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Concept and Corruption Signs Within the Russian Election Process

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Corruption in election process is a social-negative phenomenon distorting real political competition, consisting in use of the status, office position by the election process subjects in personal or group interests with a view of illegal extraction of benefits and advantages during arrangement and holding elections, referenda as well as in granting or promising such benefits and advantages.

Keywords: corruption; election process.

It is known, that political power is always subject to influence of various groups of pressure which aspire to correct a political policy according to their interests¹. However, nowadays such a pressure has acquired qualitatively different character.

Political, financial and economic rates on elections are very high. Therefore, subjects of elections leave no stone unturned to win them². Necessity to gain a victory over elections at any price has produced various legal and illegal pre-election technologies actively used in the course of elections of federal, regional and local levels.

So-called «dirty» electoral technologies are the most widely applied ones in the course of elections. «Dirty election technologies should be understood as such techniques which contradict legislation and violate a normal course of election process and can essentially distort the voters' will, impose a desire to vote for (against) a certain candidate for an elective office (the party

list of candidates)»³. However, «dirty» election technologies are not always infringement of the election legislation. Their application does not quite frequently contradict the current legislation, but mismatches moral foundations of a society⁴.

The list of such technologies is rather various. They become qualitatively more complicated and modified from elections to elections. Bribery of voters, falsification of results of elections, illegal entry of not existing persons into the list of voters, illegal financing election campaigns, unlawful propaganda, management reserves application, imposing pressure upon candidates and voters; registration of candidates' doubles, etc. are most frequently referred to in scientific and publicist literature.

At the heart of the overwhelming majority of specified technologies application are bribery, bribability of persons using them (promoting application), illegal use by such persons their status, office position. It is difficult to imagine

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representatives of a financial- industrial group having strategic interests in a region, rendering financial help to the most professionally trained, independent candidate, instead of that one promising assistance in the future, in case of a victory on elections. Practically no doubt arises concerning motivation of mass media representatives found liable of infringement of the order and rules of participation, informational election support and, nevertheless, continuing to violate legislation on elections within the limits of one election campaign.

Bribery of a voter, member of an election commission, a representative of mass media, a representative of the authority, other subjects of elective process when the latter, in exchange for illegal use of the status by them, office position are given money means, other material and non-material welfare are nothing but corruption, namely corruption in a special sphere – the sphere of election process.

Today corruption in election process is actively studied by national researchers: B.L.Vishnevsky, A.I.Volkov, S.A.Dulov, L.B.Eskina, O.V.Zajtseva, A.P.Sviguzova, P.A.Kabanov, V.A.Petchenko, V.L.Rimsky, G.A.Sataro and other authors.

We cannot help mentioning absence of these researchers' unity in the name, definition of corruption content (some authors do not reveal their understanding of the given phenomenon content at all) as well as in highlighting signs, subjects, and forms of existence in election process.

The authors use various terms to designate corruption displays in the sphere of elective process: «electoral corruption» «election corruption», «corruption in the course of election process».

So, national political scientist V.L. Rimsky defines electoral corruption as «an activity breaking a normal course of elections by means of public possibilities use for implementation

of personal or corporate interests» during preparation, holding or following the elections results»⁵.

P.A. Kabanov considers electoral corruption a specific kind of political corruption and suggests defining it as a system of bribery (bribability) both voters and the voted, therefore state and local authorities are turned into a sort of expensive goods of market economy which can be purchased only by those having access to considerable financial, material, information and other resources⁶. Investigating electoral criminality, P.A. Kabanov and A.P. Sviguzova emphasise the following most widespread forms:

- a) electoral corruption;
- b) abusing power in the course of elective process (use of management reserves during elections);
- c) informational crime connected with distribution of inadequate data in the course of election process;
- d) criminal political extremism connected with influence on election process participants by means of physical or mental violence⁷.

As we see, the named authors do not consider abusing power in the course of election process or so-called management reserves on elections to join the electoral corruption notion volume. Its essential characteristic is bribery, bribability. Emphasising debatable nature of the term «electoral corruption» application O.V.Zajtseva uses the term «corruption in election process» (election corruption) which she defines as «antisocial phenomenon characterised by bribability of the Russian Federation state bodies officials, persons registered in due order as candidates for the RF legislative and executive bodies, subjects of Russian Federation or local governments as well as members of election commissions and referendum commissions, and based on this use authorities available for them and possibilities proceeding from them to get benefit

in the personal, narrow grouped or corporate interests»⁸. The author also specifies corruption in election process by means of bribability of subjects of election process.

