

**SERVICE DELINQUENCY OF THE PUBLIC CIVIL SERVANTS
OF THE RUSSIAN FEDERATION**

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Explores service delinquency of the public civil servants, the causes of its breed, forms of manifestation of service delinquency, as well as its relationship with legal nihilism of the public civil servants. Special attention is paid to corrupt forms of service delinquency of the public civil servants.

Keywords: delinquency, administrative delinquency, service delinquency, legal nihilism, forms of manifestation of service delinquency, public civil servants

Applying a systematic approach to an administrative delinquency E'. E. Genzyuk identified it as a complex dynamic system due to the complex of social factors and targeted socio-behavioral acts of unlawful nature, and representing the great number of elements in the form of separate administrative misconducts and committing actors which forms a repeatedly dismembered set characterized in certain spatio-temporal frameworks [3, 92]. The following scientific argument on the magnitude of administrative delinquency is not a surprise. Indeed, it is permissible and there may be situations when "the official body of the State Fire Supervision Service (SFSS) just engaged to the administrative responsibility of the perpetrator of the fire safety rules, after a short time having violated traffic rules becomes the subject of administrative misconduct by itself, and State Inspection on Traffic Safety inspector who has imposed the penalty on the SFSS representative, a few hours later, at leisure, was detained for poaching with Fish Protection inspector, and so on and so forth". [3, 95-96].

We absolutely agree with the scientist that an administrative delinquency manifests itself as a mass, changing phenomenon of social life, which is a system of most common cases of illicit conduct. However, we are interested in delinquency of civil servants.

It is necessary to note the difference in respect of the civil society on the level of extremely social condemnation of delinquents who are private legal entities and officials of the public civil service. If in respect of the first specified by us actors you can watch the toleration of much of the misconducts and the imperception of many, but the administrative offences of public civil servants are of great public interest, which is explained with administrative and legal status of government persons.

In considering the factors of public civil servants administrative delinquency, you can come to a natural conclusion that they are the same as the administrative delinquency of common subjects of administrative responsibility. Administrative delinquency of public civil servants consists of phenomena of socio-demographic nature (urbanization, migration, changing population structure by sex and age, etc.), economic nature (phenomena connected with the welfare, unemployment, economic and industrial infrastructure, etc.), social and socio-psychological nature (factors related to the weakening of traditional forms of social control, the role of the family in the upbringing of children, psychophysical condition of the health of individual social groups) and organizational and legal nature (factors arising from the status of normative-legal supply on the level of the Federation subjects, professional skills of public civil servants).

Also E. E. Genzyuk noticed the impact of legislation of the Russian Federation subjects on the status and structure of the array of administrative offences, saying about the originality of the legal acts adopted on a number of really important issues of public administration, such that not only calls into question their legitimacy and social substantiation, but also affects the understanding of administrative delinquency as a system formation, which is more or less structured [3, 82].

We believe that the reason for delinquency of public civil servants is legal nihilism, which is expressed in many different directions and forms. This rejection of public civil servants of new ("market") values, discontent of changes in respect of property, social protests against carried out transformations; denial of numerous "Western" patterns of behavior, political-moral benchmarks not peculiar to Russian mentality [8, 74]. There are objective reasons. . After a long time of repression of individual rights and freedoms in Russia began the process of accelerated forming of new social relations, outstripping the subjective perception of it as a necessary change in society.

Considering the legal nihilism in Russian society, sociologists note many factors including social and historical development of the country, national, and spiritual traditions, the experience of public life, the current level of political and legal culture, geopolitical circumstances, etc. A significant influence renders

domination of authoritarian system of power and lack of rights by the vast majority of the Russian population prolonged in centuries.

M. Mesilov notes the absence of guarantees of the rights and freedoms of the individual, superior force-power-oriented methods and techniques in policy, adoption of the overly centralized disregard for the law of the country at various levels of State management [8, 77-78]. State Management System and suppress of any dissent, all of this, we believe, has led to deep dissemination of legal nihilism in the minds of the members of the Russian society, which invested with the various administrative and legal statuses restate the relevant relationship.

