

PRACTICE OF PUNISHMENT FOR CORRUPTION CRIMES

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The subject. The central element in combating corruption is punitive practice. The whole history of mankind testifies that corruption can be restrained only by effective application of criminal punishment.

The purpose of the article is to show the practice of assigning criminal punishment for corruption crimes of various kinds.

The description of methodology. The authors use the conception criminally-legal response. The following characteristics of the criminal-legal response are distinguished: lack of response; very weak response – the number of convicts does not exceed 10; weak response – the number of convicts is calculated within a few dozen people; adequate response – the number of convicts and penalties correspond to the criminological characteristics of a group of crimes; intensive reaction – the norm is realized in conditions of the possibility of ensuring the inevitability of punishment; punitive response – the norm is applied on the basis of the "letter, not the spirit" of the law; reflexive response – the appointment of punishment to privileged criminals in conditions of increased public attention; protest reaction – judicial practice comes into conflict with ill-conceived legislative novelties. The main results and scope of their application. The practice of imposing punishment for corruption crimes in the following spheres is analyzed: electoral; public service; commercial-service relations; of justice.

Conclusions. Punitive practice in relation to persons convicted of corruption crimes in general is characterized by exceptional humanism. As the main penalties the penalty is leading (50.1%), in the second place – suspended imprisonment (24.1%). Real deprivation of liberty applies only to the seventh part of corrupt officials (14.7%). For comparison: according to art. 158 "Theft" in 2016 was sentenced to imprisonment twice as many criminals – 30,3%. This ratio indicates an underestimation of the public danger of

corruption crime and actually disavows the proclaimed thesis that corruption is a systemic threat to national security.

1. The main resource of fighting corruption.

The punitive practice is the central point in combating crimes [1- 4]. Unfortunately, the legal definition of preventing crimes is formulated in two federal laws ("On counteracting terrorism", "On Preventing Corruption"), given enough obvious position is not counted. These normative legal acts of opposition to the criminal activity is understood as activities of public authorities and bodies kneaded self governance, as well as physical and legal persons for:

a) the prevention of terrorism and corruption, including the identification and item on the next elimination of the causes and conditions that facilitate the commission of terrorism or corruption (prevention of named terrorists ma or corruption);

b) the identification, prevention, suppression, detection and investigation of terroristic act, or of corruption offenses (the fight against terrorism or corruption);

c) minimize and (or) the liquidation of the consequences of terrorism or to the p-corruption offenses [5-7]. Meanwhile, the report of UN Secretary General at the XIII Congress of the United Nations on Crime Prevention and Criminal Justice underscores the importance of the practice of sentencing to strengthen society n continued safety [2].

The central part of counter (not only formally, but also with a gripping) the battle with corruption. However, it should be clarified that its main resource is the practice of sentencing for crimes of corruption. Detection, prevention, suppression, disclosure and investigation of corruption crimes are only "a prelude" to the main act of "legal action".

2. Indicators of the work of the criminal justice system to combat corruption at the "entrance and exit".

Information on the consideration by courts of criminal cases of corruption-related crimes is included in statistical reporting as a separate form from the report in 2011 [3]. Unfortunately, it contains fairly meager data that does not fully reflect the structure of corruption-related criminal offenses. However, referring to the materials of Table 1, compiled from reports of indicators 10.4.1 form of judicial activity, it can be formulated.

**Table 1. Number of convicts for crimes
corruption focus on STI for 2012-2016 years.
by main qualification**

Corruption crimes	2012	2013	2014	2015	2016
Total	6014	8607	10784	11499	10975
on the composition of 204-204.2, 290 - 291.2 of the Criminal Code of the Russian Federation	3860	5249	6876	7715	6605

Source: Judicial Department at the Supreme Court of the Russian Federation. . URL: <http://www.cdep.ru>.

The first conclusion follows directly from the analysis of data representation in Table 1: it is possible to note a tendency to increase convicted of corruptional crimes translational direction. This trend is quite obvious.

