

Overall Score:

63 - Weak

Legal Framework Score:

83 - Strong

Actual Implementation Score:

48 - Very Weak

Category I. Civil Society, Public Information and Media

I-1. ⁶⁰Civil Society Organizations

1. Are anti-corruption/good governance CSOs legally protected?

100

1a. In law, citizens have a right to form civil society organizations (CSOs) focused on anti-corruption or good governance.

YES | NO

Comments:

Yes. Until April 2006, CSO activity in Russia was regulated by the federal law "On Non-Commercial Organizations." On April 17, 2006, the Russian Federal Law "On Introducing Amendments to Certain Legislative Acts of the Russian Federation" became effective.

The new NGO Law amends four existing laws: the Civil Code, the Law on Public Associations, the Law on Non-commercial Organizations, and the Law on Closed Administrative Territorial Formations. It introduces a number of new requirements for public associations (PAs), non-commercial organizations (NCOs), and foreign nongovernmental non-commercial organizations (FNNOs). These new requirements restrict who may form an organization in the Russian Federation, expand the grounds on which registration may be denied, and enhance the supervisory powers of the state over organizations.

The major changes to the laws include the following:

1) Denial of Registration. The law expands the grounds upon which an organization's application to register can be denied by the registration authority, known as Rosregistration. The provisions relating to denial of registration for branches of FNNOs are of special concern: they provide that the authority may deny registration to a branch if its "goals and objectives . . . create a threat to the sovereignty, political independence, territorial integrity, national unity, unique character, cultural heritage and national interests of the Russian Federation." The European Court of Human Rights has specifically held that it violates a country's obligations under Article 11 of the European Convention on Human Rights to deny registration on grounds almost identical to these.

2) Expanded Government Supervisory Powers. The law increases the reporting burden on organizations by, among other things, requiring them to report on all funds received from foreign sources and on how these are allocated or used. In addition, the law gives the government invasive powers to interfere in the internal operations of a PA, NCO, or FNNNO, including the following: The power to summon resolutions of the organization's governing body. The registration authority now can demand documents concerning details of an organization's governance, including day-to-day policy decisions, supervision by the organization's management, and oversight of finances;

The power to send representatives to an organization's events. The law even allows the government to send a representative to all of an organization's meetings and other events, without restriction. Thus, government representatives can attend strategy meetings, board meetings, and other meetings that are strictly internal to the organization. This power will have a chilling event on the ability of organizations, especially advocacy groups, to hold such gatherings, and on the willingness of members, service recipients, and others people to attend. The provision appears to violate Article 8 of the European Convention on Human Rights, protecting the right to privacy, which prohibits authorities from arbitrarily entering private premises or interfering with people's private activities.

3) Supervisory powers over FNNOs. The law provides the registration authority with two additional intrusive powers over the branches, representative offices, and affiliates of FNNOs. First, the government can terminate any existing program of an FNNNO's subdivision. The law does not set forth any criteria for when to exercise this power; it appears to be entirely discretionary. Second, the law allows the registration authority to bar an FNNNO (through its branch, representative office, or affiliate) from transferring funds or other resources to recipients if necessary for the purposes of "protecting the basis of the Constitutional system, morality, health, rights and lawful interests of other persons, and with the aim of defending the country and the state security." By conferring such broad discretion to interfere with the operations of a branch, these provisions violate Article 11.

4) Restrictions on who may found a PA or NCO. The law introduces a new requirement that a foreign national or stateless person must be domiciled in the Russian Federation in order to found, participate in, or join a PA or NCO. This requirement raises a number of troubling questions about whether the Russian Federation is fulfilling its obligation to protect the right to associate

under international conventions to which it is a party. The European Convention on Human Rights, for example, requires a signatory to secure the rights protected by the Convention for "everyone within" its jurisdiction.

5) In addition, the law prohibits certain categories of persons from founding, joining, or participating in PAs or NCOs. Among these are foreign nationals whose presence in the Russian Federation is found to be "undesirable." This designation can be conferred by certain federal agencies, each of which has complete discretion to establish criteria for making that determination.

In sum, several provisions of the law appear to be inconsistent with the Russian Federation's obligations under international agreements. This is particularly so in the case of the European Convention of Human Rights, which, under Article 11, requires a nation affirmatively to protect the right to association, and to interfere with the exercise of that right only where "necessary in a democratic society" for compelling state reasons."

"Some Issues Related to Russia's New NGO Law" by Natalia Bourjaily, The International Journal of Not-for-Profit Law, Volume 8, Issue 3, May 2006.

According to Consultant Plus, one of the Russian largest legal data bases, there is some inconsistency with the date the Federal Law "On Introducing Amendments to Certain Legislative Acts of the Russian Federation" came into force. By the law, it was supposed to enter into force 90 days after its publication. It was entered into the Code of Laws of the Russian Federation on January 16, 2006 but published in Rossiiskaya Gazeta (a Russian newspaper where all legal acts have to be published) on January 17, 2006. Therefore the official entry into force is either date (<http://www.consultant.ru/popular/nekomerz/>).

The law is available here <http://www.rg.ru/2006/01/17/nko-poryadok-dok.html>

References:

Natalia Bourjaily, Vice President for Newly Independent States of the International Center for Not-for-Profit Law;

The federal law "On Nonprofit Organizations" passed in December, 1995 with amendments in December, 2002. Russian Federal Law "On Introducing Amendments to Certain Legislative Acts of the Russian Federation", passed in December 2005;

A good review of new Russian Law on NGOs and other similar laws is here:

"How Russia's NGO Law Stacks Up",
Nabi Abdullaev,
The Moscow Times daily,
February 15, 2006;

See also "The Council of Europe Examines The Provisions",
Sergei Strokan,
Kommersant daily (Moscow),
February 15, 2006;

A good review of domestic criticism is available here: Window on Eurasia:

"New Russian Law Seen Quietly Destroying NGO Sector"
Paul Goble,
April 26, 2006;

Various foreign comments on the new law are reviewed here:

"Russia's New NGO Law: A Contrary View",
William Fisher,
OpedNews.com,
January 24, 2006;

US official approach towards new legislation is available here:

"U.S. Says Russian NGO Law Does Not Meet Human Rights Commitments",
Jeffrey Thomas,
Washington File, U.S. Department of State, Bureau of International Information Programs,
27 January 2006.

YES: A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

NO: A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

1b. In law, anti-corruption/good governance CSOs are free to accept funding from any foreign or domestic sources.

YES | NO

Comments:

Under the new law on non-profit organizations, Russian NGOs are free to accept funding from any foreign or domestic sources as before, but from now on they have to report only donations from abroad, a measure that could overwhelm small organizations in red tape, according to many critics.

According to the new legislation, from now on the senior management of any CSO has to report to the proper state body on all funding provided by foreign and international bodies (as well as foreign individuals), how the CSO plans to use the funding (and

any donated property) and how it was used in fact (Art. 29, see <http://www.rg.ru/2006/01/17/nko-poryadok-dok.html>). There is no ban on accepting foreign funding, unless otherwise prohibited by law (terrorism, etc.).

References:

Russian Federal Law On Introducing Amendments to Certain Legislative Acts of the Russian Federation", passed in December 2005;

Window on Eurasia:

"New Russian Law Seen Quietly Destroying NGO Sector"

Paul Goble,

April 26, 2006.

YES: A YES score is earned if anti-corruption/good governance CSOs face no legal or regulatory restrictions to raise or accept funds from any foreign or domestic sources. A YES score may still be earned if funds from groups with a history of violence or terrorism (within last ten years) are banned.

NO: A NO score is earned if there any formal legal or regulatory bans on foreign or domestic funding sources for CSOs focused on anti-corruption or good governance.

1c. In law, anti-corruption/good governance CSOs are required to disclose their sources of funding.

YES | NO

Comments:

Russian CSOs have to report only foreign donations.

However, the Federal Registration Agency can (and has a right to) inspect any CSO once a year and ask for any financial documentation. So in fact any funding can be checked by the government (art. 39). It's too early to say to what extent the law will be enforced.

References:

Russian Federal Law On Introducing Amendments to Certain Legislative Acts of the Russian Federation", passed in December 2005.

YES: A YES score is earned if anti-corruption/good governance CSOs are required to publicly disclose their sources of funding.

NO: A NO score is earned if no such public disclosure requirement exists.

2. Are good governance/anti-corruption CSOs able to operate freely?

33

2a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance CSOs.

100 | 75 | 50 | 25 | 0

Comments:

All CSOs are under state control now, and the government has tools to hinder or even stop activities of any CSO, especially dealing with anti-corruption. One good example is the situation with The International Protection Centre (Moscow) that helps Russians file lawsuits at the European Court of Human Rights. As a nonprofit organization, it is exempt from corporate income taxes. In early August 2006, The Federal Tax Service demanded the organization to pay nearly US\$200,000 in taxes on grants it received over the last four years. The Center's Director Karina Moskalenko says the NGO will contest its tax bill in court, which many rights groups are confident it will win. However, other NGOs have also complained of similar problems, such as authorities levying taxes on the work of volunteers.

There is no sufficient data on problems NEW civil organizations have run into as the law came into force quite recently.

References:

New NGO Law Targets Russian Non-Profits",

Gregory Feifer,

100: CSOs focused on promoting good governance or anti-corruption can freely organize with little to no interaction with the government, other than voluntary registration.

75:

50: CSOs focused on promoting good governance or anti-corruption must go through formal steps to form, requiring interaction with the state such as licenses or registration. Formation is possible, though there is some burden on the CSO. Some unofficial barriers, such as harassment of minority groups, may occur.

25:

0: Other than pro-government groups, CSOs focused on promoting good governance or anti-corruption are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

2b. In practice, anti-corruption/good governance CSOs actively engage in the political and policymaking process.

100 | 75 | 50 | 25 | 0

Comments:

Some of them do, but largely on regional level (Strategy Center, St. Petersburg, for example). Most often it depends on a CSO leadership. The state actively pushes CSOs out of almost ANY political and policymaking process. The Kremlin says the law is necessary to stop criminals and terrorists hiding under the cover of NGOs. But rights groups have said it hands easy weapons to bureaucrats to shut down any NGOs that the government disagrees with.

References:

Russian economist Aleksandr Auzan, President of the civil society organization Obshchestvennyy Dogovor (Social Contract) and head of a department at Moscow State University;

A very good and detailed analysis of different approaches to Russian civil society potential and development is available here: Russian Intellectuals Say Civil Society Growing", US Open Source Center, August 3, 2006
It covers Russian civil society activities in January 2005 – April 2006.

100: Civil society organizations focused on anti-corruption or good governance are an essential component of the political process. CSOs provide widely valued insights and have political power. Those CSOs play a leading role in shaping public opinion on political matters.

75:

50: Anti-corruption/good governance CSOs are active, but may not be relevant to political decisions or the policymaking process. Those CSOs are willing to articulate opinions on political matters, but have little access to decision makers. They have some influence over public opinion, but considerably less than political figures.

25:

0: Anti-corruption/good governance CSOs are effectively prohibited from engaging in the political process. Those CSOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

2c. In practice, no anti-corruption/good governance CSOs have been shut down by the government for their work on corruption-related issues during the study period.

YES | NO

Comments:

No CSOs dealing specifically with anti-corruption were reportedly prosecuted by the authorities. However, some CSOs that investigated/revealed illegal activities of public officials (both federal and regional) paid the price for it: some were fined, some shut down (Moscow-based Open Russia funded by YUKOS). In early February 2006, Stanislav Dmitriyevsky, the head of the Russian-Chechen Friendship Society, a Nizhny Novgorod-based NGO, was handed a two-year suspended sentence for publishing statements from Chechen separatist leaders in the NGO's newspaper. The charges, of inciting ethnic hatred, were based on the law on countering extremism, adopted in July 2002. Although free, Dmitriyevsky will be unable to keep his post as the organization's leader under the NGO law, which bars anyone convicted of a crime from founding or heading an NGO.

References:

Chechen NGO Head Convicted",
The Moscow Times daily,
February 6, 2006.

YES: A YES score is earned if there were no CSOs shut down by the government or forced to cease operations because of their work on corruption-related issues during the study period.

NO: A NO score is earned if any CSO has been effectively shut down by the government or forced to cease operations because of its work on corruption-related issues during the study period. The causal relationship between the cessation of operations and the CSO's work may not be explicit, however the burden of proof here is low. If it seems likely that the CSO was forced to cease operations due to its work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3. Are civil society activists safe when working on corruption issues?

100

3a. In practice, in the past year, no civil society activists working on corruption issues have been imprisoned.

YES | NO

References:

Lyudmila Alekseyeva, chairwoman of the Moscow Helsinki Group (a human rights group).

YES: A YES score is earned if there were no CSO activists imprisoned related to work covering corruption.

NO: A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person's work may not be explicit, however the burden of proof here is low. If it seems likely that the p

3b. In practice, in the past year, no civil society activists working on corruption issues have been physically harmed.

YES | NO

Comments:

On 20 March 2006, Marina Litvinovich, the chief-editor of Internet site Pravda Beslana and coordinator of the opposition movement Joint Civil Front", was beaten. The attack took place near the Joint Civil Front office. Litvinovich needed medical attention at the hospital.

In the interview with Eho Moskvyy radio station, Litvinovich said the attack was related to her role in the investigation of a series of terrorist attacks in Russian cities.

At the same time, the editor does not rule out that some of her other activities could be the reasons for the attack. In particular, Litvinovich, along with others, signed appeals to the president asking for the resignation of Defense Minister Sergey Ivanov.

It's sometimes hard to draw a line between an investigating journalist and a CSO activist; one person can be engaged in both activities professionally. It's also hard to single out anti-corruption from the general activity of a CSO that deals with good governance in Russia – corruption is embedded into most of such cases.

References:

Press-release of Center for Journalism in Extreme Situations (Russia),

<http://www.ifex.org/en/content/view/full/73179/>,

March 28, 2006

YES: A YES score is earned if there were no documented cases of CSO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist's work.

NO: A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3c. In practice, in the past year, no civil society activists working on corruption issues have been killed.

YES | NO

References:

Lyudmila Alekseyeva, chairwoman of the Moscow Helsinki Group (a human rights group)

YES: A YES score is earned if there were no documented cases of CSO activists being killed related to a corruption case in the specific study period.

NO: A NO score is earned if there were any documented cases during the study period where a person was killed related to a corruption trial, scandal or investigation. The relationship between a mysterious death and an individual's history may not be clear, however the burden of proof here is low. If it is reasonable that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

4. Can citizens organize into trade unions?

75

4a. In law, citizens have a right to organize into trade unions.

YES | NO

Comments:

The Russian Constitution provides this right, and many trade unions were organized under this law in the past.

References:

Federal Law On Trade Unions and Their Rights" passed in January, 1996

YES: A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

NO: A NO score is earned when any single non-violent trade union is legally prohibited by the government from organizing.

4b. In practice, citizens are able to organize into trade unions.

100 | 75 | 50 | 25 | 0

Comments:

No information was available on restrictions in this area. This was probably due to the fact that the active participation of Russian trade unions in national political life took place in the mid- and late 1990s.

References:

Russian Trade Unions at the Internet project: <http://www.trud.org/>;
Federation of Independent Trade Unions of Russia – <http://fnpr.org.ru/>

100: Trade unions are common and are an important part to the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.

75:

50: Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.

25:

0: Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.

I-2. Media

5. Are media and free speech protected?

100

5a. In law, freedom of the media is guaranteed.

YES | NO

Comments:

This was one of the most stable and prominent successes of democratic Russia since the late 1980s. Human rights leaders say that in President Vladimir V. Putin's Russia, journalists increasingly face a campaign of intimidation by the authorities and corrupt business interests. The New York-based Committee to Protect Journalists complained in July 2005 that Russia's poor press climate is declining at an alarming rate."

Unfortunately, Putin has made some recent successful attempts to tame and regulate the media. The number of criminal cases against journalists, accusing them of libel and insulting public officials, is increasing, in addition to the 6,000 to 8,000 civil defamation cases filed every year in which the burden of proof is on the accused, said Oleg Panfilov, head of the Moscow-based Center for Journalism in Extreme Situations.

"Under Putin, unfortunately, the criminal code has started getting used incredibly often. On average, we have counted 30 to 35 cases a year. That is an incredibly high number," he said. "Russia is probably the only country where criminal cases against journalists are opened that often." (Los Angeles Times, September 12, 2005, "Russia Media Climate Said to Be Chilling").

In an article published in the December 2005 issue of the Levada Polling Center's "Public Opinion Review," Ms. Natalya Zorkaya argues that post-Soviet Russian reading habits mean that the press has not been in a position to develop new "discourses" on political or other issues (<http://www.polit.ru/research/2005/12/27/ruspress.html>). Instead, she says, Russians are increasingly a nation of TV viewers who consume superficial reporting about the latest scandals and who often lack "their own opinions on questions touching them as a residents and citizens of this country, on its political and economic arrangements and reform, on citizenship, human rights and social guarantees."

However, from practical intimidation of the media, the authorities turned to legalizing their new understanding of freedom of the media right. On July 28, 2006, President Vladimir Putin signed amendments to the Law on Fighting Extremist Activity. The new legislation, which allows imprisonment of up to three years for journalists, and the suspension or closure of their publications if convicted of extremism, went into effect on October 28, 2006.

Amendments to Article 1 of the law broaden the definition of extremist activity to include "public slander directed toward figures fulfilling the state duties of the Russian Federation," as well as "interfering with the legal duties of organs of state authorities." Such vague language allows public officials to interpret the law as they please and effectively target critics, CPJ sources said.

"This measure is reminiscent of the kind of catchall laws that were used in Soviet times to control the media," CPJ Executive Director Joel Simon said. "Those in power can now label any journalist an 'extremist' and effectively stifle critical reporting." Press-release of Committee to Protect Journalists (USA), July 28, 2006 (for more information, go to <http://www.ifex.org/en/content/view/full/76025/>).

As if this law is not enough to mute the critical media, the legislature is working on new anti-media legislation. The following is a report by Sergey Varshavchik: "Journalists Are Going to Be Prohibited from Stirring up Discord", published at Nezavisimaya Gazeta daily on April 6, 2006.

"The Federation Council is preparing amendments to the Law on the Mass Media. This was reported yesterday by Lyudmila Narusova, chairwoman of the upper house of parliament's commission on information policy. According to her, certain provisions of the Law on the Mass Media have become outdated. The amendments will reinforce the responsibility of journalists for materials published and will also relate to provisions on private newspapers and television channels. Among other things, Narusova emphasized, after adoption of the amendments to the law, the mass media will be obliged to check the authenticity of information before showing or publishing it.

The senator also reported that in addition to this the upper house of parliament together with the lower house is considering introducing several amendments to the Code of Criminal Procedure: "These are amendments that deal with responsibility for

unreliable information and stirring up interethnic and interfaith hostility in the mass media.” And she explained that such steps are the result of the fact that freedom of speech, which is talked about in the Law on the Mass Media, is understood by many mass information media to mean that anything is permitted and as a result, according to her, journalists have begun taking revenge on the government for “many years of pressure” by adopting a cavalier attitude toward everything that the government does. According to Narusova, “The press and the government do not understand that they have to live in the same country.”

She emphasized that there is no uniform state information policy in Russia today, and that is regrettable because “information policy is linked with ideology. You cannot live without ideology.” For the edification of the domestic journalistic fraternity the senator recalled that when the United States was waging the war in Iraq not all the mass media were able to write the truth about the Iraqi prisons.

As Mikhail Fedotov, secretary of the RF Union of Journalists and one of the authors of the Law on the Mass Media, emphasized in an interview with, the present law on the media says that the journalist has the right not to check information no matter who reports it to him, but “as for information that he is going to disseminate, he must recheck it before he disseminates it.” The Union secretary emphasized that there are “many examples where journalists publish absolute lies and say, ‘as was made known to us from reliable sources.’ It is all covered by the fact that the law guarantees immunity to the journalist’s source. But isn’t that a right to lie?”

According to Fedotov, a journalist absolutely must report truthful information, but how to ensure this legally is a much more complicated process. He is concerned about something else: in the coming days the State Duma will examine a draft law making a number of changes in a series of Russian laws in connection with ratification of the Council of Europe’s Convention on the Prevention of Terrorism. In this process, “very major amendments are being made” in the Law on the Mass Media. In particular, according to Fedotov, Article 4 of the law on the Mass Media, which is devoted to the grounds on which a media outlet may be shut down may be broadened by words to the effect that “It is unlawful to use the mass media not just for propagandizing terrorism, but also for vindication of terrorism or substantiation of terrorism.” Fedotov emphasized that in that case if someone writes, “But let us think about it: why is the terrorist war in Chechnya continuing?” the newspaper might be shut down for this.”

References:

Constitution of RF, 1993, Ch. 2

YES: A YES score is earned if freedom of the press is guaranteed in law, including all political parties, religions, and ideologies.

NO: A NO score is earned if any specific publication relating to government is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

5b. In law, freedom of speech is guaranteed.

YES | NO

Comments:

Yes. The law provides for freedom of speech and of the press; however, government pressure on the media persisted, resulting in numerous infringements of these rights. Faced with continuing financial difficulties, as well as pressure from the government and large private companies with links to the government, many media organizations saw their autonomy further weakened. The government used its controlling ownership interest in all national television and radio stations, as well as the majority of influential regional ones, to restrict access to information about issues deemed sensitive. It severely restricted coverage by all media of events in Chechnya. There were indications that government pressure frequently led reporters to engage in self censorship. Nonetheless, on most subjects, the public continued to have access to a broad spectrum of viewpoints in the print media and, for those with access, on the Internet.

While the government generally respected citizens’ rights to freedom of expression, it sometimes restricted this right with regard to issues such as the conduct of federal forces in Chechnya, discussions of religion, or controversial reforms in the social sector. Some regional and local authorities took advantage of the judicial system’s procedural weaknesses to arrest persons for expressing views critical of the government. With some exceptions, judges appeared unwilling to challenge powerful federal and local officials who sought to prosecute journalists. These proceedings often resulted in stiff fines.

However, new legislation gives the state an opportunity to label criticism of state officials extremism”. On July 28, 2006, President Vladimir Putin signed amendments to the Law on Fighting Extremist Activity. The new legislation allows imprisonment of up to three years for journalists. Same measures apply to a person speaking at a rally. The law went into effect on October 28, 2006.

Amendments to Article 1 of the law broaden the definition of extremist activity to include “public slander directed toward figures fulfilling the state duties of the Russian Federation,” as well as “interfering with the legal duties of organs of state authorities.” Such vague language allows public officials to interpret the law as they please and effectively target critics, CPJ sources said. “This measure is reminiscent of the kind of catchall laws that were used in Soviet times to control the media,” CPJ Executive Director Joel Simon said. “Those in power can now label any journalist an ‘extremist’ and effectively stifle critical reporting.”

References:

Constitution of RF, 1993, Ch. 2;

U.S. State Department’s 2005 Country Reports on Human Rights Practices, Released by the Bureau of Democracy, Human Rights, and Labor, March 8, 2006, Section on Russia: <http://www.state.gov/g/drl/rls/hrrpt/2005/61671.htm>;

YES: A YES score is earned if freedom of individual speech is guaranteed in law, including all political parties, religions, and ideologies.

NO: A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

6. Are citizens able to form media entities?

75

6a. In practice, the government does not create barriers to form a media entity.

100 | 75 | 50 | 25 | 0

Comments:

Usually this is not an issue, unless it is obvious to the authorities that a particular media entity plans to publish investigative or simply critical articles dealing with the authorities.

The government is applying new tactics: instead of closing an opposition media entity, it buys it; most often indirectly, via loyal businessmen. The following story shows how it happens.

Ren TV, the last television channel with national reach whose news service was critical of the Kremlin was bought in summer 2005 by RTL, the pan-European broadcaster, and Severstal, the Russian steel group. RTL bought a 30 percent stake from Ren TV's founders, Irena and Dmitry Lesnevsky, while Severstal bought the remaining 70 percent from Unified Energy System (UES), the Russian electricity monopoly that decided to get rid of noncore assets". Severstal, led by the 40-year-old billionaire Aleksei Mordashov, in turn sold 35 percent of REN-TV to Surgutneftegaz, a large Russian oil company headed by Vladimir Bogdanov, a Siberian billionaire. Some journalists and analysts say that UES sold a part of its stake in REN-TV under Kremlin pressure. They also speculate that Severstal bought it at the Kremlin's request to clear the airwaves of critical coverage of President Putin and the government before the parliamentary and presidential elections in 2007 and 2008.

Moscow News, the outspoken weekly newspaper, was sold by Leonid Nevzlin, its owner, to a Ukrainian media group. Mr Nevzlin, resident in Israel and wanted on criminal charges in Russia, was a business partner of Mikhail Khodorkovsky, the jailed Russian oligarch. Moscow News gradually reduced its zeal and became a milder critic of the regime.

In June 2005, Izvestia, one of Russia's most influential newspapers, was bought by Gazprom, the state-controlled gas monopoly.

References:

Fears for Press Freedom as Russian Groups Change Hands",
Neil Buckley and Bettina Wassener,
Financial Times (UK), J
July 4, 2005

100: Media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system.

75:

50: Formation of media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.

25:

0: Media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. Division of broadcast bandwidth is widely viewed to be used as a political tool.

6b. In law, where a media license is necessary, there is an appeal mechanism if a license is denied or revoked.

YES | NO

Comments:

Yes, one can lodge a complaint and wait for a court decision. But the Federal Agency of Press and Mass Communications of the Russian Federation, which deals with licenses, has not used this mechanism within the last few years.

References:

Art. 61 of the Law on Mass Media

YES: A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied media license. A YES score is also earned if no license is necessary.

NO: A NO score is earned if there is no appeal process for media licenses.

6c. In practice, where necessary, citizens can obtain a media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Yes, unless the authorities create barriers for opposition media. Various consultancy groups can speed up the process of obtaining a license, for a fee of course. According to their standards, it takes one to two months. Journalists claim that if 'unassisted', the process can take a few months longer.

References:

<http://www.yurcom.ru/regfirm.php?t=24>

100: Licenses are not required or licenses can be obtained within two months.

75:

50: Licensing is required and takes more than two months. Some groups may be delayed up to six months.

25:

0: Licensing takes close to or more than one year for most groups.

6d. In practice, where necessary, citizens can obtain a media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

As with many other licensing issues, the process is more time-consuming than it is expensive.

References:

Telekon consulting agency (Moscow);

For detailed information on official dues:

<http://www.telekon.ru/upload/iblock/27decfc03bb7719bc56ab9f64920a459.doc>;

<http://www.telekon.ru/upload/iblock/1cf2f81d786c9c19acaa1c1cd76ae60a.doc>.

100: Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

7. Are the media able to report on corruption?

17

7a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

YES | **NO**

Comments:

It was difficult before July 2006, now it has become dangerous. New legislation gives the state an opportunity to label criticism of state officials extremism". On July 28, 2006, President Vladimir Putin signed amendments to the Law on Fighting Extremist Activity.

The new legislation allows imprisonment of up to three years for journalists. Same measures apply to a person speaking at a rally. The new law became effective on October 28, 2006.

Amendments to Article 1 of the law broaden the definition of extremist activity to include "public slander directed toward figures fulfilling the state duties of the Russian Federation," as well as "interfering with the legal duties of organs of state authorities." Such vague language allows public officials to interpret the law as they please and effectively target critics, CPJ sources said. "This measure is reminiscent of the kind of catchall laws that were used in Soviet times to control the media," CPJ Executive Director Joel Simon said. "Those in power can now label any journalist an 'extremist' and effectively stifle critical reporting."

References:

Press-release of Committee to Protect Journalists (CPJ),
July 28, 2006

for more information: <http://www.ifex.org/en/content/view/full/76025/>

YES: A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

NO: A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.

7b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100 | 75 | 50 | **25** | 0

Comments:

Recently, it became a trend with public officials, especially in regions. The following is an excerpt from section on Russia of the U.S. State Department's 2005 Country Reports on Human Rights Practices", released by the Bureau of Democracy, Human Rights, and Labor, March 8, 2006.(see the full text at <http://www.state.gov/g/drl/rls/hrrpt/2005/61671.htm>)

Although all but two national newspapers remained privately owned, as did more than 40 percent of the 45 thousand registered local newspapers and periodicals, the government attempted to influence the reporting of independent publications. In June 2005 Gazprom, a company in which the government owns a controlling stake, bought the daily newspaper Izvestiya. In the months before the sale the newspaper's critical coverage of governmental performance, and particularly its coverage of the Beslan school massacre, had reportedly aroused the ire of the Kremlin and given rise to significant editorial changes, including an increase of non political content at the expense of political analysis, and resignations of senior editors critical of the Kremlin. Media freedom advocates viewed the paper's acquisition by Gazprom, which in 2003 had acquired the last major independent television channel, as further evidence of continuing Kremlin efforts to expand control of media beyond national television before the 2007-08 parliamentary and presidential elections. In late 2005, after a personnel change at Izvestiya, the newspaper's editorial staff was reportedly told on several occasions to be careful not to provoke Kremlin authorities. Izvestiya's coverage of the late-2005 elections in Chechnya was allegedly less critical than might have been expected under the previous ownership.

Approximately two thirds of the 2,500 television stations in the country were completely or partially owned by the federal and local governments, and the government indirectly influenced private broadcasting companies through partial ownership of such commercial structures as Gazprom and Eurofinance Bank, which in turn owned controlling or large stakes of media companies. Such influence was not uniform, however. Employees continued to exercise program control at the radio station Ekho Moskviv, although it is owned in part by Gazprom. The station maintained an independent editorial position, offering political figures across the entire political spectrum the opportunity to air their views and covering issues skirted by other electronic media. A similar stance was maintained by a number of sister stations that Ekho has established in other major cities.

Of the three national television stations, the government had a direct interest in two, the Rossiya Channel, which it owned outright, and the First Channel, in which it held a majority interest (the third national television network is NTV). The only remaining television network that had exhibited independence of the Kremlin, REN-TV, was sold during the year.

In February 2005, the Ministry of Defense launched a new military-patriotic channel Zvezda featuring programs and movies focusing on the armed forces. In December 2005, the English-language channel Russia Today launched by the government officially began broadcasting; when the plans for the channel were originally announced the goal of the channel was "improving Russia's image" with Western audiences. Gazprom had a controlling ownership stake in NTV, the third national television station, which maintained a more independent editorial line. The government also maintained ownership of the largest radio stations, Radio Mayak and Radio Rossiya, and the news agencies ITAR TASS and RIA Novosti.

The government exerted its influence most directly on state owned media. Journalists and news anchors of Rossiya and First Channel reported receiving "guidelines" from the management prepared by the Presidential Administration, indicating which politicians they should support and which they should criticize. The two networks promoted a positive image of President Putin and suppressed reporting on the war in Chechnya, the government's legal prosecution of Yukos, the electoral crisis in Ukraine, the nationwide public protests against unpopular welfare reform, and the elimination of gubernatorial elections. Apparently as a result of government influence, criticism of presidential policies was also muted on NTV. The federal government and some regional governments also sought through various means to dampen criticism in many privately owned print publications, although with little apparent effect.

During the year the government continued to circumscribe the editorial independence and political influence of NTV. On March 10, 2005, NTV management prohibited the airing of an investigative program about the 2000 killing of Ukrainian journalist Georgiy Gongadze. Media reports cited NTV sources as saying the program contained interviews with Ukrainian politicians and former senior government officials who made allegations of possible Russian government involvement in the killing. According to media freedom advocates, the program was pulled by order of Presidential Administration officials, who also demanded that NTV abstain from further reporting on Gongadze's case."

In his "Putin's Frightening 'Press Guidance' "report, Paul Goble describes on January 20, 2006 how the authorities provide "guidelines" to the media: "Moscow's 'Yezhednevnyy zhurnal' published on January 19 what it described as a document providing the Kremlin's guidance on how its officials who work with the media and political parties should seek to structure public debate in the Russian Federation in the wake on the attack on the Moscow synagogue in mid January."

