

Overall Score:

64 - Weak

Legal Framework Score:

86 - Strong

Actual Implementation Score:

48 - Very Weak

Category I. Civil Society, Public Information and Media

I-1. ⁵⁹Civil 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:

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.

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.”

Despite the new regulations that make the life of NGOs harder, citizens still have a legal right to form civil society organizations.

References:

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.)

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.

An additional source, which offers a broader overview and more background information than the media sources quoted, would be: Russian Analytical Digest No. 3 (4 July 2006), special issue on the new NGO law <http://www.res.ethz.ch/analysis/rad/details.cfm?lng=en&id=19048>.

See more about it here: The Russian NGO Law: Potential Conflicts with International, National, and Foreign Legislation by Alison Kamhi, The International Journal of Not-for-Profit Law Volume 9, Issue 1, December 2006.

See also <http://www.vedomosti.ru/newspaper/article.shtml?2007/06/07/127123>

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.

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).

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?

50

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:

Formally all CSOs came 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.

The following is an overview with the situation of Russian civil society after new NGO law was passed and Russian civil society began living under new legislation. There is no specific information on anti-corruption NGOs in Russia and problems they encountered under the new legislation (that does not cover anti-corruption as a special field of non-profit activity, of course) so the general picture covers them, too.

NGOs

Some experts claim that the Russian government should use the US system of control over CSOs, pointing at Partnership Control System. Russian law enforcement agencies should also check NGOs for potential connection and contacts with terrorists and other individuals or structures that pose a threat to US national security. It is common knowledge that after all that the money initially allocated for humanitarian and education programs does end up in extremists' hands every now and then. Where Russia and Russian non-governmental organizations are concerned, most of the sums the United States provides for development of democracy go to Limonov's National Bolsheviks, radicals promoting violence against the regime and therefore banned. The Russian authorities knew what they were doing when they imposed certain restrictions on NGOs and foundations existing on foreign grants (Partnership Control" American-Style by Nikolai Smirnov, Nezavisimaya Gazeta, September 6, 2007)

NGO representatives say that up to three-quarters of over 200,000 officially registered noncommercial organizations could face closure. Jens Siegert, head of the Heinrich Boll Foundation's Moscow office said his organization, affiliated with the German Green Party, had to hire one extra staff member solely to cope with the workload.

Part of that workload came from a stipulation in the law that every single organization had to submit new accounting forms to the Federal Registration Service, a sprawling government body with roughly 40,000 employees that reports to the Justice Ministry.

Critics say that just doing everything necessary to comply itself amounts to punishment. In addition, foreign-run organizations must hand in quarterly financial reports and a plan of their activities for the coming year that includes the amount of money allotted for each project by Oct. 31. Authorities must be notified of any new program at least one month in advance and of any essential change of plans within 10 business days of the decision.

The law also requires all foreign NGOs to re-register their offices by Oct. 18. Dozens of NGOs, including some that had submitted their documents prior to the deadline, were not in the registry by Oct. 18 and had to suspend their activities in Russia for days or weeks until the registry reviewed their paperwork and officially re-registered them.

The recipients see the additional requirements as proof of what they believe is the regulation's real purpose — to rule out the possibility that foreign organizations could provoke public unrest in the way the Kremlin believes happened in Georgia and Ukraine.

Siegert suggested that the relatively low numbers of warnings issued was a sign that the authorities themselves were also overwhelmed by the workload.

The new regulations prevented small organizations in particular from focusing on their real activities, said Inara Gulpe-Laganovska, NGO liaison officer for Human Rights Watch in Russia. She also said the law contained disproportionate punishment for violations. "Only two types exist — suspension or liquidation," she said in her comments.

Aside from the burdens, critics say the law allows the authorities to engage in excessive interference.

"The worst thing is that the reporting makes NGOs vulnerable by giving registration officials an unprecedented level of discretion in deciding which projects comply with Russia's national interest," Gulpe-Laganovska said.

Human rights campaigners also point to the fact that authorities have arbitrarily targeted some organizations with seemingly ludicrous demands. The St. Petersburg-based NGO Citizens' Watch, for instance, has been asked to disclose the entirety of its written correspondence with anyone or any organization outside the office over a three-year period — including e-mails.

"The registration service came to us in July and showed us a screening warrant," the organization's chairman, Boris Pustintsev, said in a telephone interview. "They then suddenly demanded that we produce all outgoing correspondence from July 2004 to July 2007."

Pustintsev said he initially refused because he believed the request exceeded the agency's competence. After a board meeting, however, the NGO did grudgingly agree to comply "because otherwise the authorities could freeze our bank accounts," he said.

Other organizations have already been officially closed under dubious circumstances. The International Youth Human Rights Movement — a group that says it has 1,000 active members in Russia and abroad — learned in early August that it had been shut down by a court in Nizhny Novgorod.

"The ruling was made June 13, but we only heard about it by chance almost two months later," the movement's coordinator, Dmitry Makarov, said in a telephone interview.

The rationale behind the decision seems to stem from a basic bureaucratic mix-up.

"The court based its decision on our failure to submit accounting forms to the local branch of the registration service," Makarov said. Instead, he said, the documents had been filed to the Federal Registration Service in Moscow, as requested, because the organization had reorganized into an international group in 2004.

Bereft of its legal status, the movement is now filing a legal complaint against the ruling. Others are also trying to fight back. Agora, an interregional association of Russian human rights groups, said in a memorandum that it found 33 cases of unlawful actions from the service against NGOs from April 2006 to May 2007. Agora provided legal assistance to those concerned in 20 of them.

The cases demonstrated the service's "unfriendly bias against NGOs," excessive demands on their operations and, in some cases, an unwillingness to maintain constructive relations, the memorandum said.

Another consequence is that setting up an NGO has become a daunting task. A study prepared under the presidential human rights council found that the cost of legal procedures was 33 percent higher than setting up a business and requires more time.

"It takes a minimum of six to eight weeks to register an NGO, while registering a commercial company takes from seven to 10 days," said Anton Zolotov of the Institute of Civil Analysis, who co-authored the survey, preliminary versions of which were released earlier this year. (NGOs Buried by Mountain Of Paper by Nikolaus von Twickel, Moscow Times, August 24, 2007)

Only 36 per cent of 216,000 NGOs registered in Russia have reported to the Federal Registration Service the results of their work, Sergei Vasiliev, head of the Federal Registration Service, said at a briefing in Rossiiskaya Gazeta on September 11.

According to the law, which came into force in 2006, all the NGOs were to submit reports on their work by April 15, but less than 20 per cent of them submitted reports by that date. After that the deadline was moved to June 1, 2007 (28 per cent of NGOs submitted reports by that date), and later to September 1, by which date the reports were submitted by 36 per cent of NGOs, Vasiliev said. Some 64 percent NGOs just ignore the Russian legislation.

According to Vasiliev, there are several reasons why the NGOs fail to submit reports. First, many of the registered NGOs exist only on paper and actually do not work at all. Second, some NGOs are trying to conceal the results of their work, primarily the spending of money.

Vasiliev stressed that, according to the reports they received, financial resources from abroad, spent on NGOs work, amounted to 20 billion rubles. The NGOs, which failed to submit reports, received as much money from abroad, and it is not known in what way the money was spent. This is the problem to be tackled by the national security services, he said.

Aside from it, according to his information, the number of newly registered NGOs is growing. Some 32,000 NGOs were registered in the whole of 2006, while the figure for the first half of 2007 is 31,000. With all those figures, how can anyone raise the question of oppression? There is no oppression at all, Vasiliev stressed. (Only 36 percent of Russian NGOs reported working results , Itar-Tass news agency, September 11, 2007)

Experts of Voronezh Interregional Group of Right Defenders studied statistics of NGOs closed by court decision in 2007. In eight regions of Russia that were covered by the survey, over 600 NGOs were crossed out of the Unified State Register of Legal Entities, which actually meant nearly complete termination of their activities.

In 2001, all non-profit and public organizations of Russia were entered into the Unified State Register of Legal Entities. Once registered, they are to annually confirm they proceed with activities by April 15. But the NGO Act was toughened in 2006, and only 216,000 of roughly 500,000 registered NGOs proved able to meet the deadline this year. In the next move, territorial branches of Federal Registration Service set to filing the suits to exclude NGOs from that register. Nearly all their claims were sustained by courts.

In many cases, the experts concluded, the actions of Federal Registration Service could be viewed as crackdown on NGOs that were working but unwanted by local authorities.

The statistics for Russia haven't been compiled yet, said Lyudmila Alekseeva, chief of Moscow Helsinki Group, but it is clear already that a lot of public organizations are being dissolved in Russia under the current procedures. The amendments to NGO Act were targeted at destroying any unwanted organization, Alekseeva emphasized. (Over 600 NGOs Closed in Russia This Year, Kommersant daily, August 20, 2007)

The Agora Association monitors relations between noncommercial organizations and the Federal Registration Service. According to its figures, 80 percent of noncommercial organizations have not filed accounts for 2006, and even professional lawyers, who are in a minority among the activists of noncommercial organizations, cannot register an organization at the first attempt.

I do not think there is a frontal attack on noncommercial organizations, it is more likely that the objective was to substantially "update the pool" — to raise the threshold for activity by noncommercial organizations, and to such a high level that 70 percent-80 percent of organizations would be unable to cross that threshold. When the amendments imposing a more difficult procedure for accounting and adding a substantial element of bureaucracy to the activities of noncommercial organizations were adopted, the proportion who would pass through the sieve was obviously only estimated. Experience shows that now it can be said reliably: 80 percent of noncommercial organizations registered in Russia will not pass through this sieve, since 80 percent have not filed reports under the new rules on their activities in 2006.

The objective is to make it impossible to register a noncommercial organization at the first attempt. Registration takes six to nine months. The Federal Registration Service is turning into a punitive body before our very eyes. Specialists are learning how to monitor, to find out and identify infringements. The regions are exchanging positive practice. At the same time, the Federal

Registration Service employees themselves, in the regions, are unprofessional to a very high degree. For instance, during an audit of our organization five infringements were found, but we found 50 infringements committed by them in the course of the investigations.

I am afraid that before the end of the year we can expect thousands of lawsuits for the termination of activity and the liquidation of noncommercial organizations. The Federal Registration Service itself has no idea how many noncommercial organizations it has registered. Its leader Sergey Vasilyev, in an interview to Rossiyskaya Gazeta, estimated the number of noncommercial organizations as between 182,000 and 203,000.

Some organizations were registered and were on the books of the tax inspection, and by the end of the year they should be registered with the Federal Registration Service. That is, by the end of the year the total number of noncommercial organizations will come to around 300,000. I would say that 80 percent — that is, 240,000 — do not meet the requirements laid down by legislation for the activities of noncommercial organizations. If the legislation is not relaxed by 2008, not more than 60,000 organizations will remain.

If an organization receives two warnings within a year, it faces the threat of termination of its activity. Meanwhile the tax service behaves perfectly properly toward noncommercial organizations, its staffers are less harsh.

It is possible to survive: Hire two bookkeepers instead of one, hire an office manager, hire a lawyer three times a year, but that takes resources. However, now there is no economic foundation for noncommercial organizations in Russia. Established organizations are funded either by near-state structures or by business that is loyal to the state. There is no other way. ("Filter for Soldiers' Mothers", an interview with Pavel Chikov, chairman of the Agora Interregional Human Rights Association, by Yevgeniy Natarov, Gazeta.ru, June 8, 2007)

Even high-ranking public officials are for amending the law on non-profits. The law on non-governmental organizations, which called forth criticism from human rights activists, may be amended, said Ella Pamfilova, head of the Council for the Promotion of Civil Society Institutions and Human Rights. "Any organization is under threat of being accused of incomplete or improper filing of documents. As we surmised, whether the authorities wanted it or not, the accountability mechanism has in itself become repressive," she said. (Pamfilova Says NGO Law May Be Amended , Interfax news agency, July 4, 2007)

Yuri Dzhibladze, president of the Center for Development of Democracy and Human Rights, says that experts are proposing three groups of amendments to the acting legislation. "First, we insist on restriction of the powers of the Federal Registration Service in the sphere of inspections. As things are, they are nothing but an instrument of pressure," Dzhibladze said. The second group of amendments stipulates simpler procedures of registration of new non-governmental organizations and re-registration of the existing ones.

The required reports to controlling structures are the subject of the third group of amendments. NGOs are hoping that the amendments will be discussed before the current federal parliament disbands, because "it will be too late afterwards — what with the parliamentary and presidential campaigns" (Closed For Reporting by Mikhail Moshkin, Vremya Novostei daily, July 5, 2007).

Official position on the law on non-profits and the situation with registration of CSOs is available here: Let's Register — New Regulations for Registering Non-Commercial Organizations , report by Natalya Konygina and Yelena Yakovleva, Rossiyskaya Gazeta daily, January 2, 2007; and here:

References:

New NGO Law Targets Russian Non-Profits", Gregory Feifer, National Public Radio (NPR), August 18, 2006.
See more about problems Russian NGOs run into here: <http://www.kommersant.ru/doc.aspx?DocID=796618&NodesID=7>, http://www.ng.ru/politics/2007-08-20/3_livvidacia.html, <http://www.newizv.ru/news/2007-08-29/75154/>.

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 (Public-Private Partnerships Against Corruption Project, for example, implemented for USAID/Russia by Management Systems International in seven Russian regions: Samara, Tomsk, Irkutsk, Sakhalin and Kamchatka Oblasts, Primorsky and Khabarovskiy Krai.

The project began on June 20, 2001 and ended on December 18, 2006). 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, spies and terrorists hiding under the cover of NGOs. But rights groups have said it provides handy instruments to bureaucrats to shut down any NGO that the government disagrees with.

In Russia today all CSO activity can be viewed as potentially political as it may reflect the shortcomings of government activity.

References:

MSI Final Report on its anti-corruption activities in Russia, February 2007, available here: http://dec.usaid.gov/index.cfm?p=search_getCitation&CFID=426548&CFTOKEN=12571272&id=s_E6A09909-D566-FC5C-D3B01D04944EC752&rec_no=145454.

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

References:

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

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?

33

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

YES | NO

References:

An interview with 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 because of their work covering corruption. YES is a positive score.

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 person 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. Imprisoned" is defined here as detention by the government lasting more than 24 hours.

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

YES | **NO**

Comments:

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.

The further one is from Moscow, the greater the likelihood that the local authorities will abuse their powers. This is not only a question of whether the central authorities are looking the other way allowing such activity to occur at the local level, but also because foreign journalists and diplomats are not present that such activity is occurring.

References:

The most recent impudent murder is the murder of Anna Politkovskaya.

A systematic overview is offered by the monitoring of the Russian Glasnost Defense Foundation, <http://www.gdf.ru/monitor/index.shtml>

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. YES is a positive score.

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**

Comments:

Anna Politkovskaya from the newspaper Novaya Gazeta who reported on corruption was killed in October 2006.

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 because of their work covering corruption in the specific study period. YES is a positive score.

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 and Guarantees of their Activity” 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:

This right may in fact be limited if it becomes too politically active and it publishes anti-government materials. There is probably a difference between the law as written and the law as it is applied throughout the country (especially at state-owned enterprises). However, the trade unions are not quite as active and popular today as in the mid-1990s.

In 2006-2007, Russian workers demonstrated a lot more activity than before. The following are some examples of it.

Summer 2007 has seen a marked increase in the number of labor conflicts. Workers staged strikes for higher wages at the Mikhailovcement plant in the Ryazan region and at the AvtoVAZ factory in Tolyatti. In St. Petersburg, Heineken brewery employees and postal workers clashed with their employers. Workers also demanded higher salaries at dozens of smaller enterprises around the country, but their protests were not given as much coverage in the news or, in some cases, by the trade unions.

While we hear so much from optimistic government official sources about the growth of salaries in dollar terms, a significant percentage of workers and members of the middle class are experiencing a decrease in their purchasing power. Salaries at many manufacturing enterprises in the provinces do not exceed 6,000 rubles (\$235) per month, and a salary of 10,000 to 12,000 rubles per month is considered quite good, even for those employees who have jobs that are dangerous or harmful to their health.

There are two types of companies in Russia today – those financed by transnational capital and those owned and funded by domestic sources. The work is roughly the same in both categories, but the rules of the game – and, more important, the salaries – differ significantly. Employees of domestic companies have definitely taken note of this difference, and they are demanding equal pay for equal labor. (Equal Pay for Equal Labor”, by Boris Kagariitsky, the director of the Institute of Globalization Studies, St. Petersburg Times daily, August 21, 2007)

A wave of strikes is sweeping Russia. Labor troubles at the VAZ auto plant and Ford Russia are only the tip of the iceberg; official statistics understate the actual number of labor protests. There were around 3,000 strikes in Russia in 2006, but the Federal State Statistics Service (RosStat) only recorded eight. Another problem: the legislative branch sides with employers, and it’s practically impossible for any strike to comply with all legal regulations. Nevertheless, despite a media blackout and other difficulties faced by strikers, labor revolts are rarely pointless. In a survey released last week by the All-Russian Public Opinion Research Institute (VTsIOM), 90 percent of employers admitted that their pay rates are below the norm.

it’s almost impossible to organize an entirely legal strike in Russia. Elena Gerasimova, director of the Social and Labor Rights Center: “We tried keeping count of strikes ourselves. While RosStat was recording one strike a month, we recorded a strike every day.”

Concealing the real state of affairs enables the official bodies to kill two birds with one stone. On the one hand, “eight strikes a year” sounds like evidence of Russia’s prosperity. On the other hand, if people were aware of all the strikes happening around them, it would only encourage more people to strike. That’s why the figures are reduced to a fraction – and this is easily done, since it’s impossible to meet all legal requirements in the process of organizing a strike. Anyone who tries to do so will end up fired before the strike can start – or the strike will fail.

The Constitution affirms the right to participate in individual and collective labor disputes; but the process as such is regulated by the Labor Code. In theory, it all looks simple enough. As soon as an employer-employee dispute arises, the workers are supposed to hold a meeting or conference and compile a list of demands. At least half of those in attendance should vote to approve the list. The first problems arise at this stage of the process.

Elena Gerasimova: “For example, how are you supposed to assemble the 110,000 employees of AvtoVAZ for a meeting? Manual workers, service personnel, health care personnel, managers... Obviously, if the managers find out that a meeting is being planned, they will make every effort to prevent it.” Besides, it’s hard to get employees from various levels to agree on a common list of demands.

The next step in the strike process is to send the list of demands to the management. The management then has three days to respond. But if workers are following all the rules, there is still a long way to go before the strike itself can begin. A reconciliation procedure should begin within three days, with a specially-selected commission representing the workers and

negotiating with the management. The actual strike can't start until the reconciliation stage has failed to produce results; and management must be informed in advance that a strike is about to begin. As a rule, this gives management enough time to take legal action against the strikers and declare the strike unlawful.

Elena Gerasimova: "The record shows that courts grant 100% of employer requests to have strikes declared unlawful. Even the International Labor Organization has contacted the Russian government to express concern about the complicated procedures for labor disputes in Russia – but this has had no effect as yet."

The only solution is a spontaneous strike, as in the VAZ incident. In theory, it cannot be called unlawful; only a court can declare an act of protest unlawful. Nevertheless, the management holds all the cards in such cases.

Nikolai Karagin, AvtoVAZ official union leader: "We were informed in advance that a strike was being planned, but the strikers didn't follow all the proper procedures – so we warned the instigators and all potential strikers that they might be punished. What happened was a stop-work incident, not a strike. The penalty for that could be dismissal."

Strike instigators in Russia rarely escape dismissal. "That's what unions are for – to take the blow and negotiate with management," says Sergei Khramov. But even union mediation doesn't always help. The SotsProf organization is trying to get four workers reinstated.

Experts say that strikes are rarely futile. They're difficult to organize, of course, and there's always the danger of dismissal. But in the end, pay rates are raised and workplace conditions are improved. For example, a prolonged strike at Ford Russia led to a pay rise of 30% – from 14,000 to 21,000 rubles a month. After a strike in June, delivery drivers at the Voskhod Bakery had their pay raised by 20%, with the promise of annual indexation. ("ON STRIKE" by Tatyana Lvova, Versiya, No. 30, August 6, 2007)

References:

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

Boris Kagarlitsky, the director of the Institute of Globalization Studies

See more about recent activities of Russian trade unions here: <http://www.smoney.ru/article.shtml?2007/08/20/3626>, <http://www.vedomosti.ru/newspaper/article.shtml?2007/08/21/131353>, <http://en.novayagazeta.ru/data/2007/63/01.html>, <http://en.novayagazeta.ru/data/2007/64/01.html>, <http://www.vedomosti.ru/newspaper/2007/09/26/133313>.

See also "1,500 Ford Workers Strike for a Day" by Anna Smolchenko, The Moscow Times daily, Feb. 15, 2007, and "Police wear camouflage uniforms here" by Evgeniya Zubchenko, Novue Izvestiya daily, August 1, 2007.

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. 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. 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/>).

Legislators are not abandoning their attempts to change the rules by which the media work: The media may be relieved of responsibility for the content of campaign material, but at the same time they want to ban journalists from referring to the ethnicity of criminals and victims. The Public Chamber has conducted an expert analysis of the latest proposal and has sent the results to Boris Gryzlov, speaker of the lower chamber. He has not yet read the epistle but Izvestiya has already studied it.

As it is, the Law on the Media contains quite a few bans and extending the list of them is probably pointless. And, what is more, several deputies want to lift some of the restrictions. For example, Sergey Ivanov, a deputy from the Liberal Democratic Party of Russia faction, has submitted a draft law into the State Duma which would relieve the media of responsibility for the content of election campaign material.

"The media are afraid and refuses to run campaign material if this can become grounds for criminal or administrative charges," the draft law's author told Izvestiya. "As a result, candidates talk about the weather. Who needs these insipid conversations?"

But Ivanov is convinced that if campaign material contains information of an extremist nature, for example, then candidates themselves should take responsibility for it, rather than journalists. "Law enforcement agencies should arrest and call to account those who make extremist and xenophobic calls, but the media have nothing to do with it," Boris Reznik, deputy chairman of the Committee for Information Policy, agreed with Ivanov. (State Duma Does Not Want 'Insipid Discussions' On Eve of Elections: Deputies Are Trying To Amend Law on Media by Natalya Antipova, Izvestia daily, May 21, 2007)

References:

According to Article 29 paragraph 5 of the Constitution of the Russian Federation: Freedom of Mass Media is guaranteed. Censorship is prohibited."

What is the official stand on freedom of media in Russia? The first deputy director of All-Russia State Television and Radio Broadcasting Company (VGTRK) and the general director of the Rossiya TV channel, Anton Zlatopolskiy, has said that the media of the holding company are not under political pressure as such. (TV chief says there is little if any political pressure on state media in Russia, Interfax news agency, 1 February, 2007)

On March 12, President Vladimir Putin signed a decree to consolidate two federal services: the Federal Service for Telecom Supervision (Rossvyaznadzor) and Federal Mass Media and Cultural Heritage Oversight Service (Rosokhrankultura). So, the government will have a new body – the Federal Service for Supervision of Mass Media, Telecommunication and for Cultural Heritage Protection – to supervise vehicles of data dissemination along with the content.

The purpose to attain is, "to improve efficiency of government's activities for cultural heritage protection" and "to eliminate interdepartmental contradictions and administrative barriers en route of IT advance in Russia and to ease the system of their control," said representatives of the government's news service.

But the informal explanation for closing ranks of the two services was a bit different. The new service will be very influential in media and telecom businesses and in political issues. In response to some technical and content claims, it may suspend activities related to all types of communication, including the printed and e-media and broadcasters. Moreover, the service will keep the personal data register of Russia's citizens. So, the matter at stake is actually creating a media mega-controller. (President creates "media mega-controller", Kommersant daily, 13 March, 2007)

Putin's order gives the new agency three months to determine how it will operate, leaving many questions unanswered. The decree does make clear, however, that the new agency is directly subordinate to the prime minister's government, not to the Ministry of Information Technology and Communications or the Ministry of Culture and Press, where the two agencies were previously housed. This decision clearly is political.

Raf Sahkirov, a former Izvestia editor dismissed for critical coverage of the 2004 Beslan school siege, said "This is an attempt to put everything under control, not only electronic media, but also personal data about people such as bloggers." In an environment where open information is increasingly more difficult to come by, the Internet provides Russians access to unofficial sources of information and a platform for open discussion. It also serves as a useful medium for organizing protest rallies. Participants in such rallies now post information about these activities on the Internet, leveraging this technology to share information with wider audiences. Bloggers, for example, posted pictures from the March 3 pre-election protest rally in St. Petersburg, enabling audiences a clear view of the rally, beyond the reach of filtered Kremlin-controlled media. These days such information almost never makes its way to state-managed news in the traditional broadcast or print media.

Even before the March 12 decree, the Russian authorities had begun exerting pressure on the Internet. In 2006, they issued a warning to Gazeta.ru, a leading independent news site financed by Leonid Nevzlin of Yukos, for publishing the Danish cartoons with caricatures of the prophet Mohammed. A second such warning would result in the publication's closing. Of particular concern is that the new agency will have access to personal data of Internet users. This resource could make it even easier for the authorities to crack down on individuals who make remarks critical of the authorities on heavily trafficked Web sites. ('Super agency' threatens Russian freedom by Robert Ortung and Christopher Walker, International Herald Tribune, March 23, 2007)

Pavel Gusev, chairman of the Public Chambers Communications, Information Polices and Freedom of Speech in Media Commission, says the government is trying to exert control over mass media, the Interfax new agency reported Thursday. This was the first official acknowledgment of what rights activists and journalists have been publicly concerned about in recent years. Independent mass media is under attack now, he said. Press is becoming increasingly state-controlled. Major state-oriented business is buying up mass media, which ultimately cuts the circulation of the media, according to Mr. Gusev. (Public Chamber Acknowledges Crackdown on Independent Media, Kommersant daily, March 29, 2007)

On Russian media in general, please see Russian Regional Report #9, November 7, 2006.

See also Russia: Journalists Union Head Laments State Of Russian Media, an interview with the general secretary of the Russian Union of Journalists Igor Yakovenko." He speaks with RFE/RL correspondent Chloe Arnold. May 23, 2007 (RFE/RL) May 23, 2007 (RFE/RL)

<http://www.vedomosti.ru/newspaper/article.shtml?2007/03/30/123219>.

See also <http://www.novayagazeta.ru/data/2007/37/13.html>.

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

NO: A NO score is earned if any specific publication relating to government affairs 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."

Russian Constitution Article 29 says: "Everyone has the freedom of thought and speech". There are different tipes of freedom, namely freedom of speech and freedom of press. Freedom of speech is the citizen's right to be involved in the discussion of anything that matters to him/her. One of the citizen's ways to be heard is via the media. Freedom of press means the prohibition of the influence and pressure (censorship) from the state authorities on the media.

In November 2006, Public Chamber of Russia discussed regional lack of freedom of speech. Nikolay Svanidze, member of the RF Public Chamber, named specific regions in which the freedom-of-speech situation is really bad. These include Mariy El, Bashkortostan, and Saratov. The speech of Mikhail Fedotov, secretary of the Union of Journalists of Russia, was quite strong. The fact that the federal Media Act is not working is disturbing also. For example, few journalists avail themselves of their right to remove their signature from material that has been mutilated by an editor, few editors respect a journalist's right to refuse an editorial assignment, and so forth. ("Three Colors of Our Times: the Public Chamber Has Discussed the Regional News Media Situation" by Olga Kondreva, Rossiyskaya Gazeta daily, November 21, 2006)

References:

Constitution of RF, 1993, Ch. 2; U.S. State Department's 2006 Country Reports on Human Rights Practices, Released by the Bureau of Democracy, Human Rights, and Labor, March 8, 2007, Section on Russia: <http://www.state.gov/g/drl/rls/hrrpt/2005/61671.htm>;

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 freedom of individual speech is guaranteed in law, including to 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 print media entities?

75

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

Some general information on Russian media. Russias federal press agency has said that at the beginning of last year Russia had 66,931 registered mass media, including 52,641 printed periodicals.

The press agencys chief, Mikhail Seslavinsky, has remarked that approximately 45 percent of them spring to life only during election campaigns or are published from time to time. The regional press currently accounts for two-thirds of the readership, he said, and the regional versions of federal periodicals increase the likely audience to 80 percent. (Russian journalists celebrate professional holiday, Itar-Tass news agency, January 13, 2007)

References:

In his annual report, the Russian Ombudsman for Human Rights stated in February 2006: The main mass media, and first of all the leading electronic media, accounting for 90 percent of the information segment of the country and forming public opinion, are under the very strict control of state organs.

Ombudsman for Human Rights: Doklad deyateli nosti upolnomochennogo po pravam cheloveka v Rossiiskoi Federatsii v 2005 g., Moscow 2006.

100: Print media entities can freely organize with little to no interaction with the government. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

75:

50: Formation of print 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.

25:

0: Print media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

6b. In law, where a print 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.

According to the Governmental Decree #301, 17 June 2004, the Federal Service on Supervision of Observance of the Legislation in the Field of Mass Communications and Protection of Cultural Heritage deal with the licenses for the broadcasting organizations in Russia. The Federal Agency of Press and Mass Communications of the Russian Federation has the authority to register print mass media which is necessary to start their activity. Thus there is a licensing mechanism for broadcasting and another registration system for the printed press.

The appeals mechanism is hardly used. The appeals mechanism is directed at the observance of the licensing mechanism and registration system in the event a citizens' or organizations' rights to get the license or registration were violated.

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 print media license, including through the courts. A YES score is also earned if no print license is necessary.

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

6c. In practice, where necessary, citizens can obtain a print 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 print 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. There are some companies that provide assistance in obtaining broadcasting licenses within the reasonable time period such as Infinity Group (<http://www.infinity-group.ru/certificate.htm>). Their fees are significantly largely that what the state charges and will be more than US\$550. The official price is charged for the consideration of the application for a license (300 rub or about US\$11), and for getting a license (1000 rub or US\$35) in Federal Service.

References:

Telekon consulting agency (Moscow); For detailed information on official

dues: <http://www.telekon.ru/upload/iblock/27deffc03bb7719bc56ab9f64920a459.doc>; <http://www.telekon.ru/upload/iblock/1cf2f81d786c9c19acaa1c1cd76>

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 citizens able to form broadcast (radio and TV) media entities?

69

7a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

100 | 75 | 50 | 25 | 0

Comments:

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

There are some companies that provide assistance in obtaining broadcasting licenses within the reasonable time period such as Infinity Group (<http://www.infinity-group.ru/certificate.htm>). Their fees are significantly largely that what the state charges and will be more than US\$550. The official price is charged for the consideration of the application for a license (300 rub or about US\$11), and for getting a license (1000 rub or US\$35) in Federal Service.

As part of the broader pattern, the state is paying more attention to international media, especially international broadcasting. The authorities have focused on the broadcasts of the U.S. government-funded Radio Free Europe/Radio Liberty, whose radio programming provides an alternative news voice to listeners across the country. The Kremlin has undertaken an intimidation campaign against RFE/RL's partners — Russian radio stations that rebroadcast Radio Liberty programs — subjecting them to debilitating harassment.

In August, Bolshoye Radio, a Moscow radio station, announced that it would no longer carry the BBC's Russian-language broadcasts. Although technical violations were cited as the official reason for the station's decision to pull the BBC off the air, many condemned the act as censorship. (Democracy's Façade by Christopher Walker and Robert Ortung, The Moscow Times daily, October 5, 2007, available at <http://www.themoscowtimes.com/stories/2007/10/05/006.html>)

See also <http://www.novayagazeta.ru/data/2007/05/09.html>.

References:

Telekon consulting agency (Moscow); For detailed information on official

dues: <http://www.telekon.ru/upload/iblock/27deffc03bb7719bc56ab9f64920a459.doc>; <http://www.telekon.ru/upload/iblock/1cf2f81d786c9c19acaa1c1cd76>

100: Broadcast 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. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

75:

50: Formation of broadcast 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: Broadcast media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. This score is appropriate if the division of broadcast bandwidth is widely viewed to be used as a political tool.

7b. In law, where a broadcast (radio and TV) media license is necessary, there is an appeal mechanism if a license is denied or revoked.

YES | NO

References:

There is some information on how regional TV and radio media are dealing with this issue.

See http://www.broadcasting.ru/newstext.php?news_id=26143; http://www.broadcasting.ru/newstext.php?news_id=28500; http://www.broadcasting.ru/newstext.php?news_id=35630; http://www.broadcasting.ru/newstext.php?news_id=28495.

See also http://www.broadcasting.ru/newstext.php?news_id=31221.

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

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

7c. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Broadcasting licenses are currently issued by the federal media law and cultural protection agency (Federal Service for Media Law Compliance and Cultural Heritage – Rosokhrankultura), which is part of the Culture and Press Ministry. It can also revoke these licenses. The technical broadcasting license is issued by the information technologies agency, which falls under the auspices of the IT and Communications Ministry. The whole process of receiving a broadcasting license can take up to 500 days.

References:

Not So Great Expectations by Alexei Pankin, the editor of Mediaprofi, a monthly magazine for regional media professionals, Moscow Times daily, March 20, 2007.

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.

7d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Yes, the official fee is 30 to 50 minimum monthly wages, depending on whether it's a regional or national channel, and up to 100 if foreign citizens will own/co-own the channel. However, 300 rubles (US\$12) are charged for processing an application.

References:

See

here: http://www.telekon.ru/upload/iblock/27deffc03bb7719bc56ab9f64920a459_doc and <http://www.telekon.ru/upload/iblock/ff6b6a09c33012c3414576be>

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.

8. Can citizens freely use the Internet?

63

8a. In practice, the government does not prevent citizens from accessing content published online.

100 | 75 | 50 | 25 | 0

Comments:

To begin with, Internet is not very popular with Russians yet. According to one of the major Russian polling agencies VTsIOM (All-Russian Center for the Study of Public Opinion), the overwhelming majority of Russian citizens — 85 percent— prefer to receive information from central television broadcasts. Only 13 percent of Russia's citizens use the Internet (according to another major national polling agencies the Yury Levada Analytical Center, also presented its data in fall 2006, this number is slightly higher — 17 percent.

ROMIR Monitoring public opinion research center says 7% of adult Russians use the Internet daily, 17 percent do so weekly and another 22 percent, monthly. The official data is significantly larger — Russian Information Technologies and Communication Minister Leonid Reiman said on December 18, 2006 Russia accounted for 25 million Internet users in 2006. The population of Russia is approx. 145 million people. Most likely, this number includes all users — at home, at work, at schools and universities, at Internet cafes — when one person can be counted at least twice, using Internet both at home and at work. It is confirmed by the fact that there are only 23 million personal computers in the country.

According to the Public Opinion Foundation (FOM), a Moscow-based research organization, around a quarter of the adult population — 28 million people — is regular Internet users. This data supports Reiman's statement but contradicts what other researchers claim. We can consider 15% as a realistic figure). The largest proportions of people who use the Internet frequently as a source of information live in Moscow and St. Petersburg — 26 percent. In large and medium-sized cities the figure drops to 16 percent-18 percent, and in small cities and towns to 7 percent-10 percent. Of them 5 percent use the resources of the Worldwide Web daily, another 8 percent do so a few times a week, 6 percent a few times a month, and 4 percent occasionally. A majority of the Internet users — 77 percent — need it to solve problems related to work or school, while 44 percent of those surveyed go on the Internet to read the news and use electronic mail. One out of five turns to the Internet to socialize, watch movies, and listen to music. Eleven percent of Russian Internet users access online games.

The most active Internet users are well-off Russian citizens (with per capita income of more than 5,000 rubles or almost US\$200 a month). They use electronic mail and news sites more often than others do, and also socialize and look for friends through the Internet. People of modest means use the Internet for downloading music and movies more often than others.

Considering the Internet as one of the channels for getting information, 44 percent of Russian citizens agree with the point of view that this is primarily a powerful resource for getting prompt and reliable information. At the same time, 27 percent of those surveyed take a more guarded attitude toward it, noting the actual absence of controls in the space of the Worldwide Web.

Internet in general should be considered an influential media especially because it is providing a forum for free discussion that has become a rarity on the main national television and radio networks.

Masha Lipman, a political expert at the Moscow Carnegie Center, says that web forums like Live Journal provide an arena for free debate that is no longer available in much of the conventional media.

"There is indeed a lot of free exchange on the Internet," Lipman says. "The question in Russia is not that there are no outlets where free expression is possible. The question is that the Kremlin has radically marginalized all outlets that pursue even reasonably independent editorial lines." Russians are the second-largest group of users of Live Journal, a popular U.S. blogger site. In Russia, the site currently has more than 1.1 million users and 67,500 interest groups. On September 5, 2007 alone, 1,600 new users joined Live Journal in Russia and almost 500,000 new comments were posted.

"Actually, I think the Internet is one of the reasons Russia is still not an authoritarian regime, because you cannot really shut down the Internet without very serious measures," says Yulia Latynina, a political commentator whose columns are frequently posted on Live Journal. Most Russians get their news and current affairs from three main television channels, all of which are controlled by the government or state-owned enterprises. A handful of independently owned television and radio stations and some of the national newspapers provide some alternative to the Kremlin's view of events.

Lipman says the way the government approaches sites like Live Journal is more sophisticated: "The Kremlin has lots of sites under its control, financed by businesses associated with the Kremlin or otherwise, which create an environment in which those more independent ones are easily dissolved," she says. "This dissolution, I think, is one thing that the Kremlin is using to counter or neutralize the potentially stirring effect."

And those Kremlin-backed websites, she says, are often difficult to spot. "It's not that they are necessarily loyal or produce bland propaganda, similar to what you see on television," Lipman says. "They may be critical themselves, but this will be criticism that

the Kremlin itself sort of oversees.”

So many independent thinkers escape to a virtual space free of vested interests where anonymity goes hand in hand with a worldwide reach — personal online journals or blogs. Today’s bloggers follow the tradition of the Soviet dissidents who found an outlet for their opinions in samizdat, the clandestine printing of anti-government material. Alongside debate on government policies, LJ blogs by Masha Gaidar and Ilya Yashin, both well-known leaders of youth liberal political movements, often advertise protests or debates. Unlike more intimate U.S. blogs, Russian cyber-journals often involve thousands of bloggers and focus on issues like politics or literature.

Statistics also indicates that the sites of political parties get from 20,000 to 50,000 visits every day. Political discussions in nowadays Russia unfold in Runet and especially in LJ. Many politicians have opened their web diaries there, since communications on the web stand in a marked contrast to boring official political speeches.

“The internet is getting more and more influential, although it still represents far from all sections of /Russian/ society but, rather, its more advanced part,” Novye Izvestia writes quoting political scientist Dmitry Oreshkin.

More and more people are turning to blogs and Internet forums when seeking reliable information. According to Technorati, a site that tracks blog traffic, 2 million Russian blogs already exist online, and this year 260 new blogs are being added every hour – 6,000 every day – compared to 100 per hour in the autumn of 2006.

Former chess champion Garry Kasparov, one of the leaders of opposition coalition The Other Russia, says Putins high approval rating among the public is based on the level of ignorance that most Russians have about the way their country is governed, and that media censorship plays a key role in protecting the authorities.

“The fast-expanding Internet is dangerous for the authorities as it effectively spreads the word about the level of corruption in Russia, especially in the provinces”, Kasparov told a news conference in April 2007.

Media professionals often describe democracy in modern Russia as “electronic” and “hypothetical,” with the free exchange of opinion now restricted to the Internet, the last remaining censorship-free refuge in the country.

In spring 2007, with parliamentary December 2007 and Presidential March 2008 elections in mind, the government took some measures to regulate the Internet. On March 12, Russian President Vladimir Putin signed a decree to combine two state bodies that control and license media sources in the country. The Federal Service for Telecom Supervision and the Federal Mass Media and Cultural Oversight Service have been merged to create a new agency responsible for licensing and censoring both mass media and electronic media.

Russian journalists immediately denounced this step as the authorities attempt to take control of the Internet in Russia. The new agency can give the Kremlin a right to lay its hands on one of the last strongholds of freedom of speech in the country, the Internet. This can eliminate the future generation of the Russian journalists, says Alexei Venediktov, head of Echo Moskvy radio.

The main aim of the new structure is to monitor all media sources, including websites, and decide whether to grant licenses or not. The new agency will be able to revoke licenses and block access to any information source on the Internet.

The Russian authorities have been trying to find ways to control the Internet since 2000, when the first informational websites started to appear in the country. However, it is more challenging that shutting down a TV channel or a newspaper.

Vladimir Tarachev, a State Duma deputy and a member of the pro-Kremlin United Russia party, introduced a draft Law on the Internet in 2001. The draft sought to strengthen control of the federal organs of state power over the Russian part of the world-wide web.” Ludmilla Narusova, head of the Federation Council Committee on Information Policy, supported the draft since, as she put it, Journalists and Internet providers that post their texts on different websites should be responsible for them (dni.ru, April 16, 2004).

However, they soon realized that it is difficult to effectively censor the Internet. Tarachev’s draft has been revised. In 2004 Mikhail Lesin, a former Russian media minister and a current Russian presidential media adviser, tried to push the draft to make it an official law, but his efforts failed due to public resistance.

In 2005, the authorities again declared that the Internet should be under government control. Leonid Reiman, minister of information technologies and communications, explained that Russia needs control over the Internet to protect users from violence, pornography, or destructive computer viruses, while Andrei Romanchenko, deputy media minister, announced that the government should protect society from harmful online content (vip.lenta.ru, July 4, 2005).

