospects for development of the corruption phenomenon in all forms of the latter.

Public control is the basic function of the civil society concerning a state that should be aimed, on the one hand, to realization of the public interest, and on the other on reduction of state power in order to preserve and protect the fundamental rights and freedoms of citizens and to ensure parity principles in the social management system.

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RESTRICTION OF RIGHTS AND FREEDOMS OF MUNICIPAL EMPLOYEES AS MEANS FOR FIGHT AGAINST CORRUPTION

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ABSTRACT

The object of study in this article is a legal and regulatory enshringing of provisions on restriction of the rights and freedoms of municipal employees as an effective tool to combat corruption.

The article states that the fight against corruption in the municipal service system is one of the anti-corruption mechanisms, and serves the implementation of the principle of openness and transparency in the activities of local governments. One way for combating corruption in the municipal service that implies an information openness in the activities of officials of local self-government and allows counteracting the commission of crimes of corruption, is the institution of restrictions on the rights of municipal employees.

In the process of writing this article, we have used both general scientific methods of research (logical analysis and synthesis, functional and historical, and legal methods), as well as special methods.

The methodology of the research involved primarily normative legal acts of the Russian Federation, as well as works of Russian scientists who studied the international experience on the issue.

As a result of the study authors have concluded that the establishment of restrictions on the rights of persons taking the state and municipal service, ensures effective professional activity on execution of powers of state bodies, establishes obstacles for possible abuse of state and municipal employees, guarantees the implementation of civil rights by officials.

Keywords: *corruption, anti-corruption policy, anti-corruption, anti-corruption legislation, local government, municipal service, municipal employee, restriction of rights, restriction of freedoms*

INTRODUCTION

Corruption is a complex social phenomenon which has different forms of expression. A conflict between the actions of an official and the interests of his / her employer or the conflict between the actions of an elected official and the public interest can be considered as a characteristic feature of corruption.

B. Cope notes that corruption as an anti-social phenomenon has a destructive impact on all legal institutions, with the result that the established rules of law are replaced by the rules dictated by individual interests of those who are able to influence the representatives of the government and are ready to pay for it.

Foreign experience shows that still no country in the world has managed to eradicate corruption in its entirety, but it is necessary to make every effort to significantly reduce the level of corruption.

According to P.A. Kabanov, "fighting against corruption is a difficult and responsible task which requires efforts not only from public authorities but also civil society institutions.

In the conditions of system corruption the local government cannot be an area free of this evil. Manifestations of corruption, unfortunately, are not uncommon to municipal authorities, as well as to public authorities. In this connection, the study of legal forms and mechanisms of combating corruption in the municipal authorities is one of the scientific research priorities in the field of law.

METHODOLOGY

In the process of writing we have used general methods of scientific knowledge. The specifics of the theme led to the use of formal legal and comparative legal research methods. Thus, the technical approach was used in determining the methodological aspects of civil society participation in the fight against corruption in the Russian Federation. The comparative legal method was used in the analysis of international experience on the subject under study, as well as for the analysis of various provisions of legislation in the Russian Federation.

The empirical base of the research were primarily normative legal acts of the Russian Federation, as well as the research of Russian and foreign scientists.

MAIN PART

According to the experience of ongoing state and legal reforms, as well as the practice of law enforcement activity in combating corruption, corruption in the public service occurs in those areas of public authorities' and their officials activity where their status is not explicitly defined, and administrative procedures providing services to citizens and legal entities have not been formed. Various studies show that corruption occurs in those areas rather than anywhere else where civil (and municipal, indeed) servants implement organizational, executive and administrative, supervisory and control, jurisdictional and licensing authorities.

The most effective means of combating corruption are legal means.

The purpose of the legal means for combating corruption is to create a legal and effective state: formation of the institutions intended for effective operation of public mechanisms of the state, to carry out social reforms to improve the efficiency of the national economy, to inspire in Russian society respect for the state, as well as for public institutions, to create the positive image of Russia in the international arena.

In any case, the objectives of the legal means for combating corruption is to ensure the full rights and freedoms of man and citizen, strengthening discipline, law and order, formation of the rule of law and a high level of legal culture of society and individuals.

Legal means of combating corruption should include, primarily, statutory regulations governing the methods and ways to counter corruption relations, and legal technologies conjugated with effective legal tools, legal technique, interpretation of the law and forms of law enforcement practices which reduce the factors of corruption activity and generate its causes.

Combating corruption in the municipal service system is one of the anti-corruption mechanisms which serve the implementation of the principle of openness and transparency in government.

One way of combating corruption in the municipal service of the Russian Federation that provide information transparency of activities of local self-government officials and allow counteraction to commission of crimes of corruption, is the institution of restrictions on the rights of municipal employees.

Establishment of restrictions on the rights of persons taking the state and municipal service provides effective professional activity on execution of powers of state bodies, establishment of obstacles for possible abuse of state and municipal employees, and guaranteed execution of civil rights by those employees, and others.

According to A.V. Mal'ko, "prototype of the rule of law idea has emerged essentially as an antidote to the abuse of political power, as a reaction to tyranny, despotism. The essence of the rule of law is in binding restrictions on the rights of the state. Legal restrictions are necessary with the express aim of ensuring that the flaws of a power person did not become defects in the government."

Having regulate the legal status of municipal employees, the procedure of taking the municipal service and its execution, the state has the right to establish special rules in this area also. This position is fully supported by foreign researchers.

Establishment of such rules is caused by the tasks, principles of organization and functioning of both state and municipal services, the objective to ensure maintenance of high levels of its administration (including due to renewing and replacing administrative staff), the peculiarities of the activities of persons performing the duties at posts of municipal service.

Formation of the state and municipal service legislation has such a result as a problem of restrictions on the rights and freedoms (firstly, established in the Constitution of the Russian Federation) of persons taking the state or municipal service or being employed there.

Legislative activity of municipal employees is regulated by the Federal Law № 25-FZ dated March 2, 2007 "On Municipal Service in the Russian Federation" (hereinafter - the Municipal Service Law). The same law also established restrictions on the rights and freedoms of municipal employees. Let's consider some of them.

The qualification requirements to positions in municipal service includes requirements for the level of professional education, seniority on specialty or length of work (experience) in municipal service, professional knowledge and skills necessary for performance of official duties, citizenship, and others.

As already noted, the state has the right to determine the specific rules in the field of municipal services by establishing certain restrictions for its employees. At the same time, such restrictions are recognized reasonable if there is a compensation in the form of raised privileges and guarantees of social protection what is reflected in the Law on Community Service. With the adoption of this law, the legal regulation of restrictions and prohibitions relating to municipal service has received a new impetus.

As in any other industry, restrictions on rights and freedoms in the municipal service system are implemented in various ways.

Based on the analysis of the current legislation governing the activities of municipal employees, as well as the so-called anti-corruption legislation, we may conclude that the restriction of the rights and freedoms of municipal employees assumes restricting or prohibiting influence on the behavior of subjects in the following forms: restriction, prohibition, obligation, responsibility, punishment.

Enshringing specific restrictions, prohibitions, official duties and requirements for official conduct of state and municipal employees have various foundations, although it pursues, ultimately, the same goal: providing legal service.

Restriction as a way to limit the rights and freedoms of municipal employees is implemented in the following provisions of the above-mentioned law.

In particular, a citizen cannot be taken to the municipal service and a municipal employee cannot be on the municipal service in the event of: a) the recognition of his/her incapable or partially incapable by a court decision which has entered into force; b) his/her conviction to punishment which excludes the possibility of executing official duties on the positions of municipal service by the verdict of a court which entered into force; c) refusal to undergo the procedure on registration of access to information constituting state and other secret protected by federal law if the execution of official duties on the position of municipal service which aspires to occupy the citizen, or the municipal service position substituted by the municipal employee is associated with the use of such information; d) close relationship or in law relation (parents, spouses, children, brothers, sisters, and also brothers, sisters, parents, children of spouses and spouses of children) with the head of a municipal entity who heads the local administration, if the filling of the municipal service vacancy is related to the immediate subordinates or controllability by the officer or the municipal employee, and if the filling of the municipal service vacancy is related to the direct subordination or controllability by one of them to another; e) submission of false documents or false information when applying for a municipal service; e) failure of submission the information envisioned by the Law on Municipal Service, and the Federal Law "On Combating Corruption" and other federal laws or deliberate submission of false or incomplete information when applying for a municipal service.

According to article 14 of the Law on municipal service, the state establishes the following restrictions associated with execution of municipal service.

Thus, in particular, in connection with execution of the municipal service, municipal employees are prohibited: 1) to replace a position in a municipal service in the case of their election or appointment to public office of the Russian Federation or a government post in the Russian Federation, as well as in the case of appointment in the civil service; election or appointment to the municipal office; election to the paid elective office in a trade union body, including the elected body of a primary trade union organization established in a local government body or an election committee unit of a municipal entity; 2) to be an attorney or a representative on affairs of third parties in the local authorities, the election commission of a municipal entity where he/she fills the vacancy of a municipal service employee or who are directly subordinated to or controlled by him/her, unless otherwise provided for by federal laws; 3) to receive in connection with the official position or in connection with the performance of duties rewards from natural and legal entities (gifts, remuneration, loans, services, payment for entertainment, recreation, remuneration of transportation costs, and other benefits); 4) go on business trips at the expense of individuals and legal entities, except for travel undertaken on a reciprocal basis subject to agreement of the local government, the election commission of the municipal entity with local governments, election commissions of other municipalities as well as public authorities and local government bodies of foreign states, international and foreign non-profit organizations; 5) to use the material and technical, financial means and other support, and other municipal property for the purposes not related to execution of official duties; 6) disclose or use for purposes not related to municipal services, information classified in accordance with federal laws to the confidential information, or proprietary information which became known to

him/her in connection with execution of official duties; 7) suspend execution of his/her duties in order to resolve a labor dispute.

Thus, fairly stringent restrictions on rights, both personal and political, are set for the municipal employees. Among these rights, for example, is freedom of speech, freedom of religion, freedom of movement, the right to engage in entrepreneurial activity, the right to citizenship of a foreign state, the right to privacy, the right to association, and others.

The above-mentioned allows us come to the conclusion that in the most general terms, the rights and freedoms of persons in the municipal service, and their restriction to the Law on the municipal service is the implementation of the obligations imposed on the said persons.

The Municipal Service Law also establishes prohibitions for citizens after leaving the municipal service (Article 14, Part 3). For example, a citizen after leaving the municipal service may not disclose or use for the benefit of organizations or individuals a confidential information or proprietary information which became known to him/her in connection with the performance of official duties. In addition, the citizen who has filled a vacancy in a municipal service included in the list of posts established by normative legal acts of the Russian Federation, within two years after leaving the municipal service should not be entitled to fill a vacancy under the terms of an employment contract in the organization and (or) perform in this organization work under the terms of a civil contract in the cases stipulated by federal laws if some functions of the municipal (administrative) management of this organization were included in the job (official) duties of the municipal employee, without the consent of the corresponding Committee on compliance of requirements to official conduct of municipal employees and resolving conflicts of interest that is given according to the order prescribed by regulations of the Russian Federation.

In most cases, dismissal of the municipal employee from the municipal service or bringing him/her to other types of disciplinary action are provided as a punishment for violation of the provisions of the law analyzed.

The following disciplinary sanctions are imposed for failure by a municipal employee to observe the restrictions and prohibitions, requirements on prevention and settlement of conflict of interest and dereliction of duty established for the purpose of combating corruption.

1) Admonition;
2) Reprimand;
3) Dismissal from municipal service for the respective grounds.

A municipal employee is subject to dismissal from municipal service in connection with the loss of confidence in the cases of the following offenses:

1) Occurrence and failure by the municipal employee to take measures to prevent or resolve the so-called conflict of interest;
2) Failure to provide information about income, expenses, assets and property obligations stipulated by the Law on the municipal service.

All of the above penalties are applied without exception by the employer in the order established by normative legal acts of a subject of the Russian Federation and municipal normative legal acts on the basis of: 1) report on the results of the audit conducted by the department of personnel service of the corresponding municipal body for prevention of corruption and other offenses; 2) the recommendations of the Commission to comply with the requirements for official conduct of municipal employees and resolve conflicts of interest in the

case if the report about the audit results has been sent to the Commission; 3) explanations of the municipal employee; 4) other materials.

Upon an application of these penalties, the nature of corruption offenses committed by the municipal official, its severity, the circumstances under which it was committed, the observance by the municipal employee of other restrictions and prohibitions, requirements on prevention and settlement of conflicts of interests and respect of his/her duties established for the purpose of combating corruption, as well as the results of the previous execution of the municipal officials of his/her duties are considered.

In this way, the State, through the introduction of a number of legislative restrictions tries to put a barrier in the way of abuses by officials of their position in the course of performance of their duties.

RESULTS

The result of the study was a statement of the following provisions:

- Combating corruption in the municipal service system is one of the anti-corruption mechanisms which serves implementation of the principle of openness and transparency in the activities of local governments;
- Along with regulation of the legal status of municipal employees, the procedure for taking the municipal service and its execution, the state has the right to establish special rules in this area, too. At the same time, such restrictions are recognized reasonable if there is compensation in the form of higher level of privileges and guarantees of social protection;
- Restriction of the rights and freedoms of municipal employees assumes the use of restricted or prohibited influence on the behavior of the subjects in the following forms: restriction, prohibition, obligation, liability, penalty;
- Establishing restrictions on the rights of persons taking the state and municipal service, is the provision of effective professional activity on execution of powers of state bodies, establishment of obstacles to possible abuse of state and municipal employees, guaranteeing the implementation of civil rights by officials.

CONCLUSION

Our analysis allows us to suggest that the restriction of the rights and freedoms of municipal employees is provided for, in the first place, in order to avoid infringing on the rights and interests of others and society as a whole; in the second, to protect the health of other persons; thirdly, to ensure the security of the state and protection of the constitutional system, that is consistent with the Constitution of the Russian Federation and international law. It should be noted, however, that these restrictions should not take from the merit of any personality, and not turn into abuse.

Playing a role of a so-called anti-corruption mechanism, restriction of rights of municipal employees should contribute to enhancing the stability of the Russian society and the effectiveness of the state mechanism.

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FEATURES OF INTER-BRANCH LEGAL REGULATION OF RELATIONS ARISING FROM THE EMPLOYEE (STAFF) SECONDMENT CONTRACT

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ABSTRACT

The issues of cooperation between the branches of law are discussed in the scientists' researches. However, a proper response concerning the inter-branch ties of civil law has not been received yet. Meanwhile, there is a need to ensure the balance of civil-law and labor-law regulation of social relations, which are expressed in the contractual form and associated with the labor human activities. The development of various forms of communication between people has put forward the need to enable them to use in their own volition the legal models in the form of various contracts offered by the legislator or to create such models on their own. The contract became one of the main methods and tools for implementing the rules of law in public life, the most important mean of regulation of the binding obligations, which is the agreement of its participants, without coercion from outside. The article is devoted to the problem of interrelation of civil and labor law in the regulation of relations arising from the Employee (Staff) Secondment Contract. The article states that to achieve the goal of establishing a truly systemic regulation of relations concerning the employee (staff) secondment, it is necessary to ensure a cross-sectoral collaboration of civil law with other legal branches, in particular, with the labor law.

Key words: *outstaffing, staff leasing, outsourcing, activity, work, services, contract.*

INTRODUCTION

The economic component has led to the use in practice of legal structure of the Employee (Staff) Secondment Contract by its diversity in our lives. Primarily, such structure appeared in practice, and then - in the legal science, therefore, the appearance of rules on agency labor is legitimate in the Russian law. Three schemes of employee (staff) secondment have been applied in practice: outstaffing, staff leasing, outsourcing.

METHODS

The civilized approach is relevant to the study of inter-branch relations of civil law in the field of contractual regulation of relations concerning the employee (staff) secondment. An identification of these relationships enables not only to check the feasibility and effectiveness of the labor contract structure in the new economic conditions, to reveal the ratio of the labor contract with the related contracts of civil legal nature, but also to analyze the need and feasibility of civil-legal regulation of relations in the region under consideration, as well as to carry out a conflict legal regulation to some extent, i.e., to agree the civil-legal and labor-legal means in the regulation of the specified social relations.

RESULTS

So, the outstaffing shall mean a termination of employment relationships by the organization with some part of its workers, their employment by another organization (or organizations), and sending these workers by the latter to perform the job functions in the first one.

Staff leasing shall mean, in fact, the employee lease of one organization (lessor/staffing company) by another third party organization (lessee/user-enterprise) to achieve its goals. This is a kind of structure in which the employee is registered in the state of one organization (staffing company), and really provides services to another organization, which provides him/her with the amount of works and the workplace. Here we can distinguish three subjects of legal relations: A citizen implementing his/her right to work, i.e., formal employee; The lessor (formal employer/staffing company/staff leasing company); The lessee (actual employer/user-enterprise).

As it is stated by O.K. Mineva, the staff outsourcing in practice means an off-company extension of non-core tasks, which are not related to the main business processes (wedge-management, merchandising, marketing, IT-service, accounting, law, etc.).

There arises an important issue about the nature of relations between the staffing company and the user-enterprise, on the one hand, as well as the employee and the user-enterprise, on the other hand, in practice and in theory of the labor law. The difficulty was that the spread of these schemes of agency labor was far ahead of the formation of the necessary legal framework. This institution was not known to any applicable labor or any applicable civil law. In the scientific literature, the researchers sometimes expressed the diametrically opposite views on the necessity to legalize such institution (staff leasing) and on its ban. A discussion within the parliamentary hearings on the issues of legal regulation of agency labor has demonstrated a wide range of views - from the rejection of the new labor forms believing that the agency labor structure is illegal and contrary to the social purpose of the state prior to the ratification of the International Labor Organization (ILO) Convention No. 181 and the adoption of the federal law on agency labor (Federal Law (FL) Project "On Protection of Rights of Workers Employed by Private Agencies in Order to Provide Their Labor to Third Parties"). The said Convention has admitted the worker recruitment as a legal service of the staffing company specifically for the purpose of giving his/her work to third parties, which organize and use the labor of these employees in their own interests.

Currently, according to Article 56.1. of the Labor Code of the Russian Federation (hereinafter - the LC RF), such structure is prohibited; in the same Article of the LC RF the legislator legally defines the agency labor as a labor carried out by an employee by order of the employer in behalf, under the management and control of the individual person or legal entity other than the employer of such employee.

Part 3 of the same Article 56.1 of the LC RF states that: "The features of regulation of the employee work, which is temporarily sent by the employer to other individual persons or legal entities under the Employee (Staff) Secondment Contract, shall be set by Chapter 53.1 of the LC RF. Consequently, the ban and permission are provided in one rule that is at least not logical.

In this case it is necessary to agree with the opinion of V.A. Boldyrev, who believes that the implementation of labor function under the authority of other person cannot be a consequence not of the employer's order (unilateral act), but its agreement with the employee. Then the legislator emphasizes a mandatory nature of consensus among the weak and strong points of the labor contract for the emergence of outstaffing relations. However, this conclusion is likely only in connection with the rule localization, following directly after definition of the

labor contract as an agreement (Article 56 of the LC RF). A correctness of such conclusion is refuted by re-using the term "order" in a new (separate) Chapter 53.1 of the LC RF on outstaffing. If we remove the rule on the agency labor prohibition and the rule that defines the agency labor itself - nothing will change, because the outstaffing borders are identified by a number of special rules.

Before making amendments on agency labor to the LC FR, the researchers have expressed different opinions about the nature of the relationships under consideration. It is either a single "comprehensive" relationship of three parties - the staff leasing company, the employee and the user-enterprise with the non-classical relations, or relations developing on the basis of two traditional contracts: labor contract between the staff leasing company and the employee and the civil-legal contract between the staff leasing company and the user-enterprise.

CONCLUSIONS

It is obvious that the efforts of one branch of law - civil or labor one - was not enough for the legal support of such a complex structure, which the staff leasing is. There is, according to the researchers, a set of social relations, the regulation of which is possible and necessary by the rules of labor law in conjunction with the civil-legal rules and structures.

Moreover including the fact that the atypical forms of employment, according to the experts, tend to increase. The labor law was necessary to adapt to the evolving reality and not to leave the workers working in the form of staff leasing outside the legal framework. Of course, the legalization of agency labor in Russia sets itself the important theoretical issues, which shall be necessarily solved: for example, the right to require an employee to perform the job duties and to demand a careful treatment to the property, to comply with the internal labor rules and regulations, the obligation to ensure the labor safety and conditions that meet the labor protection and health requirements, etc. In other words - the division of powers between the staffing company, the user-enterprise and the employee. However, the practice of occurrence and the subsequent legal regulation of such kind of relationships already exists in the foreign countries. However, in the formation of legislation on agency labor, the economic and social situation in Russia, as well as the current legislation, which prohibits the agency labor to date, shall be taken into account.

The subject of regulation is a new type of legal relations on the actual employment and labor process by another labor force user, which does not enter into an employment relationships with the employee, but assumes a number of rights and obligations of the employer in relation to him/her: for example, the right to require an employee to perform the job duties and to demand a careful treatment to the property, to comply with the internal labor rules and regulations, the obligation to ensure the labor safety and conditions that meet the labor protection and health requirements, etc.

The civil-legal relationships between the staffing company and the user-enterprise occur during the conclusion and execution of the civil-legal contract - selection and transfer of an employee (labor force) to leasing. The staffing company (formal employer) extracts a profit from this. With regard to labor relations and relations closely linked to them, they include a wide range of issues: from the employment and work organization to dismissal and labor disputes solution, where the provisions of labor law shall be applied.

Cooperation between two branches of law with a single regulation object as the object of their attention, leads to compiling a mixed contract between three subjects, according to the principle of freedom of contract, which suggests the presence of inter-branch relations of civil

and labor law. The literature includes the classification of mixed contracts. Here the mixed contract shall be considered in a poly-branch context where the conditions originate from two branches of law: civil and labour. In this case, the mixed contract is an agreement between the parties, which combines the elements with different-branch origin. In addition, the researchers distinguish the mixed contracts, which combine "private to private" and directly indicate the possibility of inclusion of the civil-legal and labor-legal elements.

The process of interaction between two branches of law and legislation seems to be quite justified. As the researchers note, they are "genetically linked. And by its existence as an independent branch, the labor law is obliged to the emergence of objective necessity of allocating property relations of a special kind from their total range - labor relations developing between the employee and the employer."

SUMMARY

Thus, the branches of civil and labor law, complying with the needs of the emerging market economy, developing in recent years, could not but made an influence on each other. Namely a variety of real economic life conditioned the application of staff leasing in practice. A difficulty of the analysis on identification of the inter-branch linkages of civil and labor law consists in the fact that the practical application of agency labor has been far ahead of the formation of the necessary legal framework. But the very fact of application of the staff leasing (agency labor) proves that such ties exist.

Currently, this problem is not sufficiently investigated. It is definitely possible to say that in the conditions of modern social and economic processes, globalization, the analysis of this issue is needed. The state without ignoring such important issues affecting the interests of a large number of employees actually participating in the relationships of secondment of their labor to third parties, has adopted the amendments to the LC RF, especially as the staff technology is actively developing in Russia nowadays.

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SOME PROBLEMS IN APPLICATION OF CERTAIN FORMS OF SUMMARY PROCEDURE BASED ON CRIMINAL PROCEDURE CODE OF THE RUSSIAN FEDERATION

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ABSTRACT

The recent amendments to the criminal procedure legislation of the Russian Federation and occurrence of a number of its new procedural institutions, such as, short stories dedicated to the simplified legal proceedings, have become a grounded state reaction to the changes in the crime situation in the country as a whole, and an increased level of counteraction to investigation of crimes, in particular. By introducing the institution of a special order of the court judgment adoption, which grants the accused (suspected) person with certain "advantages" in comparison with the usual order of the judicial proceedings, and by expanding the base of its application[1], by the introduction of mutually acceptable legal concessions, the state found it necessary and possible to motivate the suspected and the accused person to provide an active assistance in solving crimes, especially serious and the most serious ones, committed by the organized criminal groups. The cooperation relationships emerging in this case between the state represented by the bodies, which carry out the criminal proceedings, and the accused (suspected) person, containing inherently a mutually beneficial compromise for them, shall have the clearly defined borders, the violation of which is unacceptable in terms of compliance with the human rights and freedoms of the participants in the process, provision of quality crime investigation and fair court judgment.

Key words: *"disclosure", "investigation", "special procedure", "pre-trial agreement", "justice", "cooperation", "plea bargain".*

INTRODUCTION

In modern conditions the existing set of procedural and tactical tools, which are used by the bodies implementing the criminal proceedings, certainly assumes their reinterpretation and updating in accordance with the changing law requirements and the conditions of the bodies work due to the increased level of counteraction to investigation of crimes.

Currently, the society and the state are actively looking for the best ways to improve the efficiency of criminal prosecution; thus, compromising elements in the relations between the state and the accused person in particular, legal short stories dedicated to the special procedure of adoption of the court judgment were introduced to Russian legislation. In this regard, one cannot but agree with the statement that the scientific development of the compromise idea as a way to settle criminal law conflicts and related problems of improving the form of criminal-procedure is a very important and promising direction.

Currently, the application of Chapters 40, 40.1 of the CCPRF testifies that the institution of a special procedure of the court judgment adoption is in demand. So, if the accused person agreed with the charge brought against him/her in 2012, a special order of the judicial proceedings has been applied to 573,003 criminal cases (517,769 persons were convicted); in 2013 - to 588,268 criminal cases (522,908 persons were convicted); in 2014 - to 598,807 criminal cases (526,530 persons were convicted); in 2015 - to 623,117 criminal cases (544,163 persons were convicted).

At the conclusion of the pre-trial cooperation agreement in 2012, the special order of the judicial proceedings was applied to 2,289 criminal cases (2,099 persons were convicted); in 2013 - to 3,261criminal cases (3,155 persons were convicted); in 2014 - to 4,241 criminal cases (3,875 persons were convicted); in 2015 - to 4,543 criminal cases (4,134 persons were convicted).

In total, in the first half of 2016 the Russian Federation courts of general jurisdiction have considered 322,534 criminal cases on the merits in a special order (as compared to 300,374 criminal cases considered in six months in 2015).

The analysis of data on the work of the district (city) courts and justices of the peace of the Republic of Tatarstan for 12 months in 2015 gives evidence of an increased proportion of cases considered with a special procedure. Thus, in 2015, as in previous period of report, more than half of criminal cases (65, 5%) were considered by means of the procedural rule. The absolute value of this indicator increased by 4.9% and equaled 6,890 cases.

Analysis of these institutions' implementation experience creates quite contradictory assessment: on the one hand, their application is clearly profitable; on the other hand, it is a concern that some statements of the institutions under consideration may be unfairly applied by the participants in criminal proceedings.