The story of REN-TV, known for critical news reporting that offered an alternative to state channels' uniformly positive coverage of President Vladimir V. Putin, was already mentioned. The signal of the former independent TV station reaches more than 113 million people, although its audience share hovers around 5 percent. The following story demonstrates how the state used new private owners to silence an independent media outlet.

"Olga Romanova, the host of a news analysis program called "24," said that on Nov. 24, 2005, private security guards blocked her from entering the studio at the network's Moscow headquarters. She said the move was on the orders of Alexander Ordzhonikidze, a former gas industry and satellite television executive who was appointed by the new shareholders as chief executive of REN-TV Media Holding, parent company of the television channel.

Mr. Ordzhonikidze told the Russian media that he was trying out new anchors for the program and that security in the studios was tight.

Ms. Romanova said that in the weeks leading up to her departure as anchor, she protested what she said were Mr. Ordzhonikidze's decisions to keep several reports off the air – pressure that began after she broadcast a report about a pro-fascist march in Moscow on Nov. 4.

The reports included one about elections in Kazakhstan and another about prosecutors dropping charges against Defense Minister Sergei Ivanov's son, who was accused of killing a pedestrian with his car, Ms. Romanova said.

In another example of what she called censorship, Ms. Romanova said, a report about a football team of homeless men from St. Petersburg traveling to Ireland to defend its title in the world homeless soccer championship was withdrawn by the new management.

"It was removed with the words, 'There are no homeless people in St. Petersburg. St. Petersburg is rich, it is the city of the president,' " she said.

Mr. Ordzhonikidze denied giving "anyone any orders to remove any reports."
Ms. Romanova quit a few days later.

Some journalists and analysts say that Unified Energy System sold a part of its stake in REN-TV under Kremlin pressure. They also speculate that Severstal bought it at the Kremlin's request to clear the airwaves of critical coverage of President Putin and the government before the parliamentary and presidential elections in 2007 and 2008."

Vladimir Lukin, Russian Ombudsman, agrees with the criticism of Alvaro Gil-Robles, the Council of Europe human rights' commissioner, of the situation as regards the regional mass media in Russia.

"As regards freedom of the mass media in Russia, the main problem right now is the functioning of the local press," Gil-Robles said. "The local mass media are under great economic pressure from the local authorities."

References:

Major Russian TV Station Is Accused of Censorship",
Sophia Kishkovsky,
New York Times,
January 2, 2006;

"TV Anchor Taken Off Air for Critical News Reporting",
press release by the Committee to Protect Journalists,
<http://www.ifex.org/en/content/view/full/70720/>,
29 November 2005;

"Russian Ombudsman Agrees with European Commissioner Over Media Pressure",
RIA-Novosti news agency,
February 27, 2006;

There are many stories on inner and internal censorship available at International Freedom of Expression Network website at www.ifex.org.

100: The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

75:

50: The government, its proxies, or media ownership/distribution groups make some attempts to restrict media coverage of corruption-related issues through unofficial means, such as restricting access by disfavored media outlets, or other short-term consequences. Violent reprisals against media outlets are rare.

25:

0: The government, its proxies, or media ownership/distribution groups actively use illegal methods to restrict reporting of corruption-related issues. This may include harassment, arrests, and threats. Journalists and publishers take a personal risk to report on corruption, and media outlets who commonly report on corruption face long-term consequences or violent reprisals.

7c. In practice, there is no prior government restraint on publishing corruption-related stories.

100 | 75 | 50 | **25** | 0

Comments:

On January 11, 2006, Russia's Glasnost Defense Foundation President Alexei Simonov presented results of an annual monitoring of freedom of media in Russia.

The general conclusion is that the situation with the press remains concerning," Simonov told Interfax news agency on January 11.

According to him, 233 cases of withholding of information were registered in 2005, including the banning of video and audio recording, accreditation denials, restriction of journalists' access to officials' offices and factories, while 213 such cases were registered in 2004, and 109 in 2003. Though there is no specific data, it's obvious that government practiced such restraints primarily to stop release of corruption-related stories.

Quite often, there are other, no less effective, ways of putting a gag on a journalist, for example prohibiting official circulation of a newspaper. In Russia, where access to Internet is very limited and is available to a few, mostly urban regions, printed media depends on circulation, either to subscribers, or for sale.

On 20 June 2006, Valeriy Smetanin, editor-in-chief of the independent newspaper "Ivanovo Press" based in the city of Ivanovo, appealed to Russian Center for Journalism in Extreme Situations (CJES) with a request for support. Smetanin told CJES that the newspaper, which has been published since 1997, may soon be closed because of arbitrary measures by local authorities. After the newspaper published a critical article in May about Vladimir Grishin, deputy speaker of the Ivanovo regional Duma (assembly), the management of the joint-stock company Rospechat refused to accept the newspaper for sale. Rospechat's director is Grishin's wife, Larissa Grishina, said Smetanin. For more information, go to:
<http://www.ifex.org/en/content/view/full/75249/>

References:

Glasnost Defense Foundation President Alexei Simonov;
International Freedom of Exchange network website.

100: The government never prevents publication of controversial corruption-related materials.

75:

50: The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. In countries where illiteracy is higher, the government may allow a free print press but censor broadcast media.

25:

0: The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material.

8a. In law, media companies are required to disclose their ownership.

YES | NO

Comments:

The law makes mandatory disclosing information about founders of a media entity and requires additional information, i.e. if the founder(s) own/edit, etc. any other media entity.

References:

Art. 10 of the Law on Mass Media

YES: A YES score is earned if media companies are required by law to disclose all owners of the company.

NO: A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain type of entities or agents from being disclosed.

8b. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100 | 75 | 50 | 25 | 0

Comments:

There are a few media outlets that tend to follow professional ethics with regard to reporting. Many other don't, due to pressure from senior management and/or money.

Live TV has to all intents and purposes been abolished on all channels and any broadcasts on social issues that are likely to involve a clash of wide-ranging opinion, pass through a censorship process, politely but invariably called editing. Federal publications allow themselves to express individual opinions that diverge in this way or that from the official government view, but they do so so politely and shyly, that they hardly make a ripple. Our research has shown that up to 70 percent of material printed in the press or broadcast on TV and radio, is about the government and its representatives."

References:

Alexei Simonov, the founder and the head of the Glasnost Defense Foundation (Russia)

100: Editors and journalists at the major media outlets abide by a strict journalistic code of conduct and are unwilling to alter their coverage of a particular issue, event or person in exchange for money, gifts, or other favors or remuneration.

75:

50: Editors and journalists at the major media outlets generally avoid altering coverage in exchange for favors but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

25:

0: Editors and journalists are widely known to sell" favorable or unfavorable coverage in exchange for money, gifts, or other remuneration. The major media outlets do not abide by any formal journalistic code of conduct.

8c. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

100 | 75 | 50 | 25 | 0

Comments:

No. The following report by Sergey Varshavchik and Natalya Kostenko called "Politics — A Dirty Business" was published in Nezavisimaya Gazeta daily on November 19, 2005.

"Nezavisimaya Gazeta (NG) proved to have at its disposal recent data from the Medialogiya Research Company, according to which United Russia (the leading national political party, 'party of power') is the sure leader among the parliamentary parties with respect to the number of mentions on television channels. It is interesting that, at the same time, the basic federal channels give much less information on the parties and the elections themselves than do TVTs (Moscow region channel) and REN TV (the then independent TV channel). In the opinion of analysts, this is the deliberate policy of the authorities who, having turned over the entertaining broadcasting to the state channels, are following a strategic policy of separating politics from society.

The television industry workers categorically deny the existence of any bias with respect to the representatives of certain specific parties. Igor Burenkov, director of public relations at the First Channel, stated to NG in an interview that there are no ratios in the showing of certain specific parties. According to him, "if we are talking about the information occasions which different parties and movements provide, they hit the airwaves from the standpoint of interest to the channel's audience and their public-political significance," said Burenkov.

Meanwhile, according to Medialogiya's data, from the results of October and the first half of November, United Russia rules the television channels (552 mentions), behind it are the CPRF (RF Communist Party) and Rodina (Motherland) (350 each) and the LDPR (Liberal Democratic Party of Russia) (258). Only recently, the picture was somewhat different. For example, in April 2005, whereas the party in power appeared on the screens of television sets 178 times, and the second with respect to ratings — the CPRF — only 71 times, in May 103 topics on the Communists were shown, but only 84 on United Russia, and in June Rodina broke into second place with respect to the frequency of mentions (74).

According to Aleksey Volin, director of Medialogiya, United Russia departed greatly from the other parties in September, making a leap from 67 to 160 mentions on the television airwaves. Since the beginning of the year, the policy of the Rossiya channel appeared to be the most weighted — there the gap between the first and second rating leaders was 43 units, but the CPRF and Rodina were shown more frequently on NTV (239 and 99 mentions respectively). As compared with the representatives of other structures, the functionaries of United Russia appeared most often on the television airwaves of TVTs.

Dmitriy Oreshkin, director of the Merkator Group, explained in an interview with NG that "the authorities give the signal to society: politics is a dirty business, you guys, you yourselves realize that we have to handle this, well you are the honest and pure ones — if you don't go to these elections, it doesn't matter what they are all fabricating there. There are remarkable shows, and very good serials — sit and watch. Leave politics to us — that is our painful fate. But we are relieving you of this. That is, politics are being forced out on the periphery of the mass consciousness, but Petrosyan and Yakubovich (a popular comedian and a TV host) are going to the foreground of the political scene."

As for TVTs, according to Oreshkin, considering that "this is a Moscow channel, it will naturally be politicized to a considerable extent just before the elections." According to a sociologist, REN TV, along with RBK and Euronews, is one of the few television channels on which one can in the meantime "watch anything touching on politics."

The Merkator director emphasized that United Russia is shown most often, and moreover in a positive light — "they are protecting us from the threat of an orange revolution and are providing us with stability." Second in the frequency of appearance on the screens is the CPRF, which, in Oreshkin's opinion, is "outgoing nature — you cannot look at it without tears — nevertheless, like an old orchard scarecrow, they are trying to frighten the viewers."

Mikhail Fedotov, secretary of the Russian Union of Journalists, said in an interview with NG that he thinks that everything taking place on the television channels is a "natural process." "The party in power is striving to record its dominating position. What it is showing us now is a correction of the disbalance and no more than that," noted Fedotov.

The representatives of the parliamentary opposition parties do not themselves notice that they have begun to be shown more. For example, Dmitriy Rogozin, the leader of Rodina, stated that his appearance on the television airwaves is being blocked: "I can tell you what broadcasts I have taken part in since 1 September — only one, which is called 'K Baryeru' (To the Barrier). After which there followed a telephone call to NTV from the president's administration, so that we won't see Rogozin's face there any more."

Ivan Melnikov, deputy chairman of the CPRF, is sure that his party is included in the statistical reports of the television channels so that a tick mark can be put against it. "Quantity and quality," noted the Communist, "are different things. The topics which they show concerning us are very brief (literally a few seconds) and are as a rule critical and often not very truthful. If we talk about United Russia, however, these are full-value, big topics, with a positive evaluation of their work. The television audience gets the overall impression that our citizens know practically everything about the activity of the party in power and nothing about any other party."

References:

Medialogiya Research Company (Russia)

100: All political parties and independent candidates have some access to media outlets. Individual media outlets may have biases, but on balance, the national media coverage reflects the interests of the electorate. Media groups generally act as disinterested parties in an election. In places where a government is popular with the public, opposition viewpoints can access the public via media outlets.

75:

50: Major popular media outlets have a persistent bias regarding some parties or independent candidates. Some major parties may be partially excluded from media coverage, or draw more negative coverage. Media sectors may have distinct biases, such as newspapers favoring one party, while radio favors another.

25:

0: The mass media, on balance, have clear preferences in election outcomes and coverage is driven to achieve these goals. Some major parties or independent candidates are excluded or consistently negatively portrayed by mass media. Dissenting political opinions are only found on fringe or elite media outlets, such as Web sites.

8d. In practice, political parties and candidates have equitable access to state-owned media outlets.

100 | 75 | 50 | 25 | 0

Comments:

The latest VTsIOM (one of the largest polling agencies in Russia, controlled by the state) poll indicates that citizens believe the opposition does get sufficient coverage on national television and in the press – and if it gets less than the United Russia party, the opposition’s own weakness and inability to compete are to blame for that. This picture is radically at odds with the results of joint research done by the Center for Extreme Journalism and a Slovakian public organization, MEMO 98, which specializes in press monitoring.

From March 1, 2006 they monitored five Russian television networks (Channel One, Rossiya, TV Center, NTV, and Ren-TV) and four newspapers (Rossiiskaya Gazeta daily, Parlamentskaya Gazeta daily, Kommersant daily, and Komsomolskaya Pravda daily). The experts measured how much airtime and column space was given to various political topics, and assessed the nature of the coverage: positive, negative, or neutral.

In the periods studied (March and April-May), most television channels didn’t give the opposition any significant airtime, or any opportunities to dispute the political views of the authorities; the president, the government, and the United Russia party got over 91 percent of the time devoted to political news in prime-time news broadcasts on Channel One and the Rossiya channel; coverage of the president on three state-controlled television channels was exclusively positive or neutral. There was more pluralism in the newspapers, but their audience is limited. Note that Russia ranked 158th out of 194 countries in Freedom House’s media freedom survey this year, and Reporters Without Borders ranked Russia 138th out of 167 countries last autumn.

Of course, an opinion poll shouldn’t be compared directly to press monitoring research. All the same, the pictures they paint are strikingly different. Certain flaws in the VTsIOM poll are readily apparent, and may be perceived as distorting the picture. VTsIOM asked respondents to compare the media access opportunities available to parties – but political authority in Russia isn’t party-based. Television broadcasts devote more time to the president and the government than they do to the United Russia party. An editorial called “The Taste of Porridge”, published at Vedomosti daily (Moscow) on August 9, 2006, noted that “another point is sadder still. How can people who eat nothing but porridge be expected to answer questions about the fine points of French cuisine? Only two television networks broadcast across all of Russia: Channel One (ORT) and Rossiya (99.8 percent and 98.5 percent of Russian territory respectively). The situation is the same for radio broadcasting: Radio Russia and Radio Mayak cover the most territory. It’s mostly urban residents who get their political news from the Internet or newspapers. In other words, the only source of information for most citizens about possible restrictions on the opposition, or the quality of the opposition itself, are television broadcasts that don’t mention the opposition or any restrictions on opposition activities. In fact, it’s surprising that citizens are familiar with the word “opposition” at all. Thus, the respondents in the VTsIOM poll live in a restricted media environment.”

References:

VTsIOM poll:

<http://www.wciom.ru/?pt=42&article=2975>;

Joint research by the Center for Extreme Journalism and a Slovakian public organization, MEMO 98:

http://www.memo98.sk/en/index.php?base=data/foreign/rus/russia_first_report_eng.txt; <http://www.memo98.sk/en/index.php?base=data/foreign/rus/1152463147.txt>

100: The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all other content.

75:

50: The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.

25:

0: The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.

9. Are journalists safe when investigating corruption?

0

9a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

YES | NO

Comments:

Most attempts to prosecute journalists for their reports (and the number is growing) are done on the basis of defamation. No official who pressed charges would admit that corruption-related publications were the reasons for their legal suits.

On January 11, 2006, Russia's Glasnost Defense Foundation President Alexei Simonov presented an annual survey on the situation surrounding the press in Russia..

According to our foundation's monitoring data, 1,332 conflicts involving journalists were registered in Russia in 2005. In 2004, the figure was 1,236, and 1,119 in 2003. The general conclusion is that the situation with the press remains concerning," Simonov said at the press conference.

Cases of journalists facing criminal persecution have also become more frequent, Simonov said. In 2005, the number of such cases was 42 (with 35 in 2004, and 34 in 2003), and cases when journalists were detained by police or other security structures amounted to 47 in 2005, 37 in 2004, and 22 in 2003.

"Viktor Shmakov, editor-in-chief of Provintsiyalniye Vesti (Provincial News) newspaper, was arrested on April 28 by Federal Security Service (FSB) agents in Ufa, the capital of the semi-autonomous republic Bashkortostan. A court in Ufa remanded Shmakov, 63, in custody for two months while the FSB and Interior Ministry conduct a joint investigation into two articles published in a special edition of Provintsiyalniye Vesti in April. The articles criticized corruption and human rights abuses in Bashkortostan and called for the resignation of President Murtaza Rakhimov, who has ruled the oil-rich and mostly Muslim republic since 1993.

The special edition of Provintsiyalniye Vesti was distributed to opposition activists ahead of an April 27 meeting of local opposition parties in Ufa. Authorities deployed police to search cars entering the city ahead of the opposition meeting for opposition newspapers, according to the ANNews.ru news Web site. On April 27, FSB agents raided the offices of the Communist Party and the Coordination Council of the United Opposition, questioned opposition leaders, and confiscated computers, documents and copies of Provintsiyalniye Vesti.

Authorities had charged Shmakov on April 26 with seeking to overthrow the government under Article 280 of the Criminal Code, which bans using the media to call for "extremist activity." The two articles, bylined only with the initials "A.D.," provided advice on how to participate in antigovernment protests. Airat Dilmukhametov, who acknowledges writing the two articles, said Shmakov was making arrangements for Mikhail Kasyanov – a former Prime Minister and outspoken critic of the Kremlin – to visit Ufa in late May, Regnum.ru news agency reported."

Two other stories show how far the authorities are ready to go.

Eduard Abrosimov was released from prison two weeks early on September 25, 2005 after a court in the southern Russian city of Saratov upheld his criminal libel conviction and reduced his sentence from seven months to time served. Abrosimov, a journalist and adviser to former regional governor Dmitry Ayatskov, was convicted by a Saratov arbitration court of criminal defamation on June 22, 2005 for libeling public officials in two articles published last year in national and local newspapers, according to local press reports. One count of defamation was based on draft material that had not been published.

Abrosimov is the second Russian journalist handed a prison sentence for criminal defamation this year. On June 6, an arbitration court in the central city of Smolensk sentenced independent journalist Nikolai Goshko to five years in a prison colony for defaming local officials in a 2000 radio broadcast. Goshko was released on August 19 after the prosecution agreed to change criminal defamation to the lesser charge of criminal insult.

References:

Glasnost Defense Foundation survey;

Center for Journalism in Extreme Situations press release, <http://www.ifex.org/en/content/view/full/74150/>, May 2, 2006;

Center for Journalism in Extreme Situations press release, <http://www.ifex.org/en/content/view/full/69509/>, September 28, 2005;

Center for Journalism in Extreme Situations press release, <http://www.ifex.org/en/content/view/full/68914/>, August 29, 2005

YES: A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period.

NO: A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist's work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

9b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

YES | NO

Comments:

Journalists have been physically harmed for what they and their colleagues believe is linked to their professional activity. Law enforcement agencies tend to downplay such cases and report hooliganism as the main cause of such attacks.

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The foundation's report says that seven journalists were killed in 2005 (14 in 2004, 20 in 2003), and 63 were assaulted (68 in 2004). The surveys found 25 cases of journalists being threatened, against 28 such cases in 2004 and 24 in 2003.

Boris Timoshenko of the GDF Monitoring Service said January 12, 2006 in an interview to Novye Izvestia daily that the number of criminal episodes of free speech violations and attacks on journalists went down. "Not because someone became more humane," Timoshenko explained. "It's just that emphasis is now made on other forms of putting media outlets and journalists under pressure."

However, emphasis is certainly made on less direct, more devious methods of harassment. Outright censorship has become less frequent, but only due to self-censorship, as editorial offices themselves hope to avoid conflicts with the authorities. The GDF maintains that absolutely all media outlets in Chechnya are subjected to outright censorship.

Law enforcement agencies were used actively to put pressure on journalists (47 cases in 2005 and 37 in 2004). Unlawful actions by the police and Federal Security Service against correspondents of Komsomolskaya Pravda, Bolshoi Gorod weekly, Novaya Gazeta, and Gazeta were recorded. Lawsuits and refusal to impart information remain, however, the most effective means of dealing with journalists.

Another attack was intended to hurt a journalist but caused harm to his relative. "Early in the morning of 11 May 2006, the 64-year-old father of REGNUM news agency correspondent Murat Gukemuhov was attacked in Cherkessk, a city in the Karachaevo-Cherkessia republic. Gukemuhov believes that the attack was intended to be carried out on him but that an attacker mistook his father for him in the darkness. Gukemuhov told Russian Center for Journalism in Extreme Situations (CJES) that he links the threats and the assault to his reports about Ali Kaitov, the son-in-law of Mustafa Badiev, the president of Karachaevo-Cherkessia, as well as his articles about public disorder connected with Kaitov's case. Kaitov was arrested for organizing the killing of seven entrepreneurs.

The journalist also told CJES that earlier he had been summoned to the government press office and offered remuneration if he would stop writing about Kaitov's trial, but that he had refused to do so.

In another attack a journalist of a state TV channel was hurt. On February 3, Senior Lieutenant Georgiy Totoev, a Ministry of Internal Affairs employee, assaulted First Channel television journalist Olga Kiri, at the central clinic hospital of Vladikavkaz, where she arrived with her television crew to film a report about the victims of explosions in Vladikavkaz game clubs. As a result of the attack the journalist sustained a concussion and numerous other injuries. He was later fired and sentenced, but experts are sure this was a result of his victim being a state TV channel correspondent.

References:

Glasnost Defense Foundation (Russia) survey;

See also IFEX website for information on attacks on Russian journalists;

Pressure in a New Form"
Nadezhda Krasilova,
Novye Izvestia daily,
January 12, 2006;

Center for Journalism in Extreme Situations press release,
<http://www.ifex.org/en/content/view/full/74360>,
May 11, 2006;

Center for Journalism in Extreme Situations press release,
<http://www.ifex.org/en/content/view/full/73500/>,
April 6, 2006

YES: A YES score is earned if there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues.

NO: A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

9c. In practice, in the past year, no journalists investigating corruption have been killed.

YES | NO

Comments:

Yes. Magomedzagid Varisov, a prominent journalist and political analyst who often criticized the Dagestan opposition in the biggest regional weekly Novoye Delo (Makhachkala), sustained multiple bullet wounds and died on the spot when machine-gun toting assailants opened fire on his sedan as he was returning home with his wife and driver on June 28, 2005.

Many such murders demonstrate strong links to their professional activity. Some cases are still investigated and it is hard to say what the results will be.

References:

Press release of Committee to Protect Journalists (CPJ),
<http://www.ifex.org/en/content/view/full/67680/>

YES: A YES score is earned if there were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period.

NO: A NO score is earned if there were any documented cases where a journalist was killed in relation to his or her work covering corruption-related issues in the study period. The relationship between a mysterious death and an individual's work may not be clear, however the burden of proof here is low. If it is a reasonable guess that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

46
I-3. Public Access to Information

10. Do citizens have a legal right of access to information?

67

10a. In law, citizens have a right of access to government information and basic government records.

YES | NO

Comments:

The right of the citizens to receive reliable information is enshrined in the RF Constitution. As of today, however, implementation of this right leaves something to be desired, as no clear mechanism has been put in place yet to safeguard the procedure involved. A federal law on citizens' right to access information has been at the drafting stage since 1997. A step in the direction of creating a single information network is perceived to be taking place with the Federal Special-Purpose Program Electronic Russia 2002-2010" presently being implemented. Implementation of the project, however, has already run into considerable problems due to insufficient funding. Personal information can be accessed quite simply and quickly; any other data are almost always unavailable and cannot be officially purchased.

It should be noted that even if there is a legal possibility to gain access to information, in case the request deals with some other government record, it is often up to the officials to decide if and how it can be released, and there is almost no chance of enforcing the law in the case if a public servant denies the requested information. It is in the context of mass media access to information that the question of free information accessibility is most often raised. Journalists still see the authorities, first of all, executive branches as their main source of information. At that, surveys reveal that more than a third of journalists face problems in securing information from officials of the relevant bodies on a regular basis.

Russia still doesn't have the federal FOI law which has to regulate access to information held by public and municipal bodies. In April 2005, a new FOI draft "On Providing Access to Information held by Public Bodies and Local Governments" was prepared and submitted into the State Duma by Ministry of Economic Development and Trade. RIA Novosti news agency reported on June 27, 2005 that the Russian Cabinet recently approved a draft federal law on information transparency at state bodies. Economic Development and Trade Minister German Gref, who introduced the bill, said it introduced a presumption of transparency. Officials can now be fined a minimum of 30 minimum wages for failing to provide non-classified information on demand.

At the same time, a draft on Electronic Commerce, Official Secrets and on Personal Data Law providing detailed regulating of FOI field was passed in first reading on 25th November 2005 in Parliament, but in February 2006 President Putin vetoed it suggesting further improvement. In January 2006, a draft law on information, information technologies, and protection of information, prepared by the State Duma Information Policy Committee, was approved the second reading, reported Itar-Tass news agency. It says that access to information might be restricted only by a federal law "with a view to protecting the fundamentals of the constitutional system, morals, health, rights and legitimate interests of citizens and organizations, national defense and security".

Art. 3, 12 and 13 of the federal law "On Information, Informatization and Protection of Information" passed in 1995 make provisions for the high-quality and efficient provision of information to citizens, organs of state power, organs of local self-government, organizations and public associations on the basis of state information resources. It also describes "Exercise of Right of Access to Information from Information Resources" and "Guarantee of Information Supply", pointing out that the cost of information services lays on the federal budget. However, the law does not include any provisions on punishment for violations of the law by public officials, making it practically toothless.

There are regional FOI acts, so far in four out of 89 Russian regions: Law on Procedure for Disclosing Information by State Bodies of the Kaliningrad Region, passed in August 2002; Law on Procedure for Disclosing Information by State Bodies of the Volgograd Region, passed in January 2003; Law on Procedure for Disclosing Information by State Bodies of the Novgorod Region, passed on April 2004; and also a Law "On Guarantees on the Accessibility of Information on Moscow State Bodies Activities", passed in March 2004.

Ms. Marina Savintseva in her Access to Information report points out that traditionally all information resources in Russia are divided into two groups: information that is freely accessible and information subject to limited access. With regard to the

information of the limited access, there are more than twenty kinds of information as a whole with the limited or prohibited access: State secret; Commercial secret; Personal Data; Professional Secret; Official Secret; Banking Secret; Secret of Adoption; Medical Secret; Secret of Voting; Secret of Confession; Information on Donor and recipient; Military secret; Know-How, etc. Information with the limited access is regulated by special legal acts. Nevertheless, the basic rules of the access and obtaining information held by all public bodies and local governments should be covered by the federal FOI law. In the absence of this law, the right of access to information is only partly guaranteed and is applied only to some electronic open information and limited access information. To obtain the information held by state and local bodies using the request mechanism is too complicated if not impossible.

However, Appeals mechanism is working according to the Law on "On Consideration of Appeals of Citizens", adopted on May 2, 2006. The law states that a reply to an information request is to be provided within 30 days, with the possibility of a prolongation for another 30 days. Appeals, proposals, statements and complaints to the state and local bodies do not require providing documentation as well as a citizens' request.

There are also some regional laws on citizens' appeals: in Moscow city, passed in 1997; a similar law of Sverdlovsk region, passed in 199; and an interesting example of unsuccessful attempt in this field: in May 2003 the legislature of St.Petersburg passed a law on citizens' appeals, but Governor Egorov vetoed it as necessary legislation was already provided by a 1968 Soviet law.

In February 2006, the Institute for Information Freedom Development (Russia) has published its annual survey on monitoring the websites of the federal executive bodies. According to the survey, nearly all government bodies now have websites with information about their work, but the amount of useful information available has shrunk.

This situation does not satisfy the authorities. On March 13, 2006, President Vladimir Putin said official information should be more accessible to citizens, Itar-Tass news agency reported. "We must think, and I will give instructions to the government, about how to make official information, including that published in Rossiiskaya Gazeta daily, more accessible to the majority of citizens. We will think about that," Putin said in a meeting with Constitutional Court Chairman Valery Zorkin. The president's remark followed Zorkin's complaint that Rossiiskaya Gazeta "is almost unavailable in retail trade". Rossiiskaya Gazeta is an official newspaper of the government. Official documents enter into force after publication in this newspaper.

According to Zorkin, "In addition to assessing laws on their merits, the Constitutional Court often has to deal with the law enforcement practices". "The law enforcement practices violate the rights of citizens. This may be a result of the overall legal culture as people sometimes do not know the law well enough," he said. So far, no official results of Putin's promised "instructions to the government" have materialized.

Civil society acted much more effectively. In June 2005, experts of the Institute for Information Freedom Development (Russia) filed a suit at a district court of St.Petersburg against federal executive bodies, accusing them of violation of freedom of information right by not providing information on their websites. Since this violation was evident, federal executive bodies preferred to comply with the legislation and either open corresponding websites or upload necessary information to them, thus avoiding an unfavorable ruling of the court. Some state bodies fulfilled their obligations under the law quite formally and another suit, filed by experts of the Institute for Information Freedom Development in September 2005, was supported by a district court of St.Petersburg, that ruled in October 2005 that all state bodies are legally obliged by January 1, 2006 to make all publicly important information available to public via corresponding and regularly updated websites.

Some echo of the meeting between Putin and Zorkin might be felt in this event. On April 17, 2006, RIA Novosti news agency reported that "the head of the Ministry for Economic Development and Trade German Gref believes that only openness can do away with corruption in Russia. "I'm deeply convinced that there is simply no other way to combat corruption but through openness and journalistic access to all the processes," the minister said on 17 April at a meeting of the board of trustees of the fund for the development of public television.

"The strengthening of the vertical chain of command leads simultaneously to the strengthening of the bureaucrats. And it's far from always that the law-enforcement system can cope with the ensuing level of corruption," Gref said. "Openness is the only thing corrupt officials are afraid of," the minister thinks.

"The media should be given access to all the nooks and crannies and to all the most secret processes of work of civil servants," Gref believes. In his view, public television is also "a tool of control over corruption processes in the country".

The head of the Economics Ministry recalled that two years ago the government passed a decision on information openness of the federal bodies of authority which made it incumbent on all ministries and departments to publish all important information on official websites in the Internet. Later a draft law on information openness was drawn up which extended these requirements to all the branches of state authority as well as regional and local authorities. "The draft law is ready, and I hope that this year it will be submitted to the State Duma for discussion," Gref said. "This draft law is a necessary component of freedom of speech and the operation of public television," the minister said.

Gref said that public television is already being set up in Moscow and Tomsk regions. In Tomsk Region, representatives of all public organizations, of all the parties which have factions in the regional дума as well as of trade unions, religious faiths and judicial authority have joined the supervisory board of public television which is being set up on the basis of a commercial television channel. Federal public television will be set up proceeding from the experience of regional public television, the minister said.

He added that the federal draft law had already been prepared by the Culture Ministry and was now being agreed by departments."

References:

The Russian Constitution, 1993, Ch. 2;

"Access to Information" report,
Marina Savintseva, Program Coordinator of Access to Information program at Transparency International Russia,
June 2006;

<http://www.gipp.ru/print.php?id=11319;>
<http://www.ijn.net.org/Director.aspx?P=MediaLaws&ID=25292&LID=1;>

Very good review of the laws:
[http://www.ksdi.ru/readhall/glaz_mol/braslavskay140706/soderzanie.htm;](http://www.ksdi.ru/readhall/glaz_mol/braslavskay140706/soderzanie.htm)

<http://www.rg.ru/2006/05/05/obraschenie-doc.html>;
http://www.mos.ru/cgi-bin/pbl_web?vid=1&osn_id=0&subr_unom=1598&datedoc=0;
http://www.humanrightsurial.ru/press/zak_obr.shtml;
<http://saint-petersburg.ru/m/17285/> and <http://etimes.spb.ru/news/daynight/?id=310>;

<http://www.svobodainfo.org/info/page/?tid=633200006&nd=458201283>;
http://sibirp.ru/attachments/mod_catalogue/11/file_807_Ivan_Pavlov.doc;

The draft law Mr Gref refers to:

<http://www.medialaw.ru/projects/1/2/d28.htm>

YES: A YES score is earned if there is a formal right to access any government documents. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request. There should be a formal process for requesting this information.