Last fall, the Ministry of Interior Affairs as well as the Prosecutor-General’s Office appealed to the Russian legislature to adopt a law that would allow officials to punish owners of websites in Russia for information they post. As new parliamentary and presidential elections are coming, there are more and more proposals to limit freedom of speech in the Internet,” concluded Novye Izvestiya daily on October 26, 2006.

At the same time, the Duma started to work on a law that would give Internet publications the same status as the mass media. Putins decree to create a combined body to control both types of communications licenses and content parallels the Dumas efforts.

The main reason the Kremlin wants to control the Internet is not to eliminate pornography, but a fear of the popularity of the Internet among anti-Putin youth organizations. The Putin opposition uses the Internet for propaganda purposes, which makes the Kremlin quite nervous. With enough legal justifications to close websites still lacking, the authorities instead use hackers to crash the systems at opportune moments. In early March 2007, on the eve of the March of the Discontents in St. Petersburg, a street protest organized by the united anti-Putin front, hackers hired by the Federal Security Service spammed opposition sites with the information about the upcoming event.

Surely, those acts violate not only Russian laws, but international laws as well. That is why the Kremlin needs to legitimize its struggle against remnants of freedom of speech in the country. The authorities hope that the new law that Duma is preparing to adopt as well as the new combined agency to control mass media will help them to keep the opposition gagged and avoid mass street protests before the presidential election.

Boris Boyarskov was named head of the new agency on March 26. Boyarskov told RFE/RL’s Russian Service on March 19 that Putin’s decree was “the result of the work of the broadcasting commission headed by [First Deputy Prime Minister and

presidential hopeful] Dmitry Medvedev.” That intergovernmental commission was set up last year.

The merger has been interpreted largely as an attempt to control the Internet, the only sphere of media and communications that is currently free of regulation. But despite intense speculation that the authorities want to establish control over the Internet, the Ministry of Information Technology and Communications has maintained a hands-off policy to date.

Most observers have leapt to the conclusion that the Internet is the main target of the merger, as legislators have repeatedly called for more stringent control. However, Boyarskov’s words seem to corroborate the opinion of a smaller number of experts, who consider that the primary issue Russian officials are currently concerned with is the transition from analogue to digital broadcasting, which has huge political and economic implications. Those experts consider the anticipated consequences of the merger for the Internet, and for Internet service providers (ISP) specifically, as essentially a side effect.

As far as Internet regulation is concerned, it is expected that new rules may be introduced, increasing the responsibility of ISPs for content and making compulsory the registration of Internet media. The existing System for Operational-Investigative Activities (SORM2) currently requires security authorities to obtain a warrant prior to checking users’ electronic traffic.

Putin’s spokesman, Dmitry Peskov, said Russia isn’t restricting media freedom and that the new agency isn’t aimed at policing the Web.

“If you watch TV, even federal TV channels, you’ll hear lots of criticism of the government,” Peskov said in an interview. “This new agency will be in charge of licensing. It’s not about controlling the Internet.”

If one takes a closer look at the situation, however, the growing calls for restricting the freedom of speech in cyber space become immediately noticeable, writes the Novye Izvestia daily. In practical terms, this means possible closures of internet forums, as their hosts can be punished for statements of the participants, should their thoughts be described as extremist.

At the same time, the State Duma, the lower house of parliament is drafting a bill that will put internet material on a par with publications in the mass media. Once the bill is endorsed and signed into law, Rунet will fall into the realm of provisions of the Criminal and Administrative Codes, and any critical remark against the authorities may be interpreted as an insult or libel then.

High-ranking public officials are for regulating the Internet. Internet sites in Russia should be censored to combat extremist material, a senior legal official says, the daily Kommersant reported on June 22, 2007.

“Changes need to be made to the current laws. As experience shows there is often room on the Internet for the spread of material of an extremist nature,” Deputy Prosecutor General Ivan Sydoruk was quoted as saying by Kommersant.

“Therefore it is necessary to draft an effective control system so that material published there corresponds to legal requirements,” he said at a law-enforcement meeting in the southern Russian city of Rostov on June 21, 2007, Kommersant said.

The federal prosecutor’s office said Sydoruk was expressing his personal opinion and that no censorship law is being prepared, the daily said.

This is far from the first statement of the kind coming from a high-rank official of an organization supervising enforcement of law and order. Last October, Deputy Interior Minister Alexander Chekalin used struggle with extremism as a pretext for recommending the upper house of Russian parliament to make the owners of resources in the Russian segment of the Int

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“Russia needs Internet censorship: official”, AFP, June 22, 2007.

“Russian Law Enforcers Advocate Internet Anti-terrorism Censorship”, Itar-Tass news agency, June 22, 2007.

"Russia accused of crippling online media", report by Mansur Mirovaley, AP, July 22, 2007.

100: The government does not prevent Internet users from accessing online content. While some forms of content may be illegal to download or own (such as child pornography), the government does not manipulate networks to prevent access to this information. This indicator addresses direct government intervention in the transfer of information, not indirect deterrents such as intimidation, surveillance or technical difficulties in countries with poor infrastructure.

75:

50: Internet users are prevented by the government from reaching online content in some cases. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

25:

0: Internet users are routinely prevented from accessing online content. Government restrictions are in place at all times for certain topics. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

8b. In practice, the government does not censor citizens creating content online.

100 | 75 | 50 | 25 | 0

Comments:

The government is tuned to what is going on at the Internet and is capable of taking measures against what it calls illegal activities". For example, in November 2006, the General Prosecutor's Office has started checking Internet sites and mass media that publish extremist appeals in connection with the banned Russkiy Marsh (Russian March). At present only publications opposed to the regime come under the article instead of extremists.

A report by the Moscow's Prosecutor's Office states that the check has been organized on the basis of Articles 144 and 145 of the Code of Criminal Procedure (with a view to the presence or absence of elements of a crime). "A legal assessment of statements will be made in the course of the check, and the Prosecutor's Office will adopt a procedural decision based on its results," the Prosecutor's Office report states.

However, the state agencies are not capable of much with regard to silencing extremists. Representatives of the Rosokhrankultura (Federal Service for Monitoring the Observance of Legislation in the Sphere of Mass Communication and Protection of the Cultural Heritage) in turn declared that they are unable to take any measures in respect of sites organizing the Russkiy Marsh. "We apply the measures provided for by law only in respect of those Internet resources that have been registered as mass media. All sites not registered as mass media are a sphere of activity for law enforcement organs and the Prosecutor's Office, which will take the necessary measures," Rosokhrankultura leader Boris Boyarskov told RIA Novosti on November 3, 2006.

Law enforcement agencies were more energetic. Staffers of the Russian Internal Affairs Ministry's K Administration were simultaneously conducting their own check of Internet resources. According to administration spokesperson Yelena Zubareva, the department's staffers are "taking measures to close them down." The police informs the providers that sites are propagandizing extremism and violence and must be closed down.

A whole slew of human rights campaigners voiced the opinion that the law enforcement organs have weighty grounds for checking the sites of the Russkiy Marsh — an unsanctioned action that national-radicals are planning to hold 4 November in Moscow and other major cities of the Russian Federation. According to Moscow Human Rights Bureau Director Aleksandr Brod, two sites of the organizers of the Russkiy Marsh, for example, have posted information on the conditions for holding it. "These sites contain radical, nationalist materials and overt calls to kill and deport people of other nationalities. It is necessary to think about regulating such phenomena," Brod pointed out. According to him, at the time the first Right-Wing March was held in Moscow human rights campaigners demanded that the Prosecutor's Office institute criminal proceedings against the organizers of the march through the center of the capital. "But the Prosecutor's Office does not like such cases, which need a big intellectual evidential base, nothing was done, and it is a good thing that they have at least tackled an investigation now. Admittedly, this will hardly affect the holding of this latest march," Brod pointed out to Gazeta.ru.

Meanwhile, Web sites that test the boundaries of free speech are already coming under pressure. In December 2006, a court in the Siberian region of Khakassia shut down the Internet news site Novy Fokus for not registering as a media outlet. The site, known for its critical reporting, reopened in late March 2007 after it agreed to register and accept stricter supervision.

Anticpromat.ru, which wrote about Putin's pre-presidential business interests, had to find a U.S. Web server after a Russian service provider pulled the plug March 28, saying it had been warned by officials to stop hosting the site.

In 2006, the authorities shut down a Web site called Kursiv in the city of Ivanovo, northeast of Moscow that lampooned Putin as a "phallic symbol of Russia" for his drive to boost the birthrate.

Criminal cases opened against Russian users of internet under most variegated pretexts become increasingly frequent. The first such case was opened in early April against a user of internet magazine. Savva Terentyev, a man from the city of Syktyvkar in the northeast of Russia is heading for a prospect of four years in jail after leaving an unflattering remark in about policemen. Interior officials considered his words to be insulting speech and instituted a criminal case. He is charged with "inciting hatred or animosity and humiliating human dignity."

Anton Nossik, an acclaimed figure in the Russian segment of the internet and the head of blog services at SUP company, sizes up the Terentyev story as a new attempt to impose censorship on the web. "Quite understandably, those people don't like the idea of a free uncontrolled expression of one's thoughts," he told Echo of Moscow.

This is Russia's first criminal case instituted for a comment in a cyber digest but far from the first case where an internet user evoked rancor in the police or among government officials, and the ways, in which people are persecuted for what they say on the web differ notably, writes the Moscow-based Kommersant daily.

In February 2006, the user of the Altai news agency Bankfax's website, Igor Shkarpet, loaded into the forum some quotations from the Argentine newspaper Clarin that contained curses against Moslems. The prosecutors opened a case citing punishment for "fanning ethnic, racial or religious strife" and the Russian watchdog agency for protection of cultural values, Rosokhrankultura, made a demand to close the news agency. The court rejected its lawsuit in June, however, and closed the case against Shkarpet "due to the absence of formal elements of a crime."

Following a petition by Vladimir region's governor Nikolai Vinogradov, the regional

department of the Interior instituted a case against the news analyst of the Vladimirsky Krai newspaper, Dmitry Tashlykov. The man voiced his suspicions in the kovrov.ru forum that Vinogradov was planning a murder of the Kovrov City mayor, Irina Tabatskaya. His case was taken to court January 30, 2007.

Ruslan Linkov, head of the liberal organization Democratic Russia and also a LiveJournal blogger, said Internet spies on the lookout. Linkov knows that his blog, which he uses to publicize reported cases of abuse of human rights as well as to share personal stories, is being closely monitored by law enforcement.

"The police or security agents call me every now and then to express their indignation at my opinions, or the stories that I tell," he said. "Sometimes they ask me to clarify a fact or detail about the cases of human rights abuses I am describing.

"My colleagues who work on websites representing the liberal opposition have also noticed the massive presence of spies and provocateurs in their blogs," he said. "And during telephone conversations the police and security agents make no secret of their interest. At the same time, nationalist websites flourish and do not seem to get in trouble."

Executives of Moscow-based Internet provider companies told Kommersant that the FSB may inquire about the sites visited by one or another person suspected of extremist activity. Prosecutors often invoke Article 282 of Russia Criminal Code on 'fanning ethnic strife' against the authors of extremist utterances at blogs and in Internet forums.

In Novosibirsk, Internet providers obeyed the demands of the regional Prosecutor's Office and blocked the users' access to websites run by Chechen separatists.

Opposition organizations claim the authorities are waging a combat against their Internet resources with the aid of hackers. For instance, Marina Litvinovich, an assistant to former world chess champion Garri Kasparov, who leads the United Civil Front now, said the largest Russian providers impede the users' access to websites informing on the schedules of the Marches of Dissenters in Moscow and St Petersburg. However, the providers vehemently denied the information.

Taiga.info news portal said a district prosecutor's office in Novosibirsk told the Academ.org provider in June 2007 to restrict access to a number of sites that were classified as extremist ones. The provider operates the Internet in the famous Siberian Academy Town. Executives of the company discerned a political underpinning in the motion and linked it to the upcoming presidential and parliamentary election. They fear that if the precedent proves successful, the authorities will get an opportunity then to blacklist the opposition's web resources as extremist ones and thus to impose censorship in the Internet.

Opposition parties and independent media say murky forces have committed vast resources to hacking and crippling their Web sites in attacks similar to those that hit tech-savvy Estonia as the Baltic nation sparred with Russia over a Soviet war memorial.

While they offer no proof, the groups all point the finger at the Kremlin, calling the electronic siege an attempt to stifle Russia's last source of free, unfiltered information.

The victims, who range from liberal democrats to ultranationalists, contend that their hacker adversaries hope to harass the opposition with the approach of parliamentary elections in December and presidential elections next March.

Reliance on the Web also makes the opposition vulnerable to hackers.

The outlawed National Bolshevik Party says its Web sites were repeatedly hacked between February and April, as the nationalist group used the Internet to marshal "Dissenters' Marches" in Moscow, St. Petersburg and elsewhere.

The attacks were sophisticated as well as massive, said Alexei Sochnev, who is in charge of the National Bolsheviks' online network.

Mainstream media have also come under electronic assault, especially when they carry information likely to draw the attention of the government.

Kommersant's Web editor, Pavel Chernikov, said the major daily newspaper's site was attacked in early May. He called it retaliation for publishing a transcript of the interrogation of Boris Berezovsky a self-exiled oligarch who lives in London by Russian investigators.

On the same morning, the Web site of Ekho Moskvy, a liberal Moscow radio station where criticism of Kremlin policies can often be heard, was brought down by a DDoS attack.

Mr. Panfilov of the Center for Journalism in Extreme Situations said Russian opposition Web sites will find themselves under increasing pressure as election season heats up.

"There will be purges of online publications, shutdowns or takeovers of the last independent media outlets and strong pressure on Web users," he said.

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- "Russian Law Enforcers Advocate Internet Anti-terrorism Censorship", Itar-Tass news agency, June 22, 2007.
- "Russia accused of crippling online media", report by Mansur Mirovalev, AP, July 22, 2007.

100: The government never removes online information or disables servers due to their political content. All political speech is protected with limited exceptions, such as legitimate intellectual property restrictions; direct calls to violence; or pornography.

75:

50: In some cases, the government restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting restricted content, or indirectly through threats or intimidation against the persons posting political content.

25:

0: The government regularly restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting the restricted content, or indirectly through threats or intimidation against the persons posting political content.

9. Are the media able to report on corruption?

50

9a. 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."

According to the Law on Mass Media, there are specific grounds for the canceling a mass media company activity: "No provision shall be made for the use of mass media for purposes of committing criminally indictable deeds, divulging information containing a state secret or any other law-protective secret, the performance of extremist activities, and also for the spreading of broadcasts propagandizing pornography or the cult of violence and cruelty." As the "extremism" has the wide interpretation including "Public slander directed towards figures fulfilling the state duties of the Russian Federation or has duties which have the connection with

their execution and the fact of slander is established in the court decision," mass media companies can be closed after the three warnings according to these points. For instance, in 2006 39 warnings were issued to mass media companies concerning extremism:

<http://new.roshrancult.ru/controls/controls/smi/2006/>, and 3 warning during the first six months of 2007 (<http://new.roshrancult.ru/controls/controls/smi/2007/zur2007>).

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.

9b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100 | 75 | 50 | 25 | 0

Comments:

Financial support of the Russian mass media was always one of the main control measures on mass media.

References:

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

See, for example, 7 Radio Journalists Quit Jobs in Protest by Svetlana Osadchuk, The Moscow Times daily, May 21, 2007. See also <http://www.kommersant.ru/doc.html?docId=759839>.

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.

9c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

100 | 75 | 50 | 25 | 0

Comments:

Some experts believe that corruption was the main issue being suppressed. My impression is that the main issues being suppressed are (at least on the federal level) the war in Chechnya and criticism of authoritarian politics. A proper assessment should focus on restraint on publishing corruption-related stories and should differentiate between the national and the regional level.

Very strict censorship has been introduced in one of the biggest news resources on the Russian radio airwaves. All reporters from Russian News Service have left the company to protest editorial policies which they describe as censorship. Russian News Service, a subsidiary of the Russian Media Group holding, makes news for three major radio stations with total audience of about 8 million people. Artem Khan, a correspondent from Russian News Service, said on May 17, 2007 he

and all his colleagues have walked out because of censorship and pressure from the company's new executives who took office in April.

The change of leadership at RSN, which occurred in mid April, resembled a special operation. It took less than 24 hours to radically change the entire policy of the Russian Media Group's (RMG's) information sub-department, which prepares the news not only for its own frequency of 107.00 FM but also for all the holding company's radio stations. A single day, 10 April, saw a change of leadership at Ren-TV, RSN, and Radio Rossii. Sergey Arkhipov, a former RMG shareholder, left for a state radio station, and Radio Rossii's managers were moved sideways to lead Ren-TV, while a landing force from Channel One turned up at RSN. Mikhail Baklanov was dismissed from the post of general director at RSN, which he headed for 12 years from the moment it was founded. On the same day the radio station's collective of journalists were acquainted with their new bosses — Aleksandr Shkolnik, member of the Public Chamber and director of children's programs at Channel One, who became the general director, and Channel One news anchor Vsevolod Neroznak, who became chief editor.

A current employee at RSN told Gazeta.ru that Shkolnik and Neroznak read out the new rules of information policy at the meeting. Our newsmakers are the first persons in United Russia and members of the Public Chamber. If we talk of defenders of human rights, they are the official defenders of human rights — Vladimir Lukin and Ella Pamfilova.”

“We were told that our listeners are well-to-do people who need something positive, people with an interest in fashionable cuff links and neckties,” the RSN employee told Gazeta.ru.

Later Neroznak met separately with correspondents and, so one of the participants in that meeting said, read out a so-called “blacklist” from a piece of paper — a list of people prohibited on air. “As for Kasyanov, Kasparov, and Ryzhkov, we do not mention them, and if some events involving them take place, for now we will use the phrase ‘liberal radicals,’” Neroznak explained to the correspondents. “America is our enemy,” the chief editor added another thesis for understanding. In a few days listeners to the radio stations belonging to RMG noticed that direct broadcasts had vanished from the news. At the radio station itself all programs and materials are now proofread in advance by the chief editor before going on air. (“Russian Brainwashing Service” by Aleksey Levchenko, Gazeta.ru, April 18, 2007) and Russian News Service Goes Off Air, Kommersant daily, May 18, 2007

At their first meeting with journalists since taking over Russia's largest independent radio news network, the managers had startling news of their own: from now on, they said, at least 50 percent of the reports about Russia must be positive.

How would they know what constituted positive news? When we talk of death, violence or poverty, for example, this is not positive, said one editor at the station who did not want to be identified for fear of retribution. If the stock market is up, that is positive. The weather can also be positive.

The tactic of the new anti-free media campaign has been to impose state ownership on media companies and replace editors with those who are supporters of Mr. Putin — or offer a generally more upbeat report on developments in Russia these days. (50% Good News Is the Bad News in Russian Radio by Andrew E. Kramer, New York Times, April 22, 2007)

See also Russian journalists charge censorship, Reuters, April 18, 2007

The director-general of the Russian News Service (RSN), Aleksandr Shkolnik, denied claims of censorship at the RSN. (Russian radio service manager denies censorship claims, Interfax news agency, 18 May, 2007)

Vsevolod Neroznak, the services editor in chief, denied details of the resigning journalists' allegations, saying that there was no formula for positive news, but that positive news was part of the network's new philosophy. Our country is growing, our economy is developing, and there is a lot of positive news, he said. I cannot see any problem with this. He also said that there was no blacklist of sources but that the network would not cover extremist items. Asked what constituted an extremist item, he said, There are Russian laws, and everything is written there. (Eviction Notice Is Latest Russian Move Against Journalists by C. J. Chivers, New York Times daily, May 19, 2007)

See also Russia: State Cracks Down On Media Ahead Of Journalists' Congress by Chloe Arnold, RFE/RL, May 23, 2007.

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

How so-called stop lists are used on TV, see here: <http://www.novayagazeta.ru/data/2007/20/08.html>.

There are various ways to apply censorship to artists. For example, in May 2007, Russian customs officials have refused to ship six works of art, including two that poke fun at President Vladimir Putin, to a German art gallery for an exhibition, saying they could spark a dispute. (See more about it here: Customs Blocks Satirical Art From Being Sent to Germany, Reuters, May 23, 2007).

See also First Blacklist of Literature is Released, The Moscow Times daily, July 17, 2007.

See also here: <http://www.kommersant.ru/doc.aspx?DocsID=782738> and <http://www.newizv.ru/news/2007-07-19/73071/> How its implemented, see <http://www.novayagazeta.ru/data/2007/39/21.html>.

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. This score is appropriate if in countries where illiteracy is high, 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. This score is appropriate even if the government restricts only politically damaging news while allowing favorable coverage.

10. Are the media credible sources of information?

45

10a. In law, print media companies are required to disclose their ownership.

YES | NO

Comments:

Mr Fedotov, one of the authors of the Law on Mass Media suggested an amendment, according to which the concept of ownership of mass media" should be introduced to the law, as the founder could be also an owner of mass media.

References:

According to the Art. 10 of Law on Mass Media, the application for the registration of a mass medium shall indicate information about the founder (co-founders) provided for by the present Law...".

YES: A YES score is earned if print 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 types of entities or agents from being disclosed.

10b. In law, broadcast (radio and TV) media companies are required to disclose their ownership.

YES | NO

Comments:

Mr Fedotov, one of the authors of the Law on Mass Media suggested an amendment, according to which the concept of ownership of mass media" should be introduced to the law, as the founder could be also an owner of mass media.

References:

According to the Art. 10 of Law on Mass Media, the application for the registration of a mass medium shall indicate information about the founder (co-founders) provided for by the present Law...".

YES: A YES score is earned if broadcast 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.

10c. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100 | 75 | 50 | 25 | 0

Comments:

There is a difference between professional practices and state interference, as the latter is by far not the only restriction to professional practices. First and foremost, professional practices refer to reliability of information and unbiased presentation. Russia, as all market economies, has lots of tabloid newspapers, which do not adhere to professional practices for commercial reasons. Second, most newspapers – but not all – tend to be rather uncritical of the government. Whether this is a lack of professional practices depends on the point of view. In any case, newspapers like Vedomosti have critical views but present them in a rather dry way, not out of politeness but as a question of style, which is not unusual for newspapers aiming at a well-educated readership. The situation is different with television stations, where closeness to the government obviously conflicts with professional practices.

Comparing Russian TV in 1990s and at present, Yelena Zelinskaya, president of Media Union and member of the Public Chamber said it had fully changed its function, i.e. in 1990s it was, along with other media, a component of political life. It played an active people, influenced [the public] to the extent it could and in some way sometimes even showed the direction, etc. At least its function was, I would say, of greater participation in the political life of the country. But today the function of the TV has totally shifted to the side of the entertainment component." (Russian Ekho Moskvyy radio's "Kitchen of Andrey Cherkizov" programme, hosted by Andrey Cherkizov, broadcast at 1808 gmt on 5 November)

Oleg Panfilov, the head of the Moscow-based Journalism in Extreme Situations, called Russian media the "empire of lies."

"From a position of a freedom of speech, the situation in the Russian mass media can be estimated as catastrophic," he said. "Television is the core with more than 90 percent of the population depending on it as their main source of information. But now in Russia all five national TV channels are used by the state for propagation, for distribution of an official position."

Panfilov said that there is next to no opportunity for Russians to receive independent news.

"Only a small part of the population can search for independent sources of information through the Internet, or by the old Soviet tradition to listen to programs of foreign radio stations in Russian." (Russian Media Called 'Empire of Lies' by Alexandra Poulos, ABCNews.com, Jan. 10, 2007)

An interesting opinion on current situation with media in Russia compared to the 1990-s by journalist Anatoli Baranov is here: <http://forum.msk.ru/material/news/394042.html?0548>.

Oleg Panfilov, director of the Moscow-based Centre for Journalism in Extreme Situations: Censorship is banned under the constitution, but it exists in the form of self-censorship by editors and proprietors fearful of laws that mean they can easily find themselves in court if their organizations produce reports that offend the Kremlin. (Press freedom: To understand these outrages, you need a Russian history lesson, The Independent daily (UK), March 12, 2007)

Independent news reporting on themes like corruption, poverty, public health and the wars in Chechnya flourished after the Soviet Unions collapse but has sharply declined under President Vladimir V. Putin. Critics of the Kremlin say that opposition views are now at risk of disappearing from the public discourse.

Russia Today, a state-run global television channel, was created in 2005 to promote pro-Kremlin views in formats that resemble modern news broadcasts.

A few news Web sites, a shrinking pool of independent newspapers, all with limited circulations, and a sole radio station, Ekho Moskvyy, are almost the only remaining outlets for independent news and public dissent.

Foreign radio material has been restricted or blocked from most frequencies across the country. (Eviction Notice Is Latest Russian Move Against Journalists by C. J. Chivers, New York Times daily, May 19, 2007)

New media magnates, most notably Alisher Usmanov, Arkadiy Gaydamak, Oleg Deripaska, Yuriy Kovalchuk, Grigoriy Berezkin, and Konstantin Remchukov, are buying up media and announcing plans to create media empires. Most are clearly pro-government and eager to curry favor with President Vladimir Putin. But while some (Gaydamak) already have made their media pro-government, others (Usmanov and Deripaska) have appeared to leave the editorial policy of their media alone, at least for the time being. However, with parliamentary and presidential elections coming in 2007 and 2008, they may exercise greater control over their media's political line when pressed by the Kremlin.

During 2006 and 2007, oligarchs who built their fortunes in metals, banking, and energy took over a large number of newspapers, magazines, TV channels, and websites and created media holding companies. Usmanov bought the daily Kommersant, the magazine Sekret Firmy, the website Gazeta.ru, and television channel 7TV and announced creation of a multimedia company.

Gaydamak bought the business paper Biznes and created a multimedia company modeled on Bloomberg business news. Deripaska bought part ownership of the business weekly Ekspert and developed his RAINKO media company. Kovalchuk's Peterburg TV was expanded to a national channel and renamed Pyatyy Kanal, and his Abros media holding bought control of RenTV in December 2006. Berezkin set up a media holding company in 2006 and bought Komsomolskaya Pravda, the country's most read daily. Remchukov in early 2007 took over personal control of his Nezavisimaya Gazeta and began using it to express his own views. (Analysis: Pro-Kremlin Russian Businessmen Building New Media Empires, OSC [US Open Source Center], May 3, 2007)

In April 2007, Surgutneftegaz oil and natural gas company has sold a 75% stake in Media-Invest that holds 35% in REN TV, widely considered the most independent of Russia's national television channels, to Kovalchuk's Rossiya, a Kremlin-connected bank.

National Association of Telebroadcasters President Eduard Sagalayev said previously REN TV has been the last national television network that has pursued an independent information policy, as much as was possible in today's conditions. (Kremlin-friendly bank takes over last independent TV channel, RIA Novosti news agency, April 13, 2007)

In spring 2007, TV-Tsentri's (Moscow TV channel) political news show, "Fighters Club," also faced restrictions and was ultimately shut down for failing to follow Kremlin guidelines. According to the show's host, Aleksei Navalny, deputy presidential administration head Vladislav Surkov and Aleksei Chesnakov, who heads of the presidential administration's information department, cleared participants and topics for the show in advance.

When Navalny deviated from the approved guidelines, the show was taken off the air. Navalny also revealed that he was warned about existence of so-called "blacklists" of people the Kremlin did not want on the air.

Sergei Markov, director of the Institute of Political Studies, which is closely linked to the Kremlin, defended the Kremlin's policies toward the media. "In these conditions in Russia, with our weak and fragile political parties," he said, "television is a nuclear weapon. And now people say it would be good if different people could use this weapon. But that is threatening. True, [television management] does not want to have problems, so they have gotten rid of all politics from television, leaving only entertainment." (Russia: Pressure Mounting On Opposition, Media by Victor Yasmann, RFE/RL, April 24, 2007)

Some diversity of perspective exists in print media at the national level, which are privately owned. Ownership of regional print media is less diverse and often concentrated in the hands of local authorities. Private owners of media outlets are generally billionaire business magnates or large companies like the state-controlled energy conglomerate Gazprom, which holds majority stakes in the newspaper Izvestia and radio station Ekho Moskvy. However, the law requires little transparency in media ownership, and media watchdogs expressed concern in 2006 that companies like Gazprom would purchase additional newspapers, such as Komsomolskaya Pravda, and tighten the establishments grip on the media ahead of the 2008 presidential election. The government continued to disadvantage private media by allocating subsidies to state-controlled outlets and controlling the means of production and distribution. (Freedom of the Press 2007, report on Russia by Freedom House, May 1, 2007)

Boris Reznik (United Russia), deputy chairman of the Duma Committee for Information Policy, is thoroughly skeptical about these conclusions. "That's a rough estimate," he told us. "Sure, we do have certain problems. Media outlets in Russia need better economic independence. The VAT rate should be cut, and so on... Anyway, I don't think that newspapers and radio broadcasters fear speaking their mind."

According to Reznik, whatever censorship may exist in Russian journalism is strictly self-imposed. "It's easier for journalists this way," the lawmaker said. "They are trying to appease the authorities all on their own. Nobody is telling them to."

Mikhail Fedotov, Secretary of the Russian Journalists Union, blames all these negative evaluations on the authorities' reluctance to set up the legislative and economic conditions necessary for independence of the media. "We have great laws that defend journalists and their rights, but they are enforced and honored only in the capital," Fedotov said. "Regional authorities never miss a single chance – or petty excuse – to do away with an independent media outlet. Besides, it is regional authorities themselves that usually finance local newspapers and TV networks."

According to Fedotov, Russia last climbed to the first top dozen countries on freedom of the media lists in the 1990s, together with the Czech Republic and Estonia, when the majority of media outlets were truly independent. (Non-Free Media Day by Olga Pavlikova, Gazeta daily, May 3, 2007)

Vice President of the Media Union and deputy head of the Public Chamber's commission for freedom of speech Yelena Zelinskaya has blasted the evaluation of the state of freedom of speech in Russia made by the U.S. Committee to Protect Journalists and called the report biased.

"I would not like to make any comments here because one gets the impression that they are making all their evaluations at the emotional level and we question their professionalism," she told Interfax on May 2, commenting on a report by the committee issued ahead of World Press Freedom Day marked on May 3.

"The question arises as to how often those behind the report have actually visited the Gambia or Congo to have a true idea of developments there and compare them with us?" Zelinskaya said. (Russian Expert Questions Freedom House Evaluation Of Russia, Interfax news agency, May 2, 2007)

Commenting on the troubled condition of Russia's news media, former Soviet President Mikhail Gorbachev observed: "The one thing I can say is that it's pointless today to watch television [in Russia]." (CIS: Behind An 'Information Curtain' by Christopher Walker, RFE/RL, May 2, 2007)

A story of the thrice-weekly Novaya Gazeta – a lonely independent voice of Russian printed media: Russian newspaper quite a story itself by David Holley, Los Angeles Times, May 21, 2007.

What was the response from Russian authorities accused of prosecuting the national media? On May 3, 2007 Public Chamber and All-Russian Public Opinion Research Center (VTsIOM) announced on a future cooperation on a study aimed at evaluating freedom of expression throughout Russia. Yelena Zelenskaya, Mediasoyuz Vice President and deputy chairperson of a Public Chamber commission, claims that the working group to be established for the purpose of evaluating freedom of expression will take into account every relevant factor in every region.

The working group will embark on its mission in May. It expects to complete the task before the term of office of current Public Chamber member ends – that is, by the end of the year. "We are not aiming to refute or support foreign researchers and their conclusions," Zelenskaya explained. "I'm convinced that they are doing their job to the best of their ability, but they are foreigners, and – let's face it – they don't really care about what is happening here."

The purpose of this move was discussed on the Russian Ekho Moskvy radio programme "Lukavaya Tsifra" (Tricky Figures) broadcast on 8 May and presented by Antonina Samsonova and Masha Mayers. The guests were Director of the Public Research Foundation Igor Yakovenko and head of VTsIOM Leontiy Byzov.

Yakovenko agreed that although there could be disagreements over research methods used by Freedom House, on the whole their assessment of Russia as a country without free media is correct. "Russia has state monopoly on television; practically all television channels are under state control; hardly anybody can argue with this. I mean public-political channels. We witness journalism being squeezed out of the media and substituted by propaganda. Speaking about nationwide channels, on the whole journalists have left them and have been replaced by propagandists like [Gleb] Pavlovskiy, [Mikhail] Leontyev and so on," he said.

Byzov said the Freedom House report is rather subjective. He also noted that, unlike Freedom House experts and other "respectable organizations", Russian society does not see the lack of freedom of speech as an urgent problem. "We have carried out an opinion poll," he said. "Just over 20 per cent of Russian agreed that freedom of speech is restricted in Russia. Over 45 per cent disagreed and the rest did not know."

Byzov said that trust in the media is growing in Russia, currently standing at over 50 percent. "Of course, this concerns first of all major nationwide television channels, which provide over 80 per cent of information, especially political information. Moreover, people welcome state control over the media. Asked what they want, people say the state must influence the media even more. Many support censorship, not political but rather moral. In fact, it comes out that people admit: yes, the state controls the media and restricts its freedom but they see more positive than negative in this situation," he said.

Yakovenko argued that television is not longer just part of the media, it has turned into "a tool for mass propaganda and manipulation". (Russian radio discusses Moscow's response to Freedom House report, BBC Monitoring, source: Ekho Moskvy radio, Moscow, in Russian 1908 gmt 8 May 07)

Vsevolod Bogdanov, chairman of the Union of Russian Journalists, complained that only 3-5 per cent of journalism in the country remained free and more or less independent. "Right now, it is mainly propaganda," he summed up. (Moscow congress debates

crimes against journalists by Madina Shavlokhova, Gazeta daily, 29 May, 2007)

According to a statement by the Public Chamber's press service received on July 19 by Interfax, the working group is expected to include representatives from the Glasnost Defence Foundation, the All-Russia Centre for the Study of Public Opinion (VTsIOM), MediaSoyuz, the alliance of heads of regional mass media, the Russian Union of Journalists, and the Guild of Press Publishers. Other interested organizations may be invited to join this list.

The Public Chamber's press service also said that on the request of the "public activists", VTsIOM had prepared its own proposal for the meeting as to how the index of freedom of speech and the press would be calculated, but that "the concept presented was imperfect and required serious amendment".

In particular, the large-scale public opinion polls proposed by VTsIOM were pointless, said the president of the Glasnost Defense Foundation Aleksey Simonov.

"In order to assess freedom of speech, for example in the press, it is useless to research the readership's opinion. In the Stalin era, 90 per cent of people surveyed would have said that

References:

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 for 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."

Presentation by 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.

10d. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

100 | 75 | 50 | 25 | 0

Comments:

No. In the lead-up to the parliamentary election, the Video International (the number 1 TV advertiser) Analytical Center has surveyed Russian citizens to find out what kind of news programs they watch, what they think of them, and which demographic groups are most susceptible to the influence of news broadcasts. News broadcasts are the most important resource in the campaign race, and most politicians will be attempting to get some coverage in the news programs of the national television networks.

A three-month survey done by TNS Gallup Media in 2006 reported that more than 90 percent of citizens watched the evening news on Channel One (Vremya program, 9 p.m.) at least once during those three months; more than 90 percent watched the evening news on the Rossiya channel (Vesti program, 8 p.m.) at least once; and more than 80 percent watched the evening news on the NTV channel (Segondya Vecherom program, 7 p.m.) at least once. Thus, in the space of one month, more than 90 percent of citizens watched at least one news broadcast.

The Television As Seen by Viewers 2006" report demonstrated that three-quarters of pensioners watch television news broadcasts every day; only one-third of young people do so. A fifth of young people watch the news less than once a week. Almost a fifth of middle-aged people take only a superficial interest in the news.

Over two-thirds of respondents agree that "news programs are over-politicized, with everything revolving around politics." So even now, before the election campaign season, viewers are already annoyed by an excessive emphasis on politics in news broadcasts.

Pensioners aged over 65; when people in Russia retire, become dependent on the state and its policies, so they take an interest in politics. (The News In The Campaign Race by Ilya Tsarkov, senior analyst, Video International Analytical Center, Izvestia daily, August 16, 2007)

In January 2007, the Medialogy media monitoring company has released its fourth annual survey of media coverage for Russia's political parties.

In 2006, the media became substantially more cautious in evaluating Russian politicians. Changes in coverage of the United Russia party were particularly noticeable. In 2005, United Russia was mentioned 50,796 times in newspapers and magazines, on radio and television, in online resources, and by news agencies. In 2006, that figure rose to 67,500. The proportion of articles or news items focused on United Russia or its members also increased, though not by much. Despite this, the quantity of coverage containing some evaluation whether negative or positive – decreased substantially.

Here's an important detail: in 2005, United Russia got most of its praise on television and most criticism in the newspapers both regional and national newspapers. The situation changed in 2006. Due to competition with the Kremlin's second party, Just Russia, United Russia was mentioned less frequently on national television (1,900 times compared to 2,331 times in 2005); but it was mentioned more often in the newspapers. The regional newspapers changed their attitude abruptly. In 2005, they were almost always critical of United Russia: 2,418 critical mentions as opposed to 1,232 positive mentions. But 2006 produced only 639 critical evaluations of United Russia, compared to 845 positive mentions. Even the national newspapers have shown a trend in favor of United Russia; Medialogy notes that they had always been very critical of United Russia. In 2005, United Russia got 1,565 negative mentions and only 131 positive mentions in the national newspapers. In 2006, these figures were 1,196 and 144 respectively.

Moscow-based national newspapers showed a somewhat unexpected fondness for the Communist Party, which has always been weakest in Moscow. Although the total number of articles about the Communists has declined for several years in a row, positive mentions have outnumbered negative mentions for the second year running. The regional newspapers are different: they give less coverage to the Communist Party, and criticize it more often. It's no coincidence that most Communist voters live in the regions.

Vladimir Zhirinovskiy's position has remained stable for the second consecutive year. His party, the LDPR, gets mostly negative coverage (only 40 positive mentions), but it's being mentioned more often (15,807 times in 2005, 18,244 in 2006). In terms of media coverage, 2006 was the best year for Just Russia and the parties that merged into it – the Party of Life and the Party of Pensioners. However, as Medialogy admits, they were promoted almost entirely on television. According to Medialogy, online publications in 2006 contained no positive mentions of the Just Russia party at all.

The indisputable outsiders of 2006 were the pro-democracy parties: the Union of Right Forces and Yabloko, which are ceasing to get even passing mentions. The number of articles or news reports focused on them is declining rapidly, halving in comparison to 2005. Yabloko is worse off. It set an unfortunate record in 2006: only 18 positive mentions in the entire Russian media, compared to 246 negative mentions. (Journalists Have Grown Cautious by Gennadi Savchenko, Gazeta, January 15, 2007)

See also Just Russia Shows and Tells by Aleksandra Zaytseva, Gazeta.ru, January 17, 2007.

"I think a differentiation between the channels will emerge closer to the elections, so that one channel will support United Russia more, while another will support Just Russia more," Mikhail Fedotov, Secretary of the Journalists' Union, believes, "but I cannot believe that any of the existing channels will support the CPRF, or Yabloko, or the SPS (Union of Right-Wing Forces) – the parties for which the authorities have mapped out a path leading in the direction of the crematorium."

The proximity of the federal election campaign is having a substantial influence on the qualitative characteristics of news bulletins and analysis programs. The Medialogiya statistics indicate that the TV channels' policy has recently become more restrained and neutral. A reduction is taking place in the number of reports of both a positive and a negative nature. Thus, in January-February 2007 there has not been a single negative report about major players in the election campaign like Just Russia, the LDPR (Liberal Democratic Party of Russia), or even the CPRF, which is traditionally the victim of the TV channels' prejudice. ("Plotting Against United Russia on the Air. TV Channels Cannot Help Promoting CPRF Brand" by Igor Romanov and Natalya Kostenko, Nezavisimaya Gazeta daily, February 19, 2007)

An analysis of the presence of political parties on Russian television commissioned by Nezavisimaya Gazeta and conducted by the Medialogiya company in March 2007 provides interesting food for thought

Closer inspection of the data shows that there are fundamental differences in the quality of television coverage of parties. For example, the metric of "reports in which the target party is the most important element" looks like this: United Russia 73; Communist Party of the Russian Federation (CPRF) 26; Just Russia 37; Liberal Democratic Party of Russia (LDPR) 10; Union of Right-Wing Forces (SPS) 9; Yabloko 5. Clearly a rating of 5 or 9 under this metric is virtually nothing, given that March was the month of regional parliamentary elections.

As for the ratio of positive to negative reports, the figures were: Yabloko 0:32; the SPS 18:19; the LDPR 21:12; Just Russia 55:6; the CPRF 44:0; and United Russia 94:7. Clearly these ratios arise from deliberate media planning by the heads of television channels' political editorial offices. This is where the filter is located.

We are probably witnessing the implementation of a new Kremlin information strategy. The increasing television presence of representatives of various political forces in the coming months should help Russia's image makers in their efforts to adjust the image of Putin's Russia. Within the country too, many voters may feel that they are adequately informed about the positions of rival politicians. (Editorial: "More Airtime for Politicians. Authorities Adjusting Their Strategy", Nezavisimaya Gazeta daily, April 3, 2007)

The monitoring ordered by the Communist Party (CPRF) was conducted by the Center for Studies of Political Culture. In fact, some TV network seem to be determined not to make any references to the Communist Party at all. The TV-Center made no references to the CPRF over six consecutive days, NTV over 13 days, and Channel over 16. As far as the Communists are concerned, their positions on major issues were misreported even when the CPRF was mentioned. Russia TV-network for example made a wrong emphasis when reporting on Gennadi Zyuganov's trip to Perm, and RBK-TV reported the party's rebranding which had never even been contemplated.

