

## Effectiveness of law enforcement by governmental authorities under contemporary conditions

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**Abstract.** The article investigates the problem of creating a legislative system having clearly defined scope of competence of the governing bodies and administrative authorities, as well as the interaction mechanism between these authorities at different levels. Author considers the factors that influence the effectiveness of law enforcement, and makes conclusions that corruption is one of the main factors negatively affecting the effectiveness of law enforcement by governing bodies. Establishment of a regulatory framework for the anti-corruption polices is not completed, as many regulatory legal acts in this area do not work effectively, contain contradictions, gaps, and imprecise wording, whereas legal regulation of public-service relationships should be systemic and cover the entire state mechanism as a whole rather than specific sectors. Author proposes to solve the problems on effectiveness of law enforcement by governmental authorities, forcing on all the factors simultaneously.

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### Introduction

In the legal literature, there are different classifications of conditions providing high performance quality of law enforcement authorities.

Some scientists break down all conditions, providing law enforcement effectiveness, on general and specific conditions. Among the first, they point out the economic and political structure of society, as well as its culture (legal culture in particular), while special conditions, which are relevant to the law enforcement activities, include: social relevance, validity and perfection of legal norms (regulatory quality), perfection of procedural rules of law enforcement, establishment by legislator the very necessity of law enforcement and its scope, as well as rule of law, the proper organization of law enforcement authorities and their provision by logistical means [1].

Others build a model on law enforcement effectiveness conditions, which consists of the following factors:

- factor of optimal rule of law (legislation quality);
- management factor (level of scientific organization of law enforcers labor, the organizational structure of enforcement authority, its operation, clarity in sharing of powers, competence, coherence and consistency of all components of the law enforcement system);
- social microclimate factor (i.e. the relationship between the enforcer and team members): business-like character, creative criticism and self-criticism, bureaucracy, formalism, red tapery, etc.);
- subjective factor (enforcer's personal attributes, his political maturity, knowledge of the law, the level of legal awareness, professional

ethics, credibility, experience, high moral qualities, and the general cultural level);

- social environmental factor (knowledge, understanding and approval of law and law enforcement by people, as well as promoting of justice, etc.);
- logistical factor (provision of enforcer by premises, transport, etc.);
- aesthetic factor (external design and the space arrangement and aesthetic appeal of enforcer, etc.) [2].

Given that any classification is largely conditional, when determining the effectiveness of law enforcement by governmental authorities, it seems appropriate the approach, which takes into account the quality of enforcement actions at all of its main phases (stages) [3]. Law enforcement decision can only be effective when all the necessary factual circumstances (the factual basis of the case) are elicited before decision is made, as well as selection and analysis of the law is performed, the correspondence between the decision making conditions noted in statutory act and ascertained actual circumstances is determined, the transition option of normative regulation into the individual regulation is optimally chosen, and the responsibility of the performer is defined. Furthermore, the effectiveness of a decision may be influenced by some organizational issues, related to decision-making and their implementation.

International community pays particular attention to development of the special law enforcement model, which would cover the anti-corruption efforts and help to enhance the effectiveness of the implementation of scientific and legal strategies, aimed at improving law enforcement of entities [4, 5, 6]. The problem of the state

administration effectiveness attracts the attention of many scientists. At that, scientific community pays great attention to the issue concerned improving the theoretical foundations of anti-corruption polices [7, 8, 9, 10].

In recent years, the problem of corruption is being under focused attention of both society and the highest state authorities of the Russian Federation. Appropriate statutory acts were adopted to combat this phenomenon. The Federal Law of 25 December 2008, № 273-FZ "On Combating Corruption" occupies a central position. It is first time that the statutory act of this high level, introduced the concepts of corruption and anti-corruption polices, defines the basic principles of anti-corruption polices, some of which are also the organizational principles of the institutional power that once again points to the need to organize activities on combating corruption primarily in the governmental authorities [11].

Later, in order to implement the Federal Law, a package of regulatory legal acts were passed, including several Presidential Decrees, which approved lists of official public posts of the federal public service. According to these Decrees, public officials, appointed to a permanent job or locum position, are required to submit information on their income, property and liabilities, as well as information on income, property and liabilities of their spouses and minor children. The procedure for the provision of such information and the validation mechanism of information completeness, provided by a citizen or a public official, were approved [12, 13].

Their main task is to establish a scope of measures to prevent corrupt behavior in governmental authorities.

It should be noted that corruption in government is, at the moment, perhaps the main factor horribly negatively affecting its effectiveness. In many cases citizens cannot get on time quality public services without paying bribes; this creates a strong belief in the inability or unwillingness of the authorities to fulfill their obligations to society. In this regard, the establishment of a regulatory framework for the fight against corruption is the first and very important step in overcoming this social phenomenon.

### **Main part**

The main direct condition for immediate effective law enforcement is the most accurate account in a particular situation of all the actual circumstances, important for the legal regulation, in order to select the decision option, most conducive to achieving the goal of legal regulation.

In a number of instances, the law explicitly requires from enforcers to identify the specific facts of the case. Thus, in cases concerning the administrative

offenses, the following circumstances are subject to clarification under Art. 26.1 of the Russian Federation Code on Administrative Violations: actual occurrence of the administrative offense; the person, who committed illegal actions (inactions), for which administrative responsibility is provided; person's guilty in an administrative offense; circumstances mitigating or aggravating administrative responsibility; nature and extent of the damage caused by an administrative offense; circumstances excluding judicial proceedings concerning an administrative offense; other circumstances, important for the proper resolution of the case, as well as the causes and conditions of commissioning administrative offense.

Importance of such factors and circumstances directly depends on the scope, provided by law to the subject, exercising the right, to take the initiative and independence, or depends on a degree of granting him professional discretion [14].