NO: A NO score is earned if there is no such right.

10b. In law, citizens have a right of appeal if access to a basic government record is denied.

YES | NO

Comments:

Though there is no such federal law, under the constitutional access to information right citizens are granted an opportunity to appeal if any information is denied to them. Within the last few years, there have been several attempts by journalists and civil society experts to apply this right in various courts, and some were quite successful.

References:

Under Code of Civil Procedure, Art. 254-258, this is made possible since July, 2002;

Article by Ivan Pavlov, Director of the Institute for Information Freedom Development (Russia), that reviews such legal precedents:

http://sibirp.ru/attachments/mod_catalogue/11/file_807_Ivan_Pavlov.doc

YES: A YES score is earned if there is a formal process of appeal for rejected information requests.

NO: A NO score is earned if there is no such formal process.

10c. In law, there is an established institutional mechanism through which citizens can request government records.

YES | NO

Comments:

There is no federal Access to Information Law in Russia. Only three Russian regions enjoy such legislation: Kaliningrad, Volgograd and Nizhni Novgorod. All other local attempts to introduce similar legal acts have failed. All existing laws are based on EU legislation. Therefore, if there is an access to information law, a citizen can request information at a special department and receive it within a reasonable time period and at a reasonable cost (often for free). However, if there is no legal channel for accessing needed information, one can always turn to illegal channels and purchase it, most likely, from a public official in charge of a certain database. Russian and foreign citizens can buy numerous databases available at free market Moscow real estate (who owns what in Moscow), tax police data on car owners, cell phone operators (information on tens of millions of Russian citizens who ever bought a cell phone), custom data on all incoming goods, Central Bank payments within the last few years, etc. You name it and you get it, provided you can afford it. There were a few very high level scandals when certain databases became available, insiders and law enforcement agencies were accused (when full database of one of the major cell phone operators enter the market after Dubrovka theater terrorist attack in late 2002, Federal Security Service officials were allegedly behind it as they ordered cell phone operators to stop coding phone conversations), but no legal actions were taken and no one was convicted.

References:

Openness of Bodies of Executive and Local Governance. Case Studies of Access to Information Law of Kaliningrad, Nizhni Novgorod and Volgograd Regions", Ekaterina Blavatskaya,

http://www.ksdi.ru/readhall/glaz_mol/braslavskay140706/soderganie.htm;

"Legal Model of Enforcing Openness of the Authorities", Stanislav Sheverdyayev, Moscow, 2004,

YES: A YES score is earned if there is a formal government mechanism/institution through which citizens can access government records available under freedom of information laws. This mechanism could be a government office (or offices within agencies or ministries) or an electronic request system.

NO: A NO score is earned if there is no such formal mechanism or institution.

11. Is the right of access to information effective?

50

11a. In practice, citizens receive responses to access to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

In the regions where a special FOI legislation exists, the law gives public officials 30 days for providing the requested information. In case some additional (besides regional) bodies must be involved, another month is added. With regard to other regions and requests filed to federal state bodies, it all depends on a particular request: it can take from a few weeks to never.

References:

Openness of Bodies of Executive and Local Governance. Case Studies of Access to Information Law of Kaliningrad, Nizhni Novgorod and Volgograd Regions", Ekaterina Blavatskaya,

http://www.ksdi.ru/readhall/glaz_mol/braslavskay140706/soderganie.htm:

"Legal Model of Enforcing Openness of the Authorities", Stanislav Sheverdyayev, Moscow, 2004,

http://www.transparency.org.ru/doc/MonitoringOfKaliningrad_01000_128.pdf

-summarizes the results of implementation of Access to Information Law of Kaliningrad regions in 2003-2004

100: Records are available on-line, or records can be obtained within two weeks. Records are uniformly available; there are no delays for politically sensitive information. Legitimate exceptions are allowed for sensitive national security-related information.

75:

50: Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

25:

0: Records take more than four months to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records. National security exemptions may be abused to avoid disclosure of government information.

11b. In practice, citizens can use the access to information mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

In the regions where a special FOI legislation exists, 10 pages of printed data are free. The rest depends on local department policy: usually a few rubles per page or at average price, compared to similar services provided by public libraries and archives.

References:

Openness of Bodies of Executive and Local Governance. Case Studies of Access to Information Law of Kaliningrad, Nizhni Novgorod and Volgograd Regions", Ekaterina Blavatskaya,

http://www.ksdi.ru/readhall/glaz_mol/braslavskay140706/soderganie.htm:

"Legal Model of Enforcing Openness of the Authorities",
Stanislav Sheverdyayev,
Moscow, 2004,
http://www.transparency.org.ru/doc/MonitoringOfKaliningrad_01000_128.pdf,
-summarizes the results of implementation of Access to Information Law of Kaliningrad regions in 2003-2004

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

11c. In practice, citizens can resolve appeals to access to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Appeals mechanism is working according to the Law on On Consideration of Appeals of Citizens", adopted on May 2, 2006 . The new law states that a reply to an information request is to be provided within 30 days, with the possibility of a prolongation for another 30 days. Appeals, proposals, statements and complaints to the state and local bodies do not require providing documentation as well as a citizens' request.

References:

Access to Information" report
Marina Savintseva, program coordinator of Access to Information program at Transparency International Russia,
June 2006;

<http://www.rg.ru/2006/05/05/obraschenie-doc.html>

100: The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: The agency/entity acts on appeals quickly but with some exceptions. Some appeals may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.

11d. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Appeals mechanism is working according to the Law on On Consideration of Appeals of Citizens", adopted on May 2, 2006 . The new law states that a reply to an information request is to be provided within 30 days, with the possibility of a prolongation for another 30 days. Appeals, proposals, statements and complaints to the state and local bodies do not require providing documentation as well as a citizens' request.

References:

Access to Information" report
Marina Savintseva, Program Coordinator of Access to Information program at Transparency International Russia,
June 2006;

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge an access to information determination.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge an access to information determination.

25:

0: The prohibitive cost of utilizing the access to information appeals mechanism prevents middle class citizens from challenging access to information determinations.

11e. In practice, the government gives reasons for denying an information request.

100 | 75 | 50 | 25 | 0

Comments:

Yes, it usually does. However, public officials often refer to confidentiality of the requested information and a citizen must be aware that there is a list of such information, according to Decree of President of Russian Federation of the List of Information of Confidential Character, March 1997 and Law on State Secret, July 2003. Nizhni Novgorod FOI states that a citizen can receive even a partially classified information, provided all classified data is deleted.

References:

Access to Information" report
Marina Savintseva, Program Coordinator of Access to Information program at Transparency International Russia,
June 2006;

"Openness of Bodies of Executive and Local Governance. Case Studies of Access to Information Law of Kaliningrad, Nizhni Novgorod and Volgograd Regions",
Ekaterina Blavatskaya,
http://www.ksdi.ru/readhall/glaz_mol/braslavskay140706/soderkanie.htm

100: The government always discloses to the requestor the specific, formal reasons for denying information requests.

75:

50: The government usually discloses reasons for denying an information request to the requestor, with some exceptions. The reasons may be vague or difficult to obtain.

25:

0: The government does not regularly give reasons for denying an information request to the requestor.

Category II. Elections

II-1. ~~68~~ Voting & Citizen Participation

12. Is there a legal framework guaranteeing the right to vote?

100

12a. In law, universal and equal adult suffrage is guaranteed to all citizens.

YES | NO

Comments:

Yes, this is guaranteed by the Constitution.

References:

Constitution of RF, 1993, Ch. 2

YES: A YES score is earned if the right to vote is guaranteed to all citizens of that country. A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

NO: A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

12b. In law, there is a legal framework requiring that elections be held at regular intervals.

YES | NO

Comments:

Yes, national elections held at regular intervals are guaranteed by the Constitution. However, Central Election Commission can grant a request of regional authorities allowing them to change the election date for a certain reason (most often, to combine a federal and a local election).

References:

Constitution of RF, 1993, Ch. 2

YES: A YES score is earned if there is a statutory or other framework enshrined in law that mandates elections at reasonable intervals.

NO: A NO score is earned if no such framework exists.

13. Can all citizens exercise their right to vote?

75

13a. In practice, all adult citizens can vote.

100 | 75 | 50 | 25 | 0

Comments:

Yes, this is guaranteed by the Constitution.

References:

Constitution of Russia, Art. 32;

Federal Law on Basic Guarantees of Electoral Rights and the Rights of Citizens of the Russian Federation to Participate in a Referendum, passed on June, 23, 2003

100: Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

75:

50: Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

25:

0: Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

13b. In practice, ballots are secret or equivalently protected.

100 | 75 | 50 | 25 | 0

Comments:

No, this is one of the major issues opposition regularly complains about. Ballots are at free disposal of local election commissions, usually controlled by local authorities so the former allegedly abuse their position to manipulate the results.

One example is worth citing. In March 2006, Yuri Vakhotin, the acting mayor of Kineshma, an ancient Russian city on Volga river, and a secretary of local United Russia party branch, lost his seat to a local businessman, an independent contender. Vakhotin has behind him all resources his party and his position could provide but the local election commission officially recognized his defeat. All ballot papers were sealed and stored at city hall, guarded by local police. During the night, Vakhotin, one of the local police chiefs, and some other local officials took all ballot papers (over 26,000!) and burned most of them in the woods. This crime was very efficiently solved, all felons arrested. So far, there is no information on the results of this case.

References:

Federal Law on Basic Guarantees of Electoral Rights and the Rights of Citizens of the Russian Federation to Participate in a Referendum, passed on June, 23, 2003;

<http://2006.novayagazeta.ru/nomer/2006/20n/n20n-s14.shtml>

100: Ballots are secret, or there is a functional equivalent protection, in all cases.

75:

50: Ballots are secret, or there is a functional equivalent protection, in most cases. Some exceptions to this practice have occurred. Ballots may be subject to tampering during transport or counting.

25:

0: Ballot preferences are not secret. Ballots are routinely tampered with during transport and counting.

13c. In practice, elections are held according to a regular schedule.

100 | 75 | 50 | 25 | 0

Comments:

Usually, yes. However, Central Election Commission can grant a request of regional authorities allowing them to change the election date for a certain reason (most often, to combine a federal and a local election).

References:

Russian Federal Law on Presidential Election in the Russian Federation

100: Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

75:

50: Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

25:

0: Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

14. Are citizens able to participate equally in the political process?

60

14a. In law, all citizens have a right to form political parties.

YES | NO

Comments:

Yes, this is granted by the Constitution.

References:

Constitution of Russia, Ch. 2

YES: A YES score is earned if citizens have the right to form political parties without interference from government. A YES score may still be earned if groups or individuals with a history of violence or terrorism (within last ten years) are banned from forming political parties. Non-discriminatory minimal criteria (e.g. minimum age) are also allowed.

NO: A NO score is earned if there are any legal or regulatory restrictions or prohibitions barring any types of political parties from being formed.

14b. In law, all citizens have a right to run for political office.

YES | NO

Comments:

Yes, this is granted by the Constitution.

References:

Constitution of Russia, Ch. 2

YES: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if Individuals with a history of violence, terrorism, or criminality are banned from running for office.

NO: A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.

14c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

Comments:

No. Under new election legislation, political activities became much more complicated: to have a new party established, 50,000 signatures instead of 10,000, as before, are needed.

References:

Federal Law on Political Parties passed on December 3, 2004;

100: While there is no guarantee of electoral success, political parties can form freely without opposition.

75:

50: Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties' political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some political parties or organizations may have extra barriers to getting on a ballot.

25:

0: Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.

14d. In practice, all citizens can run for political office.

100 | 75 | 50 | 25 | 0

Comments:

Citizens have all the rights, but in practice only people demonstrating loyalty to local or federal authorities (or ruling political party) have the opportunity (and funding) to be elected. Russian election system is based on dependent courts, powerful bureaucracy that is simultaneously an organizer of election process and an active participant, dependent election commissions, and dependent civil society organizations and media.

References:

Russian Election 2006: Diagnosis and Forecast",

Dr. Buzin, chairman of Interregional Association of Voter and member of Moscow Election Commission,

<http://www.votas.ru/buz-0a.html>,

-an interesting analysis of current situation with Russian election system. Dr. Buzin claims that opposition has almost no real chances in fair competition with the "party of power".

100: While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable and do not deter candidates from entering a race.

75:

50: Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office.

25:

0: Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.

14e. In practice, an opposition party is represented in the legislature.

100 | 75 | 50 | 25 | 0

Comments:

The opposition is represented at the State Duma by Communist party of Russian Federation only. Two other major rivals, Union of Right Forces (SPS) and Yabloko Party, lost the vote in December 2003 parliamentary election.

In a series of amendments to 13 election-related laws, on July 6, 2005 the lower house gave its final approval to rules requiring parliamentary deputies to be elected from official party lists, blocking seats for parties that fail to attract 7 percent of the vote and prohibiting the formation of electoral blocs and factions. The new law comes into effect on January 1, 2006.

Opposition leaders said the election-law reform package, could disenfranchise millions of voters who would be unrepresented in the parliament. Proponents of the reforms say Russia's fledgling democracy needs a boost to its party system if it is to thrive.

Though marginal blocs and parties might be weeded out, the new rules will encourage opposition parties to unite, marshal their forces and ultimately become a more powerful political force, they said.

Opposition leaders said the reforms would make it easier for the Kremlin to weed out candidates early in the process. And though the changes substantially raise the level of federal funding for election campaigns (the new law raises the campaign budget to 2 billion rubles (US\$76 million), they also raise the ceiling on campaign budgets, in what opposition parties called another advantage for United Russia.

The amendments introduce electronic voting systems in some areas – which opposition parties fear might be easily manipulated. They also allow people to vote in different polling stations without getting special permission from the station where they are registered. Opposition groups say this could permit electoral merry-go-rounds, with busloads of people taken around multiple polling stations voting for the same candidate.

Vladimir Ryzhkov, a prominent independent deputy, said “The Kremlin has taken into account the Ukrainian experience.” Even Alexander Ivanchenko, a former head of the central electoral commission, who runs the Independent Elections Institute, has warned that under the new law “public observers as a class have been eliminated”.

One change in electoral law forces parties that want to run for the national parliament to either pay a US\$2 million bond or submit 200,000 signatures. They can be barred if 10 percent of the signatures are ruled to be fake, compared with 25 percent before. However, the requirement applies only to the parties not in parliament, a category that includes all the most outspoken groups that some analysts say the Kremlin most fears. The new laws forbid parties from uniting into blocs to contest elections.

“In those regions where blocs ran against United Russia in local legislature elections, United Russia lost,” said Ivanchenko. “The ban on blocs... serves the interests of one party: the party of power.” Alexander Ivanchenko, head of Russia’s Central Election Commission from 1996 to 1999, said the fact that governors were now Putin’s appointees would make it easier for the Kremlin to manipulate election commissions. In theory impartial, they run local votes and half their members are nominated by the governor.

“Of course, this will be a victory for bureaucracy”, believes Institute of Applied Politics director Olga Kryshchanovskaya. “There is no other system like ours anywhere in the world. A person does not know the people for whom he or she is voting. What is more, he or she may vote for some person who is not ultimately going to represent his party in parliament. People vote for a faceless mechanism, and the parties are turning into a bureaucratic system that controls this process”.

In July 2006, the State Duma approved two significant changes to the electoral system, both aimed at strengthening the party system. One law abolished the option of voting “against all” in both federal and local elections, which had previously been used to express dissatisfaction with the status quo while recognizing that none of the opposition parties were likely to win or just not having any trust in any of the parties. A second law, which received more press, prohibited Duma deputies from changing party factions during their terms and barred parties from combining electoral candidate lists. Also, right before adjourning for vacation the Duma passed several amendments to the law on combating political extremism.

According to these amendments, if a member of a party’s candidates’ list indulges in racist or otherwise extremist rhetoric during the electoral campaign, the whole party could be disqualified and its list taken off the ballot. This new norm, as well as the removal of the option “against all” prompted angry criticism from Alexander Veshnyakov, the chairman of Russia’s Central Electoral Commission.

“You suggest that a person whose statements have indications of being extremist, should not have the right to be a candidate at elections,” Veshnyakov said addressing the Duma in July. “But aren’t there other methods of punishing the extremists, including jail terms?... The whole party cannot be held responsible for the actions of just one of its candidates.” As for the removal of the “against all” option, Veshnyakov said it could lead to a 5 percent drop in the percentage of people coming to vote. “This is 3-4 million voters whom we can lose,” Veshnyakov said on state-owned Radio Rossii radio station.

Despite Veshnyakov’s critical remarks, Duma still passed all the changes to the electoral rules.

References:

Alexander Ivanchenko, head of Russia’s Central Election Commission from 1996 to 1999;

Russia Overhauls Its Election Laws”,
Kim Murphy,
Los Angeles Times,
July 7, 2005;

“Putin’s Election Law ‘Could Aid Poll Fraud’”,
Neil Buckley and Arkady Ostrovsky,
Financial Times (UK),
July 14, 2005;

“The Costs of Democracy”,
Yelena Rudneva,
Vedomosti daily (Moscow),
July 14, 2005;

“Former Election Chief Slams Putin’s Vote Reforms”,
Christian Lowe,
Moscow Times daily,
July 19, 2006;

“An Absent-Minded Robot is Inclined to Take Make Simple Decisions”,
Aleksandra Samarina,
Nezavisimaya Gazeta daily (Moscow),
August 2, 2005;

“Russia’s Political Parties”,
interview with Henry Hale, an assistant professor of political science at the Elliot School of International Affairs at George Washington University,
Washington Profile,
March 10, 2006;

100: The opposition party always has some influence on the proceedings of the legislature. The opposition party can introduce legislation or bring pending matters to a vote without the consent of the ruling party.

75:

50: The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition's ability to force votes or publicly debate certain topics may be limited.

25:

0: The opposition party has only token participation in the legislature's proceedings and cannot advance legislation or force a debate.

II-2. Election Integrity

15. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

100

15. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

YES | NO

Comments:

Yes, it is called Central Election Commission (CEC).

References:

www.cikrf.ru.

YES: A YES score is earned if there is an agency or set of agencies/entities formally assigned to ensure the integrity of the election process.

NO: A NO score is earned if no agency or set of agencies/entities that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police.

16. Is the election monitoring agency effective?

60

16a. In law, the agency or set of agencies/entities is protected from political interference.

YES | NO

Comments:

Yes, the Commission is protected by the law from political interference but the fact that the Chairman of the Commission is appointed by the government makes him dependent on the authorities.

References:

Alexander Yurin, Executive Director of Institute for Election Systems Development (Moscow);

Intrigues Against Vehsnyakov. Deputies Deemed CEC Head's Powers Excessive"

Natalya Kostenko,
Nezavisimaya Gazeta daily (Moscow),
March 24, 2006,
-on attempts to limit CEC independence

YES: A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies being contested in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no election monitoring agency.

16b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

100 | 75 | 50 | 25 | 0

Comments:

Formally yes. In practice bodies of regional election commissions include representatives of the parties. Since only one opposition party is more or less represented in the vast majority of Russian regions – Communist party of Russian Federation, representatives of Edinaya Rossiya (United Russia), the party of power", outnumber all potential and existing oppositionists, providing the needed decisions. "The fact that governors were now Putin's appointees would make it easier for the Kremlin to manipulate election commissions. In theory impartial, they run local votes and half their members are nominated by the governor", said Alexander Ivanchenko, head of Russia's Central Election Commission from 1996 to 1999.

References:

Alexander Ivanchenko, head of Russia's Central Election Commission from 1996 to 1999;

Former Election Chief Slams Putin's Vote Reforms",
Christian Lowe,
the Moscow Times daily,
July 19, 2006

100: Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. However, individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

16c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Yes, the CEC's staff largely consists of professional lawyers. A new provision of the law establishes a mandatory requirement that the chairman of the election commission must have a higher legal education or an academic degree in the field of law. However, experts argue that most of the appointments are based on political loyalty and corporate solidarity.

References:

Alexander Yurin, executive director of Institute for Election Systems Development (Moscow)

100: The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

75:

50: The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

0: The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

16d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

100 | 75 | 50 | 25 | 0

Comments:

Yes, it does provide such reports.

References:

See such report on expenditures of Russian political parties in 2005:

http://www.cikrf.ru/5/svodn_otchet.htm

100: Reports are released to the public on a predictable schedule, without exceptions.

75:

50: Reports are released, but may be delayed, difficult to access, or otherwise limited.

25:

0: The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

16e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

This occurred in the fall of 2005, when the nationalist Rodina party was targeted during Moscow Duma election and ultimately, banned from it. Some media entities were also punished. In general, the wrath of the election commissions is almost always aimed at rival parties, before and during the election cycle.

References:

<http://www.newsru.com/russia/02dec2005/rodina2.html>

100: When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

75:

50: The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

17. Are elections systems transparent and effective?

38

17a. In practice, there is a clear and transparent system of voter registration.

100 | 75 | 50 | 25 | 0

Comments:

On the surface it looks so. However, there were complaints from independent observer of signatures for absent voters and even for deceased ones. Apparently, such information (who will absent on polling day, who died but is still on a list of voters at a local election commission) is available to local election commission members, provided by local authorities.

References:

Statute of State System of Voter Registration": Resolution of Central election Commission of Russia, adopted on December 29, 2005,
http://www.cikrf.ru/1/norm_akt/Zv051084/pril_1_post.htm;

"Test By Election",
Andrei Buzin (Interregional Association of Voters),
http://www.indem.ru/idd2000/conf/3/thesis_buzin3.htm;

<http://www.votas.ru/techn.html>.

100: There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

75:

50: There is a transparent voter registration system that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote but there are some problems. Voters may have not access to registration lists with sufficient time to correct errors before voting or registration lists may at times be inaccessible.

25:

0: The system of voter registration is incomplete or does not exist. Government may routinely falsify registration lists to affect voting patterns and limit access to the polls. Double voting and ghost" voting by non-existent voters is common.

17b. In law, election results can be contested through the judicial system.

YES | NO

Comments:

On December 16, 2004 the Supreme Court of Russia ruled against an appeal by Communist Party of Russia, Yabloko political party and a group of civil society activists who tried to contest the results of 2003 Duma election.

References:

All data on an attempt to contest the results of 2003 parliamentary election:
<http://www.votas.ru/mater-SC.html>;

http://www.cikrf.ru/3/reshenie_161204.htm

YES: A YES score is earned if citizens or political parties can challenge allegedly fraudulent election results through the courts or other judicial mechanisms.

NO: A NO score is earned if there is no legal right for citizens or political parties to challenge allegedly fraudulent election results in the courts or other judicial mechanisms.

17c. In practice, election results can be effectively appealed through the judicial system.

100 | 75 | 50 | 25 | 0

Comments:

No. In 1996-2004, Communist Party of Russian Federation has repeatedly tried to appeal numerous violations during local and national elections, but always failed.

References:

Test By Election",
Andrei Buzin (Interregional Association of Voters),
http://www.indem.ru/idd2000/conf/3/thesis_buzin3.htm;

<http://www.votas.ru/mater-SC.html>;

<http://www.votas.ru/sud-mgd1.html>; <http://www.votas.ru/sud-mgd2.html>; <http://www.votas.ru/sud-mgd3.html>,
-information on how results of Moscow City Duma election (December 2005) were contested through Moscow courts

100: The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.

75:

50: The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the announcement of electoral results.

25:

0: The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

17d. In practice, the military and security forces remain neutral during elections.

100 | 75 | 50 | 25 | 0

Comments:

No, the military almost always supports the party of power." Police is often used for prosecuting opposition: from local to federal elections, they arbitrarily enforce election law.
Even Vladimir Zhirinovskiy, leader of Liberal Democrats and Vice Speaker of the State Duma, complained in December 2005 that police is more active in elections than some political parties, acting against United Russia's rivals, such as Yabloko, Communist Party of Russian Federation and others.

References:

Vladimir Zhirinovskiy, leader of Liberal Democrats and Vice Speaker of the State Duma;

<http://www.ldpr-russia.ru/duma/2005/1207-1.htm>;
<http://2006.novayagazeta.ru/nomer/2006/21n/n21n-s00.shtml>

100: The military, military officers, and other security forces refrain from overtly supporting or opposing political candidates or commenting on elections. The military or security forces refrain from physically interfering with political campaigns, rallies, or voting.

75:

50: The military, military officers, and security forces may be known to unofficially support or oppose particular candidates or parties. The military or security forces generally refrain from the use of force to support or oppose particular candidates or parties but there are exceptions.

25:

0: The military or other security forces are an active and explicit player in politics and overly support or oppose particular candidates or parties. The military or security forces routinely exercise the use of force to support or oppose parties or candidates.

17e. In law, domestic and international election observers are allowed to monitor elections.

YES | NO

Comments:

Under the new law, domestic independent observers and journalists will not be allowed to observe election counts. International observers will be permitted only by invitation. But foreigners need a visa so any unwanted (i.e., not loyal enough) observer can be stopped from entering the country.

References:

Federal Law on Election of Deputies of the State Duma, passed on April 22, 2005, http://www.cikrf.ru/3/zakon/zakon_05_51fz/zakon_51.htm;

Federal Law on Amendments to Legislation of Russian Federation on Elections and Referendums, passed on July 6, 2005, http://www.cikrf.ru/3/zik_main.htm

YES: A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.

NO: A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

17f. In practice, election observers are able to effectively monitor elections.

100 | 75 | 50 | 25 | 0

Comments:

No. Cases when independent or opposition election observers were prohibited from executing their right to obstacles created by local election commission members were reported by dozens during almost all major elections in Russia within the last decade, and specifically during the last year. Prior to new legislation, public organizations could assign their observers to monitor elections and this measure significantly improved election transparency.

References:

Galina Esyakova, deputy chairman of Life party (Zhizn party), <http://www.regnum.ru/news/646601.html>
May 26, 2006

100: Election observers have unfettered access to polling sites, counting stations, and voters themselves. The government does not interfere with the observers' activities.

75:

50: Election observers generally have access to polling sites, counting stations, and voters but encounter restrictions in certain areas. The government may impose burdensome regulatory or bureaucratic requirements on observers to discourage their involvement.

25:

0: Election observers' movements are significantly limited by the government and many polling and counting sites are restricted or barred from observers. The government imposes so many bureaucratic or regulatory burdens on the observers that their mission is rendered ineffective.

18. Are there regulations governing political financing?

100

18a. In law, there are regulations governing private contributions to political parties.

YES | NO

Comments:

In 2003, the ceiling on financing was legally raised. For parties and election associations there was a jump from RUB40 million to RUB250 million (US\$9,491 million). For candidates in single member constituencies, it increased from RUB1.5 million to RUB6 million (US\$227,790). Secondly, there was an increase in the permissible limit for donations to election funds from private sponsors: from legal entities up to RUB8,750,000 (US\$332,194); from individual sponsors up to RUB175,000 (US\$6,643). Thirdly, criminal liability was introduced for illegal overspending if the amounts involved exceeded the limits prescribed for parties or candidates by more than 10 percent. Fourthly, the electoral commissions were charged with the job of auditing the cash inflow from legal and natural persons trying to prevent anonymous financing of political parties and candidates in single member constituencies.

References:

Federal Law on Election of Deputies of the State Duma, passed on April 22, 2005, http://www.cikrf.ru/3/zakon/zakon_05_51fz/zakon_51.htm;

Federal Law on Amendments to Legislation of Russian Federation on Elections and Referendums, passed on July 6, 2005, http://www.cikrf.ru/3/zik_main.htm

YES: A YES score is earned if there are any formal rules (by law or regulation) controlling private contributions to political parties.

NO: A NO score is earned if there is no regulation of private contributions to political parties.

18b. In law, there are limits on individual donations to candidates and political parties.

YES | NO

Comments:

Yes. The overall spending limit on a campaign is RUB6 million (US\$227,790) for the Duma and RUB250 million (US\$9,491 million) for parties.

References:

Federal Law on Election of Deputies of the State Duma, the Federal Legislature of the Russian Federation, Art. 66;
Federal Law on Presidential Election in the Russian Federation

YES: A YES score is earned if there are any limits, regardless of size, on individual contributions to political candidates and political parties. A YES score is earned if individual contributions are prohibited.

NO: A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition parties/candidates in a discriminatory manner.

18c. In law, there are limits on corporate donations to candidates and political parties.

YES | NO

Comments:

Yes. For a Duma candidate's campaign, sources of funding can include the candidate's own money, money from his or her political party, and voluntary donations, provided that the amount from any of these three types of sources does not exceed 50 percent of the overall spending limit. Voluntary donations by individuals to a State Duma Deputy candidate's campaign fund may not exceed 5 percent of the overall spending limit. For political parties, the source of campaign funds can include the parties' own money and voluntary donations, if the amount taken from the parties' own money does not exceed 50 percent of the overall spending limit. The size of voluntary donations to political party campaign funds is limited to 0.07 percent of the overall spending limit for individuals and 3.5 percent of the overall spending limit for legal persons.

References:

Federal Law on Election of Deputies of the State Duma, the Federal Legislature of the Russian Federation;
Federal Law on Presidential Election in the Russian Federation

YES: A YES score is earned if there are any limits, regardless of size, on corporate contributions to political candidates and political parties. A YES score is earned if contributions are prohibited.

NO: A NO score is earned if there are no limits on corporate contributions to candidates or political parties. A NO score is also earned if limits are applied by the government on opposition parties/candidates in a discriminatory manner.

18d. In law, there are limits on total political party expenditures.

YES | NO

Comments:

Previously, the law set a limit for the total party expenditures only during the election period; the rest was not covered by the law at all. United Russia was number one in overspending during the 2003 parliamentary election – especially with regard to TV and printed media coverage. Central Election Commission did not find any violations besides some minor ones; no one was prosecuted; no polling results were contested.

Since 2005, Central Election Commission (CEC) has started auditing of political parties for the legality of their incomes and expenditure of funds. If previously the CEC had controlled party finances only in the election period, from now on the monitoring will be held on a permanent basis.

References:

Federal Law on Election of Deputies of the State Duma, the Federal Legislature of the Russian Federation;
Federal Law on Presidential Election in the Russian Federation;

<http://www.votas.ru/mater-SC.html>

YES: A YES score is earned if there are any limits, regardless of size, on political party expenditures. A YES score is earned if all party expenditures are prohibited.

NO: A NO score is earned if there are no limits on political party expenditures. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

18e. In law, there are requirements for disclosure of donations to political candidates and parties.

YES | NO

Comments:

The law requires a political party within 30 days after an official announcement of the results of a parliamentary election to provide general information on its donations to Central Election Commission that reviews a requested report.

For the first time in the Russian political practice, the country's Central Election Commission (CEC) has started auditing of political parties for the legality of their incomes and expenditure of funds. The Russian CEC is charged with this task under the federal law on political parties. If previously the CEC had controlled party finances only in the election period from now on the monitoring will be held on a permanent basis. Local election commissions for their part are controlling the financial activity of regional branches of the parties.

References:

Federal Law on Election of Deputies of the State Duma, the Federal Legislature of the Russian Federation, Art. 60;

See financial reports of political parties for 2005:

http://www.cikrf.ru/5/svodn_otchet.htm;

Russia CEC for 1st Time Launches Audit of Political Parties",
Itar-Tass news agency,
February 13, 2006.

YES: A YES score is earned if there are any requirements mandating the disclosure of financial contributions to political parties or candidates.

NO: A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties or candidates, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations.

18f. In law, there are requirements for the independent auditing of the finances of political parties and candidates.

YES | NO

Comments:

The Federal Registration Service handed over its power to conduct financial checks to the Central Election Commission under amendments to the federal law "On Political Parties" that came into force in 2005. The parties were to submit financial reports for all of 2005 by April 1, 2006. In practice, such auditing is used only for opposition parties.