In consideration of election process corruption it is reasonable to recollect two basic approaches to understanding corruption as a social-legal phenomenon existing in the scientific-legal literature. According to the former, corruption is characterised by bribery, bribability⁹ as to the latter, besides bribery and bribability other official status abuse are complemented to the volume of corruption content¹⁰. It is obvious, that authors of considered definitions of electoral corruption (corruption in election process) are representatives of the first, narrow approach.

Actually, bribery, bribability form the basis of the overwhelming majority of corruption relations in election process however do not exhaust their content. In understanding corruption as a social-legal phenomenon, and corruption in election process we adhere to wider approach and we believe, that corruption in election process besides bribery and bribability also includes other abuses of its subjects such as status, office position.

Office or official position abuse by the persons acting for elective state or municipal posts, or being on state or municipal service, or being members of organisations administration body irrespective of the form of ownership in the course of election process (use of management reserves) is, in our opinion, a widespread form of corruption in election process. The official's use of his office position both with a view of own election, and as a result of getting benefits of material or non-material character from interested persons with a view of rendering assistance to the certain candidate's election (the list of candidates) will be considered corruption in the course of election.

In our opinion, the entire spectrum of corruption displays in the course of election process covers the term «corruption in election process». The etymology of the term «electorate» translated from Latin «elector» meaning «voter» does not allow to name «electoral corruption» the whole set of corruption relations arising in the course of elections and in connection with them. Electorate is a «group of voters voting for any political party or its candidate on parliamentary, presidential or municipal elections»¹¹. The said above allows to draw a conclusion that electoral corruption is bribery of voters.

Corruption in election process, as well as any other phenomenon characterises a certain set of features allowing to distinguish it from other similar ones. Unfortunately, corruption signs in election process as an independent form of corruption in the domestic scientific-legal literature have not been practically developed. The overwhelming majority of authors avoid consideration of this issue some confine themselves only to corruption definition in election process (electoral corruption).

We believe that corruption in election process differs from the form of corruption by a similar set of features having its own content filling: existence sphere; the list of subjects; subjects of election process use of their status, office position; a definite purpose. As we consider corruption existence in a specific sphere, namely sphere of election process it would be logical to assume, that **sphere of existence** of this version of corruption is the very election process.

However, the standard concept of «election process» has not been developed yet in literature there is no legislative definition of it either.

In the scientific literature there are some approaches to understanding election process. In the narrowest sense election process is defined by mechanical itemising its basic stages¹² or is identified with an election campaign.

According to S.D.Knjazev, election process acts as an independent legal form of a certain complex of state-legal relations aiming at election arrangement and service, and is an autonomous element in the structure of election and state law of Russian Federation as a whole¹³.

J.A.Vedeneyev and V.I. Lysenko consider election process as a political-legal and simultaneously an election legislation category in the narrow and broad sense. In the broad sense the term «election process» absorbs the «election campaign» term content as it is connected with an authoritative body or official's necessity to accept terms under the constitution (charter), the law and submit for official promulgation (publication) according to the decision on setting the elections date. In the narrow sense «election process» as a formalized phenomenon includes a set of arranging and holding elections stages established by the law which in turn include a set of corresponding election procedures and election actions¹⁴.

According to the named authors along with regulatory-legal elements election process includes a set of providing – organizational, information, personnel and social-cultural components which appreciably influence the level of participation of citizens in elections as well as legitimacy of the received results¹⁵. Accordingly, J.A.Vedeneyev and V.I. Lysenko put quite a broad content into an election process concept and do not close it on pure legal process of election organisation and holding, but include other components which are beyond organisation and concrete election campaigns holding either.

The said above allows to draw a conclusion, that the sphere of corruption existence in election process is election process itself both in the narrow and broad sense.

Definition of a circle of subjects of corruption in election process causes the greatest complexity. As we research the kind of corruption existing

in the sphere of election process it is possible to assume that its subjects are subjects of election process accordingly. There is an exhaustive list of subjects of election process neither in the current legislation on elections, nor in the scientific-legal literature. Some by-laws regulating those or other election relations provide a list of election process participants subject to it. So, the President of the Russian Federation Decree on February, 28th, 1995 №228 «On the federal target program on increase of legal culture of voters and organizers of elections in Russian Federation»¹⁶ refer voters, organizers of elections and a referendum, candidates for deputies and elective state posts, their authorised representatives, representatives of election associations to the Russian Federation election process participants.

The broader list of election process participants is contained in the Decision of the Central election commission of Russian Federation¹⁷. According to which participants of an election process along with the election commissions, candidates, election associations, election blocks are authorised representatives, members of the election commissions with the deliberative vote right, the authorised representatives of election associations, election blocks, observers, foreign (international) observers, representatives of mass media (further mass-media).

The spectrum of the opinions stated in the scientific literature concerning the list of election process subjects is also quite broad. Without dwelling on consideration of scientific approaches to emphasising election process subjects, we will highlight subjects of corruption in an election process on their basis.