All this makes it necessary to improve the legal regulation of various forms of simplified (accelerated) judicial proceedings, which shall eventually, with an acceptable quality of criminal proceedings, significantly reduce the likelihood of abuse of procedural rights by the participants in criminal proceedings in this area. It should be noted that this task is more or less being solved abroad.

MATERIALS AND METHODS

The methodological basis of our research includes, first of all, a fundamental dialectic method of knowledge of the social and legal phenomena in the area under consideration, the methods of analysis and survey, as well as the comparative legal method. During the study we also applied to the statistical method that allowed revealing the dynamics and prevalence of use of these institutions.

One of the important means of studying the legal phenomena is the comparative legal method. In particular, the study of such forms of the simplified judicial proceedings as a special order of making the court judgment at the agreement of the accused person with the charge brought against him/her and at the conclusion of the pre-trial cooperation agreement in the criminal cases, specifies the urgent need to study and to "develop" the international experience in the legal regulation of this area. A rich international experience determined the interest in a wide range of international researches in this area. Such as the works by the following researchers: Albert W. Alschuler, Stephanos Bibas, Frank H. Easterbrook, George Fisher, John H. Langbein, Maximo Langer, Stephen J. Schulhofer, Fred C. Zacharias and others.

The survey method became a key one in our studies. Using a specially designed survey, the authors of this article investigated 50 criminal cases considered by the Supreme Court of the Republic of Tatarstan and Vakhitovskiy District Court of Kazan City for 2014-2016.

RESULTS

During the studies, we have found that the imperfection of the legislation in the sphere of legal regulation of simplified forms of judicial proceedings creates certain difficulties in achieving the goals that have been pursued by the legislator upon execution of the considered criminal procedure institutions, which results in the lack of a uniform practice of their application, and causes considerable difficulties in their implementation. So, currently, the task of creating an effective legal mechanism to combat the criminal abuse by the participants in the criminal process in the application of these institutions is not legally solved yet.

A. It is fundamentally important to make a detailed study of the stimulation mechanism of decision-making by the accused (suspected) person on his consent to transit to the simplified forms at the earliest stages of the criminal case consideration. This option is the most appropriate to achieve the procedural economy.

In particular, in this case, the law enforcer shall proceed from the fact that the pre-trial cooperation agreement may not only be concluded with the accused person, but with the suspected person due to the legal requirements, and even with the person in respect of whom the pre-investigation check is carried out, since, according to the legislator, he/she is also the subject to criminal prosecution.

The results of examination of the criminal cases show that the pre-trial cooperation agreement is concluded only after the person has been charged and pleaded guilty to committing a crime.

The following example is illustrative in this regard. From December 6, 2012 the investigator of the Investigation Department of the Investigative Committee of the Russian Federation in the Republic of Tatarstan was conducting the criminal proceedings against the participants in the criminal community "Mosbrigadovskie" of Kazan city on committing a number of serious and the most serious crimes on the organization of prostitution. It was only in June 4, 2014 that one of the active participants of the criminal community K. was involved as an accused person and confessed to committing a number of crimes. And in June 18, 2014 he has concluded the pre-trial cooperation agreement.

B. An issue on the number of possible compromises with the accused (suspected) person in criminal cases comes essentially important. This compromise predetermines the shortened form of judicial proceedings. Thus, the criminal procedural law does not actually depict the number of possible cooperation agreements in a criminal case, if several accused (suspected) persons are targeted in it. The law also does not specify the person involved in the criminal case and under what circumstances he / she should be treated as the priority to negotiate and conclude an agreement. In practice, the decision is largely based on tactical considerations of the public prosecutor and the person, who is in charge of the criminal case.

In every criminal case we studied, the pre-trial agreement was concluded with only one of the accused (suspected) persons in the case. Such a choice has its positive and negative sides. The desire of criminal prosecution bodies to reach an agreement on the content of the organized forms of criminal activity with the initially most informed person is rather obvious. If an organizer, an active member of a criminal association, etc., is selected as the subject of the cooperation agreement, in this regard it is necessary to consider a conclusion of the pre-trial

cooperation agreement as a means to achieve personal interests, and minimize the negative effects for him/her by any means, even by possible abuse of procedural rights given to him/her by law.

Thus, according to the above-mentioned example, the accused person K., who has concluded the pre-trial cooperation agreement, had previously been convicted and had been an active member of a criminal association.

In such situations one cannot but set out leads of a quite obvious intention of the accused (suspected) person to "replay" the public prosecutor or the person, who is in charge of the criminal case, in order to hide sensitive information, fully reflecting the involvement of the accused (suspected) person to the criminal activities.

C. Abuse of procedural rights under the procedures of simplified forms of judicial proceedings is possible both for the prosecution and the defense. The existing legal framework of countering the abuse by the suspected and the accused person (slander, false confession, false denunciations, perjury, incomplete evidence, etc.) cannot be considered sufficient.

To resolve the current conflict situation, the practice offered a means of so-called termination of the cooperation agreement.

Thus, the public prosecutor upon the investigator request has discontinued the pre-trial cooperation agreement concluded with the accused person M., due to the fact that M. did not meet the conditions and obligations of the agreement, and there were no results of the agreement implementation during the preliminary investigation.

It should be noted that the legislator has quite quickly fixed a response procedure to improper conduct of the accused (suspected) person who has concluded the pre-trial agreement observed in the law enforcement bodies, and thus has provided the right of the prosecutor to decide on the amendment or termination of the pre-trial cooperation agreement by the Federal Law dated July 6, 2016 No. 375-FL (Part 5 Article 317.4 of the CCPRF), which entails the proceedings on the case in a general manner.

In our opinion true and full procedural and tactical means aimed to identify the false testimony, expose lies and create motivation to testify in the accused (suspected) person, should precede the decision on the cooperation agreement termination.

In this regard, it is necessary to regulate the acceptance of interim solutions in the framework of the procedures under consideration in the CCP RF. An investigator should possess such procedural instrument as decree on the temporary termination of an agreement with the subsequent possibility of its renewal or final decision on its termination.

D. Abuses by the prosecution regarding the decision on the application of simplified forms of judicial proceedings should be limited, first and foremost, by a defense attorney within the framework of powers granted by the law.

According to our estimates, by compromising, some investigators are ready to use all means, including unfair ones, to hide a poor quality of a conducted preliminary investigation. Admittedly, in this respect, the investigator has sufficient procedural and non-procedural means to make the accused person decision "profitable" for investigator i.e. to agree on the application of simplified procedures against him/her, being not fully aware of the consequences of their use.

In fact, the CCPRF has no procedural mechanisms for termination of the agreement due to the non-performance of obligations by the individual representatives of the prosecution. The problem is still to identify, fix and use the facts for the benefit of the injured party. The current system of criminal sanctions for the crimes against justice and the involvement procedure in the criminal liability for their commitment appears clearly insufficient in this regard.

CONCLUSIONS

Being applied for relatively short period, the forms of the simplified criminal proceedings such as a special order of making the court judgment when the accused person agrees with the charge brought against him/her (Chapter 40 of the CCPRF), as well as at the conclusion of the pre-trial cooperation agreement (Chapter 40.1 of the CCPRF) have demonstrated their effectiveness and prospect of their wide application. The study of criminal cases enables us to conclude the existence of positive trends in the implementation of the rules of these institutions in the judicial and investigative practice.

A. It is preferable to continue the improvement of rules of the criminal procedural law in order to create favorable conditions, to form will declaration of the accused (suspected) person by the transition to the simplified forms of criminal proceedings at the earliest possible stages of the criminal proceedings, and not only after bringing a charge, as currently happens in the practice.

B. The CCPRF does not specify the number of possible pre-trial agreements so it is reasonable to conclude within one criminal case, if the relevant requests have been received from several persons; and does not indicate, who should be considered as the most preferred subject of the cooperation agreement among those willing to cooperate with the law enforcement bodies. In our opinion, the legislator shall minimize the subjectivity in making the appropriate decision and formulate specific criteria for such choice by the prosecution, demonstrating the prosecuting authorities prompt and efficient crimes investigation, with no prejudice to the rights, freedoms and legitimate interests of all parties involved in the criminal proceedings.

C. Up until now, an improper execution of the agreement conditions by the accused (suspected) person presented several options for responding to such behavior under the CCPRF, which were reduced to failure by the public prosecutor of the special order of hearing to render a corresponding presentation or decision of the court on the transition from the scheduling and consideration of the case in a special order to the general one. The settlement of this conflict situation has offered its way in the form of termination of the cooperation agreement, which has been legislatively consolidated. It seems justified to regulate the adoption of interim decisions in the framework of the procedures under consideration in the CCPRF, namely to give a ruling on a temporary termination of the agreement with the subsequent possibility of its renewal or final decision on its termination.

D. Currently it is critically important to make more detailed and targeted regulation of the status and powers of the defense attorney of the accused (suspected) person for qualitative protection of his/her rights and freedoms, who shall, within the framework of the proposed simplified judicial proceedings, act as a guarantor of real voluntariness and consent with a charge brought against him/her, and a conclusion of the pre-trial cooperation agreement.

SUMMARY

In general, changes in the legislation of criminal procedure have become an adequate response to the current crime situation in the Russian Federation, and to an increase in countering a detection of crimes by the interested parties, in particular. By introducing the institutions of a special order of adoption of the court judgment at the agreement of the accused person with a charge brought against him/her (Chapter 40 of the CCPRF), as well as at the conclusion of the pre-trial cooperation agreement (Chapter 40.1 of the CCPRF), the state has legally attempted to promote a positive post-criminal behavior of the accused (suspected) persons, which is carried

out due to the fact that the state incurs certain obligations to the accused person under the conditions established by the law. However, a mutually beneficial cooperation between the parties within the framework of the reached agreement has certain limits, which it is unacceptable to break.

In this case, if the person accused (suspected) in a criminal case does not comply with all the conditions and does not meet all his/her obligations, then the state has the right to refrain from performing the obligations undertaken at any stage of the criminal proceedings.

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ENDNOTES

1. Initially, a special procedure for the judicial proceedings has been used only with the agreement of the accused person with a charge brought against him/her (Chapter 40 of the Code of Criminal Procedure of the Russian Federation (CCP RF)); later it has become possible at the conclusion of the pre-trial cooperation agreement (Chapter 40.1 of the CCP RF), and now it is also used in the criminal cases, where an inquiry has been made in a simplified form (Chapter 32.1 of the CCP RF).

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ABOUT THE PERSPECTIVES OF LEGAL REGULATION OF LABOR RELATIONS

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ABSTRACT

The issue of inter-sectoral relations of civil and labor law in the science of civil and labor law is particularly acute in recent years. It is contributed by the development of law system in Russia and the practical application needs. The civil and labor law is in constant interaction and development. Therefore there is a need to ensure the balance of civil-law and labor-law regulation of social relations, expressed in the contractual form. The article includes the author's view on the development of legal regulation in the sphere of labor, taking into account the interaction of civil and labor law. It is specified the subsidiary application of civil law to the labor relations.

The authors substantiate the position that it will be necessary to ensure the cross-sectoral collaboration of civil law with the labor law to achieve the goal of establishing a system regulation of relations in the sphere of labor in the future. We used in this paper the method of interdisciplinary scientific analysis and gave the forecast for the development of legal regulation of contractual relations in the labor field.

Key words: *activity, work, services, labor, contract, relation, law.*

INTRODUCTION

It has come more than fourteen years since the adoption of the Labor Code of the Russian Federation (hereinafter: the LC RF). And yet, the codification of labor law is in a constant state of change. Thus, the Federal Law dated June 30, 2006 No. 90-FL made nearly three hundred changes in the applicable LC RF. But it should be noted that the changes and amendments made to the section "Labor Contract" were of fundamental importance in one case, and confirmed and concretized some of its provisions in other cases. The Federal Law dated December 28, 2013 No. 421-FL "On Amendments to Certain Legislative Acts of the Russian Federation Due to Adoption of the Federal Law "On Special Assessment of Labor Conditions" once again made changes to the LC RF, having reflected some further aspects of the interaction of civil and labor law in the performance of contractual regulation of relations in the labor field.

The legislator introduced in the LC RF the term of "personal labor" of a person, working on the basis of a civil-law contract (Articles 11, 15, 16, 19.1, 67, 67.1 of the LC RF and others). The provisions relating to the actual admission of the employee to work and the reason of occurrence of individual labor relations were amended. It appeared Chapter 49.1. in the LC RF, introduced by the Federal Law dated April 5, 2013 No. 60-FL, regulating the remote work of the employees. Also, when the Federal Law dated May 5, 2014 No. 116-FL entered into force, the LC RF was introduced with Chapter 53.1., regulating the work features of the employees, which were temporarily sent by the employer to other individual persons or legal entities under the Employee (Staff) Secondment Contract, and a number of other articles.

With the entry into force of the new edition of the LC RF, the problems of differentiation of civil-law and labor-law contracts have once again demonstrated their uncertainty. In this

regard, we shall ask about the ratio of civil-law and labor-law contracts, as well as search for an answer to the question of possible regulation of actually prevailing labor relations by the civil-law contract, and for an answer to the question which contract is more favorable (more convenient) to conclude by the parties - civil or labor.

METHODS

The civic approach to the study of inter-branch relations of civil and labor law in the field of contractual regulation of relations connected with labor occurs to be relevant. Identification of these relationships enables not only to check the validity and effectiveness of the labor contract design in the new economic conditions, to reveal the ratio of the labor contract with related contracts of civil-law nature, but also to analyze the possibility and feasibility of civil-law regulation of relations in the area under consideration, as well as to harmonize the civil-legal and labor-legal means in the regulation of the specified social relations. The interdisciplinary knowledge method enables to make a prediction about the future development of the legislation of two branches of law.

RESULTS

Among the scientists involved in labor law, it is a great concern that the relationship content of the employee and the employer has become to be determined not by labor, but by the civil law. We believe that these concerns are premature and vain, but emerging trend of changes in the civil and labor law relations enables to make certain predictions about the development of legal regulation in the labor field in the future.

V.N. Skobelkin, having explored the theoretical background of two contracts and forms of their implementation, came to the conclusion that there were no sufficiently specific and clear criteria, enabling to confidently distinguish the labor contract from the civil-law contract, as both contracts regulate the homogeneous relations related to the labor human activities. Along with the influence expansion of labor law on the relations regulated by the norms of other branches of law, there is a penetration of civil-legal regulation in the area of social labor organization. Such a legal matter flow caused by the needs of real life is a quite natural phenomenon.

Concerning the issue of the interaction of civil and labor law in the modern period, some authors speak out both against the unification of rules of the civil and labor law in the regulation of labor relations and against the mutual absorption of one another. Their position lies in the approximation of the rules of two branches of law. However, the supporters of the concept of convergence of two branches of law note rightly the evolution feature of this mechanism: in the future it can occur either a merger of two branches of the law, or the absorption by one branch of law of another branch of law. Therefore it is proposed to consider the mechanism of convergence of the civil and labor law as one of the ways of cooperation between two branches of law in the legal regulation of similar relations. In particular, it concerns the transfer of the civil-legal contract in the labor one, and vice versa. This article presents a position on the admissibility of convergence of two branches of law. However, it is necessary to talk about the cross-sectoral relations of civil and labor law in the field of contractual regulation of relations on performance of works and provision of services. The ability to convert a particular contract to another one is very interesting. However, due to the fact that branches of civil and labor law still have their own specific subject of legal regulation and methods, the procedure of such a transformation will cause difficulties. In addition, the prospect of transition from one contract to another one is not

entirely clear. However, it should be noted that Part 4 of Article 11 of the LC RF provides the possibility of transition from one contract to another one: if the relations connected with the use of personal labor have emerged on the basis of a civil-law contract, but have been recognized later as the labor relationships in the procedure established by the LC RF and other federal laws, such relationships shall be regulated by the provisions of labor legislation and other acts containing the rules of labor law. The recognition of relations, having arisen on the basis of a civil-law contract, as the labor relations, can be carried out in connection with the effect of Article 19.1 of the LC RF (introduced by the Federal Law dated December 28, 2013 No. 421-FL). The analysis of this article enables us to talk not only about the interaction of civil and labor law in the exercise of contractual regulation of relations in the provision of works and services, but also on cooperation with them in the framework of civil procedure law, as this rule contains provisions on the transformation procedures of a civil-law contract with the use of personal labor in the labor contract. The recognition of relations, having arisen on the basis of a civil-law contract, as the labor relations, may be made by either the person using his/her own labor and being the customer under this agreement or by the court. Thus, the "problem" procedure of the transition of a particular contract to another one can be solved by the court.

The possibility of free choice by the individual persons of application of their skills to work for a particular type of activity in the conditions of market relations, will actually take place on the principles and rules of civil law in the near future (public or other offer on the possibility to be engaged in any work (certain activities) and the acceptance of this offer), as follows from paragraph 1 of Article 37 of the Constitution of the Russian Federation. In addition, the LC RF contains the term "host party" (Chapter 53.1. of the LC RF). At that, the stage of employment processing without the intermediaries (procedure, set of documents, etc.) will be governed by the rules of that branch of law, in the organizational conditions of which will be implemented the work skills offered by the person. In other words, an offer by the person searching for a job (or an offer response by the person searching for the work performer) of his/her capacity to perform a particular work can lead to the conclusion both of a corresponding civil-law contract and labor contract, and even a mixed contract, which will harmoniously combine the elements of both contracts. At the same time the contract will be considered concluded at the time of receipt of its acceptance by the person who sent the offer that corresponds to the rules provided for the conclusion of a civil-law contract in Article 433 of the Civil Code of the Russian Federation (hereinafter: the CC RF). We believe that in these relationships it will be necessary to take into account and apply the rules laid down in the rules on negotiations at the contract conclusion (Article 434.1 of the CC RF) and the pre-contractual disputes (Article 446 of the CC RF).

For example, when entering into negotiations on the contract conclusion, the parties shall act in good faith in the course of their implementation and upon their completion, in particular they shall prevent the entry into negotiations on the contract conclusion or continue them with the notorious absence of the intention to reach an agreement with the other party.

It is necessary to define the unfair actions during negotiations, the duty to and the procedure for compensation of losses, to resolve the issues of confidential information, as well as to provide for the possibility of their transfer to the court in the case of disagreement with the contract conclusion.

This similarly applies to the determination of the place of conclusion of the labor contract under the standards laid down in Article 444 of the CC RF, which provides that, if the contract

does not indicate the place of its conclusion, the contract shall be considered concluded at the place of residence of the citizen or the location place of a legal entity, who has made an offer.

For example, currently there are no rules determining the place of conclusion of the labor contract, and there are only two exceptions: as the place of conclusion of the labor contract on remote work, the agreements on amendment of the terms and conditions defined by the parties to the labor contract on remote work shall include the location place of the employer (Article 312.2 of the LC RF); for the period of temporary transfer, the employer shall conclude the fixed-term labor contract with the athlete at the place of its temporary work (Article 348.4 of the LC RF).

Accordingly, a written form of the labor contract will not remain without attention. In our opinion, it is permissible to use the provisions of paragraph 2 of Article 434 of the CC RF, which provides that a written contract may be concluded by drawing up one document signed by the parties, as well as through an exchange of letters, telegrams, telexes, telefaxes and other documents, including electronic documents transmitted via communication channels, allowing to establish reliably that the document comes from the party to the contract.

The electronic document transmitted via communication channels, as well as the civil law, shall recognize the information generated, sent, received or stored by electronic, magnetic, optical or similar means, including exchange of information in the electronic form and e-mail. Moreover, Article 49.1. of the LC RF "Peculiarities of Remote Workers Labor Regulation" does not exclude the possibility of entering into a labor contract through the exchange of electronic documents. It should be noted that the Russian private law is now at the stage of its modernization, and a conclusion of electronic transactions has good prospects.

The branch of labor law applies to the private law. As the researchers note, referring to the opinion of P.V. Krasheninnikov, "... private law ... and the Labor Code of the Russian Federation ... do not always coincide, because ... the codes contain a lot of public norms. But at the heart of these relations lays the contract, which is the subject of a private legal regulation."

It should be noted that the legal regulation of relations between the employer and the employee that emerge at a large industrial production, have always been beyond the scope of civil law. Therefore, in the early XX it began the process of "budding" of a new branch of private law - labor law - from the civil law. Prior to this (pre-revolutionary period) a personal hiring was governed by civil law (workforce employment contract).

CONCLUSIONS

The recent trend towards convergence of two branches of law confirms not only the fact of their interaction, but also a presence of the inter-branch relations in this sphere. Thus, the contractual regulation of relations on performance of works and provision of services has a comprehensive (inter-branch) character.

The scientists lead discussions about the different methods and conditions of labor regulation by the rules of labor and civil law, and it is obvious that the development of this idea will give the ability to understand the institution of contract law more deeply.

It is difficult to disagree with the thesis that "the private law sources and the resulting tools and mechanisms of legal regulation (status of an independent entity, contract, contentious proceeding for protection of rights, etc.) into a given scope and type are currently expressed in a number of branches of law - especially in such key areas as family law, labor law, as well as in the complex formations: such as housing law, business law, etc." According to S.S. Alekseev, a "parent hotbed" of the private law is the civil law; meantime the private law regulation elements are manifested, perhaps, in all branches, "even in the midst of public law - in the administrative

law." Location of the branch of labor law in the private law sector already suggests the presence of inter-branch relations of civil and labor law in a certain dualism of law.

SUMMARY

Thus, the contractual nature of the relationships on the implementation of works and provision of services does not call into question the subsidiarity nature of application of the rules of civil law to the labor relations. On the contrary, it shows the possibility of cooperation between two branches of law in the framework of relations similar in subject and method of legal regulation, which is indicative of the inter-sectoral nature of the relationship contractual regulation on the implementation of works and provision of services.

We should agree with the opinion that "the workforce acquires a commodity character" and that "the line between the civil and labor law fades", and that "a growing number of civil and legal elements are used in the regulation of labor relations." Perhaps in the future, as the researchers point out, this sign will disappear, if there is a reunion of the labor contract with the civil one. Although, in our opinion, during the existence of the labor law, which is built on the civil and administrative principles, the similar science has proved the existence of an independent subject and method of its industry. Therefore, the reunification of two branches of law, in our opinion, is hardly possible. As it is pointed out by the researchers, it is referred to a "mutual enrichment" of certain legal institutions of different branches of law. From our point of view, here we can talk about the presence of inter-branch relations of civil and labor law, their interactions, and the prospects of development of legal regulation in the sphere of labor, taking into account this interaction.

The emergence of new sub-institutes of contract law occurs through this interaction: the emergence of new rules and procedures for entering into the labor contract, the emergence of its various forms. In our opinion the legal institute of conclusion of the labor contract will be included in the general part of contract law in the future. This institution will include the rules of two legal sub-institutions: on the general procedure of the contract conclusion and the special rules on the labor contract, through which the registration of labor relations will be made. The civil-law rules on the procedure of the contract conclusion, being an independent institute of liability law, shall be subsidiarily applied to labor relations. Thus, there is growth of the branch of labor law. We believe that the emergence of new sub-institutions of contract law in these areas of law, in this case, in the labor law, occurs through this interaction.

We note only that the same reasoning could be proposed to distinguish the civil-law concept of works and services used in the public areas of law. Even Karl Marx spoke about the services of public officials. However, it is also possible now to hear about this kind of services. Here, one of the criteria by which one can make a distinction, is the nature of relations regulated by law, appliance of the rules of law to a particular branch of law, and ultimately, legal regime of activities.

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THE IMPROVEMENT OF LEGAL PROCEDURE OF STATE STRATEGIES IMPLEMENTATION IN THE RUSSIAN FEDERATION

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ABSTRACT

The system of state strategic administration is essential for the provision of competitiveness of the economy and national security of the country. In modern conditions the study of the legal frameworks of strategic administration is quite timely in the Russian Federation. At this stage of development of the country in the state administration, the strategic planning comes to the forefront as a basis for creating the ideal model, to be strained after during the state policy in a particular sphere of life of the society. Fixation of the strategic plans in the regulatory legal acts suggests the need to consider the issues of the budget formation and the implementation of priority national projects. In this regard, it is urgent to investigate the program documents and budget planning (budget message of the President of the Russian Federation; the forecast of socio-economic development; the main directions of budget and tax policy; the main activities of the activity of the Government of the Russian Federation; a summary report on the results and main activities of the Government of the Russian Federation; the reports on the results and main activities of the subjects of budget planning, etc.), as well as the procedures for their adoption. The article discloses the concept of strategy, studies the strategy traits, defines the strategic administration, justifies the use of strategic administration methods in the study of state-legal phenomena, and identifies the regulatory legal acts adopted at the federal level, which are of strategic nature.

Key words: *state strategy, strategic planning, implementation mechanism, state strategic administration, program documents*

INTRODUCTION

The expedient, internally coherent and consistent legal policy is capable to ensure the improvement of existing law and can be carried out by the state only on the basis of a strategic approach. In view of this the legal strategies invariably become the basis of state legal regulation of social relations and, therefore, are an important source of law development. The study of the legal procedure of the state policies implementation in the Russian Federation is carried out with the aim of improving it. Currently, the following shortcomings are observed in the development and implementation of the government programs: the imposition of the programs without taking into account the resource potential of the regions and the real possibilities of state support in the formation of projects; the unrealistic deadlines for the completion of programs and individual measures; the overstated needs for financial and material and technical resources; and others.

The study presents an analysis of the concept of "strategy" on a theoretical level, the extraction of the strategy features and types of strategies, the consideration of various approaches to the definition of strategic administration. During the study it is discussed the regulatory and legal acts, in particular the Federal Law "On Strategic Planning in the Russian Federation", the

program documents adopted at the level of the Russian Federation and its subjects, as well as their immediate content. There are identified the systemic-structural connections in the strategic administration as a process, and defined and investigated the steps of the state strategic administration.

At the time of the study completion it has been determined another direction for the study of the state strategy, which includes the development of goal-setting mechanism, the establishment of valuable and normative systems in the modern society, on the basis of which the ideal strategy shall be developed.

MATERIALS AND METHODS

The scientific content of the concept of the legal procedures improvement for the implementation of strategies in the Russian Federation cannot be studied without using the classical approaches in the frameworks of the dialectical method. It is planned to define the strategic administration concept and theory, the legal procedure structure and practical importance for the implementation of strategies through the analysis, synthesis and analogy. With the help of structural and systematic approach it may be characterized the scientifically based theories of the strategic administration at the state level, in the framework of which the existing regulatory legal acts will be examined and the recommendations for its improvement will be provided. In addition, it is necessary to use a formal-legal approach, which enables to analyze the existing regulatory legal acts.

A feature of the research method used is the transition from textual analysis of strategic programs to the practical aspects of their implementation. In addition, there have been used other methods of obtaining knowledge of the analyzed phenomenon, and all of these methods have enabled to explore the stated topic comprehensively and deeply.