References:

Federal Law on Political Parties;

CEC's official website:

http://www.cikrf.ru/5/svodn_otchet.htm;

Parties' NGO Donors Face Probe",
Anatoly Medetsky,
the Moscow Times daily,
February 14, 2006

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of candidate and party finances. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of political parties and candidates or if such requirements exist but allow for candidates or parties to self-audit.

19. Are the regulations governing political financing effective?

33

19a. In practice, the limits on individual donations to candidates and political parties are effective in regulating an individual's ability to financially support a candidate or political party.

100 | 75 | 50 | 25 | 0

Comments:

No, as cash contributions are not registered in any way whatsoever.

References:

Alexander Yurin, Executive Director of Institute for Election Systems Development (Moscow)

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a candidate or political party. Limits are reasonably low enough in the context of the total costs of running a campaign.

75:

50: Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a candidate or political party. However, exceptions and loopholes exist through which individuals can indirectly support candidates or political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate or party; unregulated loans to candidates or parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a candidate or political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

19b. In practice, the limits on corporate donations to candidates and political parties are effective in regulating a company's ability to financially support a candidate or political party.

100 | 75 | 50 | 25 | 0

Comments:

No, as cash contributions are not registered in any way whatsoever. Igor Bunin, head of the Political Techniques Center, maintains that apart from United Russia, no other political party can hope that state subsidies and membership dues will get it through the 2007 elections. Moreover, political parties cannot count on private companies any more. Every business owner fears the prospect of finding himself in Khodorkovsky's shoes," Bunin said.

References:

Igor Bunin, head of the Political Techniques Center (Moscow);

The Costs of Democracy",
Yelena Rudneva,
Vedomosti daily (Moscow),
July 14, 2005

100: Existing limits represent the full extent to which a company can directly or indirectly financially support a candidate or political party. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

75:

50: Existing limits generally represent the full extent to which a company can directly or indirectly financially support a candidate or political party. However, exceptions and loopholes exist through which companies can indirectly support candidates or political parties above and beyond those formal limitations. Such loopholes could include making to donations to third-party groups that advocate on behalf of (or against) a particular candidate or party; unregulated loans to candidates or parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to a candidate or political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

19c. In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.

100 | 75 | 50 | 25 | 0

Comments:

Yes. Violation of the campaign-spending ceiling in excess of 10 percent may be grounds for an appeal to court to void the election results. However, such investigations take place only against the opposition parties.

In early February 2006, when Central Election Commission started auditing party-funding, CEC Deputy Chairman Oleg Velyashev explained that for the first time the CEC does not intend to take radical measures to the violators of law, if they are exposed. But if

violations become a tendency the CEC will insist on tough reaction envisaged by the legislation." Among the measures applied can be a legal procedure for the party activity suspension for several months or starting a legal action on its dissolution.

References:

Alexander Yurin, executive director of Institute for Election Systems Development (Moscow);

Russia CEC for 1st Time Launches Audit of Political Parties",
Itar-Tass news agency,
February 13, 2006.

100: Existing limits represent the full extent to which political parties are able to finance their activities. Limits are reasonably low enough in the context of the total costs of running a party to be meaningful.

75:

50: Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of expenditures are made outside of the formal limitation system. Limits are so high that they are meaningless in the context of the overall costs of running a party.

19d. In practice, when necessary, an agency or entity monitoring political financing independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

Central Election Commission and its regional and local bodies are to ensure nothing interferes with a state-supported candidate's/party's campaign, as well as nothing will ensure a rival candidate's/party's success. Therefore, any penalties are imposed upon the opposition parties.

References:

Federal Law on Basic Guarantees of Electoral Rights and the Right of Citizens of the Russian Federation to Participate in a Referendum

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to political financing. The agency is fair in its application of this power.

75:

50: The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power.

19e. In practice, when necessary, an agency or entity monitoring political financing imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

Central Election Commission and its regional and local bodies are to ensure nothing interferes with a state-supported candidate's/party's campaign, as well as nothing will ensure a rival candidate's/party's success. Therefore, any penalties are imposed upon the opposition parties.

References:

Alexander Yurin, executive director of Institute for Election Systems Development (Moscow).

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders.

75:

50: The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power.

19f. In practice, contributions to political parties and candidates are audited.

100 | 75 | 50 | 25 | 0

Comments:

In practice, such auditing is used only for opposition parties.

References:

Alexander Yurin, executive director of Institute for Election Systems Development (Moscow)

100: Political party and candidate finances are regularly audited using generally accepted auditing practices. This includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

75:

50: Political party and candidate finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party or candidate may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

25:

0: Party and candidate finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

20. Can citizens access records related to political financing?

42

20a. In practice, political parties and candidates disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Political parties and candidates are supposed to disclose this information to the Central Election Commission that reviews submitted reports and makes them public on its site. In practice, it depends on the good will of political parties whether to disclose this information to public or not.

References:

Alexander Yurin, executive director of Institute for Election Systems Development (Moscow);

30 "Political Parties Report Finances to Central Electoral Commission",
Interfax news agency,
April 3, 2006

100: Political parties and candidates disclose their sources of funding and expenditures at least every quarter.

75:

50: Political parties and candidates disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

25:

0: Political parties and candidates never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

20b. In practice, citizens can access the financial records of political parties and candidates within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The law requires a political party within six months after an election to provide general information on its donations to Central Election Commission that reviews a requested report and makes it public on its site. In practice, it depends on the good will of political parties whether to disclose this information to public or not.

References:

Alexander Yurin, executive director of Institute for Election Systems Development (Moscow)

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take two to four weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

20c. In practice, citizens can access the financial records of political parties and candidates at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

This information is either available for free to all or not officially available at all.

References:

Alexander Yurin, executive director of Institute for Election Systems Development (Moscow)

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

III-1. ^{ES}Executive Accountability

21. In law, can citizens sue the government for infringement of their civil rights?

100

21. In law, can citizens sue the government for infringement of their civil rights?

YES | NO

Comments:

Yes, but citizens can only sue individual public officials and not the government itself.

References:

Constitution of RF, Ch. 2

YES: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) can receive compensation or redress through the courts for civil rights violations committed by the government, such as failure to follow due process of law when detaining suspected criminals.

NO: A NO score is earned if any group of citizens is excluded from the right to sue the government, or no such mechanism exists.

22. Can the chief executive be held accountable for his/her actions?

63

22a. In practice, the chief executive gives reasons for his/her policy decisions.

100 | 75 | 50 | 25 | 0

Comments:

In practice, members of the executive sometimes give reasons (most likely, either pressed by circumstances or for PR reasons) for their policy decisions though no discussion is expected or welcomed. However, President Putin is notorious for lack of comment on his personal appointments.

References:

Dr. Vasily A. Vlasihin, legal expert (Moscow)

100: The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.

75:

50: The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.

25:

0: The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely censor such sessions.

22b. In law, the judiciary can review the actions of the executive.

YES | NO

Comments:

Yes, in law, the judiciary can review the actions of the executive.

References:

Constitution of RF, Ch. 1

YES: A YES score is earned if there is a formal process by which the judiciary can pass judgments on the legality or constitutionality of actions taken by the executive.

NO: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exemptions exist with respect to executive actions that are reviewable (a national security exemption, for example).

22c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the judiciary sometimes reviews the actions of the executive, especially in the regions. However, such cases are usually an exception rather than a rule, although, higher courts (Constitutional Court, Supreme Court, and Arbitration Court) do it on a regular basis.

References:

Dr. Vasilii A. Vlasikhin, expert of Russian Foundation of Legal Reforms (Moscow)

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

75:

50: The judiciary will review executive actions, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review executive policy. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power. It must rely on instructions from the executive in order to initiate a legal or constitutional review.

22d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

100 | 75 | 50 | 25 | 0

Comments:

In general, yes. However, it has to be mentioned that not all such orders are available for general public. Many of them have to be professionally interpreted in order to understand what interest group profits from this or that order.

References:

Dr. Vasili A. Vlasikhin, expert of Russian Foundation of Legal Reforms (Moscow)

100: The chief executive utilizes executive orders only when there is no constitutional or legal requirement for official legislative action or approval. Executive orders are limited in number and narrow in scope.

75:

50: The chief executive sometimes relies on executive orders to implement policies and regulations opposed by the legislature. Some executive orders are overly broad in scope and are designed to circumvent constitutional or legal requirements for legislative action or approval.

25:

0: The chief executive routinely abuses executive orders to render the legislature practically useless. Executive orders are the norm, not the exception, and directly contravene constitutional or legal requirements for legislative action or approval.

23. Is the executive leadership subject to criminal proceedings?

50

23a. In law, the heads of state and government can be prosecuted for crimes they commit.

YES | **NO**

Comments:

The President is immune and can only be prosecuted once he is impeached.

References:

Constitution of Russia, Ch. 4

YES: A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations.

NO: A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

23b. In law, ministerial-level officials can be prosecuted for crimes they commit.

YES | NO

Comments:

They can be tried for crimes but in practice it happens only for political reasons.

References:

Constitution of Russia, Ch. 6

YES: A YES score is earned if ministerial-level officials, or their equivalents, can all be investigated, charged or prosecuted for criminal allegations.

NO: A NO score is earned if any ministerial-level official, or equivalent official, cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on ministerial-level officials.

24. Are there regulations governing conflicts of interest by the executive branch?

59

24a. In law, the heads of state and government are required to file a regular asset disclosure form.

YES | NO

Comments:

Yes, according to the Federal Law on Public Civil Service, all public officials are required to file an asset disclosure form when entering a public service and annually, by April 30 (for the previous financial year). However, no sanctions for violation of this regulation are specified.

References:

Decree of the President of the Russian Federation On providing information on income and property by persons holding governmental positions of the Russian Federation and by persons holding governmental positions at government service and positions in local agencies of self-government":

<http://www.transparency.org.ru/CENTER/DOC/ps9eng.doc>,

May 15, 1997, # 484;

Federal Law on Public Civil Service, passed on July 27, 2004, Art.20, para.1

YES: A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES.

NO: A NO score is earned if either the head of state or government is not required to disclose assets.

24b. In law, ministerial-level officials are required to file a regular asset disclosure form.

YES | NO

Comments:

Yes, according to the Federal Law on Public Civil Service, all public officials are required to file an asset disclosure form when entering a public service and annually, by April 30 (for the previous financial year). However, no sanctions for violation of this regulation are specified.

References:

Decree of the President of the Russian Federation On providing information on income and property by persons holding governmental positions of the Russian Federation and by persons holding governmental positions at government service and positions in local agencies of self-government":

<http://www.transparency.org.ru/CENTER/DOC/ps9eng.doc>,

May 15, 1997, # 484;

Federal Law on Public Civil Service, passed on July 27, 2004, Art.20, para.1

YES: A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

NO: A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

24c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

YES | NO

Comments:

Yes, according to the Federal Law on Public Civil Service. Gifts over five minimum monthly wages are considered federal property and have to be passed to the corresponding state body (with some exceptions especially specified by the law). If unreported, they are considered a bribe (under Art.575 of the Civil Code of Russian Federation).

References:

Federal Law on Public Civil Service, passed on July 27, 2004, Art.17, para.1, subpara. 6

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts and hospitality offered to members of the executive branch. A NO score is earned if the guidelines are overly general and do not specify what is and is not appropriate.

24d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

YES | NO

Comments:

No such requirements exist. Asset disclosure forms filed by all public officials are submitted to corresponding HR department or unit.

References:

Federal Law on Public Civil Service, passed on July 27, 2004, Art. 20

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of executive branch asset disclosures or if such requirements exist but allow for self-auditing.

24e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

YES | NO

Comments:

Yes, according to the Federal Law on Public Civil Service, a public official is prohibited for two years from being employed by a private enterprise s/he was overseeing as a public servant. However, no sanctions for violation of this regulation are specified.

References:

Federal Law on Public Civil Service, passed on July 27, 2004, Art.17, para 3, subpara.1

YES: A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

24f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

100 | 75 | 50 | 25 | 0

Comments:

No information on any enforcement of this regulation was available. Most likely, as many other regulations it can be enforced for political, not legal reasons.

Meanwhile, top-ranking public officials are working on their retirement plans while still on public service. According to an article "The Kremlin corporation has done well" published by the Nezavisimaya Gazeta daily on July 26, 2005, at the end of 2004 seven people from President Vladimir Putin's narrow circle were controlling state companies with total assets worth US\$222billion and net profits of US\$11billion. They were: the former President Administration head and the current Vice Prime-Minister Dmitry Medvedev is chairman of Gazprom's board; deputy President Administration head Igor Sechin is chairman of Rosneft, the state-controlled oil company; deputy President Administration head Viktor Ivanov heads the board of directors of Aeroflot and the Almaz-Antei defense firm; deputy President Administration head Vladislav Surkov controls the Transneftproduct oil company; Finance Minister Alexei Kudrin controls the ALROSA diamond monopoly and Russia's second largest bank, Vneshtorgbank. Quite likely, they all will be able to find employment there.

According to Nezavisimaya Gazeta, the last year was extremely successful for all state-controlled companies. Experts also note the growing demand for high posts in monopoly companies among state officials. The newspaper says, "taking into account that oil prices as well as profits of state structures will remain high in the foreseeable future, the competition for posts on boards of directors will grow even more." The seventh official mentioned by Nezavisimaya Gazeta was Russian Railways head Vladimir Yakunin, who earlier worked in the presidential administration's main monitoring directorate. The former President Administration head in the late 1990s-early 2000s, Alexander Voloshin, became Chairman of the board of directors of one of the largest Russian monopoly, Russian stock company Unified Electric Systems.

References:

High-ranking official of Russian Audit Chamber.

100: The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no or few cases of those officials taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, heads of state/government or ministers are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Heads of state/government or ministers routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

24g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 | 75 | 50 | 25 | 0

Comments:

No, such regulations are not effective at all, as members of the executive branch usually do not report on gifts and hospitality offered to them.

References:

High-ranking official of Russian Audit Chamber

100: The regulations governing gifts and hospitality to members of the executive branch are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the executive branch are generally applied though exceptions exist. Some ministers in certain sectors are known to accept greater amounts of gifts and hospitality from outside

interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to members of the executive branch are routinely ignored and unenforced. Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

24h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

100 | 75 | 50 | 25 | 0

Comments:

Not as a rule. Such audit can be used as a tool against disloyal public official but not as an instrument of enforcement of anti-corruption policy.

However, Russian banks may soon be required to provide the Federal Financial Monitoring Service (FFMS) with information about the bank accounts of ministers, members of parliament, and even the president himself. On May 24, 2006 Alexandra Samarina and Ivan Rodin published an article called "Under Financial Surveillance" at Nezavisimaya Gazeta daily. A bill to that effect is being prepared by the Duma committee on economic policy, enterprise, and tourism. The bill is aimed at realizing a requirement in the UN Convention against Corruption which Russia has ratified. It says that this procedure must apply to "any individual who is appointed or elected to any office in the legislative, executive, administrative, or judiciary bodies of a participating state."

In April next year, Russia will be visited by a commission from the Financial Action Task Force (FATF) – an international organization that works against funding terrorism and laundering the proceeds of crime. The FATF commission will check to see how the convention's 49 requirement are being implemented.

Anatoly Aksakov, deputy chairman of the Duma committee on economic policy, enterprise, and tourism, says that if his bill is passed, banks will be obliged to request information from their clients about their relative status as state officials. "The accounts of A-group and B-group officials will be subject to special oversight," says Aksakov, "and movements in those accounts will be communicated to the FFMS, which keeps track of suspicious transactions. This doesn't happen at present, and it's the essence of my proposal."

According to the bill, when officials or public servants commence state employment, they must provide details about their bank accounts and alert their bank to their new status. Aksakov explains that this requirement is necessary to track movements of money across the accounts of public servants, members of parliament, ministers, and bankers.

The top category of state officials also includes the chief judges of Russia's highest courts: the Constitutional Court, the Supreme Arbitration Court, and the Supreme Court. Aksakov says he has already received support, in effect, from Viktor Melnikov, deputy chairman of the Central Bank: "He said that this issue must be considered, since the FATF has its requirements and Russia is a member of the FATF."

But not all of Aksakov's committee colleagues approve of his lawmaking efforts in this area. Valery Draganov, chairman of the Duma's economic policy committee, points out that existing legislation is quite sufficient for the FFMS to "monitor the bank accounts of state officials and start criminal cases if necessary." Draganov noted another aspect: maintaining confidentiality for information that is not supposed to be made public. In his view, the problem of confidentiality must be addressed, since "our people still regard financial record-keeping as an attempt by the state to keep them under surveillance, so they try to hide from the state."

Roman Shleininov, an investigative journalist of the anti-Putine Novaya Gazeta bi-weekly (Moscow) in his "On Duty" article, published on May 29, 2006, gives a very interesting picture of how acting and former high-ranking Russian public officials and their close relatives use Index-XX broker company to invest (and very successfully) their money into Russian stock market. He argues that if a legislation on public service was truly enforced and/or a law on inside trading was passed, most of these officials would be in trouble.

References:

High-ranking official of Russian Audit Chamber;

<http://2006.novayagazeta.ru/nomer/2006/39n/n39n-s00.shtml>

100: Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Executive branch asset disclosures are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

25. Can citizens access the asset disclosure records of the heads of state and government?

50

25a. In law, citizens can access the asset disclosure records of the heads of state and government.

YES | NO

Comments:

According to the Federal Law on Public Civil Service, journalists can apply for information on income and assets of public officials appointed by the President and the Russian Government.

References:

Federal Law on Public Civil Service, passed on July 27, 2004, Art. 20, para. 5

YES: A YES score is earned if the heads of state and government file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for either the head of state or government. A NO score is earned if the form is filed, but not available to the public.

25b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

According to of the Federal Law on Public Civil Service, journalists can apply for information on income and assets of public officials appointed by the President and the Russian Government. Any information on President Putin's income and assets (besides his official salary), as well as detailed information on financial situation of Prime-Minister Fradkov is outside of public domain. Their official salaries (but not bonuses and non-monetary compensations) are open to public but not how much they earn in fact and what they own.

It should be noted that information on the Putins's property and income for 1999-2002 was made available in 2003 when he run for President.

References:

Federal Law on Public Civil Service, passed on July 27, 2004, Art. 20, para. 5;

<http://www.globalrus.ru/news/136238>

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some additional delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

25c. In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

No, this information is not available although sometimes disclosed through the media.

References:

Federal Law on Public Civil Service, passed on July 27, 2004, Art. 20, para. 5

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

26. In practice, is the ruling party distinct from the state?

25

26. In practice, is the ruling party distinct from the state?

100 | 75 | 50 | 25 | 0

Comments:

No, United Russia, the ruling party, calls itself the Party of Power" thus connecting itself to the President (and to some extent, to the government). It was repeatedly accused of using the state administration resources during various local and regional election campaigns and enjoys obvious state support. Most of Russian governors, many top-ranking state officials are members of United Russia.

United Russia enjoys unlimited support and assistance (including financial) from President Putin and his subordinates. On June 28, 2006, Vladislav Surkov, Deputy Head of Administration of President of Russia, speaking at a briefing, announced that the fact the acting Russian authorities support only one political party, United Russia, is no deviation from democratic standards. He further said, "we support and will support United Russia." In August 2006, a group of Russian legalists and lawyers filed an application to the General Prosecutor's Office asking it to conduct an examination of Mr Surkov's remarks according to Art. 17, para. 13, subpara. 1 of the Federal law on Public Civil Service of the Russian Federation that prohibits a public servant to use his/her office in behalf of any political organization, and publicly express his/her attitude towards such organization. An assistant to the Prosecutor General sent a reply to this application. According to him, Administration of President of Russia is neither an executive, nor a legislative body, and therefore is not accountable to General Prosecutor's Office of Russia. This approach puts Administration of President above any state body and makes it an extension to the President himself, free of subordination and legal control and prosecution.

Another example demonstrates how United Russia receives public funding under auspices of Ministry of Finance. In August 2006, leaders of United Russia, accompanied by Mr Kulakov, Governor of Voronezh region, and a member of the party, met with senior management of Ministry of Finance.

References:

Alexander Yurin, Executive Director of Institute for Election Systems Development (Moscow);

Art. 1 of the Decree of the President Putin Statute of Administration of President of Russia", April 6, 2004;

<http://2006.novayagazeta.ru/nomer/2006/66n/n66n-s01.shtml>;
<http://2006.novayagazeta.ru/nomer/2006/66n/n66n-s04.shtml>

100: Clear rules are followed distinguishing state functions from party activities. Government funds are never used for party activities. The civil service is completely distinct from party bureaucracy.

75:

50: The ruling party is, in principal, separate from the state, but exceptions to this standard sometimes occur. Examples may be use of civil servants to organize political rallies, use of government vehicles on campaign trips, or use of government funds for party purposes.

25:

0: The government is an extension of the ruling party. There are few boundaries between government and party activities. Government funds, equipment and personnel are regularly used to support party activities.

III-2. Legislative Accountability

27. Can members of the legislature be held accountable for their actions?

50

27a. In law, the judiciary can review laws passed by the legislature.

YES | NO

Comments:

Yes, the Constitutional Court of RF can review the actions of the legislature.

References:

Constitution of RF, Ch. 7

YES: A YES score is earned if there is a formal process by which the judiciary or constitutional courts can pass judgments on the legality or constitutionality of laws passed by the legislature.

NO: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exceptions exist exempting certain legislative actions from being reviewed (a national security exemption, for example).

27b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100 | 75 | 50 | 25 | 0

Comments:

Yes, in practice, when necessary, the judiciary sometimes reviews the actions of the legislature. However, such actions are usually initiated either by obvious lack of consideration in passing a specific legal act, or by non-conformity of a specific legal act with Constitution (with regard to Duma activities), or federal laws (on a regional level). A judiciary review might be also initiated by a request, from an individual or an organization. The general rule is that the judiciary usually does not interfere.

References:

See information on a decision of the Constitutional Court on jury trials in Chechnya: <http://www.ksrf.ru/news/msg.asp?id=61&pg=2>

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing laws passed and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

75:

50: The judiciary will review laws passed, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review laws passed. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power.

27c. In law, are members of the national legislature subject to criminal proceedings?

YES | **NO**

Comments:

They can be prosecuted only after the majority of the State Duma agrees to lift the immunity due to the valid facts provided by the law enforcement. However, there were just a few cases when State Duma deputies voted to lift the immunity of a fellow member, and no cases since the current Duma was elected.

References:

Constitution of RF, Ch. 7

YES: A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

NO: A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings.

28. Are there regulations governing conflicts of interest by members of the national legislature?

18

28a. In law, members of the national legislature are required to file an asset disclosure form.

YES | NO

Comments:

According to the Federal Law on Status of a Member of the Council of Federation and Deputy of the State Duma of Federal Council of Russian Federation, they have to do it on an annual basis.

References:

Russian Federation Law on Election of Deputies of the State Duma, the Federal Legislature of the Russian Federation, passed in 2003, Art. 10,

<http://www.duma.gov.ru/index.jsp?t=Status/gj01.html>

YES: A YES score is earned if all members of the legislature are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any member of the legislature is not required to disclose assets.

28b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

YES | **NO**

Comments:

There are no such specific restrictions. However, some other aspects of legislators' professional lives are covered by On Civil

Public Service" Law that prohibits public officials entering the private sector for two years in case a public official was supervising a specific company he was later hired by.

References:

Russian Federation Law on Election of Deputies of the State Duma, the Federal Legislature of the Russian Federation, 2003.

YES: A YES score is earned if there are regulations restricting national legislators' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

28c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

YES | **NO**

Comments:

There are no such regulations. These regulations are based on the Law on Civil Public Service (2004) that states that any gifts received by a public official in his/her official capacity are federal property and should be passed to the state body this official is working at. However, Art. 575 of the Civil Code of Russia allows a public official to accept gifts worth under five minimum wages each.

A special ethics committee of the State Duma is in charge of reviewing any acts that fall under this category, but no related cases were examined within the period under review.

References:

Russian Federation Law on Election of Deputies of the State Duma, the Federal Legislature of the Russian Federation, 2003; Law on Civil Public Service, 2004;

<http://www.newizv.ru/news/2006-05-12/46028/>:

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the legislature.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the legislature. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

28d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

YES | **NO**

Comments:

No such requirements exist. Boris Nadezhdin, a former State Duma Deputy and one of the leaders of Union of Right Forces party said in a May 5, 2006 interview to Vedomosti daily (Moscow) that no one is enforcing any auditing of the asset disclosure forms of members of the national legislature.

References:

Russian Federation Law on Election of Deputies of the State Duma, the Federal Legislature of the Russian Federation, 2003;

<http://www.vedomosti.ru/newspaper/article.shtml?2006/05/05/106207>

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures or if such requirements exist but allow for self-auditing.

28e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

100 | 75 | 50 | 25 | 0

Comments:

There are no such restrictions.

References:

Russian Federation Law on Election of Deputies of the State Duma, the Federal Legislature of the Russian Federation, 2003

100: The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no or few cases of legislators taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, legislators are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

28f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

100 | 75 | 50 | 25 | 0

Comments:

There are no such regulations.

References:

Russian Federation Law on Election of Deputies of the State Duma, the Federal Legislature of the Russian Federation, 2003

100: The regulations governing gifts and hospitality to national legislators are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to legislators. Legislators never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to national legislators are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to national legislators are routinely ignored and unenforced. Legislators routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

28g. In practice, national legislative branch asset disclosures are audited.

100 | 75 | 50 | 25 | 0

Comments:

They are audited only once in four years by the Central Election Commission. Between election, no asset disclosures are required.

References:

High-ranking official of Russian Audit Chamber

100: Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Legislative branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Legislative branch asset disclosures are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

29. Can citizens access the asset disclosure records of members of the national legislature?

8

29a. In law, citizens can access the asset disclosure records of members of the national legislature.

YES | **NO**

Comments:

Once every four years, during parliamentary election, they are made public by Central Election Commission, otherwise no. In 2001, representatives of Yabloko political party introduced a draft law on making asset disclosure forms of State Duma deputies permanently public but on January 18, 2002 the legislators rejected this initiative.

References:

Russian Federation Law on Election of Deputies of the State Duma, the Federal Legislature of the Russian Federation, 2003;

<http://www.strana.ru/stories/02/01/10/2320/103377.html>

YES: A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

29b. In practice, citizens can access these records within a reasonable time period.

100 | 75 | 50 | 25 | **0**

Comments:

This is possible, only if candidates are willing to disclose them. Very few (if any) do.

References:

High-ranking official of Russian Audit Chamber

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

29c. In practice, citizens can access these records at a reasonable cost.

100 | 75 | 50 | **25** | 0

Comments:

If they are available (which is almost never), they are free.

References:

High-ranking official of Russian Audit Chamber

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

30. Can citizens access legislative processes and documents?

67

30a. In law, citizens can access records of legislative processes and documents.

YES | NO

Comments:

Besides those that were officially released, almost no records are available to general public.

References:

The State Duma official website (<http://www.duma.gov.ru/>) provides information on various aspects of the national legislature activity, draft laws, minutes of sessions (<http://wbase.duma.gov.ru/steno/nph-sdb.exe>), etc.

YES: A YES score is earned if there is a general legal right to access records of legislative proceedings including voting records. A YES score can still be given if there are formal rules for specific exemptions to the right to disclosure (special secret sessions related to national security).

NO: A NO score is earned if there is no general right to access documents recording legislative proceedings. A NO score is earned if there exemptions to the general right that are not clearly defined by formal rules.

30b. In practice, citizens can access these records within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

If such records are free to public, they are available on State Duma official website (<http://www.duma.gov.ru/>) for free.

References:

High-ranking official at Russian Audit Chamber

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

30c. In practice, citizens can access these records at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

If they are not available to the public for free, they are not available at all.

References:

High-ranking official of Russian Audit Chamber

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

36
III-3. Judicial Accountability

31. Are judges appointed fairly?

92

31a. In practice, there is a transparent procedure for selecting national-level judges.

YES | NO

Comments:

A procedure of selecting national-level judges is the following: a qualifications chamber that consists of judges (two thirds) and representatives of public appointed by the legislature (one third) makes an announcement of existing vacancies. Any person qualified for a vacancy (age, legal education, professional experience, etc.) can apply. If s/he didn't work as a judge prior to that, s/he must take an exam. The chamber then decides by ballot voting if this person should be recommended for an appointment. The chairman of the corresponding court submits the recommendation to the President for a final confirmation. The candidates for the higher courts are presented by the President and approved by the Council of Federation. However, such transparent procedure is not a rule. Quite often, a selection is based not on merits of a potential candidate but on his/her personal connections and political affiliations.

References:

Dr. Vasili A. Vlasikhin, expert of Russian Foundation of Legal Reforms

YES: A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages.

NO: A NO score is given if there is no formal process of selection or the process is conducted without public oversight.

31b. In practice, there are certain professional criteria required for the selection of national-level judges.

100 | 75 | 50 | 25 | 0

Comments:

Yes, there are mandatory criteria: legal education and a certain record of service. However, professional criteria means much less than personal connections and political affiliations.

In March 2006, Dmitri Fursov, Deputy Chairman of the Moscow Region Arbitration Court, filed a complaint to the Constitutional Court of Russian Federation, asking the Court to review the selection process of national-level judges. In 2005, he applied for a position of Deputy Chairman of the Supreme Arbitration Court of Russia but lost to a former colleague of Anton Ivanov, the current Chairman of the Supreme Arbitration Court of Russia. Mr Fursov claims that the selection process of the Supreme Qualifications Chamber of Russia that didn't recommend him for this position, was not based on any professional criteria as there is none. Therefore, such decision can not be appealed. Mr Fursov believes this system provides fertile ground for corruption and must be reviewed. Experts believe this complaint has some potential.

Ms Morshakova, a retired judge of the Constitutional Court of Russia, is sure the selection process of national-level judges must be changed. A qualifications chamber is comprised of judges who depend on their chairmen. The latter are appointed for six years only and have to prove their loyalty to the executive.

References:

Dr. Vasili A. Vlasikhin, expert of Russian Foundation of Legal Reforms;

"It May Get Harder to Hire and Fire Judges"

Francesca Mereu,
The Moscow Times daily,
March 7, 2006;

"Where Do Judges Come From",
Anastasiya Kornya,
Vedomosti daily (Moscow),
March 10, 2006,
<http://www.vedomosti.ru/newspaper/article.shtml?2006/03/10/103754>

100: National-level judges selected have relevant professional qualifications such as formal legal training, experience as a lower court judge or a career as a litigator.

75:

50: Most national-level judges selected meet these qualifications, with some exceptions.

25:

0: National-level judges are often unqualified due to lack of training or experience.

31c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

YES | NO

Comments:

The candidates for the higher courts are presented by the President and approved by the Council of Federation (the upper chamber of the legislative).

References:

Constitution of Russia, Art. 126

YES: A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency independent from the body appointing the judges.

NO: A NO score is earned if there is no formal review. A NO score is earned if the review is conducted by a body directed by the body appointing the judges (such as review by the head of police if judges are appointed by the executive).

32. Can members of the judiciary be held accountable for their actions?

79

32a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

YES | NO

Comments:

Yes, in law, members of the judiciary are obliged to give reasons for their decisions.

References:

Criminal Procedures Code, 2002

YES: A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

NO: A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

32b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | 75 | 50 | 25 | 0

Comments:

Yes, in practice, members of the judiciary give reasons for their decisions. However, such decisions are often biased and affected by either political pressure or corruption. Moreover, sometimes it is difficult to obtain them in written form.

References:

Dr. Vasili A. Vlasikhin, expert of Russian Foundation of Legal Reforms

100: Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

75:

50: Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

25:

0: Judges commonly issue decisions without formal explanations.

32c. In law, there is an ombudsman (or equivalent agency or mechanism) for the national-level judicial system.