Citizens of the Russian Federation are referred to subjects of corruption in election process. The overwhelming majority of subjects of corruption in election process are citizens themselves. As a rule, this category of subjects of corruption enters corruption relations in the

sphere of election process as voters, candidates, officials, etc.

The following group of subjects of corruption in election process is formed *by voters* – the Russian Federation citizens possessing the active suffrage¹⁸. In corruption relations of bribery they act as the party of passive bribery, using their status – the right to elect granted by the Constitution of Russian Federation, fixed in the current legislation on elections for extraction of material or non-material benefits. However, it should be noted, that reference of voters to the group of subjects of corruption relations is not supported by some researchers. So, for example, O.V.Zajtseva believes, that «bribery of voters is one of corruption election technologies, where subjects on the one hand are candidates using the given way of accession to power on the other-persons who finance them»¹⁹.

The most active subjects of corruption in election process are *candidates* – persons who have been nominated to an office under the order established by the law as candidates for a deputized post by means of direct elections or for membership in the state government body (body chamber) or local government or registered by the corresponding election commission as a candidate²⁰. It is these subjects in the course of elections that enter numerous corruption relations as the party to both active and passive bribery. Candidates acting for state and municipal posts, being on the state or municipal service quite often use advantages of their official position with a view of own election or promotion election of other persons (for example, the «locomotive» technology where the official heads the list of candidates without the purpose to work on an elective office, actively uses advantage of official position with a view of electorate involvement) in the course of the election campaign.

Subjects of corruption acquiring increasing political force today are *election associations*.

According to the current legislation an election association is a political party having according to the federal law the right to participate in elections, and also the regional branch or another structural division of the political party, having according to the federal law the right to participate in elections of a corresponding level²¹. Taking into account, that now elections in the Russian Federation State Duma will be held only under the proportional system, it is deemed that the basic corruption relations to get a place on the candidates' list from this or that party will be made directly within political parties.

Authorised delegates and the authorised representatives of the candidates and election associations should be referred to the subjects of corruption within the considered sphere as on behalf of candidates only their authorised representatives on financial matters have the right to act, authorized delegates, and in case of the candidate nomination as a part of the candidates' list the authorised representatives, authorised delegates of the election association nominating this list as well²². The named subjects also enter corruption relations as subjects of active or passive bribery in the interests of the candidate, whose authorised delegate authorised representative they are or, on the contrary, opposite to his interests.

Observers are certain to be referred to subjects of corruption as well. The observer is a citizen of the Russian Federation authorized to supervise voting procedure, votes calculation and other commission activity in the course of voting, establishing its results, defining elections', a referendum's results, including activity commission activity on check of correctness of establishing voting results, definition of the elections', a referendum's results²³. In practice, cases of observers' bribery to prevent them from disclosing facts of election documents falsification, voting results are widespread.

A special group of subjects of corruption in election process is formed *by the election commissions and their members with the casting vote right*. Members of the election commissions with the right of a casting vote working for the election commissions of various level – the joint bodies formed in due order and term established by the law, organizing and providing arrangement and holding elections make decisions of really essential significance for subjects of an election process: register candidates, lists of candidates or refuse in registration; conduct control over observance of suffrages; arrange voting at a polling site on the voting day etc. Thus, the final result of elections depends on the decisions made by the election commissions at this or that stage of election campaign in many respects. For this reason interested subjects undertake attempts to affect process of formation of the election commissions in advance, attempts to establish informal relations with election commissions members having the right of the casting vote, based on friendship or bribery in all its displays long before the election campaign beginning are made.

Members of the election commissions with the deliberative vote right should also be referred to the subjects of corruption. In spite of the fact that, their participation in election commissions' work has a consulting character, such subjects quite often use the right granted by election legislation in competitors' interests for a reward. As, for example, inertia paid by a candidate -competitor at the election commission session where the question on the candidate registration from which such an election commission member with the deliberative vote right is appointed is being solved.

Perhaps, one of the most numerous groups of subjects of corruption in election process is formed *by mass media and their representatives*. It is they that the election legislation imposes

obligation of the election information support in accordance with requirements of such support.

However, in practice, proceeding from only information materials content, it is possible to define unmistakably who these or those mass-media support.

Persons acting for the state or elective municipal posts, or being on state or municipal service, or being members of organisations' business administration irrespective of the form of ownership (in the organisations which supreme body of management is the board meeting – members of the bodies managing these organisations), or *employees* of such organisations should also be referred to the subjects of corruption.