RESULTS

The research of the legal procedure for the state strategies implementation requires consideration of definitions of the term "strategy". The strategy is a control element, characterized as ordering, administration of the entire system of social processes, bringing it into line with the requirements, specified frameworks within a certain age with its characteristic objective laws (I.N. Danilenko, 2011). In this case, the subjective factor that determines the strategy essence comes to the forefront, and the conditions that define the strategic administration parameters are recognized as objective.

The strategy is also understood as the created and experienced reality, expressed in the life inter-relationship and inter-dependence of the state strategy, law strategy and society strategy (A.M. Goloshchapov, 2004). This definition shows a special character of the strategy, manifested in the purposeful activities of legislative bodies to create a legal system, which has a constitutional basis, i.e. the specific action plan or the plan that will enable to come closer to achieving the goals laid down in the rules of the constitutional and legal nature by the subjects of public authorities.It can be highlighted the consistency and interconnectedness of actions in the subjects involved among the strategy signs; the actions on a single plan; the consistency in setting goals and objectives, planning, as well as actions to achieve and maintain the desired result.

The state strategies implementation is closely linked with the accepted model of strategic administration in the relevant society. The strategic administration is an activity for the

development of the mission, the most important goals of the organization and the ways of their achievement, which ensure its development in a volatile external environment by changing both the organization and its external environment. L.I. Abalkin notes that the essence of the desired socio-economic strategy and the reform core are in a gradual, phased movement to the Russian model of the post-industrial civil society (L.I. Abalkin, 1998). The heritage and potential of the administration knowledge have wide borders, and many theoretical principles of strategic management find their application in the field of strategic state administration.

The enhanced understanding of the strategy as a prediction of different, including crisis situations in various spheres (economic, political, ideological, etc.) within the states and globally, enables to distinguish the state strategic administration. The state administration strategy cannot be moved from the historical experience of the country, as well as from the historical experience of other countries due to the fact that different countries and peoples have sometimes the differentiated combinations of historical, social, demographic, political, cultural and other conditions. It is indicated in the literature that the state administration strategy is focused on identifying the most efficient way to use the state forces in a crisis situation. To implement it, it is necessary to receive a detailed scientific forecast, enabling to assess the crisis cause, its nature, existing and future strategic resources, to choose the appropriate mechanisms and methods of state strategic administration of the behavior and interaction of people, with the expectation of the future.

The theory of "training school" by G. Mintzberg is of interest in relation to the strategic administration. In his concept, he points to a natural strategy that appears from the very life, from the normal daily practice. Many strategies are created artificially out of the realities of life and that is why become not viable (Mintzberg H., Ahlstrand B., Lampel J., 1998). According to G. Mintzberg, planning is a weak link in any strategy. It should be noted that the strategic planning provides the basis for all administration decisions. In connection with this many subjects focus on the production of development programs. The strategic planning can ensure the formation of long-term priorities of the state's activity, the transparency and consistency of plans of the federal and regional branches of the authorities, the implementation of large-scale tasks, the decision linking taken during the process of the state strategic administration with the budgetary constraints, defined both for the medium and the long term perspective.

G. Mintzberg has noted that the plans created live an independent life, they acquire the force of law and force to move in a prescribed direction even when there is no need to move (Mintzberg H., Ahlstrand B., Lampel J., 1998). The plans create an artificial reality, they are trying to predict the course of events, which may or may not happen, and predict the things, which do not exist. It is more correct to formulate a strategy from the bottom and then lift it up. In addition, the strategy is almost always late. While it is made the analysis of the external environment, while it is made a strategy development, the environment changes and becomes quite different during this time. Therefore, the strategy should be formed in the thick of life and the environment, going hand in hand with the practice. The similar approaches to the strategic administration can be found in the framework of the change management theory (Kotter, John P., 1997, Chandler A.D., 1962).

It should be noted that the strategic administration is mainly carried out through the strategic planning in the Russian Federation. The USSR experience has shown the usefulness of economic planning on a national scale. It enabled to systematically address the issues of development of industrial production, organization of scientific researches, space programs, and resource mobilizing in the emergency conditions. The European results-based management

experience confirms the viability of plan start-ups in the economy. At the beginning of the 90s the planning mechanism was subjected to profound criticism in Russia that opened the way for market regulation and business activities. It began to be applied the method of program-objective administration, and the business began to be included in the execution of federal, regional and departmental programs. The objective orientation enabled to better prioritize the activities of government and corporate private organizations.

However, it should be noted that the plans developed at the federal level, often restrict and bind the activities, including the activities of the regions. Indeed, any developments in the field of strategic planning shall be based on forecast system. However, this forecasting directly involves the development of science-based ideas about the risks of social and economic development, about the national security threats, about the directions, results and indicators of the socio-economic development, subjects of the Russian Federation and municipalities.

Until recently, the regulatory legal framework of the state strategic administration (including planning) was not extensive. In particular, the said issue was regulated by the Federal Law "On State Forecasting and Programs of Socio-Economic Development of the Russian Federation", by the Decree of the President of the Russian Federation "On the Basis of Strategic Planning in the Russian Federation" and others. Due to the fact that it was required to introduce the universal regulatory mechanisms in the economic sphere, it was adopted the Federal Law dated June 28, 2014 No. 172-FL "On Strategic Planning in the Russian Federation". Thus there were established the legal frameworks of strategic planning in the Russian Federation, the coordination of the state and municipal strategic administration and fiscal policy, the powers of public authorities, public authorities of the subjects of the Russian Federation, local self-government bodies and the order of their interaction with the public, scientific and other organizations in the field of strategic planning. The strategic planning is made at the federal level, the level of the subjects of the Russian Federation and municipal level. The Federal Law regulates relations arising between the strategic planning members in the process of goal setting, forecasting, planning and programming the socio-economic development of the Russian Federation, the subjects of the Russian Federation and municipalities, economic industries and spheres of state and municipal management, provision of the national security of the Russian Federation, as well as monitoring and control over execution of the strategic planning documents.

This Law provides a clear system of regulatory strategic documents, which is built on the basis of strategic planning concept. The strategic planning documents, being developed at the federal level, include in particular the strategic planning documents developed under the goal setting (annual message of the President of the Russian Federation to the Federal Assembly of the Russian Federation; the strategy of socio-economic development of the Russian Federation; the strategy of national security of the Russian Federation, as well as the state policy frameworks, doctrines and other documents in the sphere of ensuring the national security of the Russian Federation (V. Zatsepin, 2016)); the strategic planning documents developed within the goal setting on a sectoral and territorial principle; the strategic planning documents developed in the framework of forecasting; the strategic planning documents developed in the framework of planning and programming.

One of the stages of the state strategic planning is to take the relevant legal acts in the subjects of the Russian Federation. Most often it is the strategies of socio-economic development, which are built on the basis of forecast estimates and careful calculations. Their participants are the state and municipal authorities, organizations and institutions, and business -

large, medium and small. Thus, in summer 2015 it was approved the Strategy of Socio-Economic Development of the Republic of Tatarstan till 2030 in the Republic of Tatarstan after the implementation of the Law on Approval of the Program of Socio-Economic Development of the Republic for 2011-2015. The business is particularly interested in the areas of innovation, cluster policy, assessment of the employment dynamics and economic imperatives in this Strategy.

The strategic administration as a process can be represented as a sequence of several stages (L.S. Shekhovtseva, 2000). One of the classical approaches to the strategic administration involves the following steps (phases) of the process: 1) identification of the organization's mission in a higher-level system; 2) strategic analysis of external and internal environment of the organization; 3) forecasting the development parameters; 4) goals development; 5) strategy formation and selection; 6) implementation of strategies; 7) monitoring, adjustment and regulation (I. Ansoff, 1981). Thus, the main results of the strategic administration can be presented in the form of a logical chain of strategic outcomes: diagnosis (evaluation) - forecast - strategy - strategic plan - program - project - assessment of the results.

Study of the rules of the Federal Law "On Strategic Planning in the Russian Federation" shows that the adopted regulatory act has some drawbacks.

Thus, according to Article 7 of the Federal Law, in the development and approval of the strategic planning documents developed in the framework of planning and programming, there should be determined the sources of financial and other resource support of the activities provided by these documents, within the constraints defined by the strategic planning documents developed in the framework of forecasting. For the most part the financial resources are reflected in the section on mechanisms for the strategy implementation, often divided into organizational and financial instruments. Most often the authors of the documents are offered to attract resources once for the entire strategy. In many documents the assessment of financial resources is replaced by a list of measures needed to attract them to the regional territory, but is not disclosed by the variants of using the existing resources. In most regional strategies, the mechanisms of resource provision of their implementation include both budgetary and extra-budgetary sources of raising funds. Due to the fact that the majority of subjects of the Russian Federation have a high level of subsidies, the most important resource mobilization mechanisms are the federal budget funds. The implementation of the strategy goals and objectives at the expense of the regional budget and the budgets of municipalities is carried out in the framework of implementation of the state programs of the subject of the Russian Federation and municipal programs. In addition, an important financial resource for the strategy implementation is the extra-budgetary sources, which are primarily provided by the cooperation with the specialized development institutions and entering into the international projects.

If we consider the implementation process of the socio-economic development strategy (Isaeva N.I., Yaroshenro I.V., 2015), it is developed and adjusted taking into account the socio-economic development of the Russian Federation for the long term period and the budgetary forecast of the Russian Federation for the long term period. The said strategy is developed for six years and approved by the Russian Government. Further the sectoral strategic planning documents are developed, which include sectoral strategies, including schemes and strategies of development of the economy industries and spheres of government administration; the strategies of individual areas of social and economic development; other strategic planning documents.

The strategies of socio-economic development of the federal districts and individual territories are created at the level of a regional approach. The subjects of the Russian Federation

create a strategy for socio-economic development and the scheme of territorial regional planning on the basis of federal basic documents (forecast and strategy of socio-economic development, national security strategy), public programs, sectoral strategies, development strategies of federal districts and individual areas, i.e. on the basis of the documents that have already been submitted from above. Thus, at the subjects level it is addressed the issue of division of federal and regional powers with regard to the strategic issues: responsibility for the implementation, financing and others. That is, the regions are on the brink of solving the issues in relation to their interests: On the one hand the regional development strategy should contribute to the achievement of higher-level objectives outlined in the basic documents, and on the other hand - to promote to the achievement of the objectives of government programs and sector strategies within their region.

CONCLUSIONS

The strategy is a combined behavior pattern designed to achieve a specific purpose by the subject. That is, the strategy may be understood, firstly, as the specified planned actions aimed at achieving long-term goals by defining a structured long-term plan, secondly, a strategy can be understood as a long-term qualitative trend in the development of law relating to its areas, means, forms and institutions.

The strategy as a program document should include the purpose, indication of the ultimate goal, ways and means to achieve it, tools and resources that can be spent on it. The document may be in the form of federal targeted programs, integrated programs, plans, etc. The program documents do not only regulate the social relations in various spheres and contain objectives, but also they can be reflected in the legislative initiative of the adoption of other legal acts. The program documents are the sources of law, which are authorized by the state and namely are approved by the subordinate regulatory legal acts, and are forward looking.

The important direction for the study of the state strategy is the study of goal-setting mechanism, the establishment of valuable and normative systems in the modern society, on the basis of which the ideal strategy shall be developed.

SUMMARY

In this summary we simulate the improved mechanism of adoption and implementation of public strategies in the Russian Federation. It seems that the original creation of the strategy on the upper level should be in the most general form, i.e. by determining the trends, the responsible authorities for the implementation, the main ways of achieving, and the issues of approximate funding. The immediate detailing shall be carried out by the lower levels of government, industries and regions. There should be developed clear goals, objectives, persons, plans and budget.

On the next step the detailed regional development strategies, government programs, industry development strategies with a detailed budget should be sent to the coordinating body, which will conduct a comparison with the top-level plan and will make adjustments to the objectives, targets, will initiate the budget adjustment, will check the consistency of the strategic plans and programs in all directions with the top level documents and each other, if necessary.

Then the coordinating body submits again the adjusted planning documents at the lower levels of management hierarchy to their new iteration of planning and balancing of interests of the upper and lower levels, taking into account the possibilities of budget financing and the priorities of development goals.

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THE RELATION OF J.CH. FINKE'S THEORY WITH THE FEATURES OF CONSTITUTIONAL STATE

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ABSTRACT

The relevance of the study of this problem is caused by the fact that there is a desire to develop the state of law in Russia and abroad. The concept of the state of law is versatile; it covers the different facets of this problem. For centuries many philosophers and scientists were involved in its development. Among them it should be noted the professor of the Kazan Imperial University J.Ch. Finke. He contributed to the development of the theory of natural law. Its framework includes the ideas related to the state of law. The aim of this study is to identify the link between J.Ch. Finke's theory and the generally accepted modern attributes of the state of law. The key methods used in this study are the general scientific and frequent scientific methods. They enabled to open the features of J.Ch. Finke's views on the natural law nature and system, to see the connection between the individual aspects of his theory and the attributes of the state of law. This article, from the perspective of this theory of natural law, includes a description of the role of moral law and freedom, shows the importance of these categories for the proper understanding of the attributes of the state of law. The materials presented in this article may be used in the process of legal education. They can also be taken into account in law-making, as they help to better understand the features of the natural law and the attributes of the state of law.

Key words: *state of law, natural law, freedom, moral law, civil status.*

INTRODUCTION

As one of the fundamental concepts that define the relationship of the individual and the state, the theory of the state of law has not only a scientific value, but also an important practical and political significance.

The origins, the ideological basis and the specific social and political situation of origin and evolution of the theory of the state of law are contained in the writings of ancient philosophers, representatives of Western and Russian political and legal thought.

Among them it should be mentioned the outstanding legal scholar of the Kazan University Johann Christopher Finke - a native of German city of Göttingen. In 1809 J.Ch. Finke came to Russia and began his teaching career at the Kazan University. Finke's viewpoints, formed under the influence of western, primarily German, political and legal doctrines, acquired a specific, compromise character in the realities of the Russian Empire of the XIX century.

This research involves the establishment of some link between J.Ch. Finke's theory and the universally recognized modern attributes of the state of law. In this article, it is revealed a system of law and found its importance for understanding the signs of the state of law in the context of his theory. Further it is considered the scientist's views on the problem of the state origin, and detected the links with these attributes. The views of J.Ch. Finke are also highlighted and compared with the attributes of the state of law respective to the form of state.

The research of J.Ch. Finke's scientific heritage enables to reveal the links between the German rationalist structure of the natural law, which is based on understanding of the internal and external freedom of the individual, and the problem of the state of law.

MATERIALS AND METHODS

The starting materials for this article are the doctrinal sources. Among them, it is worth noting the scientific study of J.Ch. Finke - Natural, Private, Public and People's Law. It is complemented by the study of Russian and foreign scientists, dedicated to the issue of the state of law. There are also used the separate regulatory legal acts, fixing the term of "state of law" or its attributes.

The methodology of the research conducted is based on the dialectic, which is the philosophical basis for the used methods of scientific knowledge.

The study of natural law theory is based on a systematic approach, including analysis, synthesis, deduction and induction. At that, it is used the structure-functional and concrete-historical methods of scientific knowledge. They enable to reveal the basic elements of J.Ch. Finke's theory, to see the systemic relationships between them and the attributes of the state of law.

Due to the legal nature of the phenomena studied, it is used the formal-legal and comparative-legal methods. They enable to see the manifestation of natural law theory in the current positive law, as well as to compare the features of this manifestation.

RESULTS

The theoretical structure of the state of law is a kind of measure of the qualitative status of statehood. The logical content of this structure is associated with a natural conditioning of the state and law, their natural (universal) unity. Over the long history of this theory it was offered a lot of different criteria for assessing the legal nature of the state. All of them eventually detail its key characteristics - the legal recognition and protection of individual autonomy, legislative restriction of state intervention in the sphere of freedom of the individual.

The term of "state of law", as well as the attributes of the state of law has been settled in into the constitutions of many states. For example, this category is in Article 1 of the Constitution of the Russian Federation dated December 12, 1993 and in Article 2 of the Constitution of Poland dated April 2, 1997. Some attributes of the state of law (recognition of human rights, separation of powers, etc.) are present in the constitutions of France, Italy, Germany and many other countries. Thus, the ideas of the state of law received a thorough legal consolidation. They have moved beyond the nation states and exist at the level of supranational entities. It is no coincidence that some researchers propose to expand the powers of the European Union up to the expulsion of its members for violation of democratic standards and institutions. Yet the leading role in the evolution of these ideas belongs to the legal doctrine.

In modern legal literature it is mostly found the same legal definition of the state of law as the organization of political power, which guarantees the fullest realization of human rights and freedoms. It enables to isolate a number of essential, distinguishing features, collectively constituting its qualitative certainty.

The displayed characteristic of the state of law is fixing and guaranteeing of inalienable human rights and freedoms. The human rights and freedoms, which are recognized and respected by the state of law, are the formal legal expression of the natural freedom of the individual and

the limitation of its arbitrariness at the same time. The rights, belonging to a human, are his inalienable property and are reflected in the constitution of the state.

It is important to note that these rights are universal; they do not belong to a particular social group. The history knows many examples when the appeared problem of personal law infringed on the rights of individuals. So it was in colonial India, where people converted to Christianity, were deprived of protection on the part of their previous law, but did not also fall under the scope of European (English) law for various reasons. Such things are unacceptable from the point of view of natural law.

Thus, the need to protect and ensure the real provision of the human rights and freedoms brings to the forefront the principle of the rule of law, which traditionally can be considered as opposition to the principle of the rule of persons. Therefore, the law is imposed with the special requirements as the guarantor of human freedoms and the regulator of its relationships with the state. In the theory of the state of law, the law is not just a result of legislative activity of the state bodies, but a form of existence of natural law first principles. This raises the non-identity, but the unity and consistency of law at the same time. Their connection is provided by the state of law and its government. Therefore it is difficult to agree with those scientists who believe that the government is not essential for the law and the legal order.

From the point of view of the ideologists of the state of law, the human rights and freedoms are not confined merely to the sphere of its private life. The people are the full-fledged subject of the policy. Moreover, the relationships between the individual and the state, which are characteristic to the state of law, imply recognition of the people by the sovereignty carrier. Therefore, the people are involved in the formation of higher authorities on the basis of direct electoral right.

The basic principle, governing the organization and implementation of the state authority in the state of law, is a separation of authorities into three branches. Such construction of the state mechanism enables to eliminate the concentration of powers in one hand, which is dangerous for human freedoms. The separation and mutual control of the authorities is built on the principle of strict legality. It seems fair to supplement the principle of separation of the authorities with the provision of "management of public affairs on the basis of law", enabling to better reflect the diverse institutions, bodies and their strict legal competence to perform the common functions of the state.

The relationships between the state of law and personality permeate the principle of mutual responsibility. Often, the idea of a contractual origin of the state, reflecting the equality of the citizens and the state is brought in support of this feature.

The above features of the state of law are closely interrelated and form a complex system.

Based on the ideas of I. Kant on the relationship between the moral and legal laws, J.Ch. Finke developed an original theory of natural law, which could be correlated with the problem of the state of law.

According to him, there is the moral law, which is more concerned with the inner freedom of the individual, and the legal law, which, vice versa, defines the outer freedom. However, there are no clear boundaries between them. The moral law is not only internal, but also external in nature in certain circumstances, securing a key value of an individual - the inner and outer freedom. This is possible due to the fact that the motivation of the individual is determined by both internal and external factors. Therefore, the moral law cannot be limited to the inner world of the individual; it also defines the limits of its external freedom.

The freedom is one of the key categories of J.Ch. Finke's concept. He considered the philosophy of law as a science related to the external freedom, calling it a natural law. Thus, there is a pluralism of understanding of natural law. It can be regarded as a science and as a system of norms, having a certain structure. Therefore, we can note the following.

The legitimate human relationship is considered in the concept studied by J.Ch. Fink. It exists in two ways: natural status and civil status. The differentiation criterion is the attitude towards the state. In the first case, the citizen is treated without belonging to the state, in the second - as a member of a state. The system of rights inherent to human in a natural state is called a natural private law in this theory. Its primary basis is the freedom and equality. The civil status is the basis of the natural public law (governing the relations between the ruler and the citizens) and the natural civil law (governing the relations between the citizens).

Finally, J.Ch. Finke's theory considers the legal regulation of international relations, based on the norms of the natural people's law.

The similar ideas can be associated with some features of the state of law.

Firstly, it is necessary to suggest the principle of mutual responsibility of the state and the individual. In this case, it is based on the natural state law, which generally involves the protection of citizens' freedoms, but it is not just that. J.Ch. Finke's concept is impossible without taking into account the moral law, namely, because it is the basis of the individual sense of responsibility.

Secondly, it is manifested such attribute as the rule of law. Its interpretation is cautious; we should not forget that the author of the theory lived under the absolute monarchy and serfdom law. The implementation of natural human rights was made dependent on the government targets. J.Ch. Finke wrote that the ruler, if necessary, could limit or eliminate the acquired rights. Yet it is necessary to remember that the natural private law (which has existed before the state) is in the first place in this system, and the purpose of the state is to ensure the external freedom of the citizens. Thus, the rule of law shall be understood as a relative rule of natural law used for the benefit of society.

Talking about the cautious viewpoint of the scientist at the beginning of the XIX century, it had the right to exist. Even in contemporary literature, it is offered for the global governance to critically reflect on the principle of "rule of law" and think over the principle of rule "through" law. The law is inevitably linked with the policy, reflecting the interests of various entities.

Thirdly, it is necessary to take into account such attribute of the rule of law as the formation of its bodies on the basis of direct democratic electoral right. Again, it should be taken into account that the philosopher, who lived at the turn of the XVIII-XIX centuries, could not objectively know about the modern democratic institutions, among which there was a direct democratic electoral right. However, the very idea of a contractual origin of the state, which was supported by J.Ch. Finke, supposed a respectively democratic formation of the public authorities and in the future - the evolution of the electoral right.

The basis of the natural state law is the idea of legal security of the individual, which is key to the theory of the state of law. The state is considered as a union of people, united under the authority of the public authorities to protect their rights. This definition enters the target component in the doctrine of the state, which gives meaning to the very existence of the public authorities. The purpose of the state is to "protect the users of rights, respect for the rights of all fellow citizens". The important point, testifying to the legal nature of the state, described in the doctrine of J.Ch. Finke, is that not every state, but only the state based on the law of universal freedom, is able to carry out a similar purpose.

The target nature of state power requires the establishment of clear boundaries of state intervention in the society's life: only those things, which are needed to achieve the public goal, are under its control. In other words, the state, providing a legal protection of citizens, does not intrude into the sphere of their inner freedom and does not set a total care over them. Thus, it is clearly traced one of the main provisions of the doctrine on the state of law in J.Ch. Finke's theory - an idea of human as an autonomous entity, having a certain area of freedom, in which the state should not interfere. Such viewpoints in this doctrine are originally intertwined with the idea of sovereignty of the state authority. The embodiment of the state's purposes and protection of the human rights and freedoms require the unquestioning submission of the citizens to the state in regard to the common good. The only limitation of the ruler's sovereignty is the state goal - ensuring the rights and freedoms of citizens. And this requires the rule of law.

The arguments of J.Ch. Finke about the state origin may be considered as the references to some of the theses of the theory of the state of law. He believed that the state had a contractual nature as a union formation. At that, the historical reality of the state establishment contract is in question. It is obvious that with the help of contract J.Ch. Finke has defined the starting point in relations between the state and the citizen. The state is derived from the human and is the result of its prudent free choice. But at the same time J.Ch. Finke warns against attempts to use the contractual ideas to change the political system of the state.

Thus, the doctrine of J.Ch. Finke implicitly carries the idea of the people as a source of state authority, which is one of the key moments in the theory of the state of law.

The theory of the state of law is closely related to the idea of power separation, specified in the paper of J.Ch. Finke. The ruler's power, depending on the ongoing authority, is divided between the legislative and the executive. We are not talking about the classic triad of relatively independent branches of state authority. Caution of J.Ch. Finke in this matter is fully explained by the socio-political realities of the Russian Empire of the XIX century. However, in the description of the legislative power, he essentially proclaims the essential principle of the state of law: the rule of law, the actual implementation of which requires the mandatory publication of laws.

A conditional state law in the concept of J.Ch. Finke covers the specifics of the various forms of government and the forms of government mechanism. A number of provisions in the section under consideration can be interpreted as the ideas of legal statehood. He adhered to the traditional division of forms of government to the monarchy, aristocracy and democracy based on the number of ruling parties. In contrast to the ancient philosophers J.Ch. Finke did not offer the best form of government. The specific procedure for the organization of state authority is determined by the objective and subjective factors: the people's religion, education and mentality, time spirit, personal qualities of the ruler. However, the most natural and durable of all existing forms of government, in his opinion, is the monarchy, whose origins are rooted in the very nature of things. The emergence of aristocracy and democracy is caused by transient circumstances and needs.

Meanwhile, regardless of the form of government, the state authority is entrusted to the governor by a general will of all citizens. It is emphasized the fundamentally important idea of popular sovereignty from the point of view of the theory of the state of law. For the state of law it is important not so much the order of power organization, as its conditionality by the people's will. A violation of that principle and abuse of power lead to the degeneration of the government forms and the emergence of oligarchy, ochlocracy (mob rule), tyranny and despotism.

CONCLUSIONS

J.Ch. Finke's concept contains an original interpretation of the ideas of natural law and the rule of law. It is based on the idea of the internal and external human freedom. The implementation of human freedom is possible both out of state and in the relationships with the state.

The structure of the state of law highly expresses the recognition and enforcement of the inalienable human rights and freedoms by the state. The state of law is characterized by the people's active role in the establishment of and exercising the state power. The people as recognized the source of power, the sovereignty carrier. The relationships between the authorities and the citizens are imbued with legal first principles. In J.Ch. Finke's concept, the essence of these relationships reflects the natural state law. The author's reasoning of the origin of the state and the fundamental principles of its functioning reveals the crucial importance of the human freedom. The purpose of existence of the state is to protect the human rights and freedoms. This goal defines the boundaries of the activities of the public authorities.

The legal protection and the availability of well-defined sphere of personal human freedom are the basic principles governing the relationships of the citizen and the state in the conception under consideration.

The idea of a contractual origin of the state, meaning the voluntary declaration of will by the citizens, its conscious choice in favor of the statehood, self-restraint, means essentially the recognition of people's sovereignty. The same idea is offered by J.Ch. Finke in reviewing the forms of government.

SUMMARY

The system of natural law, which has been built by J.Ch. Finke, reflects a complex inter-relation of three key events - law, state and human freedoms. In this conception the generally recognized principles of the state of law are not directly proclaimed. However, the judgments made by the author concerning the human freedom, the presence of its inalienable rights and the obligation of the state to ensure and protect the rights belonging to a citizen, enable to carry J.Ch. Finke to the ideologists of the state of law.

