
Interview of Chairman of the Investigative Committee of Russia Alexander Bastrykin to Izvestia newspaper



“We need to bring back confiscation of property as an additional means of punishment”

Chairman of the Investigative Committee of Russia Alexander Bastrykin speaks about strengthening criminal legislation and combating kickbacks

In order to make combating corruption more efficient, we need to grant investigators access to banking secrecy during pre-investigative probes, bring back confiscation of property as an additional means of punishment, and introduce criminal responsibility of legal entities. That is what Chairman of the Investigative Committee of Russia--General for Justice Alexander Bastrykin told Izvestia in his interview. According to the Head of the Investigative Committee, in eight years of existence, the Committee has sent to court 80,000 probes into corruption. Property and money of the total value of almost 2 billion rubles were seized from detainees last year.

FROM DEPUTY TO PROSECUTOR

Alexander Ivanovich, recently, there has been a lot of high-profile arrests of officials accused of bribe-taking. Can it be explained by the increased corruption control and targeted performance of law enforcement bodies?

The state allocates enormous financial resources to modernize the state economics, to strengthen its defense capability, and to implement social programs, in which support of parenthood and childhood occupies a special place. Over 6 trillion rubles are provided for the implementation of national social projects up to 2024 by the Russian government. It is no coincidence that during the Direct Line with the President of Russia the majority of questions asked by citizens referred to planned measures for life quality improvement. That is why the Investigative Committee of Russia is aimed to create a dependable barrier to any attempts of stealing the allocated budgetary funds in order for them to be spent precisely for the purposes intended.

Who is most likely to become perpetrators in probes into offences involving corruption?

You can judge for yourself. From the moment of the establishment of our Committee, that is from 2011, we have sent to court almost 80,000 probes into offences involving corruption. Investigators brought to justice for offences involving corruption over 5,000 (5,038) persons with a special legal status. Those include over 3,000 local self-government deputies and elected heads of municipalities of self-government bodies, 94 deputies of legislative bodies of constituents of the Russian Federation, 35 judges, 119 prosecutors, 516 advocates, 604 investigators of different agencies, including 122 investigators of the Investigative Committee of Russia.

However, society continues thinking that only minor officials are detained for corruption crimes, and the big fish always leaves. Do you agree with this point of view?

Corruption control is carried out on all levels for we cannot separate officials into minor and major ones. In this, it is obvious that there are many more authorities at the district and municipal levels. Any offence involving corruption, irrespective of ranks and grades of those who commit them, is a crime against the state power that discredits this power in the eyes of society and sabotages the normal functioning of the entire system.

The work on combating corruption is aimed to make the punishment inevitable despite ranks and old merits. Big fish, as you have called it, can never escape. It just takes more time to prove the involvement of higher officials in corruption crimes.

You can see, there are concrete results of our work: recently we have brought to justice the former governors of Sakhalin and Kirov Regions; the former Head of the Republic of Karelia; the Deputy Governors of Altai Territory, Vladimir, Vologda, and Chelyabinsk Regions; the former First Deputy of the Chairman of the Ryazan Regional Government; the former Deputy Chairman of Penza

Municipal Duma; the former Minister of Healthcare of Zabaikalsky Territory; former Mayor of Vladivostok Igor Pushkarev; former Director of Vladivostok Roads Andrey Lushnikov; former Head of the Federal Antimonopoly Service of the Dagestan Republic Kubasay Kubasayev; and many other former major officials.

Recently, the court has issued a sentence for another high-profile probe involving a person in a uniform--former Deputy Chief of the Directorate T of the Main Directorate of the Ministry of Internal Affairs for Economic Security and Corruption Control Dmitry Zakharchenko. He has been sentenced to 13 years of imprisonment and a fine of 117 million rubles. This case is yet to be finished, as the preliminary investigation into other episodes of the corruption activities of the former policeman is ongoing. An accomplice of the perpetrator is on a wanted list. The money discovered and seized from Zakharchenko and his close relatives were returned to the state upon a court decision based on the prosecutor's motion.

Apart from that, in June of this year, the court issued a sentence for one of the most labor-intensive, large-scale, and complicated probes into former Head of the Komi Republic Vyacheslav Gayzer, his predecessor Vladimir Torpolov, former Head of Investment Projects Support Fund JSC Igor Kudinov, former Director of Agroholding LLC Sergey Smeshnoy, and eight other convicts having committed a number of corruption offences.

The total amount of damage inflicted on the Republic exceeded 3.8 billion rubles.

I must underline that during the preliminary investigation, the Investigative Committee took measures to ensure the compensation of damage to the affected party - upon the investigative motion, the property of the perpetrators worth equally to the damage was evaluated and arrested.

Due to the cooperation with our colleagues abroad, on January 4, 2019, investigators of the Main Directorate on Major Crimes Investigation pressed charges for swindling, embezzlement, and legalization of the stolen property against former Deputy Chairman of the Moscow Regional Government Alexey Kuznetsov, who was extradited by relevant authorities of the French Republic.

According to the investigation, Kuznetsov and his accomplices had inflicted the damage of over 14 billion rubles to the regional Public Utilities companies and Mosobltrustinvest. At present, the investigation into Kuznetsov is finished. The body of collected evidence including the results of a forensic audit proves the damage inflicted by his actions. Also during the investigation, the previously convicted accomplices of Kuznetsov made confessions about him at face-to-face confrontations.

The investigation of these corruption crimes received widespread media coverage; the investigation of other probes into offences involving corruption is ongoing.

WINNING WITHOUT COMPETITION

Quite a lot of crimes involving corruption are committed in relation to state and municipal procurement. How efficient is the fight of law enforcement authorities against payoffs?