Persons giving to other subjects of election process benefit of material and non-material character and persons «trading in influence», «when the person having real or prospective influence on other persons trades in this influence in exchange for material benefit from the person in need of such influence»²⁴ should also be referred to subjects of corruption. This group of subjects of corruption in election process is the most numerous as the subject of active bribery can be any of earlier mentioned subjects as well as foreign citizens and the organisations. Corruption in election process is characterised **by the subjects of election process use of their status, office position**. So, for example, status use is typical to voters, candidates, their authorised delegates and authorised representatives, observers. And use of office position is typical to persons acting for the state or elective municipal posts, or being on state or municipal service, or being members of organisations' business administration irrespective of the form of ownership, or such organisations' employees, representatives of mass media.

The corruption purpose in election process, as well as the purpose of corruption in

general is extraction of material and non-material benefits. Aspiration to extraction of benefits and advantages of a various sort is characteristic for different subjects of corruption in election process. So, the candidate pursues the victory aim on elections (though today practice of registration of candidates who do not pursue the election purpose but urged to compromise the main competitor of «their» candidate is used). Representatives of financial – industrial groups and organised crime financing pre-election campaign of this or that candidate, election association expect his execution of agreements or simply secure with his support in the future in case of his coming into power. Voters as subjects

of bribery pursue the aims of extraction of benefit of material character, possibly believing, that the received money, foodstuff sets, etc. is that little, that they can really receive from use of their suffrage contrary to promised improvements in the future by the candidate or party.

Correspondingly, corruption in election process is a social-negative phenomenon distorting real political competition, consisting in use of the status, office position by the election process subjects in personal or group interests with a view of illegal extraction of benefits and advantages during arrangement and holding elections, referenda as well as in granting or promising such benefits and advantages.

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⁸ Zajtseva O.V. «Election technologies and corruption» // http://sartracc.ru/i.php?oper=read_file&filename=explore_yung.htm

⁹ See Kuznetsova N.F. Discussion of problems of struggle against corruption // The State and law. 1993. №2. P.134-135; Dolgova A.I. Kriminology: Textbook for legal high schools / Under A.I. Dolgova general edition. M. 1997. P.507; Maximov S.V. Corruption criminality in Russia: legal estimation, sources of development, struggle measure // Problems of struggle against corruption. 1999. P.23; Lopashenko N.A. corruption: content, problems of legal regulation // Criminal law. 2001. №2. P.99.

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¹¹ Big dictionary of foreign words. M. 2006. P.680.

¹² See. Big legal dictionary. 1998. M. P.235-236.

¹³ Knjazev S.D. Election process: notion, peculiarities and structure // Jurisprudence. 1998. P.47.

¹⁴ Election law and election process in Russian Federation. M. 2003. P.276-279.

¹⁵ Vedenev J.A., Licenko V.I. Election process in Russian Federation: political-legal and technological aspects // The State and law. 1997. №8. P.6.

¹⁶ President of the Russian Federation Decree «On the federal target program on increase of legal culture of voters and organizers of elections in Russian Federation / «Legislation issues of RF», 06.03.1995, N 10, art. 862.

¹⁷ «Explanations of the order of activity of authorised representatives of election associations, election blocks, candidates, members of election commissions with the right of the deliberative vote, the authorised representatives of election associations, election blocks, observers, foreign (international) observers, representatives of mass media at elections of FC State Duma deputies of Russian Federation the second convocation» The Decision of the Central election commission on 01.09.95 N 11/77-II / «The Russian newspaper», N 178. 13.09.1995

- ¹⁸ See item18,art.2 FL on May 22, 2002 .№67-FL «On fundamental guarantees of election rights and the right to participate in RF citizens referendum» .
- ¹⁹ Zajtseva O.V. « Election technologies and corruption»//
- ²⁰ Item35,art.2 FL on May22, 2002 .№67-FL «On fundamental guarantees of election rights and the right to participate in RF citizens referendum» .
- ²¹ Item 25 ст.2 ФЗ «Об основных гарантиях избирательных прав и праве на участие в референдуме граждан Российской Федерации» от 22 мая 2002 года №67-ФЗ
- ²² Ibid. Item 2 art.39.
- ²³ Ibid. Item 42. art. 2.
- ²⁴ Spekbakher K.Review on activity of the Council of Europe in the field of struggle against corruption, the organised crime and legalisation (laundering) of criminally received incomes. // Corruption and economic crimes. 2000. P. 39.

Понятие и признаки коррупции в российском избирательном процессе

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Коррупция в избирательном процессе – это социально-негативное явление, искажающее реальную политическую конкуренцию, заключающееся в использовании субъектами избирательного процесса своего статуса, служебного положения в личных или групповых интересах в целях противоправного извлечения выгод и преимуществ в ходе подготовки и проведения выборов, референдумов, а также в предоставлении или обещании таких выгод и преимуществ.

Ключевые слова: коррупция, избирательный процесс.