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PROTECTION BY THE GOVERNMENT AND SECURITY SUPPORT FOR THE PARTIES OF MODERN CRIMINAL PROCESS IN RUSSIA: PROBLEMS AND PERSPECTIVES

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ABSTRACT

The article presents an analysis of the government protection and security support for the parties of modern criminal process in the Russian Federation.

The party of criminal process should feel safe from possible criminal encroachments caused by the execution of civic duty at any stage of the proceedings. The state, in turn, shall ensure the protection of life, health, property, honor and dignity of people regarding their involvement in the criminal proceedings.

Evaluation of the implementation status of measures of government protection of the parties of the Russian criminal proceedings, promoting justice, proves the measures to be sufficient and relevant to current conditions.

Nevertheless, there are some gaps in legislation regulation and some complexity of law enforcement in this area. In this regard, the authors identified the main directions to solve actual problems in government protection and security support for the parties of modern criminal process in the Russian Federation on the theoretical, legislative and law enforcement levels. The authors of this article have investigated the positive developments and existing problems in this sphere, using the comparative-legal and statistical methods.

Key words: *protection, security, investigation, court, threat, parties of the criminal process, criminal case.*

INTRODUCTION

In order to achieve the goals of justice in criminal cases within the domestic and foreign criminal proceedings, apparently, arises the need for effective protection and security support of the parties of the criminal process.

The application of security measures to the parties of the criminal proceedings tends to increase. According to the official data stated in the Decree of the Government of the Russian Federation dated July 13, 2013, No. 586 "On Approval of the State Program "Provision of Safety of Victims, Witnesses and Other Parties of the Criminal Proceedings for 2014 - 2018", only in 2012, more than 2,800 parties of the criminal proceedings were involved in the program activities in Russia, which is 17% more than in 2011. More than 5,600 security measures were applied to them, which was 27% more than in 2011.

According to the Report on the Results and Main Activities of the Ministry of Internal Affairs of the Russian Federation in 2014, the performance results of the requirements of the Federal Law dated August 20, 2004 No. 119-FL "On the Government Protection of Victims, Witnesses and other Parties of the Criminal Proceedings" are characterized by a positive dynamics. The government protection measures were applied in respect of 3,401 (+2.4%) persons, 2,771 of whom were the parties of the criminal proceedings in cases brought for serious or the most serious crime components, including 585 - on the crimes committed by the organized criminal groups and communities.

In 2014, it was impossible to ensure the security support of two persons protected under the Federal Law dated August 20, 2004 No. 119-FL.

The accumulated experience of application of government protection measures and security support for the parties of modern criminal process in the Russian Federation enabled to reveal a number of unresolved problems in justice promotion incentive performed by the parties of the criminal process, and predetermined further work on improving the legal regulation of the institution of criminal proceedings.

It is preferable to solve existing problems of the current state of human security in the criminal process at three levels: 1) theoretical; 2) legislative; 3) law enforcement.

MATERIALS AND METHODS

The methodological basis of our research includes, first of all, a fundamental dialectic method of awareness of the social and legal phenomena in the area under consideration, the method of analysis and the comparative legal method. Statistical method has revealed the dynamics and involvement prevalence of the institution under consideration. The comparative legal method in our study of the application of government protection measures and security support for the parties of modern criminal process in the Russian Federation revealed the urgent need for the study and application of international experience in the legal regulation of this sphere. The presence of a large foreign practice determined the interest in a wide range of international researches in this area (Monica Semrad, Thea Vanags, Navjot Bhullar, Rezana Balla, Markus Eikel, Felföldi Enikö, Pamela E. Hart, Sangkul Kim, Risdon N. Slate, Varinder Singh, Gert Vermeulen, Brendan O'Flaherty, Rajiv Sethi).

Research Results

A. In order to ensure the guaranteed assistance of the citizens in the criminal justice, it is necessary to solve a number of problems of the application of government protection measures and security support for the parties of modern criminal process in the Russian Federation. Reasonably, they need to be solved at three levels: theoretical, legislative and law enforcement.

B. In the Russian Federation, the early studies of problems of the application of government protection measures and security support for the parties of modern criminal proceedings are associated with an increase in crimes committed by the organized criminal groups and communities in the early 90-ies of the last century. The investigation process of such crimes faced active opposition to necessary and obligatory proceedings aimed to establish the circumstances, viewed as subjects to the proof in a criminal case.

Since the late 90s and till the present time, scientists carry out research works on problems of the application of government protection measures and security support for the

parties of modern criminal proceedings in the Russian Federation. The works by O.A. Zaytsev, L.V. Brusnitsyn, A.Y. Epihin and others have gained fame and recognition among the experts.

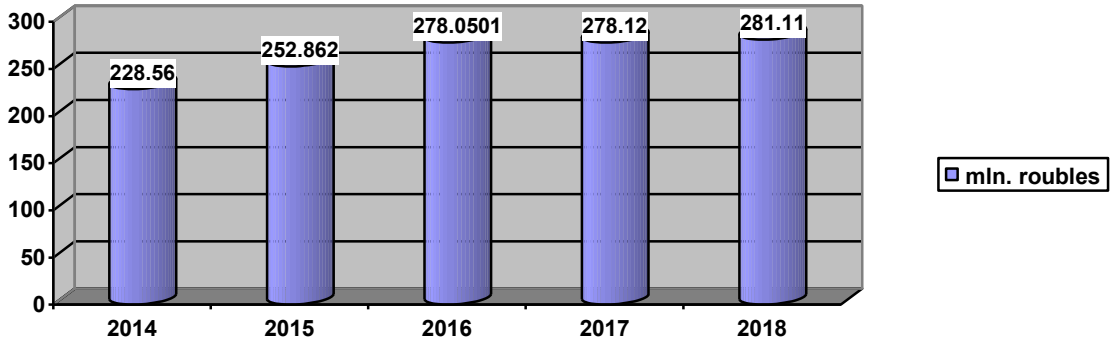
To some extent, conducted researches, discussed the content and ratio of such terms as "government protection", "safety", "security", "guarding" etc. The discussion was partly caused by the misinterpretation of the "government protection", authorized by the legislator in two laws adopted in the Russian Federation, aimed to protect the parties of criminal process, namely - the Federal Law dated April 20, 1995, No. 45-FL "On Government *Protection of Judges, Law Enforcement Officials* and Regulatory Authorities" and the Federal Law dated August 20, 2004 No. 119-FL "On Government *Protection of Victims, Witnesses and other* Parties in the Criminal Proceedings."

The scientific researches aimed to study the independence of the legal status of protected persons in the criminal proceedings seem interesting and promising, as well as the scientific papers, analysing inter-branch contradictions of the safety process of the protected persons in the criminal proceedings.

The most significant results of the conducted theoretical researches, which are valid now and will be useful in the development of the regulatory legal act in the future, are as follows: 1) classifications of protective measures; 2) identification of assumptions and criteria for the application of security measures; 3) definition of the moral foundations of the security process; 4) balance of interests between the individual and the state in the application of the security measures.

C. At the legislative level, the most significant events are the adoption of two abovementioned special laws (the Federal Law dated April 20, 1995 No. 45-FL, the Federal Law dated August 20, 2004 No. 119-FL) within protection and safety support of the persons involved in the criminal proceedings. The introduction of the special government programs, which provide a set of security measures for the parties of the criminal proceedings, became of fundamental importance. Currently, there is the State Program "Provision of Safety of Victims, Witnesses and Other Parties of the Criminal Proceedings for 2014 - 2018", approved by the Decree of the Government of the Russian Federation dated July 13, 2013, No. 586, which provides an adequate funding from the federal budget funds and is aimed to implement the abovementioned special laws.

The diagram shows the distribution of funds between 2014 and 2018.



To develop the existing federal laws a number of departmental regulatory legal acts has been produced, for example, the Order of the Ministry of Internal Affairs of the Russian Federation dated March 21, 2007 No. 281 "On Execution of the State Function to Provide the Government Protection of Judges, Law Enforcement Officials and Regulatory Bodies, the Security Support of the Parties in Criminal Proceedings and their Relatives, in accordance with the Legislation of the Russian Federation", and the Resolutions of the Government of the Russian Federation, in particular, the Resolution of the Government of the Russian Federation dated October 27, 2006 No. 630 "On Approval of Rules of Application of Certain Security Measures regarding Victims, Witnesses and other Parties in the Criminal Proceedings".

The international experience of legal regulation of human security within criminal proceedings is applied in the development of the Russian legislation: the Rome Statute of the International Criminal Court, adopted in Rome on July 17, 1998 by the Diplomatic Conference of Plenipotentiary Representatives under the UN auspices on the Establishment of the International Criminal Court, which has also been signed by Russia; the Convention against Transnational Organized Crime, adopted in New York on November 15, 2000 by the Resolution 55/25 at the 62nd Plenary Meeting of the 55th Session of the UN General Assembly; the United Nations Convention against Corruption, adopted in New York on October 31, 2003 by the Resolution 58/4 on the 51st Plenary Meeting of the 58th Session of the UN General Assembly, and others. In addition, there is a number of Decisions of the European Court of Human Rights on the subject under consideration, the certain legal positions of which have been developed and approved by the Committee of Ministers of the Council of Europe in 2005, the Recommendation No. R (2005) 9 of the Committee of Ministers of the Council of Europe "On Protection of Witnesses and Persons Collaborating with Justice" (adopted on April 20, 2005 at the 924th Meeting of the Ministers Deputies).

The Russian Federation also uses the foreign legislative experience of security support of the parties of criminal proceedings. In particular, we studied the basic provisions of the special laws in such countries as Belgium (the Belgian Law "On Making Amendments to the Law Regulating the Protection of Witnesses under Threat" Loi du 14 juillet 2011 modifiant la loi du 7 juillet 2002 contenant des règles relatives à la protection des témoins menacés et d'autres dispositions S. 5-1096, Ch. 53- 1472, Publication 01.08.2011 page 43879-43881; the Belgian Law regulating the protection of witnesses under threat - Loi du 7 juillet 2002 contenant des règles relatives à la protection des témoins menacés et d'autres dispositions, S. 2-1135, Ch. 50-1483, Publication 10.08.2002 page 34665-34671); *Canada* (Canadian Law "On Witness Protection Organization" Bill C-13: An Act to provide for the establishment and operation of a program to enable certain persons to receive protection in relation to certain inquiries, investigations or prosecutions, Publishing and Depository Services Public Works and Government Services Canada, Second Session, Thirty-fifth Parliament, 45 Elizabeth II, 1996) and others. In addition, published research papers study the foreign experience of legal regulation of the government protection of the parties of criminal proceedings.

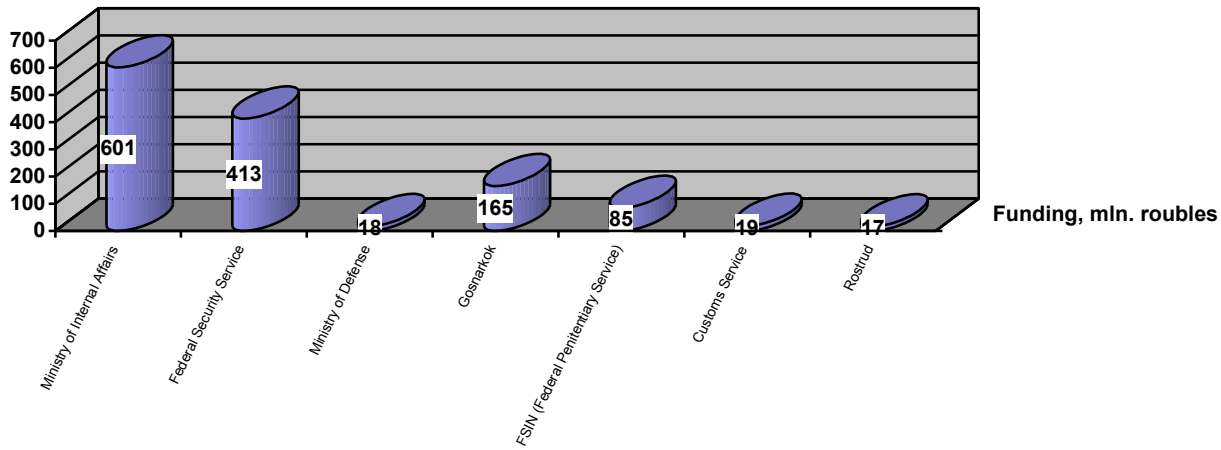
The results of the conducted research reveal a certain gap of the Russian legislator concerning the direction of legal regulation under consideration. In particular, in 1969 the USA adopted one of the first laws on control of the organized crime, and Russia made it only in 1995.

D. At the law enforcement level, government protection measures and security support for the parties of modern criminal proceedings by the law enforcement bodies of the Russian Federation were applied rather efficiently in the Russian Federation.

To solve the problems of protection and safety support of the persons involved in the criminal proceedings, the specialized structural units were introduced. In particular, the Department for the Safety Provision of Persons Subject to Government Protection (the Decree of the President of the Russian Federation dated September 6, 2008, No. 1316 "On Certain Issues of the Ministry of Internal Affairs of the Russian Federation") was established in the Ministry of Internal Affairs of the Russian Federation; its activities could in general be considered as professional. So, during the activities of the Centre of Safety Support of the Persons under Government Protection, the Main Department of the Ministry of Internal Affairs of the Russian Federation for Moscow, no person, under the government protection measures, has changed his/her original testimony, which has further ensured making the convictions in criminal cases.

The educational institutions of the Ministry of Internal Affairs system have recently started to specialize also in the training of personnel for the service of witnesses and victims government protection (for example, Ufa Law Institute of the Ministry of Internal Affairs of the Russian Federation).

However, the implementation of government protection measures in the Russian Federation is carried out by various Russian law enforcement bodies and special agencies. The absence of a single state law enforcement body (according to the example of the Marshals Service in the USA) has certain risks of departmental disintegration in the safety support of persons involved in the criminal proceedings. The diagram shows the level of funding (2014 - 2018) the law enforcement bodies, which provide the government protection.



In addition, there is a certain lack of effective methods of the application of specific safety measures and means of government protection.

CONCLUSIONS

A. In a relatively short period of the application of government protection measures and security support for the parties of modern criminal process in the Russian Federation, were proved effective and *their application confirmed the existing positive outlook regarding the widespread use of these measures in the near and distant future.* Our study of the regulatory and

law enforcement practices in this area shows positive trends in the introduction of rules of the institute under study to the criminal proceedings of the Russian Federation.

B. A theoretical understanding of the task of effective implementation of government protection and safety support of the parties of criminal proceedings in the Russian Federation was directly related to the quantitative and qualitative growth of organized crime in the early 90-ies of the last century and, therefore, to an urgent need to overcome opposition to the investigation in many different forms effectively.

The monographs by Russian scientists contributed to the development of regulatory legal acts in this area, and, thus, simplified the effective implementation of the government protection and safety support of the parties of criminal proceedings in the Russian Federation.

C. Currently, the normative regulation of government protection and safety support of the parties of criminal proceedings in the Russian Federation is carried out at several levels of legal regulation: 1) federal laws; 2) the Decrees of the President of the Russian Federation; 3) departmental regulatory legal acts.

Although, during the development of regulatory legal acts of the Russian Federation, regulating the government protection and safety support of the parties of criminal proceedings in the Russian Federation, the background on the regulation of this institution in the international regulatory legal acts, as well as the foreign countries were relevant. The best practices of a number of foreign countries reveal the certain gaps of Russian legislation in this area (for example, a list of possible security measures).

D. At the law enforcement level it is possible to state a generally positive implementation of government protection measures and security support for the parties of modern criminal proceedings in the Russian Federation by the law enforcement bodies and the special agencies of the Russian Federation. For example, the Department for the Safety Provision of Persons under Government Protection in the Ministry of Internal Affairs of the Russian Federation was established.

It is important to make a goal-oriented training of personnel to implement the government protection measures and security support for the parties of modern criminal proceedings in the Russian Federation. However, currently, there is a certain departmental dissociation in the solution of this problem, as well as its methodical provision gaps in practice.

SUMMARY

In assessing the overall state of implementation of the government protection measures of the parties of modern criminal proceedings in the Russian Federation which promote the criminal justice, it is possible to draw a conclusion about its relative adequacy.

In recent years, there has been reasonably intensified search for solutions of the problems found in the regulation and application of the criminal proceedings of the institution under consideration, which should be carried on the theoretical, legislative and law enforcement levels simultaneously.

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MANIPULATIVE PRACTICES IN THE AREA OF SOCIO-POLITICAL INSTITUTIONS OF MODERN SOCIETY: THEORETICAL - METHODOLOGICAL ANALYSIS

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ABSTRACT

The study of manipulative practices in the field of socio-political institutions enables the researcher to identify the determinants of formation and development of a particular institution, to explore the features of transformation of the causes of successful or unsuccessful completion of a social process. The study covers the theoretical basis of the study of manipulative practices in the field of socio-political institutions of modern society. The case study of the manipulation phenomenon is carried out by the authors in the framework of classical socio-political approach. This paper analyzes the established definitions and the most famous interpretations of the manipulative practices in the humanitarian researches, indicates the historical and contemporary examples of public implementation of the manipulative practices. It should be noted that a special attention is paid to the study of institutional manipulations in the political sphere. The research advantages include the differentiation of such concepts as "manipulation", "manipulative behavior", "manipulative practices", the representation of the author's determination of the socio-political phenomenon of manipulation, as well as the identification of the characteristics and types of political manipulation.

***Keywords**: manipulation, manipulative behavior, social and political manipulation, political system, institutional manipulation, social practice.*

INTRODUCTION

In the modern social discourse, the concepts of "manipulation" and "manipulative behavior" have a negative emotional coloring, along with a completely neutral mechanistic interpretation. The word "manipulation" is derived from the Latin word manus - hand and ple - fill, and has been initially interpreted as "control via dexterity and skill" and has been referred to the economic and technical spheres of life of the society. In a figurative sense, it means a clever trick, artifice, manipulation of facts to achieve an unseemly goal. Currently, the term "manipulation" has predominantly negative connotation.

Defining the manipulation, Professor E.L. Dotsenko indicates a negative meaning of this social phenomenon. He defines the manipulation as actions aimed at snatching control of another person, winding him/her round finger, which are made so skillfully that the person has an impression that he/she controls his/her actions.

The meaning of the term "manipulation" depends on its application field. Increasingly, such terminology as "manipulation", "manipulative behavior" is used in the social and political sciences, such as political science, conflict studies, and sociology. It should be noted that it

prevails portable and negative meaning with regard to the political life of the society, which is extremely difficult to neutralize.

In the Soviet social science, the manipulation phenomenon has been studied in the framework of the issue of political propaganda. Many works of such famous theorists as P. Gurevich, Yu. Sherkovin were devoted to the issues of political propaganda. In Europe and the USA, the manipulation phenomenon is discussed in detail by such researchers as G. Lasswel, M.E. McCombs and others.

The case study of the manipulation phenomenon can be divided into two areas. The first area explores the intro-personal component of the manipulation process. The researchers working in this direction, focus their attention on the fact that only a particular individual or group of individuals may be considered as an object of manipulation, in addition, they are based on the unilateral manipulation concept, that is, they claim that only one party is the winner and the second one loses completely as a result of the manipulative actions.

The second trend received the code name of socially-oriented or political manipulation study. In the frameworks of the second trend it is investigated the specificity of power relations, possibility of public opinion management, manipulation of international relations, and many other aspects of the political life of the society. The political study of the manipulation phenomenon involves the ability to define the specific personalized actors and the political institutions, political movements and political organizations as the manipulation subjects and objects. The study of manipulative practices in the social and political reality seems the most appropriate in the framework of this approach to the authors.

In the frameworks of this approach to the manipulation phenomenon, there are different definitions of the term. For example, the term "manipulation" is used as the definition of "political fraud in the implementation of state power", "varieties of exercising power, in which its holder influences the behavior of others, without revealing the nature of the behavior, which he/she expects of them", "impact on society by the hidden mechanisms and resources to achieve the desired". In his book "Manipulation of Consciousness" S.G. In his book "Consciousness Manipulation" Kara-Murza defines the manipulation as a latent influence of the subject on the object, a fact of which should not be seen by the object itself.

MATERIALS AND METHODS

The research object is the manipulation phenomenon in the socio-political reality. The research subject is the characteristics and patterns of implementation of the manipulative practices in the contemporary social space. Driven by the methodological grounds of the neoinstitutional approach, the study includes a theoretical analysis of definition of the manipulation phenomenon, the constituent elements and the forms of political manipulation. The comparative analysis is implemented by the authors under the parameters of differences of the definitions and theoretical interpretations of the manipulation phenomenon, and as the main methodological paradigm in the distinguishing and studying the main forms of institutional manipulations.

RESULTS

Having analyzed the definitions of such concept as "manipulation" in the framework of the socio-political approach, we have formulated the following definitions. The manipulation (in the broad sense) is a hidden impact, as a result of which the manipulation subject receives the

one-sided advantages, while the manipulation object remains in a state of equilibrium or loses some benefit, while being in the illusion of independence of decisions made by him/her. In a narrow sense, the manipulation should be understood as a hidden non-verbal action, as a result of which the manipulation subject gains the actions performance by the object, giving benefit to the subject.

Also it remains important the issue of delimitation of such concepts as "manipulation" and "manipulative behavior". Conceptually, two these concepts have the same meaning, but in our opinion, the "manipulation" should be understood as the individual acts of influence and hidden influence, while the term "manipulative behavior" refers to the length of this process, its repeated nature and duration of a latent influence by the subject on the object. The manipulation is a complex, lengthy and very specific process of interaction between the subject and the object concerning a specific, meaningful item (problems, things, scope of relations) for the purposes of the manipulator.

The definition of such concept as "political manipulation" narrows the concept in the application area of the term, while expanding the ambiguity and variability of its interpretation. The political manipulation is a complex socio-political phenomenon, structured on a variety of grounds, which is a dynamic and contradictory process. The political manipulation is only possible, if we are talking about the political actors, political system elements of the state. The political manipulation is different from the influence of political power by the lack of direct reference and a threat of sanctions.

The term "political manipulation" is most often used in the political science literature to refer to the regular inoculation of social and political myths, illusory ideas, supporting certain values and norms, perceived mainly on faith without rational or critical thinking, in the social consciousness by the subject of power. And in this case, the subject of political power may be represented by both a single individual and a group of individuals - the party, movement, and even the whole apparatus of the state. Because William Riker gives examples of manipulation carried out by different policy subjects in his book "The Art of Political Manipulation".

Many election campaigns of the USA presidential candidates, state governors are a clear example of political manipulation. The image of the candidate, which is inoculated into the public consciousness, is not true, it is complemented by the necessary details - specific socio-political rhetoric, false biography facts, distinctive gestures, etc. - to increase the popularity among the public. As an example of public manipulation, Riker gives the myths created by the state apparatus of the USSR and the USA in the middle of the 50-60s in the XX century. The myths are understood as an illusory picture of the world, a particular perception of certain phenomena.

Thus, the load-carrying structures of the manipulation system of public consciousness in the USSR were the myths about private property as a major source of social and political damage; about the inevitability of the capitalism collapse and the decadent West; about the leading role of the working class and the Communist Party. In the USA, according to the opinion of Herbert Schiller, which he expresses in his book "The Consciousness Manipulators", the main myths have been the myths about a greedy selfish American with a constant thirst for money-making; about faith in the neutrality and accountability of the USA mass media and the USA government authorities.

Based on the characteristics of manipulative actions, as well as the analysis of historical facts, we can make a conclusion that the political manipulation is a hidden control of political

consciousness and behavior of people in order to force them to act in the interests of the manipulators, the imposition of the manipulator's will in the form of hidden influence.

DISCUSSION

The political manipulation phenomenon is a great challenge for the researchers and policy analysts. The problem is in the definition of the concept of "political manipulation"; another big problem is its detection and empirical identification. The manipulation is a huge challenge for the analysis of political events, taking into account public opinion and building the statistical data, precisely because of its hidden influence. In our opinion, it is appropriate to classify the political manipulation phenomenon from the point of view of the subject of political power. But it should be clarified that the subject of manipulation can be represented only by a political actor, who really has the political power, resources, the ability to influence on the agenda and the actions of other political actors, as well as on the society as a whole and its individual members or population groups. According to such a classification, we can distinguish: the political leader manipulations, the political party manipulations, the public authorities manipulations and the manipulations of parapolitical and social organizations and movements.

In recent years, the western political science literature has started to use another term - the institutional manipulations. In general sense, this definition refers to the totality of the manipulative practices carried out in the framework of political institutions. The very concept of "political institution" is often narrowed down to the concept of "state", however, this concept is much wider.

The term "institution" (from the Latin "institutum") means the initiation, law, postulate. Max Weber wrote that "the state is a refined political institution, is a community of people whose behavior is based on the rational initiations". E. Durkheim believed that the political institutions, on the one hand, represented some ideal images in the form of customs and beliefs, and on the other hand, these customs and stereotypes were realized in the practical work of social organizations of different times and peoples. Until the XX century the administrative institutions and legal norms were called the "political institutions" under the influence of the law school ruling.

In his book "Political Institutions" Josep Colomer writes that the political institutions are the formal rules of the game in relation to the major issues of political life of the country. William Riyer also considered the individual choice of a political player as an embodiment of activity of the political institutions. By defining the political institutions as a set of rules, Riyer investigated how a different institutional design could have an impact on the preferences and strategies of the players, as well as to create the opportunities for manipulative actions.

The institutional manipulations in the broad sense are the manipulations of the system of political institutions. The institutional manipulation can be defined as such by several roles of a political institution: as the subject, object and mechanism. The practices of institutional manipulation, in which the political institution serves as the subject of manipulation, are much less common. In this case we are faced with a variety of institutional conflict, when the institute-organization manipulates the institute-norm. More often the institute-organization becomes a victim of manipulation desire of political actors (politicians, parties, social movements, etc.), at the disposal of which the institution occurs. The institutional manipulations are primarily the prerogative of the ruling elite as the political actors shall have sufficient resources and mechanisms of action to implement them.

CONCLUSION

The political manipulations are a complex, controversial phenomenon, at the study of which it shall be taken into account both the formal and informal aspects of functioning of the political institutions. The differentiation of such concepts as "manipulation" and "manipulative behavior" is necessary for the classification of socio-political action on the duration and significance. The institutional manipulations are the manipulating practices in the sphere of institutions.