YES | NO

Comments:

There is no judicial ombudsman in Russia by name. There is a Higher Qualification Commission set by the Supreme Court of the Russian Federation. It reviews questionable rulings and evaluates the behavior of judges if they violate the law and can dismiss them (with the exception of district courts – they are under the jurisdiction of regional qualification commissions).

References:

Statute on Qualification Commissions, approved on July 15, 2002: http://www.supcourt.ru/oss_detale.php?id=461.

The website of the Higher Qualification Commission of the Supreme Court of the Russian Federation is: http://www.supcourt.ru/oss_vkks.php.

YES: A YES score is earned if there is a ombudsman or equivalent mechanism for the judicial system. A judicial ombudsman is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary.

NO: A NO score is earned if no agency or mechanism is specifically mandated to act as a judicial ombudsman.

32d. In law, the judicial ombudsman (or equivalent agency or mechanism) is protected from political interference.

YES | NO

Comments:

There is no judicial ombudsman in Russia by name. There is a Higher Qualification Commission set by the Supreme Court of the Russian Federation. In law, judges of the Higher Qualification Commission of the Supreme Court of the Russian Federation are protected from political interference.

References:

Statute on Qualification Commissions, approved on July 15, 2002: http://www.supcourt.ru/oss_detale.php?id=461.

The website of the Higher Qualification Commission of the Supreme Court of the Russian Federation is: http://www.supcourt.ru/oss_vkks.php.

YES: A YES score is earned if there are formal rules establishing that the judicial ombudsman is operationally independent from political interference by the executive, legislative or judicial branches.

NO: A NO score is earned if there are no formal rules establishing the independence of the judicial ombudsman. A NO score is given if the judicial ombudsman function is carried out by an inherently subordinate organization, such as an executive ministry or legislative committee.

32e. In practice, when necessary, the judicial ombudsman (or equivalent agency or mechanism) initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

There is a Higher Qualification Commission set by the Supreme Court of the Russian Federation. It reviews questionable rulings and evaluates the behavior of judges if they violate the law and can dismiss them.

References:

There is detailed information on the Commission's activities for 2005 and for the first half of 2006 at: http://www.ykks.ru/ss_detale.php?id=197&columnValue=3&CATEGORY_2=

100: The ombudsman aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The ombudsman is fair in its application of this power.

75:

50: The ombudsman will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The ombudsman, though limited in effectiveness, is still fair in its application of power.

25:

0: The ombudsman rarely investigates on its own or cooperates in other agencies' investigations, or the ombudsman is partisan in its application of this power.

32f. In practice, when necessary, the judicial ombudsman (or equivalent agency or mechanism) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

There is a Higher Qualification Commission set by the Supreme Court of the Russian Federation. It reviews questionable rulings and evaluates the behavior of judges if they violate the law and can dismiss them.

References:

There is detailed information on the Commission's activities for 2005 and for the first half of 2006 at: http://www.ykks.ru/ss_detale.php?id=197&columnValue=3&CATEGORY_2=

100: When rules violations are discovered, the ombudsman is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The ombudsman enforces rules, but is limited in its effectiveness. The ombudsman may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The ombudsman does not effectively penalize offenders. The ombudsman may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The ombudsman may be partisan in its application of power.

III-4. Budget Processes

33. Can the legislature provide input to the national budget?

33a. In law, the legislature can amend the budget.

YES | NO

References:

Constitution of RF, Art. 106

YES: A YES score is earned if the legislature has the power to add or remove items to the national government budget.

NO: A NO score is earned if the legislature can approve, but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

33b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | 0

Comments:

Yes, significant public expenditures require legislative approval.

References:

<http://www.rian.ru/politics/parlament/20051209/42408203.html>;

<http://www.rg.ru/2006/08/23/byudzhnet-2007.html>;

<http://www.rg.ru/2006/08/17/budget.html>

100: All significant government expenditures (defined as any project costing more than 1% of the total national budget), must be approved by the legislature. This includes defense and secret programs, which may be debated in closed hearings.

75:

50: Most significant government expenditures (as defined) are approved by the legislature, but some exceptions to this rule exist. This may include defense programs, an executive's personal budget, or other expenses.

25:

0: The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.

33c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | 50 | 25 | 0

Comments:

This stage is covered by the media, government and deputies themselves. However, media reports are based on whatever data journalists can obtain. Experts argue that these reports are too professional to be understood by the public. Budget-making authorities do not provide enough information and/or arguments to get a clear picture and the logic of the whole process. It should be noted that State Duma has a special arm for such monitoring – Audit Chamber – via which it can provide necessary input. The government also is interested in cooperation over budget process with Duma.

References:

One-and-a-Half Trillion Unaccounted Rubles",

Veronica Chursina,

Novaya Gazeta bi-weekly (Moscow),

May 22, 2006,

http://2006.novayagazeta.ru/nomer/2006/37n/n37n-s19_shtm

Article that shows that the President and his Administration, the government as a whole and individual ministries, have plenty of money, legally allocated to them under budget for various needs – for example, research and expertise, promotion of numerous initiatives and activities, cooperation with domestic and foreign institutions, etc. All that money can be used for support of political, security, PR and other issues (I).

An interesting aspect of budget-2007, specifically, military budget amounting to over RBL821 billion (US\$31,16 billion), is commented by Alexander Khranchikhin, an expert of Institute of Political and Military Analysis. He is at loss why, for the same amount of money, India buys ten times more airplanes in Russia than Russian military purchases from the same producers (see <http://mn.ru/issue.php?2006-32-4>).

100: Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

75:

50: Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

25:

0: Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

34. Can citizens access the national budgetary process?

50

34a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

100 | 75 | 50 | 25 | 0

Comments:

Media report on major budget debates in the State Duma, but there is no live cast and detailed publication of the discussions.

References:

Dr. Vasili A. Vlasikhin, expert of Russian Foundation of Legal Reforms

100: Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

75:

50: There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of individual line items may be difficult to identify.

25:

0: Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

34b. In practice, citizens provide input at budget hearings.

100 | 75 | 50 | 25 | 0

Comments:

Citizens can only provide input at the hearings when the legislature is willing to allow citizens to participate.

References:

Dr. Vasili A. Vlasikhin, expert of Russian Foundation of Legal Reforms

100: Citizens, usually acting through CSOs, can provide information or commentary to the budget debate through a formal process. This information is essential to the process of evaluating budget priorities.

75:

50: Citizens or CSOs can provide input, but this information is often not relevant to budget decisions.

25:

0: Citizens or CSOs have no formal access to provide input to the budget debate.

34c. In practice, citizens can access itemized budget allocations.

100 | 75 | 50 | 25 | 0

Comments:

This is possible only in a few regions, where legislature is willing to allow citizens to participate in budget hearings – such as City of Obninsk (www.obninsk.ru), Ekaterinburg (http://www.e1.ru/news/print/news_id-270251.html) and City of Ighevsk (<http://www.izh.ru/izh/info/i00068.html>).

References:

Open Budget website:

<http://openbudget.karelia.ru/eng/main.shtml>;

For some years, Strategy Center (St. Petersburg) has conducted a Transparent Budget program:

http://strategy-spb.ru/?do=lib&find_prog=3&find=1

100: Citizens, journalists and CSOs can access itemized lists of budget allocations. This information is easily available and up to date.

75:

50: Citizens, journalists and CSOs can access itemized lists of budget allocations but this information may be difficult to access, incomplete or out of date.

25:

0: Citizens cannot access an itemized list of budget allocations, due to secrecy, prohibitive barriers or government inefficiency.

35. In law, is there a separate legislative committee which provides oversight of public funds?

0

35. In law, is there a separate legislative committee which provides oversight of public funds?

YES | NO

Comments:

Parliamentary oversight is provided by the Audit Chamber, a separate government body accountable to the Duma. There is no legislative committee within the State Duma to provide such oversight; the Parliament has to rely on the data collected by the Audit Chamber.

References:

Constitution of Russia, Art. 91

YES: A YES score is earned if there is a dedicated legislative committee (or equivalent group located in the legislature) that oversees the expenditure of public funds.

NO: A NO score is earned if no such body exists. A NO score is earned if there is a body executing this function but it is not under the direction of the legislature.

36. Is the legislative committee overseeing the expenditure of public funds effective?

0

36a. In practice, department heads regularly submit reports to this committee.

100 | 75 | 50 | 25 | 0

Comments:

There is no such committee at the State Duma. The Audit Chamber is an independent body though it reports to the State Duma. The Chairman is appointed by the President but has to be approved by the Duma. Half of the chief auditors are selected among willing MPs, too. The Chamber funded by the government and is governed by its own charter.

References:

Constitution of Russia, Art. 91

100: Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.

75:

50: Agency heads submit reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

25:

0: There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

36b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

100 | 75 | 50 | 25 | 0

Comments:

There is no such committee at the State Duma. The Audit Chamber is an independent body though it reports to the State Duma. The Chairman is appointed by the President but has to be approved by the Duma. Half of the chief auditors are selected among willing MPs, too. The Chamber funded by the government and is governed by its own charter.

References:

Constitution of Russia, Art. 91

100: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee — including opposition party members — are able to fully participate in the activities of the committee and influence the committee's work to roughly the same extent as any other member of the committee.

75:

50: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members' ability to shape the committee's activities.

25:

0: The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

36c. In practice, this committee is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

There is no such committee at the State Duma. The Audit Chamber is an independent body though it reports to the State Duma. The Chairman is appointed by the President but has to be approved by the Duma. Half of the chief auditors are selected among willing MPs, too. The Chamber funded by the government and is governed by its own charter.

References:

Constitution of Russia, Art. 91

100: This committee operates independently of the political process, without incentive or pressure to render favorable judgments on politically sensitive issues. Investigations are rarely praised or criticized by political figures.

75:

50: This committee is usually independent but is sometimes influenced by negative or positive political incentives. This may include public praise or criticism by the government.

25:

0: This committee is commonly influenced by personal or political forces or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties that ultimately influence the committee's behavior and decision-making. Negative incentives may include threats, harassment or other abuses of power by the government.

36d. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

100 | 75 | 50 | 25 | 0

Comments:

There is no such committee at the State Duma. The Audit Chamber is an independent body though it reports to the State Duma. The Chairman is appointed by the President but has to be approved by the Duma. Half of the chief auditors are selected among willing MPs, too. The Chamber funded by the government and is governed by its own charter.

References:

Constitution of Russia, Art. 91

100: When irregularities are discovered, the committee is aggressive in investigating the government.

75:

50: The committee starts investigations, but is limited in its effectiveness. The committee may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The committee does not effectively investigate financial irregularities. The committee may start investigations but not complete them, or may fail to detect offenders. The committee may be partisan in its application of power.

IV-1. ⁵⁶ Civil Service Regulations

37. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

75

37a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

YES | NO

Comments:

Yes, in law, there are regulations requiring an impartial and independent civil service.

References:

Federal Law on Public Civil Service, passed on July 27, 2004.

YES: A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

NO: A NO score is earned if there are no formal rules establishing an independent civil service.

37b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

YES | NO

Comments:

Yes, in law, there are such regulations.

References:

Federal Law on Public Civil Service, passed on July 27, 2004.

YES: A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

NO: A NO score is earned if no such regulations exist.

37c. In law, there is an independent redress mechanism for the civil service.

YES | NO

Comments:

A civil servant seeking a redress of grievance can either go to a conflict commission of his /her state body or go to court.

References:

Federal Law on Public Civil Service, Art. 58, part 7 and Ch. 16

YES: A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. Civil servants are able to appeal the mechanism's decisions to the judiciary.

NO: A NO score is earned if no such mechanism exists.

37d. In law, civil servants convicted of corruption are prohibited from future government employment.

YES | **NO**

Comments:

No, there is no such condition, but a civil servant sentenced for corruption by court is usually prohibited from taking any posts in the public service for a limited period of time (two-three years).

References:

Federal Law on Public Civil Service, passed on July 27, 2004, Art. 16

YES: A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

NO: A NO score is earned if no such rules exist.

38. Is the law governing the administration and civil service effective?

33

38a. In practice, civil servants are protected from political interference.

100 | 75 | 50 | **25** | 0

Comments:

Oftentimes, appointments are made according to certain political interests and personal connections.

Boris Vishnevsky published in Novaya Gazeta monthly (April 2006) a research on high-ranking public officials, members of legislature and judiciary who moved to Moscow from St.Petersburg in 2000-2005, after Vladimir Putin (who was born there and started his political career at St.Petersburg City Hall) became President of Russia. This material illustrate how Russian authorities are selected.

References:

<http://color.novayagazeta.ru/color-noga-2006-006.pdf>

100: Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

75:

50: Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

25:

0: Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

38b. In practice, civil servants are appointed and evaluated according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

Oftentimes appointments and evaluations are made according to political interests and personal connections rather than levels of competency. A fundamentally different way of recruiting public servants, on a competitive basis with examinations, was only tried within the staff of Sergei Kirienko, presidential envoy for the Trans-Volga federal district, transferred to Rosatom in early 2006. Many websites of Russian state bodies don't have a Vacancy section, and no information how to apply for a position available at specific state body is provided.

References:

The Sleep Bureaucrats
Sergei Mulin,
Novaya Gazeta bi-weekly (Moscow),
January 12, 2006

100: Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments and professional assessments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments and professional assessments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

38c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

100 | 75 | 50 | 25 | 0

Comments:

There are many cases when relatives of some high-ranking public officials were hired because of their personal connections. The existing legal regulations and limitations are clearly insufficient and don't work properly.

Dariya Pylnova and Dmitri Shkrylev published in Novaya Gazeta monthly (April 2006) a research on children of high-ranking Russian public officials, members of legislature and judiciary. The journalists assume that these young men and women launched very successful careers (both in private and public sectors) thanks to their parents' names.

In June 2006, Magomed Tinmagomedov, military commissioner of Dagestan (a representative of Ministry of Defense in charge of draft), following an order of the Minister of Defense, reduced the number of his subordinates, but he replaced the discharged officials with his relatives.

References:

High-ranking official of Russian Audit Chamber;

<http://color.novayagazeta.ru/color-noga-2006-006.pdf>;

Article by Anatoli Esipov in Novaya Gazeta, published on June 26, 2006:

<http://2006.novayagazeta.ru/nomer/2006/47n/n47n-s14.shtml>

100: Nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) are actively discouraged at all levels of the civil service.

Hirings, firings, and promotions are based on merit and performance.

75:

50: Nepotism, cronyism, and patronage are discouraged, but exceptions exist. Political leaders or senior officials sometimes appoint family member or friends to favorable positions in the civil service, or lend other favorable treatment.

25:

0: Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

38d. In practice, civil servants have clear job descriptions.

100 | 75 | 50 | 25 | 0

Comments:

Art. 24 of the Federal Law on Public Civil Service states that a contract with a public official has to have a job description; Art. 47 defines it. In practice, civil servants do not always have clear job descriptions. It was expected that ongoing administrative reform will deal with this issue, but this matter is not solved yet, and it leaves a lot of opportunities for corruption and for arbitrary evaluations.

References:

High-ranking official of Russian Audit Chamber

100: Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable means to map positions to both human capital requirements (including the position's authority and responsibilities) and base pay.

75:

50: Civil servants often have formal job descriptions, but exceptions exist. Some civil servants may not be part of the formal assignment of duties and compensations. Some job descriptions may not map clearly to pay or responsibilities in some cases.

25:

0: Civil servants do not have formal roles or job descriptions. If they do, such job descriptions have little or nothing to do with the position's responsibilities, authority, or pay.

38e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | 75 | 50 | 25 | 0

Comments:

The situation is exactly the opposite. On February 6, 2006 Konstantin Sardovsky published an article called "Capital Bureaucracy" in Nezavisimaya Gazeta daily.

"The process of accumulating capital for state officials could be divided into two parts – until the presidential decree No. 519 (April 10, 2004) "On improving remuneration for those who hold particular state positions in the Russian Federation and those who hold particular state positions in the State Service" and after it. According to the information provided by auditor-consulting company FBK, in 2002-03 the nominal wages of state officials grew by 70 percent. After the decree, the dynamics of the state's system welfare grew intensely. At the same time, the tariff part (declared for society and tax organs) was not growing as fast as that of various prizes, bonuses etc.

"If we analyze the structure of wages, we could see that 20 percent is rate of salary, 80 percent is everything above. My view is that they did not want to demonstrate these sums paying attention to what is happening in the state sector. As a matter of fact, the salary is RUB 18,000 (US\$683) per month for a federal minister – this is modest; his deputy gets RUB 5,000 (US\$190) – a laughable sum. But these RUB5,000 turn into \$4,000. I wouldn't say that this is a lot, but it quite enough," says Igor Nikolayev, director of the Strategic Analysis Department at FBK.

"During 2002-05 the growth ranged from two-fold to nine-fold. That's the legal salary, officially possible bonuses, plus a rate – that is, everything official. The difference between lower-level specialists and deputy ministers used to be \$200-400 per month, but now it's essentially ranging from \$300 to \$4,000 per month," says Igor Nikolayev. As for the supreme caste of the officials – ministers, and so on – their legal rates could be calculated only indirectly, since they get the so-called "social benefits package," which could either be compared or exceed the salary. One part of this package is medical support.

Lilia Ovcharova, research programs director at the Independent Institute of Social Policy: "The majority of federal officials get medical treatment in the former 4th department of the Health Care Ministry – today it is the medical service of the presidential administration. Let's say that average insurance would cost about \$25,000. It seems this is the average value of the package. The price of the package for senior officials is unknown, but it is obviously higher. To all appearances – about \$100,000." Based on those figures, the incomes of Russian officials can be estimated as varying from \$40,000 to \$400,000 per year. The steep rise in income among senior officials, even without counting their concealed part, is shown in statistics. At the nominal salary of RUB 18,500 (US\$702) a month for employees of the central apparatus of the federal bodies could be compared to the average wage rate in banks and insurance companies. In other branches of the state sector between 2002-05, conditions were different. For instance, in health care and education there was a growth of only 2.1-2.2 times."

References:

High-ranking official of Russian Audit Chamber;

"264 Wages",
Nataliya Neimysheva and Boris Grozovski,
Vedomosti daily (Moscow),
January 26, 2006,
<http://www.vedomosti.ru/newspaper/article.shtml?2006/01/26/102083>.

According to this material, an average Russian minister gets 22 monthly wages a months in various official and legal bonuses.

"Commission Impossible",
Ivan Filippov,
Vedomosti daily (Moscow),
January 26, 2006,
<http://www.vedomosti.ru/newspaper/article.shtml?2006/01/26/102084>.

Such things as high wages and mandatory assets declarations do not stop them from taking bribes, and very significant bribes at that.

100: Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.

75:

50: Civil servant bonuses are generally a small percentage of total take-home pay for most civil servants though exceptions exist where some civil servants' bonuses represent a significant part of total pay.

25:

0: Most civil servants receive bonuses that represent a significant amount of total take-home pay. In some cases bonuses represent the majority of total pay to civil servants.

38f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

100 | 75 | 50 | 25 | 0

Comments:

No, such information is either classified (with regard to law enforcement agencies, there is no valid data on number of police force in Russia in general, as well as in any major city), or unpublished. Russian Statistics Agency Rosstat releases regularly information on public sector employment but it is not clear if its figures cover all public sector, including so-called power agencies" (police, security service, emergency corps, the military, etc.) or civil servants only.

References:

High-ranking official of Russian Audit Chamber

100: The government publishes such a list on a regular basis.

75:

50: The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.

25:

0: The government rarely or never publishes such a list, or when it does it is wholly incomplete.

38g. In practice, the independent redress mechanism for the civil service is effective.

100 | 75 | 50 | 25 | 0

Comments:

No, quite often some civil servants have to go to court and spend years on litigation.

References:

High-ranking official of Russian Audit Chamber

100: The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.

75:

50: The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

25:

0: The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

38h. In practice, in the past year, the government has paid civil servants on time.

100 | 75 | 50 | 25 | 0

Comments:

Yes, in the past year, the government has almost always paid civil servants on time. Actually, their salaries were significantly raised and continue to grow. On February 6, 2006 Konstantin Sardovsky published an article called "Capital Bureaucracy" at Nezavisimaya Gazeta daily.

"Growth of salaries and incomes of officials was the highest among all social layers in Russia. The incomes of Russian officials can be estimated as varying from \$40,000 to \$400,000 per year.

The process of accumulating capital for state officials could be divided into two parts – until presidential decree No. 519 (April 10, 2004) "On improving remuneration for those who hold particular state positions in the Russian Federation and those who hold particular state positions in the State Service" and after it.

According to the information provided by auditor-consulting company FBK, in 2002-03 the nominal wages of state officials grew by 70 percent. After the decree, the dynamics of the state's system welfare grew intensely. At the same time, the tariff part (declared for society and tax organs) was not growing as fast as that of various prizes, bonuses etc.

"If we analyze the structure of wages, we could see that 20 percent is rate of salary, 80 percent is everything above. My view is that they did not want to demonstrate these sums paying attention to what is happening in the state sector. As a matter of fact, the salary is RUB 18,000 (US\$683) per month for a federal minister – this is modest; his deputy gets RUB 5,000 (US\$190) – a laughable sum. But these RUB5,000 turn into \$4,000. I wouldn't say that this is a lot, but it quite enough," says Igor Nikolayev, director of the Strategic Analysis Department at FBK.

There is a sharp differentiation when paying salaries in departments and ministries. The discrepancy between 10 percent of the less paid employees and 10 percent of much paid employees reaches the level of 30 times. But in the ministries, apart from tariff rates, there are funds of payment for labor and bonuses, which is distributed among the first faces of these ministries. That is why the differentiation is great.

"During 2002-05 the growth ranged from two-fold to nine-fold. That's the legal salary, officially possible bonuses, plus a rate – that is, everything official. The difference between lower-level specialists and deputy ministers used to be \$200-400 per month, but now it's essentially ranging from \$300 to \$4,000 per month," says Igor Nikolayev."

References:

High-ranking official of Russian Audit Chamber

100: In the past year, no civil servants have been paid late.

75:

50: In the past year, some civil servants have been paid late.

25:

0: In the past year, civil servants have frequently been denied due pay.

38i. In practice, civil servants convicted of corruption are prohibited from future government employment.

100 | 75 | 50 | 25 | 0

Comments:

Usually, they receive suspended sentences (up to nine years!) and are prohibited to take supervising positions for a few years. A permanent ban to future government employment does not exist in law and was never applied officially. A much more likely scenario is such a ban for lack of political loyalty, not corruption.

References:

High-ranking official of Russian Audit Chamber;

<http://www.newspb.ru/allnews/590124/>;

<http://www.regnum.ru/news/694615.html>;

<http://www.regnum.ru/news/679088.html>;

<http://www.regnum.ru/news/657642.html>;

<http://www.regnum.ru/news/653320.html>;

<http://www.regnum.ru/news/652369.html>;

<http://www.regnum.ru/news/646853.html>

100: A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

75:

50: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

39. Are there regulations addressing conflicts of interest for civil servants?

54

39a. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

YES | NO

References:

Federal Law on Public Civil Service, Art. 17, Part 1, Par. 15

YES: A YES score is earned if there are requirements for civil servants to recuse themselves from policy decisions where their personal interests, including personal financial interests as well as those of their family and friends, are affected.

NO: A NO score exists if no such requirements exist in regulation or law.

39b. In law, there are restrictions for civil servants entering the private sector after leaving the government.

YES | NO

Comments:

Yes, according to the law, a public official is prohibited for two years from being employed by a private enterprise s/he was overseeing as a public servant. However, no sanctions for violation of this regulation are specified.

References:

Federal Law on Public Civil Service, passed on July 27, 2004, Art.17, Par. 3, Subpar.1

YES: A YES score is earned if there are regulations restricting civil servants' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

39c. In law, there are regulations governing gifts and hospitality offered to civil servants.

YES | NO

Comments:

Yes, according to Art.17, para.1, subpara. 6 of Federal Law on Public Civil Service, passed on July 27, 2004. Gifts over five minimum monthly wages are considered federal property and have to be passed to the corresponding state body (with some exceptions especially specified by the law). If unreported, they are considered a bribe (under Art.575 of the Civil Code of Russian Federation).

References:

Decree of the President of the Russian Federation of measures to strengthen discipline in system of civil service, June 4, 1996: <http://www.transparency.org.ru/CENTER/DOC/decreee810eng.doc>.

YES: A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

NO: A NO score is earned if there are no such guidelines or regulations.

39d. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | 50 | 25 | 0

Comments:

No. This is one of the least enforced publicly-accepted limitations, and the media often expose related cases, but nothing usually happens to the officials, as they do not break any existing laws. The public understands that, very often, public officials, while in office, work on their coming retirements.

References:

High-ranking official of Russian Audit Chamber

100: The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no or few cases of civil servants taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, civil servants are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Civil servants routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

39e. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

100 | 75 | 50 | 25 | 0

Comments:

No, penalties may be imposed in case of lack of political loyalty.

References:

High-ranking official of Russian Audit Chamber

100: The regulations governing gifts and hospitality to civil servants are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to civil servants. Civil servants never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to civil servants are generally applied though exceptions exist. Some civil servants in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to the civil service are routinely ignored and unenforced. Civil servants routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

39f. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

100 | 75 | 50 | 25 | 0

Comments:

No, such requirements are not usually enforced. Moreover, it is believed that an opportunity to make profitable policy decisions is one of the major advantages of public service.

In May 2006, IT and Communications Minister Leonid Reiman, a close ally of Mr. Putin, abused his position as a state official to dilute the state's interest in a major mobile phone company in favor of a Bermuda-based mutual fund IPOC, in which he was the sole beneficiary, an arbitration tribunal in Zurich has found. Mr. Reiman worked with Mr. Putin in St Petersburg in the 1990s and became IT and Communications Minister in 1999. He has repeatedly denied being a direct or indirect owner of IPOC, with an estimated \$1 billion invested in Russia.

The tribunal found that Mr Reiman had used his powers contrary to the interests of his office" and put his "personal enrichment" before the interests of state companies he was supposed to protect..On one occasion, it said, he forced a telecommunications company to buy a firm he owned "for an exorbitant amount" in exchange for granting government-operating licenses.

References:

High-ranking official of Russian Audit Chamber;

Putin Tested by Corruption Ruling Against His Ally",
Jeremy Page,
The Times (UK),
May 23, 2006;

"Tribunal: Reiman Abused His Post",
Catherine Belton and Maria Levitov,
The Moscow Times daily,
May 24, 2006;

"Russia at Heart of German Probe",
by Greg Walters and Catherine Belton,
The Moscow Times daily,
July 26, 2006

100: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are routinely followed by most or all civil servants.

75:

50: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are followed by most civil servants though exceptions exist. In certain sectors, civil servants are known to routinely participate in policy decisions where their personal interests are affected.

25:

0: Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

40. Can citizens access the asset disclosure records of senior civil servants?

67

40a. In law, citizens can access the asset disclosure records of senior civil servants.

YES | NO

Comments:

Yes, according to the Federal Law on Public Civil Service. The records are not released in any regular way but journalists usually access this information via government press offices and publish it in May-June, after income declarations are filed.

Transportation Minister Igor Levitin earned the most of any government minister in 2004 — nearly \$5 million — according to a list of the Cabinet's income declarations published by Vedomosti on January 26. Levitin's declared income was 238 times more than that of the lowest-earning Cabinet member, Regional Development Minister Vladimir Yakovlev, who made \$21,000. Official income and property declarations obtained by the newspaper show a breathtaking range, with a huge gap between winners such as Levitin, Natural Resources Minister Yury Trutnev (\$3.9 million), and Health and Social Development Minister Mikhail Zurabov (\$1.5 million) and the bottom three — Defense Minister Sergei Ivanov, Emergency Situations Minister Sergei Shoigu and Yakovlev — who earned a modest combined \$74,000. Just as drastic were the differences in property ownership. In spite of his low income of \$26,000, Shoigu owned 12,717 square meters of land, including a banya, pool and tennis courts.

Another leading landowner was IT and Communications Minister Leonid Reiman, with nearly 10,000 square meters, four fully owned private apartments and a fifth half-owned apartment. Reiman also enjoyed a ministerial perk: a sixth, state-owned apartment.

Prime Minister Mikhail Fradkov placed seventh on the earnings list with declared income of \$62,000 for the year. And in an irony relished by the Russian media, Finance Minister Alexei Kudrin and Economic Development and Trade Minister German Gref were lower down the list, with \$47,000 and \$41,000 respectively.

Ministerial aides attributed the staggering incomes of Levitin and Trutnev to stock they were required to sell before they took up their posts, Vedomosti reported. Levitin served as deputy general director of Severstal-Trans, the transport arm of steel giant Severstal, before being tapped as transportation minister. Of Trutnev's \$3.9 million income in 2004, \$3.5 million was from the sale of stock in EKS International Trading, an import-export business he founded in 1990, said an unidentified official in his ministry. Government ministers are allowed to receive income from interest on savings and bonds, but must surrender stakes in private businesses before entering the Cabinet.

The average ministerial income of \$51,000 — while 14 times the national average of \$3,600, according to Economic Development and Trade Ministry statistics — is a fraction of government salaries in Western countries. U.S. Cabinet members earn an average of \$171,900, while the British equivalent stands at GBP134,000 (\$263,000).

Low ministerial salaries became a subject of public debate in 2004, when President Vladimir Putin slashed the number of ministries from 30 to 15 and announced pay hikes for senior members of the so-called power ministries — including the Defense, Interior, Justice and Emergency Situations portfolios — to \$41,000. Putin said the move was key to attract better-qualified personnel and reduce corruption.