United Russia is the only political party in Russia which is entirely satisfied with its media coverage. Sergei Mironov, Federation Council speaker and Just Russia leader, said that references to his political party are taboo for television networks.

Yabloko deputy leader Sergei Mitrokhin maintains that the same veto has been slapped on references to his party as well. "NTV crews visit me frequently, but that pretty much sums it up. The story never makes it to air," he said.

Alexei Mitrofanov of the LDPR told this correspondent that this party was only mentioned in REN-TV news programs and "sometimes in NTV's." Mitrofanov said his appearances in talk shows and entertainment programs were actually attempts "to break through this information blockade". Boris Nadezhdin, chairman of the Federal Political Council of the Union of Right Forces, also complains that he is compelled to stoop to "clownery" to get on the air.

United Russia alone is smug. Valery Ryazansky, Deputy Secretary of the Presidium of the General Council, assured us that "there is no deliberate discrimination of other political parties" and "United Russia is only mentioned because its leaders are so active." ("They Edit Us Out All the Time" by Yevgenia Zubchenko, Novye Izvestia daily, July 24, 2007)

How political parties are covered by media in mid-October, after parliamentary campaign was officially announced – see "Phone-In to Every Leader! Party Bosses Demand Access to the Airwaves in Line with the Example of the No. 1 on the United Russia List" by Vladimir Razuvayev Jr., Nezavisimaya Gazeta, October 24, 2007.

The appointment on 22 August of Andrey Pisarev, adviser to the political department of United Russia's executive committee, as deputy director of state-owned Channel One in charge of overseeing election coverage is stirring objections from opposition parties. Opposition parties are protesting that Channel One cannot be objective. Media recalled a similar example from the 2003 Duma election when a new Channel One deputy director was named and used the channel to favor a party then preferred by the Kremlin. Pisarev has had especially close ties to the Russian Orthodox Church and nationalist circles and is characterized by some media as an "ideologue" for nationalists.

The daily Kommersant (22 August) had reported the appointment had been made upon the recommendation of Putin's staff (the Main Directorate for Domestic Politics of the presidential Administration).

In response to Kommersant questions, Channel One Director Konstantin Ernst said the appointment had been made a month ago and that "this was my personal initiative" and "no one forced anything" on him. He argued Pisarev has long worked with Channel One as producer of the Sunday "Vremya" news program. He explained Pisarev will coordinate election projects, political filming, and TV debates— "that is, everything relating to the coming federal elections" (Kommersant.ru, 22 August). (United Russia PR Man Named To Head State TV Coverage of Election, Russia— OSC [US Open Source Center] Report, August 28, 2007)

New electoral legislation explains how the media should cover the elections. Central Electoral Commission (CEC) member Igor Fedorov: "There are two important new regulations for the media. Firstly, candidates are forbidden to criticize their opponents on television. Secondly, media outlets will now face penalties for publishing any materials containing calls for extremist action." Parties also face the threat of punishments – up to and including disqualification. For media outlets, the ultimate penalty is license cancellation.

CEC member Maya Grishina: "We have to draw a distinction between defamation and criticism. Defamation is a crime, while criticism is forbidden only in individual speeches on television – other campaign materials may contain critical accounts of party activities. But if Party A criticizes Party B on television for failing to keep some promise, then Party A will be punished."

The law protects journalists as well as punishing them. Media workers covering the elections may not be fired during the campaign, or within a year after the campaign. (Will The Elections Turn Into A Media War by Natalia Antipova, Izvestia daily, August 30, 2007)

What is the official stand on media coverage of political parties?

Russia's chief election commissioner Vladimir Churov disagrees that only one party gets all attention in domestic mass media. The positions of major parties on television and radio are leveling off, he told foreign journalists on September 13.

"There are many large interviews with the leaders of opposition parties," Churov said.

"As for the Internet, there's complete freedom there, one does what he wants, and so do I," he said. (Ruling, Opposition Parties Get Equal Attention In Mass Media Churov, Interfax news agency, September 13, 2007)

References:

Various publications and reports by Russian media, political parties, polling agencies, NGOs, and experts.

See more it here: <http://www.novayagazeta.ru/data/2007/44/01.html>;
<http://www.vremya.ru/2007/130/4/183318.html>;
http://www.ng.ru/ng_politics/2007-07-17/9_nebo.html;
<http://www.newizv.ru/news/2007-07-24/73293/>.

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.

10e. In practice, political parties and candidates have equitable access to state-owned media outlets.

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. In March-May 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, 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. Based on the data from the second monitoring period, it is apparent that these data are not the result of short-term anomalies, but appear to reflect genuine trends in Russian media. 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. All parties and candidates are offered consistent and equivalent rates for campaign advertising on state-owned media outlets.

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.

11. Are journalists safe when investigating corruption?

0

11a. 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.

According to Oleg Panfilov, director of the Russian Center for Extreme Journalism, the number of attacks on the media is huge – and most of those who put pressure on the media are state officials, who have no apprehensions about being penalized for doing so. In the Yeltsin era, only a few journalists faced criminal prosecution; but there have been about 50 cases a year since 2000. Moreover, Russia has denied visas to about 40 foreign journalists. They wrote about what happened in Chechnya during the two wars. This is an act of revenge by the authorities,” says Panfilov. (THE ONLY PLACE THAT’S MORE DANGEROUS IS IRAQ by Yevgenia Zubchenko, Novye Izvestia daily, January 24, 2007)

A Moscow journalist was sentenced to five years in prison Monday on charges of inciting ethnic hatred in reports about the conflict in Chechnya.

Human rights activists and lawyers said the sentence for Boris Stomakhin, editor of Radikalnaya Politika, a Moscow-based monthly newspaper, was unprecedented in its severity. Stomakhin, who also contributed opinion articles to the rebel Kavkaz Center Web site, frequently called the presence of federal troops in Chechnya an “occupation,” and compared President Vladimir Putin to Saddam Hussein and Slobodan Milosevic. Moscow’s Butyrsky District Court ruled that “Stomakhin approved of the terrorists’ actions, which were aimed at destroying the Russian people as a race,” Interfax reported.

In October 2006, Vladimir Rakhmankov, editor of the Web magazine Kursiv, was found guilty of insulting a public official and fined 20,000 rubles (US\$750) for referring to President Vladimir Putin as “a phallic symbol.”

Boris Timoshenko, head of the monitoring center at the Glasnost Protection Foundation, said he could not understand why the written word had inspired such a harsh prison sentence, while the authorities do not seem to respond similarly to racially motivated violence.

“We are seeing fewer and fewer journalists who can provide reliable and truthful reporting on Chechnya,” said Nina Ognianova, the U.S.-based Committee to Protect Journalists program coordinator for Europe and Central Asia. (Editor Jailed for His Coverage of Chechnya by Maria Levitov, Moscow Times daily, November 21, 2006).

“Over the past five or six years, Russia has become the world leader in terms of the number of criminal cases opened against journalists, with over 50 such criminal cases annually, plus another 5,000-6,000 civil cases in which journalists are defendants,” Oleg Panfilov, the head of the Center for Journalism in Extreme Situations told Interfax on August 2.

“As courts in Russia are controlled by bureaucrats, journalists will seek justice in Strasbourg, and the number of their complaints to the European Court of Human Rights will be growing,” Panfilov said.

Panfilov welcomed a recent ruling by the Strasbourg Court, in which it acknowledged that three Russian journalists – Viktor Chemodurov, who was earlier found guilty of insulting Kursk Governor Alexander Rutskoi after several years of judicial hearings, and Viktor Dyuldin and Alexander Kislov, who were found guilty of insulting Penza authorities in their open letter to Russian President Vladimir Putin – were held liable unlawfully.

Elaborating on prosecutions of journalists in Russia, Panfilov also pointed out that earlier they had mainly been charged with libel, but “in the last half a year, journalists have been actively accused of extremism.”

“This is exactly what we were afraid of when the legislation on countering extremism was being adopted,” he said. (Russian Journalists Fated To Appeal To Strasbourg Court More Often – CJES Head, Interfax news agency, Aug 2, 2007)

Some cases of the police prosecution of the media go unnoticed by human rights activists and journalists. On December 5, 2006, police in Rybinsk, Yaroslavl Oblast, arrested antiwar journalist Andrey Novikov. He was charged on the basis of writings that he had not yet published (of “using mass media to publicly incite extremist activity” in violation of Article 280 of the Russian Criminal Code). Furthermore, officials and pro-government media insinuated Novikov was mentally ill, raising the specter of a return to Soviet-era practices against dissidents.

Russian media gave almost no coverage to Novikov’s arrest. Even the Chechen rebel websites, as well as human rights websites that often cover such issues, devoted comparatively little attention to the case.

The Russian news agency Regnum, which covers regional developments, carried the first report on Novikov’s arrest on 18 January. Regnum cited Yaroslavl Oblast prosecutor Yegor Timofeyev as saying the charges against Novikov were based on two e-mails he had sent to Chechenpress and to Yaroslavl Oblast’s largest newspaper, Zolotoye Koltso.

Timofeyev said Novikov had expressed support for Chechen rebel leaders and “called for the bombing of Russian cities, including Rybinsk.” Regnum reported that a court had remanded Novikov for psychiatric evaluation

The Russian media’s scant attention to Novikov’s arrest sharply contrasts with their intense focus on the murders of Kremlin critic and former FSB agent Aleksandr Litvinenko — who, like Novikov, was a frequent writer for Chechenpress — and of antiwar journalist Anna Politkovskaya. It may be that most Russian journalists are cowed by official pressure. Furthermore, perhaps only highly sensational events, like the high-profile killings of Litvinenko and Politkovskaya, can now draw media attention, while the arrest and prosecution of antiwar journalists for their writings are seen as unremarkable. Finally, Russian journalists may be unsympathetic to Novikov’s extreme anti-Russian rhetoric or have doubts about his sanity. (Moscow Steps Up Repression Against Pro-Chechen Journalists, OSC [US Open Source Center] Analysis February 7, 2007)

Just ahead of election season, Russia’s politicians change the laws so they can put more dissidents in prison. These days, when Kremlin officials talk about “extremists” they usually mean the political opposition, and The Other Russia coalition in particular. In late July President Vladimir Putin signed a series of amendments that his majority party, United Russia, claims are targeted against nationalists and those planning violence. But the political opposition warns that the new clauses will amount to a crackdown on freedom of expression.

Under the new legislation no fewer than 13 aspects of extremism will become offenses. They include “public slander of state officials,” “hampering the lawful activity of state organizations,” “humiliating national pride,” and “hooliganism committed for political or ideological motives.”

And the intelligence services will be allowed to tap the phones of anyone suspected of extremism. In most democracies it takes reasonable suspicion of plotting serious offenses like terrorism, murder, or kidnapping to justify phone bugging.

Russian journalists and editors have every reason to be concerned. It will take only a stroke of the pen to brand a media report critical of the Kremlin as “public slander of state officials.” And those responsible will be at risk of up to three years in prison.

These loosely written and hastily adopted measures will make it much easier for the state to stifle its critics. And these clauses, with their vague wording, leave great scope for draconian interpretation. That could allow them to be used just as easily against peaceful democratic opposition groups as against real extremists who are ready to use violent means to gain their objectives.

The new clauses suggest the authorities are increasingly fearful of a wave of civil protests of the kind that brought thousands of people onto the streets in the spring. So those who take to the streets in the future, and those who distribute the leaflets calling on them to protest, can be harshly dealt with under the catch-all clauses passed against "extremism."

Those legal amendments take a big step backward into the Soviet past. What we are looking at is essentially a revival of the repressive laws of the communist era against such things as "anti-Soviet campaigning and propaganda" (Article 70 of the Soviet Criminal Code) and "distribution of information discrediting the Soviet regime" (Article 190).

("The Thugocracy Lands Another Punch" by Galina Stolyarova, a writer for The St. Petersburg Times, 16 August 2007, available at <http://www.tol.cz/look/TOL/article.tpl?IdLanguage=1&IdPublication=4&NrIssue=231&NrSection=2&NrArticle=18915>)
See more about it here: http://www.gazeta.ru/comments/2007/10/01_a_2207764.shtml and
<http://www.polit.ru/analytics/2007/09/07/antiextremism.html>;
<http://www.newizv.ru/news/2007-09-13/76089/>.

References:

Glasnost Defense Foundation survey; Center for Journalism in Extreme Situations reports.

Alexei Simonov: In reality, practically all television stations in Russia are owned by either the federal government or municipal governments. Self-supporting media outlets do exist, of course, but even they are part of the team."

Question: The statistics your Foundation has compiled indicate that journalists are being prosecuted less frequently now, but assaulted and murdered more frequently.

Alexei Simonov: What counts, and what worries me, is that journalists now face criminal charges more often. (Nothing More Unhealthy For the Media Than Elections, an interview with Glasnost Defense Foundation Chairman Alexei Simonov by Alexander Kolesnichenko, Novye Izvestia daily, January 16, 2007)

One example of such prosecution is very illustrative. On October 22, a regional court of Saratov, a major city on Volga river, found guilty on the charge of libel Mr Vladimir Spiryagin, editor-in-chief of Saratovski Rasklad a local newspaper. He was accused of publishing on August 9, 2007 an article about Vyacheslav Volodin, Secretary General of Edinaya Rossiya party, and MP. The article claimed that Volodin allegedly wounded a local woman while hunting. The editor was sentenced to 180 hours of community service and made to pay a fine. (In Saratov an editor of a local newspaper was indicted for libel, Kommersant daily, October 22, 2007, available at <http://www.kommersant.ru/doc.aspx?DocsID=817650>).

A newspaper editor was put on trial in an Ufa court on charges of extremist activity for publishing two commentaries calling for the resignation of Bashkortostan's leader. Murtaza Rakhimov.

Viktor Shmakov, editor of the Provintsiialniye Vesti, faces up to five years in jail for publishing the articles that claimed corruption and human rights abuses in the region.

The articles were written by a local opposition leader, Airat Dilmukhametov, who also faces the same charge in the case. (For more information, see Editor on Trial in Extremism Case, The Moscow Times daily, March 20, 2007)

However, prosecution against journalists backfires sometimes

<http://www.kommersant.ru/doc.aspx?DocsID=768465&NodesID=6>

AI.Simonovs report is available here: <http://www.expertiza.ru/expertiza.phtml?id=606>

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

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. Imprisoned" is defined here as detention by the government lasting more than 24 hours.

11b. 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. It should be wrong to claim that physical attacks on journalists are generally made by state agencies. The state still has other means, like buying media and sacking journalists or initiating criminal proceedings.

The New York-based Committee to Protect Journalists (CPJ) released in October 2006 a report called "Deadly News" listing the world's most murderous countries for journalists in 1991-2006. Russia came in third, after Iraq and Algeria. "These are countries that were experiencing war, major conflicts. What's different about Russia is that there is no declaration of war in Russia itself, it is nominally at peace, and yet we've documented these 13 contract-style killings since Vladimir Putin took office. So that is a major indicator of the kind of press freedom climate that you find today in Russia."

Some of the journalists on the CPJ list of contract-killing victims were, like Politkovskaya, critical of government policy — whether at a national or local level. Many others were covering corruption at the time of their deaths. And the further you get from the

federal center, the more brazen the attacks on journalists become.

A Channel One television reporter said he was shot in the shoulder by an unidentified gunman outside his apartment building last week in an attack that might be linked to a book he is writing about the 1990s aluminum wars.

Andrei Kalitin, 37, said he was shot at around 9 p.m. on June 17, 2007 in the courtyard of a street in southern Moscow. The attacker fired a shingle shot with a gun equipped with a silencer, Kalitin told the Kommersant daily. He said the attacker's face was obscured by a baseball cap. See about it here: [Journalist Writing Book on Metals Tells of Attack](#). The Moscow Times daily, June 18, 2007.

See a similar story: <http://www.civitas.ru/newsprint.php?code=1079>, and here: <http://www.novayagazeta.ru/data/2007/26/22.html>, and here: <http://www.rg.ru/2007/01/23/gurnalisty.html>.

As a result, the USA has granted political asylum to two Russian journalists – Radio Liberty analyst Yuriy Bagrov and Regnum news agency chief editor Fatima Tilsova. Tilsova and Bagrov were persecuted by the authorities for their publications about the events in the North Caucasus, the International Committee to Protect Journalists in New York has said on July 2. The journalists told a news conference they had been threatened, persecuted by the FSB, which made their work in Russia impossible.

Human rights activists note that there are at least one hundred journalists in Russia who would have good reasons for fleeing the country. (Two Russian Journalists Find Political Asylum in US, Kommersant daily, July 2, 2007)

See also 'Journalism is my only weapon', The Guardian daily, June 26, 2007.

References:

Glasnost Defense Foundation (Russia) survey; Center for Journalism in Extreme Situations reports.

Al.Simonovs report is available here: <http://www.expertiza.ru/expertiza.phtml?id=606>.

Russia: Two Journalists Die In Contract Killings A Year", a report by Claire Bigg, RFE/RL, October 10, 2006. A full list of journalists killed in Russia in 1991-2006 is included.

See also a story of a Russia access to information campaigner: http://www.nytimes.com/2007/10/27/world/europe/27pavlov.html?_r=1&oref=slogin.

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. A YES score is positive.

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.

11c. In practice, in the past year, no journalists investigating corruption have been killed.

YES | NO

Comments:

The New York-based Committee to Protect Journalists (CPJ) released in October 2006 a report called "Deadly News" listing the world's most murderous countries for journalists in 1991-2006. Russia came in third, after Iraq and Algeria. "These are countries that were experiencing war, major conflicts. What's different about Russia is that there is no declaration of war in Russia itself, it is nominally at peace, and yet we've documented these 13 contract-style killings since Vladimir Putin took office. So that is a major indicator of the kind of press freedom climate that you find today in Russia."

Some of the journalists on the CPJ list of contract-killing victims were, like Anna Politkovskaya, critical of government policy – whether at a national or local level. Many others were covering corruption at the time of their deaths. And the further you get from the federal center, the more brazen the attacks on journalists become.

The case of Anna Politkovskaya, a Novaya Gazeta journalist shot dead in October 2006, is the most prominent of them. Mr. Putin called her killing a crime of loathsome brutality. Then he went on. I think that journalists should be aware that her influence on political life was extremely insignificant in scale, Mr. Putin said, according to the news agency Interfax. She was known in journalist and human rights circles, but her influence on political life in Russia was minimal.

The International Federation of Journalists secretary-general, Aidan White, said at a news conference on Nov. 8, 2006 in Moscow that according to his information, since 1993, 211 journalists and other people connected to the media were murdered in Russia.

Ms. Politkovskaya became famous for her investigations of the war in Chechnya and its messy, bloody consequences across the Northern Caucasus. Her reports in Novaya Gazeta and in a book published in 2002 and called *The Second Chechen War* in Russian and *A Small Corner of Hell: Dispatches from Chechnya* in its English translation served like few others in Russia to challenge the official view of the conflict. But she had a minor presence in Russia's key media outlets, many of which – particularly television – are state-controlled.

A radical Russian party, the National Bolsheviks, alleged in the late October 2006 that the murder of Anna Politkovskaya was tied to her work on establishing an international tribunal on war crimes in Chechnya, and said top officials including President Vladimir Putin should be questioned in connection with the killing.

In an interview in the late October 2006 with Politkovskaya's newspaper, Novaya Gazeta, Russian rights activist Stanislav Dmitriyevsky said that he and Politkovskaya had started discussing a possible tribunal and that they had received the first

funding. "We were preparing the juridical basis for this tribunal," he was quoted as saying.

Shortly after Politkovskaya's killing, a Russian court shut down Dmitriyevsky's non-governmental organization, the Russian-Chechen Friendship Society. The NGO had campaigned energetically against the government's crackdown on separatists in Chechnya and published reports alleging torture, abductions and killings of civilians by Russian forces and their pro-Moscow Chechen allies.

Prosecutors justified the demand for the group's closure under a new law that makes it illegal for an NGO to be headed by a person with a criminal record. Dmitriyevsky was convicted in February 2006 of inciting ethnic hatred and given a two-year suspended sentence.

Russian Prosecutor-General Yury Chaika says foreign-based enemies of the Kremlin were behind the murder of Anna Politkovskaya. The crusading journalist's colleagues accuse Chaika of playing politics instead of solving the crimes.

Chaika announced on August 27, 2007 that 10 people had been arrested in connection with Politkovskaya's murder on October 7, 2006.

Among those accused of organizing and carrying out the killing are a Chechen crime boss, a Federal Security Service (FSB) officer, a police major, and three former police officers. "Novaya gazeta" has been conducting its own investigation into the murder. Sokolov says the paper's findings supports Chaika's allegations — to a degree.

Chaika claims the masterminds behind Politkovskaya's assassination were living outside of Russia, and that the murder was part of a plot to discredit President Vladimir Putin and destabilize the country in the run-up to national elections. Sokolov noted that Chaika's comments nearly exactly echoed a statement made by Putin shortly after Politkovskaya's death. At the time, Putin claimed that "people who are hiding from Russian law enforcement have been hatching plans to sacrifice someone and create an anti-Russian wave in the world."

The prosecutor-general didn't name names when referring to the Kremlin's alleged foreign enemies, but he appeared to be referring to one person: Boris Berezovsky. According to Chaika, the murder of Politkovskaya could be related to two previous crimes of similar magnitude — the murders of Central Bank executive Andrei Kozlov last year and Forbes Russia editor Paul Khlebnikov in 2004. Chaika said the suspects belonged to a gang specializing in this sort of crime.

In its annual report, released in autumn 2006, the Committee to Protect Journalists called Russia "the third-deadliest country in the world for journalists over the past 15 years, behind only the conflict-ridden countries of Iraq and Algeria."

In a report released in March 2007, the Brussels-based International News Safety Institute says 88 people working for the media died violently in Russia since 1996, second only to Iraq. The Freedom House report, entitled Freedom of the Press 2007: A Global Survey of Media Independence released on May 1, lumped Russia between Azerbaijan and Brunei near the bottom of a list of 195 countries. The report stresses that the government of Russia is doing all it can to "made independent media outlets unavailable" and start controlling the Internet. Russia fell six places from last year to the 165th spot. It has the status of "not free."

The U.S. State Department said on May 2, 2007 Russia is among the seven worst offenders in terms of press freedom, along with Afghanistan, Venezuela, Pakistan, the Philippines, Egypt and Lebanon. (U.S. ranks Russia among seven least free countries for press, RIA Novosti news agency, May 2, 2007)

The U.S.-based Committee to Protect Journalists said in a report issued on May 2 that Russia had slipped badly over the past five years, earning it a spot on a list of 10 backsliders that also included Azerbaijan, Cuba, Pakistan, Egypt, Morocco, Thailand and a group of African countries. Russia ranked third worst, better than Ethiopia and Gambia but worse than the Democratic Republic of Congo.

The report said a key factor indicating a deterioration in Russian media freedom was a law that defines extremism as the "public slander toward figures fulfilling state duties," among other things. The amendments to the Law on Fighting Extremist Activity, which Putin then signed in July 2007, authorized up to three years imprisonment for journalists as well as the suspension or closure of their publications if they were convicted.

Fifty to 60 attacks were carried out against journalists in 2006, said Mikhail Melnikov, a researcher at the Center for Journalism in Extreme Situations. (3 Reports Criticize Media Freedom by Natalya Krainova, Moscow Times daily, May 3, 2007)

Eleven to 13 journalists are believed to have been murdered in Russia because of their work since 2000, the year President Vladimir Putin came to power.

In early March, Ivan Safronov, a reporter for the independent daily Kommersant who covered military affairs, fell four stories to his death from a window in his Moscow apartment building. Safronov had been questioned several times by the Federal Security Service in connection with his work but was never charged with anything, according to the Associated Press. Early police statements that suggest his death was a suicide have been rejected by Safronov co-workers. Until now, investigators didn't find any connection between his death and his reports, and believe it was either a suicide or an incident.

"The fact that the journalists who were killed were almost exclusively critics of the Kremlin does not on its own make the Kremlin responsible," said Kirill Kabanov, chairman of the Russian Anti-Corruption Committee, a nongovernmental organization based in Moscow. "But the fact that investigations of these murders always stall and that nobody has been brought to justice shows either that the state is too weak to mount an uncompromised and transparent investigation or that it has a hand in the crimes."

Tatyana Protasenko, a senior researcher at the Institute of Sociology of the Russian Academy of Sciences, said less than 10 percent of Russian journalists believe that the mass media in the country are powerful enough to force the authorities to respond.

Vladimir Osinsky, a senior lecturer in the journalism department of St. Petersburg State University, says a frequent complaint he hears from his former students is the lack of response to their work from those involved in decision-making.

"Stories on social issues, intended to help people, provoke no reaction from the authorities, thus making reporters feel worthless," Osinsky said. "The result is that journalists are trying to avoid writing about things they know should be changed but cannot help in changing. Compared to physical killings, it seems like a minor complaint hardly worth mentioning, but it makes so many strong and talented people depressed."

And official investigations into the deaths of journalists who challenge the state or the forces of law and order are surrounded by an extra layer of secrecy, say friends and relatives of victims.
(Russia: One by One by Galina Stolyarova, a writer for The St. Petersburg Times, an English-language newspaper, Transitions Online, www.tol.cz, 12 March 2007)

In February-March 2007 alone three journalists have been killed in Russia, head of the monitoring service of the Glasnost Defense Foundation Boris Timoshenko told Interfax on April 9, 2007.
He said that two journalists were killed in March (Ivan Safronov of the Kommersant daily, Moscow, and Leonid Etkind, the founder and editor-in-chief of the Career newspaper in Saratov). Another journalist (Vyacheslav Ifanov, a photographer with the New Television studio in Aleisk in the Altai territory) was killed in early April.

Timoshenko said that according to the Foundation's figures there were seven assaults against journalists in March, six criminal cases against journalists and media outlets were registered, and 21 instances of detention of journalists by police were recorded.

Journalists and media outlets faced 20 lawsuits totaling 24,470,000 rubles in March, as well, and six earlier lawsuits had been heard. Three of these suits were won by the plaintiffs, and 226,500 rubles had to be paid to them in compensation for moral damages.

The Foundation's Monitoring Service also said that March saw cases of denial of access to information, threats against journalists and media outlets, refusal to print (distribute) media, blackouts, and the shutting down of broadcasting operations. (Some 220 Journalists Died In Russia In The Last 15 Years – Right Campaigners, Interfax news agency, April 9, 2007)

According to Aleksey Simonov, president of the Glasnost Defense Foundation, in today's Russian society, journalists are completely defenseless, and in most cases the agencies try to write off the murders of journalists as domestic crimes. For example, according to the reports of the MVD [Ministry of Internal Affairs] for 2004-2006, Russia's clear-up rate with respect to serious and especially serious crimes is 50 per cent. As far as crimes committed against journalists were concerned, a total of only 90 proceedings were instituted with respect to more than 200 crimes. ((Moscow congress debates crimes against journalists by Madina Shavlokhova, Gazeta daily, 29 May, 2007)

References:

Russia: Two Journalists Die In Contract Killings A Year", a report by Claire Bigg, RFE/RL, October 10, 2006. A full list of journalists killed in Russia in 1991-2006 is included.

Al.Simonovs report is available here: <http://www.expertiza.ru/expertiza.phtml?id=606>.

Numerous publications in Novaya Gazeta three-weekly (Moscow), October 2006-September 2007.
"In a Risky Place to Gather News, a Very Familiar Story", a report by STEVEN LEE MYERS, New York Times, October 11, 2006.

"Radical Russian party alleges Politkovskaya killing tied to her work toward tribunal on Chechnya", a report by JUDITH INGRAM, AP, October 31, 2006.

"International journalists' group to monitor Politkovskaya murder probe", Interfax news agency, November 8, 2006.

CHECHEN TRACE LED TO THE POLICE by Sergei Mashkin, Yuri Syun, Olga Allenova, Kommersant, August 28, 2007.

Death of a journalist that is potentially linked to his research on corruption:
<http://www.newsinfo.ru/articles/2007-03-19/item/35462>.

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. A YES score is positive.

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.

57 I-3. Public Access to Information

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

67

12a. 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 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.

Articles 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 1999.

There were significant changes in the federal legislation in 2006. On July 27th, 2006 Law on Personal Data and Law on Information, Information Technologies and Protection of Information were adopted which replaced the out-of-date law on Information and Protection of Information 1995. Adoption of the Law on Personal Data is due to the ratification of December 19, 2005 Convention of the Council of Europe for the Protection of Individuals with regard to Automatic Processing of Personal Data (1981). The main components of Directives of European Parliament and the Council of Europe 95/46/EC on the Protection of Individuals with regard to the Processing of Personal Data Directive 2002/58/EC concerning protection of personal data and the protection of privacy in the electronic communications sector were used by the legislators. According to experts, the new Law on Personal Data complies with the basic requirements of European legislation in the field of personal data protection. A federal draft on Access to Information has been pending since 1997 but the new Law on Information began to regulate citizens' right to access to information in some way. Basically this law has to regulate: realization of the right on search, reception, transfer, manufacture and distribution of the information; using the information technologies and protection of the information.

The state is currently taking certain steps in an attempt to become nearer to ordinary people. In January 2007, the government introduced in the State Duma a package of bills connected with the provision of access to information on state bodies' activities. These documents not only regulate in detail the order of informing citizens about authorities' activities, but also, for the first time, determine the punishment for its violation. For a delay in replying, for an ungrounded refusal to provide information or for providing misinformation to citizens, officials would be ordered to pay a fine of up to 30 minimal wages. If this, in fact, turns out to be not just mere pre-election populism, it would be very significant.

More than half the respondents in a survey carried out by the Association of Managers and Kommersant classified the measure as populism. Less than 10 percent of the respondents classified tax amnesty in the same way. («Government Relations in 2006 and at the Turn of 2007» by Sergei Litovchenko, Executive director, The Russian Managers Association, The Moscow Times daily, February27, 2007)

In August 2007, the Supreme Court of Russia has introduced a draft law On Providing the Right of Citizens and Organizations to Information of Russian Courts. According to the draft law, all information on court activities, judges and court decisions will be available to general public. See more about it here: <http://www.rg.ru/2007/08/15/sudyi.html>.

See more about transparency of judicial system here: <http://www.kommersant.ru/doc.aspx?DocsID=808465> and here: <http://www.rg.ru/2007/09/26/putin-ivanov.html>.

References:

The Russian Constitution, 1993, Ch. 2; Access to Information" report, Ms Marina Savintseva, Program Coordinator of Access to Information program at Transparency International Russia, June 2006.

See also <http://www.vedomosti.ru/newspaper/article.shtml?2007/04/19/124385> and

<http://newsru.com/russia/19apr2007/zakonobotkrytosti.html> and

<http://www.zagolovki.ru/daytheme/otkrytost/19Apr2007> and

<http://www.vedomosti.ru/newspaper/article.shtml?2007/05/22/126141> and

<http://www.mn.ru/issue/2007-40-11>.

YES: A YES score is earned if there is a formal right to access government documents, including constitutional guarantees. 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.

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

12b. 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.

There are different responsibilities and different appeal mechanisms if the access to information was denied: Disciplinary (could be disciplinary punishment according to Art 58 Law on Mass Media and Art 24, par 2); administrative responsibility (Art 206 Code of Civil Procedure and Art 5.39 Code of Administrative Offenses); Civil Procedure responsibility (According to Art 254-258) and Criminal responsibility for the violation of Art 140 of the Criminal Code.

References:

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

YES: A YES score is earned if there is a formal process of appeal for rejected information requests. A YES score can still be earned if the appeals process involves redress through the courts rather than administrative appeal.

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

12c. 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 regional 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 on 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 – most are pretty cheap, starting from 200 Rubles (US\$8), some are very expensive and cost thousands of dollars.

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.

A lot of useful links and materials are located at Siberian Press Development Institute Web site (<http://sibirp.ru/journalist/law/>).

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.

13. Is the right of access to information effective?

45

13a. 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 Freedom of Information 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.

On the federal level, due to the absence of the proper mechanism, to receive a response to information requests within a reasonable time period is not possible.

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.

See also a story of a Russia access to information campaigner: http://www.nytimes.com/2007/10/27/world/europe/27pavlov.html?_r=1&oref=slogin.

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.

13b. 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 Freedom of Information 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.

On the federal level, due to the absence of the proper mechanism, to receive a response to information requests for any legal fee is not possible.

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.

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.

13c. In practice, citizens can resolve appeals to access to information requests within a reasonable time period.

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

Comments:

The 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.

13d. In practice, citizens can resolve appeals to information requests at a reasonable cost.

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

Comments:

The 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: 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.

13e. 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 if 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. Nizhnii Novgorod FOI states that a citizen can receive even 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.

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. ⁷⁰Voting & Citizen Participation

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

100

14a. In law, universal and equal adult suffrage is guaranteed to all citizens.

YES | NO

Comments:

Yes, this is guaranteed by the Constitution.

An interesting development of electoral legislation concerning the right to vote took place in Russia in 2006-2007. The State Duma Committee on Constitutional Law and State Development Chairman Vladimir Pligin said the abolition of the minimum turnout requirement (20 percent) is unrelated to the level of democracy in Russia. He said on Nov. 9, 2006 the Russian Constitution grants each citizen the right to go to the polls, or to stay away. Asked whether the abolition of the turnout requirement would not lead to a situation where only one ballot would be sufficient for an election to be deemed valid, he said there is no need to reduce the situation to absurdity.

Citizens' interest in federal elections and the level of political activism are high enough," he said. The turnout amendment has been sponsored by Alexander Moskalets, deputy chairman of the Duma's state-building committee, a member of the pro-presidential United Russia faction, and the absentee ballot amendment has been initiated by Federation Council Speaker Sergei Mironov.

Ivan Melnikov, deputy chairman of the Communist Party Central Committee, said the proposed amendments will distort election results, making the voters themselves irrelevant. It means that elections would be counted as valid regardless of turnout.

The Duma committee said the bill is designed to prevent "extremist practices" during election campaigning. ("Committee approves scrapping minimum turnout, absentee ballots", RIA Novosti, November 9, 2006)

Dmitri Oreshkin, head of the Mercator Group, explains that the amendment has been proposed in the interests of the Kremlin and its two parties – United Russia and Just Russia: Motherland-Pensioners-Life. He maintains that when turnout is low, those who do vote are mostly the elderly. Back in the 1990s, they mostly voted for the Kremlin party or the Communist Party (CPRF). But the latest series of regional elections in October, notable for low turnout (35-40 percent), showed that the most disciplined voters nowadays are supporting one of the two available Kremlin parties.

Because the Kremlin fully expects to retain control over the Duma after 2007, low turnout is objectively favorable for it. According to Oreshkin, 65 percent of voters "are dormant for the time being" and do not care to vote for any Kremlin party. It follows that the Kremlin's political strategists can be counted on to make use of the "low turnout technique" in the Duma election. In fact, this technique will be even more important in 2008, in the presidential race without a sure-fire winner (like Vladimir Putin was in 2000 and 2004). ("Voters Left Beyond the Threshold" by Viktor Khamrayev, Dmitri Kamyshev, Kommersant daily, November 9, 2006)

Communist and independent lawmakers take the opposite view, contending that by abolishing minimal turnout requirements, the Duma would be facilitating a situation where voters lose interest in elections entirely and elected bodies have highly questionable mandates. Moreover, the bill proposes that registered candidates should be forbidden to talk on radio or television about the potential negative consequences of electing other politicians, or disseminate any information which might create "a negative image of a candidate or a list of candidates." Not even the bill's authors are all in agreement on this point. According to some of them, if one candidate reveals (truthfully) that another has a criminal record, some court might interpret this as "creating a negative image." ("Expression Without Turnout" by Veronika Chursina, Novaya Gazeta, No. 86, November 13-15, 2006)

The Constitution makes no mention of a minimal threshold for voter turnout. This standard is set down in legislation. The threshold is 50 percent for presidential elections, and 25 percent for Duma elections; in the regions it is set by regional parliaments, but it's always at least 20 percent. In practice, turnout was around 57 percent in the Duma election of 2003 and 64.3 percent in the presidential election of 2004; it averages just under 40 percent in regional legislature elections. Certainly, voter turnout is declining. The duller "political life" becomes, the fewer people wish to participate in it, even passively. All the same, it's simply inconceivable that Duma election turnout could fall from 57 percent to under 25 percent in only four years (between 2003 and 2007). Simple arithmetic indicates that there isn't any "disaster situation" prompting the authorities to discard the turnout threshold like so much ballast.

Yes, the Kremlin wants to safeguard itself against any accidents, and against the possibility of blackmail: after all, rivals are always tempted to strike at its Achilles' heel. If they're unable to come up with any concrete opposition proposals, they could always invalidate an election by persuading their supporters to refrain from voting. Around 40 percent of eligible citizens sleep through elections in any case; if these non-voters are joined by a further 10-15 percent who are active opponents of the authorities, an election could be considered invalid.

If the minimal threshold is abolished, and if the authorities then go to extremes in the use of administrative resources (as they have an inherent inclination to do) – with the sense that "everything is permitted, and voters don't matter" – this would mean not only the collapse of the electoral system, but also the collapse of elected legitimacy for the authorities. And they have no other source of legitimacy in reserve. ("Alienation" by Leonid Radzikhovskiy, Rossiiskaya Gazeta daily, November 14, 2006)

On November 14, the State Duma voted 336-92 to approve the bill in the second of three required readings. Vyacheslav Volodin of the United Russia party countered the criticism by saying that the nation's course must be determined by a politically active part of the electorate. "There is no need to herd people to the polls," Volodin said in televised remarks. ("Russian lawmakers tentatively approve abolishing minimum turnout for elections" by Vladimir Isachenkov, AP, November 15, 2006)

Unlike its rivals, United Russia can easily mobilize its supporters. It was set up as a pro-presidential, pro-government party with preferential access to administrative resources. It has conducted all its parliamentary campaigns by putting popular federal and regional managers at the top of its list of candidates.

Ministers, presidents of republics and regional governors attracted voters but ceded their mandates to obscure politicians from the middle ranks of the party list after the elections. Their high positions allowed them to use the central and local media to promote the party, and regional leaders had a lever for influencing the make-up of election commissions and could even "insist" that local officials ensure the "requisite" voting result.

While United Russia "tackles problems" in parliament and the government, thus attracting additional attention from the voters, smaller parties have to make do with infrequent speeches in the national media, debates on the Internet, and sanctioned street rallies. Given this clear disparity in the power of their political weapons, the opposition forces will be unable to challenge United Russia anytime soon. ("An insurmountable barrier for the opposition", RIA Novosti news agency, November 16, 2006)

Russian central election commission head Alexander Veshnyakov described as premature the State Duma's recent approval of an amendment scrapping the voter turnout threshold.

"Moreover, many meetings we organize with political parties, candidates and voters in the regions give an impression that most of our citizens perceive the cancellation of the turnout threshold as a step only the authorities will benefit from. People believe that this would make the authorities' life easier," he told in an interview with the Rossiyskaya Gazeta daily published on November 23, 2006. He says he sees "no concrete sense" in the amendment.

("CEC Head Says Duma's Scrapping Of Turnout Threshold Premature", Itar-Tass news agency, November 23, 2006). See for details interview, under the rubric "Business Breakfast," with Aleksandr Veshnyakov, chairman of the RF Central Electoral Commission, conducted by Pavel Dulman: "Plus Percentage, Minus Turnout", Rossiyskaya Gazeta, December 5, 2006.

The president came up with an initiative to change profoundly the electoral law in 2004, right after the Beslan terrorist act. Which was done in the first half of the following year. By the summer of 2005, all electoral laws were corrected: Elections in single-seat districts at a federal level were abolished, electoral blocs were universally banned, signature collection regulations and control over this procedure were restricted, imperative mandate was introduced. Elections from party lists were organized according to a scheme convenient for the parties already represented in the Duma, chiefly for United Russia. The CEC chairman announced the end of the electoral legislation amendment. It turns out that he was wrong.

True, no proposals on changes to electoral regulations have been voiced over the year. Yet, in the spring of 2006 the dam burst open. Draft laws, usually signed by a group of deputies representing all or almost all Duma factions, started pouring in one after another. In April, a proposal was made to not just prohibit deputies from changing factions but practically liquidate so-called hidden blocs in which weaker parties were elected from lists of their stronger ally. A regulation was introduced that required members of other parties on a mandatory basis to be excluded from the lists of candidates. At about the same time, another "group of comrades" proposed denying registration to contenders with dual citizenship. It was promised that the already active legislative deputies with two citizenships would be stripped of their mandate.

One month later, Tver legislators proposed removing the "against all" column in voting papers for elections at all levels. That idea was fully approved by a Duma majority, which is why one and a half months later the relevant law came into force. CEC Chairman Aleksandr Veshnyakov spoke harshly against most of those innovations. But on the last day of the spring 2006 session the draft law was finally adopted in the first reading.

Speaking at that last Duma session before the vacation break, Veshnyakov complained that the electoral legislation had been corrected almost without any involvement of the CEC. The final vote on the draft law showed: The opinion of this institution effectively became immaterial for the Presidential Staff and United Russia. ("The Boomerang Effect" by Ivan Rodin, Nezavisimaya Gazeta daily, November 24, 2006)

CEC Chairman Alexander Veshnyakov has told the Federation Council that in future there should be a moratorium on applying new electoral procedures if they have become law less than six months before an election. ("Distorted Elections", by Natalia Antipova, Izvestia daily, February 21, 2007) Veshnyakov was sacked a few months later.