Reforms conducted in the country in no way altered the nature of executive power, with its tendency to “separation” from the society and “trampling” of the public interest, to lack of control and subjugation other powers in view of the special regime of its functioning. Formal bureaucratic behavior of public civil servants excludes citizens from their activities, creates an atmosphere of “mystery”, mutual mistrust and undermines the Executive power.

The totality of delinquency causes of public civil servants should be defined in two groups. The first group consists of subjective causes, which are defined with internal, emotional-psychological, moral and ethical, educational, material and other personal attributes of a public civil servant. The second one consists of objective reasons – politico-legal events, facts and trends, not having a personality-attributive motivation.

We agree with M.A. Mesilov, that ability to a negative assessment of the law also appears along with a sense of person’s autonomy, its well-known exclusion from public, i.e. individualism. In the era of socialism, this problem was not peculiar one because of weak development of person’s autonomy, but sustainability of the public nature of the laws. Strict observance of laws was seen as unconditional debt [8, 81]. Currently unconditional subjection has changed to critical, including negative assessment of law.

It is no secret that there are serious problems in the condition of a professional sense of justice among public civil servants. For various reasons, there is a destruction of their legal views, attitudes, feelings, beliefs, quasi-judicial or unlawful legal constructions appear in their activities [6]. The lack of a sense of duty, the desire to achieve the goals by any means has a negative impact on the professional activities of public civil servants, contributes to the creation of the nihilistic relationship to law, torts in its use. But delictual behavior of a person vested with public authority, in its turn, initiates such a behavior among citizens and collective subjects. Citizen, who denies the law in everyday life

(out of office activity), then coming to the civilian public service, is unlikely to change his attitude towards the law.

There are open and hidden forms of delinquency of public civil servants in respect of the nature of external manifestations. Open form is characteristic of public civil servants directly violating the rights of citizens, as well as employees who are party to the external legal relation with the subject of control. Open forms take place where is weakened official control, or the authorities of the public civil servant are not fully defined, and when there is an execution of the unlawful order from a superior official. . With regard to hidden forms of delinquency they are more characteristic of the internal legal relation of the public civil service, as well as the part of external legal relations, where is no direct contact with the subjects of control.

Having ignored the law an official can generate not only the imperfection of laws, but also inadequate methods of legal regulation. There are three generally accepted methods of legal regulation: incentive, compulsion or persuasion. Legal nihilism or civil servants is born with misuse of any of these three methods.

It should be noted that the delinquency of public civil servants, to a large extent determined by the specifics of their professional activities and may be classified as a service one, based on its content and especially. Public civil servant implements not his private goals but versatile needs and interests of the components of society in the process of their development. And as stated by V.A. Potekhin, "implementation and enforcement of these needs and interests can be effective if the individuals are responsible for the public benefits on the base of the free and realized recognition of the claims brought to them" [9, 17].

Delinquency of public civil servants corresponds with:

- an absence of clear view at the public civil servant of his role and place in the structure of the State and society, his own social significance;
- an absence of voluntary and realized decision to take obligations of subordinating their activities to the tasks of realization of the State's and its public bodies' functions;
- an absence of awareness of the need to act in full accordance with the interests of the State and society and the social requirements and standards;
- an absence of ability to foreseen the results of their decisions and actions, their social consequences;
- a lack of readiness to bear responsibility in all its forms for all their illicit actions or inactions.

Yu. E. Avrutin noticed the causes of violations of the rights and lawful interests of citizens and organizations as the lack of the conceptual unity in the issues of balanced

and harmonious development of legal norms and the abundance of interdisciplinary and intraindustry contradictions [1].