How the Ministers Live

Igor Levitin
Transportation Minister
Income: 139.8 million rubles (US\$5.3 million)
Land: 3,343 sq.m.**
Dacha: 522 sq.m.**
One-car garage: 15 sq.m.**
Apartment: 118 sq.m.**
Yury Trutnev
Natural Resources Minister
Income: 109.6 million rubles (US\$4.16 million)
Land: 4,400 sq.m.*
House: 95 sq.m.*
Apartment: 153 sq.m.***
Two-car garage***
Mikhail Zurabov
Health and Social Development Minister
Income: 21.3 million rubles (US\$808,656)
Land: 9,500 sq.m.*

House: 318 sq.m.*
 Dacha: 147 sq.m.*
 Apartment: 96 sq.m.**
 Leonid Reiman
 IT and Communications Minister
 Income: 9.3 million rubles (US\$353,000)
 Land: 9,542 sq.m.*
 Dacha: 330 sq.m.*
 6 Apartments: 50**, 195*, 251*, 264*, 284*, 229*** sq.m.
 Two-car garage: 50 sq.m.*
 Garage: 39 sq.m.*
 Andrei Fursenko
 Education and Science Minister
 Income: 4.2 million rubles (US\$159,000)
 Land: 1,478 sq.m.*
 House: 124 sq.m.; 32 sq.m. under construction*
 Apartment: 144 sq.m.***
 Sergei Lavrov
 Foreign Minister
 Income: 1.8 million rubles (US\$68,337)
 Dacha land: 1,200 sq.m.*
 Dacha: 210 sq.m.*
 Garage: 10 sq.m.
 Apartment: 163 sq.m.***
 Mikhail Fradkov
 Prime Minister
 Income: 1.7 million rubles (US\$64,540)
 Dacha land: 1,430 sq.m.*
 Dacha: 191 sq.m.*
 Viktor Khristenko
 Industry and Energy Minister
 Income: 1.6 million rubles (US\$60,744)
 Land: 1,700 sq.m.*
 House under construction: 184 sq.m.*
 Yury Chaika
 Justice Minister
 Income: 1.5 million rubles (US\$56,947)
 Alexei Gordeyev
 Agriculture Minister
 Income: 1.4 million rubles (US\$53,151)
 Apartment: 150 sq.m.**
 Two-car garage: 16 sq.m.**
 Sergei Naryshkin
 Chief of Staff
 Income: 1.3 million rubles (US\$49,354)
 Land: 1,200 sq.m.***
 House: 36 sq.m.*
 Apartment: 139 sq.m.***
 Alexei Kudrin
 Finance Minister
 Income: 1.3 million rubles (US\$49,354)
 Alexander Sokolov
 Culture and Press Minister
 Income: 1.2 million rubles (US\$45,558)
 Land: 1,200 sq.m.*
 Apartment: 47 sq.m.*
 One-car garage (cooperative)
 Alexander Zhukov
 Deputy Prime Minister
 Income: 1.1 million rubles (US\$41,761)
 Dacha land: 3,817 sq.m.**
 House: 308 sq.m.**
 German Gref
 Economic Development and Trade Minister
 Income: 1.1 million rubles (US\$41,761)
 Land: 1,500 sq.m.*
 Apartment: 259 sq.m.***
 Sergei Ivanov
 Deputy Prime Minister, Defense Minister
 Income: 759,240 rubles (US\$28,900)
 Apartment: 257 sq.m.**
 Sergei Shoigu
 Emergency Situations Minister
 Income: 724,680 rubles (US\$27,524)
 Land: 12,717 sq.m.*
 House: 214 sq.m.*
 House under construction: 540 sq.m.*
 Garage with shed: 214 sq.m.*
 Banya: 130 sq.m.*
 Pool: 18 sq.m.*
 Tennis courts: 800 sq.m.*
 Vladimir Yakovlev
 Regional Development Minister
 Income: 583,935 rubles (US\$22,170)
 Incomes shown are for 2004. * self-owned, ** co-owned, *** state-owned"

References:

Decree of the President of the Russian Federation On providing information on income and property by persons holding governmental positions of the Russian Federation and by persons holding governmental positions at government service and positions in local agencies of self-government", May 15, 1997:
<http://www.transparency.org/ru/CENTER/DOC/ps9eng.doc>;

Federal Law on Public Civil Service", passed on July 27, 2004, Art. 20;

"Four Ministers Make More Than \$1M",
Stephen Boykewich,
Moscow Times daily,
January 27, 2006,
<http://www.themoscowtimes.com/stories/2006/01/27/013.html>

YES: A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

NO: A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

40b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

According to the Federal Law On Public Civil Service, journalists can apply for information on income and assets of public officials appointed by the President and the Russian Government. In fact, media on a regular basis publish and discuss it. In law, this information can be accessed via a written request and for free. However, according to experts, available data is rather scant and not very telling." There is no sufficient information on how many such requests were granted or (more likely) rejected. Usually, all related information is under the control of the chief of administration and is used with his approval only.

References:

Federal Law on Public Civil Service, passed on July 27, 2004, Art. 20, para. 5

"What Ministers Live On",
Boris Grozovsky, Alexandra Petrachkova, Alexei Rozhkov, Igor Tsukanov and Elena Mazneva,
Vedomosti daily (Moscow),
January 27, 2006

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

40c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Records are free, if published in the media.

References:

High-ranking official of Russian Audit Chamber

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

IV-2. Whistle-blowing Measures

41. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

6

41a. In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | **NO**

Comments:

There is no special law on whistle-blowing and no special procedures related to this issue. However, in spring 2006 Russia has adopted important international anti-corruption legislation produced by United Nation and Council of Europe that requires introducing similar regulation into national legislation. It is assumed whistle-blowing will be one of the concepts Russian legislation will be infused with. Right now it is hard to predict will it happen at all and in which form.

Last year, Russia passed a long-delayed law on witness-protection and allocated a significant amount of funding for its implementation in 2006-2008 (almost one billion Rubles). However, fight against organized crime and not corruption was named the main objective of this program. Since the law is being implemented for less than nine months so far, it is hard to say how many cases deals with whistle-blowers from public sector.

Talk of the need for such a system started in the early 1990s. However, the law on state protection for victims, witnesses and other participants of criminal judicial procedures was passed only in summer 2004 and came into effect in 2005. Now witnesses are formally offered a broad range of services" including bodyguards, changing of job, relocation, classification of data and finally such exotic measure as plastic surgery. However, a whole number of subordinated acts necessary for the law to start working was not passed yet. Thus, so far, the government did not approve the rules for changing the appearance of witnesses. In any case, these gaps are being gradually filled.

References:

High-ranking official of Russian Audit Chamber;

Testimony in Another Voice",
Yuri Kolesov,
Vremya Novostei daily (Moscow),
September 28, 2005;

"A Billion for Fair Testimony",
Yuri Kolesov,
Vremya Novostei daily (Moscow),
April 14, 2006,
<http://www.vremya.ru/2006/65/51/149870.html>;

<http://anticorr.ru/content/8442.html>;
<http://msk.vlasti.net/index.php?Screen=news&id=167482>.

YES: A YES score is earned if there are specific laws against recrimination against public sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

NO: A NO score is earned if there are no legal protections for public-sector whistleblowers.

41b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

Comments:

Last year, Russia passed a long-delayed law on witness-protection and allocated a significant amount of funding for its implementation in 2006-2008 (almost one billion rubles -US\$38 million). However, fight against organized crime and not corruption was named the main objective of this program. Since the law is being implemented for less than nine months so far, it is hard to say how many cases deals with whistle-blowers from public sector. According to experts, this program was applied largely to personal crimes, and not crimes against the state, i.e. bribery.

References:

<http://anticorr.ru/content/8442.html>;
<http://msk.vlasti.net/index.php?Screen=news&id=167482>

100: Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

41c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | NO

Comments:

No, this field is not covered by private companies either.

References:

Dr. Vasili A. Vlasikhin, expert of Russian Foundation for Legal Reforms

YES: A YES score is earned if there are specific laws against recrimination against private sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

NO: A NO score is earned if there are no legal protections for private-sector whistleblowers.

41d. In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

Comments:

The private sector does not cover this issue either, neither as a whole, nor individually.

References:

Dr. Vasili A. Vlasikhin, expert of Russian Foundation for Legal Reforms

100: Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and

accountability.

75:

50: Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

42. Is there an effective internal mechanism (i.e. phone hotline, e-mail address, local office) where civil servants can report corruption?

6

42a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Some agencies and departments occasionally set up phone hotlines one can use to report corruption-related cases but they are aimed at external clients, i.e., general public. No internal mechanisms to reveal graft at public sector bodies by civil service employees themselves, effective or not, exist at Russian civil service.

In August 2006, Prosecutor's Office in Altai region (South Siberia) set up a phone hotline and e-mail address for reporting corruption acts (<http://allmedia.ru/newsitem.asp?id=776702>). Phone hotlines were set up by Khabarovsk krai (Russian Far East) government in July 2006 in order to let citizens report on corrupt officials but according to press-service of Khabarovsk krai government, most of the phone calls are complaints on utility services, not corruption (see <http://www.regnum.ru/news/674809.html>). In May a similar phone hotline was set up in Ufa (Bashkiriya region) to reveal officials who abuse their positions to get a free housing. No results of this initiative were announced so far (<http://www.regnum.ru/news/641296.html>).

Federal Service of Marshals in Tyumen region (Siberia) set up a similar hotline in January 2006 (<http://www.regnum.ru/news/601023.html>). Again, no information on effectiveness of this initiative was provided. In summer 2005, all colleges and universities of Kuzbass region (South Siberia) set up special phone hotlines so that students can report on corrupt faculty members but no concrete phone calls came (<http://www.regnum.ru/news/485648.html>). A similar initiative was launched in June 2006 in Samara region (<http://www.5ballov.ru/news/newsline/2006/06/29/53399>).

References:

Dr. Vasili A. Vlasikhin, expert of Russian Foundation for Legal Reforms

100: The agency/entity has staff sufficient to fulfill its basic mandate.

75:

50: The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

25:

0: The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

42b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

No such mechanism exists.

References:

High-ranking official of Russian Audit Chamber

100: The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

42c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

No such mechanism exists.

References:

High-ranking official of Russian Audit Chamber

100: The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

42d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

No such mechanism exists.

References:

High-ranking official of Russian Audit Chamber

100: When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies' investigations.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

IV-3. Procurement⁶

43. Is the public procurement process effective?

78

43a. In law, there are regulations addressing conflicts of interest for public procurement officials.

YES | NO

References:

Interview with Dr. Andrei Khramkin, director of Public Procurement Institute of the Russian Civil Service Academy;

Federal Law on Civil Service, passed on July 27, 2004, para. 2 of Art. 14, subpara. 5 of para. 1 of Art.16 , para. 1-8 of Art. 19;

Conflict of Interest and Possible Corrupt Practices in Public Procurement"

Dr. Andrei Khramkin, director of Public Procurement Institute of the Russian Civil Service Academy,

<http://topics.developmentgateway.org/governance/rc/filedownload.do?itemId=1026650>.

YES: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private gain for public procurement officials.

NO: A NO score is earned if no such rules exist.

43b. In law, there is mandatory professional training for public procurement officials.

YES | NO

Comments:

The law provides for this.

References:

Interview with Dr. Andrei Khramkin, director of Public Procurement Institute of the Russian Civil Service Academy;

Governmental Regulation On Providing Staff for Public Procurement of State Needs", passed on September 3, 1998.

YES: A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process.

NO: A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, or voluntary.

43c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

Comments:

Since January 2006, Federal Anti-Monopoly Service of Russia was put in charge of monitoring public procurement in Russia (prior to that Economic Development and Trade Ministry was responsible for it). According to the expert, the situation with enforcement of conflicts of interest regulations for public procurement officials is slowly improving due to increasing Anti-Monopoly Service control. Besides, tender decisions are appealed by bidders more often now than before.

References:

Interview with Dr. Andrei Khramkin, director of Public Procurement Institute of the Russian Civil Service Academy.

100: Regulations regarding conflicts of interest for procurement officials are aggressively enforced.

75:

50: Conflict of interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.

25:

0: Conflict of interest regulations do not exist, or are consistently ineffective.

43d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

YES | NO

Comments:

This mechanism deals with ALL public officials, according to Federal Law On Civil Service" # 79, passed on July 27, 2004. No related specific legislation on public procurement officials exists.

References:

Interview with Dr. Andrei Khramkin, director of public Procurement Institute of the Russian Civil Service Academy.

YES: A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.

NO: A NO score is earned if no such mandate exists.

43e. In law, major procurements require competitive bidding.

YES | NO

Comments:

According to the Federal Law On Awarding Contracts for the Supply of Goods, Performance of Works, Provision of Services for National and Municipal Needs", passed on July 21, 2005, all major procurements require competitive bidding, with the exception provided by the law.

References:

Interview with Dr. Andrei Khramkin, director of Public Procurement Institute of the Russian Civil Service Academy

YES: A YES score is earned if all major procurements (defined as those greater than 0.5% of GDP) require competitive bidding.

NO: A NO score is earned if competitive bidding is not required by law or regulation for major procurement (greater than 0.5% OF GDP).

43f. In law, strict formal requirements limit the extent of sole sourcing.

YES | NO

Comments:

According to Art. 55 of the Federal Law On Awarding Contracts for the Supply of Goods, Performance of Works, Provision of Services for National and Municipal Needs", passed on July 21, 2005, such requirements exist. However, according to Dr. Khramkin, World Bank experts believe limits on sole sourcing are even too strict.

References:

Interview with Dr. Andrei Khramkin, director of Public Procurement Institute of the Russian Civil Service Academy

YES: A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

NO: A NO score is earned if there are no prohibitions on sole sourcing. A NO score is earned if the prohibitions on sole sourcing are general and unspecific.

43g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

YES | NO

Comments:

According to Ch. 8 (Providing Protection of Rights and Legal Interests of Bidders") of the Federal Law "On Awarding Contracts for the Supply of Goods, Performance of Works, Provision of Services for National and Municipal Needs", passed on July 21, 2005, there is a clear appealing mechanism.

References:

Interview with Dr. Andrei Khramkin, director of Public Procurement Institute of the Russian Civil Service Academy;

Public Procurement Control: Will the new Russian law on public procurement protect from corrupt practices?", Dr. Andrei Khramkin,
<http://topics.developmentgateway.org/governance/rc/filedownload.do~itemId=1063594>

YES: A YES score is earned if there is a formal appeal process for unsuccessful bidders.

NO: A NO score is earned if no such process exists.

43h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

YES | NO

Comments:

According to the Federal Law On Awarding Contracts for the Supply of Goods, Performance of Works, Provision of Services for National and Municipal Needs", passed on July 21, 2005, they can do it.

References:

Interview with Dr. Andrei Khramkin, director of Public Procurement Institute of the Russian Civil Service Academy;

Public Procurement Control: Will the new Russian law on public procurement protect from corrupt practices?", Dr. Andrei Khramkin,
<http://topics.developmentgateway.org/governance/rc/filedownload.do~itemId=1063594>

YES: A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

NO: A NO score is earned if no such process exists.

43i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

YES | NO

Comments:

According to Art. 19 of the Federal Law On Awarding Contracts for the Supply of Goods, Performance of Works, Provision of Services for National and Municipal Needs", passed on July 21, 2005, such companies are included into "Register of dishonest suppliers". Within the next three years, state customers have a right not review their bids. However, this is not binding and these suppliers can enter the market before the three years are over. This a loophole that allows corrupt officials to partner with bad suppliers.

References:

Interview with Dr. Andrei Khramkin, director of Public Procurement Institute of the Russian Civil Service Academy;

YES: A YES score is earned if there are formal procurement blacklists, preventing convicted companies from doing business with the government.

NO: A NO score is earned if no such process exists.

43j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

100 | 75 | 50 | 25 | 0

Comments:

The new Federal Law On Awarding Contracts for the Supply of Goods, Performance of Works, Provision of Services for National and Municipal Needs", passed on July 21, 2005, entered into force on January 1, 2006. There is no data available yet.

On May 16, 2006, Yuri Luzhkov, Mayor of Moscow, announced that the Moscow government would compile such a blacklist of companies that violated public procurement tenders in Moscow. According to Interfax news agency that reported this information, these companies will be banned forever.

References:

Interview with Dr. Andrei Khramkin, director of Public Procurement Institute of the Russian Civil Service Academy

100: A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

75:

50: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

44. Can citizens access the public procurement process?

88

44a. In law, citizens can access public procurement regulations.

YES | NO

Comments:

According to Art. 16 of the Federal Law On Awarding Contracts for the Supply of Goods, Performance of Works, Provision of Services for National and Municipal Needs", passed on July 21, 2005, most of the information is posted at the official public procurement website www.zakupki.gov.ru.

References:

Interview with Dr. Andrei Khramkin, director of Public Procurement Institute of the Russian Civil Service Academy;

www.zakupki.gov.ru

YES: A YES score is earned if procurement rules are, by law, open to the public.

NO: A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

44b. In law, the government is required to publicly announce the results of procurement decisions.

YES | NO

Comments:

This is possible according to the Federal Law On Awarding Contracts for the Supply of Goods, Performance of Works, Provision of Services for National and Municipal Needs", passed on July 21, 2005.

References:

Interview with Dr. Andrei Khramkin, director of Public Procurement Institute of the Russian Civil Service Academy

YES: A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

NO: A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

44c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The main problems arise due to regular malfunctioning of the official public procurement website. As a matter of fact, it affects both bidders and public procurement officials.

References:

Interview with Dr. Andrei Khramkin, director of Public Procurement Institute of the Russian Civil Service Academy

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

44d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

According to the Federal Law On Awarding Contracts for the Supply of Goods, Performance of Works, Provision of Services for National and Municipal Needs", passed on July 21, 2005, information posted to the official public procurement website is available to everyone for free. Subscription to "Competitive Bidding" official bulletin is not very expensive and it is open to everyone. Information on the website and in the bulletin is identical.

References:

Interview with Dr. Andrei Khramkin, director of Public Procurement Institute of the Russian Civil Service Academy

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

44e. In practice, major public procurements are widely advertised.

100 | 75 | 50 | 25 | 0

Comments:

This provision is more or less followed on the federal level. On the local level, depending on a region, situation can differ from availability of tender notices to most of the bidders to a complete lack of information to everyone besides a few selected bidders.

References:

Interview with Dr. Andrei Khramkin, director of Public Procurement Institute of the Russian Civil Service Academy;

Reform Didn't Do Much for Curbing Corruption",
Finansovye Izvestiya weekly (Moscow),
May 5, 2006;

"\$5 Bln Will Be Stolen This Year Out of Public Procurement Funds",
Alexander Zyuzyaev and Alexei Ovchinnikov,
Komsomolskaya Pravda daily (Moscow),
May 17, 2006;

"Will Pay and Won't Pay",
Evgeni Arsyukhin,
Rossiiskaya gazeta daily (Moscow),
May 29, 2006,
<http://www.rg.ru/2006/05/29/sharonov.html>;

"Tender as An Anti-Corruption Measure",
Lyubov Pyatiletova,
Rossiiskaya gazeta daily (Moscow),
May 17, 2006;

www.regnum.ru/news/656050.html;

Situation with public procurement in regions:
www.regnum.ru/news/583897.html;

www.regnum.ru/news/592325.html;
www.regnum.ru/news/593152.html;
www.regnum.ru/news/637890.html;

"The Army Squandered \$70 mln",
Victor Myasnikov,
Nezavisimaya gazeta daily (Moscow),
May 12, 2006,
http://www.ng.ru/politics/2006-05-12/1_army.html;

Information on reform of public procurement in Russia:
<http://cfo.allbusiness.ru/NewsAM/NewsAMShow.asp?ID=86861>;

Audit Chamber response to new legislation on public procurement and its implementation: <http://www.regnum.ru/news/653427.html>.

100: There is a formal process of advertising public procurements. This may include a government Web site, newspaper advertising, or other official announcements. All major procurements are advertised in this way.

75:

50: There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective.

25:

0: There is no formal process of advertising major public procurements or the process is superficial and ineffective.

44f. In practice, citizens can access the results of major public procurement bids.

100 | 75 | 50 | 25 | 0

Comments:

In practice, citizens can obtain information on the results of major public procurement bids.

References:

Interview with Dr. Andrei Khramkin, director of Public Procurement Institute of the Russian Civil Service Academy

100: Records of public procurement results are publicly available through a formal process.

75:

50: Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

25:

0: This information is not available to the public through an official process.

IV-4. Privatization

45. Is the privatization process effective?

75

45a. In law, all businesses are eligible to compete for privatized state assets.

YES | NO

Comments:

Yes, all businesses are eligible to compete for privatized state assets.

References:

Federal Law on Privatization of State and Municipal Enterprises, 2001

YES: A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

NO: A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

45b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

YES | NO

Comments:

Yes, there are such regulations. This mechanism deals with ALL public officials, according to Federal Law On Civil Service". No related specific legislation related to government officials involved in privatization.

References:

Art. 19 of the Federal Law on Civil Service, passed on July 27, 2004

YES: A YES score is earned if there are formal regulations defining and regulating conflicts of interest for government officials involved in privatization.

NO: A NO score is earned if there are no such formal regulations.

45c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | 50 | 25 | 0

Comments:

The regulations are very rarely enforced. Experts point out that insider deals were almost a binding element of all most important privatizations in Russia, and the conflict of interests was so widespread that it was simply ignored, and no action was taken. There were no any major privatization deals last year, in fact, the state is slowly but steadily taking back was once was passed into private hands. As a result, corruption is embedded into nationalization to the same extent it was embedded into privatization.

References:

High-ranking official of Russian Audit Chamber

100: Regulations regarding conflicts of interest for privatization officials are aggressively enforced.

75:

50: Conflict of interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

25:

0: Conflict of interest regulations do not exist, or are consistently ineffective.

46. Can citizens access the terms and conditions of privatization bids?

81

46a. In law, citizens can access the terms and conditions of privatization bids.

YES | NO

Comments:

Yes, citizens can access these terms and conditions.

References:

Federal Law on Privatization of State and Municipal Enterprises, 2001

YES: A YES score is earned if there is a formal process of publishing the details of privatization bids that makes information available to all citizens.

NO: A NO score is earned if there is no formal publication process, or if any citizens are excluded by law from accessing this information.

46b. In law, the government is required to publicly announce the results of privatization decisions.

YES | NO

Comments:

Yes, they have to be published within a month.

References:

Federal Law on Privatization of State and Municipal Enterprises, 2001, Art. 15, Par. 7

YES: A YES score is earned if the government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly-accessible government register or log.

NO: A NO score is earned if there is no requirement for the government to publicly announce the results of the privatization process.

46c. In practice, citizens can access the terms and conditions of privatization bids within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

According to Art. 15 of the Federal Law on Privatization of State and Municipal Enterprises, such information has to be published a month ahead of a tender. In fact, this information is often available but selectively. In terms of strategic privatization bids, both in terms of importance to the state and the value, the government shares the information with key players only, often provoking accusations in selecting winners ahead of a tender. Therefore, the in-depth information on privatization is quite often closed to the public. However, much often another scheme is applied. The terms and conditions of privatization bids are specified the way only certain companies can apply.

With regard to assets of small value, government is usually interesting in getting rid of them and does not try to conceal any information.

References:

Russian Foundation of Federal Property (a specialized state body under Government of Russian Federation) provides such data

in its News section (go to <http://www.fpf.ru/index.php>).

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

46d. In practice, citizens can access the terms and conditions of privatization bids at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

If the information is available, it is for free.

References:

Russian Foundation of Federal Property (a specialized state body under Government of Russian Federation) provides such data. For example, data on October 2006 bids is available here: http://www.fpf.ru/index.php?root_id=5&category_id=24#1

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

Category V. Oversight and Regulation

V-1. ⁷³National Ombudsman

47. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

47. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

YES | NO

Comments:

Yes, but the existing law does not allow the ombudsman to deal with certain sectors of society (the military, the church, etc.).

By law, there is a federal Ombudsman. By June 2006, there are 33 regional Ombudsmans (out of 89 Russian regions).

References:

Official site – www.ombudsman.gov.ru;
Federal Law on Human Rights Commissioner in Russian Federation, passed on February 26, 1997; http://www.democracy.ru/library/laws/federal/law_N1fzk.html

YES: A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

NO: A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

48. Is the national ombudsman effective?

68

48a. In law, the ombudsman is protected from political interference.

YES | NO

Comments:

Yes, the Human Rights Commissioner or Ombudsman is elected to, and released from, office by the RF State Duma. His/her mandate is for five years. The ombudsman is not accountable to any state body or official besides the State Duma, but has the right to demand explanations from public officials of any rank (except the Federal Assembly) and inspect any institution. The Ombudsman is protected in the eye of the law from political influence and interference because, as prescribed by the law, he/she may not be a member of any political party.

References:

Federal Law on Human Rights Commissioner in Russian Federation, Art.2

YES: A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

48b. In practice, the ombudsman is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

Yes, as far as s/he is appointed by the State Duma and this appointment is influenced by the majority that belongs to the ruling party. The current Ombudsman, Mr. Lukin, was one of the founders and leaders of an opposition Yabloko party. After the party lost all its seats at the Duma as a result of 2003 parliamentary election, he was personally selected by President Putin whose wish to have Mr. Lukin appointed an Ombudsman was executed by the Duma. There were no indications so far the Ombudsman was a subject to any political interference. It is also true his office has almost no say in any major policy-making process.

References:

Alexander Podrabinek, Chief Editor, Prima News Russian news agency:
http://ombudsman.hro.org/06_03/23_06_03.htm

100: This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

75:

50: This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

48c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

The Prosecutor General, having secured an agreement of the State Duma, may initiate a criminal case against the Commissioner, if it is proved s/he committed a crime.

References:

Federal Law on Human Rights Commissioner in Russian Federation, Art. 12

100: The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

48d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Yes, it does. Experts argue that hardly all staff members have relevant training in human rights and civil society theory. In October 2005, Moscow Helsinki Group (a human rights CSO) started a two-year project on capacity building of Ombudsman staff. A special manual "Human Rights" was prepared, published and distributed among the Ombudsman staffers (see the book here: <http://www.mhg.ru/files/knigi/kursombuds.pdf>). In 2001-2006, St.Petersburg Center Strategia conducted a program on support to National Ombudsman in Russia (for more information on the program, go to <http://www.strategy-spb.ru/?do=prog&prog=1>). It also hosts Regional Ombudsman website <http://www.ombu.ru/>.

References:

<http://www.mhg.ru/projects/526A90C>;
<http://www.strategy-spb.ru/?do=prog&prog=1>;
<http://hro.org/editions/ombudsman/2005/07/08.php>

100: The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

48e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

Comments:

According to the law, the national Ombudsman is appointed by the President and approved by the parliament. The Ombudsman appoints his staff himself and is responsible for its functioning. Similar situations exist in some regions (see how this situation is resolved in Moscow: <http://ombudsman.mos.ru/index.php?id=structure>). In this way, the Ombudsman supports the independence of his agency. In regions, the situation is quite different: often, appointments to ombudsman's staff are made by regional authorities and the ombudsman, who depends on them for funding, has to accept them.

References:

Ms. Irina Vershinina, Ombudsman in Kaliningrad region;

<http://hro.org/editions/ombudsman/2005/11/01.php>

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

48f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Yes, it receives regular funding, as well as all other federal agencies.

References:

High-ranking official of Russian Audit Chamber.

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

48g. In practice, the agency (or agencies) makes publicly available reports.

Comments:

Yes, reports are made on an annual basis and made public via press conferences, media publications and on the Internet. However, they rarely lead to any active discussion in the society or/and investigation by corresponding agencies. Any significant findings on human rights violations Russia has experience during the last year, were made and publicized by the media.

References:

http://www.ombudsman.gov.ru/doc/a-eg_doclad.shtml

100: The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

48h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

Comments:

Yes, it can initiate an investigation and did so a few times but the Ombudsman's office has no authority other than make the results of an investigation public and submit them to the Duma for a review. On some issues, for example, hate crimes that took place in St.Petersburg in 2005-2006, Duma rejected the Ombudsman's request to make a presentation on this topic to the deputies as it was quite capable of handling this problem itself. "

On 17 September 2005, speaking on Russia TV's "Zerkalo" program, Russian Human Rights Commissioner Vladimir Lukin was asked by the program's presenter Nikolay Svanidze what can be done to fight corruption in law-enforcement agencies. Lukin said that his office can carry out independent investigations, but added, however, that this "is not always efficient because there are people who are not happy about such activities". He said he personally is allowed entry everywhere, but his aides sometimes have serious problems.

On June 7, 2006, the State Duma approved in the first hearing amendments to the Federal Law on Human Rights Commissioner, granting him a right to ask State Duma to launch a parliamentary investigation, as well as to participate in a parliamentary commission activities, reported RIA Novosti news agency.

References:

RTR Russia TV, Moscow, 17 Sep 05;

Lenta news agency (Russia), June 7, 2006.

100: The agency aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The agency is fair in its application of this power.

75:

50: The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency rarely investigates on its own or cooperates in other agencies' investigations, or the agency is partisan in its application of this power.

48i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

No, the Ombudsman's office has no such authority. It can only make the results of its investigation public and submit them to the Duma for a review.

References:

Federal Law on Human Rights Commissioner in Russian Federation

100: When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The agency enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

48j. In practice, the government acts on the findings of the agency (or agencies).

100 | 75 | 50 | 25 | 0

Comments:

Although President Putin met with the Ombudsman last year, the activities of the Ombudsman's office presented almost no interest to the government and the President. His predecessor reasoned his lack of activity by saying that not enough acts had been adopted at the federal level to provide a legal framework for adequate functioning of the institution. Mr Lukin believes there are special problems in coordinating activities between regional ombudsmen and local authorities.

References:

Vladimir Lukin, Human Rights Commissioner in Russian Federation, in his presentation at III All-Russia Congress of Human Rights Commissioners, June 2006:

<http://hro.org/editions/ombudsman/2005/06/30.php>

100: Ombudsman's reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, ombudsman's reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25:

0: Ombudsman reports are often ignored, or given superficial attention. Ombudsman reports do not lead to policy changes.

48k. In practice, the agency (or agencies) acts on citizen complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Yes, the agency acts on complaints within one month (or two, if a response from various state bodies is required).

References:

<http://ombudsman.gov.ru/rub/a-galo.shtml>;
<http://ombudsman.gov.ru/institut/a-obrash.shtml>;
<http://www.ombudsman.nm.ru/priem.htm>

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

49. Can citizens access the reports of the ombudsman?

100

49a. In law, citizens can access reports of the ombudsman(s).

YES | NO

Comments:

They are uploaded to the Ombudsman website and published in the Rossiiskaya Gazeta daily, State Duma official newspaper.

References:

Federal Law on Human Rights Commissioner in Russian Federation, Art. 33;

The reports are located here:

http://www.ombudsman.gov.ru/doc/a-eg_doclاد.shtml;

The 2005 report is also available here:

<http://www.rg.ru/2006/06/15/lukin-doklad.html>

YES: A YES score is earned if all ombudsman reports are publicly available.

NO: A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

49b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Yes. Usually they are published in the official Rossiiskaya Gazeta, the day after the ombudsman's annual conference, and uploaded to the ombudsman website within a couple of weeks.

References:

These reports are located here:

http://www.ombudsman.gov.ru/doc/a-eg_doclاد.shtml;

The 2005 report is also available here:

<http://www.rg.ru/2006/06/15/lukin-doklad.html>

100: Reports are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

49c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

They are available for free at all public libraries and on the Internet.

References:

The reports are located here:

http://www.ombudsman.gov.ru/doc/a-eg_doclad.shtml

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Reports costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

V-2. Supreme Audit Institution

50. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

50. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

YES | NO

Comments:

Yes, it is called the Audit Chamber of Russian Federation.

References:

Federal Law on Audit Chamber of Russian Federation, 1994:

<http://www.ach.gov.ru/zakon/fedzakon/zakon.php>;

The official website – <http://www.ach.gov.ru/>.

YES: A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

NO: A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

51. Is the supreme audit institution effective?

69

51a. In law, the supreme audit institution is protected from political interference.

YES | NO

Comments:

Yes, the supreme audit institution is protected from political influence.

References:

Federal Law on Audit Chamber of Russian Federation, 1994

YES: A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

51b. In practice, the head of the agency is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

Yes, the head of the agency can only be removed with the consent of the State Duma. However, since the current State Duma is under the rule of United Russia, the party of power, and it, in its turn, rubber-stamps all Presidents' initiatives, removal of the head of Audit Chamber for political reason is not out of the question.

References:

High-ranking official of Audit Chamber of Russia

100: The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the agency can be removed at the will of political leadership.

51c. In practice, the agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Yes, the agency has a professional, full-time staff.

References:

High-ranking official of Audit Chamber of Russia

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

51d. In practice, agency appointments support the independence of the agency.

100 | 75 | 50 | 25 | 0

Comments:

Yes, in practice, the agency appointments usually support the independence of the agency.

References:

High-ranking official of Audit Chamber of Russia

100: Appointments to the agency are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

51e. In practice, the agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Yes, in practice, the agency receives regular funding.

References:

High-ranking official of Audit Chamber of Russia

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

51f. In practice, the agency makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

Yes, reports are made on an annual basis. However, when in the beginning of 2006 Audit Chamber made a report on the first decade of privatization in Russia, the State Duma delayed its presentation and corresponding debates for a few months.

References:

High-ranking official of Audit Chamber of Russia;

<http://www.ach.gov.ru/bulletins/>;
<http://www.ach.gov.ru/bulletins/2006-7.php>;
<http://www.ach.gov.ru/results/reports/>;
<http://www.fincontrol.ru/>;

Sergey Stepashin: "How Much Russia Is Worth";
Sergey Stepashin, chairman of the Russian Federation Comptroller's Office,
Rossiyskaya Gazeta daily (Moscow),
June 29, 2005,

"Stepashin Allowed To Tell--But Not All That He Wanted",
Tamara Shkel,
Rossiyskaya Gazeta daily (Moscow),
July 1, 2005

100: The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.

25:

0: The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

51g. In practice, the government acts on the findings of the agency.