A conclusion: New election legislation will contribute to Russia's democratic development, strengthen the role of political parties and Russia's political system, President Vladimir Putin said in his state-of-the-nation address on April 26. ("New Election Legislation To Strengthen RF Political System – Putin", Itar-Tass news agency, April 26, 2007)

There were other, no less important changes. The presidential election of 2008 will follow new rules. The legislation was amended in 2005, and alliances of political parties are no longer permitted to nominate a single candidate. Candidate registration procedures have been tightened: the amount of suspect signatures on lists must be no greater than 5 percent, and all data on collectors of signatures have to be notarized. That measure, like most of the others, has an ostensibly reasonable and democratic purpose: to simplify and clarify the rules of elective politics. To critics, though, the Kremlin has simply assured the smooth re-election of pro-presidential parties. Candidates can still run as independents in the presidential campaigns, unlike federal parliamentary elections. It follows that some independent candidates may turn up – but Alexander Ivanchenko from the Independent Institute of Elections advises them well in advance that they'll certainly have a hard time of it.

Abolishing the minimal turnout requirement (it is 50 percent now, which is fairly high) and abolishing the "against all candidates" option may reduce interest in the presidential election. No longer elected precisely by "all of the population," the next president will eventually encounter difficulties. CEC member Yevgeny Kolyushin warns that the new rules for campaigning will have an impact as well. As of now, presidential candidates are essentially forbidden to criticize their rivals.

"The question is the degree to which the latest amendments to the law on basic guarantees of voting rights are incorporated into the law on presidential elections. That remains to be seen," Kolyushin told us. "Unless these two laws are brought into compliance with each other, the election in 2008 will be organized under the law on presidential elections as amended in 2005." The parliamentary campaign will have its effect on the forthcoming presidential election. Parties should be represented in the Duma in order to nominate presidential candidates; the procedures will be extremely difficult for all other parties. Ivanchenko believes, however, that an independent candidate will stand a better chance in the election. Indeed, it is always better to have the people's support than to count on a political party alone. («Veshnyakov: Making Everything Clear» by Natalia Kostenko, Igor Romanov, Nezavisimaya Gazeta daily, December 15, 2006)

The major novelty of the current campaign is the introduction of a proportional electoral system – also known as the party lists system – that requires candidates to run on a registered party list, in contrast to a majoritarian system that allows independent candidates to stand. Critics argue the changes will feed political corruption and reduce the level of accountability of deputies as the new system transfers power from voters to party managers, who will control who gets onto the lists of candidates.

At the same time, smaller parties had to re-register as organizations as they no longer meet the needed requirements: parties with fewer than 50,000 members or based in too few regions are now banned from elections. Of opposition parties in Russia, at least 17 have lost their status under the new law.

The use of administrative resources – using instruments of government in favor of parties supported by the Kremlin – will be the key instrument of political campaigning. While state executives are forbidden from publicly endorsing any party during election campaigns this rule has often been breached, and the use of administrative resources has been mounting.

During the St. Petersburg Legislative Assembly elections in March, huge billboards mushroomed around the city showing Governor Valentina Matviyenko, a close ally of President Vladimir Putin, with Vadim Tyulpanov, the local United Russia leader, shaking hands under the slogan Together We Can Do Everything. Although the posters could have been confused with political campaigning, United Russia officials defended it as social advertising. (Experts Pessimistic About Elections by Galina Stolyarova, St. Petersburg Times daily, September 4, 2007)

Amendments to electoral legislation have made registration of parties more difficult. Parties have to divide their lists of candidates into subregional units. In Dagestan, for example, the list was divided into 53 such groups. The disqualification of even one group almost inevitably meant disqualification for the whole list. That was precisely how the candidate lists submitted by the Union of Right Forces (SPS) and the Communist Party (CPRF) were disqualified. (The CPRF was subsequently reinstated by the Supreme Court of Dagestan.)

Overall, many candidate lists were rejected

References:

Constitution, 1993, Ch. 2.

YES: A YES score is earned if the right to vote is guaranteed to all citizens of the country (basic age limitations are allowed). 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.

14b. 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, 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.

15. Can all citizens exercise their right to vote?

75

15a. In practice, all adult citizens can vote.

100 | 75 | 50 | 25 | 0

Comments:

Yes, this is guaranteed by the Constitution.

Around 1,700,000 Russians are registered at consulates of the Russian Foreign Ministry abroad and may participate in the coming general elections, said on August 21, 2007 head of the Russian Central Election Commission (CEC) Vladimir Churov in an interview with Itar-Tass. Polling stations were set up in 140 countries at elections in 2003-2004. (Around 1,700,000 Russians Can Participate In Elections Abroad", Itar-Tass news agency, August 21, 2007). Some experts say there are a lot opportunities for manipulations with these voters.

There is more to that. The Central Electoral Commission estimated population of Russia at 107 million last week. In theory, the figure should only comprise citizens of the Russian Federation aged 18 and more with the exception of disfranchised prisoners and the inadequate. Decrease in the population notwithstanding, the number of voters throughout the country increased by 318,000 people this year. How did the Central Electoral Commission get this tally?

In fact, this is not the first time fluctuations of this sort are noticed. 2003 and 2004 were bizarre years from this standpoint because the number of voters rose from 108.7 to 110.7 million in the first half of 2003 and fell again to 108.9 million by the election and December, but Vladimir Putin was elected the president in March 2004 by 108.9 million people. "It is going to happen again, mark my words," said Andrei Buzin of the Voters Regional Association. "The figure will go down three months before the election and bounce up again on the voting day. It enables the Central Electoral Commission to report a better turnout." Judging by the data released by the State Statistics Committee, however, population of the Russian Federation has dropped by 175,000 this year. Does it mean that the decline in population has absolutely no effect on the number of voters? Experts suspect foul play with electoral rolls. "Local election commissions don't always strike the dead off the rolls. It sometimes turns out that these dead citizens vote," political scientist Dmitri Oreshkin said.

Other specialists reckon that voter lists include the Russians who are not supposed to vote as inadequate or because they are serving their time in colonies. The Federal Penitentiary Service estimate the number of prisoners in Russia at 716,000.

However, these 107 million voters will almost certainly include people in detention cells and prisons, i.e. the ones only waiting for their verdicts. Political scientists expect 100 percent turnout in these establishments but warn against considering detainees "fully adequate voters." Meaning that these people do not really have a choice. Experts are confident that detainees in detention cells and prisons will vote for United Russia. "They will do what the wardens tell them to and vote United Russia," Valery Khomyakov of

the National Strategy Council said. "It doesn't mean, of course, that they like this particular party or something. It will be the so-called administrative resource manifesting itself."

The expert also believes that the same resource will be used throughout the Army and Navy where "conscripts will march to the polling stations and have the master sergeant check their ballot-papers to see that everyone voted as ordered." These voters whose adequacy is therefore questionable are actually a legion. Insiders say that detention cells and prisons throughout the country accommodate 200,000 people. "Add here 600,000 conscripts," Valentina Matvienko of the Union of Committees of Mothers of Soldiers said. Moreover, this year servicemen are permitted to vote wherever they choose, without presenting absentee ballots.

"Do you know what it will be like in some garrisons and units?" Oreshkin said. "Servicemen will be ordered into a bus and driven from one polling station to another all over the place, voting at each of them." Khomyakov adds that administrative resources will be used in detention cells and prisons merely because they are closed facilities, where no observers will ever be permitted inside. ("Do Only Old People Vote?" by Kira Vasilieva, Novye Izvestia daily, August 10, 2007)

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 by State Duma on May 22, 2002 and signed by the president on June 12, 2002

(available at http://www.admhmao.ru/power/izcom/zacon/zac_gar/zac_gar.htm).

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.

15b. 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.

A very illustrative story is a result of a research on March 11, 2007 election in rural regions of Stavropol Krai. See more about it here: Materials Evidence Was taken Out Of Ballot Box" by Leonid Nikitinsky, Novaya gazeta thrice-weekly, November 11, 2007, available at <http://www.novayagazeta.ru/data/2007/85/17.html>.

Introduction of mass application of absentee voting certificates (almost 2,4 mln) in December 2007 parliamentary election is a clear attempt to influence and manipulate the voting process. See more about it here: <http://www.newsru.com/russia/27nov2007/talony.html> and <http://www.themoscowtimes.com/stories/2007/11/30/011.html>.

During the Putin administration so-called "administrative resource" became the main instrument in providing the necessary election results. The authorities are involved in vote-rigging all over the country – from Dagestan to Mosow oblast. Lack of independent election observers makes it only easier. See more about it here: <http://www.kommersant.ru/doc.aspx?DocslD=830161&NodesID=2;> [http://www.vremya.ru/2007/219/4/192955.html;](http://www.vremya.ru/2007/219/4/192955.html) [http://www.ng.ru/politics/2007-12-13/1_bulleten.html;](http://www.ng.ru/politics/2007-12-13/1_bulleten.html) [http://www.novayagazeta.ru/data/2007/91/00.html;](http://www.novayagazeta.ru/data/2007/91/00.html) <http://www.kommersant.ru/doc.aspx?DocslD=831896&NodesID=6;> [http://www.themoscowtimes.com/stories/2007/12/05/012.html;](http://www.themoscowtimes.com/stories/2007/12/05/012.html) [http://www.vedomosti.ru/newspaper/article.shtml?2007/11/29/137040.](http://www.vedomosti.ru/newspaper/article.shtml?2007/11/29/137040)

References:

Federal Law on Basic Guarantees of Electoral Rights and the Rights of Citizens of the Russian Federation to Participate in a Referendum, was passed on May 22, 2002 by State Duma and signed by the president on June 12, 2002

(available at http://www.admhmao.ru/power/izcom/zacon/zac_gar/zac_gar.htm).

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.

15c. 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, passed by State Duma on December 24, 2002 and signed by President Putin on January 10, 2003

(available at http://www.admhmao.ru/power/izcom/zacon/zacon_pr/zac_prez.htm).

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.

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

55

16a. In law, all citizens have a right to form political parties.

YES | NO

Comments:

Yes, this right is granted by the Constitution (see also Federal Law on Political Parties passed on June 21, 2001).

See more about political parties in Russia: Russian Regional Report, #19, April 2007.

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.

16b. In law, all citizens have a right to run for political office.

YES | NO

Comments:

Yes, this right is granted by the Constitution.

References:

Constitution of Russia, Art. 32, 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.

16c. 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 members instead of 10,000, as before, are needed. Experts point out that attempts to form opposition parties are being hampered by the state. In some regions there is outright discrimination against citizens trying to form an opposition political party.

The State Duma on March 11, 2007 gave initial approval to a raft of amendments to the country's election laws, including a provision that requires parties to field multiple party lists in cities and regions with more than 3 million people. Deputies voted 336-88 in favor of the bill in a first reading. The Communist Party and A Just Russia opposed the bill, Interfax reported. Critics of the amendment argue that it would give the pro-Kremlin United Russia party an unfair advantage in the country's most densely populated areas for the State Duma election in December 2007. The bill would make United Russia almost unbeatable in Moscow, St. Petersburg, Yekaterinburg, Rostov-on-Don, Krasnodar and the Moscow region, critics say.

Party lists for federal parliamentary elections are formed on the basis of regional groups. Current law requires parties to submit 100 such groups, which means fielding multiple lists in Moscow and other major cities. As a result, United Russia, which counts many mayors and governors among its members, is forced to split its heavyweights among several lists, giving rival parties a better chance of victory against the second-tier candidates. (Changes in Election Laws Clear First Hurdle" by Natalya Krainova, Moscow Times daily, March 12, 2007)

Under the latest reading of the law on political parties, a political party should number at least 50,000 members and have regional offices at least 500 people strong in more than a half of federal constituent territories, and in other federal constituents offices at least 250 people strong. Parties, which do not meet these requirements, can be liquidated under a ruling of the Supreme Court and upon request from the Federal Registration Service. The Russian Communist Working Party was liquidated under these requirements in April 2007. ("Constitutional Court To Rule On Validity Of Law On Political Parties", Itar-Tass news agency, July 16, 2007)

It was not the only party that suffered under the new legislation. The Federal Registration Service on July 24 denied registration to Great Russia, the party co-founded earlier this year by former Rodina head Dmitry Rogozin. Opposition parties have complained that the authorities often use technicalities to sideline them from the political process. Yabloko, the Union of Right Forces and the Communist Party were all removed from the ballot on technical grounds in various regional elections in March, while the Federation Registration Service has found 16 smaller parties in violation of the law requiring parties to have a minimum membership of 50,000. (Great Russia Refused Registration by Natalya Krainova, David Nowak and Alexander Osipovich, Moscow Times daily, July 25, 2007) See more about it here: <http://www.kommersant.ru/doc.aspx?DocID=794862&NodesID=2>

Rodina party was not the only opposition force that was not allowed to enter parliamentary race. Electoral officials have also barred The Other Russia from participating in State Duma elections. As expected, the Central Elections Commission has declined to register a candidate list submitted by the opposition alliance, spokeswoman Lyudmila Mamina said. The group — which unites liberals, leftists and nationalists opposed to President Vladimir Putin's policies — had submitted papers last week in what its co-leader Garry Kasparov acknowledged was a quixotic effort meant mainly to draw attention to the tight Kremlin control over Russian politics.

In a letter to the group, election commission chief Vladimir Churov cited its lack of registration as a political party as the reason for the decision, Mamina said on October 10, 2007. Only registered parties can take part in the Dec. 2 vote. Kasparov is the driving force behind The Other Russia, and it has elected him as its candidate for the March presidential election. (Other Russia Left Off the Ballot, Moscow Times daily, October 10, 2007)

See more about in the report by Natalya Kostenko: "Zombies Will Be Called Up for Elections", Nezavisimaya Gazeta daily, November 5, 2006. See also 12 Russia parties to be liquidated for failing to meet requirements, ITAR-TASS news agency, January 1, 2007; Seventeen Russian parties meet new legal requirements, RIA Novosti news agency, January 16, 2007; Rosregistratsiya Denies Accusations Of Repression Against Parties, Interfax news agency, May 31, 2007.

On the other hand, the authorities assist loyal actors and play active part in creating “right” political parties, parliament, and leader of the new left-of-centre A Just Russia party, has admitted that he did consult the president about his plan for a merger of three Russian parties and, according to Mironov, Putin shared his view. (Leader of new Russian party admits he consulted Putin and got his approval, BBC Monitoring, source: Ekho Moskvyy radio, Moscow, in Russian 1707 gmt 4 Nov 06)

Vladislav Surkov confirmed that Just Russia is a Kremlin project. As the Petersburg Fontanka.ru, citing its sources in the movement, writes, according to Surkov, “the Just Russia project currently consists of two parties and one leader, whose party existed, in effect, only on paper.” But since “Mironov is Putin’s man,” “we have to support him.” Surkov called one further argument in favor of Just Russia the fact that “you can ask Mironov what’s been done.” The official recalled here the sorry experience of one further Kremlin project—the Rodina party: the Kremlin representative quite candidly confirmed political scientists’ conjectures that the administration was involved both in its formation and in its closure. (“Political Information From Surkov” by Dmitriy Vinogradov, Gazeta.ru, December 23, 2006)

President Putin personally acknowledged his participation in creating United Russia party. See more about it here: <http://www.edinros.ru/news.html?id=117970>.

With the adoption of present party legislation, the creation of new parties is in principle almost impossible both because of the higher required minimum size in each region and because of the absurdity of the completely unjustified requirement that the party itself consist of 50,000 members. The latter is not at all justified — researchers’ calculations long ago showed that political parties, if you ignore special conditions like underground parties of authoritarian regimes, are effective if they have at least 1 party member for every 10,000 citizens. (Article by Professor Sergey Chernyakhovskiy, International Independent Ecological-Political Science University: “Why Parties Are Dying in Russia”, Gazeta.ru, February 26, 2007)

Another serious obstacle in forming a not state-supported political party is funding. The opposition has now been effectively stripped of any legitimate funding sources. This means there is no economic foundation for political independence in Russia. Funding the opposition in Russia is too dangerous. There are two kinds of risks here: political and economic. The political risks were made very clear in the trial of Mikhail Khodorkovsky, and this message is continually reinforced by less prominent court cases, official decisions, or hints and suggestions. But the real problem goes deeper. In a country where there is competition between political parties, private companies can support the left-wing party, for example, in the full knowledge that it will be in government sooner or later, replacing the right-wing party. In Russia, however, the private sector is up against the fact that the authorities are there to stay: no replacement, no rotation. Only individual leaders are replaced; what’s more, a new leader is first chosen by the authorities, and then citizens retroactively legitimize that choice via elections. Consequently, funding the political opposition in Russia is ineffective; the only way to benefit from political donations is by investing in the designated successor — that is, being close to the authorities and aware of their internal configuration. Donating to the opposition used to be somewhat effective when such donations provided lobbying opportunities. In the third convocation Duma (1999-2003), pro-democracy factions were in the minority — but they could still form blocs with other factions and influence the passage of various bills. In the fourth Duma (2003-07), such opportunities were minimized — but United Russia still didn’t have a constitutional majority. In the fifth Duma, it seems likely that United Russia will have a constitutional majority; so donating to the opposition becomes almost entirely pointless. Opposition forces will now have to make their policy programs more radical, knowing that their activities will remain outside the parliament in the foreseeable future. The authorities are now in a much stronger position, and the signs of this are not confined to electoral legislation and political practice. The state’s presence in the economy is growing, and this trend undermines the economic foundations of any opposition. As part of this trend, private companies are receiving increasingly insistent proposals to work “in partnership” with the state — and for the private sector, this translates as absolute loyalty to the state. After all, the prospect of a jail sentence isn’t the only risk faced by business owners; at a more prosaic level, there’s the risk of missing out on profitable contracts. Present-day legislation substantially restricts the ability of parties to accept donations. These restrictions apply to organizations and companies that are foreign-owned or linked to foreigners, Russian state organizations, and Russian companies that are more than a third state-owned. If the state continues to expand its presence in the economy, parties will soon be forced to rely on membership dues and donations from individuals. (“Base and Superstructure”, Vedomosti daily, November 20, 2007)

See more about forming a political party in Russia here: Great Russia Refused Registration by By Natalya Krainova, David Nowak and Alexander Osipovich, The Moscow Times daily, July 25, 2007, and «Great Russia Considering Other Lists» by Antonio Luper, The Moscow Times daily, July 27, 2007. See also <http://www.vedomosti.ru/newspaper/article.shtml?2007/07/25/129837> and <http://www.vedomosti.ru/newspaper/article.shtml?2007/06/21/127883> and <http://www.vedomosti.ru/newspaper/article.shtml?2007/06/21/127883> See also Ryzhkov’s Party Is Ordered to Disband, The Moscow Times daily, march 26, 2007.

References:

The new amendments to Federal Law on Political Parties were passed on December 3, 2004; Foundation for the Development of Parliamentarism in Russia (FDPR):

<http://www.legislature.ru/monitor/raznoe/96886-4.html>, — a good analysis of new political parties’ legislation.

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.

16d. In practice, all citizens can run for political office.

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-oa.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”. However, it does not stop opposition candidates from getting some seats at regional elections.

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.

16e. In practice, an opposition party is represented in the legislature.

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. Only five MPs or slightly over 1 percent call themselves independent (interview with N. Ryzhkov). 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:

Former Election Chief Slams Putin's Vote Reforms", Christian Lowe, Moscow Times daily, July 19, 2006; "Working on the Issues", Dmitry Babich, Russia Profile, August 9, 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

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

100

17. 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:

The CEC Web site is www.cikrf.ru.

English version is also at http://www.cikrf.ru/m_menu_i.htm.

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

NO: A NO score is earned if no domestic agency or set of domestic 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, only by international observers, or only by NGOs. A NO score is earned if the domestic election agency or set of domestic agencies simply facilitates the process of voting but is not empowered to report violations or abuses.

18. Is the election monitoring agency effective?

18a. In law, the agency or set of agencies/entities is protected from political interference.

YES | NO

Comments:

Yes, formally the Central Electoral Commission (CEC) 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:

Kommersant-Vlast, No. 4, February 5, 2007

PEOPLE ARE WELL AWARE THAT ELECTIONS ARE BEING TAKEN AWAY FROM US

An interview with elections expert Alexander Ivanchenko

Author: Irina Nagornykh

Alexander Ivanchenko, former chairman of the Central Electoral Commission (CEC), now head of the Independent Institute of Elections, shares his impressions of how the CEC's role has changed in Russia's new political circumstances.

Question: How is the present-day CEC different from what it was when you were in charge?

Ivanchenko: The overall political situation has changed – inevitably altering the CEC's legal status and composition. During the CEC's past two terms – when I have not been a CEC member – the executive branch has come to dominate the electoral process, and this dominance has intensified as the parliament's powers have been reduced. This has also had an impact on the CEC's personnel configuration.

Question: What kind of impact?

Ivanchenko: The electoral system has been switched to manual control. That includes the system of electoral commissions, now aligned in a hierarchy. And the CEC itself initiated this subordination of electoral commissions. That was a mistake, I believe: in a federative state, the commission which has the status of a public institution – should not be vertically integrated. It should reinforce horizontal links, uniting professionals at various levels.

Question: What do you mean by manual control?

Ivanchenko: All executive branch bodies are now subordinate to a common center, and the system of electoral commissions has become part of the state governance system. That was not the case during my time at the CEC, when it played a fairly independent role. It was even referred to as a fourth or fifth branch of government. All this has been forgotten now. Electoral commissions have become state bodies, entirely, and this limits public support for them. All this reduces the role and significance of the institution of elections.

Question: But the selection principles for CEC members haven't changed, right?

Ivanchenko: Formally, they remain as they were – although the Duma has now adjusted them somewhat. United Russia's attempts to make CEC membership proportional to Duma faction numbers is contrary to common sense. United Russia is simply trying to make itself stronger via administrative resources. They have managed to pass an amendment reducing the role of professional lawyers in the CEC. But the executive branch has yet to have its say, and it also stands to lose ground in CEC membership if the parties go too far.

Question: The latest amendments to electoral legislation – abolishing the minimal voter turnout threshold, abolishing the "against all candidates" option – raise the question of whether the authorities want to know what voters really think.

Ivanchenko: Our parties always think only of themselves. I don't think these amendments will be fatal for elections. They might have some impact on support for the party that initiated the amendments in its own interests, but there will be a price to pay for that. Our electoral system still has the kind of potential that's dangerous to fool around with. Non-party structures are emerging to become significant players on the political field. And the parties themselves aren't fulfilling their functions. We might also mention that the expert community is losing its rights – election observer rights, for example.

There will be a huge number of international observers, but no observers from Russian civic organizations. That was a very hasty decision. These are very serious political errors, made in the process of what is called "reform" but actually means adjusting the electoral system to suit the needs of one particular party.

YES: A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies contesting 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 domestic election monitoring agency.

18b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

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 opposition members, 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.

Long-serving Central Elections Commission chairman Alexander Veshnyakov, who has criticized Kremlin-backed election laws and political tactics, lost his job on March 13, after President Vladimir Putin chose not to renominate him for the post. On March 13, Putin named five members who will sit on the commission during the December State Duma elections and the March 2008 presidential election. Veshnyakov, whose four-year term is set to expire, was notably absent.

Commission members and political analysts agreed that Veshnyakov’s criticism of new laws eliminating the “against all” option on ballots and raising the bar for parties to run candidates, among other measures, was the likely reason for his dismissal.

“Maybe the Kremlin wants the new commission chief to be more ruthless about making political decisions or, alternatively, to stay out of politics altogether and just deal with the logistics of voting,” said Igor Borisov, one of the new commission members.

The commission is composed of 15 members — five of whom are chosen by the president, five by the State Duma and five by the Federation Council. The State Duma also named commission members on March 13. The chairman is chosen by fellow commission members.

Borisov speculated that one reason for Veshnyakov’s ouster may be his criticism last summer of United Russia-backed election measures — including elimination of a minimum-turnout requirement and provisions making it easier to disqualify candidates. “Undesirable candidates could always be removed from the ballot using this law, and the courts are not likely to be of much help,” he warned in an interview with Ekho Moskvy radio in July.

While Veshnyakov supported barring Yabloko from running candidates in St. Petersburg, he was not always happy to see other parties banned from taking part, Borisov said. With presidential elections — and the question of Putin’s predecessor — to be decided next year, the Kremlin wants a “less autonomous” elections chief, said Alexei Makarkin, a political analyst with the Center for Political Technologies.

“He is a relatively independent political figure with certain ambitions,” Makarkin said. “The upcoming presidential elections will be difficult, and the Kremlin needs someone less ambitious.” (Putin Sends Elections Chief Packing by Carl Schreck and Anatoly Medetsky, Moscow Times, March 14, 2007)

Vladimir Churov, a State Duma deputy from the Liberal Democratic Party of Russia, was elected the new chairman of the Central Election Commission by a 13-2 vote. Churov said there will be less politics in his work as CEC chairman.

“The principal difference between me and Alexander Veshnyakov is that I am less likely to comment on election law and more inclined to get things done,” he said. (Ultrationalist Churov elected new election commission chairman, RIA Novosti new agency, March 27, 2007)

The new chairman, Vladimir Churov, had worked at St. Petersburg’s city hall together with Putin, First Deputy Prime Minister Dmitry Medvedev, and presidential envoy to the Southern Federal District Dmitry Kozak. Some experts said it was to support Churov’s candidacy that parliament recently passed a law which does not oblige CEC members to have a legal education. All this shows that the clan principle of governing the state is becoming reality. We see the development of a system of “unofficial power.” Commentators said unanimously that the former CEC chairman, Alexander Veshnyakov, was loyal to Putin, but he thought he was an equal member of the team whose opinion should be respected. This is why he criticized the most odious amendments to the electoral legislation.

Police can now be viewed as part of the election system, as they have been ordered to prevent public demonstrations by groups that have no license for political activities, primarily public protests against election results, even if the fraud is glaringly obvious.

The Central Election Commissions main goals will be to prevent undesirable parties from taking part in elections and to curtail public monitoring of elections, including by foreign observers. (Russia’s Central Election Commission becomes a security agency, RIA Novosti political commentator Dmitry Shusharin, March 28, 2007)

According to Nezavisimaya Gazeta’s sources, a draft was discussed until the last moment according to which CEC members were to be regarded as honorary figures only. Many of them do not have any aspirations anyway, which new CEC member Gennadiy Raykov has repeatedly stated. Real power will belong to the department’s apparatus and its head. The current CEC regulations prescribe that all decisions made by the department have to be approved by its chairman. He places his signature on the all the department’s documents and gives directives to his colleagues. Nezavisimaya Gazeta’s source in the CEC is convinced that it will be impossible to change this procedure any time soon. (Report by Natalya Kostenko: “Under the President’s Personal Control”, Nezavisimaya Gazeta daily, March 26, 2007)

An interview with Alexander Ivanchenko, former chairman of the Central Electoral Commission (CEC), now head of the Independent Institute of Elections.

“During the CEC’s past two terms – when I have not been a CEC member – the executive branch has come to dominate the electoral process, and this dominance has intensified as the parliament’s powers have been reduced. This has also had an impact on the CEC’s personnel configuration. The electoral system has been switched to manual control. That includes the system of electoral commissions, now aligned in a hierarchy. And the CEC itself initiated this subordination of electoral commissions. That was a mistake, I believe: in a federative state, the commission which has the status of a public institution – should not be vertically integrated. It should reinforce horizontal links, uniting professionals at various levels.

All executive branch bodies are now subordinate to a common center, and the system of electoral commissions has become part of the state governance system. That was not the case during my time at the CEC, when it played a fairly independent role. It was even referred to as a fourth or fifth branch of government. All this has been forgotten now.

Electoral commissions have become state bodies, entirely, and this limits public support for them. All this reduces the role and significance of the institution of elections. Formally, the selection principles for CEC members remain as they were – although the Duma has now adjusted them somewhat. United Russia's attempts to make CEC membership proportional to Duma faction numbers is contrary to common sense. United Russia is simply trying to make itself stronger via administrative resources. They have managed to pass an amendment reducing the role of professional lawyers in the CEC. But the executive branch has yet to have its say, and it also stands to lose ground in CEC membership if the parties go too far.

We might also mention that the expert community is losing its rights – election observer rights, for example. There will be a huge number of international observers, but no observers from Russian civic organizations. That was a very hasty decision. These are very serious political errors, made in the process of what is called "reform" but actually means adjusting the electoral system to suit the needs of one particular party." (People Are Well Aware That Elections Are Being Taken Away From Us by Irina Nagornyykh, Kommersant-Vlast weekly, No. 4, February 5, 2007).

On political interference with regional election commissions selection see Election Commissions for Choice by Alexandra Larintzeva, Victor Khamraev, Irina Nagornyykh, Kommersant daily, August 7, 2007, available at <http://www.kommersant.ru/doc.aspx?DocID=793496&NodesID=2>. There are two election commissions at Stavropol Krai (South Russia) one selected by Central Election Commission, and another one, appointed by the local legislature.

More about this and similar situations see an interview with Alexander Ivanchenko, Chairman of Independent Election Institute, former Chairman of the Russian Central Election Commission, Alexander Ivanchenko: Regional Election Commissions Are Under Pressure of Local Authorities, Nezavisimaya Gazeta daily, August 7, 2007, available at http://www.ng.ru/ng_politics/2007-08-07/13_ivanchenko.html.

References:

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.

18c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

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

Comments:

Yes, the Central Electoral Commission'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.

The ruling United Russia party was seeking to take control of the Central Electoral Commission (CEC) for a while. A draft law which allows people with no legal background to become members of the CEC went in January 2007 through parliament. Further legal amendments have been mooted which could leave only representatives of One Russia, as the largest party, in the CEC. It has already taken the first step towards simplifying access to the CEC for low-qualified" and, as a result, less independent cadres. The State Duma has passed amendments to the law allowing people without legal education to occupy CEC positions. One Russia members believe that thanks to this move employment in the Commission will become open for "electoral specialists without graduation diplomas" – or, spin doctors, who are unlikely to limit themselves to merely observing and monitoring the electoral process. Now that the parliament is about to delegate new CEC members, One Russia wants to replace party representation with proportional representation. In other words, only members of the largest faction, or One Russia members, rather than representatives of all major parliament parties, as was the case until now, will make it to the CEC.

On 23 January, Oleg Morozov, State Duma deputy speaker and one of One Russia's chief internal party ideologists, declared that his faction did not rule out the development of a draft law providing for election of deputies to the Central Electoral Commission based on the proportional representation in the lower chamber of the Russian parliament. According to the current law, the Duma proposes for the CEC one delegate from every deputies' association in the lower chamber. However, Mr Morozov calls this an "anachronism".

One can also recall that the Duma passed recently one more amendment that is opposed by the CEC chairman. The point is that on 19 January a draft law was adopted in the first reading that introduces a new requirement on higher professional education for CEC members. After it takes effect, they will not be required to have legal education. While presenting the bill, Mikhail Yemelyanov, its co-author and a member of the Committee for State Building (from United Russia), said that the electoral process has not only a legal aspect but also a financial one and that employees with in-depth knowledge of interaction with the mass media are necessary. Therefore, the CEC line-up should be expanded to include specialists who have vast experience in taking part in elections. ("One Russia attacks Veshnyakov" by Ivan Yartsev, Politkom.ru website, Moscow, 24 Jan 07)

The chief of Russias Central Electoral Commission, Alexander Vesnyakov, has strongly opposed the amendments to electoral legislation a number of State Duma members came up with in early January. The proposed amendments would remove from the

law on the basic guarantees of citizens electoral rights the requirement all members of the Central Electoral Commission and of electoral commissions of Russias constituent territories must have legal education or a scientific degree.

I believe these amendments should be rejected, Veshnyakov told the media. In case of adoption they would result in the excessive politicization of electoral commissions, Veshnyakov said. He recalled it was a fifth attempt at abolishing the requirement electoral commission members should have legal education. (Duma amendments may politicize electoral commissions – Veshnyakov, Itar-Tass news agency, January 17, 2007)

References:

Former chief of Russia's Central Electoral Commission, Alexander Vesnyakov.

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.

18d. 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. On the other hand, when the new Chairman of Central Election Commission was appointed, he prohibited CEC members to meet with journalists and discuss its decisions with them. For more information, see:

<http://www.gazeta.ru/politics/elections2007/articles/1721555.shtml>.

References:

See such report on expenditures of Russian political parties in 2006: http://www.cikrf.ru/cikrf/politparty/finance/svodn_otchet.jsp.

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.

18e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

Such actions are usually motivated by political reasons and what is quite possible for one party/ candidate, is illegal for another. In general, the wrath of the election commissions is almost always aimed at rival parties, before and during the election cycle. For example, in October 2007 Petrazavodsk regional election commission warned a local branch of Yabloko party of targeting voters – something that Chairman of St.Petersburg City Legislature, a member of Edinaya Rossiya party, was practicing since 2003 on a much larger scale and without any warning from local election commission or law enforcement (see more here <http://www.zaks.ru/new/archive/view/33597>). Usually prosecution of such cases is LDPR. The Communist Party (CPRF) had two candidate lists turned down, went to court, and won on both occasions. So only four political parties had their candidate lists registered in all 14 regions.

Dagestan is the leader in registration denials. Its election commission turned down the lists submitted by the CPRF (the court ruled to have it registered afterwards), People's Will, People's Party, Socialist United Party of Russia, and Union of Right Forces.

All these candidate lists were turned down for the insufficient number of regional groups. This is how it is accomplished. Some respectable men approach members of a party branch in some quite district and tell them to withdraw. Members know what is good for them, and obey. The number of regional branches drops to below what is required by the law. Since the law in Dagestan commands similar awe and respect it commands in nearby Chechnya, the republican election commission is compelled to deny registration. Every now and then, however, some obstinate politician refuses to do as he is told. Gairbek Ismailov, leader of the regional branch of the Union of Right Forces in the Khasavyurt district, was one such stubborn activist. He disappeared. His car was eventually found, with traces of blood, but not Ismailov.

The order in which political parties are listed on ballot papers is determined by a draw. On the average, we have seven political parties per region, and the chances that a certain political party comes up first are therefore one in seven.

That's what the chances are supposed to be. Fortunately, this foreign law doesn't work in Russia. Local election commissions report that a United Russia political party happened to become the first in eight regions out of fourteen. The probability of this happening in an honest draw is 0.00033. (The Controlling Interest, by Dmitri Oreshkin, Ogonyok weekly, No. 10, March 5-11, 2007)

On the eve of regional elections, in all, parties were denied registration in 17 instances by February 2007. The only three parties that faced no problems were United Russia, Just Russia and the Liberal Democratic Party, all pro-presidential.

On March 11, 14 Russian regions – the Republic of Dagestan, the Republic of Komi, Stavropol Kray, Vologda Oblast, Leningrad Oblast, Moscow Oblast, Murmansk Oblast, Omsk Oblast, Orel Oblast, Pskov Oblast, Samara Oblast, Tomsk Oblast, Tyumen Oblast, and St. Petersburg – held elections to regional legislatures. First of all, the 14 regions in question are home to a third of Russia's voters. Second, these elections, the first to occur since the changes to the election law were made in 2005 (a 7% threshold, no minimum voter turnout level – and majoritarian districts abolished in three regions (Moscow region, St. Petersburg, Dagestan)), are widely seen as a test of those changes and are expected to be an indicator of the likely outcome of the Duma and Presidential elections. Media coverage suggests that local leaders and elections committees are stacking the deck in favor of pro-Kremlin United Russia using administrative resources.

A group of election experts sent a letter to the chairman of the Central Elections Commission, Aleksandr Veshnyakov, complaining that United Russia's number one placement on the electoral bulletins in eight out of fourteen regions violates laws requiring random placement and stating that the position could give United Russia an additional 1.5 to 2 percent of the vote. They imply that United Russia had advance knowledge of the results, citing the fact that United Russia's campaign materials in many regions, prepared well before the release of the lists, carry the slogan "United Russia – Party Number One." The position scandal, the authors claim, seriously calls into question the integrity of the regional elections and, they point out, the manipulation was carried out by the same electoral commission that will later review the elections, making it difficult to believe official results (AIINW.ru, 20 February).

Gennadiy Zhirnov, a representative of the Leningrad regional branch of Just Russia, complained that state employees in Leningrad Oblast were being threatened with being dismissed from their jobs and elderly voters were threatened with not receiving medical services if they do not vote for United Russia candidates. The voters were told that video recorders would be hidden in voting booths and would record each vote (Regnum, 22 February). (Russian Media Note Uneven Playing Field, Unethical Methods in Regional Elections OSC [US Open Source Center] Report, March 5, 2007)

But the campaign scandals have mostly focused on the main rivals, United Russia and Just Russia, rather than the other parties. "This isn't surprising," says political analyst Dmitri Oreshkin. "After all, Just Russia is the only party besides United Russia that has access to administrative resources. So they're fighting each other for voters. Moreover, as Oreshkin points out, there's no real need for dirty campaign techniques these days. Why bother spreading rumors that Candidate A is a homosexual, a pervert, or a crook? It's far easier to simply disqualify Candidate A."

Sources from the CPRF, the SPS, and Yabloko agree. They have been denied registration for elections in several regions. They encounter obstacles when trying to organize meetings with voters – being reduced to holding meetings in run-down, unheated premises. Yabloko spokeswoman Yevgenia Dillendorf reports a more direct tactic used in a certain town near Moscow, where the mayor simply informed municipal organization leaders of a decision made by the regional authorities: unless the town votes "correctly," construction of a sports center and a children's art school would be suspended.

Oreshkin concludes: "We should be glad that dirty tactics are flourishing. In Russian conditions, this means that at least there's still some choice between parties, and they're fighting for votes as best they can." (Elections: A Choice Selection Of Political Porn by Alexander Kolesnichenko, Argumenty i Fakty weekly, No. 10, March 7, 2007)

A slightly removed but still related topic of how CEC is planning to obtain the data on violation of election legislation and how media and civil society can assist CEC.

The Central Elections Commission is creating a special media monitoring body for the upcoming State Duma and presidential elections, raising fears of increased control over media already perceived to be under the state's thumb. Five staff members will report the publication of any extremist material, illegal agitation and mudslinging, commission spokesman Yevgeny Kochubei said on August 6.

The body will be part of the newly formed Instruction Center for Election Technologies, headed by Alexander Ivanchenko, former head of the Central Elections Commission. Ivanchenko stressed that the body did not have the ability to punish those in violation. (New Body to Monitor Coverage of Duma Vote by Nikolaus von Twickel, Moscow Times daily, August 7, 2007)

More than 20 non-governmental public organizations united today with one goal: to monitor the forthcoming election campaigns, and to prevent administrative resources being used to apply pressure.

The aim of the project Right to Choose 2008 is to monitor the whole election process, both for the regional parliamentary elections this March and for the State Duma election. In each region where an election is taking place, local public organizations will follow the course of campaigning and voting, and report all [their findings] to Right to Choose.

The president of the institute for the public project Public Treaty Aleksandr Auzan believes all is not lost: [Auzan] The Russian electoral system is dying. Public control as such is not envisaged by the law. It does exist, but only via party representatives. Our task is to work on preventative action among other things, to monitor the pre-election situation, to expose what happens beforehand, [to monitor] how administrative resources are used, so that the proper bounds are not exceeded, and to slap people on the wrist in time so that in future they won't do it again.

Among those taking part in the project Right to Choose 2008 are representatives from the Moscow Helsinki Group, the international confederation of consumer societies, the national anti-corruption committee, the Committee of Soldiers' Mothers and others. The civil group will inform the public by means of an Internet site and news conferences. (NGOs unite to monitor Russian elections, Text of report by Russian Ekho Moskvyy radio on 5 March, 2007)

By July 2007, there were 29 NGOs that plan to monitor the elections. (Pamfilova Insists on Better Public Monitoring of Federal Elections, Interfax news agency, July 4, 2007)

However, by October 2007 this organization has ceased its activities that came as an unpleasant surprise even for some of its members.

All the traces of its existence have been erased. Thus, the Nezavisimaya Gazeta correspondent was unable to find the Civil Pool pages – <http://www.pravonavirbor.ru> – on the Internet. All references to it automatically are switched to the presidential council site.

Aleksandr Auzan, the head of the Social Accord National Project Institute, which is part of the campaign coalition, confirmed the news of its dissolution. "We dissolved ourselves," he said. "We decided not to make any public statements but to comment individually on our positions."

He said the decision was taken on 1 October, the day that Vladimir Putin declared he had agreed to head the United Russia list. "What was the Civil Pool meant for?" Auzan explained. "We were trying to rescue the dying Russian electoral system."

Proceeding from the position that the president would not take part in the campaign in any guise, and that he was committed to this campaign being as legitimate as possible. We are not naive people – and we were counting on gaining real opportunities to correct the situation because of the differences between the interests of the head of state who is leaving and his entourage which is staying. For example, that we would be able to bring about a dissolution of the electoral commissions in the regions where there were obvious violations in the spring elections and have sanctions imposed on television and radio companies which violated the legislation etc. There were no guarantees but we did talk to the president about this. At a January meeting with public activists he gave assurances that he was committed to the campaign being conducted on a competitive and legitimate basis. And the factor of public observation was very important there."

But on 1 October it became obvious to the members of the pool: the situation had changed radically. By the evening of this day they had begun to consult and on the second of October, a resolution on self-dissolution was taken. Auzan was a firm supporter of this decision: he did not intend to become a "fig leaf" in a situation where politically everything had been completely predetermined. However, there were other opinions as well. According to Auzan, Sergey Borisov, the head of OPORA who was a member of the coalition and personally invited Vladimir Putin to head the party of power at the United Russia congress, considers it necessary to continue to observe the elections.

Various coalition public organizations to monitor the elections started to mushroom at the beginning of the year. Their main aim was declared to be the unification and coordination of the efforts of civil society to act as a united front against violations of the law during the forthcoming elections. It should be noted that with the amendment of the electoral legislation during the last two years, Russian those working for public associations lost the right to act independently as observers at elections. And they have virtually no chance of getting into the polling stations on election day on their own.