Unfortunately, procurement still stays a fruitful ground for various kinds of abuse. We successfully counter them jointly with our colleagues from the Ministry of Internal Affairs and the Federal Security System despite the fact that corrupt officials often use various tricks to disguise their illegal influence on contracts under their jurisdiction.

At present, the court is reviewing two probes into former Deputy Director of the Federal Penitentiary Service of Russia Oleg Korshunov. The crimes he is accused of are related to violations of the law in concluding contracts for the procurement of automobile fuel, sugar, and shoes for the needs of the Federal Penitentiary Service of Russia. According to the investigation, the damage inflicted by Korshunov and his accomplices had amounted to over 400 million rubles.

Another example, in May of this year, former Minister of Healthcare of Zabaikalsky Region Mikhail Lazutkin was sentenced to 12 years of imprisonment and a fine of 12 million rubles. He had been taking bribes for helping heads of commercial enterprises to win auctions for the procurement of expensive medical equipment for hospitals and other regional healthcare institutions. Here is another similar example, a probe into bribes of the striking total value of over 100 million rubles. Former Deputy Head of the Directorate of the Federal Agency for State Reserves in Siberian Federal District Ilgiz Garifullin and entrepreneur Stanislav Kabanyachy were convicted in relation to this probe.

The official had been also taking bribes for facilitating entrepreneurs in winning of closed competitions for the right to conclude contracts for the purchase of material assets released from the state mobilization reserves with legal entities represented by these entrepreneurs.

How can corruption in state procurement be constrained to a minimum?

Some actual steps in this direction have already been taken. Last year, the Criminal Code and the Criminal Procedural Code were amended to established criminal responsibility for abuse in the area of procurement of goods, works, and services for the state and municipal needs; for bribing contract service workers, contractual managers, members of procurement commissions; for incitement of bribing in the area of state procurement.

Thus, now not only officials but also persons who do not fall under the category of officials are criminally responsible. That includes workers of contract services, contractual managers, and other persons related to this area of work.

This sets an additional mechanism of protection of the country's budgetary system against corruption in the procurement system.

DAMAGE COMPENSATION

Sentencing is only a part of combating corruption. It is equally important to compensate for the damage inflicted on the state by corrupt officials. How effectively is it conducted?

The active work continues in this field as well: in 2018, during the investigation into corruption offences, investigators seized property, money, and valuables of the total value of almost 2 billion rubles, and over 1.6 billion rubles were compensated voluntarily. Last year, the property of the total value exceeding 15 billion rubles was arrested in order to secure the execution of judgments under civil claims, recovery of fines, and other sanctions or possible confiscation of property.

Taking into account the fact that corruption offences directly hinder the development of the Russian economy, this work becomes more and more assertive. In the first three months of the current year, investigators arrested the property of corrupt officials of the total value exceeding 5.3 billion rubles. Apart from that, it is necessary to define specific suggestions on the improvement of the efficiency of this work.

Are we talking about strengthening legislation?

Due to a widespread of facts that persons under assessment take active measures to hide property belonging to them already during pre-investigative probes, it is necessary to amend Article 26 of the Federal Law No 395-1 “On Banks and Banking Activities” dated December 2, 1990, to empower an investigator to request data constituting bank secrecy during not only criminal proceedings, but also as part of pre-investigative probes.

Taking into account that the improvement of the efficiency of compensation for damage inflicted by corruption offences is the key area of work not only for our Committee, but also for the Court of Auditors, Bank of Russia, RusFinMonitoring, and Federal Tax Service, it should be subject to joint coordinated efforts.

In order to strengthen the preventive effect of criminal law measures, it is suggested to return confiscation of property to Article 44 of the Criminal Code of Russia as an additional means of punishment indicating possibilities of its use in sanctions of specific articles of the Special Part of the Criminal Code of Russia referring to offences involving corruption. Currently, judges often avoid imposing such sanctions, as confiscation is subsumed under other criminal law measures and is not obligatory to be used by the court.

I should also note that we still insist on the establishment of criminal responsibility of legal entities. In the overwhelming majority of cases, money and financial instruments acquired as a result of corruption offences are transferred abroad by means of legal entities.

In conclusion, I must underline that in line with the objectives set by the country’s leaders, the

Investigative Committee is aimed not to take rigorous measures against business enterprises, but to compensate for the damage inflicted by offences involving corruption.

The data provided by the Investigative Committee of Russia show a high level of compensation for damage, but not at 100%. Who or what does obstruct the settlement of this matter?

In the first place, the accused individuals themselves do. In case of their refusal to admit their guilt, they refuse to compensate for the damage voluntarily. An analysis of practice shows that representatives of victims--governmental and local self-government officials--often deny damage to the budget and evade being considered as victims or civil claimers. This way they are trying to hide the flaws in the organization of their own work and refuse to admit their activities being discredited. In some cases, this position facilitates unjustified court rehabilitation.

In order to restore the rights of victims and compensate for damage to the full, the investigation takes measures for search and arrest of the property of the accused in order to ensure the execution of the sentence with reference to the civil claim.

Transfer of funds belonging to the state abroad is a separate problem. Many such facts have been established during the investigation of transnational offences, including those involving corruption. That is why law enforcement bodies must seek to return state-owned property, funds, and securities from abroad.

But it is not that simple. The thing is that there are no regulations covering time frames for legal assistance to foreign countries; therefore, they can be very time-consuming. This is the reason why is it very hard to arrest the property of the accused in a timely manner during a preliminary investigation. Moreover, in separate cases, foreign countries refuse to arrest property upon our request on formal grounds. Return of confiscated funds and arrest of the property of the accused persons are possible only in close interaction and good collaboration with relevant authorities of foreign countries.

Do you think that society sees combating corruption as a fight for justice?

Exactly. In the highest meaning of these words. The specific results of this work I have provided prove it quite nicely.

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