The study of manipulative practices in the field of political institutions enables the researcher to identify the causes and factors of transformation of the political system; to develop of a successful or unsuccessful completion of the political process; to compare the effectiveness of functioning of the political institutions; to reveal a subjective role of political actors in the policy of the state. In addition to the theoretical, the study of manipulative practices has an applied significance, as their classification and identification of specific features provide the opportunity to study the mechanisms of implementation of political manipulations in the public authorities and to use the lessons learned to prevent the manipulative actions in the future.

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COMPARATIVE LEGAL CHARACTERISTICS OF FRANCHISING INSTITUTE IN RUSSIA AND ABROAD

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ABSTRACT

This article is a comprehensive research of terminological definitions of "commercial concession" and "franchising" in the Russian legislation and the legislation of foreign countries. It is methodologically grounded the unification of such concepts as "commercial concession" and "franchising" in the Russian civil law. On the basis of a comparative analysis of domestic and foreign rules of law it is identified the logical-conceptual approach to the development of such concept as "franchising". It is established that the basic concepts in the field of commercial concession in order to eliminate a terminological confusion should be subjected to systematization as standard and mandatory to use in the regulatory legal acts of the Russian Federation (RF). It is scientifically grounded the unification of such concepts as "commercial concession" and "franchising" in the Russian civil law. It is given the author's definition of such concept as "franchising".

Keywords: *commercial concession; franchising; intellectual property; license agreement; civil law.*

INTRODUCTION

It is devoted a considerable attention to the concept of commercial concession in the domestic and foreign literature. Today, there are many approaches to its elucidation. However, the theoretical analysis of the concept under consideration shall be of practical significance, and the working out of recommendations on the harmonization of terminology shall have its actual use.

One of the problems in the Russian legislation is the unification of terminology in the field of commercial concession. And the problem is not only in the used concept selection, but also in the content, which is embedded in it. Thus, it is necessary, firstly, to develop a common terminology in the field of commercial concession, and secondly, to develop a precise definitions with the purpose of the uniqueness of understanding and application, both by the citizens and the law enforcement agencies.

A settlement of these shortcomings of legislation can solve the following problems:

- It will enable to bring the Russian legislation in the field of commercial concession to the international standards;
- It will facilitate the application of the institute and its individual tools in the business activities;
- It will enable a common understanding by the law enforcement agencies of Russia, foreign countries and international organizations;
- It will contribute to the effectiveness of application of national legislation in the development of economic relations, both on domestic and on the international scene.

METHODS

The ongoing reform of the civil law makes it necessary to address the problems of legal regulation of commercial concession. Even with the adoption of Part Two of the Civil Code of the Russian Federation (the CC RF), the legislator has introduced this concept, having settled it in Chapter 54 of the CC RF.

The concept of commercial concession agreement, legalized by the Russian civil law, does not fully reveal its sense. So, under the commercial concession agreement one party (the franchisor) undertakes to provide the other party (the franchisee), for compensation for a period or without specifying the period of the right to use, a set of the exclusive rights belonging to the legal owner in the franchisee's business, including the right to a trademark, service mark, as well as the rights to other objects of exclusive rights provided by the contract, in particular to the commercial designation, production secrets (know-how) (paragraph 1027 of Article 1 of the CC RF).

The developers of the CC RF project have noted that "the concept of "commercial concession" was used in the preparation of the CC RF as the most appropriate within the meaning of the English word "franchise", but they have not explained the reasons for such a use. On the one hand, an important goal of Russia is its access to the international market, contributing to the implementation of which our country has legally recognized the general principles and norms of international law as an integral part of the legal system of the Russian Federation. On the other hand, the inclusion of the concept of "commercial concession" to the legislation of the Russian Federation introduces confusion in terminology, which is identified with the concession by many persons.

It is necessary to consider the etymological roots of these concepts with a view to clarify their meaning and identify their similarities and differences.

The term "concession" comes from the Latin "concession" and means a grant, gift, concession. Even in the Roman law "concession was considered as permissions, which the state gave to an individual for the performance of public functions".

Today, the concessions, according to the Federal Law "On Concession Agreements" dated July 21, 2005, are considered as an agreement under which one party (the concessionaire) undertakes at its own expense to create and (or) to reconstruct the property determined by this agreement, ownership that is owned or will belong to the other party (the concession grantor), to carry out the activities with the use (operation) of the object of the concession agreement, and the concession grantor undertakes to provide the concessionaire for a period specified by the agreement, with the ownership and the right to use the object of the concession agreement for the implementation of such activities.

Quite often there is confusion in the use of these terms in the legal literature, normative legal acts and other official sources, as well as in the judicial practice, and it may be understood that it is a case of the concession or commercial concession only from the sense of the author's works. For example, the judgment of the Federal Arbitration Court of the Ural District dated July 6, 1998 includes the term "concessionaire" instead the term "franchisee".

RESULTS

Comparing all definitions analyzed in the paper, the following attributes, which are inherent in any system of franchising, may be distinguished:

1) The transfer of the right to conduct business by the franchisor to the franchisee, using the trademark and trade name, know-how, developed and owned by the franchisor on the right of ownership;
2) The mandatory implementation by the franchisor of the control over the franchisee business conduct;
3) The compulsory payments to the franchisor for the rights transferred to the franchisee;
4) The obligation of the franchisor to provide the franchisee with the assistance in doing business, including management training of the personnel, marketing of products, provision of advertising and marketing services, as well as commercial and technological assistance;
5) The independence of the franchisor;
6) The registration of relationship between the franchisor and the franchisee by the franchise agreement.

The problem resolution of unification of legal terminology shall be carried out in three stages, which can be described as analytical, preparatory and principal.

The first step is to identify and analyze all kinds of opinions and approaches to the definitions in the field of commercial concession, as well as to explore in this regard the current Russian, foreign and international law.

In the second stage, with the help of logical and conceptual analysis of legal language, it is necessary to develop a list of terms with their semantic model, to be unified.

In the third step of verification, the systematization and standardization of concept can be divided into several sub-steps, in which it is necessary to:

1. Take into account all known Russian names - synonyms designating the concept, or use similar synonyms of foreign origin;
2. Separate obsolete words;
3. Separate the names that do not meet the stylistic norms;
4. Analyze the remaining terms in terms of tradition, limitations of their use in the domestic and international practice, their stability in the legal language.

As a result of the work performed, to eliminate the terminological discord it is necessary to develop the basic names of the relevant legal concepts with the obligatory explanation of their content, which shall be subjected to systematization as standard and mandatory to use in legal language and in all normative legal acts of the Russian Federation. The instability of terminological field creates a direct threat to the effectiveness of both the legislative process and the further use of the commercial concession legislation.

DISCUSSION

The similar relationships in the current international practice are referred to as the "franchising". However, the legislators from different countries, generating its definition, do not equally come to the problem of meaning and content of this term. At that they use and apply such definitions as "franchise", "franchise agreement", "complex entrepreneurial license" and others. As noted by R. Baldi, the difficulties in determining the franchising concept are due to a very wide range of different forms, in which it is implemented in practice, and due to its features, manifested in each country.

The Law of the Republic of Moldova "On Franchising" dated October 1, 1997 No. 1335-XIII in Article 1 defines the franchising as a system of contractual relations between the enterprises in which the party, named the franchisor, provides the party, named the franchisee, the right to produce and/or sell the specific products (goods), to provide specific services on behalf of and under the trade name of the franchisor, as well as the right to use its technical and organizational assistance. Based on this definition, we can say that the franchising is essentially a very complex system of contractual relations and is the integrity of such relations as rental,

leasing, purchase and sale, business (lease contract), representative office, joint venture, companies with foreign capital.

In the legislation of the Republic of Kazakhstan the franchising is named as a complex entrepreneurial license, which is a business activity, in which the franchisor of the complex of exclusive rights provides it to the use in return for a consideration to another person. Similar to the Republic of Kazakhstan, the franchising is also a synonym of the complex entrepreneurial license in the Civil Code of the Republic of Belarus of 1998, Chapter 53.

The USA have specific legislation on franchising, both federal and adopted in some states, but it does not regulate the actual franchise relationship and is mainly devoted to the pre-contractual relations between the parties and the agreement conclusion. The acts include such notions as "franchise" or "franchising".

The basis of the legal regulation is the Automobile Dealer Franchise Act of 1956 and Petroleum Marketing Practices Act of 1978. A feature of these acts is that they establish the franchise relationships between the parties to a simple dealer, commercial or service type, as well as serve as a legislative model for the USA.

The franchising is considered in some another aspect by the legislation of some states of the USA. For example, in the Law of California State "On the Franchise Relationships" of 1970 the "franchise" means a contract or an agreement between two or more persons, according to which:

1. The franchisee-enterprise gains the right to engage in business, offering, selling goods or providing services under the marketing plan or the system mainly developed by the franchisor-enterprise;
2. The business activity of the franchisee-enterprise is made in accordance with such a plan or the system is substantially associated with the franchisor's trademark, service mark, logo, advertising or other symbol that determines the franchisor-enterprise or its subsidiary;
3. The franchisee-enterprise shall pay, directly or indirectly, a consideration to the franchisor.

In the Great Britain the franchising was defined in 1986 in the Law "On Financial Services" as an agreement on the right to conduct business, according to which a person should receive profit or income, using the right to use the trade mark, design or other intellectual property or reputation associated with them, provided to him/her under the agreement.

In the Law of France "On the Development of Commercial and Artisanal Enterprises and Improving the Economic, Legal and Social Conditions of Their Functioning" No. 89-1008 dated December 31, 1989, the franchising is defined as the provision of the trade name or mark by a particular person to the custody of another person, with the requirement of the latter to comply its activities with the relations of exclusive or almost exclusive nature.

An important role in the definition of franchising and the justification of its legal nature in Europe has played the decision of the European Court of Justice under the case No. 161/84 dated January 28, 1986, which pointed out that the franchising should be considered as a sui generis contract, different from both the traditional trade mediation agreements (agency, commission, etc.), and from the exclusive distribution contracts such as commercial concession.

In the definition of franchising, fixed in the Regulation of European Commission No. 4087/88, it is revealed one of the most important of its components - the franchise, meaning the package of rights to the industrial or intellectual property, relating to trademarks, trade names, shop signs, utility models, designs, copyright, know-how or patents, to be used for the resale of goods or services to the end users.

In several European countries, such as France, Belgium, Switzerland, it is used the term of "commercial concession", but it means an "exclusive" agreement, i.e. an agreement by virtue of which the right to the exclusive distribution of goods is transferred to third parties. This means that during the validity period of the contract, only the counterparty of the goods manufacturer, which ensures a certain monopoly in respect of the goods in the contract territory, will have the right to sell this products in the territory established by the contract. Therefore, we can conclude that the "commercial concession" in these European countries differs by its legal nature from the "commercial concession" set out in Chapter 54 of the CC RF.

An active development of study of such concept as "franchising" occurs in the developing countries.

CONCLUSION

The developed terms and their definitions should be further included in Chapter 54 of the CC RF, as well as in the definitive norms of specific legislation on franchising, which will ensure the accuracy and uniformity of their understanding and application.

From the above legal definitions laid down in the legislative acts of the countries under consideration, we can say that, firstly, there is no single recognized terminology indicating the same way of the entrepreneurship activities. For example, there are used such concepts as "franchising", "franchise", "complex entrepreneurial license". Secondly, it is brought a distinction, though not always clear, in the difference of the legal nature of the "franchising", "commercial concession" (the so-called "exclusive agreements"). Thirdly, there is a significant discrepancy in the understanding of the franchise in the USA and European countries. As rightly pointed out by G.B. Kochetkov, that "despite the significant measures to unify the laws that govern the rules of business conduct in the European Union, there are still the considerable differences in the legislation that prevent the rapid spread of franchising".

In our opinion, the relations under consideration should be called franchising. Firstly, this method of business was born and formed abroad. Secondly, in most countries it is called franchising. Thirdly, there was a fairly stable practice of using this terminology both in foreign countries and in Russia. Franchising is a broader concept than the franchise agreement itself, as it may also include other agreements: license agreement, joint activity agreement, sale and purchase agreement, etc.

Thus, the franchising is a system of legal relations based on the promotion on the goods and/or services, as well as the technology in the market, which is based on close and continuous collaboration between the legally and financially independent parties - the franchisor and the franchisee. Franchising can be defined as a way of doing business generated through the system of contractual relationships, in which one party, called the Franchisor, provides the other party - the Franchisee, with the right to use its brand name, brand mark, service mark, trademark, business technologies, business idea, supply, development, marketing and advertising under certain conditions, including under the counter financial satisfaction, while maintaining full legal and economic independence by the Franchisee.

It seems necessary to continue our work on a comprehensive research of terminological definitions of "commercial concession" and "franchising" in the Russian legislation and the legislation of foreign countries. It is advisable to make a comparative analysis of logical and conceptual approach to the concept of "franchising", developed by the foreign civil doctrine.

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THE REALIZATION OF THE CONCEPT OF FLEXICURITY IN ATYPICAL EMPLOYMENT RELATIONSHIPS

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ABSTRACT

The article discusses a reflection of the concept of flexicurity in the rules governing the non-standard employment relationships. The authors analyze the different national models of flexicurity (Danish, Dutch, Austrian and Estonian) and indicate that the effective model of flexicurity shall ensure a balance between the flexibility and security, the need for which is revealed most fully in the conditions of atypical employment distribution. It is stated that every country is looking for its own ways to achieve this balance, and it is invited to consider the interaction of flexibility and security on the example of atypical employment relations in the Russian Federation. To this end, it is given the characteristic of atypical employment and highlighted its forms; a more detailed analysis is made for such atypical employment relations as fixed-term employment, part-time employment, teleworking and agency work. Each of these forms has both the rules, providing the flexibility of legal regulation, and the "protective" rules. It is concluded that the rules governing the non-standard employment relationships should be formulated in such a way as to enable to provide adequate flexibility and security in the legal regulation of employment relations, providing everyone with the right to decent work. It is in this vein we see the further development of the Russian labor legislation.

Keywords: *atypical employment, atypical employment relationships, atypical employment contracts, flexicurity, fixed-term employment, part-time employment, teleworking, agency work.*

INTRODUCTION

The crisis phenomena in the modern world economy put on the agenda the issues of the labor market flexibility and security with new force. There is a new concept, the principle of flexicurity, implying an organic unity of two principles in the legal regulation of employment relations: flexibility and security. As the famous Professor Roger Blanpain wrote: "Flexicurity is one of those magic words everyone can agree upon. We all want to be flexible and secure. No doubt".

In Europe, two main flexicurity concepts were recognized: Danish and Dutch. They are based on different approaches and principles. For example, in the Dutch system the atypical employment forms are accompanied by the provision of atypical workers with the rights similar to ordinary employees of traditional employment relations. In the Danish model the flexible employment has little protection against dismissals, but it is balanced by the measures of active employment policy of the population aimed at retraining workers ("life-long continuous learning"), payment of unemployment benefits of decent size.

A special "national flavor" is owned by the Austrian model of flexicurity in the labor market. Its unique feature has been and still is a great importance of collective agreements, the

scope of which is perhaps the highest in the states of the European Union. More than 95% of all employment relationships are covered by the collective agreements. Austria has had and still has a very centralized system of establishing labor standards, especially the minimum wages.

Meanwhile, not all the EU member states consider effective the implementation of flexicurity policies in the labor market. For example G. Tavits writes about the unilateral policy of flexicurity in the labor market in Estonia: "Estonia has taken only one component of flexicurity - flexible labor relations. It is obvious that the concept of flexicurity could be used for any reform of labor relations. At the same time nobody uses the notion of flexicurity for amendments in social security law".

Thus, the effective model of flexicurity in the labor market shall ensure a balance between the flexibility and security, as every manifestation of flexible regulation of deviations from the standard employment shall be coupled with the guarantees of workers' rights, the stability of employment legal relationship. Every country is looking for its own ways to achieve this balance, taking into account its socio-economic, national conditions, legal traditions, as well as international and foreign experience in some part. The Russian Federation constitutes no exception, as evidenced by the changes and amendments to the Labor Code of the Russian Federation in recent years in regard to the legal regulation of new types of employment contracts.

The need for organic combination of flexibility and security is revealed most fully in the conditions of atypical employment and the emergence of atypical employment contracts, especially in the economic crisis, because the atypical workers are in particular the first to suffer changes to their status and employment relationship when the labor market adapts to the changes imposed by the economic crisis.

Based on the foregoing, the aim of this study is to analyze the flexibility and security manifestations in the atypical employment relationships. For that end it is proposed to characterize the atypical employment and its forms and to illustrate the interaction between the flexibility and security on the example of atypical employment contracts in the Russian Federation.

METHODS

The sociological method was used in the study of the manifestations of atypical labor relations in modern society, as well as in the identification of positive and negative consequences of the increasing number of atypical employment contracts.

The comparative legal method of the study enabled to compare the manifestations of flexicurity concept in different countries and to allocate its models on this basis.

The use of formal legal research method made it possible to identify the forms of atypical employment and the combination of flexibility and security first principles in its legal regulation.

DISCUSSION

Definition and Forms of Atypical Employment

The complexity of the definition of atypical employment is linked primarily with the variety of terms used in science to describe the phenomenon under investigation.

So, it is possible to come across the term "precarious employment". It is noted that its usage "places the focus on material and psychological insecurity in employment relationships, which is characteristic of marginal part-time employment and fixed-term contracts". Unlike the

"precarious employment", the terms "atypical employment" and "nonstandard employment", showing the deviation of such employment from this kind of "standard", do not indicate the degree of insecurity of workers.

As part of our study we will use the term "atypical employment", implying the employment, which deviates by one or more parameters from the typical employment. A typical (standard) employment may be defined as "full time employment in which the contract term is not limited". It also can be added the work performance on a stationary workplace under the direct supervision and control of the employer.

The combination of these deviations is most fully manifested in the allocation of atypical employment forms. K. Ogura classifies the atypical employment in the part-time work, agency work, fixed-term employment (temporary employment, daily employment and contract employment) and others (on-call work, telework, etc.). The authors of the study devoted to the atypical work in the EU countries, divide the atypical employment to atypical working times, which include part-time work, temporary work, seasonal work, casual work, and atypical working place and/or status, which includes homework, telework, self-employment, family work.

The above forms of employment exist in varying modifications in the Russian Federation, however, not all of them are governed by the labor law (for example, self-employment, which implies independent provision of the citizen with work on his/her own); some forms of atypical employment have not received an adequate legal regulation in the Russian Federation (for example, "on-call work").

In this regard, we shall consider in more detail the forms of atypical employment, which are regulated by the labor legislation of the Russian Federation and are mediated by the atypical employment contracts. The famous Russian scientist I.Ya.Kiselev attributed the employment under the fixed-term employment contracts, part-time work, telework and agency work to the atypical employment. These forms will be the subject of further research.

Fixed-Term Employment

The fixed-term employment means employment with a fixed-term employment contract - with the fixed-term contract (Article 59 of the Labor Code of the Russian Federation).

Due to the fact that the presence of term in the employment contract deprives the employment relations of stability and significantly worsens the status of workers, the current labor legislation of the Russian Federation approaches hard enough to the issues of terms establishing:

1) The labor legislation provides two "general" cases of the term establishment: when the employment relationships cannot be established for an indefinite period depending on the nature of the oncoming work or the conditions of its performance, and when the term of the employment contract is established by the agreement of the parties;
2) For the specified cases, it is provided a list of grounds for the conclusion of the fixed-term contracts (Article 59 of the Labor Code of the Russian Federation);
3) The legislator protects the employees against the unjustified conclusion of the fixed-term employment contract (Part 3-6 of Article 58 of the Labor Code of the Russian Federation).

These standards become a "stumbling block" between the flexibility and security in the sphere of labor. The representatives of the employers have long advocated for the extension of the list of grounds for the conclusion of the fixed-term employment contract, but the position of the Russian legislator is consistently on the side of workers on this issue.

Part-Time Employment

The specified form of atypical employment is one of the most common and differs from the typical employment relationships by the fact that an employee works less than normal working hours (in the Russian Federation - at least 40 hours per week).

In the Russian Federation, a part-time employment is established by the employment contract, providing the mode of part-time working day and (or) part-time working week. The flexibility of such employment is manifested in the fact that it is governed in the individual contractual order. By the agreement of the parties of the employment contract it is established (Article 93 of the Labor Code of the Russian Federation):

1) The part-time work itself, both at hiring and subsequently;
2) The period of establishment of the part-time work;
3) A combination of part-time working day and (or) part-time working week.

There are two exceptions to this rule: 1) the employer shall establish a part-time job at the request of certain categories of the employees (for example, pregnant women, Article 93 of the Labor Code of the Russian Federation); 2) the employer may introduce the mode of part-time working day (shift) and (or) part-time working week for up to six months for the reasons connected with the change in organizational or technological working conditions, if such changes may lead to the mass dismissal of employees (Part 5 of Article 74 of the Labor Code of the Russian Federation).

Referring to the part-time employment, it should be stated the prevalence of security over flexibility in the Russian Federation. The establishment of mode of the part-time work is permitted only with the agreement of the parties under a general rule; and its establishment by the employer's initiative is accompanied by the notification procedures made by the latter and the need to obtain the consent of the trade union body, which prevents the abuse of the employer's right and protects the interests of employees.

The security is also supported by the fact that the part-time work employees are not infringed in their rights. Regardless of the number of working hours per week, they can count on a paid annual leave, inclusion of the period of work in the seniority and other rights enjoyed by the full-time employment employees. The only difference is related to the remuneration, the amount of which will depend on the time worked by the employee and volume of work made by him/her.

Teleworking

Article 312.1 of the Labor Code of the Russian Federation defines teleworking as fulfilling the labor function outside the location place of the employer, subject to the use of information and telecommunication networks of general usage, including the network "Internet", to perform this labor function and to implement cooperation between the employer and the employee.

Teleworking has the following features:

1. Work is done at an alternative workplace such as the worker’s own home, telehome, teleworking center, teleoffice or means of transportation
2. The employee works far from the workplace independently and on a regular basis that is one or two days or every day a week
3. Communication with the employer is realized electronically. That is, the employee receives assignments electronically and then returns the accomplished work electronically, as well.

The atypical nature of teleworking is manifested mainly in changing the organizational criterion, since such employment does not require a constant contact of the employee with the employer that leads to the independence of the employee in matters of distribution of working time, rest time and labor standards.

Such "freedom" provides a flexible legal regulation, which manifests itself in a significant prevalence of the individually-contractual method of establishing the working conditions. This factor is reflected in modifying the employment contract content with the remote workers, in which some conditions, obligatory for "normal" workers, disappear and new conditions appear to ensure the remote nature of the work. For example, a condition of the place of work loses its significance in the employment contracts with remote workers; the working time and rest time may not be agreed, if they are determined by the remote worker on his/her own. In contrast to the above, the employment contract with a remote worker shall reflect, for example, the order and terms of his/her provision with the equipment, software and hardware tools for the performance of his/her employment duties. The inclusion of these conditions can be considered as one of the measures aimed at protecting the rights and interests of remote workers, that is, a manifestation of security.

Agency Work

For a long time the "agency work" was one of the most pressing problems of the Russian labor legislation, since the absence of a regulatory settlement translated these relations in the "shadow" market, which deprived the employees employed in this way of the guarantees and compensations. From January 1, 2016 the agency work has been officially banned in the Russian Federation; the agency work has been replaced by the relationships based on the employee (staff) secondment contract.

Despite the change of concepts, these relationships were not changed. The relationships on the employee (staff) secondment, as well as the agency work, have a tripartite nature: their members become a private employment agency (the employer), an employee and other individual person or legal entity (the host party). By virtue of the employee (staff) secondment contract, concluded between the private employment agency and the host party, it occurs some "splitting" of the employer: the employee is in the employment relationships with the agency, but performs the work actually in the interests of the host party and under its regulatory, disciplinary and regulatory power.

The agency work in itself satisfies the interests of flexible market, as it enables the owners of production to respond quickly to the changing market conditions by increasing or reducing the number of staff depending on their needs. The positive aspects of agency work for the business are also associated with a reduction in staff costs, the possibility of hiring additional workers to perform some urgent tasks, the ability to quickly replace the absent employee.

However, there were not only the supporters, but also the opponents of the agency work legalization in the Russian Federation (primarily, the representatives of trade unions), which argued their position by the fact that the legal status of agency workers would be worse than the "ordinary" workers in any case (reduced wages, no additional mark-ups, failure to comply with the safety standards, etc.).

In this regard, the relationships on the employee (staff) secondment have a strong "safety" first principles, including:

1) High requirements to the private employment agencies (for example, presence of the authorized capital in the amount of not less than 1 million roubles);
2) Specification of the cases of employee (staff) secondment to the other entities (Part 2-3 of Article 341.2 of the Labor Code of the Russian Federation);
3) Consolidation of special rules establishing a ban on reducing the amount of payment to the "seconded" employees compared to the host party employees;
4) Establishment of the subsidiary responsibility of the host party under the employer's obligations arising from the employment relationships with the "seconded" employees.

Thus, the Russian legislator, realizing the importance of agency work to develop a flexible market, shall not forget about the enforcement first principles of labor law and prevent the conclusion of the employee (staff) secondment contracts with the conditions worsen the position of workers at the same time.

CONCLUSIONS

The relations emerging on the basis of atypical employment contracts shall receive an adequate regulation by the standards of the industry in any case. At that the new rules should be formulated in such a way as to enable to provide adequate flexibility and security in the legal regulation of employment relations, providing everyone with the right to decent work. In other words, we see the development of the Russian labor legislation in the way of legalization of the Russian model of flexicurity in the labor market, ensuring a balance between flexibility of labor relations and social protection of workers.

SUMMARY

A flexible market can lead to both positive and negative consequences. Expanding the scope of the non-standard employment contracts, of course, has its "pros", which may be expressed in a reduction of the employers' personnel costs, the possibility of providing jobs for more people (for example, by separating the workplaces), the faster labor market adaptation to the economic changes. At the same time, the atypical employment can lead to an increase in social inequality between the typical and atypical workers, the unstable labor relations and the general deterioration of the status of employees. In such circumstances, the study of the concept of flexicurity and its national manifestations becomes more urgent than ever.

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THE FEATURES OF THE CONSTITUTIONAL RIGHTS OF THE CHILDREN IN RUSSIAN FEDERATION

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ABSTRACT

The institute of human rights and freedoms of the child is one of the essential foundations of a modern Russian society, determining the further development of this sphere of public relations. As pointed out by S.A. Avakyan: "The Constitution is a symbol of the epoch, the political significance of which is caused by the fact that it creates the public relations and becomes the foundation of their development". The considered legal institution should develop based on the provisions of the applicable Constitution of the Russian Federation and in view of its inherent characteristics, reflecting its legal essence.

This article is devoted to the problem of formation of the constitutional and legal status of the child in the Russian Federation. It is revealed the content of the concept of "minor" in the different fields of law. It is said about the rights of the child under the Constitution of the Russian Federation.