Meanwhile, in the run-up to the elections it has become clear that public association forces are demoralized and scattered. Another coalition – the NPO coordination council – created at the initiative of the Foundation for Free Elections with the involvement of the Public Chamber and the Russian Federation Central Electoral Commission, has also moved away from its initial idea of observing and has distanced itself as far as possible from independent public observers. Andrey Przhedzomskiy, the foundation head, allegedly received a grant to organize a hotline during the elections. After which, a couple of organizations which will help him with this project were singled out from among the council members. And he carefully brushed aside the rest of the organizations that are members of the coordinating council from work with the coalition, under the pretext that they were not taking part in the hotline project. (Public Activists Will Not Be Admitted to Polling Stations by Natalya Kostenko, Nezavisimaya Gazeta, October 18, 2007)

Another interview with Alexander Auzan at Novaya Gazeta is located here: <http://www.novayagazeta.ru/data/2007/81/05.html>

Russian non-governmental organizations will work with the Central Elections Commission (CEC) to prevent violations of election laws during the upcoming parliamentary election campaign. "An agreement has been signed with Churov (the CEC chairman), under which district elections commissions are supposed to respond to information provided to them through a hotline within an hour and take measures to prevent violations of the law and resolve conflicts that might arise," Andrei Przhedzomskiy, executive director of the Russian Foundation for Free Elections and chairman of the coordinating council of non-governmental organizations for the protection of people's voting rights, said at a press conference on September 5, 2007.

Hotlines will be set up in the centers of all federal districts starting from September 17, he said. (Russian NGOs to Cooperate with Central Elections Commission to Prevent Violations of Law, Interfax news agency, Sept 5, 2007)

See more about the above mentioned hotlines here: <http://www.24rus.ru/more.php?UID=20517>.

References:

See more about CEC approach toward offenders of electoral legislation and how law enforcement agencies prosecute illegal activities: <http://www.politrussia.ru/life/7511.html> and

<http://www.nr2.ru/policy/147200.html>; <http://www.kasparov.ru/material.php?id=45F93AC61E4E1>;

<http://www.kommersant.ru/doc.aspx?DocsID=816657>;

<http://www.rosbaltssouth.ru/2007/10/12/421961.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.

19. Are elections systems transparent and effective?

58

19a. 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; <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.

19b. In law, election results can be contested through the judicial system.

YES | NO

Comments:

Yes, the law allows such procedure though the legal (and political) practice shows that it's hardly possible to implement it. See how it's done here:

<http://www.kommersant.ru/doc.aspx?DocsID=821360&NodesID=2>

<http://www.rg.ru/2007/11/02/partii.html>.

On review of election commissions' decisions, see: «Communists Win Seats in Recount», The Moscow Times daily, March 21, 2007

Dagestan Recounts Parliamentary Vote by Nabi Abdullaev, The Moscow Times daily, March 20, 2007.

See also URL: <http://lenta.ru/news/2007/03/12/dagestan/> and URL: <http://lenta.ru/news/2007/03/19/tuvacase/>;
<http://www.novayagazeta.ru/data/2007/16/23.html>;
http://top.rbc.ru/index.shtml?news/daythemes/2007/03/15/15162119_bod.shtml;
<http://www.gazeta.ru/politics/elections2007/articles/1831353.shtml>; <http://www.vedomosti.ru/newspaper/article.shtml?2007/03/15/122317>
<http://www.newizv.ru/news/2007-07-23/73227/>
<http://www.kommersant.ru/doc.aspx?DocsID=745937>.

References:

Federal Law On Election of Deputies of the State Duma of Federal Council of Russian Federation (2005, amended in 2007), Art. 39, para.9; Art.44, para.7; Ch.13.

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.

19c. In practice, election results can be effectively appealed through the judicial system.

100 | 75 | 50 | 25 | 0

Comments:

No, this is a very difficult and later on, almost an impossible challenge. Political opposition can press charges and even get a fair enough trial but no State Duma MP was ever stripped of his/her mandate because of a court decision. Edinaya Rossiya party can bend the law as it pleases but no court would prosecute it or its representatives.

On March 11, 14 Russian regions – the Republic of Dagestan, the Republic of Komi, Stavropol Krai, Vologda Oblast, Leningrad Oblast, Moscow Oblast, Murmansk Oblast, Omsk Oblast, Orel Oblast, Pskov Oblast, Samara Oblast, Tomsk Oblast, Tyumen Oblast, and St. Petersburg – held elections to regional legislatures. First of all, the 14 regions in question are home to a third of Russia's voters. Second, these elections, the first to occur since the changes to the election law were made in 2005 (a 7 percent threshold, no minimum voter turnout level – and majoritarian districts abolished in three regions (Moscow region, St. Petersburg, Dagestan)), are widely seen as a test of those changes and are expected to be an indicator of the likely outcome of the Duma and Presidential elections.

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Gennadiy Zhirnov, a representative of the Leningrad regional branch of Just Russia, complained that state employees in Leningrad Oblast were being threatened with being dismissed from their jobs and elderly voters were threatened with not receiving medical services if they do not vote for United Russia candidates. The voters were told that video recorders would be hidden in voting booths and would record each vote (Regnum, 22 February). (Russian Media Note Uneven Playing Field, Unethical Methods in Regional Elections OSC [US Open Source Center] Report, March 5, 2007)

On some practice in this field see: <http://www.prime-tass.ru/news/show.asp?id=669328&ct=news>.

References:

There are various publications on violations of electoral legislation in Russia available at websites of opposition political parties, such as Communist Party of Russian Federation, Union of Right Forces or SPS, Yabloko and other. Some examples are available here: <http://www.kprf.ru/vibory2007/chronicle/52603.html>, <http://www.kprf.ru/tv/52524.html>, <http://www.samara.yabloko.ru/news/index.phtml?id=1828>, http://www.yabloko.ru/Publ/2007/2007_03/070316_grani_mosobl.html.

See also NGOs report violations even before official start of Russian election campaign", Interfax news agency, Oct.31, 2007; "Campaign Seizures" by Igor Romanov, Nezavisimaya Gazeta daily, October 30, 2007, available at http://www.ng.ru/politics/2007-10-30/1_izuyatia.html.

See also «Campaign Violations Rife in Krasnoyarsk» by Natalya Krainova, The Moscow Times daily, April 17, 2007. For detailed analysis, see False Percent by Tatiana Shcheglova, Lenta.ru news agency, March 16, 2007.

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.

19d. In practice, the military and security forces remain neutral during elections.

100 | 75 | 50 | 25 | 0

Comments:

Forced and controlled participation of conscripts in the election in the Moscow region on March 11, 2007 was proved by court. A few thousand soldiers were brought to at least nine voting stations though they were supposed to vote at other voting stations. See http://www.yabloko.ru/Publ/2007/2007_03/070316_grani_mosobl.html and <http://www.yabloko.ru/Press/Docs/2007/0316-fals.html>.

Security personnel at Russian penitentiaries usually is involved in elections – assisting the ruling party with voters in their charge. Experts suspect foul play with electoral rolls. Local election commissions don't always strike the dead off the rolls. It sometimes turns out that these dead citizens vote," political scientist Dmitri Oreshkin said.

Other specialists reckon that voter lists include the Russians who are not supposed to vote as inadequate or because they are serving their time in colonies. The Federal Penitentiary Service estimate the number of prisoners in Russia at 716,000.

However, these 107 million voters will almost certainly include people in detention cells and prisons, i.e. the ones only waiting for their verdicts. Political scientists expect 100 percent turnout in these establishments but warn against considering detainees "fully adequate voters." Meaning that these people do not really have a choice. Experts are confident that detainees in detention cells and prisons will vote for United Russia. "They will do what the wardens tell them to and vote United Russia," Valery Khomyakov of the National Strategy Council said. "It doesn't mean, of course, that they like this particular party or something. It will be the so-called administrative resource manifesting itself." The expert also believes that the same resource will be used throughout the Army and Navy where "conscripts will march to the polling stations and have the master sergeant check their ballot-papers to see that everyone voted as ordered."

These voters whose adequacy is therefore questionable are actually a legion. Insiders say that detention cells and prisons throughout the country accommodate 200,000 people. "Add here 600,000 conscripts," Valentina Matvienko of the Union of Committees of Mothers of Soldiers said. Moreover, this year servicemen are permitted to vote wherever they choose, without presenting absentee ballots.

"Do you know what it will be like in some garrisons and units?" Oreshkin said. "Servicemen will be ordered into a bus and driven from one polling station to another all over the place, voting at each of them." Khomyakov adds that administrative resources will be used in detention cells and prisons merely because they are closed facilities, where no observers will ever be permitted inside. ("Do Only Old People Vote?" by Kira Vasilieva, Novye Izvestia daily, August 10, 2007)

With regard to federal security forces, it's hard to evaluate how exactly they participate in elections. There is more information on pressure and intimidation used by FSB and police in Chechnya and republics of North Caucasus though it hard to prove such actions.

See also <http://www.novayagazeta.ru/data/2007/63/15.html>.

References:

Publications in federal Russian newspapers.

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.

19e. 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.

According to an interview with Central Electoral Commission Chairman Vladimir Churov, district commissions must keep observers informed and invited them to observe all events and measures, including re-writes of voting records if they become necessary, and their resubmission to regional commissions. And observers must accept these invitations. This is what happened in our hypothetical exercise on August 7: we have to provide party representative observers with convenient places and tell them what is being done at any given stage. Observers are allowed to come closer to the table when ballot-papers are being counted, and even ask the vote-counters to move over if they can't see the procedure clearly. Observers may not handle ballot-papers, but they are entitled to request to see them if they are recognized as invalid. That's what we are teaching the observers sent to us by parties. (Vladimir Churov: If There's Any Pressure, Complain To Me by Tamara Zamyatina, Moskovskie Novosti weekly, No. 32, August 17, 2007)

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.

19f. In practice, election observers are able to effectively monitor elections.

100 | 75 | 50 | 25 | 0

Comments:

In 2007, Russian officials turned the process of inviting election observers in a saga. Europe's top elections watchdog said on October 18 it was still awaiting an invitation to monitor Russia's December parliamentary polls and that even if it gets the go ahead the delay could hamper its work.

We haven't gotten any invite yet. We've received assurances from Russian representatives that an invitation will be forthcoming, but we haven't had one," said Urdur Gunnarsdottir, spokesperson for the elections division of the Organisation for Security and Cooperation in Europe (OSCE). "The elections were called in early September. So this is indeed getting quite late. And the later we get the invitation, the more difficult it is for us to do it in a proper way," she told AFP. Gunnarsdottir noted that Russia had not been so tardy about inviting the OSCE to observe its last elections four years ago, giving the organization enough time to do the groundwork.

"If this was 2003, we would have received the invitation five weeks ago," she said. On October 17 the head of Russia's Central Electoral Commission, Vladimir Churov, had announced that Moscow would allow international observers to monitor the December 2 elections. He said that in Russia, "transparency in elections is considered very important" and that Moscow would be "respecting its obligations concerning inviting international observers for the elections."

OSCE's 56 member states, which include Russia, are bound by its rules to invite observers for elections, although the OSCE sometimes prods them to act. ("OSCE still waiting for Russian invitation to monitor elections", AFP, Oct 18 2007)

Observers of the Council of Europe's Parliamentary Assembly (PACE) have been ready to go to Russia since September. There is PACE Bureaus decision as of September 13 on sending a 10-member pre-election mission and a 60-member main mission, but the problem is there was no invitation, said Vladimir Dronov, chief adviser to PACE chairman, head of PACE department of inter-parliamentary cooperation and election monitoring. We have already prepared a program. Yet, they said they'll invite us only after the Central Election Commission is done registering the candidates of all parties. It is for the first time this way. I think we will get the invitation, but well get it late, said Dronov.

Konstantin Kosachev, head of the State Duma Committee on Foreign Affairs, said that Russia is going to invite just 30 (and not 60) PACE observers. However, Russia will not invite European Parliament members at all. They fell out of favor in June 2007, after United Russia deputy Gadhimet Safaraliev charged the EU with attempt to interfere in the election campaign in Russia. The pretext was a fellowship of 23.5 million rubles (US\$961,150) granted by the EU to the European University in St. Petersburg and to the Ural State Service Academy for implementing the project called Creation of an inter-region electoral network in Russia.

Safaraliev viewed it as an attempt to form a system of independent monitoring of elections and alternative counting of votes. It should be regarded as an attempt at direct interfering of a foreign quasi-state which the EU is, said the deputy, demanding that the Prosecutor Generals Office investigate the case.

The European University in St. Petersburg believes that Safaraliev's claims are groundless. We did not plan counting the votes. We just wanted to implement an educational project aimed at making citizens familiar with the Russian law, assured Nikolai Vakhtin, the university's head. We were going to print leaflets, and we are not the European Parliaments agents, he added. A sequence of prosecutor checks did not discover any violations in the way Russian universities spend European money. However, the CEC decided not to invite the EU observers.

The opposition members take the authorities actions differently. Communist Party deputy chairman Ivan Melnikov said the delay in inviting the international observers is due to bureaucratic tardiness. State Duma independent deputy and former leader of the liquidated Republican party Vladimir Ryzhkov also thinks that the international observers will definitely be invited to the election, but at the very last moment. The Kremlin strongly needs them, Ryzhkov believes, because if foreign observers arrive to an

election and do not find considerable violations of democratic rules in the campaign, the outcome of that election will then seem lawful to the international community. So, Ryzhkov added that the OSCE observers and other international experts will be allowed to watch just the last election procedure, — the voting on December 2. Ryzhkov predicted there will be mass falsifications claiming higher voter turnout and higher results for the United Russia party, but the international observers will not be able to notice anything because there will be just a few tens of them in the country, while there are about 100,000 voting stations in Russia. Thus, the observers will not see all other election procedures during which the administrative resource will be used to aggressively promote the United Russia and to squeeze out the opposition parties, said Ryzhkov. ("Central Election Commission Keeps Off Observers" by Mikhail Zygar, Vladimir Soloviev, Maria-Luisa Tirmaste, Viktor Khamrae, Oct.23, 2007, available at http://www.kommersant.com/p817834/Moscow_not_in_a_hurry_to_invite_observers/)

Russia has increasingly complained that the OSCE, which has criticized the conduct of elections in former Soviet states, is a vehicle for the West to undermine Russia and its allies. The Kremlin routinely organizes parallel election-monitoring missions to those states; the missions invariably endorse votes that Western observers have condemned as neither free nor fair.

The OSCE normally works well in advance of election day, monitoring the run-up to the vote. Four years ago, during Russia's last parliamentary vote, the OSCE had been at work for five weeks at this stage in the process. By election day in 2003, there were 450 OSCE observers in Russia, according to officials with the group. ("Russia Deliberately Delaying the Arrival of Election Observers, Critics Say" by Peter Finn, Washington Post, October 24, 2007)

Moscow has proposed a significant reduction in numbers, according to a confidential draft proposal circulated last month to the OSCE. The document, published on October 25 by The New York Times on its web site, calls for monitoring missions to be limited to 50 people. Co-signed by Armenia, Belarus, Kazakhstan, Kyrgyzstan, Uzbekistan and Tajikistan, the document also suggests that the monitors' official reports go through the OSCE Permanent Council before being published. Because the council works on the principle of unanimity, meaning that each of the OSCE's 56 member states, including Russia and the other authors of the document, could prevent a report from being issued.

It would also mean that the head of a monitoring mission would not be able to make public remarks about the vote before the OSCE's main body met. For its part, Moscow denies that it wants to limit the activities of foreign observers. "The aim is to make the rules more effective and representative," Kremlin spokesman Dmitry Peskov said about the proposal on October 25. The head of the OSCE monitoring mission in 2003, Bruce George, lambasted that vote as a step backward in Russia's transition to democracy, calling the election process "fundamentally unfair." But Borisov, the elections commission member, complained that the OSCE treated Russia like a country with no experience in holding democratic elections. "This is already the fifth cycle of democratic elections," he said, adding that Russia was a democratic country and did not need international assistance in organizing elections. In the past, he argued, countries like Bulgaria or Turkey invited observers just a month before elections, with France waiting until just 17 days before the vote.

Sergei Yastrzhembsky, President Vladimir Putin's senior aide on European relations, said Russia was not abandoning its obligations within the framework of the OSCE and the Council of Europe. But he also warned that it was high time for other countries "to stop preaching" to Russia. "We do not want to listen to any lectures," Yastrzhembsky told reporters on October 24. A source in the OSCE said it was possible that the Kremlin could have ulterior motives in causing difficulties over the question of monitors.

Moscow is backing a bid by Kazakh President Nursultan Nazarbayev to chair the OSCE in 2009, a suggestion that has met with reservations from major Western members, including the United States and Britain. A decision is expected at the OSCE summit in late November in Madrid. "There are a lot of bargaining chips in the OSCE," the source said, requesting anonymity because of the sensitivity of the matter.

Ivan Melnikov, first deputy chairman of the Communist Party, said he did not want to dramatize the situation, because his party was popular enough to win votes even if the elections were rigged. "International observers will certainly be invited, if only because the authorities are seriously concerned that the vote appear legitimate," he said in e-mailed comments. "But they certainly do not want the foreign experts to be able to issue as harsh an assessment as they did of the last elections."

Leonid Gozman, who tops the Union of Right Forces party list in St. Petersburg for the Duma vote, said the country's current leadership had reacted nervously to any attempts by civil society to monitor elections.

"The authorities have already decided that they don't need elections," Gozman said. "They know the result in advance."

Central Elections Commission chief Vladimir Churov extolled Russia's electoral system in a question-and-answer session published in Wednesday's Komsomolskaya Pravda. "Our system is the most democratic and transparent," Churov said. "That I can say for sure." In April, Churov said in an interview with Kommersant that he thought monarchy was an eternal idea, although he conceded that it would probably be next to impossible to restore it in Russia. ("Vote Monitors Feeling Unwelcome" by Nikolaus von Twickel and Anna Smolchenko, The Moscow Times daily, October 26, 2007, available at <http://www.themoscowtimes.com/stories/2007/10/26/003.html>)

See also "Russia will define monitoring order for OSCE observers itself – Borodavkin", Interfax, October 26, 2007 and "US Criticizes Russia Over Vote Monitors" by VERONIKA OLEKSYN, AP, October 25, 2007.

Finally, the State Duma began sending out invitations to international observers to monitor the upcoming elections on October 30, less than five weeks before the Dec. 2 vote. Central Elections Commission chief Vladimir Churov has said the number of international observers will be limited to 300 to 400, compared with 1,100 for the last elections, in 2003. The number is insufficient for the country's 95,000 polling stations, Golos, a coalition of nongovernmental organizations tracking elections, said on October 30. "That number alone is necessary to cover Moscow and the Moscow region," Golos head Lilia Shebanova said, Interfax reported.

Churov said observers from many organizations would be invited, including the Commonwealth of Independent States, the Shanghai Cooperation Organization and the Nordic Council, a forum of Scandinavian countries. ("Invitations Go Out to Poll Observers", The Moscow Times daily, October 31, 2007, available at <http://www.themoscowtimes.com/stories/2007/10/31/013.html>)

The head of Russia's Central Electoral Commission has urged international observers not to make any comments on the polling day, the Russian news agency ITAR-TASS has reported. The agency said Churov told a news conference that under the law of most democratic states, no comments or assessments may be made on the day of the voting until the last polling station is closed, and that this provision extended to foreign observers too.

"For some reason, international observers believe they are exempt from this. I believe this should be eliminated: the polling day is the day of silence," he was quoted as saying. ("Russian election chief urges foreign observers to keep quiet on polling day", ITAR-TASS, October 29, 2007)
Approximately 300 to 400 observers will be invited, said Churov on October 30 (see more here http://www.ng.ru/politics/2007-10-30/3_cik.html).

An organization that does not deal with international monitoring and protection of electoral rights, might not be accredited for monitoring of the preparations for and voting at the elections to the fifth State Duma, said Igor Borisov of Russian Central Election Commission (CEC).

"If an organization, according to its by-laws, has nothing to do with international monitoring and protection of citizens' electoral and political rights, it can be denied an accreditation," Borisov told Interfax on October 31.

This is not so much related with the issues concerning electoral procedures and "the exercise by citizens of political rights, as with a possibility of certain extremist or any other unlawful acts in Russia," he said. ("Russia to only accredit organizations authorized for protection of voter rights", Interfax news agency, Oct 3, 2007)

The conditions sparked an unusually angry reaction on October 31 from the OSCE's Office for Democratic Institutions and Human Rights. "The invitation is unprecedented, as it puts restrictions on the scope of the observation mission," the office's spokeswoman, Urdur Gunnarsdottir, said by telephone from Warsaw. She said the invitation was for only 70 persons "to take part in a short-term observation."

"We have never before received an invitation with restrictions," Gunnarsdottir said. The OSCE sent 400 short-term and 50 long-term observers for the 2003 elections, which it labeled a step backward in the country's transition to democracy. Commission member Igor Borisov suggested that allowing more observers would be unfair to Russia, which itself is one of the 56 members of the OSCE.

"We were never radicals and will never deviate from the numbers of observers common for civilized states, which is somewhere between 300 and 400," Borisov said, Interfax reported. Rights groups say the number, which also includes observers from the Commonwealth of Independent States, the Shanghai Cooperation Organization and other international bodies, is insufficient to monitor 95,000 polling stations.

"This is not monitoring, but presenting the impression that international observers are allowed in," Lilia Shibanova, head of Golos, a group of nongovernmental organizations tracking elections, said on October 31.

But Borisov said the numbers were enough to ensure adequate monitoring. He also said a month was enough time for observers to prepare, dismissing criticism that the invitations had been issued too late. The OSCE received the invitation for the December 2003 vote by mid-September. ("Poll Body Restricts OSCE Delegation" by Nikolaus von Twickel and Natalya Krainova, The Moscow Times, November 1, 2007, available at <http://www.themoscowtimes.com/stories/2007/11/01/011.html>) See also <http://www.vedomosti.ru/newspaper/article.shtml?2007/11/01/135375> and "Too few foreign observers invited to Russian election – NGO", Interfax news agency, Oct. 31, 2007.

Interesting analysis of the situation with overdue invitations to international observers, see "OBSERVING BY THE RULES" by Madina Shavlokhova, Gazeta, October 30, 2007, available at <http://www.gazeta.ru/politics/elections2007/articles/2274690.shtml>.

See more about it here: <http://www.kommersant.ru/doc.aspx?DocsID=824213>;
<http://www.newsru.com/world/16nov2007/otkaz.html>.

References:

Various publications in the media, interviews with public officials, civil society activists and political party leaders.

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.

20a. 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 40 million rubles to 250 million rubles (US\$1.64 million to US\$10.23 million). For candidates in single member constituencies, it increased from 1.5 million rubles to 6 million rubles (US\$61,407 to US\$245,629). Secondly, there was an increase in the permissible limit for donations to election funds from private sponsors: from legal entities up to 8.75million rubles (US\$332,194); from individual sponsors up to 175,000 rubles (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.

Private donations to parties became risky after the prosecution of Mikhail B. Khodorkovsky, the former chairman of Yukos Oil, after he openly supported political parties in the Duma. (Russians to Vote, but Some Parties Lose in Advance by Steven Lee Myers, New York Times daily, February 15, 2007)

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.

20b. 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 6 million rubles (US\$245,629) for the Duma and 250 million rubles (US\$10.23 million) for parties. Initiation and membership fees make up a mere 0.5 percent in the revenues of Russian political parties, Russia's Central Electoral Commission said in a report.

According to the Central Election Commission's data on financing of 19 out of the 21 parties, which had official registration in the second quarter of 2007, donations – mostly made by commercial companies – came to 86 percent of total funds. Of the 637 million rubles (US\$26 million) the parties received from April through June, non-profit organizations contributed a mere 78 million (US\$3.19 million) (Membership Fees Less Than 1 Percent in Russian Parties Revenues, Itar-Tass, August 30, 2007)

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

Art.64 Federal Law On Election of Deputies of the State Duma

Federal Legislature of the Russian Federation: The national and regional state print media shall publish the information furnished by election commissions about sums received to and expended from electoral funds as well the information from the consolidated financial reports of political parties, other all-Russia public associations indicated in Clause 6 of this article. The following information shall be subject to mandatory publication: (1) information about financial operations which involve expenditure of money from an electoral fund (of a political party, other all-Russia public associations) in an amount exceeding 800 thousand rubles for a political party, other all-Russia public associations, an electoral bloc and 200 thousand rubles for a candidate; (2) information about legal entities which contributed sums to an electoral fund (to the account of a political party, other all-Russia public associations) in the form of a voluntary donation exceeding 400 thousand rubles for a political party, other all-Russia public associations, an electoral bloc and 100 thousand rubles for a candidate; (3) information about the number of people who contributed sums to an electoral fund (to the account of a political party, other all-Russia public associations) in the form of a voluntary donation exceeding 20 thousand rubles; (4) information about the sums returned to donors and the reasons therefor; (5) information about the total amount of money received to an electoral fund (to the account of a political party, other all-Russia public associations) and the total amount of money expended therefrom.

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.

20c. 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.

20d. 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. The Central Election Commission did not find any violations besides some minor ones; no one was prosecuted; no polling results were contested. Since January 2006, 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.

A mechanism has been established of presenting and auditing quarterly financial reports. Understanding has been found with the parties on that score. Over that period a new level of transparency and financial openness has been achieved. Financial reports, he said, are open to public scrutiny, they are closely studied not only by journalists, but also by political opponents. During the election campaign they will be a subject of rivals close attention. (CEC chief warns of risk NGOs may launder election money, Itar-Tass news agency, December 20, 2006)

According to the law on political parties, a party's budget may come from the following sources: membership dues, federal funding, donations, fund-raising events organized by the party itself, revenues from civil law transactions, and other sources not prohibited by law. But data released by the Central Electoral Commission makes it clear that no parties are relying on membership dues; most of their money comes from donations. For example, unidentified well-wishers gave United Russia 279 million rubles (US\$11.4 million). The Russian Party of Life, led by Sergei Mironov, received the Kremlin's blessing last summer – and after that it also became popular with Russia's philanthropists, receiving 60 million rubles (US\$2.46 million) in donations. In comparison, Yabloko got 10 million rubles (US\$409,383) and the Union of Right forces (SPS) got only 2 million rubles (US\$81,876).

According to the law on political parties, a party may receive donations from individuals or legal entities, and all donations must be documented, with the sources indicated. The law forbids parties to accept donations from foreign governments or foreign citizens, Russia-based companies which are over 30 percent foreign-owned or state-owned, international non-governmental organizations, federal, regional or local government bodies, charities or religious organizations, anonymous donors, or legal entities registered less than a year before donating.

But parties are allowed to accept money from Russian NGOs, which are permitted by law to use money donated by foreign citizens, international and foreign organizations, state agencies and municipal bodies. Thus, although state-owned or foreign-owned companies are forbidden to fund parties directly, the law effectively enables them to do this via intermediaries –

NGOs. Parties also receive funding from the state. This is based on election results: five rubles per vote. But this form of state funding is only available to parties which got at least 3 percent of the vote in the last Duma election.

Nevertheless, legal restrictions can always be bypassed. For example, special funds are established in order for parties to receive money from state-owned companies; the money is passed from the company to the fund, and then to the party. National Strategy Institute Director Valery Khomyakov says: The rules for party fund-raising are a long way from perfect. Enterprising people have come up with a lot of tricks: they set up funds and all the rest of it, and then they can transfer money out of a company and hand it over to an individual. Any and all legal obstacles can be circumvented."

According to experts, parties use more than their own bank accounts during campaigns. National Strategy Institute Director Stanislav Belkovsky told us that some campaign money is raised by selling places on candidate lists, and some comes in the form of large financial injections from large companies. "Since competition is very intense, there's already a contest under way within United Russia for safe places on the candidate list," says Belkovsky. "I think the price of a place will be at least \$5-7 million. If United Russia is expecting to win around 200 seats in the next parliament, it is capable of selling at least 50 places on its candidate list, thus raising \$250-350 million – quite enough to finance a federal campaign. The major natural monopolies will contribute as well – that is, Gazprom and Russian Railroads will give United Russia tens of millions of dollars each. In total, it should get around \$500 million."

According to Belkovsky, most parties do their fund-raising in this way: "Just Russia's campaign budget will be smaller, but the principles are the same. It will raise \$150-200 million. The position of the SPS is obvious: it's the property of RAO Unified Energy Systems, and will be funded by that company. The Communist Party is aiming to win 60-70 seats, and around 20 places on its candidate list will be sold. Of course, the Communists aren't expecting any donations from the natural monopolies."

Thus, parties which don't have enough money might effectively drop out of the election campaign. "The basic source of inequality isn't the fact that some have money and others don't. It's the fact that some have 'administrative currency' and others don't," says Dmitri Oreshkin.

Thus, a party's money is now an end in itself, rather than being a means of achieving political goals. Consequently, politicians aim to convince sponsors and state officials of their merits – not voters. Yet voters can still be useful. If a party is successful in elections, it will be able to convert its voters into state funding – at five rubles a head. (Mandate Gold by Mariam Magomedova, Novye Izvestia daily, January 17, 2007)

See also No More Non-Profit Funding Sources For Parties by Suzanna Farizova, Irina Nagornyykh, Viktor Khamrayev, Kommersant daily, November 15, 2006.

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.

20e. 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 the 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 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;

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.

20f. In law, there are requirements for the independent auditing of the finances of political parties and candidates.

YES | NO

Comments:

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

References:

Federal Law on Political Parties.

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.

20g. In law, there is an agency or entity that monitors the political financing process.

YES | NO

Comments:

Yes, Central Election Commission is responsible for monitoring the political financing process.

References:

Article 68 of the Federal Law on Election of Deputies of the State Duma, the Federal Legislature of the Russian Federation.

YES: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around political financing. A YES score is earned even if the agency/entity is ineffective in practice.

NO: A NO score is earned if there is no such agency or entity.

21. Are the regulations governing political financing effective?

33

21a. 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:

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.

21b. 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:

After Yukos, political parties cannot count on private companies any more.

References:

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

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.

21c. 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. 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.

Election campaigns are no longer about ideology (most parties simply don't have any ideology); they aren't even about individuals (most parties have an acute shortage of outstanding personalities). These days, campaigns are battles between big money and even bigger money. For this round of regional elections, the parties collected 1.5 billion rubles (US\$61.4 million) (across all 14 regions). Campaign funds totaled 600 million rubles (US\$24.6 million) for United Russia, 400 million rubles (US\$16.4 million) for Just Russia, and 214 million rubles (US\$8.76 million) for the SPS. Against this backdrop, all the other parties seem impoverished: 90 million rubles (US\$3.68 million) for the Patriots of Russia and the LDPR, 36.5 million rubles (US\$1.49 million) for Yabloko, and only 24 million rubles (US\$982,519) for the Communist Party. In spring and autumn 2007 rounds of regional elections (in 17 regions), all parties accumulated a total of 624 million rubles – in other words, about the same as the current campaign budget of United Russia alone.

We can only imagine how much money will be spent on the Duma election this December – given that in the Duma election of 2003, all parties collected only 1.6 billion rubles between them – a mere 100 million more than campaign spending in the current round of regional elections. (Marching In Place Under Various Banners by Andrei Riskin, Nezavisimaya Gazeta daily, March 12, 2007)

See also Pay \$10 Million And Become A Duma Member by Olga Vandysheva, Komsomolskaya Pravda, July 5-12, 2007.

References:

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

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.

21d. 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 that 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.

See more about it here: <http://www.kommersant.ru/doc.aspx?DocsID=783006&NodesID=2>.

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.

21e. 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.

21f. 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.

22. Can citizens access records related to political financing?

50

22a. 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.

Lately, Central Election Commission is making them available to the media and thus, to general public.

The Central Electoral Commission has assessed the finances of political parties in the lead-up to the Duma election. Judging by the quarterly financial reports the parties submit, money never stays in their bank accounts for long. Most parties spend nearly as much as they raise. Combined party revenues totalled 791 million rubles (US\$32.4 million) in the second quarter of 2007, with total spending at 650 million rubles (US\$26.6 million).

Predictably, United Russia is the richest party in Russia. It 45 percent of the total of what all parties reported) and added them to the 288 million rubles (US\$11.8 million) already in its bank accounts. (Party Coffers Emptied As Elections Approach by Anastasia Kornya, Yelena Ivanova, Vedomosti daily, August 31, 2007, available here: <http://www.vedomosti.ru/newspaper/article.shtml?2007/08/31/131928>).

See more about it here: <http://www.rg.ru/2007/08/31/kassa.html>

Detailed information on the 2007 parties finances here: <http://www.vedomosti.ru/newspaper/article.shtml?2007/10/12/134247>, <http://www.vedomosti.ru/newspaper/article.shtml?2007/10/25/134970>, <http://www.newizv.ru/news/2007-10-26/78818> and <http://www.rg.ru/2007/10/23/izbirkom.html>, [HTTP://WWW.KOMMERSANT.RU/DOC.ASPX?DOCSID=820470](http://WWW.KOMMERSANT.RU/DOC.ASPX?DOCSID=820470), <http://www.vedomosti.ru/newspaper/article.shtml?2007/10/29/135158>, <http://www.vedomosti.ru/newspaper/article.shtml?2007/10/29/135152>, <http://www.vremya.ru/2007/201/4/190460.html>.

How parties spend money on election a regional aspect: <http://www.vedomosti.ru/newspaper/article.shtml?2007/03/07/121874>;
<http://www.vedomosti.ru/newspaper/article.shtml?2007/03/13/122174>.

References:

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

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.

22b. 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.

Detailed information on the 2007 parties' finances here: <http://www.vedomosti.ru/newspaper/article.shtml?2007/10/12/134247>,
<http://www.vedomosti.ru/newspaper/article.shtml?2007/10/25/134970>, <http://www.newizv.ru/news/2007-10-26/78818> and
<http://www.rg.ru/2007/10/23/izbirkom.html>,
[HTTP://WWW.KOMMERSANT.RU/DOC.ASPX?DOCSID=820470](http://WWW.KOMMERSANT.RU/DOC.ASPX?DOCSID=820470)
<http://www.vedomosti.ru/newspaper/article.shtml?2007/10/29/135158>
<http://www.vedomosti.ru/newspaper/article.shtml?2007/10/29/135152>.

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.

22c. 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.

Detailed information on the 2007 parties finances here: <http://www.vedomosti.ru/newspaper/article.shtml?2007/10/12/134247>,
<http://www.vedomosti.ru/newspaper/article.shtml?2007/10/25/134970>, <http://www.newizv.ru/news/2007-10-26/78818> and
<http://www.rg.ru/2007/10/23/izbirkom.html>,
[HTTP://WWW.KOMMERSANT.RU/DOC.ASPX?DOCSID=820470](http://WWW.KOMMERSANT.RU/DOC.ASPX?DOCSID=820470)
<http://www.vedomosti.ru/newspaper/article.shtml?2007/10/29/135158>
<http://www.vedomosti.ru/newspaper/article.shtml?2007/10/29/135152>.

All these materials are available either at public libraries or at the Internet.

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.

Category III. Government Accountability

III-1. ~~E2~~ Executive Accountability

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

100

23. 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, 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.

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

63

24a. In practice, the chief executive gives reasons for his/her policy decisions.

Comments:

In practice, members of the executive sometimes give reasons for their policy decisions though any serious discussion is not expected or promoted. There are regular debates over important policy issues but only a group of experts is favored by national media (while some, mostly anti-Putin are blacklisted) and not serious changes to any policy came as a result of such debates.

However, Putin gives regular addresses to the nation, regularly grants interviews (to selected journalists) and is available on TV and the Internet for questions from ordinary people (selected and censored by his staff). Nonetheless, President Putin is notorious for lack of comment on his personal appointments.

References:

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

Michail Krasnov, the former aide to President Yeltsin, believes the system of appointment of the Russian Cabinet is very non-transparent.

See more about it here: <http://www.novayagazeta.ru/data/2007/45/14.html>;
<http://www.novayagazeta.ru/data/2007/56/02.html>.

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.

24b. 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, 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).

24c. In practice, when necessary, the judiciary reviews the actions of the executive.

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. Vasili A. Vlasikhin, legal expert (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. It does not need to relay upon the executive to initiate a constitutional or legal review.

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.

24d. 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 to the general public. As the executive has a huge majority in Parliament (enough to change the constitution), the president can rely on the State Duma to support almost any law he needs.

References:

Dr. Vasili A. Vlasikhin, legal expert (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.

25. Is the executive leadership subject to criminal proceedings?

50

25a. 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, Article 91

YES: A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

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.

25b. In law, ministerial-level officials can be prosecuted for crimes they commit.

YES | NO

References:

The State Duma on Feb. 12, 2007 gave initial approval to legislation that gives President Vladimir Putin the right to suspend governors and mayors accused of crimes, regardless of the offense. The legislation, passed 419-0 in a first reading, it is the latest in a series of initiatives that apparently tighten the Kremlin's grip on the country's political life.

The bill will allow the president to suspend governors and mayors after receiving incriminatory materials from prosecutors and before any formal charges are filed. Under current law, they can be suspended only if charged with violent crimes.

The Kremlin's Duma envoy said the bill, which will likely be passed by both houses of the parliament and signed into law, will help prevent terrorism.

(See more about it here: Parliament to Give Putin More Power, The Associated Press, February 12, 2007)

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.

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

56

26a. 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.

The latest financial declaration of the President Putin was disclosed in the late October 2007 after he announced his intention to run for the State Duma in December 2007. It's available here <http://r.mail.ru/n12817631>.

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, Article 20, paragraph 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. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

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

26b. 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, Article 20, paragraph 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.

26c. 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 Article 575 of the Civil Code of Russian Federation).

References:

Federal Law on Public Civil Service, passed on July 27, 2004, Article 17, paragraph 1, subparagraph 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.

26d. 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 human resources department or unit.

References:

Federal Law on Public Civil Service, passed on July 27, 2004, Article 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. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

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.

26e. 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, Article 17, paragraph 3, subparagraph 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. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

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

26f. 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.

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.

26g. 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.

26h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

100 | 75 | 50 | 25 | 0

Comments:

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

References:

An interview with a high-ranking official of the Russian Audit Chamber.

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. Audits may be performed by entities known to be partisan or biased in their practices.

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

27a. 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. Citizens can access information on assets only through the mass media. So citizens can access such information only indirectly.

References:

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

27b. 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' property and income for 1999-2002 was made available in 2003 when he ran for President. The latest financial declaration of the President Putin was disclosed in the late October 2007 after he announced his intention to run for the State Duma in December 2007. I

It's available here <http://r.mail.ru/n12817631>.

See about it also here: <http://www.themoscowtimes.com/stories/2007/10/29/009.html>.

References:

Federal Law on Public Civil Service, passed on July 27, 2004, Article 20, paragraph 5

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.

27c. 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 is disclosed through the media.

See, for example here: <http://www.lenta.ru/vybory/2000/02/15/putin/income.htm>; <http://ej.ru/?a=note&id=7514>;
<http://www.og.ru/articles/2007/10/29/26488.shtml>.

References:

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

28. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

0

28. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

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 lawyers filed an application to the General Prosecutor's Office asking it to conduct an examination of Surkov's remarks according to Article 17, paragraph 13, subparagraph 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 the 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 Kulakov, Governor of Voronezh region, and a member of the party, met with senior management of Ministry of Finance.

In December 2006, Sergei Shoigu, a Co-Chairman of Edinaya Rossiya, said at the 7th Congress of the party that 69 Russian governors are members of the party. By May 2007, 73 Russian regions were headed by members of Edinaya Rossiya. (See more about it here: "Five More Governors Have Joined Edinaya Rossiya", Lenta.ru news agency, May 22, 2007, available at <http://www.lenta.ru/news/2007/05/22/governors1/>)

See also <http://www.vedomosti.ru/newspaper/article.shtml?2007/03/16/122413>.

References:

Article 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>;

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 the 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 bureaucracy 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

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

50

29a. In law, the judiciary can review laws passed by the legislature.

YES | NO

Comments:

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

References:

Constitution, 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).

29b. 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 Federal Law on Political parties:

<http://www.ksrf.ru/news/msg.asp?id=115&pg=1>

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.

29c. 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.

See, for example, http://www.gazeta.ru/2007/05/18/oa_239541.shtml.

References:

Constitution, 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.

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

18

30a. 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 file an asset disclosure on annual basis.

References:

Russian Federation Law on Election of Deputies of the State Duma

The Federal Legislature of the Russian Federation, passed in 2003, Article 10, <http://www.duma.gov.ru/index.jsp?t=Status/g01.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.

30b. 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 besides disclosure of confidential information/official secrets. 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 by which he/she is later hired.

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.

30c. 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 for which this official is working. However, Article 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.

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.

30d. 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.

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 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.

30e. 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.

30f. 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.

30g. In practice, national legislative branch asset disclosures are audited.

100 | 75 | 50 | 25 | 0

Comments:

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

References:

An interview with a 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. Audits may be performed by entities known to be partisan or biased in their practices.

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

8

31a. 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 they are not accessible.

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 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.

31b. In practice, citizens can access legislative asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

This is possible, only if candidates are willing to disclose their assets. Very few (if any) do. However, if a person runs for a State Duma seat, s/he is required to disclose his/her assets.

For more information, see: <http://www.fontanka.ru/2007/03/12/025/>.

References:

An interview with a high-ranking official of Russian Audit Chamber.

See <http://www.kommersant.ru/doc.aspx?DocsID=765403> and <http://www.kommersant.ru/doc.aspx?DocsID=729109>.

