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The new criminal policy of the Russian state in combating economic crime and corruption

Abstract: It is analyzed the realities of modern Russian criminal policy to counter economic crime and corruption. It is pointed at the inconsistency of this policy. It is indicated a new quality of criminal policy to combat economic crime as its compromise nature, emphasis on the development of contractual legal mechanisms.

Key words: criminal policy, economic crime, corruption, contractual legal mechanisms.

The criminal policy is an attitude of a state to the crime. The state determines through legislation the range of criminal offenses. In order to ensure socio-economic progress, the state is trying to influence on this segment of social occurrences through the law enforcement activities.

From the point of view of political science, legal policy is a policy of the state, state and municipal institutions, officials, and leaders in the field of law and legal institutions; policy that implemented by law and legal instruments. The opposing legal policy is an illegal and unlawful policy, contradicting the Constitution and international obligations of state, the basic interests of society¹. Modern criminal policy should meet to the criteria.

There are various approaches to determination of the criminal policy in the scientific literature. As it known, the concept of basic scientific knowledge was marked in the works of the founders of criminal policy theory, such as N.I. Zagorodnikova, N.A. Struchkova², and G.M. Minkovsky. The latter wrote that “we

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¹ *Smirnova V.V.* Legal policy in the context of legal modernization of Russia / *Gabrelyan E.V.* Legal policy in conditions of modernization (on materials of the Russian conference at the Institute State and Law of the RAS) from review of Legal policy in conditions of modernization // *State and Law*. – 2011. – No. 10. – p. 119.

² *Zagorodnikov N.I., Struchkov N.A.* Directions of studying of the Soviet Criminal Law // *Soviet state and law*. – 1981. – No.7. – p. 4.

can talk about crime combating policy (the criminal policy in a broad sense of the word) at three levels: conceptual, legislative and law enforcement”³.

It might be agreed to opinion that in a broad sense the criminal policy includes criminal law, criminal procedure and penitentiary and criminological (preventive) components, which “constitutes an active offensive force combating crime and other offenses”⁴. Many researches such as A.I. Alexandrov⁵, N.I. Gazetdinov⁶ and others marked structural features of the criminal policy as its constituting system. We like the proposal of Lopashenko N.A.⁷ to share out three main approaches to determining of criminal policy: 1) a broad interpretation of criminal policy as a domestic policy in field of combating crime; 2) an average interpretation of criminal policy, whose members include in it content a combination of policy so-called criminal sectors (criminal law, criminal procedure, penitentiary); 3) narrow interpretation of criminal policy that ties it only to the criminal law⁸.

In the proper sense of the word, under criminal policy N.A. Yegorova means “a state policy in the field of combating crime, implemented by means of criminal law”⁹. Ya. I. Gilinsky writes that purpose of criminal policy “formulation and solution of strategic and tactical tasks of law and order and protection of citizens against crime in a particular territory”¹⁰.

We like a point of view of V.V. Trofimov. He writes that legal policy is a purposeful activity of the state to create (using a terminology of the intellectual law) so-called kind of “protectable legal developments”, i.e. tested legal decisions (treated “test”), as accurately predicting legal consequences. These legal solutions should be new, unordinary, but always scientifically substantiated. Thus, it is necessary that these decisions would be socially appropriate (would serve function of “reflection”) and at the same time include an effect of “anticipatory reflection”. Generated legal solutions must be “vitaly” (socially) applicable, i.e., recognized by direct participants

³ *Boskholov S.S.* Contemporary criminal policy as part of social and legal policy // Siberian criminological journal. – 2006. – No.1. – p. 32.

⁴ See: *Boskholov S.S.* Idem. – p. 34.

⁵ *Alexandrov A.I.* Criminal policy and criminal process in the Russian statehood: Past, Present, Prospects and problems // Edited by V.Z. Lukashevich, S. Petersburg.: Edition of state university, 2003. – p. 55.