The issues of relations between parents and children are one of the most difficult problems in the constitutional law science. If more attention was paid to compliance with the child's right in the family, it would be possible to avoid making many offenses and crimes by the minors.

The violations related to children's rights shall be protected and restored by all means provided by the Constitution of the Russian Federation and the law.

The studies on protection of the rights and legitimate interests of children pay not enough attention to the problems of protection of the constitutional rights of the child as an independent legal subject. The modern Russian legislation does not provide a clear definition in the field of constitutional and legal protection of the child and his/her legitimate interests.

The problem of protection of the child's rights will always be relevant for Russia.

Keywords: *child, children, minor, parents, constitutional rights.*

INTRODUCTION

The concept of "child" and "children" in the Constitution of the Russian Federation are used only in three Articles of Chapter 2 "Rights and Freedoms of Human and Citizen": in Article 38, which establishes the obligation of the state and parents to care for children; in Article 39, which contains the provisions on social protection of children; and in Article 43, which establishes the right to education. In other regulations the child is considered to be a subject of legal relations and is included in the term "citizen".

That is the constitutional rights of the child are established on the basis of the main provisions of the constitutional and legal status of the citizen.Thus the constitutional and legal status of the child is a set of rights, freedoms and duties of the child and the guarantees of their implementation, established by the constitutional law, namely: by the Constitution, federal law of the Russian Federation, and also laws and other regulatory legal acts of subjects of the Russian Federation.

MATERIALS AND METHODS

The Convention on the Rights of the Child adopted by the UN General Assembly on November 20, 1989 has faced with the issue of definition of the term "child", as the states' law links this concept with the age criterion, that is, there is a certain period of time during which a person is considered to be a child. It is stated in Article 1, paragraph 1 that the child means every human being under the age of 18 years old, unless he/she will reach the age of majority earlier under the law applicable to the child. The Article 54 of the Family Code of the Russian Federation states the same.

Until that time, it was mentioned only in the Declaration of the Rights of the Child, 1959. It proclaimed the social and legal principles relating to the protection and welfare of children.It was noted that "The child, by reason of his/her physical and mental immaturity, needs special protection and care, including appropriate legal protection, before and after his/her birth". The document consists of 10 provisions (principles, as they were called in the Declaration), the recognition and observance of which should allow "to provide children with a happy childhood".

There is also the concept of a minor (Lat. impubes; pupillus; Eng. minor) — a person under the age of 18 years old in the law of the Russian Federation. This concept is used in variousareas of lawin relation to the persons aged from 14 to 18 years old.

For example, the labor law prohibits the recruitment of persons under the age of 15 years old, as a general rule. However, to prepare the young people to productive labor, it is allowedto recruit the students of educational institutions when they reach the age of 14 years old with the consent of their parents, adoptive parents or guardian; such minors may perform light work functions, not causing harm to their health and not disrupting the learning process (Art. 173 of the Labor Code). In labor relations the minors have the same rights as adults, and in the field of occupational safety, working time, leaves and certain other working conditions they enjoy the benefits, established by the Labor Code and other acts of labor legislation of the Russian Federation.

The civil law distinguishes between minors (persons aged from 14 to 18 years old) and juveniles (persons under the age of 14 years old). Both types do not have full legal capacity, theirlegal capacity is partial. A minor who has reached 16 years old, but who has not passed through the emancipation, has full legal capacity.

In the criminal law, a minor is a person who has been at the age of 14 years old, but who has been under the age of 18 years old at the time of offense commission (Art. 87 of the Criminal Code). The minors, who have committed the offences, may be punished or some mandatory measures of educational influence may be applied to them. The forms of punishments, appointed to the minors, are established in Art. 88 of the Criminal Code. Other features of the criminal liability are specified for them in Art. 89-95 of the Criminal Code of the Russian Federation. In exceptional cases, depending on the offense nature and the person, the court may apply the provisions of Art. 87-95 of the Criminal Code of the Russian Federation to the persons who have committed the crimes at the age from 18 to 20 years old, in addition to placing them in a special educational or medical-educational institution for minors.

Since the concept of constitutional-legal status of the individual includes also the citizenship element, which is regulated by the Federal Law dated May 31, 2002 No. 62-FL "On Citizenship of the Russian Federation", the legal status of the child is determined by its citizenship in the Russian Federation. According to this law: The citizenship of children at the age of 14 years old should be the citizenship of their parents; the citizenship of children at the

age from 14 to 18 years old may be changed in the presence of their consent; the citizenship of children is not changed with the change of citizenship of their parents deprived of parental rights.

Prior to adoption of the new Family Code of the Russian Federation, the conflict issues of relations between parents and children, primarily relating to the maintenance obligations, have not been legally regulated. Now, Art. 163 of the Family Code of the Russian Federation provides that the rights and duties of parents and children, including the duty of parents to maintain their children, are determined by the laws of the state, in whose territory they have a joint place of residence. In the absence of co-residence of parents and children, their rights and duties are determined by the laws of the state of nationality of the child.

The relations between parents and children, being in the Russian Federation, regardless of whether the child is a citizen of the Russian Federation or a foreigner, are governed in full by the Russian law. With regard to foreign parents and foreign children, there are no exceptions from the general order.The parents shall take care of the child-rearing, and children shall take care of their parents and help them. The parental rights shall be carried out exclusively in children's interests.

The procedure for establishing or contesting paternity (maternity) in Russia is determined by the Russian legislation. In the cases when the Russian legislation allows to establish paternity in the civil registry offices, the child's parents, living outside of the Russian Federation, at least one of whom is a citizen of the Russian Federation, shall have the right to submit an application to establish paternity in the diplomatic missions or consular institutions of Russia (Art. 162 of the Family Code of the Russian Federation). The rules on the establishment of paternity are also included in the legal assistance contracts.

The child's ability to acquire the rights stipulated by the Constitution of the Russian Federation (P. 1 of Art. 20) and the family law, arises from the moment of his/her birth. In turn, the Family Code of the Russian Federation divides the rights of minor children into two types: personal non-property rights and property rights.

The personal rights of minor children include, for example:

1) The right to live and grow up in a family (Art. 54 of the Family Code); according to P. 2 of Art. 20 of the Civil Code of the Russian Federation the place of residence of minors under the age of 14 years old, is the place of residence of their legal representatives - parents, adoptive parents or guardians. As a rule, they live together with the minor children of more advancedage. At the separation of parents, the place of residence of the child is determined by the agreement between the parents. If they cannot reach the agreement, the dispute shall be resolved by the court;

2) The right to communicate with their parents and other relatives. In accordance with Art. 55 of the Family Code of the Russian Federation, the child's right to communicate with his/her parents and relatives is not affected by: divorce of parents, recognition of the parents’marriage as invalid, separation of parents, parents living in different countries , as well as the so-called extreme situations (detention of a minor, his/her arrest, detention, being in the medical institution, etc.). There are no restrictions on the forms of communication, and the degree ofkinship with the child is not important at the provision of his/her right to communication;

3) The right to protect (Art. 56 of the Family Code of the Russian Federation) their rights and legitimate interests by their own or through their representatives (legal representatives, tutorship and guardianship authority, prosecutor, and court).

4) The right to express their opinion (Art. 57 of the Family Code of the Russian Federation) in the solution of any issue affecting their interests, including the right to be heard in any judicial and administrative proceedings affecting their interests;

5) The right to name, patronymic name and surname (Art. 58 of the Family Code). According to Art.19 of the Civil Code of the Russian Federation each citizen shall have the right to name. It includes the name, given to the child at birth (own name), patronymic name (family name) andsurname, which is passed to the descendants. This right is exercised by the parents (and in their absence - by the persons replacing them) at the time of registering the child's birth in accordance with the law. The name, patronymic name and surname of the child act as the individualization means.

The property rights of minors include (Art. 60 of the Family Code):

a) Para 1, the right to receive maintenance from their parents and other family members (that is, the able-bodied adult siblings or grandparents);
b) Para 2, the ownership right to the income received by them, the property received as a gift or by inheritance, and to any other property acquired at the child's expense. In accordance with para. 4 the child does not have the ownership right to the property ofhis/her parents, and the parents do not have the ownership right tothe property of their child;
c) The right to own and use the parents property when living with them (by mutual consent of the child and his/her parents).

The Convention on the Rights of the Child proclaims that the parents have a primary responsibility for the upbringing and development of the child, whose the best interests should be the parents' basic concern. This provision has been consolidated not only in the family law, but also in the fundamental laws of many states. We recall that it is established in Part 2 of Art. 38 of the Constitution of the Russian Federation that the childcare and their upbringing are the equal right and duty of both parents.

The parents shall exercise their rights in relation to children under the law and in accordance with their interests. A fundamental principle of exercising the parental authority is the provision of the rights and interests of the child. The child's interest is his/her need to create the conditions necessary for the proper upbringing, maintenance, education, preparation for independent life and successful development.

We consider in detail Art. 39 of the Constitution of the Russian Federation, which states that every child is guaranteed to have social security (para 1); pensions and benefits, in the cases specified by law (para 2).

Just like any citizen of the Russian Federation, the child shall have the right to free health care and medical assistance, as it is stated in Art. 41 of the Constitution of the Russian Federation.

All issues relating to the upbringing and education of children, shall be solved by parents by their mutual agreement, based on the interests of children and taking into account the views of children (para. 2 of Art. 65 of the Family Code), and it is obligatory to take into account the point of view of a child, who has reached the age of ten years old (Art. 57 of the Family Code).

The right to education is the fundamental and inalienable constitutional rights of the child (Art. 43 of the Constitution of the Russian Federation). However, the right to choose the form of education is assigned only to the adult citizens (Art. 50 of the Law of the Russian Federation "On Education"). This means that the form of education can be selected for the child only by the parents or the persons replacing them.

As the minors do not have full legal capacity (and the minors at the age of six years old are completely incapacitated), and therefore are not able to protect their rights and legitimate interests, Art. 64 of the Family Code of the Russian Federation establishes the parents duty to protect the rights and interests of their children and, consequently, gives them the status of legal representatives of their children.

The Convention regulates the rights of children, provides the state's obligation to ensure the child protection necessary for his/her well-being and to take all appropriate legislative and administrative measures (Art. 3). This provision of the Convention is reflected in Art. 2 of the Constitution of the Russian Federation, which states: the recognition, observance and protection of the rights and freedoms of human and citizen is the duty of the state. At that the state shall not only create the system of rights and freedoms, in which different entities, intended to protect the rights and freedoms should be combined, but also provide and establish clear procedures of such protection.

The Article 7 of the Federal Law "On Basic Guarantees of Child Rights in the Russian Federation" stipulates the forms of child assistance in the implementation and protection of his/her rights and legitimate interests. Accordingly, there are four groups of subjects providing such assistance:

- Public authorities of the Russian Federation, state authorities of the Russian Federation, officials of these bodies;
- Parents of the child (persons replacing them);
  Educational, medical, social workers, psychologists and other specialists who, in accordance with the legislation of the Russian Federation, shall be responsible for the work on upbringing, education, health care, social support and social services of the child;
- Public associations (organizations) and other non-profit organizations.

In connection with belonging to the citizenship of the Russian Federation the child shall have also some responsibilitiesin addition to the rights and freedoms. The child shall comply with and implement the regulations of the Constitution and Federal Law (Art. 15 of the Constitution of the Russian Federation), receive basic general education (Art. 43 of the Constitution of the Russian Federation), care for the preservation of historical and cultural heritage, historical and cultural monuments (Art. 44 of the Constitution of the Russian Federation), preserve nature and environment, and care for natural resources (Art. 58 of the Constitution of the Russian Federation).

The state guarantees shall mean the conditions and means used by it (of economic, political, legal nature) to ensure a real opportunity to implement the rights and freedoms of human and citizen.

RESULTS

In accordance with their competence the public authorities of the Russian Federation, the public authorities of subjects of the Russian Federation, the officials of these bodies assist to the child in the implementation and protection of his/her rights and legitimate interests, taking into account the child's age and within the scope of legal capacity of the child established by the legislation of the Russian Federation by the adoption of appropriate regulatory legal acts, carrying out methodical, informational and other work with the child on explaining his/her rights and duties, the order of the rights protection established by the Russian Federation, as well as by the promotion of performance of his/her duties by the child, the support of enforcement practices in the field of protection of rights and legal interests of the child. At that the selection of a particular way of promoting the child in the implementation and protection of his/her rights and

lawful interests by the public authorities of the Russian Federation, the public authorities of subjects of the Russian Federation, the officials of these bodies depends on the scope of legal capacity of the child and his/her age as a result.

CONCLUSIONS

Thus, we can conclude that if more attention was paid to compliance with the children's rights in the family, it would be possible to avoid committing many offenses and crimes by the minors.

SUMMARY

In conclusion, it should be noted that the definition of the term "child" is very important in the constitutional law of the Russian Federation. The violations related to the children's rights shall be protected and restored by all means provided by the Constitution of the Russian Federation and the law. In particular, each person (or his/her legal representatives) shall have the right to defend his/her rights and freedoms by all means not prohibited by law - from application to the courts, law enforcement agencies, etc. to the legitimate self-defense and legitimate application to the international organizations, judiciary authorities, ensuring not only the restoration of violated rights, but also a compensation for the material and moral damages caused by such violation.

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CONCEPT AND CRIMINOLOGICAL CHARACTERISTICS OF CORRUPTION CRIMINALITY

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ABSTRACT

The foreign researchers also call corruption a key issue facing the Russian state. And, accordingly, it is brought up the issue on the reduction of employees, abolition of legal regulation of many relationships and state supervision of many areas of activity. But it is not the case, it is the characteristics of employees, the size of their maintenance, the order of their activity and control. Maybe then the criminal cases would not be opened on the fact of corruption against the public servants, as it happened, for example, with the governor of the Sakhalin Region A. Khoroshavin.

Keywords: *criminal law, criminal procedure, criminology, anti-corruption, corruption, criminality, crime, commercial bribery, bribe, falsification.*

INTRODUCTION

The Article 1 of the Federal Law No. 273-FL "On Combating Corruption" determines the conceptual apparatus used by the Law and gives the legal definition of the term "corruption":

a) First of all corruption is the abuse of occupational status, bribery, acceptance of bribes, abuse of power, commercial bribery or other unlawful use of the official position by the individual person contrary to the legitimate interests of society and state for the purpose of benefiting in the form of money, valuables, other property or property-related services, other property rights for himself/herself and for third parties, or illegal provision of such benefits to the said person by other individual persons;

b) It is the implementation of the acts mentioned in sub-paragraph "a", on behalf of or for the benefit of a legal person.

Despite the fact that the legislator has defined the concept of corruption, the scientific debates about the configuration and nature of corruption, the economic costs of corruption in Russia, by the way, are measured in billions of dollars per year. Thus, the first half of experts suggests that corruption is a social and legal phenomenon, encompassing both immoral and illegal crimes. The second half insists on the fact that corruption is always a socially dangerous phenomenon, consisting only of the crimes. The third half of experts is based on limiting the corruption with the bribery. And the fourth half includes also the official misappropriation in the concept of corruption, that is, it does not reduce the corruption just to the bribery.

The foreign researchers also define this phenomenon as the avoidance by the politicians, employees of the state apparatus, businessmen and others of performing their official duties for the sake of personal, family or group interests in order to enrich themselves and improve their social status.

It should be noted that the term "corruption" is not used by the Russian criminal legislation. But this does not mean that the criminal law does not include the regulations on liability for this type of crime. The regulations on bribery, abuse of power (Art. 285 of the Criminal Code of the Russian Federation), forgery (Art. 292 of the Criminal Code of the Russian Federation) and other carry out namely this assignment. In our view, it is appropriate to enter the definition of "corruption" and the list of corruption crimes into the General Part of the Criminal Code of the Russian Federation, which will enable to provide a more complete statistical accounting of corruption-related crimes in our country, to trace its dynamics and will help fill gaps in the Criminal Code of the Russian Federation.

MATERIALS AND METHODS

During the study we used the general scientific (logical and historical, systemic and structural approach, analysis and synthesis, etc.) and the common scientific methods (comparative and legal, concrete-sociological, formal-logical and comparative law method). Using a variety of methods has enabled to construct the basic theoretical conclusions and offers for the statutory regulation of the analyzed legal relations.

RESULTS

For example, the legislative formulation of intent hides two incompatible regulations under its verbal expression. Within the meaning of Art. 25 of the Criminal Code of the Russian Federation, it is not necessary to conscious the illegality to recognize the act as the act committed by the wrongful intention, along with it, in accordance with Art. 289 of the Criminal Code of the Russian Federation (illegal participation in the entrepreneurial activity), the consciousness of willfulness illegality is a required component of the subjective side of this type of crime. This suggests that there is a non-compliance with the logical correctness in the current criminal legislation. The legal rules are characterized by the fragmentation nature, and sometimes there is no connection between the other articles of the Criminal Code of the Russian Federation.

The corruption crimes include the socially dangerous acts stipulated by the criminal law, which infringe on the authority and legal interests of the service and are expressed in the illegal use of any privilege, for example, benefits, services or money by the state, municipal officials or the employees of commercial or other organization.

Firstly, it is the crimes stipulated by the criminal law, which are directly related to the bribery of corrupt officials:

- Illegal obtaining and disclosing the information constituting a commercial or banking secrecy committed by bribery (Art. 183 of the Criminal Code of the Russian Federation);
- Bribery of participants and organizers of professional sports competitions and entertainment commercial competitions (Art. 184 of the Criminal Code of the Russian Federation);
- Preventing the implementation of electoral rights or the work of election commissions linked to the bribery (Art. 141 of the Criminal Code of the Russian Federation);
- Commercial bribery (Art. 204 of the Criminal Code of the Russian Federation);
- Acceptance of bribe (Art. 290 of the Criminal Code of the Russian Federation);
- Giving bribe (Art. 291 of the Criminal Code of the Russian Federation);
- Crimes committed by persons performing the managerial functions in the commercial and other organizations (Art. 201, 204 and 184 of the Criminal Code of the Russian Federation).

In addition, the Criminal Code of the Russian Federation classifies other acts of corruption nature as the corruption-related crimes. They include: registration of illegal actions with the land plots (Art. 170 of the Criminal Code of the Russian Federation), abuse of power (Art. 201 of the Criminal Code of the Russian Federation), fraud (Art. 159 of the Criminal Code of the Russian Federation), misappropriation and embezzlement committed with the use of occupational status (para. "в", P. 159 and 160 of the Criminal Code of the Russian Federation), illegal participation in the entrepreneurial activities (Art. 169 of the Criminal Code of the Russian Federation), forgery (Art. 292 of the Criminal Code of the Russian Federation).

There is a classification given in the Order No. 3 dated December 31, 2014 "On the Enforcement of the List of Articles of the Criminal Code of the Russian Federation Used in the Preparation of Statistical Reports" adopted by the General Prosecutor Office of the Russian Federation and the Ministry of Internal Affairs of the Russian Federation. This Order has introduced the List No. 23 "Corruption Crimes". According to the List, it is distinguished 4 mandatory criteria for all the crimes of the category under consideration:

1. Link of acts with the occupation status of the subject. Deviations of his/her direct rights and duties.
2. Availability of appropriate subjects, which are marked in the Criminal Code of the Russian Federation. They include:

a) a public servant, who permanently, temporarily or on special authority exercises the responsibilities of public officer or performs the organizational-administrative, administrative-economic activities in the public authorities, local self-government authorities, state and municipal authorities, public corporations, as well as in the Armed Forces of the Russian Federation;

b) persons, who exercise the managerial functions in the commercial or other organization and act for and on behalf of the legal person, as well as in the non-profit organization, which is not a public authority, local self-government authority, state or municipal authority.

3. Availability of lucrative impulse in the subject. The act shall be related to receipt of property rights and benefits for him/her or for third parties.
4. The crime committed shall have only a direct intent.

Talking about the features of corruption crimes, it is important to highlight the originality of their subjects. On the one hand – the corrupter, that is, the individual or legal person who uses for some compensation the powers, services, status or contacts of the state or municipal employee, the person performing the managerial functions in a commercial or other organization, to achieve his/her personal, narrow group or corporate purposes. And on the other hand – the corrupt person, who is the recipient of bribe or other benefits received illegally. The corrupt person is the official, who has some authority and power, who abuses his/her occupational status in favor of the briber and receives a bribe.

Since the corruption criminality is not limited to bribery, the science concludes that the teachers, managers and other senior officials involved in the misappropriation of funds, frauds, forgery and other corrupt acts, shall be also considered as the corrupt person.

It is quite interesting the concept of "connected person" used in the UK Bribery Act. The Act defines the related person very broadly as a person (individual or legal), "which provides services for or on behalf" of the company. This may be the company's employees, agents, subsidiaries and joint venture partners.

The subjects of corruption crimes constitute in their aggregate a particular corruption network that includes three components:

1. Group of government and non-government officials, which provide certain privileges and benefits, and cover the corruptors in making different decisions for a fee;
2. Financial, commercial structures, which sell the privileges and benefits resulting from the corruption acts and which turn them into an additional income;
3. Corruption criminality advocacy group, which includes the officers of law enforcement and supervisory bodies.

CONCLUSIONS

There is a kind of mechanism, one of the main features, which characterizes the corruption crimes as a wrongful act and represents a performance of one of the following acts:

- Bilateral transaction, in which one party - the person in the public or other service (corrupt person), illegally "sells" his/her official powers or services based on the prestige of his/her position and its associated potential, to the individual or legal persons, and the other party (corruptor), acting as the "buyer", purchases a permissibility to use the state or other power structure in his/her favor.
- Adventurous, dynamic bribery of officials by the individual or legal persons, often carried out with a strong psychological effect on them, pressure and subsequent kind of "bribe landing";
- Extortion of bribe or additional remuneration for the implementation (or non-implementation) of legal or illegal actions by public officer from the individual or legal persons.
- We should agree with the position of M. Johnston about the fact that society simply accepts it as the most viable way to achieve the desired result, although the corruption can be gradually eradicated.

According to the data of the Ministry of Internal Affairs of Russia for January - June 2014, the structure of corruption crimes is as follows: misappropriation or embezzlement of non-owned property - sixty percent; abuse of power or its excess - thirteen per cent; forgery - ten percent; acceptance of bribes - five percent; giving bribes - three and a half percent; other crimes - eight and a half percent (registration of illegal land transactions, commercial bribery, obstruction of legitimate business activities, illegal participation in the entrepreneurial activity).

Corruption is a social phenomenon (citizen survey has showed that about thirty-eight percent of individuals, which solve their everyday problems, and eighty-two percent of businessmen become the corruptors), thus it is necessary to consider that it mostly develops on the basis of the existing state and municipal structures.

The study of the distribution of corruption flows at different levels of government has shown that leadership in this regard is taken by the municipal level, which holds three-quarters of the market of corrupt services. Twenty percent of this market accounts for regional and five per cent - for the federal levels of government. And the corruptive nature of bureaucracy structure is evidenced by the corrupted officials, which are held liable: forty percent are government officials at various levels; twenty-five percent - law enforcement officers; about twelve percent - employees, working in the credit and financial system; nine percent - employees of control authorities; between three and four percent - customs officers; one percent - deputies; seven - eight percent - other persons.

The corruption network covers all areas of life. The education, banking transactions, external economic activity and health care are especially widely permeated by corruption. It is especially dangerous that the corrupt activities sneaks in such political processes as elections to the legislature bodies, implementation of personnel changes in the public and municipal authorities, activities of these bodies and, accordingly, government decision-making. This is already acknowledged by the heads of the supreme public authorities.

What are the preconditions of corruption crimes? In accordance with the idea of Gary Becker, deciding on the direction of his/her activities, the person comes from four factors. Firstly, he/she take into account his/her abilities; secondly, moral values and limitations inherent in his/her upbringing and family; thirdly, limitations imposed by the environment structure; fourthly, from a desire to maximize his/her benefits.

SUMMARY

Thus, the corruption criminality is a single, relatively massive set of crimes that infringes on the authority of the public service or service in the local self-government authorities, expressed in the commission of corrupt transactions initiated by the corruptors or the corrupt persons, entailing a criminal liability. The corruption criminality has been forming together with the community, and the root origin of such social phenomena as corruption, in our opinion, was laid as early as in a primitive society. The basis of corruption criminality is bribery. It is possible to measure this type of criminality by the number of corrupt transactions, including registered corruption crimes, and by the number of participants. But there is a difficulty, as the corruption criminality is latent, and this is due to the fact that it is often a bilateral "confidential agreement", in the exposure of which neither one of the parties is interested.

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THE ESSENCE AND THE BASIC DIRECTIONS OF THE PENAL POLICY IN CORRECTIONAL INSTITUTIONS AND MANAGEMENT BODIES, EXECUTING PUNISHMENT IN THE RUSSIAN FEDERATION

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We present the analysis of modern penal policy in general, and in the sphere of management of correctional institutions and bodies, executing criminal penalties, in particular. It is noted that the main direction of the penal policy is the correction and social rehabilitation of persons sentenced to imprisonment at the present stage. We found the basic directions of improvement of the management process of correctional institutions on the implementation of the main directions of penal policy.

Key words: *penal policy, correctional institutions, correction of persons sentenced to imprisonment, social rehabilitation, implementation.*

INTRODUCTION

One of the components of the penal policy of the Russian Federation, along with a policy that defines the goals, objectives, principles of penal law, the main means of correcting the convicted persons and their social rehabilitation, is a policy in the management sphere of correctional institutions and bodies executing punishment. Unlike other areas of the penal policy, the policy in the management sphere of correctional institutions and bodies executing punishments, closely cooperates with the administrative and legal policy of the Russian state.

The penal policy in the management sphere of above institutions and bodies, determines the effectiveness of the penal policy and the state as a whole. Creating an optimal control model in this sphere is necessary to ensure that everywhere, in all correctional institutions and bodies executing punishment, the uniformity in the implementation of punishments has been ensured, the rights and legitimate interests of convicted persons have been implemented and the goals and problems of the penal legislation would be achieved and solved on this basis.

In other words, it should be carried out a single state line in all correctional institutions and bodies executing punishment, defined by the Federal Penitentiary Service of Russia and its territorial units, aimed at the optimal combination of steady, consistent implementation in respect of convicted law restrictions and humane penal conditions, especially imprisonment, in accordance with the global trends in the practice of treatment with the convicted persons.

The government has repeatedly reformed the management system of institutions and bodies executing punishments, passing them under the jurisdiction of either the Ministry of Justice or the Ministry of Interior Affairs, consolidating different structure of both central and regional management agencies of correctional institutions and bodies executing punishments.

MATERIALS AND METHODS

The sociological method was used in the study of the main manifestations of the penal policy of the state.

The comparative legal method of research enabled to compare the degree of flexibility of the penal policy of the state in the management sphere of correctional institutions.