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.

31c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

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

Comments:

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

References:

An interview with a 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.

32. Can citizens access legislative processes and documents?

83

32a. 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's official Web site (<http://www.duma.gov.ru/>) provides information on various aspects of the national legislature's activities, 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.

32b. In practice, citizens can access records of legislative processes and documents 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 Web site (<http://www.duma.gov.ru/>) for free.

References:

An interview with a 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.

32c. In practice, citizens can access records of legislative processes and documents 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:

An interview with a 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.

33a. In law, 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 a transparent procedure is not a rule. Quite often, a selection is based not on the merits of a potential candidate but on his/her personal connections and political affiliations.

Leading judges would be elected and a special court would hear cases against judges if a draft of legislative measures submitted by the Economic Development and Trade Ministry were adopted. The measures, which consist of amendments to federal laws, are in line with Kremlin efforts to clean up the corruption-plagued judiciary. (See more about here: Bill Would Establish Elections for Judges, The Moscow Times daily, November 30, 2007).

For a draft law of Ministry of Economic Development and Trade on law reform see here: <http://www.vedomosti.ru/newspaper/article.shtml?2006/11/29/116701>
See more about here: <http://www.vedomosti.ru/newspaper/article.shtml?2007/03/14/122259>

Another project was introduced by Prosecutors General Office – http://www.gazeta.ru/2007/06/22/oa_242494.shtml

References:

An interview with Dr. Vasili A. Vlasikhin, legal expert (Moscow).

An example of how such appointment takes place, see http://www.vkks.ru/ss_detale.php?id=1739&ion=29, <http://www.rg.ru/2007/07/04/sud.html> and here <http://www.kommersant.ru/doc.aspx?DocsID=811234>.

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. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

NO: A NO score is given if there is no formal process of selection or the process is conducted without public oversight. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

33b. 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.

On selecting judges, see <http://www.rg.ru/2007/08/08/sudyi.html>.

References:

An interview with Dr. Vasili A. Vlasikhin, legal expert (Moscow).

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.

33c. 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). An example of selection and confirmation process is described here: <http://www.kommersant.ru/doc.aspx?DocsID=811234>.

References:

Constitution of Russia, Articles 126, 128.

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).

34. Can members of the judiciary be held accountable for their actions?

79

34a. 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).

34b. 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:

An interview with Dr. Vasili A. Vlasikhin, legal expert (Moscow).

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.

34c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

YES | NO

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 (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.

See also Instruction on the order of operations of Higher Qualification Commission of the Russian Federation approved on March 22, 2007 (http://www.vkks.ru/ss_detale.php?id=771).

YES: A YES score is earned if there is a disciplinary agency (or equivalent mechanism) for the judicial system. A disciplinary agency 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 disciplinary mechanism for the national-level judiciary.

34d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

YES | NO

Comments:

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 disciplinary agency (or equivalent mechanism) is operationally independent from political interference by the executive, legislative and judicial branches.

NO: A NO score is earned if there are no formal rules establishing the independence of the judicial disciplinary agency (or equivalent mechanism). A NO score is given if the judicial disciplinary agency or equivalent mechanism function is carried out by an inherently subordinate organization, such as an executive ministry, legislative committee, or by an internal judiciary committee or council that can only act with the approval of judges themselves.

34e. In practice, when necessary, the judicial disciplinary agency (or equivalent 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 a list of judges that were relieved of their responsibilities in 2005-2006 by Higher Qualification Commission (see http://www.vkks.ru/ss_detale.php?id=196).

A case study – see <http://www.kommersant.ru/doc.aspx?DocsID=810228>.

100: The judicial disciplinary agency (or equivalent mechanism) aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The judicial disciplinary agency (or equivalent mechanism) is fair in its application of this power.

75:

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

25:

0: The judicial disciplinary agency (or equivalent mechanism) rarely investigates on its own or cooperates in other agencies' investigations, or the judicial disciplinary agency (or equivalent mechanism) is partisan in its application of this power.

34f. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

The Higher Qualification Commission set by the Supreme Court of the Russian Federation reviews questionable rulings and evaluates the behavior of judges if they violate the law and can dismiss them.

References:

There is a list of judges that were relieved of their responsibilities in 2005-2006 by Higher Qualification Commission (see http://www.vkks.ru/ss_detale.php?id=196).

A case study – see <http://www.kommersant.ru/doc.aspx?DocsID=810228> and <http://www.regnum.ru/news/879290.html>.

How judges are relieved in regions – see <http://www.rg.ru/2007/10/23/reg-vvolga/sudii.html>.

100: When rules violations are discovered, the judicial disciplinary agency (or equivalent mechanism) is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The judicial disciplinary agency (or equivalent mechanism) enforces rules, but is limited in its effectiveness. The judicial disciplinary agency (or equivalent mechanism) 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 judicial disciplinary agency (or equivalent mechanism) does not effectively penalize offenders. The judicial disciplinary agency (or equivalent mechanism) 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 judicial disciplinary agency (or equivalent mechanism) may be partisan in its application of power.

35. Are there regulations governing conflicts of interest for the national-level judiciary?

0

35a. In law, members of the national-level judiciary are required to file an asset disclosure form.

YES | NO

Comments:

No, there are no such requirements.

In February 2006, Supreme Arbitration Court of Russia submitted to the Cabinet anti-corruption amendments to the Federal Law "On Statute of Judges in Russian Federation" passed in 1992. According to the draft law, all Russian judges will have to declare their assets and property. Their relatives will be prohibited to work as legal counselors because they are often hired by clients to be used as middlemen for passing bribes to the judges. The draft law gives one year to end such family practice. Vice Prime-Minister Alexander Zhukov promised to back this draft. However, it was not supported by judicial community. (Counselor Is Not a Spouse to a Judge by Anastasiya Kornya, Vedomosti daily, February 28, 2006, available at <http://www.vedomosti.ru/newspaper/article.shtml?2006/02/28/103315>)

Nonetheless, Anton Ivanov, the Chairman of the Supreme Arbitration Court of Russia, didn't give up his idea of cleaning the house. In June 2006, he submitted another proposal for the June 22 plenary session of Supreme Arbitration Court. According to it, similar amendments should be introduced to the Federal Law "On Statute of Judges in Russian Federation." All current judges and will have to submit a financial declaration disclosing their property and any assets they own (including joint ownership), bank accounts, stocks, securities and any loans. The judges will have to submit such a declaration on an annual basis by April 30 to the chairman of the court they work at. Similar information should be submitted to the qualification commission everyone running for a judge seat. These declarations will be reviewed by high courts Supreme Court, Supreme Arbitration Court, and Constitutional Court. For inadequate information or delay with submitting a declaration a judge can be disciplined and even fired.

Along with this proposal, Ivanov suggested adopting a supplement to the Federal Law "On Statute of Judges in Russian Federation" that will deal with disclosing this information to the media. Journalist will be able to find out about vehicles and real estate that a judge owns, as well as his/her declared annual income. According to this proposal, such information will be provided to the first media outlet to request it; all other requests will be forwarded to the first publication. The media will have to explain on a mandatory basis what they need this information for, or the request will be rejected. If this information can be used for putting pressure on a judge or restrict his/her independence in hearing cases, a media request can also be denied. (Income and Property Declarations of Judges Will be Published in the Media, Vedomosti daily, June 20, 2006, available at <http://www.vedomosti.ru/newsline/index.shtml?2006/06/20/280001>). Experts didn't believe these amendments will be enforced properly (see more about it here: <http://www.vedomosti.ru/newspaper/article.shtml?2006/06/23/108423>).

However, the Supreme Court of Russia rejected these proposals calling them unconstitutional. The Supreme Court judges are concerned these declarations can be used against judges. The Supreme Court said in its statement there is no need for any amendments and that judges as any regular taxpayers should submit their declarations to tax inspection. Experts believe the judicial community is against any financial transparency (There Is Nothing to Declare by Anastasiya Kornya, Vedomosti daily, September 21, 2006, available at <http://www.vedomosti.ru/newspaper/article.shtml?2006/09/21/112923>).

Ivanov said in November 2006 this will give tax service additional lever for putting pressure on judges. He said Arbitration courts are dealing with a lot of disputes between tax police and businessmen where judges do not necessarily side with tax police, and an opportunity to review their financial declarations will give the tax service an unfair advantage over judges (see more about it here: <http://www.allmedia.ru/newsitem.asp?id=784317>).

Oleg Sviridenko, Chairman of the Moscow Arbitration Court, as well as some other judges, does not support the idea of having to review such declarations. On Dec. 6, 2006, he said to Interfax new agency that he would not have time to check all the declarations of 179 judges subordinate to him. Sidorenko said he believes this should be done by a specialized body such as tax inspection (see his interview here: http://www.dom-i-zakon.ru/aktualteam/Sudi%20RF/Arbitraganii%20sud%20RF/stati%20i%20publikacii/ava_oskovskogo_arbitrazhnogo_suda_schitaet_cho_sudi_dolzhny_i)

However, President Putin in November 2006 supported an idea of making police and prosecutors declare their property and assets (see more about here: <http://www.vedomosti.ru/newspaper/article.shtml?2006/11/22/116201>). In February 2007, the State Duma discussed a draft law that would make public officials, State Duma deputies, judges and their relatives prove the legal origin of their property. The law was not passed (Public Officials Will Declare Their Property by Tatiana Aleshkina, Vedomosti daily, February 2, 2007, available at <http://www.vedomosti.ru/newspaper/article.shtml?2007/02/02/120068>).

It is quite probable this initiative will result in some legal act, hardly this year but quite probably the next year when the new Duma and the President-to-be will use anti-corruption campaign as a major PR tool.

References:

Federal Law "On Statute of Judges in Russian Federation", 1992 (<http://www.stavsud.ru/kraysud/zakon/status>).

Russian President Vladimir Putin hopes that introducing the mandatory declaration of judges' income and property will help combat corruption in the judicial system.

"I hope this law will help in reinforcing the legal system, increasing its prestige and in the fight against corruption," Putin said at a meeting in the Kremlin with chairman of Russia's Supreme Court of Arbitration Anton Ivanov.

Ivanov told the president that the bill on mandatory declaration of judges' income and property had recently been submitted to the State Duma. The bill is "very extensive" and the requirements for judges to declare their income are even wider than the current requirements for government officials, Ivanov said. This is attributable to the special status of judges, he said.

The Supreme Court of Arbitration has drawn up a bill whereby judges and candidates for the job will have to disclose their income. Judges currently submit this information to the tax authorities, where they receive a certificate to take to court. ("Russian president hopes judges' income declaration will cut corruption", ITAR-TASS news agency, November 9, 2006)

YES: A YES score is earned if all members of the national-level judiciary 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 national-level judiciary is not required to publicly disclose assets.

35b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

YES | **NO**

Comments:

No, there are such requirements.

In June 2006, the Supreme Court of Arbitration prepared a draft law, according to which it was decided to regulate presents to state figures differently. The total of permitted presents to officials and judges is increased from 500 to 4,000 rubles (US\$20.46 to US\$163.75) and personal presents worth more than 100,000 rubles (US\$4,093.83) have to be declared. (Official Feeding Trough" by Valeriy Vyzhutovich, Rossiyskaya Gazeta daily, November 13, 2006)

References:

Federal Law On Statute of Judges in Russian Federation", 1992 (<http://www.stavsud.ru/kraysud/zakon/status>).

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

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

35c. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

YES | **NO**

Comments:

No, there are no such requirements.

In February 2006, Supreme Arbitration Court of Russia submitted to the Cabinet anti-corruption amendments to the Federal Law On Statute of Judges in Russian Federation" passed in 1992. According to the draft law, all Russian judges will have to declare their assets and property. Their relatives will be prohibited to work as legal counselors because they are often hired by clients to be used as middlemen for passing bribes to the judges. The draft law gives one year to end such family practice. Vice Prime-Minister Alexander Zhukov promised to back this draft. However, it was not supported by judicial community. (Counselor Is Not a Spouse to a Judge by Anastasiya Kornya, Vedomosti daily, February 28, 2006, available at <http://www.vedomosti.ru/newspaper/article.shtml?2006/02/28/103315>)

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Along with this proposal, Ivanov suggested adopting a supplement to the Federal Law "On Statute of Judges in Russian Federation" that will deal with disclosing this information to the media. Journalist will be able to find out about vehicles and real estate that a judge owns, as well as his/her declared annual income. According to this proposal, such information will be provided to the first media outlet to request it; all other requests will be forwarded to the first publication.

The media will have to explain on a mandatory basis what they need this information for, or the request will be rejected. If this information can be used for putting pressure on a judge or restrict his/her independence in hearing cases, a media request can also be denied. (Income and Property Declarations of Judges Will be Published in the Media, Vedomosti daily, June 20, 2006, available at <http://www.vedomosti.ru/newsline/index.shtml?2006/06/20/280001>). Experts didn't believe these amendments will be enforced properly (see more about it here: <http://www.vedomosti.ru/newspaper/article.shtml?2006/06/23/108423>).

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Oleg Sviridenko, Chairman of the Moscow Arbitration Court, as well as some other judges, does not support the idea of having to review such declarations. On Dec. 6, 2006, he said to Interfax new agency that he would not have time to check all the declarations of 179 judges subordinate to him. Sidorenko said he believes this should be done by a specialized body such as tax inspection (see his interview here: http://www.dom-i-zakon.ru/aktualteam/Sudi%20RF/Arbitraginii%20sud%20RF/stati%20i%20publikacii/lava_oskovskogo_arbitrazhnogo_suda_schitaet_chno_sudi_dolzhny_j)

However, President Putin in November 2006 supported an idea of making police and prosecutors declare their property and assets (see more about here: <http://www.vedomosti.ru/newspaper/article.shtml?2006/11/22/116201>). In February 2007, the State Duma discussed a draft law that would make public officials, State Duma deputies, judges and their relatives prove the legal origin of their property. The law was not passed (Public Officials Will Declare Their Property by Tatiana Aleshkina, Vedomosti daily, February 2, 2007, available at <http://www.vedomosti.ru/newspaper/article.shtml?2007/02/02/120068>).

It is quite probable this initiative will result in some legal act, hardly this year but quite probably the next year when the new Duma and the President-to-be will use anti-corruption campaign as a major PR tool.

References:

Federal Law On Statute of Judges in Russian Federation", 1992 (<http://www.stavsud.ru/kraysud/zakon/status>).

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of national-level judiciary 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 national-level judiciary asset disclosures or if such requirements exist but allow for self-auditing.

35d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.

YES | **NO**

Comments:

No, there no such requirements.

References:

Federal Law On Statute of Judges in Russian Federation", 1992 (<http://www.stavsud.ru/kraysud/zakon/status>).

YES: A YES score is earned if there are regulations restricting national-level judges 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.

35e. In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

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

Comments:

There are no such legal requirements.

References:

An interview with Dr Vasili A. Vlasikhin, legal expert (Moscow)

100: The regulations restricting post-government private sector employment for national-level judges are uniformly enforced. There are no or few cases of judges 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 cases, judges 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. Judges 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.

35f. In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

100 | 75 | 50 | 25 | 0

Comments:

There are no such legal requirements.

References:

An interview with Dr Vasili A. Vlasikhin, legal expert (Moscow)

100: The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to judges. Judges never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the national-level judiciary are generally applied though exceptions exist. Some judges 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 national-level judiciary are routinely ignored and unenforced. Judges routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

35g. In practice, national-level judiciary asset disclosures are audited.

100 | 75 | 50 | 25 | 0

Comments:

There are no such legal requirements.

References:

An interview with Dr. Vasili A. Vlasikhin, legal expert (Moscow)

100: National-level judiciary asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: National-level judiciary 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: National-level judiciary asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

36. Can citizens access the asset disclosure records of members of the national-level judiciary?

0

36a. In law, citizens can access the asset disclosure records of members of the national-level judiciary.

YES | NO

Comments:

There are no such legal requirements.

References:

Federal Law On Statute of Judges in Russian Federation", 1992 (<http://www.stavsud.ru/kraysud/zakon/status>)

YES: A YES score is earned if members of the national-level judiciary 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-level judiciary. A NO score is earned if the form is filed, but not available to the public.

36b. In practice, citizens can access judicial asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

There are no judicial asset disclosure records.

References:

An interview with Dr.Vasili A. Vlasikhin, legal expert (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 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.

36c. In practice, citizens can access judicial asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

There are no judicial asset disclosure records.

References:

An interview with Dr. Vasili A. Vlasikhin, legal expert (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-4. Budget Processes

37. Can the legislature provide input to the national budget?

75

37a. In law, the legislature can amend the budget.

YES | NO

References:

Constitution, Article 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 only approve but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

37b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | 0

Comments:

Yes, significant public expenditures require legislative approval.

References:

<http://www.rg.ru/2006/08/23/byudzhets-2007.html>

<http://www.rg.ru/2006/08/17/budget.html>

For more information, see "Three-Year Budget Passes First Test" by Anatoly Medetsky, The Moscow Times daily, March 9, 2007.

See also <http://www.vedomosti.ru/newspaper/article.shtml?2007/03/09/121954> and <http://www.vedomosti.ru/newspaper/article.shtml?2007/03/23/122839> and <http://www.novayagazeta.ru/data/2007/37/20.html> and <http://www.newizv.ru/news/2007-05-15/69149/> and <http://www.vedomosti.ru/newspaper/article.shtml?2007/02/22/121264>

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.

37c. 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 complex 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 processes with the Duma.

References:

An interesting aspect of the 2007 budget, specifically, the military budget amounted to more than 821 billion rubles (US\$31,16 billion), commented Alexander Khranchikhin, an expert of Institute of Political and Military Analysis. He is at a loss as to why, for the same amount of money, India buys 10 times more airplanes in Russia than the 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.

38. Can citizens access the national budgetary process?

58

38a. 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:

The media reports on major budget debates in the State Duma, but there is no live cast and detailed publication of the discussions not to mention that in-depth knowledge of many financial and economic issues is needed for clear understanding of the budget .

References:

Sergei Stepashin criticized the 2008-2010 budget for insufficient transparency, among others, in allocation of funding for national projects (see <http://www.rg.ru/2007/05/15/budget.html>).

The text of the Law on Federal Budget 2007 passed on December 19, 2006 is available here: http://openbudget.karelia.ru/budnord/common/texts/fb_07.htm.

An example of a local budget is available here (the Law on the Budget of Republic of Karelia 2006 passed on December 15, 2005): http://openbudget.karelia.ru/budnord/russian/northern/karelia-republic/text_06.htm.

On how a discussion of the federal budget is conducted, see http://www.vsp.ru/show_article.php?id=41970.

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.

38b. 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:

For example, see how citizens can provide input at a local budget hearings at Uglich municipality (see <http://uglich.ru/rayon/vlast/official/page1175/1/3/>).

See more information about a project on transparent budget in North-West of Russia by Strategiya center (St.Petersburg) here: <http://www.strategy-spb.ru/index.php?do=news&doc=3407>.

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.

38c. 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. Some foreign and international donors supported a number of projects on an Open Budget in 2000-2004 but the funding declined since then and some relevant programs were canceled (see, for example, how the website of City of Obninsk used provide information on its budget: to <http://www.obninsk.ru/economika/>).

An Open Budget project in Karelia region is also an example how lack of funding put an end to a very interesting and useful initiative.

For some years, Strategy Center (St. Petersburg) has conducted a Transparent Budget program: http://strategy-spb.ru/?do=lib&find_prog=3&find=1. Unfortunately, these activities are almost over.

References:

Various Web sites and interviews with civil society activists.

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.

39. In law, is there a separate legislative committee which provides oversight of public funds?

100

39. 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. So it might qualify as the equivalent group located in the legislature.

References:

Constitution of Russia, Article 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 within the legislature. A NO score is earned if there is a body executing this function but it is not part of the legislature (such as a separate supreme audit institution).

40. Is the legislative committee overseeing the expenditure of public funds effective?

63

40a. 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 Audit Chamber is funded by the government and is governed by its own charter. However, since Audit Chamber reports to the State Duma on a regular basis, we can accept it as an equivalent report.

References:

Constitution of Russia, Article 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.

40b. 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 United Russia political party holds a majority at State Duma so most of the chief auditors belong to the ruling party now. The Chamber is funded by the government and is governed by its own charter.

References:

Constitution of Russia, Article 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.

40c. 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 United Russia political party holds a majority at State Duma so most of the chief auditors belong to the ruling party now. The Chamber is funded by the government and is governed by its own charter.

References:

Constitution of Russia, Article 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.

40d. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

100 | 75 | 50 | 25 | 0

Comments:

The Audit Chamber starts investigations, but is limited in its effectiveness as it reports to the State Duma and Ministry of Finance that have the final say in such matters.

References:

Constitution of Russia, Article 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.

Category IV. Administration and Civil Service

IV-1. ⁵⁷ Civil Service Regulations

41. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

75

41a. 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, Article 4 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.

41b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

YES | NO

Comments:

One good case study occurred in September 2007.

Anatoly Serdyukov has resigned as defense minister because his father-in-law is the new Prime Minister. The appearance of nepotism is never good, but it threatens to be lethal when the relatives involved are anti-corruption campaigners. Serdyukov had been cleaning house at the Defense Ministry, while his father-in-law, Viktor Zubkov, had been fighting money laundering on a government task force. Zubkov, whose anti-corruption credentials probably played a major role in his promotion in mid September, would have had zero credibility in any future crackdown on government corruption if Serdyukov had stayed on.

It is curious that it took six full days for Serdyukov to submit his resignation. President Vladimir Putin certainly has known about the two men's ties for some time. And Serdyukov and Zubkov, as anti-corruption campaigners, surely must have felt uncomfortable for the past week. Yet no one uttered a word about any conflict of interest. Russia, thankfully, is not like other former Soviet republics such as Kazakhstan and Azerbaijan, where the presidents' families play prominent roles in their countries' political life. The closest Russia got was in the late 1990s, when Boris Yeltsin hired his daughter Tatyana Dyachenko as an adviser.

In announcing Serdyukov's resignation on September 18, Zubkov linked it to their family ties. A Kremlin spokesman went on to explain that the law prohibits close relatives from working together. The government now should go a step further and take the high road in other possible conflicts of interest. It probably would be unfair to make a big deal out of the marriage of Justice Minister Vladimir Ustinov's son to the daughter of Kremlin deputy chief of staff Igor Sechin. But the mere fact that Zubkov and Serdyukov, a former Federal Tax Service chief, headed federal agencies for years does raise a myriad of ethical questions.

Moving beyond the upper tiers of government, the issue becomes a bit more gray — especially when the worlds of politics and business collide. The children of many prominent officials in the current administration also seem to have it made. The sons of acting First Deputy Prime Minister Sergei Ivanov work in banks: Sergei, 26, is a vice president at Gazprombank, while Alexander, 30, works at Vneshekonombank. Sergei Matviyenko, the son of St. Petersburg's governor, is vice president at VTB. Dmitry Patrushev, son of the Federal Security Service director, reportedly oversees loans to oil companies at the same bank. Patrushev's younger brother, Andrei, 26, advises Rosneft chairman Igor Sechin. The list could go on and on.

President Vladimir Putin refused to accept Anatoly Serdyukov's resignation. Deputy Prime Minister Sergei Naryshkin, who supervises public administration reform in the government, said September 26 that he did not think familial relationships between Cabinet members would affect the overall performance of the government.

In my opinion, this should not hinder government members' performance of their duties in any way," Naryshkin said, *Russkaya Sluzhba* Novostei radio service reported. "I have to say that we have good, comradely relations."

Two members of the new Cabinet are married to each other: Health and Social Development Minister Tatyana Golikova and Industry and Energy Minister Sergei Khristenko.

A Russian citizen cannot become or remain a civil servant in case of close kinship ties with civil servants (parents, spouses, brothers, sisters, sons, daughters as well as spouses brothers, sisters, parents or children) if their civil service implies one being in immediate subordination or under control of another. Everyone knows that nepotism in Russian government institutions is not a rare thing. The situation for civil servants is even worse since the concept of being under control is quite blurred.

Is a defense minister subordinate to the prime minister? If so, then Viktor Zubkov could not have possibly been offered the new job as his son-in-law was already working in the government. If not, then Anatoly Serdyukov did not have to offer his resignation. It means that the law is not the problem. Serdyukov made it a point saying that he was stepping down due to ethical reasons. Relatives are prohibited by law from working under each other in government service. As defense minister, Serdyukov reports to the president and not the prime minister, meaning the law does not apply in this case. The same is true of Golikova and Khristenko because neither works under the other.

(Take the High Road against Corruption, *The Moscow Times* daily, September 20, 2007, available at <http://www.themoscowtimes.com/stories/2007/09/20/005.html>)

See also "Defense Minister Resigns over Family Ties" by Miriam Elder and Francesca Mereu, *The Moscow Times* daily, September 19, 2007, available at

<http://www.themoscowtimes.com/stories/2007/09/19/001.html>.

The Law of In-Laws, *Kommersant* daily, Sept24, 2007, available at

http://www.kommersant.com/p806986/Relatives_Nepotism_Serdyukov/

Minister Says Family Ties Won't Affect Cabinet, *The Moscow Times* daily, September 27, 2007, available at

<http://www.themoscowtimes.com/stories/2007/09/27/015.html>

See also "Russia: Anticorruption Figure Sees Troubling Trends in Russia" by Veronika Bode, RFE/RL, October 1, 2007

Kommersant daily provides a list to 35 relative groups in Russian power institution. (The Law of In-Laws, *Kommersant* daily, Sept24, 2007, available at

http://www.kommersant.com/p806986/Relatives_Nepotism_Serdyukov/)

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.

41c. 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, Article 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.

41d. 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). Ultimately, there is no legal statute prohibiting civil servants convicted of corruption from future government employment. Public officials are prohibited on an ad hoc basis in practice.

References:

Federal Law on Public Civil Service, passed on July 27, 2004, Article 16.

Articles 285, 286 and 291 of the Criminal Code of Russia also include a ban on taking any posts after an imprisonment (up to 3 years). Such decision is a part of a verdict.

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.

42. Is the law governing the administration and civil service effective?

39

42a. In practice, civil servants are protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

Public officials in their professional activities are often influenced by politics and politicians, starting with highest-ranking officials. The unofficial party cell of United Russia members in the Cabinet of Ministers, consisting of one vice premier — Aleksandr Zhukov — and two ministers — Sergey Shoygu (Ministry of Civil Defense, Emergencies, and Natural Disasters) and Aleksey Gordeyev (Ministry of Agriculture) — soon will be augmented by the minister of natural resources. Yuriy Trutnev has already applied for membership in United Russia and may head United Russia's Perm ticket for the December Duma election. Membership in United Russia is now tantamount to a certificate of stability in a high-level position.

On the other hand, many officials, especially on the local level and especially in low-ranking offices, are complaining, when they are out of earshot of their superiors, about being forced to join United Russia. (Editorial: "The Kremlin's Favorite", Gazeta.ru, August 2, 2007)

According to deputy chairman of the State Duma Committee for Constitutional Legislation and State Development, member of the LDPR faction Alexei Mitrofanov, the United Russia has 60 governors, 60 legislatures where they have the majority. ("Experts Remarks Regarding Proposed Law on Opposition", Mayak Radio, 12:16, February 2, 2007, source: www.fednews.ru)

In October 2007, Egor Stroev, the Governor of Oryol Region and a member of the High Council of Edinaya Rossiya party, came up with a decision to enlist more members for his party. At a September meeting with high-ranking regional officials he told his subordinates that they should either join the party, or lose their posts. He most likely was motivated by recent sacking of governors of Novgorod and Samara regions who failed to provide an expected support to Edinaya Rossiya at March 11 election. (See more at "Or To Be Sent to Back of Beyond" by Valentina Ostroushko, Novye Izvestiya daily, September 5, 2007, available at <http://www.newizv.ru/news/2007-09-05/75536/>)

References:

Various publications in Russian media.

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.

42b. 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, is an exception rather than a rule, especially with regard to middle and high ranking officials. Many Web sites 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 law of the In-Laws, Vlast monthly, September 24, 2007.
<http://www.kommersant.ru/doc.aspx?DocsID=806986>

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.

42c. 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.

Vlast monthly published a report called "The Law of In-Laws" (Sept. 24, 2007) following a resignation filed by Russia's acting Defense Minister Anatoly Serdyukov who said saying he has to step down because the new prime minister, Viktor Zubkov, is his father-in-law. President Putin didn't accept it. A Russian citizen cannot become or remain a civil servant in case of close kinship ties with civil servants (parents, spouses, brothers, sisters, sons, daughters as well as spouses, brothers, sisters, parents or children) if their civil service implies one being in immediate subordination or under control of another.

Vlast took a look at the situation at Russian civil service. Kommersant has thrown a glance on the issue only to find 35 examples of kinship ties in Russian power institution.

Fathers and Sons

Father. Alexander Bakhmurov, director of the Federal Tax Service for Samara Region.
Son. Yaroslav Bakhmurov, head of the Samara branch of the Rostekhinvetarizatsia state-run firm*.

*Kommersant considers work in companies where the government holds the controlling stake as the state service.

Father. Sergey Bogdanchikov, Rosneft CEO (the governments stake is more than 75 percent).
Son. Alexey Bogdanchikov, director of the investor relations department at Rosneft.

Father. Anatoly Gaida, first deputy head of the Sverdlovsk Region Governors administration.
Son. Sergey Gaida, head of the Federal Property Management Agency for Sverdlovsk Region.

Father. Nikolay Kabikeev, chairman of the agriculture, food and environment committee of the Astrakhan Regional Duma.
Son. Askar Kabikeev, Astrakhan Regions International Cooperation Minister.

Father. Evgeny Murov, director of the Russian Federal Guard Service.
Son. Andrey Murov, director general of the state-owned Pulkovo Airport company.

Father. Nikolay Patrushev, director of the Russian Federal Security Service.
Son 1. Dmitry Patrushev, Vneshtorgbank Vice-President (the governments share is more than 75 percent).
Son 2. Andrey Patrushev, advisor for Rosnefts chairman of the board (the governments stake is more than 75 percent).

Father. Leonid Polezhaev, Omsk Region Governor.
Son. Konstantin Polezhaev, deputy at the Omsk Regional Legislative Assembly.

Father. Murtaza Rakhimov, President of the Russian internal republic of Bashkortostan.
Son. Ural Rakhimov, deputy at Bashkortostans State Assembly.

Father. Viktor Sazonov, speaker of the Samara Regional Duma.
Son. Dmitry Sazonov, deputy head of the Interior Department for Samara.

Father. Egor Stroev, Orel Region Governor.
Daughter. Marina Rogacheva, representative of the Orel Regions administration in the Russian Federal Council.

Father. Vladimir Ustinov, acting Justice Minister.
Son. Dmitry Ustinov, employee at the Russian presidential administration.

Father. Sergey Shoigu, acting Civil Defense, Emergency Situations and Elimination of the Consequences of the Natural Disasters Minister.
Daughter. Yulia Shoigu, director of the Center for Emergency Psychological Aide at the Civil Defense, Emergency Situations and Elimination of the Consequences of the Natural Disasters Ministry.

Mother. Takibat Makhmudova, state secretary of the Russian internal republic of Dagestan.
Son. Anvar Makhmudov, prosecutor of the Agul district of Dagestan.

Brothers & Cousins

Cousin. Ramzan Kadyrov, Chechen President.
Cousin 2. Odes Baisultanov, Chechen Prime Minister.

Brother. Rustam Minnikhanov, Tatarstan Prime Minister
Brother 2. Rifkat Minnikhanov, director of the traffic police in Tatarstan.
Brother 3. Rais Minnikhanov, head of the Sabinsky municipal district in Tatarstan.

Brother. Andrey Fursenko, Education and Science Minister.
Brother 2. Sergey Fursenko, director general of Lentransgaz, subsidiary of state-owned Gazprom.

Brother. Ismail Efendiev, Dagestans Labor and Social Development Minister.
Brother 2. Robert Efendiev, director of Makhachkalas Employment Center.

Husbands & Wives

Husband. Alexander Artemov, Omsk Region Deputy Prime Minister and chief of the Omsk Governors staff.
Wife. Inessa Artemova, Omsk Region Deputy Labor and Social Development Minister.

Husband. Alexander Beglov, director of the Russian presidents control department.
Wife. Natalya Beglova, chairman of the civil status registration committee at the St. Petersburgs administration.

Husband. Sergey Bozhenov, Astrakhan Mayor.
Wife. Olga Bozhenova, first deputy head of the committee on state organization, law, justice and security at the Astrakhan Regional Duma.

Husband. Sergey Dukanov, head of the Federal Tax Services branch in Voronezh Region.
Wife. Elena Dukanova, director of the nonprofit and religious organizations oversight department at the Federal Registry Service for Voronezh Region.

Husband. Dzhamaludin Omarov, head of the Kaspiisk municipal district in Dagestan.
Wife. Takibat Makhmudova, Dagestan Secretary of State.

Husband. Vasily Oyun, chairperson of the legislative chamber of the Russian internal republic of Tuva.
Wife. Chechena Oyun, deputy head of the tax inspectorate in Kyzyl, Tuvas capital.

Husband. Sergey Stepashin, chairman of the Russian Audit Chamber.
Wife. Tamara Stepashina, member of the supervisory board at the VTB Severo-Zapad bank, part of the VTB group which is 75-percent state-owned.

Husband. Alexander Fedyunin, head of the staff and deputy head of the Volgograd Regions administration.
Wife. Tatyana Nadezhdina, deputy head of the Volgograd Region.

Husband. Alexander Frolov, chairman of the business committee at Volgograds city hall.
Wife. Valentina Rakova, director of the Federal Property Management Service in Volgograd Region.

Husband. Viktor Khristenko, acting Industry and Energy Minister.
Wife. Tatyana Golikova, Deputy Finance Minister.

Husband. Rifkat Shabanov, deputy at the Astrakhan Regional Duma.
Wife. Munira Shabanova, deputy chairman of the property relations committee at Astrakhans administration.

In-Laws

Vladimir Ustinov, acting Justice Minister.
Igor Sechin, deputy head of the Russian presidential administration and the Russian presidents aide.
Vladimir Ustinovs son, Dmitry, is married to Igor Sechins daughters Inga.

Uncles & Nephews

Uncle. Vladimir Kulakov, Voronezh Region Governor
Nephew 1. Sergey Zhukov, deputy speaker of the Voronezh Region Duma.
Nephew 2. Alexander Zhukov, deputy head of the Voronezh City Duma. The two officials are nephews of the governors wife, Lilia Kulakova.

Uncle. Khizri Shikhsaidov, chief of Dagestans Audit Chamber.
Nephew. Murat Sikhsaidov, Dagestani Agriculture Minister.

Families

Father. Mukhu Aliev, Dagestani President.
Brother. Makhach Aliev, Judge of the Sovetsky district of Makhachkala.
Cousin. Omarashab Absulmuslimov, Dagestani First Deputy Agriculture Minister.
Son. Khadzhimurad Aliev, deputy head of the Federal Tax Services branch for Dagestan.

Father. Said Amirov, Makhachkala Mayor.
Brother. Magomedsalom Amirov, Judge of the Kirovsky district of Makhachkala.
Son. Dalgat Amirov, deputy head of Dagestans bailiff service.

Father. Vladimir Radul, Omsk Region Culture Minister
Brother. Valentin Radul, managing director of the territorial fund for compulsory medical insurance for Omsk Region.
Son. Vladimir Vadul, Omsk Regions Deputy Labor and Social Development Minister.

Father. Mintimer Shaimiev, Tatar President.
Son. Airat Shaimiev, director general of the 100-percent state-owned Tatar railroad company, Dorozhny Service Respubliki Tatarstan.
Nephew 1. Ilshat Fardiev, director general of the 100-percent state-owned Tatenergo.
Nephew 2. Rinat Fardiev, head of the Zainsky municipal district of Tatarstan.

References:

Report in Vlast monthly, Sept.24, 2007, available at <http://www.kommersant.ru/doc.aspx?DocsID=806986>.
See also <http://www.novayagazeta.ru/data/2007/58/00.html>.

Kommersant daily provides a list to 35 relative groups in Russian power institution. (The Law of In-Laws, Kommersant daily, Sept24, 2007, available at http://www.kommersant.com/p806986/Relatives_Nepotism_Serdyukov/).

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.

42d. In practice, civil servants have clear job descriptions.

100 | 75 | 50 | 25 | 0

Comments:

Article 24 of the Federal Law on Public Civil Service states that a contract with a public official has to have a job description. Article 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:

An interview with a 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.

42e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | 75 | 50 | 25 | 0

Comments:

Russian officials enjoy an unprecedented rise in their wages since 2004. However, this increase affects mostly high-ranking officials. Nonetheless, almost all Russian public official have additional, often non-monetary bonuses – their rent is subsidized by the state or municipal authorities (up to 50 percent, including sometimes utilities), they have free health insurance (top officials have only themselves but their families covered by the best medical bodies). Middle- and high-ranking officials have free unlimited cell-phone service, free houses in the country, almost free annual trip to a sanatorium for the whole family, a company car with a driver. Very often public officials get quarterly bonuses besides basic salary that doubles it.

References:

Princes and Paupers of Russian Bureaucracy” by Dmitri Balburov, Konstantin Smirnov, Gennadi Petrov, Gazeta daily, December

18, 2006, available at: <http://www.gzt.ru/wallet/2006/12/18/220215.html>.

In October 2007, Novaya Gazeta thrice-weekly has published a list of holders of a special Aeroflot Business Pass – a free pass to (largely) business class trips on domestic (and for most holders, international) flights. Most holders are high-ranking public officials, some are businessmen. Aeroflot is a state-run corporation. For more information, go to <http://www.novayagazeta.ru/data/2007/81/00.html>, <http://www.novayagazeta.ru/data/2007/81/02.html>, <http://www.novayagazeta.ru/data/2007/81/01.html>

An interesting analysis of how top public officials are involved in activities of state-owned enterprises and why this is quite profitable: <http://www.newizv.ru/news/2007-04-26/68647/>.

See also: <http://www.vedomosti.ru/newspaper/article.shtml?2007/07/11/129017>;
<http://www.novayagazeta.ru/data/2007/10/18.html>;
<http://www.vedomosti.ru/newspaper/article.shtml?2007/05/28/126496>;
<http://www.novayagazeta.ru/data/2007/63/00.html>.

See also: "BRIBES AS SALARY SUPPLEMENTS" by Kira Vasilieva, Novye Izvestia, October 11, 2007.

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.

42f. 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:

An interview with a 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.

42g. 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 in 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.

42h. 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. According to figures released on Sept. 14, 2007 by the Federal Statistics Service (RosStat), the salaries of employees of the executive branch have risen by 22.9 percent in the past six months alone – to an average of 23,029 rubles (US\$939.58) a month.

Bureaucrats are still crying poor, but their average salaries are now higher than the average income figure for citizens in general (13,500 rubles a month/US\$550.80 as of July 2007).

Regional bureaucrats at various levels grew richer in the first half of 2007. The salaries of staff at regional departments of federal executive branch bodies (such as regional departments of the Tax Inspectorate or the Consumer Protection Inspectorate) rose by 37.9 percent, to 15,803 rubles (US\$664.75) a month. The real salaries of regional executive branch employees rose by 22.9 percent, to 23,029 rubles (US\$939.58) a month. The salaries of local government employees reached 13,692 rubles (US\$558.63) a month – a rise of 22.7 percent.

In real terms, counting inflation, the salaries of bureaucrats in the regions rose by 14 percent; average incomes for citizens in general rose by 17.4 percent. As we can see, public servants and officials aren't limiting their incomes at all. This is particularly true of regional government ministers: their average monthly salaries are 50 percent higher than those of staff at regional departments of federal executive branch bodies. This is hardly surprising, given that regions are allowed to determine the structure of their own governments, staff numbers, and pay scales. The regional bureaucrats are generous to themselves – especially in regions where valuable natural resources are mined. For example, bureaucrats in the Nenets and Khanty-Mansiisk autonomous districts make about 60,000 rubles (US\$2,447.98) a month – double the salaries of their counterparts in Moscow or St. Petersburg.

In depressed regions, bureaucrats have to make do with salaries that are lower than the regional average. For example, government administrative staff in Dagestan or the Kostroma region is still living on 10,000 rubles (US\$407.99) a month. (Salaries Rise – Lines Remain by Olga Gorelik, Izvestia daily (Moscow), September 17, 2007)

See also "Profitable Chair", Kommersant daily, September 17, 2007, available at <http://www.kommersant.ru/doc.aspx?DocsID=805133>.

See also <http://www.vedomosti.ru/newspaper/article.shtml?2007/04/24/124688>.

References:

An interview with a high-ranking official of Russian Audit Chamber.

See also <http://www.vedomosti.ru/newspaper/article.shtml?2007/04/24/124688> and

<http://www.vedomosti.ru/newspaper/article.shtml?2007/10/23/134819>.

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.

42i. 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 from taking supervising positions up to three years. A permanent ban to future government employment is not a component of current legislation. A much more likely scenario is such a ban for lack of political loyalty, not corruption.

See more about it here: <http://www.novayagazeta.ru/data/2007/06/24.html>.

Two examples. Former Volgograd Mayor Yevgeny Ishchenko walked free from jail on June 13, 2007 after being sentenced to one year time served and banned from holding public office for four years. A Volgograd court convicted Ishchenko, 34, of illegal participation in business activities and illegal possession of ammunition. A charge of abuse of office was thrown out." ("Ex-Volgograd Mayor Convicted and Freed", report by The Moscow Times daily on June 14, 2007).