⁶ *Gazetdinov N.I.* Contemporary criminal policy and domestic doctrine on the principles of criminal proceedings // Journal of the Russian law. – 2007. – No.7. – p. 38.

⁷ *Lopashenko N.A.* Criminal policy. – M., Volters Cluver, 2009. – p. 27.

⁸ *Smirnova I.G.* Criminal and procedural policy: some judgments about its essence, social conditioning and the place in the criminal policy // Criminological journal of the BNUEL. – 2010. – No.3. – p. 62.

⁹ *Yegorova N.A.* On anti-corruption criminal policy of Russia at the modern stage // Russian criminological glance. – 2007. – No.4. – p. 138.

¹⁰ *Gilinsky Ya.I.* Regional problems of criminal policy // Problems of formation of criminal policy of the Russian Federation and its implementation by the police bodies.– Works of the Academy of the MIA of Russia. – M., 1995. – p. 47–58.

of legal life (civil society subjects) and prone to reproduce in the social-interactive legal subsystems¹¹.

With one hand, the criminal policy are considered by us first of all as a social factor of organization of criminal, criminal procedure and penitentiary legislation and other hand as a purposeful activity of appropriate subjects of criminal policy that based on scientifically substantiated legal solutions on combating crime¹².

The criminal policy has undergone substantial changes during the last years. Take a course on modernization of criminal law, particularly with regard to a fight against tax crimes, crimes committed in the economic sphere. The new criminal policy expresses qualitative changes in the Russian society and satisfies the need of its modernization development.

A police should play an important role in implementation of the new criminal policy of the state. The so-called criminal police are the main body in many countries that identifies and discloses the offenses, carries a pre-trial investigation, the results of which are material of the indictment material for a prosecutor.

In accordance with Article 2 of the Federal Law "On Police", one of the main activities of the police is an identification and detection of crime. In accordance with paragraphs 8, 9, 10, 12 and 18 of Article 12 of the Federal Law "On Police" the duties of a police is an implementation of the preliminary investigation, operational and investigational activities in order to identify, prevent, deter and solve crimes. According to Article 13 of the Federal Law "On Police" police may collect evidence; in the following cases and manner prescribed by the criminal procedural legislation of the Russian Federation, carry out inquiries and other proceedings; to conduct operational and investigational operations; under implementation of operational and investigational activities to carry out withdrawal of documents, things, materials and information and other actions that stipulated by Federal law; circulate and to take measures to trace the perpetrators of a crime or suspected or accused of committing them, people missing, other persons, a search of which is assigned to a police by this Federal law, and circulate and take measures to trace stolen or hijacked vehicles, stolen property, property subject to forfeiture.

Thus, detection, investigate crimes including corruption-related, carried out by a police in a form of criminal procedure, and through the OIA. In addition, during the administrative and legal activities police determines elements of crimes. All of the above qualifies a police as a major subject of the criminal policy.

The most significant changes in criminal policy are matured in two directions: the first, an economic security, and the second, combating corruption.

¹¹ *Trofimov V.V.* Legal policy as a scientific basis for legal reforms // State and law. – 2010. – No.6. – p. 125.

¹² *Polenina S.V.* Legal policy – generalizing factor of lawmaking // State and law. – 2011. – No.1. – p. 96.

V.V. Putin said: “In business area should be existed a presumption of innocence and integrity. Probably, we need to make some changes in the criminal law, so that we would have no reason to transfer business disputes in criminal prosecution”. This is an essence of the new criminal law ideology of ensuring of economic security by the criminal and legal remedies; the latter should now be used only as an alternative measure, while the civil and legal remedies are preferred.

The institution of private property has a systemic impact on the right, and criminal policy. Such universals as legal autonomy, self-defense of his/her rights, the use of negotiable instruments in resolution of disputes are derived from the private property rights; they define the modernization of criminal and criminal procedure policy in the economy. Such modernization is predictable because it provides stabilization of ownership, creates additional guarantees social interests advanced sections of the population and public authorities, to reduce the risk of administrative pressure on business, including by means of criminal justice.