100 | 75 | 50 | 25 | 0

Comments:

Not necessarily. Often the government's activities are triggered by certain political reasons. According to the law, all state bodies, businesses, institutions, organizations, without regard to forms of ownership, are obliged to submit information when requested by the Audit Chamber (AC). Once revisions and inspections have been performed, the AC reports to the State Duma any violations of the law that were exposed. It then relegates the case to Ministry of Finance (as the Chamber deals with budget funds) and the law enforcement authorities. AC inspection findings, however, have no impact whatsoever; they serve only as recommendations. The government feels free to act on these reports on its own discretion and timing. The AC inspection findings become the focus of serious investigations by executive authorities of law enforcement bodies on a selective rather than a regular basis, which leads one to believe that some investigations are based on political motives.

In 2005, Audit Chamber launched so-called public reception offices, where people can file their complaints, meet with an AC official or a lawyer thus trying to get as many responses as possible, supposedly to act upon them (more about this initiative:

<http://www.regnum.ru/news/648777.html>).

On May 18, 2006, ITAR-TASS news agency (Russia) reported that 500 criminal cases dealing with corruption, economic crimes, illegal use of budget funds were filed within the last two years by General Prosecutor's Office based on materials provided by Audit Chamber (AC). This was announced by Sergei Stepashin, Chairman of AC, on May 17, in an interview to ITAR-TASS news agency.

References:

High-ranking official of Audit Chamber of Russia;

<http://www.regnum.ru/news/686000.html>.

The Army squandered \$70 mln",
Victor Myasnikov,
Nezavisimaya gazeta daily (Moscow),
May 12, 2006,
http://www.ng.ru/politics/2006-05-12/1_army.html).

100: Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25:

0: Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

51h. In practice, the supreme audit institution is able to initiate its own investigations.

100 | 75 | 50 | 25 | 0

References:

High-ranking official of Audit Chamber of Russia

100: The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

75:

50: The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

25:

0: The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

52. Can citizens access reports of the supreme audit institution?

83

52a. In law, citizens can access reports of the agency.

YES | NO

Comments:

Yes, the reports are available on the Internet and in print, in the Chamber's bulletins.

References:

<http://www.ach.gov.ru/bulletins/>;
<http://www.ach.gov.ru/bulletins/2006-7.php>);
<http://www.ach.gov.ru/results/reports/>.

YES: A YES score is earned if all supreme auditor reports are available to the general public.

NO: A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

52b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Yes, reports can be accessed within a month.

References:

High-ranking official of Audit Chamber of Russia

100: Reports are available on-line, or records can be obtained within two days. Reports are uniformly available; there are no delays for politically sensitive information.

75:

50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

52c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Yes, the reports are available on the Internet and in print, in the agency's bulletins, either for free or at a reasonable cost.

References:

High-ranking official of Audit Chamber of Russia.

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Report costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

V-3. Taxes and Customs
84

53. In law, is there a national tax collection agency?

100

53. In law, is there a national tax collection agency?

YES | NO

Comments:

Yes, the agency is called Federal Tax Service (<http://www.nalog.ru>). The agency was established in November 1991.

References:

<http://www.nalog.ru/index.php?topic=mnsrus>

YES: A YES score is earned if there is a national agency formally mandated to collect taxes.

NO: A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

54. Is the tax collection agency effective?

88

54a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Yes, the agency has a professional, full-time staff. It should be noted that the tax service is considered very lucrative because of a possibility to extort money from businessmen.

References:

A high-ranking Tax Service official

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

54b. In practice, the agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Yes, the agency receives regular funding.

References:

A high-ranking Tax Service official

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

55. In practice, are tax laws enforced uniformly and without discrimination?

25

55. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

Comments:

Media is brim-full of reports on tax officials extorting bribes from businessmen for a report on lack of financial violations at his/her enterprise or for a reduction of due taxes. However, usually only low- and middle-rank tax officers go to court for bribery while their superiors are not prosecuted. With regard to major taxpayers, trial on YUKOS oil company shows that the tax police can be used by the state to prosecute certain individuals, like Khodorkovsky, for political reasons. Tax laws are very often enforced on a selective basis. TNK-BP oil giant, MTS telephone major, etc. on a regular basis have to fight off tax police claims of due payments in terms of tens of millions of dollars.

This problem is recognized by both national and foreign leaders. On September 26, 2005, RIA Novosti news agency reported that British Ambassador to Russia Anthony Brenton said Russia's taxation system is blocking growth of British investments into Russia,

Just a few days later, on September 28, Prime Minister Mikhail Fradkov (a former tax police chief) said at the international conference of investors organized by Brunswick UBC in Moscow, that the tax administration system in Russia is often bureaucracy of a corrupt nature, Itar-Tass news agency reported.

Russian businesses are the main victims of tax police. In order to reduce the tax pressure, both the Russian government and the entrepreneurs spent more than a year in discussions aimed at working out amendments to Tax Code. By June 2006, public officials, businessmen, tax officials and State Duma deputies agreed upon new rules that would make audits by tax police (one of the most burdensome experiences for businesses) much more simpler and predictable.

References:

A high-ranking Tax Police official;

"Audit Without Validol",
Svetlana Ivanova and Vasili Sizov,
Vedomosti daily (Moscow),
June 1, 2006;

"Optimization Is Against the Law",
Arkadi Porokhvoi,
Vzglyad Internet newspaper.
June 21, 2006;

Article by Irina Sklyarova,
Vremya Novostei daily (Moscow),
June 26, 2006,
<http://www.vremya.ru/2006/109/8/155004.html>;

"Tax Terror Will Continue",
Svetlana Ivanova, Filipp Sterkin and Alexander Bekker,
Vedomosti daily (Moscow),
June 23, 2006.

100: Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

75:

50: Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

25:

0: Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

56. In law, is there a national customs and excise agency?

100

56. In law, is there a national customs and excise agency?

YES | NO

Comments:

Yes, there is a national customs and excise agency – Federal Customs Service of Russia.

At the April 10, 2006 meeting with Cabinet members, President Putin accused the service of entrenched corruption. That meeting was followed by a series of high-profile arrests of senior customs officials. On May 11, 2006 President Putin issued a presidential decree ordering the transfer of the service from the Economic Development and Trade Ministry to direct supervision of Prime Minister Mikhail Fradkov. Putin's move was warmly greeted by business leaders, who said it suggested much-needed reform was on the way. Putin's decision, which effectively raises the service's profile, suggests that real reform is on the horizon, said Andrew Somers, president of the American Chamber of Commerce in Russia. The notorious inefficiency of customs officials, known for bribery and abuse of power, has been the cause of frequent complaints in the business community.

Konstantin Antipov, general director of Agency AM Consulting, which helps businesses navigate the sometimes-rocky shoals of Russia's customs regime, was more tepid about Putin's move. The reorganization, Antipov said, makes it easier for Putin to implement changes. Whether those changes happen, however, remains to be seen, he said. Needed reforms include bringing the customs system into line with international practices and providing the service's employees with better benefits in order to deter lawbreaking.

References:

<http://www.customs.ru/ru/gtk/>

Customs to Be Its Own Agency",
Valeria Korchagina,
The Moscow Times daily,
May 12, 2006

YES: A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.

NO: A NO score is earned if that function is spread over several agencies, or does not exist.

57. Is the customs and excise agency effective?

88

57a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Yes, the agency almost always has a professional, full-time staff.

References:

Speaking on June 21, 2006, to a group of journalists, Andrei Belyaninov, the new head of the Federal Customs Service, said "There are 68,000 people working [in customs], but that doesn't mean they are 68,000 rascals." The notorious inefficiency of customs officials, known for bribery and abuse of power, has been the cause of frequent complaints in the business community. Mr Belyaninov's answer refers to this wide-spread perception.

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

57b. In practice, the agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Yes, the agency receives regular funding.

Speaking on June 21, 2006, to a group of journalists, Andrei Belyaninov, the new head of the Federal Customs Service, said his main goal was to bring it under the state's control by securing better equipment for border checkpoints and obtaining across-the-board salary hikes for customs officials.

The money that is paid in salaries is no match for the temptations that exist," he said, noting that border officials are often paid 8,000 rubles (\$304) per month and they sometimes deal with a combined RUB8 billion (\$300 million) in customs and export duties on a daily basis. Belyaninov said a starting salary of RUB26,000(US\$1,000) per month would be reasonable. He is holding negotiations with the government and hopes to be able to offer some raises starting January.

It should be noted that in February 2006, customs senior management submitted a business plan to the government that required RUB30 billion (US\$1.1billion) for the next five years in order to fight corruption (a significant part of it would go for salary hike).

References:

"Democracy and Reform for New Customs Chief"
The Moscow Times daily,
June 22, 2006;

"Outbidding Customs Officials",
Alexandra Petrachkova and Alexander Bekker,
Vedomosti daily (Moscow),
June 22, 2006;

<http://www.rian.ru/economy/20060201/43281551.html>

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

58. In practice, are customs and excise laws enforced uniformly and without discrimination?

25

58. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

Comments:

Corruption seems to be routine and unofficial payments are highly standardized.

A number of high-ranking officials in the customs service as well as other federal and local authorities were involved in a recently intercepted smuggling operation of imports from China, Interfax reported on April 25, citing an unnamed law enforcement official. Of those involved, one customs official at Domodedovo Airport has been detained, Interfax said. It was not clear whether the other officials had been detained. The information was uncovered during an ongoing investigation, in which the Moscow offices of five Chinese companies had been searched Monday, Interfax reported. Six more searches took place on on April 25, it said. Separately, 10 customs officials have been charged with involvement in car smuggling in Yaroslavl, Interfax reported, without stating the origin of the cars.

The contraband in general and customs officers' participation in it in particular are currently investigated in more than nine regions of the country, including Moscow and St. Petersburg, Russia's Prosecutor General Office announced in a special release. When probing into smuggling, the prosecutors work in close cooperation with Federal Security Service, Interior Ministry and Federal Customs Service's security division.

Smuggling and customs officers' involvement in it are being investigated in Bryansk, Novosibirsk, Penza, Yaroslavl, Kaluga, Leningrad regions, the Primorie District, Moscow and St. Petersburg and in other regions of the country, the prosecutors announced, saying the losses incurred from contraband activities amount to one billion rubles.

The fight against smuggling gained momentum after the recent meeting of President Vladimir Putin with the cabinet. At that meeting, Putin committed Economic Development Minister German Gref to liquidate private customs houses, i.e. the border checkpoints owned by private business, as they had merged in economic ecstasy with customs."

References:

Bloomberg reported on April 25 that 10 officials in Yaroslavl had been arrested for trying to sell \$100 million worth of stolen goods.

The Moscow times daily, April 26, 2006

<http://www.themoscowtimes.com/stories/2006/04/26/047.html>;

Power Structures Continue a 'customs siege': A Sheremetevo Customs Official Was Arrested for Bribe-taking",

News.Ru news agency,

April 26, 2006,

<http://txt.newsru.com/russia/26apr2006/inspektor.html>;

"Customs Surrenders the Goods: Arrests All Over Russia",

News.Ru news agency,

April 25, 2006,

<http://txt.newsru.com/crime/25apr2006/tamoznya.html>;

"Damage Caused by Abuses at the North-West Customs Department exceeds RUB 700 84B"

News.Ru news agency,

April 26, 2006,

<http://www.newsru.com/russia/26apr2006/tam.html>

"Prosecutors Execute Customs Declaration of President"

Kommersant daily (Moscow),

April 27, 2006,

<http://www.kommersant.com/page.asp?id=670104>

"Vine for The Guilty"

Eduard Lomovtzev

Vremya Novostei daily (Moscow),

April 28, 2006,

<http://www.vremya.ru/2006/75/51/151013.html>;

Article,

RIA Novosti news agency (Russia),

April 29, 2006,

<http://en.rian.ru/russia/20060429/47053411.html>

100: Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

75:

50: Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

25:

0: Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

V-4. Financial Sector Regulation

59. In law, is there a financial regulatory agency overseeing publicly listed companies?

100

59. In law, is there a financial regulatory agency overseeing publicly listed companies?

YES | NO

Comments:

The Federal Financial Markets Service (FFMS) is the federal executive body that controls and supervises activity in the financial markets, including the activity of exchanges, and issues the relevant regulations. It also regulates the investment of pension savings.

The FFMS was established in accordance with President Vladimir Putin's Decree No. 314 on the System and Structure of Federal Executive Branch Agencies, dated March 9, 2004. It took on the controlling and supervising functions of the former Federal Commission for the Securities Market, as well as the responsibility of the former Ministry of Labor and Social Development to control and supervise the financial markets. It also inherited the responsibility to control the activity of exchanges from the former Ministry of Antitrust Policy, and the responsibility to control and supervise pension reforms from the Ministry of Finance.

The main functions, powers and organization of the FFMS's activity are set out in the Russian Government Decree No. 206 on the Federal Financial Markets Service, dated April 9, 2004, and in the statute on the Federal Financial Markets Service of June 30, 2004, approved by the Russian Governmental Decree No. 317, dated June 30, 2004.

References:

http://www.fcsm.ru/catalog.asp?ob_no=3536

YES: A YES score is earned if there is an agency tasked with overseeing publicly listed companies in the public interest and ensuring that disclosure rules are met.

NO: A NO score is earned if this function is spread over several agencies or does not exist.

60. Is the financial regulatory agency effective?

75

60a. In law, the financial regulatory agency is protected from political interference.

YES | NO

Comments:

Yes, in law, the agency is an independent state body. However, because the President appoints the head of the committee, the latter is not protected from political interference, as all other Administration nominees.

References:

Art. 1001, part 5 of the Constitution of Russian Federation, 1993, and The Law On Audit Chamber" was passed in December

1994 and entered into force in January 1995 (see <http://www.ach.gov.ru/zakon/fedzakon/zakon.php>).
Interview with a high-ranking official of Audit Chamber, Russia

YES: A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

60b. In practice, the agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Yes, the agency almost always has a professional, full-time staff.

References:

High-ranking official of Audit Chamber, Russia

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

60c. In practice, the agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Yes, the agency receives regular funding.

References:

High-ranking official of Audit Chamber, Russia

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

60d. In practice, when necessary, the financial regulatory agency independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

Yes, when necessary, the agency independently initiates investigations.

References:

Art. 5.3.5 and 6.2 of the Statute of Federal Financial Markets Service:

http://www.fcsm.ru/document.asp?ob_no=3408

100: When irregularities are discovered, the agency is aggressive in investigating and/or in cooperating with other investigative bodies.

75:

50: The agency starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

60e. In practice, when necessary, the financial regulatory agency imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

Yes, when necessary, the agency almost always imposes penalties on offenders though many experts and businessmen claim there are politically correct publicly listed companies, especially state-run ones (such as Gazprom or Rosneft, for example), and others subject to harassment and extortion (Evrosel cell phone company, for example) .

References:

A detailed research by Oleg Maltzev on Federal Financial Markets Service activities in 2004-2006 was published in Finance magazine on March 20, 2006:

<http://www.finansmag.ru/26589>

100: When rules violations are discovered, the agency is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

75:

50: The agency enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partis

61. Can citizens access the financial records of publicly listed companies?

58

61a. In law, citizens can access the financial records of publicly listed companies.

YES | NO

Comments:

In October 2003, the predecessor of acting Federal Financial Markets Service introduced regulations on the responsibilities of disclosing information about the material events of issuer companies through authorized informational agencies (currently, Interfax and AK&M).

In March 2005, the head of Federal Financial Markets Service issued an order on disclosure of financial records of publicly listed companies. On April 15, 2006, some amendments to the Federal Law "On Securities Market", passed in 1996, were signed by President Putin. According to the amendments, starting July 1, 2006, public companies no longer have to disclose all material facts in printed media as it was their duty by 1996 law, but pass this information to Federal Financial Markets Service. Such decision makes related information less available to the public. Access to information published in printed media was restricted to the public, due to the lack of such publications in most public libraries (limited circulation of some printed media and, in some cases, quite expensive subscription).

It should be noted that financial transparency is gaining more and more recognition among Russian companies, especially if they prepare for IPO and want to attract foreign investments.

Quite often, the financial records of the companies are considered secret information, so unless the companies want to make the records public, they are unavailable. "For example, under Russian law, there is no requirement for beneficiary ownership disclosure, although a company cannot issue securities, stocks, or bonds without disclosing the identity of the beneficiary owners. The caveat is that they can disclose just the legal entities and not the beneficiary owners. A small number of companies are disclosing this information by choice because they understand that investors will not buy their securities without that knowledge. Those companies are the leaders in reform. In addition, financial accounts frequently lack necessary information. Most companies compile their financial reports based on the minimum amount of information required by law, such as profits and losses. In fact, there is no disclosure whatsoever on the correlation between a company's performance and its executive's remuneration. This is because according to the law, the company may disclose just a total amount that it pays to executives and to board members, without itemizing the expenditures," said Igor Belikov, director of Russian Institute of Directors.

References:

Federal Law on Amendments to the Federal Law "On Securities Market" and the Federal Law "On Mutual Funds":
<http://www.bre.ru/laws/27481.html>;

<http://www.e-staff.ru/db/emitent/F9D9BCF469DCE0C9C3256FCC001DE924/doc.html>;

Corporate Governance in Russia: Past, Present, and Future",
Igor Belikov, director of Russian Institute of Directors, a non-profit partnership,
Economic Reform bulletin of US Center for International Private Enterprise,
August 2006,
<http://www.rid.ru/files/anons%20actual%20materiais/belikov.pdf>

YES: A YES score is earned if the financial information of all publicly traded companies is required by law to be public.

NO: A NO score is earned if any category of publicly- owned or publicly-traded company is exempt from this rule, or no such rules exist.

61b. In practice, the financial records of publicly listed companies are regularly updated.

100 | 75 | 50 | 25 | 0

Comments:

In June 2005, the Standard & Poor's international rating agency recently published the results of a survey on the information transparency of Russian state corporations (http://www.standardandpoors.ru/_Images/Pdfs/1889.pdf). Their average level of information provision is very moderate, 47 percent. This means that they fail to disclose information as readily as Russia's private companies of the same level do (52 percent) and considerably worse than their overseas counterparts (63 percent).

However, this is not a bad result for a country where norms of corporate governance were only introduced recently and the Code of Corporate Conduct appeared only a few years ago. It is not surprising that the transparency of state companies is lower than that of private firms; this is a common trend not only in Russia. The average level of transparency of state companies overseas is 63 percent. Besides, companies usually start worrying about transparency when they decide to float on the stock market to raise additional funds. The higher the standards of corporate governance, the better a company's reputation and the more money it can hope to get by placing shares on the exchange. State companies' dependence on exchange loans is lower, and hence transparency is not crucial to them.

According to S&P, the results of its survey confirm that information transparency of state companies in Russia is kept back by the government's and individual state officials' use of their influence on such companies for political or private reasons, which are seldom motivated commercially and do not correspond to the interests of investors.

On Sept. 21, 2005, Standard & Poor's Governance Services published the results of the 2005 Transparency and Disclosure Survey of 67 Russian companies. Overall, Standard & Poor's index of transparency among the largest Russian companies has increased to 50 percent, from 46 percent in 2004, 40 percent in 2003, and 34 percent in 2002.

The average level is improving," said Julia Kochetygova, Director of Governance Services at Standard & Poor's. "However, we note that the improvement was due mainly to progress among companies with previously poor absolute levels of disclosure", reported RIA Novosti news agency. "Further significant improvement in overall transparency will hinge on the will of politicians, regulators, and directors of large state-controlled firms to raise their transparency and lead by example," added Ms. Kochetygova.

Overall, 36 companies have improved their results in 2005 compared with 2004, with an average improvement of nine percentage points. The most transparent companies, as usual, are in telecoms.

At the same time, the range of T&D scores (the gap between top performers and the bottom of the list) narrowed by 18 percentage points. A total of 10 companies have decreased their standards of disclosure, with an average decrease of four percentage points. Also, the share of disclosed large private stakes in the aggregate market capitalization of largest companies has decreased slightly on 2004.

The number of companies that have disclosed information about material events through news wires grew by almost 50 percent to more than 7,300 in 2005, reported Interfax news agency on January 10, 2006. There were about 48,000 statements in the system in 2005, about 25 percent more than in the previous year. Companies that manage mutual investment funds joined the disclosure system for the first time in September and now more than 30 of them regularly publish their statements on Interfax's disclosure site at www.e-disclosure.ru.

"Most companies joined the disclosure system in 2005 because of new requirements from the Federal Financial Markets Service (FFMS) for issuers," said Dmitry Olenkov, deputy general director of the Interfax Corporate News Agency (Interfax-CNA). "At the same time, the quality of disclosure also grew, from the point of view of timeliness and complete information that presents that information stock market participants need," he said.

References:

Standard & Poor's Russian-language website:
<http://www.standardandpoors.ru>;
Interfax's disclosure site at www.e-disclosure.ru.

100: Publicly traded companies always disclose financial data, which is generally accurate and up to date.

75:

50: Publicly traded companies disclose financial data, but it is flawed. Some companies may misstate financial data, or file the information behind schedule.

25:

0: Financial data is not available, or is consistently superficial or otherwise of no value to investors.

61c. In practice, the financial records of publicly listed companies are audited according to international accounting standards.

100 | 75 | 50 | 25 | 0

Comments:

There have been considerable efforts recently to make reports according to IAS mandatory. However, the deadline has repeatedly been changed. Only companies listed abroad publish reports according to IAS (and sometimes GAAP). Most companies still publish only according to Russian Accounting Standards. It is expected that Russia will finally adopt international accounting standards by 2008.

In August 2005, Ministry of Finance of Russia has released a paper on comparative analysis of IAS and Russian Accounting Standards. In April 2006, Second National Congress on accounting in Russia took place in Moscow.

References:

According to Vedomosti daily (Moscow), by June 2006, only 16 percent of Russian companies introduced IAS to their accounting system, compared to 11 percent in 2004 (for information, see <http://www.klerk.ru/news/?51679>);

<http://www.klerk.ru/news/?29900>;

A discussion on pros and contras of national and international accounting standards, as well as recent legal development in this field:

<http://www.klerk.ru/articles/?47006>.

100: Financial records of all public companies are regularly audited by a trained third party auditor using accepted international standards.

75:

50: Financial records of public companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

25:

0: Publicly traded companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

61d. In practice, citizens can access the records of disciplinary decisions imposed by the government on publicly-listed companies.

100 | 75 | 50 | 25 | 0

Comments:

Such records are available, especially if disciplinary decisions were imposed by courts, General Prosecutor's Office or related state agencies.

References:

Example of such decisions:

http://ias.gov.ru/news/n_6087.shtml?print

100: These records are freely available to all citizens through a formal official process.

75:

50: These records are available to all citizens, with some exceptions.

25:

0: These records are generally not available through official processes.

61e. In practice, citizens can access the financial records of publicly listed companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

On January 26, 2006, Alexander Bakaev, the head of department on accounting of the Ministry of Finance of Russia, said the new draft law "On official accounting" that would be passed later this year, would make public information on all commercial enterprises, for a reasonable fee (such information accumulates at statistics bodies and is available per request).

References:

Legal Information Center Pravovest (Moscow):

<http://www.pravovest.ru/ComingSoon/877/>

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

61f. In practice, citizens can access the financial records of publicly listed companies at a reasonable cost.

Comments:

Sometimes the records can be expensive to access. There is a special website specializing in providing information on 107,000 plus Russian stock companies. This information is available for free.

References:

<http://www.rao-ees.ru/ru/investor/finans/show.cgi?society.htm>;
http://www.efko.ru/documents/report_2005.rtf;
<http://www.e-staff.ru/db/emitent/discl.html>

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

78
V-5. Business Licensing and Regulation

62. Are business licenses available to all citizens?

75

62a. In law, anyone may apply for a business license.

YES | NO

References:

Federal law on Licensing Separate Kinds of Activity, adopted on February 13, 2002:
<http://www.cliff.ru/documents/fzlicens.html>;

Additional legislation on licensing:

<http://protos-consulting.ru/zakon/> and here: <http://licence.rk-audit.ru/licence-laws.html>.

YES: A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

NO: A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required.

62b. In law, a complaint mechanism exists if a business license request is denied.

YES | NO

Comments:

In case a person is denied a license, s/he may appeal the decision of the licensing body.

References:

Federal law On Licensing Separate Kinds of Activity" adopted on February 13, 2002, Art. 9, Par.4

YES: A YES score is earned if there is a formal process for appealing a rejected license.

NO: A NO score is earned if no such mechanism exists.

62c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Licenses can be obtained within 60 days, although a bribe usually speeds up the process.

References:

In 2001-2005, Center for Economic and Financial Research (CEFIR), an independent Moscow-based think tank, in collaboration with the World Bank and financial support of USAID, conducted a project on monitoring administrative barriers to small business development in Russia:

<http://www.cefir.ru/index.php?!=eng&id=32>;

An interesting picture of local administration's efforts in simplifying licensing procedures and local private sector response to these efforts:

<http://www.rg.ru/2006/04/04/biznesmeny-okno.html>.

100: Licenses are not required, or licenses can be obtained within roughly one week.

75:

50: Licensing is required and takes around one month. Some groups may be delayed up to a three months.

25:

0: Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

62d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

The official licensing fee is RUB1,300 (US\$49) but in order to obtain a license a businessman is required to submit many papers. Therefore, unofficial payments (i.e.bribery) that inevitably accompany this process hikes up the price significantly. On the other hand, there are hundreds of organizations assisting in obtaining a license. They work closely with licensing bodies (quite often in the same building) and ask from US\$300 to US\$6,000 for a full package.

References:

In 2001-2005, Center for Economic and Financial Research (CEFIR), an independent Moscow-based think tank, in collaboration with the World Bank and financial support of USAID, conducted a project on monitoring administrative barriers to small business development in Russia. Experts argue that licenses are still difficult and costly to obtain.

<http://www.cefir.ru/index.php?!=eng&id=32>;

100: Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

63. Do businesses receive equitable regulatory treatment from the government?

13

63a. In law, basic business regulatory requirements for meeting health, safety, and environmental standards are transparent and publicly available.

YES | **NO**

Comments:

No, business regulatory requirements are notorious for complexity, opacity and inconsistency.

According to the law, state bodies are required to make information on all standards public, primarily via their websites (for example, Decree of the Russian Government #594, issued on September 25, 2003). One of the key players in this field, Federal Agency on Technical Regulation and Metrology (former Gosstandart), www.gost.ru, was required to provide information on all state standards on domestically produced and imported to Russia production on its website. Instead, the agency placed links to online stores of two organizations that sell the standards for much more than a reasonable fee.

In 2005, The Institute for Information Freedom Development (St. Petersburg), filed a case against the agency for not providing publicly important information. The court ruled in February 2006 that Federal Agency on Technical Regulation and Metrology has to upload this information to its website. The Agency lost the appeal in June 2006. However, in September 2006, the court decision was still not executed.

References:

[http://www.svobodainfo.org/info/page?tid=633200005&nd=458202326;](http://www.svobodainfo.org/info/page?tid=633200005&nd=458202326)

[http://www.gost.ru/wps/portal/pages.OrderOfStandarts?
WCM_GLOBAL_CONTEXT=/wps/wcm/connect/%D0%93%D0%9E%D0%A1%D0%A2%D0%90%D0%BA%D1%82%D0%B8%D0%B2/%D0%97%D0%B](http://www.gost.ru/wps/portal/pages.OrderOfStandarts?WCM_GLOBAL_CONTEXT=/wps/wcm/connect/%D0%93%D0%9E%D0%A1%D0%A2%D0%90%D0%BA%D1%82%D0%B8%D0%B2/%D0%97%D0%B)

YES: A YES score is earned if basic regulatory requirements for meeting health, safety, and environmental standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

63b. In practice, business inspections by the government are carried out in a uniform and even-handed manner.

100 | 75 | 50 | **25** | 0

Comments:

On the contrary, business inspections belong to one of the most lucrative occupations among public officials and one of the most corrupt sectors of civil service, according to businesspersons. Quite often, business enterprises hire a special person to deal with various inspectors and spend a significant amount of money on bribes.

The government recognizes the problems and tries to deal with it. On August 12, 2005, Nikolay Gulko has published an article called "Police Shooed off Cash Registers" in Kommersant daily (Moscow). The following is a digest of the article:



On May 24, 2006, Economic Development and Trade Minister German Gref told a Cabinet meeting that the country's small businesses were suffocated by pressure from underpaid, bribe-hungry police, the Moscow Times daily reported on May 25, 2006. Prime-Minister Fradkov demanded that the related agencies deal with this situation but it's hard to see how this problem can be fixed without changing the whole administrative system.

References:

In 2001-2005, Center for Economic and Financial Research (CEFIR), an independent Moscow-based think tank, in collaboration with the World Bank and financial support of USAID, conducted a project on monitoring administrative barriers to small business development in Russia. There is a lot data on inspections and how they affect Russian private sector. <http://www.cefir.ru/index.php?l=eng&id=32>:

100: Business inspections by the government (i.e. health, safety, or environmental inspections) are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government (i.e. health, safety, or environmental inspections) are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections (i.e. health, safety, or environmental inspections) are routinely carried out by the government in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

Category VI. Anti-Corruption and Rule of Law

VI-1. ⁷⁰ Anti-Corruption Law

64. Is there legislation criminalizing corruption?

78

64a. In law, attempted corruption is illegal.

YES | **NO**

Comments:

Ch. 30 of the Criminal Code of Russia comprises 11 articles that cover 25 elements of crime. The Criminal Code does not define corruption; abuse of office, bribery and graft are the illegal activities Russian legislation uses. Within the last decade, there were a few unsuccessful attempts to define corruption in draft anti-corruption laws. However, this concept is widely used even by lawyers. Recently Russia ratified UN and Council of Europe anti-corruption declarations so there is a chance "corruption" finally will be introduced to national legislation.

References:

<http://www.legislature.ru/monitor/korrupsiya/ekspfund.html>; <http://www.firmsale.ru/news/1372.html?ID=1372&print=Y>;

<http://www.garant.ru/main/10008000-030.htm#2030>

YES: A YES score is earned if corruption laws include attempted acts.

NO: A NO score is earned if this is not illegal.

64b. In law, extortion is illegal.

YES | NO

Comments:

Yes, extortion is illegal.

References:

Criminal Code of Russian Federation, Art. 163

YES: A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

NO: A NO score is earned if this is not illegal.

64c. In law, offering a bribe (i.e. active corruption) is illegal.

YES | NO

Comments:

Yes, offering a bribe is illegal.

References:

Criminal Code of Russian Federation, Art. 291

YES: A YES score is earned if offering a bribe is illegal.

NO: A NO score is earned if this is not illegal.

64d. In law, receiving a bribe (i.e. passive corruption) is illegal.

YES | NO

Comments:

Yes, receiving a bribe is illegal.

References:

Criminal Code of Russian Federation, Art. 290

YES: A YES score is earned if receiving a bribe is illegal.

NO: A NO score is earned if this is not illegal.

64e. In law, bribing a foreign official is illegal.

YES | NO

Comments:

No, this illegal act is not recognized by the Russian legislation.

References:

Rashid Nurgaliev, Minister of Interior of Russia, in his presentation at State Duma on March 23, 2005:
<http://www.fontanka.ru/124892>

YES: A YES score is earned if bribing a foreign official is illegal.

NO: A NO score is earned if this is not illegal.

64f. In law, using public resources for private gain is illegal.

YES | NO

Comments:

Yes, it is illegal.

References:

Criminal Code of Russian Federation, Art. 285 and Art. 286

YES: A YES score is earned if using public resources for private gain is illegal.

NO: A NO score is earned if this is not illegal.

64g. In law, using confidential state information for private gain is illegal.

YES | NO

Comments:

Some types of confidential state information are protected by the Law on State Secrets, for example. If using confidential state information for private gain" refers to insider trading, only a related draft law was worked out by Federal Financial Markets Service in May 2006 and submitted to the related state bodies for review. But later, it was significantly changed. According to June 29 publication in Vedomosti daily (Moscow), Federal Financial Markets Service will not be able to monitor public officials any more (each ministry and Central Bank will do the monitoring themselves) but focus on the private sector only. Experts consider the new draft almost toothless.