" Former Vladivostok Mayor Yury Kopylov on May 7, 2007 was given a four-year suspended sentence for abuse of office in a case of cold cash and a columbarium. The Leninsky District Court found that Kopylov had acted illegally when he signed a \$3.8 million contract in November 2003 to buy building materials from Japanese company Shiroyama. Prosecutors said Kopylov, 61, had failed to coordinate the contract with other city officials and to organize a tender. He made no provision for funding the contract in the city's budget, yet paid 6.5 million rubles (\$243,000) in municipal funds to Shiroyama as a down payment. Kopylov denied the charges.

Kopylov was appointed acting mayor of Vladivostok in 1999, and prevailed in the 2000 mayoral race. Four years later, he was defeated by the current mayor, Vladimir Nikolayev. Prosecutors sent the case against Kopylov to court last November, shortly after the current administration received an arbitration court order to pay Shiroyama more than 21.5 million rubles (US\$834,000) in outstanding debt.

In total, Shiroyama delivered materials worth nearly 30 million rubles (US\$1.16 million) for the columbarium, which was intended to house the ashes of deceased World War II veterans.

An arbitration court later annulled the contract. The columbarium was never built.

Deputy city prosecutor Miroslav Yermolayev told reporters that he would appeal, because Kopylov had not been sentenced to jail time. In addition to his four-year suspended sentence, Kopylov was banned from holding public office for two years. Prosecutors had sought a term of five years in prison and a three-year ban on holding public office." ("Ex-Mayor Escapes Prison Term", report by Alyona Sokolova, The Moscow Times daily, May 8, 2007)

References:

High-ranking official of Russian Audit Chamber.

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.

43. Are there regulations addressing conflicts of interest for civil servants?

54

43a. 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, Article 17, Part 1, Paragraph 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.

43b. 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, Article 17, Paragraph 3, Subparagraph 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.

43c. In law, there are regulations governing gifts and hospitality offered to civil servants.

YES | NO

Comments:

Yes, according to Article 17, paragraph 1, subparagraph 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 Article 575 of the Civil Code of Russian Federation).

In June 2006, the Supreme Court of Arbitration prepared a draft law, according to which it was decided to regulate presents to state figures differently. The total of permitted presents to officials and judges is increased from 500 to 4,000 rubles (US\$20.40 to US\$163.20) and personal presents worth more than 100,000 (US\$4,079.97) have to be declared. (Official Feeding Trough" by Valeriy Vyzhutovich, Rossiyskaya Gazeta daily, November 13, 2006)

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/deecree810eng.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.

43d. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | 50 | 25 | 0

Comments:

This is one of the least enforced 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.

There are still very many cases where officials combine their state or municipal offices with positions in commercial structures or act as their founders. A splendid example is the chief of the Altay hunting service, who was at once general director and shareholder of a commercial company that is organizing hunting. A criminal case was opened against him on charges of "illegal participation in entrepreneurial activity." In Kemerovo Oblast, more than 40 officials from the territorial Rostekhnadzor (Federal Service for Environmental, Technological and Nuclear Oversight) Administration worked simultaneously in subordinate organizations. Officials in many regions almost openly combine their state or municipal duties with commercial activity." (Interview with Russian First Deputy General Prosecutor Aleksandr Buksman by Andrey Sharov: "No Give, No Take. The General Prosecutor's Office Has Launched an Offensive Against Corrupt Officials", Rossiyskaya Gazeta, November 8, 2006)

References:

An interview with a 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.

43e. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

100 | 75 | 50 | 25 | 0

Comments:

No, penalties are usually imposed in the case of a lack of political loyalty.

References:

An interview with a high-ranking official of the 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.

43f. 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 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. Reiman worked with

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 US\$1 billion invested in Russia.

The tribunal found that 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.

See more about holding both a public office and a position at the private sector: <http://www.novayagazeta.ru/data/?rub=8&n=33727>;
<http://www.novayagazeta.ru/data/2007/color9/03.html>.

References:

An interview with a high-ranking official of the Russian Audit Chamber

Russia at Heart of German Probe", by Greg Walters and Catherine Belton, The Moscow Times daily, July 26, 2006.

In October 2007, a list of high-ranking officials of the Moscow city government and their business affiliations was published after an attempt by a liberal faction of the Moscow city legislature to prohibit such commercial involvement was rejected. For more information, see <http://www.izbrannoe.ru/17709.html>, <http://www.izbrannoe.ru/17703.html>, <http://www.vremya.ru/2007/196/4/189903.html>.

On relatives of high-ranking Russian officials and their business activities see here: <http://www.novayagazeta.ru/data/2007/58/00.html> and here <http://www.novayagazeta.ru/data/2007/49/03.html>.

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.

44. Can citizens access the asset disclosure records of senior civil servants?

67

44a. In law, citizens can access the asset disclosure records of senior civil servants.

YES | NO

Comments:

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. Natural Resources Minister Yury Trutnev earned the ruble equivalent of US\$5.2 million last year, the most of any Cabinet member in the country, after he sold a stake in EKS, a group of trading companies he founded.

Trutnev's income declined from US\$7.9 million in 2005, according to an annual list of ministerial income declarations published on August 3 on government newspaper Rossiiskaya Gazeta's web site. The country's monthly average wage was at 13,810 rubles (about \$540) in June, according to the State Statistics Service. In 2005, Trutnev also received payments for a stake in EKS, which also owns a chain of supermarkets, and reported the highest earnings of any Cabinet members.

Newly-appointed Defense Minister Anatoly Serdyukov earned the least, about US\$49,000. Economic Development and Trade Minister German Gref, who reported the lowest income of any Cabinet member for 2005, earned US\$71,500 in 2006, compared with about US\$45,000 in the previous year.

IT and Communications Minister Leonid Reiman had the second-highest income in the Cabinet, reporting \$4.4 million for 2006. His income rose more than tenfold from 2005. Reiman probably sold five apartments, each measuring between 151.5 square meters to 283.7 square meters, the paper said.

Prime Minister Mikhail Fradkov's earnings rose 44 percent, to about 2.6 million rubles (US\$102,000)." ("Trutnev is Cabinet's Top Earner", The Moscow Times daily, August 6, 2007)

For problems with filing and accessing asset disclosure records of any officials, see http://www.ng.ru/politics/2007-07-23/3_senator.html.

The problem with accessing these declarations is that there is no opportunity to verify them: "When the law on civil service was adopted, this is all defined there. But we did not insist in the past that one should prove the legal origin of one's incomes. This is what the international convention requires. Today the State Duma has prepared a draft law on counteracting corruption which is entirely new. Our draft law would have a civil servant submit all the tax returns, including those of the members of his family. Some prominent human rights activists correct us because they say it violates the principle of presumption of innocence. Having said that, many still want to introduce an article that would make the civil servant answerable for all the members of his family. So far the Constitution does not allow us to do it." (RADIO INTERVIEW WITH ARKADY BASKAYEV, MEMBER OF THE STATE DUMA ANTICORRUPTION COMMISSION, EKHO MOSKVVY RADIO, JANUARY 31, 2007)

"I do not even mention here a widespread violation of the law on income declaration. During the June-September 2006 inspection of Rosobrazovaniye (Federal Education Agency), about 250 individuals, or more than 70 percent of its officials, failed to file the declarations. We observed similar situations, even if not on such a large scale, in the Federal Customs and Tax Services, Rosaviatsiya (Federal Air Transport Agency), and Rostransnadzor (Federal Transport Oversight Service). (Sharov) What punishment do the state functionaries face in this connection? (Buksman) Disciplinary punishment at the least, but they can also be fired from state service." (Interview with Russian First Deputy General Prosecutor Aleksandr Buksman by Andrey Sharov: "No Give, No Take. The General Prosecutor's Office Has Launched an Offensive Against Corrupt Officials", Rossiyskaya Gazeta, November 8, 2006)

The March 1, 2007 meeting of interdepartmental anti-corruption task group established by President Putin in February 2007, was supposed among other things to discuss amendments to the law on the status of civil servants. The task group will design mechanisms of mandatory declaration of assets and prevention of legalization of criminal income. Moreover, it will have come up with something that will help civil servants to "avoid conflicts of interest."

Yaroslav Kuzminov from the Higher School of Economics points out that measures like that are practiced worldwide but "their efficiency in application to Russia is questionable." These measures, for example, include a civil servant's duty to report every proposal to participate in a business venture, both directly or via relatives. "That's a purely moral duty but it is fairly effective," Kuzminov said. "Its violation – if and when exposed – will cost the civil servant his or her position and internal investigation." Kuzminov added that purely punitive measures would be pointless. (FIGHT CORRUPTION! by Natalia Melikova, Nezavisimaya Gazeta daily, March 2, 2007)

Potential consequences for failing to provide valid information on assets and income also became an issue in 2007. Mikhail Grishankov, chairman of the Duma's anti-corruption commission, says that property confiscation is likely to be a penalty option across the entire range of corruption-related crimes. According to Grishankov, some legislation proposals have already been prepared as a result of joint projects by the Duma's anti-corruption commission and the Council of Europe. Grishankov says that confiscation will apply to assets proven to be the proceeds of crime. (A JOB FOR MIRONOV by Anna Nikolayeva, Anastasia Kornya, Vedomosti daily, March 19, 2007)
See also here: <http://www.rbc.ru/rbcfreeneews.shtml?/20070413142758.shtml>

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;

http://www.kommersant.com/p793140/income_ministers/; <http://www.vedomosti.ru/newspaper/article.shtml?2007/08/06/130468>; http://www.gazeta.ru/2007/08/04/oa_246098.shtml.

An interesting approach to the real transparency of asset disclosure records of top public officials see here http://www.ng.ru/politics/2007-07-23/3_senator.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.

44b. 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, Article 20, paragraph 5; http://www.kommersant.com/p793140/income_ministers/; <http://www.vedomosti.ru/newspaper/article.shtml?2007/08/06/130468>; http://www.gazeta.ru/2007/08/04/oa_246098.shtml; <http://www.newizv.ru/news/2007-04-26/68647/>.

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.

44c. 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:
http://www.kommersant.com/p793140/income_ministers/; <http://www.vedomosti.ru/newspaper/article.shtml?2007/08/06/130468>; http://www.gazeta.ru/2007/08/04/oa_246098.shtml.

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

45. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

6

45a. 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 conventions produced by United Nations and Council of Europe that requires introducing similar regulation into national legislation. It is assumed whistle-blowing will be one of the concepts infused into Russian legislation.

In 2005, 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, or almost US\$40 million). However, fight against organized crime and not corruption was named the main objective of this program. 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. In November 2006, the government approved rules for applying security measures to witnesses and victims who, if need be, may be provided with a new name, new place of residence and new job, and even a new face. 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. By November 2006, no more than a thousand people have used the benefits provided by this law.

According to official data, 150,000 to 300,000 people that later are taken to courts became victims of illegal activities in Russia annually. Approximately 5,000 people or 2 percent need special protection. Minimum funding for witness protection program has to be at least 3.8 billion rubles annually.

According to Valeri Fedorov, one of the authors of the witness protection law, currently 10million people are criminal cases witnesses in Russia, and every fourth is threatened by criminals. According to the "Supporting Human Rights and Democracy: The U.S. Record 2006" report is submitted to the Congress by the Department of State in compliance with Section 665 of P.L. 107-228, the FY 03 Foreign Relations Authorization Act, on April 5, 2007, U.S. officials also worked with the presidential administration and the Ministry of Internal Affairs to develop implementing regulations for the countrys new witness protection program. During the year the program protected over 500 witnesses, including a small number of trafficking victims.

On November 8, 2006, Mayak Radio has conducted an interview with State Duma Deputy Victor Ilyukhin. He said that every year about 10 million people witness crimes, and more than half of victims do not go to police for fear of revenge by criminals. Almost one in five witnesses and their relatives get threatened during the investigation, and one in four changes his testimonies in court. According to Ministry of Interior of Russia, about 5,000 people need bodyguards, and about a thousand of them have to change the place of residence after court hearings.

References:

<http://anticorr.ru/content/8442.html>
<http://www.prime-tass.ru/news/show.asp?id=584613&ct=news>.

November 8, 2006, Mayak Radio interview with State Duma Security Committee Deputy Chairman Victor Ilyukhin, one of the main authors of the Witness Protection Law.

The law is available here: <http://www.in-audit.ru/modules/iContent2/index.php?page=415>

The Federal Witness protection Program is available here: http://www.businesspravo.ru/Docum/DocumShow_DocumID_110084.html.

An interesting if outdated interview with State Duma Security Committee Chairman Vladimir Vasiliev is available: <http://daily.sec.ru/dailypblshow.cfm?rid=17&pid=12091&pos=10&stp=10&cd=21&cm=2&cy=2007>

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.

45b. 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:

In 2005, Russia passed Witness Protection Law and allocated a significant amount of funding for its implementation in 2006-2008 (almost one billion rubles or US\$40 million). However, fight against organized crime and not corruption was named the main objective of this program. There is no data how many cases deal 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. However, there is a lack of funds for Witness Protection Program.

See more about it here: <http://www.lenta.ru/news/2006/11/02/protect/> and <http://www.kommersant.ru/doc.aspx?DocsID=718540>.

More on problems with implementation of this program see: <http://www.vremya.ru/2007/115/13/181951.html>

References:

<http://anticorr.ru/content/8442.html>.

November 8, 2006, Mayak Radio interview with State Duma Security Committee Deputy Chairman Victor Ilyukhin, one of the main authors of the Witness Protection Law.

Interesting discussion on implementation of Witness protection program is here: <http://www.police-russia.ru/printthread.php?s=1d73bf115128c506b01b3f2b709917c6&t=3722&pp=40>.

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.

45c. 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:

An interview with Dr. Vasili A. Vlasikhin, legal expert (Moscow).

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.

45d. 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:

An interview with Dr. Vasili A. Vlasikhin, legal expert (Moscow).

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.

46. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

0

46. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

YES | **NO**

Comments:

The law doesn't specify any such mechanism. There are phone hotlines and e-mail addresses that the general public can use for reporting complaints against public officials. However, General Prosecutor's Office under its anti-corruption mandate is collecting such information regardless the position a person willing to report corruption holds.

For example, the Office of Prosecutor General in Sverdlovsk region in September 2007 opened a hotline through which citizens can report on corrupt officials. Though some experts claim this is nothing but an attempt to collect so-called kompromat" on local bureaucrats on the eve of parliamentary December 2007 election and obtain an instrument of control over regional authorities. Very likely, this initiative will be replicated in other regions. (See more about it here: http://www.ng.ru/regions/2007-09-13/6_incvision.html)

In February 2007, Ministry of Economic Development and Trade came up with a draft anti-corruption program that includes such a notion as setting up a hotline in every state body that citizens can use for reporting corruption among public officials (see more about it here: http://www.lenta.ru/news/2007/02/28/corruption/_Printed.htm).

References:

Ministry of Economic Development and Trade Web site, Anti-corruption program for federal executive bodies, 2007-2008, available at <http://ar.economy.gov.ru/ru/regions/federal/anticorrupt/>.

YES: A YES score is earned if there is a mechanism, or multiple mechanisms for multiple national government agencies, through which civil servants can report cases of graft, misuse of public funds, or corruption.

NO: A NO score is earned if no such mechanism (or equivalent series of mechanisms) exists.

47. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

0

47a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

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

References:

Interview with an Audit Chamber of Russia high-ranking official.

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.

47b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

No such mechanism exists.

References:

An interview with a 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.

47c. 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:

An interview with a 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.

47d. 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:

An interview with a high-ranking official of the 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.

2 IV-3. Procurement

48. Is the public procurement process effective?

93

48a. In law, there are regulations addressing conflicts of interest for public procurement officials.

YES | NO

Comments:

Federal Law On Civil Service", passed on July 27, 2004, paragraph 2 of Article 14, subparagraph 5 of paragraph 1 of Article 16 , paragraph 1-8 of Article 19).

"Conflict of Interest and Possible Corrupt Practices in Public Procurement" by Dr Andrei Khramkin, Director of Public Procurement Institute of the Russian Civil Service Academy, available at <http://topics.developmentgateway.org/governance/rc/filedownload.do?itemId=1026650>.

On Sept. 11, 2007, a very interesting discussion of public procurement in Russia with regard to corruption was held at State Duma of Russia. It was covered by various publications. I would recommend the following:

MPs and public officials speak against corruption in public procurement, Polit.ru news agency, September 11, 2007, available at <http://www.polit.ru/news/2007/09/11/goszakaz.html>;

Leave the middlemen out by Dmitri Kazmin and Elena Ivanova, Vedomosti daily, September 12, 2007, available at <http://www.vedomosti.ru/newspaper/article.shtml?2007/09/12/132597>;

Loophole for Millions by Peter Geltishchev, Novye Izvestiya daily, September 12, 2007, available at <http://www.newizv.ru/news/2007-09-12/75990/>;

Innovations against corruption by Irina Barygina, Rossiiskaya Gazeta daily, September 18, 2007, available at <http://www.rg.ru/2007/09/18/korruptiya.html>;

<http://www.lenta.ru/news/2007/09/13/innovat/>.

The current legislation on public procurement is currently under review by the National Legislature. For more information about existing draft, please see <http://www.vedomosti.ru/newspaper/article.shtml?2007/07/10/128948>, <http://www.kommersant.ru/doc.aspx?DocID=790427> and <http://www.kommersant.ru/doc.aspx?DocID=806374&NodesID=2>

The Federation Council of Russia on July 11, 2007 passed amendments to endorse new principles in selecting companies for public contracts. The new draft will toughen requirements in selecting suppliers for public orders. Senators were pressing in the first reading for more auction requirements for the bidders such as work experience, business reputation or financial position. The new amendments allow only firms without tax debts to bid for contracts with authorities. In construction contracts, development companies have to meet certain qualification criteria. The draft requires that auctions should not focus not only on the lowest price but also on quality criteria.

Sergey Lisovsky was the only senator to point out that the bill makes the law more prone to corruption. Other senators favored the amendments. Former Soviet Prime Minister Nikolay Ryzhkov said the assembly's task force would draft another series of amendments by fall. (Russia Toughens Auction Rules for Public Contracts, Kommersant daily, July 12, 2007, available at http://www.kommersant.com/p781900/Auction_Public_Contracts_Parliament/)

Russia (along with Tatarstan) is considered to be the region where many advanced and pilot methods are tested. For a case study of public procurement in Moscow where almost 13 percent of all public procurement tenders are being held, please go to <http://www.rian.ru/realty/zilye/20070607/66856439.html>, <http://www.vedomosti.ru/newspaper/article.shtml?2007/07/05/128722>, <http://www.rg.ru/2007/07/05/internet-aukcion.html>.

However, even in Moscow corrupt networks and practices are very active and new legislation is still prone to corruption (please see <http://mn.ru/issue.php?2007-39-40>).

References:

Interview with Dr. Andrei Khramkin, Director of the Government Procurement Institute, Russian Civil Service Academy, Chairman of the Procurement Expert Association.

YES: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for public procurement officials. A YES score is earned if such regulations cover all civil servants, including procurement officials.

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

48b. In law, there is mandatory professional training for public procurement officials.

YES | NO

Comments:

This issue is covered by the Governmental Regulation On Providing Staff for Public Procurement of State Needs," passed on Sept. 3, 1998. Starting Jan. 1, 2009, procurement commissions will have to include at least one person with public procurement retraining or advance training (according to paragraph 3 of Article 7 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).

References:

Interview with Dr. Andrei Khramkin, Director of the Government Procurement Institute, Russian Civil Service Academy, Chairman of the Procurement Expert Association.

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, unrelated to procurement processes, or voluntary.

48c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | 50 | 25 | 0

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 much more often now at court of arbitration. See, for example: <http://top.rbc.ru/society/23/10/2007/123498.shtml>.

An interesting story about the head of maintenance department of the Supreme Court of Arbitration of Russia handing contracts with the court to his wife's firm is available here: Demand is Married to Supply by Anatoli Brazhnikov, Novaya Gazeta thrice-weekly, September 9, 2007 (<http://www.novayagazeta.ru/data/2007/51/31.html>)

References:

Interview with Dr. Andrei Khramkin, Director of the Government Procurement Institute, Russian Civil Service Academy, Chairman of the Procurement Expert Association.

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.

48d. 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 the Government Procurement Institute, Russian Civil Service Academy, Chairman of the Procurement Expert Association.

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.

48e. 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 the Government Procurement Institute, Russian Civil Service Academy, Chairman of the Procurement Expert Association.

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).

48f. 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, World Bank experts reviewing the law on public procurement, called limits on sole sourcing too strict. The latest amendments to the Law passed in 2007 allow to avoid the limits on sole sourcing on more occasions than before. According to Mr Alexander Nazarov, Auditor of the Audit Chamber of Russia, the number of sole sourcing contracts went down very significantly. However, he believes that the federal law on public procurement exists in certain vacuum and is implemented very formally. Nonetheless, over 100 bln Rub were saved due to the introduction of the new legislation in 2006 and over 70 bln Rub over the first six months of 2007. There are other evaluations, though. (MPs and public officials speak against corruption in

public procurement, Polit.ru news agency, September 11, 2007, available at <http://www.polit.ru/news/2007/09/11/goszakaz.html>; Loophole for Millions by Peter Geltishchev, Novye Izvestiya daily, September 12, 2007, available at <http://www.newizv.ru/news/2007-09-12/75990/>; Innovations against corruption by Irina Barygina, Rossiiskaya Gazeta daily, September 18, 2007, available at <http://www.rg.ru/2007/09/18/korruptsiya.html>

References:

Interview with Dr. Andrei Khramkin, Director of the Government Procurement Institute, Russian Civil Service Academy, Chairman of the Procurement Expert Association.

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.

48g. 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.

See also <http://www.vedomosti.ru/newspaper/article.shtml?2007/03/02/121637>.

See also "Public Procurement Control: Will the new Russian law on public procurement protect from corrupt practices?" by Dr Andrei Khramkin, available at <http://topics.developmentgateway.org/governance/rc/filedownload.do~itemId=1063594>

Besides, in case of any suspicions of foul play there is an opportunity to address them to the prosecutors office that can initiate and conduct an investigation.

For regional examples, please see <http://www.vedomosti.ru/newspaper/article.shtml?2007/10/26/135079>, <http://www.vedomosti.ru/newspaper/article.shtml?2007/08/15/131050> and <http://www.rg.ru/2007/09/19/reg-primorie/otkat.html>.

References:

Interview with Dr. Andrei Khramkin, Director of the Government Procurement Institute, Russian Civil Service Academy, Chairman of the Procurement Expert Association.

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.

48h. 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.

See also "Public Procurement Control: Will the new Russian law on public procurement protect from corrupt practices?" by Dr Andrei Khramkin, available at <http://topics.developmentgateway.org/governance/rc/filedownload.do~itemId=1063594>

An example is available here: <http://www.vedomosti.ru/newspaper/article.shtml?2007/10/25/134970>

References:

Interview with Dr. Andrei Khramkin, Director of the Government Procurement Institute, Russian Civil Service Academy, Chairman of the Procurement Expert Association.

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.

48i. 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 Article 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". Starting May 2007, this Register is on and open to interested parties (available at <http://rnp.fas.gov.ru/?rpage=687&status=find>).

Within the next three years, state customers have a right not review their bids. However, it's not binding and these suppliers can enter the market before three years are over. From Dr Khramkin's point of view, this loophole allows corrupt officials to partner with bad suppliers.

References:

Interview with Dr. Andrei Khramkin, Director of the Government Procurement Institute, Russian Civil Service Academy, Chairman of the Procurement Expert Association.

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.

48j. 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 Jan. 1, 2006. To have a bid by a company from a black list declined has become a common practice. .

References:

Interview with Dr. Andrei Khramkin, Director of the Government Procurement Institute, Russian Civil Service Academy, Chairman of the Procurement Expert Association.

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.

49. Can citizens access the public procurement process?

49a. In law, citizens can access public procurement regulations.

YES | NO

Comments:

According to Article 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 the Government Procurement Institute, Russian Civil Service Academy, Chairman of the Procurement Expert Association.

YES: A YES score is earned if procurement rules are, by law, open to the public. These regulations are defined here as the rules governing the competitive procurement process.

NO: A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

49b. In law, the government is required to publicly announce the results of procurement decisions.

YES | NO

Comments:

This is 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 the Government Procurement Institute, Russian Civil Service Academy, Chairman of the Procurement Expert Association.

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.

49c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The main problems used to arise from the regular malfunctioning of the official public procurement Web site. By now, this technical problem is largely over and general public can access this information within reasonable time period.

References:

Interview with Dr. Andrei Khramkin, Director of the Government Procurement Institute, Russian Civil Service Academy, Chairman of the Procurement Expert Association.

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. These records are defined here as the rules governing the competitive procurement process.

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.

49d. 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 Web site is available to everyone for free. Subscription to “Competitive Bidding” official bulletin is not very expensive and open to everyone. Information on the Web site and at the bulletin is identical.

References:

Interview with Dr. Andrei Khramkin, Director of the Government Procurement Institute, Russian Civil Service Academy, Chairman of the Procurement Expert Association.

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. These records are defined here as the rules governing the competitive procurement process.

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.

49e. In practice, major public procurements are effectively advertised.

100 | 75 | 50 | 25 | 0

Comments:

This provision is generally 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.

The situation with public procurement in regions is covered here: <http://www.kommersant.ru/doc.aspx?DocsID=800546>

Information on reform of public procurement in Russia is available here:

Anti-Corruption Practices in Russian Public Procurement by Dr. Andrei Khramkin, Director of the Government Procurement Institute, Russian Civil Service Academy, Chairman of the Procurement Expert Association. April 2007. (<http://topics.developmentgateway.org/governance/rc/ItemDetail.do~1099194?itemId=1099194>).

Audit Chamber response to new legislation on public procurement and its implementation is here:

<http://www.regnum.ru/news/653427.html>.

A 2007 survey provides information on how SME view public procurement in Russia:

<http://www.vedomosti.ru/newspaper/article.shtml?2007/09/03/132036>

References:

Interview with Dr. Andrei Khramkin, Director of the Government Procurement Institute, Russian Civil Service Academy, Chairman of the Procurement Expert Association.

100: There is a formal process of advertising public procurements. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

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. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising major public procurements or the process is superficial and ineffective.

49f. 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 the Government Procurement Institute, Russian Civil Service Academy, Chairman of the Procurement Expert Association.

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

50. Is the privatization process effective?

75

50a. 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.

50b. 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:

Article 19 of the Federal Law on Civil Service, passed on July 27, 2004.

YES: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for privatization officials. A YES score is earned if such regulations cover all civil servants, including privatization officials.

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

50c. 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 in 2007. 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:

An interview with a 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.

51. Can citizens access the terms and conditions of privatization bids?

75

51a. In law, citizens can access privatization regulations.

YES | NO

Comments:

Yes, citizens can access these regulations.

References:

Federal Law on Privatization of State and Municipal Enterprises, 2001.

YES: A YES score is earned if privatization rules (defined here as the rules governing the competitive privatization process) are, by law, open to the public. Even if privatization is infrequent or rare, the most recent privatization should be used as the basis for scoring this indicator.

NO: A NO score is earned if privatization rules are officially secret for any reason or if there are no privatization rules.

51b. In practice, privatizations are effectively advertised.

100 | 75 | 50 | 25 | 0

Comments:

Privatization is one of the gray zones of Russian economy. What enterprises will be privatized, when and how, is often unknown to the general public and even the interested parties – the businesses. Quite often terms and conditions of a tender for a certain item of state property are designed to fit a specific bidder. There are fewer scandals connected with privatization than in the 1990s but they still occur.

An overview of the situation with privatization in Russia in 2006-2008, see Editorial, Vedomosti daily, July 17, 2007, available at <http://www.vedomosti.ru/newspaper/article.shtml?2007/07/18/129463>

Land is a brake to privatization by Arina Sharipova, Kommersant daily, July 18, 2007, available at <http://www.kommersant.ru/doc.aspx?DocsID=783414&NodesID=4>.

See also: <http://www.vedomosti.ru/newspaper/article.shtml?2007/07/18/129430>.

References:

A publication of Novosibirsk Union of City Advertisers on the privatization of the largest city supermarket: <http://www.gorn.ru/archive/2007/6/article5596.html>.

The section of the Perm Krai official website on local privatization: <http://perm.ru/finances/economy/financial/propertyofpermregion>

An example of how privatization of municipal real estate of a typical Russian town is advertised, see here: <http://perm.ru/finances/economy/financial/propertyofpermregion/?document=1268>.

100: There is a formal process of advertising privatizations. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

75:

50: There is a formal process of advertisement but it is flawed. Some privatizations may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising privatizations or the process is superficial and ineffective.

51c. 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, Article 15, Paragraph 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.

51d. In practice, citizens can access privatization regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

According to Article 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>).

100: Records (defined here as the rules governing the competitive privatization process) 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.

51e. In practice, citizens can access privatization regulations 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/news.aspx?CatalogId=375&Year=2007&Month=8>.

100: Records (defined here as the rules governing the competitive privatization process) 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

52. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

52. 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 September 2007, there were 41 regional ombudsmans (out of 86 Russian regions).

References:

Official site – www.ombudsman.gov.ru; Federal Law on Human Rights Commissioner in Russian Federation, passed on February 26, 1997 (available here: http://www.democracy.ru/library/laws/federal/law_N1fzk.html); <http://www.ombu.ru/>.

On cooperation between Ombudsmans' offices and regional authorities, see <http://hro.org/editions/ombudsman/2006/09/18.php>.

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.

53. Is the national ombudsman effective?

68

53a. 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, Article 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.

53b. 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 as 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:

Novye Izvestiya daily, April 5, 2007, an interview with Mr Lukin (available at <http://www.newizv.ru/news/2007-04-05/67177/>), On a situation with regional ombudsmen, see an interview with Mr Lukin here: <http://saratov.zarplata.ru/a-id-7080.html>.

On controversy with St.Petersburg ombudsman, see <http://www.novayagazeta.ru/data/2007/52/10.html>;
<http://www.vremya.ru/2007/116/4/182047.html>;
<http://www.kommersant.ru/doc.aspx?DocslD=780021>;
<http://www.vedomosti.ru/newspaper/article.shtml?2007/07/05/128683>.

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.

53c. 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. No Ombudsman has been removed from his office (the institute of Human Rights Commissioner in Russian Federation is a decade old).

References:

Federal Law on Human Rights Commissioner in Russian Federation, Article 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.

53d. 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>). I

n 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/>.

In 2005-2007, JURIX, a Russian NGO focusing on legal aid and education, conducts a special program on support of regional ombudsmans.

References:

<http://www.mhg.ru/ombudsman>; <http://www.jurix.ru/sections/programs/institutions/ombudsman.htm>.

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.

53e. 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:

On appointments see: <http://control.hro.org/okno/mvd/2005/03/01.php>; <http://hro.org/editions/ombudsman/2007/05/03.php>; <http://hro.org/editions/ombudsman/2007/04/23.php> and <http://hro.org/editions/ombudsman/2007/04/17.php>; <http://hro.org/editions/ombudsman/2007/04/05>

A special case was an appointment of the St.Petersburg ombudsman. Disappointed by the recent election of Igor Mikhailov, a United Russia politician as the first St. Petersburg ombudsman, a wide range of local human rights groups joined forces to establish the St. Petersburg Human Rights Council, an umbrella group aimed at voluntarily carrying out the ombudsmans duties. (Human Rights Group Join Forces", a report by by Galina Stolyarova, St. Petersburg Times, August 7, 2007).

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.

53f. 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:

An interview with a 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.

53g. In practice, the ombudsman agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

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.

On March 12, 2007, the RF Human Rights Commissioner Vladimir Lukin said his report for 2006 was ready. He explained that Russias President Vladimir Putin will get the 400-page report of Lukin in late March and the State Duma will receive it in the next move. The report has been ready since late December. By tradition it was first submitted to the president. We are waiting for a commentary from the presidential administration," Lukin told Interfax on March 21, 2007.

The report will then be referred to the State Duma and the Federation Council, before being made public, he said."

As is clear from the text of the report, during the three years that it has been in operation the Office of the Commissioner for Human Rights has examined more than 150,000 appeals from citizens. Some 32,500 complaints were received in 2006. There was an increase in the number of requests concerning the protection of civil rights. In comparison with 2005 they increased by almost 46.7 percent. These were mostly requests to help in reviewing legally enforced sentences, rulings, and decisions – they accounted for 34.5 percent of rights violations.

There was a 23.9 percent increase in complaints relating to problems of judicial reform and court proceedings, the grounds for being put on a criminal charge, refusals to institute criminal proceedings, and sentencing violations.

Third on the list is complaints about the violation of social rights. They increased by 11.7 percent in comparison with the previous year. The number of complaints of violations of economic rights increased by 15.7 percent. But complaints about the flouting of political rights increased by only 3.2 percent.

References:

Situation with Human Rights Isn't Satisfactory in Russia, Human Rights Commissioner Said", Kommersant daily, March 12, 2007

"Violations Of Human Rights Rise, Report Says", report by Natalya Krainova, Moscow Times daily, March 13, 2007

"Russian human rights ombudsman releases 2006 report", Gazeta daily, 12 March, 2007

"Russia's Human Rights Yearly Report Ready – Lukin", Interfax news agency, March 21, 2007.

The 2006 report is located here: <http://www.ombudsman.gov.ru/doc/ezdoc/06.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.

53h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | 25 | 0

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 Sept. 17, 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.

The Ombudsman's offices collect information on human rights violations (for example, see <http://hro.org/editions/ombudsman/2007/01/17-2.php>). Quite often, such information is only forwarded to relevant authorities that are supposed to act on it. However, the Ombudsman can appeal to the judiciary if he believes that a mass violation of human rights occurs/occurred (for example, see an attempt by Lukin to stop the amendments to electoral legislation: <http://www.utro.ru/news/2005/10/07/484020.shtml>).

References:

Interview with Russian Human Rights Commissioner Vladimir Lukin

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.

53i. 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. The Ombudsman can address the Government, using some complaints to raise public awareness of some issue and suggesting amendments to existing legislation and practices (see, for example http://ombudsman.gov.ru/doc/vistup10/p11a_10_07.shtml).

The local Ombudsman branches do fight some cases by providing legal support. See, for example, <http://www.ombudsman.kaluga.ru/news/?content=item&item=410>.

However, an Ombudsman can interfere only after the case in question was heard by a court and its ruling was appealed. See more here: <http://www.ombudsman.kaluga.ru/about/?content=complaint>.

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.

53j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

Comments:

Although President Putin meets with the Ombudsman on a regular basis, the activities of the Ombudsman's office are of almost no interest to the government and the President. Vladimir Lukin, Human Rights Commissioner in Russian Federation said he believes there are special problems in coordinating activities between regional ombudsmen and local authorities.

Question: What kind of reaction to the report do you expect from the authorities?

Vladimir Lukin: I forwarded the report to the president and Duma members. The report does proposed amending certain laws. This is not the first time ombudsman's reports suggest amendment of the acting legislation. Some of these suggestions are accepted and acted on, but not all. Well, I'm not a dictator or anything in the field of human rights. I can only tell the authorities what I think about how human rights are observed." (Novye Izvestia, April 5, 2007, "EXPANDING DEFINITIONS OF TERRORISM COULD BAN ANY AND ALL DEMONSTRATIONS", an interview with Human Rights Ombudsman Vladimir Lukin by Alexander Kolesnichenko).

When Larisa Arap, a United Civil Front activist, was confined in August 2007 to a psychiatric hospital for what many experts believed was a punishment for an article she wrote for a local human rights newsletter, at Lukin's request a group of psychiatrists went to the Murmansk region and did an independent evaluation (Nezavisimaya Gazeta, August 15, 2007, "I'M NEITHER A PROSECUTOR NOR A PSYCHIATRIST" by Roza Tsvetkova).

References:

Vladimir Lukin, Human Rights Commissioner in Russian Federation, in his presentation at III All-Russia Congress of Human Rights Commissioners, June 2005 (<http://hro.org/editions/ombudsman/2005/06/30.php>).

An interview with Valentin Gefter, Director of Moscow Human Rights Institute, Moscow, April, 2007 (see <http://hro.org/editions/ombudsman/2007/04/05-1.php>).

For situation in the regions, go to <http://hro.org/editions/ombudsman/2007/01/22.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.

53k. In practice, the ombudsman 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:

Interview with Vladimir Lukin, Human Rights Commissioner in Russian Federation at Echo Moskvy radio, September 28, 2006 (see <http://hro.org/editions/ombudsman/2006/09/28.php>).

<http://ombudsman.gov.ru/galo/galo26.shtml>

<http://ombudsman.gov.ru/galo/galo25.shtml>

<http://ombudsman.gov.ru/galo/galo24.shtml>

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.

54. Can citizens access the reports of the ombudsman?

100

54a. In law, citizens can access reports of the ombudsman(s).

YES | NO

Comments:

They are uploaded to the Ombudsman Web site and published in the Rossiskaya Gazeta daily, State Duma official newspaper.

References:

Federal Law on Human Rights Commissioner in Russian Federation, Article 33; The reports are located here: http://www.ombudsman.gov.ru/doc/a-eg_doklad.shtml;

The 2006 report, released on April 13, 2007 is available here: <http://www.ombudsman.gov.ru/doc/ezdoc/06.shtml> and <http://www.rg.ru/2007/04/13/upolnomochennyj-doklad-dok.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.

54b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Usually they are published in the official Rossiiskaya Gazeta, the day after the ombudsman's annual conference, and uploaded to the Obudsman Web site within a couple of weeks.

References:

These reports are located here: http://www.ombudsman.gov.ru/doc/a-eg_doclad.shtml;

The 2006 report is available here: <http://www.ombudsman.gov.ru/doc/ezdoc/06.shtml> and here <http://www.rg.ru/2007/04/13/upolnomochennyj-doklad-dok.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.

54c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

The reports are located here: http://www.ombudsman.gov.ru/doc/a-eg_doclad.shtml

References:

Federal Law on Human Rights Commissioner in Russian Federation, Article 33

The reports are located here: http://www.ombudsman.gov.ru/doc/a-eg_doclad.shtml

The 2006 report, released on April 13, 2007 is available here: <http://www.ombudsman.gov.ru/doc/ezdoc/06.shtml> and <http://www.rg.ru/2007/04/13/upolnomochennyj-doklad-dok.html>.

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

55. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

55. 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. However, it has its restrictions. In December 2007, Audit Chamber was not allowed to audit Central Bank of Russia. See about it here: Kudrin Didnt Let Audit Chamber to Audit Central Bank, Newsru.com news agency, December 7, 2006.

However, in March 2007, such permission was granted. See more about here: http://www.gazeta.ru/2007/03/16/oa_234093.shtml
Why it should be done, see more here: http://www.kommersant.ru/articles/2007/gp_cbr.html

References:

Federal Law on Audit Chamber of Russian Federation, 1994: <http://www.ach.gov.ru/zakon/fedzakon/zakon.php>;

The official Web site – <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.

56. Is the supreme audit institution effective?

72

56a. 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.

56b. In practice, the head of the audit 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 control of United Russia, the party of power, and rubber-stamps all presidential initiatives, removal of the head of Audit Chamber for political reason is not out of the question.

References:

An interview with a 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.

56c. In practice, the audit agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Yes, the agency has a professional, full-time staff though high-ranking auditors become often involved in corruption scandals.

The primary function of the Audit Chamber is to oversee the handling of federal assets, and the federal budget above all. The 12 auditors who make up the chamber investigate mismanagement and give their reports to law enforcement and regulatory bodies, such as the Prosecutor General's Office or the Central Bank, but the chamber's findings have no legal force and serve mainly as recommendations.

Under prior law, the Duma nominates and votes into power the head of the chamber and six of its auditors, while the Federation Council selects the other six auditors and the chamber's deputy head. All members of the chamber serve for six-year terms. However, according to the amendments to the law on the Audit Chamber, passed in summer 2007, State Duma and Council of Federation can appoint any and all auditors to Audit Chamber of Russia by recommendation of the President of Russia. Audit Chamber head Sergei Stepashin was solely responsible for drafting the new proposal, said a spokeswoman for the chamber who declined to be identified. (President Set to Control Audit Chamber, The Moscow Times, March 15, 2007)

See more about it here: URL: <http://lenta.ru/news/2007/03/14/audit/>

How this law is applied now, see <http://www.vedomosti.ru/newspaper/article.shtml?2007/05/21/126055>.

References:

High-ranking official of Audit Chamber of Russia.

See more information on recent corruption scandals

here: <http://www.vremya.ru/2007/177/4/188046.html>; <http://www.kommersant.ru/doc.aspx?DocsID=809152>; <http://www.themoscowtimes.com/stories/2007/09/28/045.html>; <http://www.gazeta.ru/social/2007/09/27/2196142.shtml>; <http://www.komme>
<http://www.kommersant.ru/doc.aspx?DocsID=806868>;
<http://www.lenta.ru/news/2007/10/01/end/>;
<http://www.kommersant.ru/doc.aspx?DocsID=809564&NodesID=6>.

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.

56d. In practice, audit 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.

(Correspondent) Every now and then, discussions flare up to the effect that the Audit Chamber supposedly finds it cramped in the existing legal framework. What are they talking about?

(Stepashin) We can speak only with bitterness about the legislative provision of the Audit Chamber (AC) activity. The introduction of a draft law on regulating the formation of the auditor staff of the AC is most current. We have sent the appropriate appeal to the President of Russia. Today, each of the chambers of the Federal Assembly independently appoints auditors. This standard is unsuccessful to say the least, because it does not rule out the possibility of appointing candidates who do not have adequate professional training or who are prejudicial. We have proposed a review of appointment of auditors by nomination of the President of the Russian Federation or the chairman of the AC. This would make it possible to formulate a viable and cohesive team of professionals. That is, we are proposing an anti-corruption measure, which reduces the possibility of undesirable informal outside influence in selection of candidates.”
(Rossiyskaya Gazeta, January 1, 2007, Interview with Chief Comptroller of the Russian Federation Sergey Stepashin, conducted by Tatyana Panina: “Audit Without Malice”)

On one of the latest appointees to the Audit Chamber see here: <http://www.newizv.ru/news/2007-10-22/78464/> .