Y.A. Rosenbaum highlighted the low level of public civil servants staff professionalism, which, together with their irresponsibility caused highly dangerous phenomena: fall of discipline performing and breaking the law. It's a long time ago "for officials it ceased to be an extraordinary event the failure or breach of the laws of the State, Presidential orders, decisions of the Government of the Russian Federation and other regulatory legal acts. Rarely any public officials are severely punished for this, at least, be removed from his post... As a result, today we have incompetent, extremely bloated officials' corps, much of which is not able to engage in management activities "[10, 53].

Analysis of periodic printed publications and judgments having highlighted the diversity of causes and conditions leading to delinquency of civil servants let to accomplish their classification on the areas of public life, grouping them into economic, social, psychological, ideological, organizational, and technical and legal. The most common are the following material reasons: the delinquent's desire to improve the material living conditions, dissatisfaction of the needs of the delinquent, desire to live in "affluence", large queries, unjustified expenses, including unplanned purchase. Among the nonmaterial reasons is carelessness in the performance of their tasks and responsibilities, limited memory, fear, laziness, poor organization of working time, illiteracy and incompetence [5, 108].

To excuse their offences public civil servants refer to the imperfection of the legislation, its incompleteness, unclear forms, controversy; insufficient budgetary funding; the crisis in the economy, politics and other areas; legal nihilism; bad social security; unemployment; occupation of highly paid jobs; the absence of the necessary material-technical base, communication equipment, office supplies; limited time to learn something; the low level of legal culture and comprehension.

Stated clearly shows that the most common reasons for and conditions of service delinquency of public civil servants are the causes and conditions of the economic, psychological, and technical and legal nature.

Despite the fact that the administrative offences are committed by their own reasons, there are specific conditions contributing to the emergence of such causes, we don't agree with A.N. Deryuga in the statement that "mostly they are committed through negligence, as a rule, without preparation (preparing, attempt), so there is no installation of the offender to commit illicit activities and his personality is not misshapen" [4]. Taking in consideration the position of the specified author concerning administrative offence under which he understands "the means of

resolving the contradiction between person's demand (actual or false understood) and order (injunction) formulated in administrative and legal law", we cannot accept the simplification and underestimation of the administrative tort.

A.N. Deryuga argues that "contradiction is not of an antagonistic nature, is not continuous, but the attempt to solve it by administrative offence is usually due not to antisocial essence of personality of the offender but to weakening of internal self-control, deformation of criteria for assessing the public danger of the deed" [4].

Service delinquency of public civil servants which is shown in committing of an administrative offence or decision made by organ of public power that restricts the rights and freedoms of the individual citizen (legal entity) is dangerous because this is not only the result of the offence committing but it's also the implementation of the powers of government public relations management, assigned to the public civil servants. And in this case, a set of special measures aimed at locking, neutralizing and eliminating the causes and conditions of administrative torts is needed.

Recently in administrative delinquency of public civil servants dedicate behavior leading to corruption and corrupt activities itself that indirectly or directly infringe on the credibility and the legal interests of the public service and public power in general.

Legal scholars provide the following features of actions leading to corruption in the management area: a) source, access to which is the purpose of persons participating in the corruption collusion; b) interest, which is the driving force of the corrupt participants (private or group different from public); c) damage, which could be caused to the public interest (the "common good") with any potentially corrupt behavior [11].

Thus, the corruption activities of a public civil servant are determined by his participation in a transaction with a private person, interested in a particular behavior of the public civil servant, and the transaction has a mutually compensative nature, but not necessarily material one. And the transaction is knowingly illicit.