One of the main conditions for the effective law enforcement by governmental authorities is high quality of legislation [15, 16]. Here we would like to note the following. When enforcer chooses certain norm, institution and a branch of law, he often faces the problems of a technical nature. Searching for the appropriate regulations is facilitated in codified areas of law, the same scope where disparate statutory acts apply. This causes an additional difficulty.

Consequently, when distinguishing the category of law enforcement decision quality by governmental authorities, it is necessary to bear in mind that the decision can be considered in two ways: as an action of authorized subjects towards the completion of the law enforcement process, and as an act with characteristic form and content.

Considering the law enforcement decision by a governmental authority as an action vested with the appropriate authority of the subject, it is necessary to highlight certain aspects.

Law enforcement is the activity of people of different age, education, temper, character formation, life experience, etc. Hence personal qualities of the law enforcer influence the quality of law enforcement decision taken by a governmental authority and the effectiveness of law enforcement in general [17].

It should be noted that the dependence of the law enforcement effectiveness on the personal qualities of the official is traced at all stages, not just at the stage of decision making.

Personal qualities of enforcer include legal qualification, practical experience, level of legal awareness, culture, professional ethics, individual psychological characteristics, interest in making the decision, etc.

Personnel trainings are an urgent problem for the Russian Federation, because often officials do not

comply with the requirements that apply to state and municipal employees under contemporary conditions.

Oftentimes their professional level is significantly below the desired level of proficiency. When training Russian specialists, the emphasis is made on theoretical knowledge and further upgrading qualifications, which government officials often undergo formally.

Legal awareness is usually understood as a set of ideas and feelings, showing the attitude of the people and social communities towards existing or desired law [18].

Legal awareness forms necessary psychological and ideological context for law enforcement, laying the basis for assessment of the evidence in the case, making decision, filling the gaps in the law, etc. At that, the condition of effectiveness of the law enforcement by governmental authorities, related to a high level of legal awareness, is closely associated with the legislation quality condition. Imperfect law will not be approved by an individual with a high level of legal awareness. However, the low level of legal awareness can nullify the effect of the most perfect law.

Important components, characterizing enforcer's personality, include temperament, character formation and special aspects of thinking. It was established experimentally that the closed (dogmatic and authoritarian) thinking, differing by stiffness of mental set, immune to new information, adherence to once internalized stereotypes, is characterized by the expectation of failure in achieving the desired law enforcement goals, and a lack of confidence in its implementation.

Law enforcement decision quality and the effectiveness of law enforcement by governmental authorities depend on the culture of the official in general and his legal culture in particular. The effectiveness of law enforcement by governmental authority should be assessed as a negative value, if the objectives of the legal norm are achieved, the principles are met, but this leads to an undesirable social effect, caused by the very law enforcement. In other words, if the law enforcement was done in such a way that, instead of respect for the law and public officials, the citizen had got the opposite belief, which may later manifest in his actions.

The effectiveness of law enforcement by governmental authorities is also reduced due to poor exploration of the issues on competence of various bodies.

Now the problem of interaction of state bodies and local self-government is quite urgent since the interaction of governing bodies is a process that aims to establish regular relationships between governmental authorities in order to develop an

effective mechanism for joint action, required for coherent functioning of the state [19].

The quality of law enforcement decision by a governmental authority largely depends on the interest of a public official in making one or another decision. Analysis of law enforcement activities of governmental authorities in some areas of our social reality suggests that in some cases it's impossible to ensure genuine objectivity of the law enforcer.

The underlying causes of such situations are beyond the scope of law enforcement, and their elimination requires a number of economic and social activities. For example, this concerns the case where there are certain informal ties between enforcer and probable party to a legal relationship. Desire to evade law enforcement or knowingly take a wrong decision may arise because of the desire to improve the performance of their structural organization during the reporting period. However, the strongest violations in law enforcement arise from corruption.

Citizens of the Russian Federation perceive officials as members of a clan or caste, which are characterized by secrecy, hierarchy, focus on their own needs, enmity towards society interests in general and individuals in particular [20]. Naturally, it is almost impossible to fight against the clan, given the fact that one has to complain about official just to a superior officer, but according to perception of the Russian fellow citizens, within bureaucracy dominates mutual cover-up and all officials "sail in the same boat". Russians feel themselves equally defenseless both in the face of crime and in the face of government representatives. Furthermore, powers of the state often coalesce with organized crime groups based on business and money. Corruption in Russia is not a legal category, but a political and economic category.

### **Final part**

There is no reason to suppose that the establishment of a regulatory framework for fight against corruption is over, because, as experience shows, many regulatory legal acts in this area do not work effectively, contain contradictions, gaps, and imprecise wording, whereas legal regulation of public-service relationships should be systemic and cover the entire state mechanism as a whole rather than specific sectors. At present, the problem of interaction between state bodies and the local self-government in terms of fight against corruption is very urgent. At that, the interaction of government authorities is a process that aims at establishing regular relationships between governmental authorities in order to develop an effective mechanism for joint action, required for coherent functioning of the state in this sphere.

## Conclusions

Thus, to date, relevant is a problem, having evolutionary nature. i.e. creating a coherent system of law with clearly defined scope of competence of the governing and management authorities, as well as the mechanism of interaction between these authorities at different levels, including federal, regional and local level. At that, it should be borne in mind that all of the factors that influence the effectiveness of law enforcement (quality of the law, personal attributes of the law enforcer, the level of law enforcers labor organization, anticorruption efforts, etc.) do not exist separately from each other, but represent a symbiosis of interpenetration and interdependences, reflecting the complex system of social connections and relationships. In this connection, it is impossible to solve the problem of the law enforcement effectiveness in terms of activities of governmental authority without affecting all the factors simultaneously.

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