However, government does try to prosecute corrupt officials that sell confidential information. On August 25, 2006, a senior government official was fired and two others admonished for leaking internal documents to outsiders (Viktor Ilyukhin, a member of the State Duma's Security Committee, said it had become common for officials at every level of government to pass along internal or even classified documents to outside sources willing to pay, reported the Moscow Times daily on September 5, 2006.)

References:

Criminal Code of Russian Federation, Art. 285 and Art. 286;

<http://www.anticorr.ru/news/news0x90x414.html>:

<http://www.vedomosti.ru/newspaper/article.shtml?2006/06/29/108741>:

<http://www.vedomosti.ru/newspaper/article.shtml?2006/09/04/112022>

YES: A YES score is earned if using confidential state information for private gain is illegal.

NO: A NO score is earned if this is not illegal.

64h. In law, money laundering is illegal.

YES | NO

Comments:

Yes, money laundering is illegal.

References:

Federal Law on Money Laundering, adopted in July 2001:
http://www.transparency.org.ru/CENTER/DOC/leg_profit5.doc

YES: A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

NO: A NO score is earned if this is not illegal.

64i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

YES | NO

Comments:

Yes, conspiracy to commit a crime is illegal.

References:

Criminal Code of Russian Federation, Art. 35

YES: A YES score is earned if organized crime is illegal.

NO: A NO score is earned if this is not illegal.

VI-2. Anti-Corruption Agency

65. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

100

65. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

YES | NO

Comments:

Almost all law enforcement and so called power structures" have special directorates that deal with corruption in their ranks. In summer 2006, Victor Chaika, new Prosecutor General, announced that a new anti-corruption department will be established at the General Prosecutor's Office. Simultaneously, Council of Federation (the Russian Senate) announced a new anti-corruption committee will be set by this body. In December 2003, President Putin by his Decree created a Council on the fight against corruption. There were no meetings of this Council since January 2004. However, even if this would be a uniform agency with a legal mandate to address corruption, its main task was to provide expertise to the President on the corruption issue, not to fight corruption.

The main agencies that do fight corruption on federal level are Federal Security Agency (FSB) and General Prosecutor's Office. The latter decided to make its anti-corruption efforts more formal and organized.

Russia's newly appointed chief prosecutor, Yury Chaika, on June 29 has set up a new department tasked with fighting corruption in the government and the country. "For the first time in the General Prosecutor's Office ... an independent section for oversight of legislation on state and municipal service has been formed, and will focus on combating corruption," the Prosecutor General's Office said in a statement, reported RIA Novosti news agency on June 29.

The other state bodies, including Ministry of Interior, focus in fighting corruption in its ranks.

References:

Dr. Andrei Chuklinov, expert on corruption at the Transparency International-Russia.

YES: A YES score is earned if an agency is specifically mandated to address corruption. A YES score is earned if there are several agencies or entities with specific roles in fighting corruption, including special prosecutorial entities.

NO: A NO score is earned if no agency (or group of agencies/entities) is specifically mandated to prevent or prosecute corruption.

66. Is the anti-corruption agency effective?

56

66a. In law, the agency (or agencies) is protected from political interference.

YES | NO

Comments:

In law, it is as independent as all other state bodies, i.e. it is protected from political interference. However, as all other state bodies, it is dependent on the President who appoints the head of Federal Security Service and recommends for appointment Prosecutor General whose candidacy is approved by Council of Federation.

References:

Federal Law on Federal Security Service Bodies:
<http://www.fsb.ru/under/fsb.html>;

Statute of the Federal Security Service:
<http://www.fsb.ru/under/pologen.html>;

Constitution of Russia, Art. 129,
<http://genproc.gov.ru/ru/about/basis/>

YES: A YES score is earned only if the agency (or agencies) has some formal organizational or operational independence from the government. A YES score is earned even if the agency/agencies is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

66b. In practice, the agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

All these agencies are subject to direct political interference, primarily of the Administration of the President and are often used to apply anti-corruption as a tool against political rivals. Experts argue that May 2006 anti-corruption campaign that targeted police, security and customs officials was initiated in order to take Federal Customs Agencies away from Economic Development and Trade Minister Gref.

Putin called on the Cabinet to end graft at the customs service, which generates 40 percent of the federal budget revenue, during an April meeting in the Kremlin. On May 12, he put Prime-Minister Fradkov in charge of the Customs Service, which had been under the control of the Economy Ministry.

"When will we end this practice where we have the customs authorities and business organizations living happily in each other's pockets at most of our border crossings?' Putin said in a televised Cabinet meeting April 10. Private businesses "practically own the checkpoints,' while losses from the service "are huge,' the president said at the April 10 meeting.

The FSB and prosecutors have opened 20 criminal probes into corruption at the Economy Ministry and Customs Service, state-owned station NTV reported.

The following is an excerpt from May 12, 2006 article called "Putin Fires Top Officials Amid Anti-Corruption Drive", by Todd Prince and Bradley Cook, released by Bloomberg news service.

◇

Russia holds parliamentary elections in 2007 and presidential elections in 2008. Putin, who said he will step down after completing his second-term, is expected to choose a successor.

The customs service sent RUB232.1 billion (US\$8.8 billion) in April to the federal budget and RUB836.9 billion (US\$31.7 billion) in the first four months of this year. Last year, customs collected about RUB2 trillion (US\$76 billion), an all-time record.

"This is one of the most profitable government structures,' said Alexei Makarkin, an analyst at the Center for Political Technologies in Moscow."

References:

What Is Behind the Operation Customs",
Andrey Reut, Viktoriya Sokolova, Aleksandr Andryukhin, Mariya Rogacheva, and Aleksandr Stepanov,
Izvestia daily (Moscow),
May 16, 2006

100: This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

75:

50: This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

66c. In practice, the head of the agency (or agencies) is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

President Putin is known for sacking his Cabinet and individual members of his Government with no relevant justification. In June 2006, he relieved Vladimir Ustinov, the former Prosecutor General, from his duties and made him Minister of Justice a week later. The former Minister of Interior, Yuri Chaika, became Prosecutor General. Experts still argue about the real reason for this move. No reason were offered by any party. Some experts argue it happened because Ustinov and his deputies, including Chief Military Prosecutor, became too independent in their probes, and that Defense Minister Sergey Ivanov, another potential successor", asked President Putin to stop Ustinov. Therefore, no high-ranking official is free from removal without relevant justification in future.

References:

For a review of discussion around Ustinov's resignation:
http://www.sptimes.ru/index.php?action_id=2&story_id=17945.

100: The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director(s) can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director(s) can be removed at the will of political leadership.

66d. In practice, appointments to the agency (or agencies) are based on professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

As both Federal Security Agency and General Prosecutor's Office are very politics-centered and politics-dependent state bodies, all major appointments are approved at the Administration of the President and based on political and personal rather than professional criteria.

References:

Dr. Andrei Chuklinov, expert on corruption at the Transparency International-Russia

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

66e. In practice, the agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Yes, the main body of both state agencies is staffed with professional, full-time personnel.

References:

Dr. Andrei Chuklinov, expert on corruption at the Transparency International-Russia

100: The agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

0: The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

66f. In practice, the agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Yes, both FSB and General Prosecutor's Office enjoy lavish funding.

References:

Dr. Andrei Chuklinov, expert on corruption at the Transparency International-Russia

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

66g. In practice, the agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

According to the law, both FSB and General Prosecutor's Office are accountable to the President who is their main evaluator, and the Government. They do make regular public presentations and briefing but how full and timely such reports are, depends on their leadership and the Administration of the President. Neither of the agencies is truly accountable and transparent.

References:

Dr. Andrei Chuklinov, expert on corruption at the Transparency International-Russia

100: The agency (or agencies) makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

66h. In practice, the agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | 25 | 0

Comments:

On paper, they have all authority, funding and staff to execute full-fledged anti-corruption strategy. But judging by level of corruption in Russia, this is not happening in practice. What they really lack is political will.

References:

Dr. Andrei Chuklinov, expert on corruption at the Transparency International-Russia

100: The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

75:

50: The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

25:

0: The agency (or agencies) lacks significant powers which limit its effectiveness.

66i. In practice, when necessary, the agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

Yes, they both have such powers by law, but their decisions are often affected by politics, such as a YUKOS case.

References:

Dr. Andrei Chuklinov, expert on corruption at the Transparency International-Russia

100: When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

75:

50: The agency (or agencies) starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency (or agencies) may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency (or agencies) does not effectively investigate or does not cooperate with other investigative agencies. The agency (or agencies) may start investigations but not complete them, or may fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

67. Can citizens access the anti-corruption agency?

50

67a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Anti-corruption activity of FSB and General Prosecutor's Office, as well as any other Russian law enforcement agency, is very selective. In particular, the public officials who are out of favor may be caught accepting a bribe and exposed to the public. An official or an agency that is in political favor may get away with wrongdoings. As a matter of fact, years ago a Moscow district court stated that Nicolai Patrushev, current Director of FSB, abused his position by asking his subordinates to assist his friend in debt repayment but no disciplinary actions were taken against Patrushev. The whistle-blower (Colonel Mikhail Trepashkin), however, ended up in jail for refusing to follow Patrushev's orders and making them public.

A very good example is Tri Kita case, a high-profile investigation into the suspected smuggling of at least 400 tons of furniture and other goods into the country in 2000, revived in 2006.

An example of a prosecution of a political rival is covered in an article called "Prosecutors investigating Kasyanov" by Oksana Yablokova and Carl Schreck, published at The Moscow Times daily on 12 July 2005. In early July, the Prosecutor General's Office said that it was investigating whether former Prime Minister Mikhail Kasyanov broke the law when he obtained a government-owned cottage shortly before being fired as prime minister in early 2004. Prosecutors said they opened a criminal investigation into possible charges of fraud and abuse of office in response to a complaint from Alexander Khinshtein, a State Duma deputy and muckraking reporter. Political analysts said the case appeared to be a Kremlin-orchestrated attempt to derail Kasyanov's possible presidential ambitions by tainting him with allegations of corruption.

References:

Dr. Andrei Chuklinov, expert on corruption at the Transparency International-Russia;

<http://www.kolokol.ru/pz/trepashkin/48176.html> and here <http://law.edu.ru/centers/eurocourt/message.asp?mID=1907>;

http://www.sptimes.ru/index.php?action_id=2&story_id=18047;
[http://www.sptimes.ru/index.php?action_id=2&story_id=17945\);](http://www.sptimes.ru/index.php?action_id=2&story_id=17945;)

On current anti-corruption activity of FSB and General Prosecutor's Office in South Russia:

<http://www.firmsale.ru/news/1372.html?ID=1372&print=Y;>
<http://news.vdv-s.ru/cgi-bin/index.pl?id=205&news=306;>
http://www.u-f.ru/ru/Hots/Flame/ID_2495;

Prosecutor General in July 2006 has set up a special department specializing in complaints:

[http://genproc.gov.ru/ru/application/;](http://genproc.gov.ru/ru/application/)

On General Prosecutor's Office activity in this field:

<http://www.rg.ru/2006/07/27/genprokuratura.html>

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

67b. In practice, citizens can complain to the agency (or agencies) without fear of recrimination.

100 | 75 | 50 | 25 | 0

Comments:

Citizens that complained to FSB and General Prosecutor's Office on extortion revealed most of the corrupt crimes committed by public officials. However, even these agencies are affected by corruption, and it is hard to say how many businesspersons prefer to pay a bribe rather than apply for law-enforcement protection.

References:

Dr. Andrei Chuklinov, expert on corruption at the Transparency International-Russia

100: Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

75:

50: Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

68a. In law, there is a general right of appeal.

YES | NO

Comments:

Yes, in law, there is a general right of appeal.

References:

Constitution of Russia, Art. 50;

Criminal Procedure Code of Russian Federation, 2002, Chs. 43, 44;

For a 2004 Constitution Court ruling on the right of appeal:

<http://www.hro.org/editions/const/2004/06/04.php>.

YES: A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

NO: A NO score is earned if there is no such process.

68b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

In law (Art. 363 of Criminal Procedure Code of Russian Federation), appeals should be reviewed no later than two weeks after they were submitted. In practice, court sessions are often delayed due to a sick judge or a failure to appear of some other key person.

References:

Dr. Vasily A. Vlasihin, legal expert (Moscow).

100: Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

25:

0: Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

68c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

This is true, unless most famous lawyers are hired.

References:

Dr. Vasily A. Vlasihin, legal expert (Moscow)

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments.

25:

0: The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments.

69. In practice, do judgments in the criminal system follow written law?

50

69. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

Comments:

No, this is one of the most common complaints: arbitrariness of judges. Vyacheslav Lebedev, the Chairman of the Russian Supreme Court, admitted that 60 judges were sacked for bribery last year, reported RIA Novosti news agency on October 24, 2005. But the real scale of corruption in courts is much bigger. After questioning 1,600 respondents in 128 populated areas in October, the Levada Center reported that only 1 percent of those surveyed feel protected against the arbitrary actions of the police, courts and prosecutors, reported Interfax news agency on November 2, 2005.

On August 1, 2005, the Supreme Court of Russia sentenced three former federal judges to prison terms of 11 to 14 years for expropriating 71 Moscow apartments in the late 1990s. The Supreme Court found the three guilty of fraud, being members of a criminal gang and of abusing their positions by stealing the apartments of owners who had died but left no will or legal instructions for transferring their property to relatives. The court found that the judges had illegally authorized the transfer of at least 71 apartments, worth \$2.5 million, to associates. Prosecutors had said that the three stole more than 100 apartments, worth more than \$5 million.

References:

Dr. Vasili A. Vlasikhin, expert of Russian Foundation of Legal Reforms (Moscow);

Three Ex-Judges Handed Lengthy Sentences",
Oksana Yablokova,
The Moscow Times daily,
August 2, 2005

100: Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

75:

50: Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

25:

0: Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

70. In practice, are judicial decisions enforced by the state?

50

70. In practice, are judicial decisions enforced by the state?

Comments:

It often depends on who the defendant is. State bodies are notorious for delaying court decisions. Tax service sometimes takes years in following court decisions. Court marshals were repeatedly accused of sluggishness and corruption.

On March 20, 2006 President Putin met with then Minister of Justice Yuri Chaika who admitted that Federal Service of Court Marshals is affected by corruption. The head of the service, Nikolai Vinnichenko, admitted this fact but rejected accusations that Russia is number one in the amount complaints submitted to the Strasburg European Court on Human Rights. He claims it has nothing to do with his service and pointed a finger at courts and Ministry of Finance. According to Vinnichenko, in 2005 25 court marshals were prosecuted for various violations of the law, including corruption.

On regional level, this problem was also admitted and discussed. On July 27, 2006, Arthur Parfenchikov, the head of St.Petersburg City Marshal Service, said that by July 1 the Service has 240,000 cases in line to be executed, and half of them since 2005. He said that in fact only 30,000 cases or 36,5 percent were duly processed while the Federal Service of Court Marshals set a 57 percent level, reported Kommersant daily (Moscow). Asked what he plans to do with corrupt marshals, he said a new internal investigation service will be established.

Veniamin Yakovlev, an advisor to President Putin and the former Chairman of the Supreme Arbitration Court of Russia, said in June 2006 at an international conference at European Court of Human Rights that in 2005, 10,500 complaints from Russia reached the Court — that amounts to 23 percent of all complaints it received. It is also 40 percent more complaints than Russia produced in 2004 (<http://www.regnum.ru/news/665470.html>). Mr Vinnichenko said his service can not enforce the law because of a lack of funds and personnel.

References:

Dr. Vasilij A. Vlasihin, legal expert (Moscow)

See also:

<http://www.buhsmi.ru/sources/klerk/7314/>
http://www.espch.ru/component/option.com_frontpage/Itemid,1/
http://www.mediocratia.ru/owa/mc/mc_region_time.html?a_id=11470

100: Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

75:

50: Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

25:

0: Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

71. Is the judiciary able to act independently?

63

71a. In law, the independence of the judiciary is guaranteed.

YES | NO

Comments:

Yes, the law guarantees this.

References:

Constitution of Russia, Art. 120

YES: A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence include financial issues (drafting, allocation and managing the budget of the courts).

NO: A NO score is earned if there are no formal rules establishing an independent judiciary.

71b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

Political interference is a norm. The judges take bribes and bend to higher court opinion. Quite often, selection on judges is built the way to chose not the best but the most loyal, those who have some flaws: it is easier to control them.

References:

Tomara Morshakova, ex Deputy Chief Justice of Russia:
<http://www.advokatrus.ru/doc/834/print?PHPSESSID=649c7a30aae7922ec45ed1994fe8e89c>;

Judicial System Will Get an Anti-corruption Reform",
Michael Fishman and Olga Pleshanova,
Kommersant daily (Moscow),
February 28, 2006;

An example of how judges are selected:
<http://2006.novayagazeta.ru/nomer/2006/67n/n67n-s19.shtml>.

100: National level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

75:

50: National level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

25:

0: National level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

71c. In law, there is a transparent and objective system for distributing cases to national-level judges.

YES | NO

Comments:

No, the cases are distributed by a chairman according to subjective criteria.

Vyacheslav Lebedev, the Chairman of Supreme Court of Russia, said at the VI National Judicial Congress in December 2004 that it is necessary to introduce an automatic system for distributing criminal cases to judges based on random sample method. Now we have a problem with arbitrary distribution of cases that is one of the most serious sources of corruption." He said a draft law on a maximum workload for judges would be introduced to the State Duma. Almost two years later, nothing changed, and no draft law was discussed.

References:

http://www.allrus.info/main.php?ID=215045&rat_doc=1;

Legal commentary to this situation:
<http://kalinovsky-k.narod.ru/p/komm-227.htm>;

An attempt to legalize such system in Supreme Arbitral Court of Russia:
<http://jurqa.h12.ru/all.docs/a/s/lfaxz5of.html>.

YES: A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

NO: A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

71d. In law, national-level judges are protected from removal without relevant justification.

YES | NO

Comments:

Yes, in law, high court judges are protected from removal without relevant justification.

References:

Constitution of Russia, Art. 121

YES: A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

NO: A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

72. Are judges safe when adjudicating corruption cases?

100

72a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

YES | NO

Comments:

Yes, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

References:

Dr. Vasily A. Vlasihin, legal expert (Moscow)

YES: A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period.

NO: A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

72b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

YES | NO

Comments:

Yes, in the last year, no judges have been killed because of adjudicating corruption cases.

References:

Dr. Vasily A. Vlasihin, legal expert (Moscow)

YES: A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period.

NO: A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge's involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

73. Do citizens have equal access to the justice system?

75

73a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

Comments:

No judge admitted in public that his or her decision was affected by racial or ethnic bias, but the extent to which this prejudice has impact over Russian society, including politicians and law enforcement agents, makes suspect that some ruling, especially against illegal migrants, were affected by such bias.

References:

Henry Reznik, Chairman of the Moscow Bar Association and a member of Public Chamber of Russia:
<http://www.nazlobu.ru/opinions/print582.htm>

100: Judicial decisions are not affected by racial or ethnic bias.

75:

50: Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

25:

0: Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

73b. In practice, women have full access to the judicial system.

100 | 75 | 50 | 25 | 0

Comments:

This is true.

References:

Dr. Vasilii A. Vlasihin, legal expert (Moscow)

100: Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system.

75:

50: Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes.

25:

0: Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence.

73c. In practice, the state provides legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | 50 | 25 | 0

Comments:

Quite often, the police torture and beat into confession people who are accused of petty and not so petty crimes. These criminals are largely undereducated, poor, and do not know their rights. Legal counselors often complain that they are not allowed to visit their clients right after they are apprehended; free legal counsel provided by the state is not sufficient, due to the shortage of available lawyers who sometimes do not have time to defend their clients properly. Therefore, in practice, this condition functions arbitrarily.

References:

Dr. Vasily A. Vlasihin, legal expert (Moscow)

100: State-provided legal aid is basic, but well trained and effective in representing the rights of indigent defendants.

75:

50: State-provided legal aid is available, but flawed. Legal aid may be unavailable to some indigent defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

25:

0: State-provided legal aid is unavailable to most indigent defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

73d. In practice, citizens earning the median yearly income can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

Comments:

Yes, in practice, citizens earning the median yearly income can almost always afford to bring a legal suit.

References:

Constitution of Russia, Art. 46.

100: In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance.

75:

50: In some cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. In other cases, the cost is prohibitive.

25:

0: The cost of engaging the legal system prevents middle class citizens from filing suits.

73e. In practice, a typical small retail business can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

Comments:

Yes, in practice, a typical small business can afford to bring a legal suit.

References:

Dr. Vasilii A. Vlasihin, legal expert (Moscow)

100: In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance.

75:

50: In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive.

25:

0: The cost of engaging the legal system prevents small businesses from filing suits.

73f. In practice, all citizens have access to a court of law, regardless of geographic location.

100 | 75 | 50 | 25 | 0

Comments:

Yes, in practice, all citizens often have access to a court of law, regardless of geographic location, but in geographically remote areas such access is of course strained and complicated.

References:

Dr. Vasilii A. Vlasihin, legal expert (Moscow)

100: Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

75:

50: Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

25:

0: Courts are unavailable to some regions without significant travel on the part of citizens.

VI-4. Law Enforcement

74. Is the law enforcement agency (i.e. the police) effective?

58

74a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

In general, appointments to the law-enforcement agency have to be made according to professional criteria. However, professionalism in law-enforcement agencies is extremely low. Most rank-and-file officers lack due education and are deprived of sufficient legal knowledge. One of the senior Ministry of Interior officials said (referring to hiring of low-level police officers) they were not choosing out of many but picking up what was left."

In July 2005, Yuri Levada's Polling Center has done an opinion poll. The respondents were asked to list the occupations they regarded as the most lucrative, prestigious, criminalized, or dangerous. Law is the most prestigious occupation, judging by what the poll found: 29 percent of respondents called the professions of lawyer, notary, prosecutor, judge the most prestigious;

20 percent of respondents described the same occupations as the most lucrative. As far as they are concerned, only bankers are wealthier than representatives of these occupations. (Banking was mentioned by 24 percent of respondents.) Being an ordinary police officer or a traffic officer isn't prestigious at all. They were mentioned by less than 3 percent of respondents. In the meantime, these occupations are associated with crime and regarded as the most criminal, according to 38 percent of respondents.

In October 2005, within the framework of the index of human rights abuses by law enforcement of the Public Verdict Foundation, the Levada Center reported that only 1 percent of those surveyed feel protected against the arbitrary actions of the police, courts and prosecutors.

According to the Global Corruption Barometer 2005 survey, released on December 9, 2005, the Russian police force received 4.2 points out of a possible 5 for corruption.

References:

Dr. Vasily A. Vlasihin, legal expert (Moscow)

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

74b. In practice, the agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

Comments:

Yes, the Ministry of Interior, as well as other law-enforcement agencies has sufficient funding.

In the nearest future, the police will get a 70 percent raise of the wages, announced Rashid Nurgaliev, the Minister of Interior, reported RIA Novosti news agency on April 26, 2006.

At a meeting in Tomsk with local police stations officers, he informed that besides this raise, the funds are allocated for technical equipping of local police stations. According to Nurgaliev, forensic experts soon will receive all necessary tools, police officers communication equipment, and police stations computer hardware.

References:

Dr. Vasily A. Vlasihin, legal expert (Moscow)

100: The agency (or agencies) has a budget sufficient to fulfill its basic mandate.

75:

50: The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

25:

0: The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency's ability to fulfill its mandate.

74c. In practice, the agency is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the agency is rarely protected from political interference. The Minister of Interior is personally selected by the President, and he reports directly to him.

References:

Dr. Vasily A. Vlasihin, legal expert (Moscow)

100: The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

75:

50: The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

75. Can law enforcement officials be held accountable for their actions?

75

75a. In law, there is an independent mechanism for citizens to complain about police action.

YES | NO

Comments:

Yes, there is an independent mechanism for citizens to complain about police action: citizens can address their complaints to Prosecutor General's Office (<http://genproc.gov.ru/ru/application/>), Federal Security Service (<http://www.fsb.ru/contact/contact.html>) and Department of Internal Security of Ministry of Interior (<http://www.mvdinform.ru/struct/3307/>).

References:

Researcher's human rights non-profit organization (Russia) provides both assistance in composing a complaint and information on contact phone numbers of related state bodies (<http://www.moepravo.com/militia.html>).

YES: A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions.

NO: A NO score is earned if there is no such mechanism.

75b. In practice, the independent reporting mechanism responds to citizen's complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The new law on citizen's complaints entered into force only recently, and has yet to be enforced. However, according to general practice of supervising bodies, they are not eager to press charges against law-enforcement agencies, and if they do it, they are often motivated by political reasons.

As early as in October 2004, Vladimir Lukin, the Russian Ombudsman, and Rashid Nurgaliev, the Minister of Interior of Russia, signed an agreement on cooperation, reported Ri Novosti news agency on October 18, 2004. Mr. Lukin said then that every third complaint his agency receives deals with illegal activities of law enforcement agents.

There is some local data. Regnum news agency reported on December 27, 2005, that in 2005 over 400 complaints were received by phone hotline of Arkhangelsk city police department (North Russia). Over 15 percent of these phone calls refer to police

abuses. We have to keep in mind that people are cautious about complaining about bad cops” to the police, as they consider police in general a hostile body.

However, the amount of these complaints is not extremely impressive. Yuri Draguntsev, the head on Internal Security Department of Ministry of Interior, said on April 4, 2006, that 45,179 citizen’s complaints illegal activities of law enforcement agents were reviewed by his Department and its local offices, or 11,5 percent more than in 2004, reported Interfax news agency on April 6, 2006.

According to the law on citizen’s complaints, complaints are reviewed and responded to within a month. An additional month (but no more that that) is allowed if any additional efforts are required.

References:

Law on Citizen’s Complaints of Russian Federation, passed on may 2, 2005:
<http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=59999>;

<http://www.mvdinform.ru/priem/>.

100: The agency/entity responds to complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues are not investigated with any urgency.

75c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

YES | NO

Comments:

Yes, there is the Internal Security Service within Ministry of Interior of Russia. Besides, Prosecutor General’s Office and Federal Security Service both oversee Ministry of Interior activities.

References:

<http://www.mvdinform.ru/struct/3307/>

YES: A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity is separate from the regular police department.

NO: A NO score is earned if no such agency/entity exists.

75d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | 75 | 50 | 25 | 0

Comments:

The Prosecutor’s Office is quite active in revealing and prosecuting corrupt law enforcement agents, including so-called werewolves or turncoats in its own ranks – recently, two former Moscow prosecutors were sent to jail for four years for accepting a \$10,000 bribe (see: <http://www.vedomosti.ru/newsline/index.shtml?2006/11/27/348990>).

However, the General Prosecutor’s Office that recently established a special anti-corruption department and other internal security bodies of Russian law enforcement agencies are repeatedly accused of enforcing anti-corruption policy on a selective basis – either against low-level officials, or motivated for political reasons. On November 20, 2006, Prosecutor General Yuri Chaika has said that in 2006 Russian law enforcers have stopped the illegal operations of 12,500 corrupt officials. He said they registered more than 9,500 crimes related to corruption – giving and receiving bribes (see: <http://www.russianspy.org/2006/11/21/russia-registered-over-9500-cases-of-bribery-in-2006/>).

But even his subordinates admit that the revealed cases are the ones that are not difficult to prosecute and are of little significance (see: <http://pda.regnum.ru/news/656405.html>).

Some top-ranking public officials claim anti-corruption efforts are not so impressive and effective (see: <http://www.regnum.ru/news/736264.html>).

References:

See an interview with Major General Daguntsev, the head of Internal Security Service at <http://www.mvdinform.ru/struct/3307/4076/100060/>.

100: When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

75e. In law, law enforcement officials are not immune from criminal proceedings.

YES | NO

Comments:

Yes, law enforcement officials are not immune from prosecution.

References:

Federal Law on Militia, adopted on April 18, 1991

YES: A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

NO: A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

75f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | 50 | 25 | 0

Comments:

There has been a decrease of activity of the internal security departments of the MI after Mr. Romodanovsky, its former head, left his post, compared to the widely publicized case of the werewolves" in the summer of 2003, with a number of high ranking officials in the MI having been detained and indicted with organizing criminal groups and violating human rights. However, in early September 2006, they all were sentenced (see more here <http://www.lenta.ru/articles/2006/09/06/werewolf/>).

On May 12, 2006, Vladimir Putin fired a number of senior security officers from the Federal Security Service (FSB) and Prime Minister Mikhail Fradkov dismissed high-ranking officials from the Federal Customs Service as investigators opened a major probe into corruption, Ria Novosti news agency reported. Major General Ye.A. Kolesnikov was dismissed from his post and discharged from active service. He had been the first deputy head of the investigation directorate with the FSB's department for defending constitutional order and the fight against terrorism. Major General A.P. Plotnikov, who was a deputy head in the same department, was also sacked. Lieutenant General S.I. Fomenko, the deputy head of the service and the head of the agency overseeing the campaign against smuggling and drugs with the FSB's economic security service was also fired.

Following Putin's decision on May 11 to transfer the Federal Customs Service from the Economic Development and Trade Ministry to the government's direct control, Fradkov fired on May 12 two deputy heads, Yury Azarov and Leonid Lozbenko. Other terminations included those of Mikhail Nikonov, first deputy prosecutor at the Moscow Prosecutor's Office, and six senior Interior Ministry officials.

Crime in the police force grew dramatically in 2005, with nearly 50 percent more crimes recorded and one-third more officers held responsible for crimes, Interfax cited the Interior Ministry's internal security department as saying on January 31, 2006. Recorded crimes by police officers rose by 46.8 percent year on year, and a total of 4,269 officers, including 630 senior officers, were held criminally responsible, the department said. Corruption and abuse of office were the most common crimes committed, the department said. Most of the officers convicted of corruption worked as patrolmen, or in passport and visa services, criminal investigation and the traffic police.

The statement also referred to the most high-profile case of police corruption revealed last year, of a ring that was found to be selling fake identification cards and passes, including for the Kremlin. Stamps with the forged signatures of President Vladimir Putin, Defense Minister Sergei Ivanov and Mayor Yury Luzhkov were seized, along with 200 fake ID cards, passes and car plates. Three officers were arrested in the case and more than 20 others will be held criminally responsible in the scam, the department said.

However, generally, it is small fish that are sacked; senior officials are let go quietly.

References:

Dr. Vasilii A. Vlasihin, legal expert (Moscow);

For details of May 12, 2006 dismissals:
What Is Behind the Operation Customs*,
Andrey Reut, Viktoriya Sokolova, Aleksandr Andryukhin, Mariya Rogacheva, and Aleksandr Stepanov,
Izvestia daily,
May 16, 2006.

See more about corrupt police officers here:

<http://www.regnum.ru/news/694999.html>;
<http://www.regnum.ru/news/689889.html>;
<http://www.regnum.ru/news/683781.html>;
<http://www.regnum.ru/news/681127.html>;
<http://www.regnum.ru/news/676880.html>;
<http://www.regnum.ru/news/663026.html>;
<http://www.regnum.ru/news/640880.html>;
<http://www.regnum.ru/news/636049.html>;
<http://www.regnum.ru/news/631917.html>.

Public Verdict Russian non-profit organization collects information on illegal activity of law enforcement agencies. It is available here: <http://www.publicverdict.org/ru/articles/police.html>.

100: Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

75:

50: Law enforcement is generally subject to criminal investigation but exceptions may exist where criminal actions are overlooked by the police or prosecutors. Some crimes may be exempt from prosecution, such as actions taken in the line of duty.

25:

0: Law enforcement enjoys a general protection from most criminal investigation. This may be due to a formal immunity or an informal understanding that the law enforcement community protects itself.