The second conclusion points out that there are more cases of corruption crimes than those in relation to whom criminal cases are initiated (the ratio of "crimes: persons" in the form of 204-204.2, 290 - 291.2 of the Criminal Code in 2012 is expressed by the formula 1: 2.20 , in 2013 - 1: 1.84, in 2014 - 1: 1.57, in 2015 1: 1, 65, in 2016 - 1: 1.77), and the number of convicts is much less the number of criminal prosecution of the STI (ie the relation of "identified persons: prisoners" on the composition of 204-204.2, 290 - 291.2 of the criminal Code of the Russian Federation are characterized by the following fractional values: in 2012 - 1: 0.75 in 2013 - 1 : 0.68, in 2014 - 1: 0.80, in 2015 1: 0.85, in 2016 - 1: 0.76). In other words, at the "entrance" to the criminal justice system, the indicators are significantly higher than at the "exit". In all probabilities in e, in the "black box" with the judicial processes occur that cropped criminal legal risks of corruption.

3. The "Black Box" the criminal justice system to combat corruption.

In this regard, there is a natural desire to look into this "black box", if possible, to investigate the mechanism for making criminal law decisions. To the objectified extent this can be done by referring to the information about the relative number as a result of criminal cases of corruption (Table 2).

**Table 2. Relative number of justified and discontinued cases
as a result of judicial review of crimes
corruption focus on STI for 2012-2016 years., in%**

Corruption crimes	2012	2013	2014	2015	2016
Total	1.01 / 4.95	1.17 / 4.89	0.85 / 6.08	0.60 / 6.32	-
on the composition of 204-204.2, 290 - 291.2 of the Criminal Code of the Russian Federation	1.14 / 2.69	0.87 / 2.30	0.43 / 2.71	0.21 / 3.41	-

Note: 1. In the cells of the table contains a fraction, the numerator of which relative to respect the number of acquitted persons, the denominator - the relative amount of the mo and the breeding business.

**Table 3. Real deprivation of liberty,
appointed to corrupt officials,
convicted for basic qualification in 2016, abs. and in%**

Couple-meters	Convicted	Total to 1 / s	up to 1 year	from 1 to 2	from 2 to 3	from 3 to 5	from 5 to 8	from 8 to 20	from 10 to 15
abs.	10975	1620	336	372	390	324	173	21	4
at %	100	14.7	3.1	3.4	3.5	3.0	1.6	0.2	0.04

Table 4 provides information on the main types of punishment assigned to corrupt officials (other than real deprivation of liberty) in 2016.

**Table 4. The main types of punishment,
appointed for corruption
(except for real deprivation of liberty) in 2016, abs and in%**

Total number of convicted	Probation	Other probation measures	Arrest	Restriction of liberty	Community service	Correctional tasks	Fine
10975	2642	43	0	61	161	50	5520
100%	24.12	0.39	0	0.55	1.46	0.45	50.29

Fine and probation constitute 75% of the punitive practice in relation to persons convicted of corruption crimes.

Table 5. The punishability of corrupt officials in 2016, outside basic punishments, abs. and in%

Total number of convicted	Imposition of a penalty below the statutory minimum	Deprivation of right (Art.47,48 CC)	Punishment according to Art. 64 CC	Confiscation of property	Fine	Restriction of liberty	Punishment not enforced
10975	1515	57	1800	543	1263	16	707
100%	13.80	0.52	16.40	4.94	11.51	0.14	6.44

In addition, referring to the materials of Table 5, we can say that to a selectivity of practice in relation to persons convicted of crimes of corruption, it is generally characterized by exceptional gum and closers. Actively applied institutions that mitigate punishment (and without that not too severe). Even a fine of 6.10% of the district and significant lower than the lower limit of e. As for the confiscation of property, in 2016 it was adopted only in relation to 5% of convicts.

4. The concept of criminal-law response.

In order to more fully realize the desire to look into the "black box" of judicial justice, as far as possible and to follow the mechanism of judicial decisions requires an appropriate scientific tools. The search for such tools led to the concept of a criminal-legal response, developed by I.M. Kleimenov [8, p.192-200]. The concept of criminal-law response is understood as the realization of criminal law in relation to persons committed crimes as a "special state activity that responds to violations of the facts of breaching of criminal prohibitions through the use of possibilities stated by criminal law" [9].