The modern criminal policy reflects a new balance of power in the Russian society and prioritizing ruling elites. It is manifested in it an objective trend towards the legalization of a process of finding a compromise between the parties in the criminal law dispute, the subject of which is a crime in economic sphere. The issue on the application of criminal justice in economic sphere has been a subject of bargaining between the state and an offender. Both parties are involved in the choice of legal tools to resolve conflicts that arise in economic activity. Savings of criminal repression is manifested in that criminal liability should advance for those offenses, a protection of which is not possible by means of other branches of law. Consequently, before the police forces, which operate on identification, detection and investigation of economic crime is arisen a completely new task - to act a mediator in the resolution of economic disputes, help to ensure that the entrepreneur, the owner to compensate the harm caused to society, to another person, the State. In addition crime prevention in the area of economic activity comes to the fore. As noted by D.A. Medvedev, “under the prevailing circumstances, we need to be proactive more than ever”¹³.

The transition to a higher level of civilizational development of our society determines a priorities of use of civil and legal resources in comparison with the means of criminal justice in the economic sphere, when criminal and legal remedies are alternative, subsidiary instrument to be applied in case of failure of the civilian justice through system of guarantees of non-interference in the criminal justice in commercial disputes. Police should find its place in a new mechanism of ensuring of the economic security, along with using the traditional set of tools and instruments,

¹³ See: Epistle of the President of the RF to the Federal Assembly // RG. 2008. 6 November.

there is a need for new ones. No less important to change a psychology of the policemen, to improve a level of police training.

The state is carrying out completely different policy in the anti-corruption area, since corruption is a threat to Russian national security. The government is taking active measures to counter corruption, but so far they do not bring tangible results. We offer the project to upgrade the legal mechanism to combat corruption.

In our opinion, it is time to qualitatively change the criminal policy combating corruption. Eradication of corruption must be an ideology of the criminal policy; it is unacceptable any form of compromise with corruption. A range of issues must be resolved in forming a strategy of eradication of corruption, including the methodological and ideological properties which require theoretical, fundamental research, including revision of some basic provisions of criminal legislation.

Thus, we are dealing with two related phenomena in modern criminal policy of Russia; they most vividly describe the priorities of the ruling elite. A balanced model of criminal policies combating economic crime and corruption will increase an efficiency of right-restoring mechanism. Changes in the criminal policy in these destinations are closely connected to the police reforming and new legal forms of its activity.

Bibliography

1. Alexandrov A.I. Criminal policy and criminal process in the Russian statehood: Past, Present, Prospects and problems // Edited by V.Z. Lukashevich. S. Petersburg., Edition of state university, 2003
2. Boskholov S.S. Contemporary criminal policy as part of social and legal policy // Siberian criminological journal. – 2006. – No.1.- p.p. 32-44
3. Gilinsky Ya.I. Regional problems of criminal policy // Problems of formation of criminal policy of the Russian Federation and its implementation by the police bodies.– Works of the Academy of the MIA of Russia. – M., 1995. – p.p. 47-58
4. Yegorova N.A. On anti-corruption criminal policy of Russia at the modern stage // Russian criminological glance. – 2007. – No.4. p.p. – 138-147
5. Zagorodnikov N.I., Struchkov N.A. Directions of studying of the Soviet criminal law // Soviet state and law. – 1981. – No.7. – p.p. 4 – 12
6. Smirnova I.G. Criminal and procedural policy: some judgments about its essence, social conditioning and the place in the criminal policy // Criminological journal of the BNUEL. – 2010. – No.3. – p. 62 – 71
7. Trofimov V.V. Legal policy as a scientific basis for legal reforms // State and law. – 2010. – No.6. –p.p. 125 - 132