RESULTS

The result of search for the most effective management model of correctional institutions and bodies executing criminal punishments, was the creation of the Federal Penitentiary Service of the Russian Federation (hereinafter - FPS), which was tasked with the practical implementation of penal policy, the requirements of the penitentiary legislation, the development of regulatory legal acts and the operational management of correctional institutions and bodies executing criminal punishments. It is also important that the FPS of Russia is intended to put the issues of improving the penal policy and the current penal legislation before the President of the Russian Federation, the Government of the Russian Federation, the Federal Assembly of the Russian Federation in a feedback manner based on the analysis of the punishment execution experience and arising problems.

The most important areas of penal policy, including in the further improving of management sphere of institutions and bodies executing criminal punishments, are defined in the Concept of Penal System Reforming until 2020.

Before considering the essence and basic directions of the penal policy in the management sphere of correctional institutions and bodies executing criminal punishments, we analyze the content, targets of the penal policy in general and its relationship with the criminal policy of the state. The problems related to the penal policy are constantly relevant in the research literature.

According to N.A. Belyaev, who has analyzed the Soviet penal policy, it is necessary to proceed from the fact that there is a common criminal policy in the fight against delinquency and its three subspecies (systems, components): criminal legal policy, criminal procedural policy and penal policy. At the same time this author has defined the penal policy as an activity of the law creative and law enforcement agencies and organizations on the practical execution of criminal punishments to the persons appointed by the courts and guilty of crime. He has recognized the penal policy as a wider concept as compared to the forced labor policy, which, in his opinion, determines the activity direction of legislative and practical bodies and organizations on the execution of only those species of punishments, which are connected with the forced labor impact on the convicted persons.

Some authors define the content of the criminal policy through such its components as the criminal legal policy, penal policy and crime prevention policy. As noted by F.R. Sundurov, the criminal policy is a broader concept compared with the criminal legal policy. Along with the latter, its content includes the penal and preventive policy. Essentially the same idea is held by S.M. Zubarev. He writes that the inner content of policy in the fight against delinquency, that is, the criminal policy, is made up of such areas as criminal legal, criminal procedure and criminological (related to the sphere of crime prevention) policy.

In principle, we should agree with this interpretation of the criminal policy. At the same time, we should note some conditional nature of allocation of criminal procedure, that is, the judicial policy, since the court implements nothing more than the criminal legal policy applying the criminal law provisions.

Particularly close relationship can be seen between the criminal legal policy and penal policy, since the latter is a continuation of the criminal legal policy, that is, a set of legal effects on the convicted persons after imposition of punishment or other measures of the criminal legal

nature.

We cannot agree with the authors that reduce the penal policy to the punitive policy, which, in our opinion, does not completely exhaust its content. In principle, we can speak about the punitive policy of the state aimed at identifying the forms of punishment, the content of certain types of punishments, the reasons for relief of persons committed crimes from the criminal liability or from only punishment in the criminal law, the procedure and conditions, that is, the mode of execution of punishment and service of sentence in the penal legislation. However, the target of the penal policy is to define the system of correctional that is, actually educational influences on the convicted persons, which do not have any punitive detention. In addition, the purpose of the penal policy is to establish the organizational and managerial structures in the penal system (hereinafter - the PS). Reduction of the penal policy to the punitive policy of the state impoverishes it objectively; it returns this policy to the same old days, when all the activities on regulation, assignment and execution of criminal punishments have been reduced to punishment target for the crimes committed.

Analysis of the penal system has been held by V.I. Seliverstov, F.M. Gorodinets at the present stage of society development.

The main areas of penal policy at the present stage of development of Russian society are:

1. Determination of a legal framework of regulation of the social relations in the sphere of execution of criminal punishments and other criminal legal measures, including the goals, objectives and principles of the penal legislation;
2. Determination of an optimal model of the system of institutions and bodies designed to execute criminal punishments and other criminal legal measures;
3. Determination of the main means of correction of the convicted persons, and the measures of their social adaptation;
4. Enforcement of the rights, freedoms and legitimate interests of the convicted persons, their compliance with the laws and rule of law while serving sentences;
5. Establishment of an optimal combination of punitive means, that is, the measures for the execution of criminal punishments with the measures of corrective effect on the convicted persons;
6. Further development and deepening of differentiation and individualization of execution of criminal punishments and implementation of corrective effect on the convicted persons;
7. Creation of the most optimal management model of correctional institutions and bodies executing criminal punishments, establishment of their necessary interaction with other law enforcement agencies;
8. Development of measures on further improvement and forecasting of the development of penal legislation, activities of the institutions and PS in response to changing conditions in the society;
9. Modernization of the content, forms and methods of corrective effect on the convicted persons and of rehabilitation of the persons released from serving the sentence, firstly, an imprisonment;
10. Expansion of the PS cooperation with other state bodies and civil society institutions.

The identificated areas of penal policy constitute its content in the aggregate. And the objective of modern penal policy is to create the necessary conditions for the implementation of punitive means, their optimal combination with the corrective educational measures, the development of humane principles of treatment of convicted persons, the regulation and practical implementation of their rights, freedoms and legal interests, as well as the essential improvement of work on social rehabilitation and adaptation of the convicted persons both during and after serving of criminal punishments or other criminal legal measures by the convicted person.

As we see it, the literature does not distinguish the creation of optimal management model of correctional institutions and bodies executing criminal punishments, as well as other criminal legal measures as an independent direction of penal policy. Meanwhile, the organization

composition of the PS structure and the quality management at all levels ultimately influence on the implementation of all other directions (or tasks) of the penal policy.

The management usually means the impact of the subject on the object in order to transfer it to a new position or to maintain it at steady state. In the social sphere, the influence can be spontaneous and conscious; the latter implies a meaningful impact on the object of control.

The management can be viewed at two levels: strategic management and operational impact on its object. The first has two features: firstly, the long-term prediction of the development nature of social phenomena and processes, and, secondly, the long-term constructive impact on these phenomena and processes based on neutralizing or eliminating the negative impacts. The operational management is aimed at solving by the object of its current, that is, the immediate and medium-term objectives. Maximum performance is achieved with the optimal combination of strategic and operational management.

There are also distinguished the social management levels: general federal, regional or territorial and the administrative activity of local self-government authorities, as well as the principles of social management. We identify ten such principles: organic interdependence and integrity of the subject and object of management, unity of specialization and unification of management processes, multi-variant nature of management solutions, provision of system stability with respect to the external environment, etc.

Management in the sphere of punishment execution is a kind of social, state, federal and regional (territorial) management. The subjects of the penal policy in the management sphere of correctional institutions and bodies executing criminal punishments are the President of the Russian Federation, the Federal Assembly of the Russian Federation and the Government of the Russian Federation. The main subjects of implementation of the penal policy in general, including in the management sphere of activity of punishment execution, are the public authorities and institutions, which are specially created for the execution of punishments, that is, the FPS of Russia - its central office and its territorial divisions.

CONCLUSIONS

The management activities in the sphere of execution of criminal punishments and implementation of corrective effect are characterized both by the administrative-legal and penal aspects. The first one is included in the organizational composition of the PS, subordination of the lower authorities to higher authorities, selection and placement of personnel, budget financing, monitoring. The second one reflects the content of activities of the management bodies - operational management of the maintenance of punishment execution and serving mode, application of corrective measures; scheduled and unscheduled inspections of activities of the PS institutions and bodies; their assistance in eliminating the identified deficiencies; improvement of their material and technical base; direct involvement in addressing the specific issues of maintaining the mode of punishment execution and serving (for example, the introduction of special conditions in the correction institutions, the implementation of measures to prevent escapes of convicted persons).

The penal aspect of management activities of these institutions and bodies is a key and decisive in terms of the successful implementation of the whole set of penal measures. The administrative and legal aspect of management in the field of punishment execution plays a subordinate role.

It is important to note that the penal policy in the management sphere of punishment execution and other criminal legal measures, implementation of corrective effect is determined and carried out taking into account the international legal standards.

Some of the legal acts are taken into account by the Russian legislation almost in their entirety, and are often the determining factor, for example, at the formation of the PS structure, identification of functions of different units, directions of the administrative influence and control.

Control over the observance of the rule of law is the primary task of the PS government bodies. This task is in front of the PS, regardless of their national and state identity. The regulation enables to take into account the peculiarities of national legislation.

The international legal instruments pay a lot of attention to the management quality and performance of penitentiary institutions, inspection of these institutions in order to detect and prevent the violations of law, the violations of rights and legitimate interests of the convicted persons, competence and qualification of both the staff of such institutions and the officials, being in charge of their management.

We think that the consistent implementation of impositive and recommendation penal regulations of the international instruments into the national legislation of Russia is a promising basis for further development of the penal policy. In particular, it is necessary to increase the control over the activities of correctional institutions and bodies executing criminal punishments by the ombudsmen, non-governmental organizations and other associations of citizens. For example, it would be appropriate to revive the supervisory commissions and commissions on juvenile affairs in the former, that is, known scope to the Soviet period.

In our opinion, the improvement of penal policy in general, as well as in the area of governance, shall be considered in terms of the whole criminal policy. In particular, it is unacceptable to break the consistency of its components; for example, to pursue a blameworthiness tightening policy in the criminal legislation, and on the contrary - to mitigate the penal conditions in the penal legislation. In the course of conducting the criminal policy in order to improve the legislation, it is, unfortunately, allowed some violations of such systematicity.

The inconsistency in issues of punishments differentiation also comes under notice; if the differentiation is consistently developing and deepening in the criminal law, then the scope of manifestation of such principle has been narrowing in recent decades in the penal legislation. How, for example, was justified by the sociological and other considerations the legislator's refusal of penal colonies of intensive regime and the introduction of the joint detention of persons for the first time condemned to imprisonment for committing grave and especially grave crimes, and convicted persons, who had served this kind of punishment earlier? These kind of «global» changes in the penal policy require in-depth and comprehensive analysis, thinking over all the problems and social factor determining the penal policy.

One of the anti-social factors that undermine the penal policy in the management sphere of correctional institutions and bodies executing criminal punishments is corruption, which has affected essentially all public authorities and government agencies and has turned into an acute general social security problem. The PS bodies and institutions have not remained aloof from these processes. The corruption offenses are dangerous to the society themselves. They simultaneously disrupt the mode, that is, the rule of law in the execution of punishments, negate the corrective educational measures, and show actually a certain image and line of conduct in the future. As we see it, the FPS shall create a functioning internal security service with a network of

agents among the convicted persons and persons released from punishment.

The issues of increase of staff wages in the PS institutions and authorities and their social support shall be also taken into account.

The penal policy in the management sphere of activities of punishment execution and other criminal legal measures, depending on the problems solved, at the same time includes the following directions:

1. Construction of optimal organizational and management model of the PS of Russia;
2. Intelligent allocation of powers and responsibilities between the PS institutions and bodies;
3. Qualified and competent operational management of correctional institutions and bodies executing criminal punishments and other criminal legal measures for the effective implementation of all areas of penal policy mentioned above;
4. Ensuring transparency and accountability of the PS government agencies, including increasing the role of the ombudsman and strengthening the public control;
5. Increasing the state control and prosecutorial supervision over the legality of administrative acts in this area;
6. Enhancing the role of management bodies in the punishment execution and other criminal legal measures in the coordination of activities of the relevant authorities of the state and public entities concerning the social rehabilitation and adaptation of convicted persons both during and after serving their sentence;
7. Selection, placement and training of management personnel.

SUMMARY

Thus, based on the above, we note that the objective of the penal policy in the management sphere of institutions and bodies executing punishment is to create the necessary prerequisites for the implementation of all areas of the penal policy of the state and, above all, the optimum ratio of the punishment execution with the correctional educational measures, maintenance of their legality and legal order, deepening the humane principles of treatment with the convicted persons, their rights, freedoms and legal interests, as well as improvement of work on social rehabilitation and adaptation of convicted persons both during and after serving sentence for the criminal offense.

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THE DUMA ELECTORAL SYSTEM OF 1906 AND FORMATION OF NEW ETHNO-POLITICAL GEOGRAPHY OF THE STEPPE PROVINCES OF THE RUSSIAN EMPIRE

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ABSTRACT

The relevance of the problem is caused by the growing interest in the late imperial period of Russia and the "imperial" history of the newly independent countries of Central Asia. The article is devoted to the political process that took place in the Steppe regions (the territory of modern Kazakhstan) and was associated with the provision of the voting right in the first parliament - the State Duma to the local population (not only Russian, but also "alien"-"inorodtsy"). The leading methodological approach is a system approach that allows us to show how the creation of the State Duma changed the political aspects of the traditional political system of the multinational and multi-confessional Russian Empire. This article was written based on new archival materials, which demonstrate that the elections became an important factor in the process of formation of a new ethno-political geography of the whole empire, its Asian provinces and development of political life there. The article may be useful to researchers studying parliamentarism in the late period of the Russian Empire.

Keywords: *The Russian Empire; Central Asia; the State Duma; parliamentarism; ethno-confessional identity; national minorities; aliens-inorodtsy.*

INTRODUCTION

110 years ago the first Russian parliament – the State Duma was created in Russia under the pressure of the 1905 revolution. However, the beginning of the first "constitutional experiment" turned out to be associated with many important legal gaps and ambiguities in the Basic Laws and other laws of the empire, which were essential parts of the new political system (Hosking, 1973). One of these issues concerned the representatives of different nations, religions and regions in the Duma. As it is known, according to the Russian census of 1897 Russians accounted for 44.3% of the population of the empire, and Orthodox were 69.4%. The non-Russian and non-Orthodox people were concentrated in the western, southern and south-eastern provinces of the empire (Khayrutdinov, 2015; Khayrutdinov & Mironova, 2015). These regions have a special status and management model: Poland, the Caucasus, Turkestan, Steppe regions and other areas. The Steppe provinces included Turgay, Ural, Akmola and Semipalatinsk, a significant part of the population was represented by non-Russians – Kirgiz-kaysak (Kazakhs - R.Ts.; D .Sh.). It should be noted that in the imperial system of "native - friend - alien" people, Asian minorities were perceived as "aliens" (Neumann, 1998). And such a term as the "alien-inorodtsy" was used for the local Muslim population of Turkestan and the Steppe regions (Slocum, 1998).

In order to discuss the problem "of the government reforms" of August 1905, the special meeting of the State Council under the leadership of the Count Dmitry Solsky (Power and

Reform, 1996) was organized. The meeting chaired by Solsky had to develop a comfortable model for regional representatives (Emmons, 1983). In theory, there were three variants of regional representation. The first was based on the adoption of a uniform electoral system for the whole empire. Supporters of a supranational empire-wide integration of society during the meeting with Solsky suggested that "this measure is of great national importance and will help to unite non-Russians with the native Russian population" (RSHA, fund 1544, case 1, sheet 37). However, this option might help the non-Russian peoples to get the majority of places in the Duma, which could not be enabled by the imperial power. The second option was "to give the right to be a representative" only to Russian provinces (or the provinces of the European Russia). But this option would have opposed the central part of Russia to the other regions, on the one hand, which would indicate their unequal, "colonial" status, and on the other hand, could encourage the spread of separatism. The third option was the compromise which would provide benefits to the voters from the European Russia, but admit the elected representatives from other regions. Let us see how the created electoral system changed the ethno-political geography of four regions of the Steppe provinces, in the future – Kazakhstan territories.

METHODOLOGICAL FRAMEWORK

The basic approach to the problem is a hermeneutic reading and interpretation of the materials from the fund "Special Meeting to consider additional rules to be legalized by the State Duma" (1544) stored in the RSHA (Russian State Historical Archives) which were introduced into scientific circulation for the first time. The disclosure of this topic is based on a system, legal and comparative methods with elements of statistical analysis. It should be stated that the subject of the article lies in the new format of interdisciplinary direction - the study of ethno-confessional and regional peculiarities of the Russian parliamentary (Mogilevsky, Tsiunchuk & Shelokhaev, 2007)

RESULTS

The main compiler of the laws of the State Duma and the future Deputy Interior Minister Sergei Kryzhanovsky warned in October 1905: "The national struggle …should define the priority in the future, which would hardly be connected with the territorial integrity of the empire. Interests of the greatest national importance ... require that the voice of the Russian people, which is the basis and the power of our government and ... the throne of the Russian sovereigns must certainly dominate in legislative institutions ..." (RSHA, the fund 1544, the case 16, sheet 76). Therefore, while developing the Elective Rules the imperial power decided to create privileges for the representatives of the European Russia and to limit the representation of national regions. At the special meeting two norms were identified: 1 member of parliament per 250 thousand inhabitants of the European part of Russia and 1 representative for 350 thousand inhabitants in remote areas (RSHA, the fund 1544, the case 12, sheet 43 turnover). The Interior Minister Aleksandr Bulygin offered not to give electoral rights to "aliens- inorodtsy" (Ganelin, 1991). After discussing the project of August 6, 1905 the Regulations on the State Duma elections were published, which extended to 51 provinces and regions of the European part of the Russian Empire. In remote areas elections had to be carried out according to different rules and allowed the participation of "nomadic aliens" ("kochevyje inorodtsy"); and only a candidate who knew the Russian language could become a member of the Duma (The legislative acts of the transition period, 1909).

Discussions on the electoral system in four steppe provinces: Turgay and Ural, Akmola and Semipalatinsk were initiated at the Special Meeting headed by Count D.M. Solsky. On July 15, 1905 the Steppe Governor-General Nikolay Sukhotin in the report "On the elections to the State Duma in the Steppe areas" proposed to conduct ethnically separated elections. He argued that the allocation of a single representative for aliens from Akmola and Semipalatinsk regions "is a matter not only of justice, but also expediency" and that "non-Russians in both regions should be given the right to elect one member of the State Duma for each of the areas, only in extreme cases - one member for both provinces". The General N.Sukhotin became a lobbyist of his region: he proposed to organize the Siberian Cossacks (mostly Russians) into a separate district, with a right to elect one MP, as well as to increase the number of members from Akmola province to two and give one place to the center of the Steppe general-governorship of Omsk (60 thousand inhabitants) (RSHA, fund 1544, case 14, shetts 2-3).

A wider perspective on ethnic and confessional situation in the steppe provinces was demonstrated by the Minister of Internal Affairs Petr Durnovo at the Special Meeting, who pointed out that "in four areas the mixed ethnic population, consisting mainly of ethnic Kirgyz, strongly predominated over the number of Russians, and although the latter, due to the constant influx of people is increasing faster than the native population, Russian towns for a long time will be islands among the alien population". For the Minister of Internal Affairs it was clear that the integration of these regions in the imperial socio-economic and political space was rather slow, and the local systems and structures of traditional nomadic lifestyle of the local population remained there, which was regarded by the officials as "indigene – tuzemets". In order to develop the electoral rules a summary of the ratio of Russian and non-Russians population in four areas was provided at the Special Meeting. In Akmola region the total number of inhabitants was 683 thousand people (non-Russians - 428 thousand, and the rest - 255 thousand), in Semipalatinsk from the total number of 685 thousand inhabitants, 606 thousand were aliens, in the Ural province out of 645 thousand inhabitants 400 thousand people were the representatives of non-Russian peoples, in Turgay - 453 thousand residents (aliens - 410 thousand)… In four provinces from 2 million 466 thousand people 1.903 million (77%) were aliens while Russian people accounted for 563 thousand inhabitants (23%) . Citing these statistics, the Interior Ministry stressed that "aliens are different from Russian peasants in conditions of life and economic interests," and "Kyrgyz people (Kirgyz-kaysak, Kazakhs - R.Ts.; D.Sh.) with rare exceptions, do not speak the Russian language and are very hostile with migrants", and the migrants from European Russia also "cannot deal with them" and cannot "participate together in elections", so the Ministry of Interior Affairs strongly recommended to separate mixed ethnic population into the independent electoral groups in each region (RSHA, fund 1544, case 14, sheets 4-5).

Developing this idea at the Meeting of 2 February 1906 P.N. Durnovo stated: "The difference in national and domestic living conditions and relations of various peoples of the Steppe areas (aliens, Russian Cossacks and the settled population), makes it necessary to have one representative for each of the listed groups of population". It was established that the Russian group of population "from each mentioned area, even if it was not numerous, was granted the right to elect one member of parliament", to provide the Ural and Siberian Cossack troops the right to elect one MP with the elections to be held in Omsk); it was explained that the number of members of the State Duma from Akmola, Semipalatinsk, Ural and Turgay provinces will be determined on the basis of the principle - one deputy per every 350 thousand inhabitants,

"nine people based on the existent calculation for the local population" and beyond that" 1 person from the Siberian Cossack troop" (RSHA, fund 1544, case 14, sheets 38-39).

The special meeting was attended by the representative of the Kazakh aristocracy, the retired General Sultan Gubaydulla Chenghis-Khan, who said that the Steppe and county division could not "put the end to the existence of different interests and aspirations of those groups of people, which are now included in the mixed ethnic province" and therefore he proposed to increase the number of representatives from each province to two, and the participants of the Meeting agreed (RSHA, fund 1544, case 14, sheets 39-40).

During the Meeting headed by Solskiy the emperor and the government received letters and telegrams with proposals to change the rules of representation, reflecting ethnic and religious interests of the population of steppe regions of the empire. Kazakh population, met in June 1905 in Karkaralinsk county of Semipalatinsk province at the fair of Koyandy (attended by over 14 thousand people), addressed the Chairman of the Committee of Ministers Sergei Vitte with proposals of reforms in agricultural and religious spheres, called for the early convocation of the Duma and the participation of Kazakh representatives (Bukeikhanov, 1910). On September 20, 1905 "Kirgiz-Kaysak" population from Turgay and Ural provinces addressed D.M. Solsky and required to change the general principles of the electoral system: to provide the right to have at least one representative from each county in the State Duma, do not apply electoral property qualification to the Kyrgyz, to elect members of the Duma by a direct vote of regions, to allow "Kirgyz- Kaysak" hereditary sultans elect their deputies from each region, and for the representatives of national elite, who received higher or secondary education in Russia - to provide the right to be nominated for the elections out of their place of residence, as well as to protect representatives from administrative pressure. The letter stressed that "now when the Kyrgyz territory is one of the peaceful regions of Russia, and when the 50-year persecution of the Sultans have destroyed their former political power, it would be quite fair to allow one deputy from the number of Kyrgyz sultans to be elected to the State Duma" (RSHA, fund 1544, case 14, sheets 18-19, 23). The participants of the meeting received a telegram from Kazakh representatives of Semipalatinsk province, who stated that in the area of the Cossacks 1 deputy is elected out of 135 (135 thousand - R.Ts.) and 1 deputy out of 800 thousand from non-Russian population, so the Kirgyz (Kazakh - R.Ts.; D.Sh.) population who deeply accustomed to trust the justice of the white tsar" ask to change the rate to 1 representative for 200 thousand people (RSHA, fund 1544, case 10, sheets 250-251). At that rate they would get 4 Duma mandates. All of these proposals would have broken the regulations proposed on August 6, 1905 which were based on elective census and a multi-curial model, and would radically increase the representation of the Kazakhs in the Duma.

The appeals of the Kazakhs, one of the largest Central Asian ethnic groups (more than 4 million.), were combined and contradictory, they did not completely coincide with each other and with the imperial principles of representation. But their main idea was based on the principle that the ethno-relbulaninigious inequality had to be overcome by presentation of the Kazakh population in the State Duma. All legislative innovations and proposals to increase the number of Kazakh representatives had been rejected by Solskiy's Special Meeting, as the elected to the Duma representatives "are not here to defend the interests of individual groups" (Dyakin, 1998).

On February 22, 1906 the Emperor approved the Regulations on the State Duma elections and the number of members in the Duma from each area to be applied in the provinces of Akmola, Semipalatinsk, Ural and Turgay: aliens received 4 places (one from each region) and Russians received 6 places (4 from each region, and one for the Ural Cossacks, and one for

Siberian Cossacks from Akmola, Semipalatinsk and Tomsk provinces) (Sidelnikov, 1962). The average rate of representation for these four areas inhabited by alien population reached 476 000 inhabitants per one deputy, and for Russian population (including the Cossacks) - about 94 thousand per one deputy. So the Russian population from the Steppe regions had even more privileges than in central Russia, where one deputy was elected out of 250 thousand residents.

DISCUSSIONS

The first researcher who addressed the problem of representation norms for the steppe regions was S.M. Sidelnikov, but he considered this issue from the standpoint of the class struggle (Sidelnikov, 1962). Modern researchers (Usmanov, 2005; Ozganbay, 2000) and the compilers of the collections of documents (Yamaeva, 1998) are focused on the parliamentary activities of the Muslims, and not on the electoral model itself. The common approach to the new Duma ethno-political geography was applied by us in a collective monograph (Tsiunchuk, 2007). The approaches and findings of our research have been used in the works of foreign researchers (Cadiot, 2007; Cambell, 2015) and others.

CONCLUSION

The rules of election in four steppe provinces formed a special electoral system and the new ethnic and political geography of the region; ethnic constituencies have been created; a set of ethnic quotas for representation in the Duma was established; the practice of privileged representation for the local Russian population was introduced for the first time. Thus the asymmetric electoral system was developed in Russia. The fixed rate of representation for the "aliens" was developed by the founders of the parliamentary system as a restrictive measure in remote areas with a not numerous Russian population, but in practice, this aspect proved to become a factor of their self-identity and blocking of Muslim candidates during the elections by opposition parties in Russia, mainly the Constitutional Democrats (Tsiunchuk, 2007). This composition of deputies from Steppe areas did not satisfy the imperial governors. In the Manifesto on dissolution of the II State Duma and changes to the order of the elections from June 3, 1907 it was stated: "The State Duma was established to strengthen the Russian state, and must have Russian spirit. Other nationalities must be included in the number of Duma representatives in order to discuss their needs, but cannot be presented in the number, that would give them an opportunity to be the arbiters of the pure Russian issues. And in those provinces of the state, where the population is not presented by a sufficient number of Russian inhabitants, the state Duma elections should be temporarily suspended" (Kalinychev, 1957). Among these regions, deprived of representation, were Akmola, Semipalatinsk, Turgay and Ural provinces. Only one place for the Ural Cossacks was preserved. With the loss of representation the ethnic and political geography of the Steppe provinces could not just get back to the previous state: the political distance between the Steppe non-Russian peoples and the powerful European Russia increased. The authorities identified new ethno-regional configuration of the State Duma of the Russian Empire, the remote areas were not allowed to be the part of the Duma political space, the inhabitants of the vast territory lost the opportunity to present their legal interests and participate in a legitimate political process. These problems increased the potential for conflict in this region which was developed in the period of the First World War and the subsequent revolution of 1917.

RECOMMENDATIONS

The materials and conclusions of the article may be useful for the researchers who are interested in Russian parliamentarism, ethno-confessional relations and political processes in remote areas of the Russian Empire.