5. The practice of punishment for corruption crimes in the in the sphere of the electoral process.

Table 6. The practice of imposing punishment for crimes of corruption in the sphere of the electoral process, abs. (median values for 2012-2016)

Arts of crime (Article of the Criminal Code of the Rus-	Exposed persons	Convicted	Real deprivation of liberty	Probation	Restriction of liberty	Community service	Correctional tasks	Fine	Other measures
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sian Feder- ation)									
art.141	5	1	0	0	0	0	2	0	2
art.141.1	0	0	0	0	0	0	0	0	0
art.142	132	5	0	0	0	0	0	3	2

6. The practice of sentencing for official corruption crimes.

Currently, the fight against corruption in some states is an example of an effective combination of preventive and punitive measures. In particular, according to experts, PRC experience in countering corruption represents the value of rule of law, there is no inevitability of punishment and selective justice against corruption e trench [12, c .151-157].

This cannot be said by analyzing the practice of assigning punishment for official crimes of corruption (Table 7).

**Table 7. The practice of imposing punishment
for official corruption crimes, abs.
(median values for 2012-2016)**

Arts of crime (Arti- cle of the Crim- inal Code of the Rus- sian Fed- era- tion)	Exposed persons	Convicted	Real dep- rivation of liberty	Probation	Restriction of liberty	Com- muni- ty ser- vice	Cor- rec- tional tasks	Fine	Other measures
285	1189	464 (54)	36 (7)	59 (8)	0	0	0	143 (8)	226 31
285.1	32	3	1	-	-	-	-	-	2
285.2	4	0	0	0	0	0	0	0	0
285.3	17th	2	0	0	0	0	0	1	1
286	2152	1388	239	529	3	0	2	422	193
289	18	3	0	0	0	0	0	1	1
290	2009 (12)	1702 (9)	401 (3)	427	0	5	0	746	523
291	4461	3238	259	230	0	0	0	2156	593
291.1	299	124	12	34	1	0	0	77	0
291.2	1779	1115	16	12	35	79	0	864	9
292	2851	523	6th	55	0	12	0	369	81
322.1	1141	891	73	103	0	0	12	449	254
322.2	1361	486	4	17th	1	0	0	286	178

As seen from the table, a very weak criminal law response from a trace in detecting crimes under Art. 285.1 "Misappropriation of budgetary funds", art. 285.3 "Adding to the units and nye state registers of deliberately false information", p. 289 of the Criminal Code of the Russian Federation "Illegal participation in entrepreneurial activities". Essentially, these rules do not comment anticorruption. And the main reason for this baa s action is, in our opinion, the established practice of selective law enforcement: And more than half of relieved from criminal liability of persons holding public office of the Russian Federation or a government post of the subject of the Russian Federation, as well as being the head of the local authority itself to control (their details are given in the second row brackets).

Characteristically, the persons holding public office of the Russian Fed is, the radio or the state post of the Russian Federation, as well as is head of the local government rarely acts as the subject item of radiation bribe (Art. 290 of the Criminal Code), the average for 2012-2016 . in only 12 cases.

Thus, the selective enforcement of combating crimes of corruption should be stated.

6. The practice of sentencing for offices but commercial- corruption n nye crime .

Of certain interest is the practice of criminal law to respond to the service and the commercial crime of corruption directed laziness (tab. 8) , poskol s ku fight against corruption in the business environment is an important area Antico p -corruption policy of state in darstva.

**Table 8. The practice of imposing punishment
for commercial offenses
corruption orientation, abs.
(median values for 2012-2016)**

Kinds Presti claim tions (Article of the Criminal Code of the Russian Federation)	Exposed persons	Convicted	Real deprivation of liberty	Probation	Re-strictio n of liberty	Com mu- nity ser- vice	Correc- tional tasks	Fine	Other measures
201	604	197	33	27th	0	6th	1	23	107 A
202	23	1	0	0	0	0	0	1	0
204	650	408	43	165	0	0	0	175	25
204.1	17th	3	0	1	0	0	0	2	0
204.2	84	38	0	0	4	1	7th	23	3

7. The practice of appointing punishment for corruption offenses against justice.

The analysis of the information presented in Table 9 is of considerable scientific interest.