Yu.A. Tikhomirov and E.N. Trikoz noted the high degree of corruption development in contemporary Russia, pointing to the existence of a "broad and sustainable corruption networks that are not simply profit from their illegal activities, but have already invested in the development of the corruption". According the authors data - monthly costs of the administrative barriers overcoming in trade and production in Russia are numbered with the sum of 18 to 19 billion. rubles, that is about 10% of retail trade turnover. Each year Russians spend on bribes 2.8 billion. \$ and for the payment of income tax - 5.8 billion. \$. [11]

The given by legal scholars personal origins of corruption in public administration are absolutely identical to ones of a service delinquency of public civil servants. This is deformed consciousness of public civil servants from normative models of their statuses and the statuses of the bodies in which they work, from job descriptions and characteristics. Another reason for the false and erroneous views of public civil servants is in their low common culture and a low level of professionalism [11].

In our opinion to service torts should be attributed some non-legal ethical violations, for example: presence at the holiday corporate events, organized by subjects of entrepreneurial activity, monitoring of whose activities fall within the competence of a public civil servant; public informal and regular communication with people who have convictions for economic crimes; accommodation in hotels or using cars whose value is not compatible with the size of the income of a public civil servant; foreign business trips paid for by interested private individuals.

Service delinquency of public civil servants, in all forms of its manifestation (disciplinary offences or administrative ones) is the opposite of the law as a social phenomenon. But despite this, takes the form of commonness. As noted by T. M. Belharoeva in her research of the socio-psychological aspects of the public civil servants' conduct "the official is not ashamed to purchase flats for many thousands of dollars and does not report on the sources of his income; accordingly, a major public manager does not respond to the charged against him in the media accusations of dishonesty, being money centered, corruption, etc. « [2, 146]. We should agree with the author that this behavior and actions of public civil servants cannot be assessed simply from a legal point of view - conform or do not conform to the law articles and the provisions of the instructions. Service torts of public civil servants simultaneously with the legal field are in the moral one - the field of public views. Serious immoral offences of public civil servants are the greatest destabilizing factor, become the subject of attention of public opinion [2, 151].

Service delinquency of public civil servant is essentially a deliberate disobedience to law, violation of rules, regulations, instructions, but without the use of force or attempts to avoid the adverse effects of such action. Delinquency shown in the form of official passivity - is the inaction of officials of the public civil service, ignorance or skepticism about the official duties or the statutory procedures. Active forms of manifestation of public civil servants' delinquency vary in degree of intensity of external behavioral manifestation. This are realized actions aimed at breaking the law in order to achieve any goals using his official position or without one. There are known active forms, such as:

- impetuous form, which is generally of people who are emotional or mentally unstable;
- affective form (when a public civil servant was in passion, in the condition of unbalanced mentality).

Yu.B. Istomina having analyzed the Code on Administrative Offences of the RF established a number of administrative offences which show legal regulation of inaction from the point of view of understanding under it the fulfillment way of the offence committed by a public civil servant for which administrative liability is provided [5, 56-57] It is the article 5.25 - not providing of information on the outcome of the vote or on the results of the elections, article 6.3 - violation of the legislation in the field of sanitary-epidemiological well-being of the population, article 8.5 - concealment or misrepresentation of environmental information, article 10.7 - concealment of information about a sudden loss or simultaneous mass animal disease, article 14.25 - violation of the legislation on public registration of legal entities, article 20.11 - violation of the terms of weapon registration (re-registration) or periods of statement on the record.

In reality, there are much more formulations of service torts of public civil servants, only in the current Code on Administrative Offences of the RF they are included in the officials' category. From analysis of judicial statistic for 2009-2010 we can form an image of magnitude of public civil servants' service delinquency, which took place in external legal relations with subjects of administration in respect with which private subjects of administrative law have claimed illicitly and invalidity of actions and decisions of public civil service officials [7]. having enumerated results of administrative and legal disputes, it is possible to state that in more than 50 % of cases service torts of public civil servants took place.

With regret we are to say that service delinquency of a public civil servant in our society, his irresponsible attitude to job duties implementation is not considered by legislator as an exception from a normal practice of public civil service, because of that the Russian administrative and delictual legislation should be reviewed and also the institute of an administrative responsibility of public civil servants should be developed and scientifically substantiated.

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