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ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS - COMPARATIVE ANALYSIS OF RUSSIAN AND SWEDISH LEGAL PRACTICES

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ABSTRACT

The concept of "environmental human rights" is gradually gaining support in wider academic and policy circles, but it remains an emerging and essentially contested notion. One of such right is the right to access to justice in environmental matters, which is established in the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters. However, the level of the accessibility of justice, rules on the environmental litigation and in general the concept of environmental law differ from country to country. This paper examines the right of access to justice in environmental matters in Russia and Sweden through the mechanisms of standing before the court and litigation costs.

Keywords: *access to justice, environmental law, Aarhus convention*

INTRODUCTION

The term "environmental human rights" refers to the following set of rights, "the first three of a procedural nature and the fourth substantive: the right of access to environmental information; the right to public participation in environmental decision-making; the right of access to justice in environmental matters; and the substantive human right to a healthy environment". In this article, we are going to consider one of the above rights, specifically the right of access to justice in environmental matters.

Indeed, access to justice in environmental matters is an important factor guaranteeing protection of the rights, freedoms and legitimate interests of citizens and organizations as one of the necessary conditions of legal security. Environmental rights protection should be adequate and effective, fair and impartial and shall not be prohibitively expensive.

It is necessary to state that there are many problems in the regulation of the access to justice in environmental matters, which are likely to be caused by the legislation faults, as well as a misunderstanding of the measures applied. This comparative study was undertaken exactly in order to identify those problems and find ways to overcome them. Thus, the main research questions of this study are: what factors do affect access to justice in environmental matters, and what measures can be taken to improve the mechanisms for the protection of the right to access to justice in environmental matters?

The structure of the paper will be organized as follows: first the paper will address the methodological issues. Next, the outcomes of the research will be revealed, contemplating consequently to the following points: (1) Concept of access to justice in environmental matters (2) Courts and standing issues (3) Litigation costs. This paper will end with some conclusions and recommendations.

METHODS

As a main research method we used comparative legal analysis in parallel with the method of analyzing concepts and definitions established by the national and international legal sources. Using these methods lets us identify similarities and differences between the legal systems of the Russian Federation and Sweden on the particular issues.

Besides, the structural method was used in the research. For example, components of such term as the accessibility of justice in environmental matters were observed. As a result, the whole concept was divided into smaller items, and each of them was characterized depending on the legal realities of the states under consideration.

CONCEPT OF ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS

Sweden being a State-party to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus convention) adopted the following concept of the access to justice in environmental matters. It is to be guaranteed in three areas. Firstly, it is an access to information, which means "members of the public shall have access to a review procedure where their requests for environmental information have been denied in whole or in part by public authorities". Secondly, it is a public participation "giving members of the public access to administrative or judicial review procedures to challenge the substantive or procedural legality of decisions taken by public authorities". Finally, members of the public "should have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of the national law relating to the environment".

Russia is not a party to the above-mentioned Aarhus convention, and the idea of the access to justice is quite different in this regard. For example, in the well-known "Concept of Judicial Reform in the RSFSR" the term "access" was used twice. First, the idea of building trust in the system and "bringing" the court closer to the people in order to facilitate citizens' access to justice was mentioned in Section 5 called Judicial system. Secondly, the term was used in Section 10 (Logistics of Justice), which urges to facilitate access to the materials of judicial practice through the creation of different networks. Moreover, there is no specific provision on access to justice in environmental matters in Russian national law. Therefore, the features of the environmental claims or the general conditions of the access to justice in specifically environmentally matters are not established in the legislation. Neither have been special environmental courts created. The access to justice in environmental matters is subject to the general provisions of the Russian procedural law (civil, arbitrazh[1], administrative or even criminal procedure) concerning the merits of the dispute or other means of judicial protection of rights which were violated.

Although it should be borne in mind that the human rights guarantees established in the Constitution of the Russian Federation is fully consistent with the provisions the Aarhus Convention. Thus, article 46 of the Constitution of the Russian Federation guarantees everyone's judicial protection of his rights and freedoms. Decisions and actions (or inaction) of state authorities, local government bodies, public associations and officials may be appealed in the court. Everyone is entitled to seek protection of his rights in international level in accordance with international treaties of the Russian Federation if all available domestic remedies are exhausted.

In spite of some differences between approaches to the issue of access to justice, in general, there are common things between the environmental law in Russia and in Sweden. Both Russian and Swedish environmental laws are dominated by a public law. The reason for this is that environmental protection is supposed to be the responsibility of public Swedish and Russian authorities.

COURTS AND STANDING ISSUES

One of the most substantial differences is the court system for dealing with environmental cases. The Swedish Environmental Code[2] establishes a system of five Environmental Courts and one Environmental Court of Appeal. These courts hear "appeals from administrative decisions and also serve as a first instance body in some environmental permit trials". For example, the Environmental Courts also have jurisdiction in cases concerning "damages and private actions against hazardous activities". The success of environmental courts in Sweden may be attributed to the presence of two factors. First, the Swedish Environmental courts have enjoyed a substantial caseload as a result of being vested by Sweden's Environmental Code with comprehensive civil and administrative jurisdiction and a range of enforcement powers. Secondly, these courts have been viewed as "highly credible institutions that 'are fully accepted' by both industry groups and NGOs focusing on environmental protection".

While environmental disputes in Russia can be considered by all courts of the judicial system without exception: courts of general jurisdiction (civil disputes and cases on administrative liability with the participation of citizens, criminal cases involving the commission of environmental crimes, administrative cases on the protection of violated or disputed rights, freedoms and legitimate interests of citizens, rights and legitimate interests of organizations, as well as other administrative cases arising from administrative and other public relations); arbitrazh courts (economic disputes involving legal entities and individual entrepreneurs, bringing to the administrative liability of legal persons for violation of environmental regulations, environmental damage); the Constitutional Court (disputes about compliance with relevant laws and other normative legal acts with the Constitution of Russian Federation). This abundance of legislative procedure acts often creates a difficulty in determining the jurisdiction for a particular environmental dispute.

In Russia, the basis for the claims of citizens and NGOs is a violation of a legally protected right or legitimate interest. Also, it is important not to miss the limitation period (typically 3 years). Claims for compensation for environmental damage caused by violation of legislation in the field of environmental protection may be brought within twenty years. Meantime, bringing a claim requires the presence of two conditions cumulatively: the basis and the object of the claim. The basis of a claim as it was mentioned above involves a violation of someone's right. The object of a claim is literally what you want from the court: ban of the economic activity, reversing the decision of the authorised body, compensation for the environmental damage, etc.

In order to appeal the acts or decisions of state authorities and local self-government, there must be two conditions: the action or decision disrupting the subjective rights of the claimant; non-compliance with this act or decision with the national legislation. While Swedish law sets the rule, according to which if a person wants to bring a claim on the administrative issue in the environmental courts, he has to be regarded as "concerned" in order to have a standing and make formal motions and claims. The general rule is stated in Article 22 of the Administrative Procedure Act: A person whom the decision concerns may appeal against it,

provided that the decision affects him adversely and is subject to appeal. The requirement of being concerned is prescribed in an identical way in Chapter 16 Section 12 in the Environmental Code and Chapter 13 Section 8 of the Plan and buildings Act refers directly to Article 22 of the Administrative Procedure Act.

In accordance with the Russian legislation, public associations and NGOs have the additional right to bring the claim concerning the abolition of the design, location, construction, renovation, operation of facilities, economic and other activities of which may have a negative impact on the environment. They also have right to seek the limitation, suspension and termination of economic and other activities that have a negative impact on the environment. However, the conditions of submission of such claims are not identified in the environmental legislation, and therefore the application of the above rule is not possible without a mechanism for its implementation. Neither are there specific criteria established in Russian legislation for environmental NGOs to bring the claim. Meanwhile, the Swedish Environmental Code gives NGOs a general right to appeal judgments or decisions on permits, approvals and exemptions under that law. Such NGO must comply with the following conditions: it must protect the nature or the environment as the main purpose; have a non-profit basis, have operated in Sweden for at least 3 years and have at least 100 members or in other way shows it has public support [9; ch. 16]. The NGOs complying with these criteria also have the right to appeal decisions reversing areas protected by the Code and decisions on supervision of soil protection.

We need to understand that access to justice is derived not only from the presence of specialized courts or special legislation, but also from such important factors as the level of corruption or legal awareness, development of civil society, and economic development in general. These criteria are quite insufficient in the Russian Federation: high level of corruption, low level of environmental awareness, weak civil society institutions, and the crisis in the economy. Obviously, it is difficult to provide a high level of judicial protection of environmental rights in such conditions, which usually have such results as acute social conflicts between the society on the one side and developers and authorities on the other (for example, Khimki forest case, the development of Nickel deposits in the Novokhopersk district of Voronezh region). Meanwhile, an effective procedure of judicial appeal could smooth the sharp environmental conflicts and help in finding compromises.

According to some scholars the following conditions for successful judicial processes for the protection of public environmental interests must be met: adequate environmental laws; a justifiable legal action; a willing and capable plaintiff; knowledgeable, experienced and willing lawyers; funding; standing to sue; evidence; simple and affordable procedures for commencing litigation; court practice and procedure that are not barriers to justice; little delay in determining the litigation; an independent, impartial and competent court; and adequate remedies.

LITIGATION COSTS

Another issue concerning the accessibility of justice is the litigation costs. In Russia, litigation costs are determined and allocated in accordance with the general provisions of procedural law relating to the reimbursement of expenses, as there are no specific rules concerning the allocation of costs in the consideration of environmental disputes in the Russian legislation. Moreover, the absence of the requirement that the costs of environmental disputes should not be prohibitively high should be mentioned. Certainly, it creates a risk of significant amounts of legal costs for individuals or public organizations, for example, in the cases with big international companies. The costs for disputes concerning the administrative appeals though are

comparatively appropriate, and there is no such a risk of excessive legal costs. Neither is there a risk for losing party to pay the opposite parties' costs of the administrative procedure in Sweden. Only in civil cases and permit cases related to water operations, there are provisions for costs. Meanwhile, the fact that the Swedish Environmental Protection Agency gives grants to environmental NGOs and other non-profit organizations should be mentioned. The Agency does it in order to assist in their operations and reduce legal costs for the organization. For instance, the Swedish Society for Nature Conservation, a non-profit association, "received a grant specifically for the purpose of appealing administrative decisions concerning permits, approvals and exemptions". It certainly encourages NGOs to engage in environmental activities, as well as increases accessibility of justice at least in terms of costs.

The plaintiffs are not exempt from paying the state fee (application fee) in accordance with Russian legislation. It applies to Swedish law too. The application fee is approximately €50, which must be paid by the claimant. As a general rule, Sweden applies the costs in the cause rule in civil proceedings. However, there are exceptions, e.g. if the winning party has litigated negligently or brought an action which is unnecessary.

The Russian national procedural law imposes on the losing side of the obligation to reimburse the whole legal costs or in part (proportionally to the satisfied claims). The situation in Sweden with the "loser pays principle" differs from case to case. For example, a litigant who appeals the conditions in a permit saying that they are too lenient, and loses, doesn't have to pay the company's costs. But a litigant who sues the company for compensation has to pay, if he loses the case.

CONCLUSIONS

To sum up, on the one hand, procedures for access to justice on issues relating to the environment, in Sweden and in Russia, in the most General meaning are similar and evolve in the same direction. However, the level of legal regulation and the effectiveness of access to justice in environmental matters, in Sweden and Russia differ dramatically. Sweden has a leading position in the world to introduce energy-saving technologies, waste recycling, minimizing the level of negative impact on the environment. In Sweden, there are environmental courts, which are still found the low implementation level in the national legislation of most countries in the world, including developed ones. The Swedish legislation in terms of judicial protection of environmental rights also provides more legal tools than the Russian laws.

One of the conclusions that can be formulated is that for the effective access to justice in environmental matters, *general* legal requirements relating to the protection of any infringement of rights and legitimate interests of citizens and public associations are not enough. It is necessary to establish special requirements relating to the presentation of claims in protection of environmental rights in terms of limiting litigation costs, more precise definition in the legislation of the subject of such claims, the allocation of responsibilities of proving particular facts, determine the range of persons who can file the appropriate claims, the possibility of bringing a lawsuit in defense of an unlimited number of parties in environmental disputes.

A positive step for the Russian Federation could be the ratification of the Aarhus Convention. However, it should be noted that the Convention does not establish specific requirements to ensure access to justice, and lays down only General principles and directions of development of national legislation. Therefore, the experience of implementation of the Convention in several countries of the former USSR such as the Republic of Tajikistan, the Republic of Kazakhstan, the Republic of Belarus testifies to the considerable progress made in

the issue of access to environmental information, participation in environmental decision-making [20]. However, in terms of access to justice in environmental matters, legislation, in particular, of the Republic of Kazakhstan has not undergone any significant changes since the ratification of the Aarhus Convention. However, it is important to indicate that the implementation of the provisions of the Aarhus Convention into national legislation is only one of the directions of ensuring the effective judicial protection of environmental rights. Other no less important areas are, for example, projects on the training of judges, employees of state authorities and local self-government, statistical consideration of environmental disputes, monitoring of law enforcement practice.

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END NOTES

1. Arbitrazh procedure in Russia is a special procedure for resolution of commercial disputes between two or more companies.
2. The Code includes references to these acts and covers environmental law, civil law, administrative law and criminal law as well as procedural rules for the environmental courts.

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PROBLEMS OF MODERN RUSSIAN ECONOMY THROUGH THE EYES OF TEACHERS AND STUDENTS: RESULTS OF SOCIOLOGICAL RESEARCH IN RUSSIAN UNIVERSITIES

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ABSTRACT

The article is devoted to the results of sociological research conducted in Russian universities in December 2015 - March 2016. The aim of the study was to identify the main problems of economic development of the Russian Federation that are of interest to teachers and students. The course taken by the Russian state five years ago to ensure openness and transparency of the activities of state bodies must ensure the availability of information necessary in the process of expert and analytical work. In this regard, the survey has also set the objective to determine how the steps taken in this area have provided the necessary information for the society, including the expert community.

In the process of the study we have revealed the peculiarities of perception of the Russian economy structural problems by representatives of university community (teachers and students), especially the perception by the group of officially published information, as well as we have established how the representatives of university community assess the effectiveness of policy to ensure the transparency of public authorities and common understanding the mechanisms of governance.

Keywords: *sociological research, university community, teachers, young students, socio-economic development, state policy.*

INTRODUCTION

The problems of the Russian economy development are being actively discussed at various levels and in different formats. The acute nature of the challenges facing the domestic economy causes generation of polar points of view and contributes to the constant emergence of proposals for solutions of the existing problems. Different circles of expert community are involved in debates about possible ways of the Russian economy out of the recession in the conditions of sanctions and low prices for hydrocarbons. Teachers of leading Russian universities often act as experts in discussions on these issues, and are involved in various forms in research projects on relevant topics.

The Russian leadership has declared a course on transformation of the national economy that implies less dependence on the sale of crude hydrocarbons, development of high-tech industries, and reducing dependence on imports of critical technologies. Relevant decisions require analytical and expert support which, among other things, is also provided by university community. At the same time, the teachers have an impact on formation of students' ideas about the specific features of the domestic economy and thus affect the perception of the current agenda by younger generation. Upon that, provision of expert community by up-to-date information on the state of the economy and the state policy in the sphere of development of

high-tech industries became very important. In this regard, an interesting question is how do Russian teachers see the structural problems of the Russian economy. It is of a particular interest how this group perceives and uses officially published information about the state of the Russian economy, and which sources of information are the most affordable and convenient for them in terms of use in their scientific work.

At the same time, young people as a social group is in the focus of attention of all political forces in the country. The agenda developed by domestic media with a focus on foreign events is perceived by Russian youth, one way or another, but is evaluated in the context of the events occurring in the country and having direct impact on the lives of most young people. Definite progress in improving the welfare of citizens achieved in the second half of the 2000s - early 2010s, had an impact on the mass consciousness of Russians (young people are not an exception), in particular in regard to the features of the assessment of the prospects of economic development and the state development as a whole. In this regard, it is of interest how the modern Russian youth, especially the young students being a special social group, "the intellectual potential carrier", sees the existing problems of the Russian economy, how these issues are ranked and which ones are most concerned about the today's younger generation. Consciousness of today's youth is focused to some extent on sustainable myths. Therefore, it is important to understand how myths associated with the modernization of the Russian economy and industries are reflected in the minds of the youth.

MATERIALS AND METHODS

This article is devoted to results of the survey conducted in November 2015 - February 2016. The main objective of the study was to determine the characteristics of the modern perception of the problems in the Russian economy and possible ways to solve them by teachers and students of leading Russian universities. As a part of work with the community of teachers, interviews were conducted with 34 teachers of the Financial University under the Government of the Russian Federation, the Moscow State University named after Lomonosov, Moscow State Technical University named after Bauman, Kazan Federal University (the city of Kazan), and Kazan National Research Technical University named after A.N. Tupolev. The duration of an interview was 20 minutes.

As a part of the work with the student audience, we carried out the survey with six focus groups which were attended by a total of 56 students of the Financial University under the Government of the Russian Federation (Moscow), the Moscow State University named after Lomonosov, Moscow State Technical University named after Bauman, Kazan Federal University (the city of Kazan) and Kazan National Research Technical University named after A.N. Tupolev. Work with focus groups was conducted by in-depth interview under the formalized questionnaire. Two interviews lasting 60 minutes were conducted with each of the focus groups. Age of focus group participants was 18-24 years.

RESULTS

The development of high-tech manufacturing industries was declared as a priority of economic development yet in the past decade. Despite the fact that at the state level systematic efforts have been made to transform the Russian economy from the raw material extraction- to industrial production-oriented, the teachers surveyed within the above mentioned study pay attention to the serious problems which exist in this area. In this regard, nearly half of the

respondents have expressed doubts about the effectiveness of government economic policy. Some respondents noted problems in the development of small and medium-sized businesses having highlighted excessive government regulation, high tax burden, and the actual lack of available cheap credit resources.

All the teachers interviewed have spoken with concern about the reduction of the share of the manufacturing industry, as well as the outflow of capital from the Russian industrial sector. Interviewees agree that the most pressing problems of the Russian industry at the moment are insufficient development of science-intensive industries, excessive government regulation, complexity of bureaucratic procedures and absence of real progress in the implementation of import substitution policy. In addition, the study participants especially emphasized the acute staffing problems faced the Russian industry on its way to creation of high-tech and knowledge-intensive industries.

Regarding the problems of the Russian exports, the teachers surveyed have pointed out, par to the course, the prevalence of hydrocarbons, and low share of high-tech products in its structure. It is important to note the opinion several times voiced that in modern conditions the business in the field of trade is preferred as compared to the business in the field of production, because the former provides a higher degree of profitability.

A particular interest among the participants interviewed was raised by questions related to the effectiveness and efficiency of the state budget expenditures. At the same time, budget expenditures efficiency data are of interest not only in the format of the results expressed in physical terms, but in the format of relation to the initial plans, to the unit cost of production, including the dynamics on an annual basis at constant prices instead of the nominal.

There was separately expressed interest in information on effectiveness of implementation and operation of projects within the framework of existing state programs with the greatest possible detail of this information. In general, all the experts interviewed were interested in the possibility of the disclosure of information on the effectiveness and efficiency of budget expenditures of federal and regional ministries and departments. The people interviewed were interested in the content of governmental industry programs and the size of the financing of specific activities planned within their framework; they have sharpened attention to the urgent need for available relevant data on the effectiveness and efficiency of budget expenditures. They emphasized the need for accessible economic statistics by branches of the Russian industry.

Over the past five years the Russian establishment carries out deliberate and systematic work to ensure the openness of executive authorities that implies first and foremost the publication of relevant information in the form of open data. An interesting result of the study in this regard is the relatively low awareness of the respondents about the already implemented projects to ensure the openness of Russian authorities. Less than half of the respondents have reported that in the course of the expert-analytical work they use the official websites of the federal and regional authorities that provide disclosure of information about their activities. Upon that, respondents say about complexity and inconvenience of functionality of such projects as, for example, the project "Electronic Budget" created and implemented by the Ministry of Finance of the Russian Federation.

Teachers expressed their wishes to projects on disclosure of data on the activities of the authorities concerning the possibility of obtaining statistical and analytical materials. In addition, they emphasized their interest of the data on the structure of program and non-program expenditures of federal and regional executive authorities. Furthermore, information about own costs of federal and regional ministries and departments was important to respondents.

A variety of works by Russian and foreign authors were dedicated to issues of political orientations, and political participation of young people. A contention about low motivation level of modern Russian youth to political participation is often justified by the complexities of the "transition period", "transit era", etc. A commonplace is the assertion that low motivation to participate in political life is a consequence of the weak interest of today's youth in the political and economic aspects of the state activity. During our work with the student audience questions which have been asked to respondents from the focus groups concerned to the main problems of the Russian economy, the interest and the level of awareness of the respondents about the scope and features of the state policy in the sphere of economic development, interest and level of awareness of the respondents about the main directions of state budgetary policy to date, as well as issues related to the assessment by youth of the effectiveness of the state policy on development of the Russian economy. In addition, the study included an attempt to establish the main sources of information that young people trust in obtaining information about the state of the Russian economy.

The results of the study showed that in general the youth audience interested in the problems of socio-economic development of Russia, but is rather poorly informed about the specific directions and content of the work of the federal bodies executive power.

So, while working with focus groups, the following pattern has been registered: in general, the level of respondents' awareness on the whole range of the issues considered increases with the increase of years. The most knowledgeable in matters to which the discussion were devoted, were the students of the University of Finance under the Government of the Russian Federation.

It should be noted that the content of the responses of focus group participants was obviously under the influence of agenda for December 2015 - March 2016: fighting in the Syrian Arab Republic, the weakening of the ruble against the major world currencies, the decline in oil prices, and the terrorist threat.

Moreover, the study showed that the modern student's youth is actively interested in the problems of the Russian economy and experiences considerable anxiety about it. Participants in all six focus groups called with confidence the main problems which the Russian economy faces to, and demonstrate the need for answers to the emerging questions in this regard.

The findings suggest that young students are concerned about the evolving international situation, are seriously concerned about their future, and note the negative, in their opinion, impact of economic sanctions on the Russian economy as a whole, as well as for industry and trade in particular. Speaking about the most pressing issues, focus group participants expressed an interest in the following issues (in decreasing order of importance):

- How the state authorities strengthen the country's defense;
- What measures are specifically taken to overcome the structural problems of the Russian economy, in particular the raw-material exports, and dependence of the budget on the prices of hydrocarbons;
- What measures are being taken by the government for the development of the manufacturing sector of Russian industry;
- Which ministries and agencies at the federal level are directly responsible for addressing these critical issues of the day.

According to participants in the study, the effects of economic and political turmoil of the 1990s are still not completely resolved. Respondents also noted the weak competitiveness of the Russian industry production abroad, in their opinion, products of MIC and a number of

specialized industries are mainly competitive. Students noted that the existing industry support methods are not sufficiently effective; thus it is emphasized that the tax burden on small and medium-sized enterprises increases all the time.

All respondents noted an insufficient level of development of high-tech manufacturing industries and dominance of raw materials in the structure of Russian exports. It was emphasized the negative impact of external and retaliatory sanctions on trade, as well as on the Russian industry.

Focus group participants primarily expressed great interest in the issues related to the mechanisms of determining priorities for expenditure of budgetary funds. It is important to note a revealed paradox in the understanding by students of the structural features of the Russian economy: on the one hand, respondents say that the economy is critically dependent on oil exports, on the other hand, they expressed the conviction that the state budget is mainly formed due to taxes collected from the population and entrepreneurs.

It is important to note that the study participants expressed a lack of understanding of how the tax revenues allocated and spent further. Moreover, in the opinion of the respondents, existing projects dedicated to disclosure of fiscal activities of federal executive bodies, such as the portal "Electronic Budget" of the Ministry of Finance of Russia, do not provide simple and clear answers to these questions.

General awareness of young people on measures to ensure transparency of the work of executive bodies can be assessed as rather low. The same applies to the awareness of students about the projects related to the transparency of information on the budget of public authorities. Due to objective reasons, the students studying in areas related to the economy and finance aware of those topics to a large extent; the students of other specialities do not know much about the existence of such projects.

Participants in the focus groups have expressed interest in information on effectiveness of the state policy in the sphere of changes of raw-material production nature of the Russian economy, and emphasized the shortage of relevant information and the general non-transparency of issues related to effectiveness of the state policy. The general view is the perceived need for a simple and easy to understand information about the federal budget expenditures and their impact related to the modern period. Participants in all the focus groups pointed out that such information is usually very difficult to find in the public domain and, moreover, in a way that would allow it to be easily used for further processing.

Despite the fact that only about a half of the respondents study alongside employment, it is important to note that almost none of them does not count on state support for employment in the specialty or the implementation of their research projects. It is also important to note that speaking about the desired options of career, the participants in the focus groups expressed considerable interest primarily to work in a business area, without waiting for professional growth opportunities upon working in government and state-owned enterprises. Upon that, all participants in the focus groups have expressed interest in information on relevant measures of state support.

CONCLUSION

The performed interviews with representatives of the university community expectedly showed high level of awareness in this group of the main problems of the Russian economy as a whole and its individual sectors in particular. The nature of the responses about the current

problems of the Russian economy and the industrial sphere to a certain degree was also dependent from the agenda related to the foreign policy events and macroeconomic issues.

Interest of the teachers surveyed to an information about the activities of public authorities has an essentially applied nature. This primarily refers to those respondents which area of research is directly related to the financial and economic spheres. Respondents believe an inadequate standardization of data formats in different official portals of public authorities is a serious problem. Interviewees talk of the need for relevant, structured statistical financial and economic information on the various indicators and industries.

Analysis of the outcomes for the focus groups of young people suggests that the previously known problem of representation of complex data about the work of public authorities in a simple and accessible way is very relevant for the student audience.

Another important fact revealed in the course of the study is the lack of confidence in official information. About a half of the participants from student focus groups distrust the official data on the effectiveness of budget expenditures pointing to their incompleteness, indistinctness, and lack of specificity. We may assume that one of the reasons for this is the complexity and often abstract nature of data published officially. At the same time students, especially in Moscow universities, mentioned as a source of information opposition's network projects, such as, in particular, the portal "Fund to fight corruption". Students call correlation with specific projects, enterprises and achievements as the criterion of effectiveness and efficiency of budget expenditures.

To summarize, we may say that both groups within the university community demonstrate a relatively high level of awareness on the urgent problems of modern Russian economy and government economic policy. Upon that, if the high awareness of university teachers is due to a kind of their activities, the students' awareness (and the level of concern) in the current economic problems says, on the one hand, about the severity of these problems, and on the other hand, it shows a high level of interest in this area on the part of Russian youth .

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