**Table 9. The practice of imposing punishment
for corruption crimes
against justice, abs.
(median values for 2012-2016)**

Arts of crime (Article	Exposed persons	Convicted	Com- munity service	Com- munity service	Community service	Com- muni- ty ser-	Correc- tional	Fine	Other measur
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of the Criminal Code of the Rus- sian Fed- eration)						vice	tasks		es
294	36	8 (0)	3	0	0	0	0	5	0
295	6th	2	2	0	0	0	0	0	0
296	65	38	22	7th	0	1	0	8	0
302	2	0	0	0	0	0	0	0	0
303	295	76	1	19	4	13	0	19	20
304	3	0	0	0	0	0	0	0	0
305	4	2	0	0	0	0	0	0	2
307	1051	719	5	17th	0	113	102	442	23
309	133	66	18	14	0	2	2	28	2

First, we pay attention to the lack of a criminal-legal response to the crime provided for in Art. 304 of the Criminal Code "Provocation of a bribe or commercial payoff" that does not correspond to the task.

Secondly, there is no criminal-legal response to the crime, in accordance with Art. 302 of the Criminal Code.

Thirdly, there is no legal response to the crime, in accordance with Part 3 of Art. 294 of the Criminal Code.

Fourthly, there is no criminal-legal response to the crime, in accordance with Art. 305 of the Criminal Code of the Russian Federation "Making known knowingly an unjust verdict, a decision or otherwise with a de facto deed."

Fifthly, there is a weak criminal-legal response to the crime under Art. 309 of the Criminal Code, "Bribery or coercion to testify, or the deviation e NIJ to testify or to the wrong pens to do."

Sixth, the widespread evasion of the criminal procedure against officials who have committed an offense under Art. 303 of the Criminal Code of the Russian Federation "Falsification of evidence and the results of operational and investigative activities" - only one in four of the identified offenders is convicted.

More or less adequately criminal law should respond to transgress under Art. 307 of the Criminal Code "Deliberate false show and of the opinion of expert, specialist or mistranslation."

Therefore, the state of the criminal law response to corruption etc., statements in the justice sector as a whole should be recognized as unsatisfactory in satisfactorily. It gives the basis to formulate a statutory criminal legal Forecast: combating crimes of corruption in the justice sector should be a priority subject in the comprehensive analysis of anti-corruption policies in Russia.

8. Conclusions:

1. The central part of preventing corruption is to fight it, and the main resource is the practice of sentencing for corruption crimes.

2. The punitive practice against persons convicted for corruption crimes in general is characterized by an exclusive humanism. As a basis for penalties, the leader is the fine (50.1%), in second place - suspended imprisonment (24.1%). The actual deprivation of liberty pr and changes only to the seventh part of corrupt officials (14.7%). For comparison: according to Art. 158 "Theft" in 2016 condemning e but to imprisonment twice criminals - 30, 3%. Such ratio suggests an underestimation of the danger of corruption crimes and actually disavows the thesis that corruption is systemic threat to national without a safety.

3. The criminal-legal reaction to electoral corruption is very weak, one might say, symbolic. In addition, it is important to bear in mind the trend towards minimizing the severity of the

response in recent years. In this connection, you can specify this prediction: the existing practice is rooted and cannot be adjusted without changing the jurisdiction of cases of electoral corruption.

4. A very low criminal legal reaction follows crimes connected to budget.

5. The weak should recognize as a whole the criminal-legal response to commercial and commercial crimes of corruption.

6. No legal response to crimes under Art. 304 of the Criminal Code "Provocation of a bribe or commercial payoff" does not correlate to the problem of suppressing inflammatory provocative action by the erase etc. law enforcement workers.

7. Status of criminal law to respond to crimes of corruption in the justice system as a whole should be recognized as unsatisfactory.

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БИБЛИОГРАФИЧЕСКОЕ ОПИСАНИЕ СТАТЬИ

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