References:

An interview with a 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.

56e. In practice, the audit agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Yes, in practice, the agency receives regular funding.

References:

An interview with a 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.

56f. In practice, the audit agency makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

Yes, reports are made on an annual basis.

References:

High-ranking official of Audit Chamber of Russia; <http://www.ach.gov.ru/bulletins/>;

<http://www.ach.gov.ru/bulletins/2007-1.php>;

<http://www.ach.gov.ru/results/reports/2006.php/>;

<http://www.fincontrol.ru/>;

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.

56g. In practice, the government acts on the findings of the audit agency.

100 | 75 | 50 | 25 | 0

Comments:

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.

The Russian Prosecutor General's Office and the Audit Chamber intend to intensify joint inspections for control over the spending of federal budget funds and for the fight with corruption. 'The involvement of specialists from the Audit Chamber allows us react effectively and timely to violations,' Russian Prosecutor General Yuri Chaika said at a joint meeting of the Prosecutor General's Office and the Audit Chamber on April 16, 2007. He cited as an example two recent joint inspections in the Primorsky Territory and the Amur Region.

'As many as 134 cases were opened as a result of audits conducted by the Audit Chamber in 2005-2006. 236 suits and applications totaling over 46 million roubles were filed in courts, 221 of them were satisfied to the tune of more than 16 million roubles,' Chaika emphasized.

For his part, Audit Chamber Chairman Sergei Stepashin said, "This year 24 our joint measures were taken, primarily for the joint control over the implementation of the most important socially oriented programmes.'

"One of the strategic tasks for us will be the struggle with corruption. We should create such conditions in the country, when the ground will burn beneath the feet of corrupt officials," Stepashin pointed out. "Just you can put into practice the results of the inspections, that is to say to try these cases and convict the criminals," the Audit Chamber chairman told representatives of the Prosecutor General's Office on April 16. (Prosecutor General's Office, Audit Chamber to fight corruption". ITAR-TASS news agency, April 16, 2007. See also <http://www.aksnews.ru/m/110474/> and <http://www.klerk.ru/news/?80820>)

In interview with Chairman of Audit Chamber of the Russian Federation Sergey Stepashin, conducted by Tatyana Panina: "Audit Without Malice", Rossiyskaya Gazeta, Jan. 1, 2007, Mr. Stepashin said that his agency conducted almost 600 audits in 2006, and fiscal violations in the sum of around 75 billion rubles were uncovered. Responding to a question of what happens after an audit is conducted and violations are uncovered, he said: "The agencies of state power and the managers of organizations are being sent notices to take measures for correcting the violations, compensating the loss and bringing to responsibility those officials who are guilty of violating the legislation. This year, the number of our addressees comprised 347. Minfin (Ministry of Finance)

alone was sent 40 notices to block budget funds used for other than their intended purpose. In 11 months, 66 materials have been sent to the law enforcement agencies. Thirty-six criminal cases have been filed."

References:

An interview with a high-ranking official of Audit Chamber of Russia.

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.

56h. In practice, the audit agency is able to initiate its own investigations.

100 | 75 | 50 | 25 | 0

Comments:

No, though Sergei Stepashin, the Chairman of the Audit Chamber, as well as some other high-ranking public officials are for amending the existing legislation to allow the Audit Chamber to initiate its own investigations.

The Audit Chamber is open to complaints from ordinary citizens. In 2006, we have processed and implemented almost 1,800 appeals by citizens. We have started a special column in the journal, Financial Control, devoted to questions formulated by citizens. We have opened the interactive service, "public reception room," on the Comptroller's Office official Web site." (Rossiyskaya Gazeta, January 1, 2007, Interview with Chief Comptroller of the Russian Federation Sergey Stepashin, conducted by Tatyana Panina: "Audit Without Malice")

There is an aspect of the Audit Chamber activities that prior to September 2007 when a group of high-ranking auditors were arrested for corruption were not covered by its inner structure, namely inner investigation. In early October 2007, Internal Audit body was set up at the Audit Chamber aimed at fighting corruption in its ranks (see more about it here: <http://grani.ru/Society/Law/m.128131.html?1520>). See more about it here: <http://www.rg.ru/2007/10/10/palata.html>

References:

An interview with a high-ranking official of Audit Chamber of Russia;

<http://www.nikoil.ru/PORTAL.NSF/ShowPNews.nikoil?Open&ID=8E9D30E0EF4D5E3EC325719400365AE1>

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.

57. Can citizens access reports of the supreme audit institution?

92

57a. In law, citizens can access reports of the audit agency.

YES | NO

Comments:

Yes, the reports are available on the Internet and in print, in the Chamber's bulletins.

References:

An interview with a high-ranking official of Audit Chamber of Russia;
<http://www.ach.gov.ru/bulletins/>; <http://www.ach.gov.ru/bulletins/2007-1.php>;
<http://www.ach.gov.ru/results/reports/2006.php>; <http://www.fincontrol.ru/>;

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.

57b. 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. First, a report is approved by the Audit Chamber Board, included in a monthly Audit Chamber bulletin and uploaded its web site. It takes time to make these reports public.

References:

An interview with a 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.

57c. 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:

An interview with a high-ranking official of the 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.

88
V-3. Taxes and Customs

58. In law, is there a national tax collection agency?

100

58. 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.

59. Is the tax collection agency effective?

88

59a. 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:

An interview with 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.

59b. In practice, the tax agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Yes, the agency receives regular funding.

References:

An interview with 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.

60. In practice, are tax laws enforced uniformly and without discrimination?

25

60. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

Comments:

The media is 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.

The U.S. is concerned about Russia's selective approach to law enforcement, U.S. Ambassador to Russia William Burns said in an interview published in the Vedomosti newspaper on December 5, 2006. The Russian Federal Tax Service has described U.S. Ambassador to Russia William Burns's address to the Higher Arbitration Court as an attempt to interfere in the outcome of the tax claim case against ZAO PricewaterhouseCoopers Audit.

The ambassador said in his address that the U.S. was closely following the tax debate in which PwC was involved in Russia, the Tax Service said in its documents forwarded to the Higher Arbitration Court. Burns said PwC clients in Russia represent about 50 percent of the Russian economy and asked the court's chairman to consider the case more thoroughly because PwC believes the essence of the case and legal arguments had not been properly examined during the previous proceedings.

The conclusions made by both the judicial board and the U.S. ambassador can be disproved not only by all the documents present in the case but by simply reading the rulings handed down in the case," the Tax Service said.

This is "an attempt to interfere in the Russian Higher Arbitration Court's activity," it said. It was reported earlier that the presidium of the Higher Arbitration Court had partially overturned rulings by three lower courts seeking to recover back taxes from ZAO PricewaterhouseCoopers Audit and sent the case back for new hearings.

The court upheld the rulings by the courts on the recovery of VAT for audit services. The court's presidium overturned rulings by the Moscow District Arbitration Court, the Ninth Arbitration Appeals Court, and the Moscow District Federal Arbitration Court as regards charging PwC 128.2 million rubles in back profit taxes, 106.85 million rubles in back VAT, and fines and penalties amounting to 25.645 million rubles. The rest of the rulings remained standing.

The fact that the supremacy of the law has not yet been ensured in Russia is also a concern, Burns said.

Russian businesses are the main victims of tax police.

References:

U.S. Concerned Over Selective Law Enforcement In Russia – Ambassador”, Interfax news agency, December 6, 2006.

“Tax Service Calls U.S. Ambassador Address Interference In Russian Court Jurisdiction”, Interfax news agency, July 10, 2007.

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.

61. In law, is there a national customs and excise agency?

100

61. 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.

References:

The Russian Customs official Web site is <http://www.customs.ru>. The legislation on the Customs is located here: <http://www.customs.ru/ru/gtk/>.

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.

62. Is the customs and excise agency effective?

88

62a. 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.

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. Belyaninov’s answer refers to this wide-spread perception.

In July 2007, the Russian government has approved the main criteria for evaluating the Russian Customs activities. There will be 15 criteria and the funding for the customs will be based on their successful implementation.

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

"What a Raise Is For", a report by Alexandra Petrachkova and Filipp Sterkin, Vedomosti daily, July 5, 2007 (see here: <http://www.vedomosti.ru/newspaper/article.shtml?2007/07/05/128724>).

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.

62b. In practice, the customs and excise 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 (US\$304) per month and they sometimes deal with a combined RUB8 billion (US\$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\$1.1 billion) for the next five years in order to fight corruption (a significant part of it would go for salary hike).

In July 2007, the Russian government has approved the main criteria for evaluating the Russian Customs activities. There will be 15 criteria and the funding for the customs will be based on their successful implementation.

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

"What a Raise Is For", a report by Alexandra Petrachkova and Filipp Sterkin, Vedomosti daily, July 5, 2007 (see here: <http://www.vedomosti.ru/newspaper/article.shtml?2007/07/05/128724>).

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.

63. In practice, are customs and excise laws enforced uniformly and without discrimination?

25

63. In practice, are customs and excise laws enforced uniformly and without discrimination?

Comments:

Corruption seems to be routine at the customs and unofficial payments are highly standardized.

References:

A very interesting report by Ivan Marchuk (Striped Raid", Kommersant Dengi weekly, May 7, 2007) on the customs, customs brokers and corruption is available here: http://www.kommersant.ru/k-money/get_page.asp?page_id=14379424.htm&m_id=35758&rid=6

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. State-Owned Enterprises

64. In law, is there an agency or equivalent mechanism overseeing state-owned companies?

100

64. In law, is there an agency or equivalent mechanism overseeing state-owned companies?

YES | NO

Comments:

As far as in December 2004, Ministry of Economic Development and Trade suggested passing the management of state-owned enterprises to private managers in order to make such enterprises more effective and profitable (see more about it here: http://www.businesspress.ru/newspaper/article_mld_3_ald_325944.html). Nothing came out of this initiative so far. The state is supervising state-owned enterprises, especially such important tax payers as Gazprom, Russian Railways, etc. by appointing top public officials to their boards. Usually a Vice Prime-Minister is a Chairman of Board of Directors (see, for example <http://www.gazprom.ru/subjects/groups/sovet.shtml>, http://center.rzd.ru/wps/portal/center?STRUCTURE_ID=834).

In industries such as energy, aviation, engineering, mining and car manufacturing, private companies that emerged after the collapse of the Soviet Union are being brought back under state control or consolidated in the hands of businessmen loyal to the authorities. Government ministers and Kremlin insiders now sit on the boards of the country's largest companies. The Kremlin defends the swelling economic role of the state as an essential element in the creation of powerful companies that can compete in the global economy. The takeovers are also officially called a necessary reversal of dubious privatizations in the 1990s that deprived the state of income and strategic assets crucial to Russia's security. The growing state role in the economy began with oil, when the state-owned energy company Rosneft took control in late 2004 of the prime assets of Yukos, the company founded by Mikhail Khodorkovsky. The oligarch was imprisoned for tax evasion and fraud, and his company was dismantled. The state-controlled energy giant Gazprom, in which the government took a majority stake in 2005, purchased Sibneft, the oil company owned by tycoon Roman Abramovich. Soliciting rival bids was never considered, according to Putin's former economic adviser, Andrei Illarionov. (See Kremlin Inc. Widening Control Over Industry" by Peter Finn, Washington Post, November 19, 2006).

See also "Twists and Turns; Prosperity of the Russian Economy May Be Influenced By Decline in Oil Prices and Excessive Role of State" by Mikhail Vorobyev and Izolda Vasilyeva, Vremya Novostey daily, January 1, 2007; "Putins Silovarchs" by Daniel Treisman, Orbis, Winter 2007 (available at <http://www.sscnet.ucla.edu/polisci/faculty/treisman/siloct06.pdf>); "The Society of Friends of the President", Gazeta.ru, April 3, 2007, Editorial. .

Under Putin, the number of state-owned enterprises keeps growing. Russia is not going to build state capitalism with giant, government-controlled corporations holding sway over the economy, President Vladimir Putin told business leaders on December 11, 2007.

"State corporations should not monopolize Russia," Putin said after his ally and anointed successor, Dmitry Medvedev, proposed

that Putin become prime minister after a presidential election in March 2008. Putin did not mention state-controlled energy companies such as Gazprom or Rosneft, which dominate the country's natural resources sector and have been aggressively seeking new acquisitions. "We are not planning to keep state corporations in their present form. After these corporations stand on their own two feet, then I think it will be right for them to work in market conditions," Putin said. "We need to make sure they don't strangle other businesses."
("Putin Plays Down the State's Role", December 12, 2007, The Moscow Times daily, <http://www.themoscowtimes.com/stories/2007/12/12/042.html>).

An interesting aspect of how privately-owned companies are being purchased by a state-backed venture fund, see <http://www.themoscowtimes.com/stories/2007/12/03/042.html> and <http://www.vedomosti.ru/newspaper/article.shtml?2007/12/03/137242>. Kommersant daily published an interview on November 30 that gave an unprecedentedly open and detailed picture of a financial structure Finansgrup that is close to the Kremlin siloviki and their putative leader, deputy Kremlin administration chief Igor Sechin. See more about it here: <http://www.kommersant.ru/doc.aspx?DocsID=831908>.

References:

General oversight is provided by Federal Agency for Management of Federal property that is in charge of all publicly owned companies (www.mgi.ru). Federal State Unitary Enterprises are managed by specific ministries and agencies (see, for example <http://www.minprom.gov.ru/ministry/agency/energo/3>). Complete list of these companies is available here: <http://www.reestrfr.ru/>.

YES: A YES score is earned if there is an agency or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. State-owned companies are defined as companies owned in whole or in part by the government.

NO: A NO score is earned if this function does not exist.

65. Is the agency or equivalent mechanism overseeing state-owned companies effective?

80

65a. In law, the agency or equivalent mechanism overseeing state-owned companies is protected from political interference.

YES | NO

Comments:

Yes, in law, the ministry (and other relevant agencies) is an independent state body. However, because the prime minister appoints the minister, the latter is not protected from political interference, as all other Administration nominees.

References:

<http://www.mgi.ru/rosim/pologenie/>

YES: A YES score is earned only if the agency or equivalent mechanism has some formal operational 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 or equivalent mechanism is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

65b. In practice, the agency or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Yes, the agency almost always has a professional, full-time staff. The structure of the ministry and the hiring process is presented here: <http://www.mgi.ru/rosim/structure/>

References:

An interview with a high-ranking official of the Audit Chamber, Russia.

100: The agency or equivalent mechanism has staff sufficient to fulfill its basic mandate.

75:

50: The agency or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency or equivalent mechanism has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

65c. In practice, the agency or equivalent mechanism overseeing state-owned companies receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Yes, the agency receives regular funding.

References:

An interview with a high-ranking official of the Audit Chamber, Russia.

100: The the agency or equivalent mechanism 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 the agency or equivalent mechanism 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.

65d. In practice, when necessary, the agency or equivalent mechanism overseeing state-owned companies independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

An important role is played by Russian Audit Chamber. The Russian Accounts Chamber will hold inspections at all Russian state corporations in 2008, head of the Accounts Chamber Sergei Stepashin told Interfax on November 21, 2007. In 2008, the Accounts Chamber will focus particularly on United Energy Systems of Russia. Other companies that the Accounts Chamber is planning to inspect in 2008 are Gazprom, Russian Railways, Russian Mail and a number of other largest companies. The controlling agency will also carry out inspections in the regions, which receive subsidies from the federal budget. The Accounts Chamber had to hire 75 more staff for this new task, Stepashin said. (Russian Accounts Chamber To Inspect All State Corporations In 2008", Interfax news agency, November 21, 2007)

References:

Articles 5.6 and 7of the Statute of Federal Agency for Management of Federal Property provide the Agency with the powers to supervise and audit state-owned enterprises, as well as press charges if any violations are uncovered (see <http://www.mgi.ru/rosim/pologenie/>).

100: When irregularities are discovered, the agency or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

75:

50: The agency or equivalent mechanism 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 or equivalent mechanism 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.

65e. In practice, when necessary, the agency or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

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

Comments:

The Agency can hire and fire managers of state unitary enterprises.

References:

An interview with a high-ranking Audit Chamber official.

100: When rules violations are discovered, the agency or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

75:

50: The agency or equivalent mechanism 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 or equivalent mechanism 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 partisan in its application of power.

66. Can citizens access the financial records of state-owned companies?

60

66a. In law, citizens can access the financial records of state-owned companies.

YES | NO

Comments:

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.

References:

<http://www.rao-ees.ru/ru/investor/reporting/show.cgi?content.htm>;
<http://www.gazprom.ru/articles/article25767.shtml>.

YES: A YES score is earned if the financial information of all state-owned companies is required by law to be public. State-owned companies are defined as companies owned in whole or in part by the government.

NO: A NO score is earned if any category of state-owned company is exempt from this rule, or no such rules exist.

66b. In practice, the financial records of state-owned 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). 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.

References:

Standard & Poor's Russian-language Web site: <http://www.standardandpoors.ru>

Interfax's disclosure site at www.e-disclosure.ru.

100: State-owned companies always disclose financial data, which is generally accurate and up to date.

75:

50: State-owned 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.

66c. In practice, the financial records of state-owned 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.

See more about transparency of Russian state-owned companies here: <http://www.vedomosti.ru/newspaper/article.shtml?2007/06/21/127928>.

See the S&P 2006 report on transparency and accountability of Russian state-owned companies here: http://www.gazeta.ru/print/2006/11/08/oa_223186.shtml and <http://www.vedomosti.ru/newspaper/article.shtml?2006/11/09/115495> <http://www.newizv.ru/news/2006-11-09/57782/>.

References:

A discussion on pros and cons of national and international accounting standards, as well as recent legal development in this field: <http://www.klerk.ru/articles/?47006>.

See also <http://www.uba.ru/news?news=8018>

100: Financial records of all state-owned companies are regularly audited by a trained third party auditor using accepted international standards.

75:

50: Financial records of state-owned 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: State-owned 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.

66d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

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

References:

Largest Russian joint-stock companies such as Gazprom, RAO EES, etc. release their financial records within reasonable time. Such a financial report is available at the website (accessible by anyone) and in printed form (harder to obtain).

See here: <http://www.rao-ees.ru/ru/investor/finans/show.cgi?society.htm>;
http://www.rao-ees.ru/ru/investor/str_share/show.cgi?sc_struct.htm;
http://www.gazprom.ru/documents/Finans_ENG.pdf;
<http://www.rosneft.ru/Investors/Statements/>; <http://www.e-staff.ru/db/emitent/discl.html>.

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.

66e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

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

Comments:

Sometimes the records can be expensive to access. There is a special Web site 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.gazprom.ru/documents/Finans_ENG.pdf;
<http://www.rosneft.ru/Investors/Statements/>; <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.

67. Are business licenses available to all citizens?

75

67a. In law, anyone may apply for a business license.

YES | NO

Comments:

Yes, according to the federal licensing legislation.

References:

Federal law on Licensing Separate Kinds of Activity, adopted on July 13, 2001 (the law entered into force six months later): http://www.consultant.ru/popular/license/38_1.html.

See also <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>.

A list of all federal bodies that issue licenses: http://www.genincor.ru/index.php?articles_id=89.

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

67b. 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 July 13, 2001, Article 9, Paragraph 4 (http://www.consultant.ru/popular/license/38_1.html).

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.

67c. 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.

See <http://www.newizv.ru/news/2007-07-25/73383/> and <http://www.novayagazeta.ru/data/2007/52/22.html>.

References:

In 2001-2007, 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?l=eng&id=261>.

Two thousand firms from 20 regions in 7 federal districts were surveyed at the sixth round of Monitoring. The survey demonstrated some negative developments. For example, there was an increase in use of personal connections during registration, and an increase in the share of inspections by licensing authorities that leads to financial losses for firms.

See also: <http://www.vedomosti.ru/newspaper/article.shtml?2007/06/04/126880>.

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.

67d. 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\$52) 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.

See <http://www.newizv.ru/news/2007-07-25/73383/> and <http://www.novayagazeta.ru/data/2007/52/22.html>.

References:

In 2001-2007, 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?l=eng&id=261>.

Two thousand firms from 20 regions in 7 federal districts were surveyed at the sixth round of Monitoring. The survey demonstrated some negative developments. Experts argue that licenses are still difficult and costly to obtain.

See also: <http://www.vedomosti.ru/newspaper/article.shtml?2007/06/04/126880>.

There are a lot of law firms that assist in getting a license – for a fee. See, for example: http://www.genincor.ru/index.php?category_id=5; <http://licence.rk-audit.ru/>.

See about problems Russian businesses run into with licensing: <http://www.newizv.ru/news/2007-08-21/74715/> <http://www.vedomosti.ru/newspaper/article.shtml?2007/08/21/131350>.

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.

68. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

0

68a. In law, basic business regulatory requirements for meeting public health 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 Web sites (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 Web site. 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 Web site. The Agency lost the appeal in June 2006. However, in September 2007 (!), the court decision was still not executed in full. The Federal Agency on Technical Regulation and Metrology had to do something and in 2007 it opened a web page on its site, <http://protect.gost.ru>.

The analysis of the documents available there shows that only the standards that were passed after September 2006 were uploaded there. The documents prior to September 2006, are either not available at all, or not available in full version. Besides that, the standards are available in a special graphic format that a search by usual search engines does not detect. And as if this is not enough, these files can't be printed and saved. You don't get an access to the full-text document and have to download every page separately. There is a mandatory registration, requesting personal information from all users that is not legal. We can say that these artificial barriers were created with one single purpose to make any effort to get a free copy of any standard as difficult as possible without being accused of sabotage.

Moreover, in September 2007, according to Ivan Pavlov, Director of the Institute for Information Freedom Development, the Federal Agency on Technical Regulation and Metrology is trying to legalize its practice of selling the standards. The agency proposed to make all standards open to public for free for ten days, then offering them for a fee.

References:

<http://www.svobodainfo.org/info/page?tid=633200005&nd=458202326>; <http://www.svobodainfo.org/info/page/?tid=633200055>;
<http://www.svobodainfo.org/info/page/rus?tid=633200005&nd=458206720>;
<http://www.standard.ru/news/new.phtml?id=25&pg=1>;
[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 public health standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

68b. In law, basic business regulatory requirements for meeting public 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 Web sites (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 Web site. Instead, the agency placed links to online stores of two organizations that sell the standards for much more than a reasonable fee.

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References:

<http://www.svobodainfo.org/info/page?tid=633200005&nd=458202326>; <http://www.svobodainfo.org/info/page/?tid=633200055>;
<http://www.svobodainfo.org/info/page/rus?tid=633200005&nd=458206720>;
<http://www.standard.ru/news/new.phtml?id=25&pg=1>
[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 public 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.

68c. In law, basic business regulatory requirements for meeting public safety 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 Web sites (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 Web site. Instead, the agency placed links to online stores of two organizations that sell the standards for much more than a reasonable fee.

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<http://www.svobodainfo.org/info/page/rus?tid=633200005&nd=458206720>;
<http://www.standard.ru/news/new.phtml?id=25&pg=1>
[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 public safety standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

69. Does government effectively enforce basic health, environmental, and safety standards on businesses?

42

69a. In practice, business inspections by government officials to ensure public health standards are being met 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.

See more about Ministry of Economic Development and Trade April 2007 initiatives here:

<http://www.vedomosti.ru/newspaper/article.shtml?2007/04/23/124566>; http://www.gazeta.ru/2007/04/20/oa_237306.shtml

References:

In 2001-2007, 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?lang=eng&id=261>.

Two thousand firms from 20 regions in 7 federal districts were surveyed at the sixth round of Monitoring. The overall conclusion from the 6th round is mildly optimistic there have been a number of positive developments in the sixth round compared to fifth round. The majority of inspecting agencies decreased the number of unplanned inspections without warrants, the total number of inspections decreased. However, there was an increase in the share of inspections by licensing authorities that leads to financial losses for firms.

See also: <http://www.vedomosti.ru/newspaper/article.shtml?2007/06/04/126880>.

100: Business inspections by the government to ensure that public health standards are being met 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 to ensure public health standards are met 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 to ensure that public health standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

69b. In practice, business inspections by government officials to ensure public environmental standards are being met 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.

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100: Business inspections by the government to ensure that public environmental standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

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25:

0: Business inspections to ensure that public environmental standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

69c. In practice, business inspections by government officials to ensure public safety standards are being met 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.

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<http://www.vedomosti.ru/newspaper/article.shtml?2007/04/23/124566>; http://www.gazeta.ru/2007/04/20/oa_237306.shtml

References:

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See also: <http://www.vedomosti.ru/newspaper/article.shtml?2007/06/04/126880>.

100: Business inspections by the government to ensure that public safety standards are being met 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 to ensure public safety standards are met 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 to ensure that public safety standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

70. Is there legislation criminalizing corruption?

89

70a. 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 Russian legislation has, so far, no definition of corruption". It has only such notions as "bribery", "abuse of office." 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

The law against corruption, its first reading, was passed by State Duma in November 2002. Unfortunately, it never went into second reading and most probably will be dropped because there are objective reasons for that. Russia have ratified two conventions on the fight against corruption, by the UN and the Council of Europe, and amendments have been made to the laws on the civil service and the municipal service. And today the State Duma has prepared a draft law on s could also be made stricter, and their families might have to declare their property and revenues, he said. Grishankov said that Russia's Criminal Procedural Code could be amended to "simplify the procedure for returning assets taken abroad after corruption-related crimes." (Foreign officials could be held liable for corruption in Russia, RIA Novosti news agency, July 12, 2007)

President Vladimir Putin promised a massive offense against corruption on November 21, at the all-Russia law-enforcement systems coordinating session dedicated to fighting corruption. Putin said he would order new legislation that ensured the continuous monitoring of the incomes and property of police officers, prosecutors, judges, and civil servants and their families. "The time has come to enshrine in the law requirements and bans for law enforcement and court officials that have been tested both here and abroad, particularly measures such as the monitoring of incomes and property," he said.

Putin said current legislation would not allow corruption to be rooted out, even if law enforcement officials were top notch and did their best to stop offenders. Amending the Criminal Code to toughen punishment for corruption would not be enough, he said, and the Parliament should pass laws making it impossible for federal, regional and municipal officials to "enter corruption deals" as part of their day-to-day work.

Prosecutor General Yuri Chaika gave a new definition for corruption. He considerably expanded that notion, so that now almost any state activity falls into that category: Corruption should be regarded not only as a direct bribing of a state official, but also as a process of the decay of authorities, when state officials and other persons charged with public functions take advantage of their positions to achieve their mercenary aims of personal enrichment, or in group interests.

Chaika spoke at length about the need to battle corruption in the State Duma in mid November 2007. Among other things, he proposed that prosecutors evaluate bills and draft regulations to ensure they would not foster corruption. (President Promises to Clean House by Nabi Abdullaev and Simon Saradzhyan, Moscow Times daily, November 22, 2006)

The number of corruption-related crimes in Russia has doubled since 1996, Head of the Russian Interior Ministry's Investigatory Committee Alexei Anichkin said in an interview published in the Rossiiskaya Gazeta daily on Jan 30, 2007. "The number of crimes of this nature has doubled in the past ten years and now stands at around 110,000," he said. "These crimes comprise "firstly, embezzlement, secondly, forgery, and third and fourth by bribery and abuse of office," he said. "Despite all the debates, our laws fail to give a definition to the term 'corruption'. Therefore, in reality, crimes such as fraud and misuse of funds, bribery and forgery, abuse of office and graft, use of budget funds for unauthorized purposes and misfeasance for corruption reasons, fall under this category," he said. (Corruption in Russia Doubles over Past Ten Years – Committee Head, Interfax news agency, January 30, 2007)

Addressing a meeting of the Council of Judges, Chairman of the Russian Supreme Court Vyacheslav Lebedev said on November 28, 2006, that courts give prison terms to defendants found guilty only in 16.5 percent of cases under Article 290 (bribe taking) of the Russian Criminal Code.

"It is worthwhile to say that 20 percent of convicted for corruption are women. Courts also take into account the bribe's size and rank of tried officials, whole-souled repentance, assistance in solving the crime and presence of underage children in the family," said Lebedev. He noted, however that under part four of Article 290 of the Criminal Code (grand bribe taking by a group of persons) courts give real prison terms in 82 percent of cases.

The Supreme Court chairman stated that the number of criminal cases related to corruption taken to courts is small. A total of 1,373 such cases were examined in 2005 and just 707 – in the first 10 months of the current year. (Administrative Proceedings to Be a Major Curb on Corruption-official, Itar-Tass news agency, November 28, 2006)

According lawyer Anatoly Kucherena, the head of a commission of the Public Chamber, "fight against corruption is not efficient enough so far". He quoted "eloquent statistics": according to data of an investigation carried out in 2005, out of 30,000 criminal cases, instituted against law enforcers, only 3,000 were brought to court. (Reporters Look for Efficient Measures of Countering Corruption, Itar-Tass news agency, April 3, 2007)

"In our opinion, the introduction of implacable sanctions under the 'Bribe-taking' article of the Criminal Code imprisonment only—is essential," said Aleksandr Chekalin, first deputy head of the MVD. ("Thirty-five

References:

<http://www.legislature.ru/monitor/korrupsiya/ekspfund.html>; <http://www.garant.ru/main/10008000-030.htm#2030>;
<http://www.firmsale.ru/news/1372.html?ID=1372&print=Y>;
<http://www.themoscowtimes.com/stories/2007/07/20/013.html>.

An interesting overview of current national anti-corruption legislation was made by Mr S.Bochkov, Editor-in-Chief of Real Estate and Investment. Legal Control magazine, published in December 2006 (available at http://dpr.ru/journal/journal_29_29.htm).

YES: A YES score is earned if corruption laws include attempted acts.

NO: A NO score is earned if this is not illegal.

70b. In law, extortion is illegal.

YES | NO

Comments:

An interesting overview of current national anti-corruption legislation was made by S.Bochkov, Editor-in-Chief of Real Estate and Investment. Legal Control magazine, published in December 2006 (available at http://dpr.ru/journal/journal_29_29.htm).

Senior officials from the Federal Tax Service and the Central Bank were convicted on April 23, 2007 of demanding a US\$5.3 million bribe from a Moscow bank in exchange for dropping a back taxes claim.

The Moscow City Court on Monday convicted Oleg Alexeyev, a former deputy head of the Federal Tax Service's credit organizations department, and Alexei Mishin, a lawyer in the Central Bank's Moscow branch, court spokeswoman Marina Malygina said. The court sentenced Alexeyev to 10 years in prison and Mishin to eight years, Malygina said. Alexeyev was found guilty of accepting US\$1 million from a representative of the commercial bank Rossiisky Kapital as a down payment on a \$5.3 million bribe. In exchange, Alexeyev was to drop a US\$53 million back taxes claim, authorities said.

The bank tipped off the tax service's internal security department and the Federal Security Service about the bribe demand, and Alexeyev was nabbed in a sting operation at the Baltshug Kempinski hotel in October 2005. He was arrested after he received a suitcase containing US\$1 million in cash from a bank representative and began to count the money, prosecutors said. The FSB had covered the \$100 bills in the suitcase with an invisible substance. In FSB footage shown on Channel One television after the arrest, an FSB officer trained a device that radiated a green light on the bills and then on Alexeyev's fingers to show that the suspect had handled the bills.

Mishin was detained several hours later in his home. A search of his office, located across the street from the hotel, turned up more than \$1 million in three suitcases, the FSB said.

Prosecutors said Mishin set up Alexeyev's meetings for bribes and provided legal advice about evading taxes.

(2 Officials Convicted in Bribery Sting", The Moscow Times daily, Tuesday, April 24, 2007, available at <http://www.themoscowtimes.com/stories/2007/04/24/012.html>)

See also here: <http://www.kommersant.ru/doc.html?docId=761738>.

References:

Criminal Code of Russian Federation, Article 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.

70c. In law, offering a bribe (i.e. active corruption) is illegal.

YES | NO

Comments:

Yes, offering a bribe is illegal though there is difference between offering a bribe and giving a bribe.

Actually giving or taking sums in cash – that's become the exception, not the rule. There are other forms of corruption. They mostly include tenders, public procurement, kickbacks, inflated project costs. And there's also what they call conditional remuneration" for the appropriate people: it might involve transferring some shares to a person's close relatives, or offering

preferential treatment which is difficult for police to detect. (SERGEI STEPASHIN: BRIBES ARE OUT, KICKBACKS ARE IN, an interview with Auditing Chamber Chairman Sergei Stepashin by Valentina Druzhinina, Komsomolskaya Pravda daily, July 12, 2007)

References:

Criminal Code of Russian Federation, Article 291.

An interesting overview of current national anti-corruption legislation was made by Mr S.Bochkov, Editor-in-Chief of Real Estate and Investment. Legal Control magazine, published in December 2006 (available at http://dpr.ru/journal/journal_29_29.htm).

YES: A YES score is earned if offering a bribe is illegal.

NO: A NO score is earned if this is not illegal.

70d. In law, receiving a bribe (i.e. passive corruption) is illegal.

YES | **NO**

Comments:

Yes, receiving a bribe is illegal.

Russian authorities try to fight official graft by some unconventional measures.

The Government administrative reform commission headed by Deputy Prime Minister Sergey Naryshkin has approved Model Anti- Corruption Program at the executive branch of the state on the regional and federal levels. It will be tried in 30 agencies and regions – including the Federal Anti-monopoly Service, the Saratov region, the Tomsk region, Tula, Chelyabinsk and Kaluga.

We'll see how it works, and once any necessary adjustments have been made, we shall recommend it for all government bodies," said Naryshkin at a press conference on July 20. The most important part of the program, written by the Economic Development Ministry, is a list of corrupt posts in the government. Related officials will be employed on fixed-term contracts. Officials would could earn money by bribe-taking will be paid a compensation package directly from their ministries.

Andrei Sharov, a department director at the Economic Development Ministry, explains that this could include a higher salary: "That would be legal – the law on state service allows for higher salaries for specific results." However, Naryshkin said that this question hasn't been discussed as yet. Sharov notes that the program could be introduced from the next budget cycle. Another Economic Development Ministry official told us that "corruption hazard" officials might also get extra benefits – housing or free public transport.

The program will be tested at the federal level in 2007-2008 and at the regional level in 2007-2010. Both pilot program will be identical and will be launched in the end of 2007. Vladimir Yuzhakov, head of the Center for Strategic Development and one of the program's authors, said that 227 million rubles (\$9 million) will be spent on the program in 2007. Very likely the program will become a basis for a national campaign if it will be successful.

The program will establish Commissions on the Observation of the Requirements for the Professional Conduct of State Civil Servants, as envisaged in Presidential Order No. 269 of March 3, 2007. Prior to that, the commissions goals were undefined, but now they will be required to coordinate their efforts with HR departments and state services, as well as to take on new functions, the most important of which will be the compilation of the list of corrupt posts.

The anti-corruption measures are mainly oriented toward monitoring of officials on the list. That list, which is to be approved by the head of the ministry, agency or regional government, will include posts related to the distribution of government funds, issuing licenses and permits, registration, monitoring and oversight to and making state purchases as well as those who make appointments to such posts. In addition, the list will include any official who have direct contact with the public as part of his/her responsibilities.

The most important mechanism for control over the related officials will be their transfer to fixed-term contracts. The vast majority of officials have indefinite contracts. Their dismissal is complicated and requires large compensation, except in cases of violation of the law. That is tied to the most controversial element in the program the provision of compensation packages to potentially corruptible officials, that is, de facto partial compensation from the federal budget for funds the official is losing by turning down bribes. The compensation consists of a social package, similar to those commercial firms offer, and a separate payment for labor corresponding to potential corrupt compensation. The sum of that compensation is to be proportionate to the potential corrupt income. Naryshkin told Kommersant that budget expenditure on salaries will not increase. Rather, heads of agencies will locate funds for the compensation packages independently.

In exchange for the bonuses, these bureaucrats will be kept under close surveillance. They will be rotated regularly. Their pockets may be searched at any time, and if they are found to be carrying more money than a set limit, that would be cause for suspicion. They will have to attend regular ethics seminars to help them "be aware of the importance and responsibility of state service as a form of serving the public and the state."

They will have to disclose the contacts of people they communicate with in the course of their duties. Their incomes, assets, and lifestyles will also be monitored. There are more familiar methods of fighting corruption in the program as well, such as audits and video surveillance of the offices of officials on the list. Their telephones can be tapped without court order if it is in the contract. The innovation is the requirement that complete disclosure on all official's contacts in matters related to his/her service and a limit on the amount of money an official may have on him/her during working hours.

Yuzhakov told Kommersant that the program was so strict that it borders on being a violation of human rights. In reality, everything depends on the makeup of the anticorruption commissions. The wording of the Presidential order leaves no hope that they will be independent. They are to be made up of members of the top management of state bodies and HR departments, and

outside experts. The experts will come only from scientific organizations or educational institutions whose activities are related to government service. They constitute no less than 25 percent of the commissions ranks, and their identities will be kept confidential.

Naryshkin's program may be used as a response to accusations by international organizations of the lack of national anti-corruption measures. In its June 2007 report on global governance, the World Bank gave Russia six points out seven (where zero is the top grade) for control of corruption. That report could not be ignored. The Russian Interior Ministry, as well as Ministry for Foreign Affairs, issued a special statement on the erroneousness of the report.

A Levada Center poll released in mid June 2007 said corruption was the primary worry of Russians, a sentiment some analysts say authorities could seek to exploit by initiating a public crackdown on graft ahead of the March presidential election, when President Vladimir Putin is expected to hand over power to a handpicked successor. It is unclear whether the compensation package would be comparable to the money bureaucrats can make through unofficial business channels.

"Unfortunately, corruption is systemic," Yuzhakov said. "That means everyone — from passport issuers to traffic police — is a suspect."

And so are their bosses, which is the real problem, said Yury Korgunyuk, a political analyst at the Indem anti-corruption think tank. "It's just rubbish," Korgunyuk said. "The corrupt will check up on the corrupt. And anyway, what's the point of such a program when a bribed judge will decide whether the official has been dabbling in corruption?" Laws currently on the books are sufficient to deal with corruption, but no one adheres to them, Korgunyuk said. "It's not all about raising wages and conditions," he said. "You have to have independent institutions: an independent media, an independent civil society."

Rights activists have expressed concern over wiretapping and video surveillance practices by law enforcement authorities. Upon completion of the pilot program, the head of participating government institutions and regions will have the choice of whether to implement the program on a permanent basis, Yuzhakov said, something that is unlikely to happen before June 2008. Some analysts say a high profile battle with corruption would help Naryshkin gain popularity should he be tapped as a presidential candidate.

"Naryshkin is not a naive person," said Vladimir Pribylovsky, head of the Panorama think tank. "If he is proposing such a naive set of measures to fight corruption, it means he is only interested in self-propaganda."

(The Wages of Virtue, report by Petr Netroba, Dmitry Butrin, Arina Sharipova, Kommersant daily, July 30, 2007, available at <http://www.kommersant.com/p790929/corruption/>)

(DANGEROUS OFFICES by Alexandra Petrachkova, Vedomosti daily, July 30, 2007, available at <http://www.vedomosti.ru/newspaper/article.shtml?2007/07/30/130080>)

(Plan Aims at Making Bribes Unattractive by David Nowak, The Moscow Times daily, July 31, 2007, available at <http://www.themoscowtimes.com/stories/2007/07/31/011.html>)
See also <http://www.newizv.ru/news/2007-09-03/75356/>

Actually giving or taking sums in cash — that's become the exception, not the rule. There are other forms of corruption. They mostly include tenders, public procurement, kickbacks, inflated project costs. And there's also what they call "conditional remuneration" for the appropriate people: it might involve transferring some shares to a person's close relatives, or offering preferential treatment which is difficult for police to detect. (SERGEI STEPASHIN: BRIBES ARE OUT, KICKBACKS ARE IN, an interview with Auditing Chamber Chairman Sergei Stepashin by Valentina Druzhinina, Komsomolskaya Pravda daily, July 12, 2007)

References:

Criminal Code of Russian Federation, Article 290.

An interesting overview of current national anti-corruption legislation was made by Mr S.Bochkov, Editor-in-Chief of Real Estate and Investment. Legal Control magazine, published in December 2006 (available at http://dpr.ru/journal/journal_29_29.htm).

A related story is available here: http://www.nakanune.ru/news/2007/05/21/byvshemu_nachal_niku_rostexnadzora

YES: A YES score is earned if receiving a bribe is illegal.

NO: A NO score is earned if this is not illegal.

70e. In law, bribing a foreign official is illegal.

YES | **NO**

Comments:

No, this illegal act is not recognized by the Russian legislation. Diplomats, consuls and officials of international organizations have immunity and international protection. However, there is some development in this sphere. Foreign officials could in the future be brought to account for corruption-related crimes they commit in Russia, the chairman of the anti-corruption commission of Russia's lower house of parliament told RIA Novosti in an interview on July 12, 2007. If the commission's proposals are adopted, it could mean that foreign officials involved in corruption scandals in Russia would, unlike past practice, be held legally responsible for their transgressions.

An interdepartmental working group to counter corruption, established in February by presidential decree, is developing a number of proposals to fight corruption, and as a first order of business is a proposal to change Russian legislation in that regard," Mikhail Grishankov, who is also the first deputy chairman of the Duma security commission, said.

"In line with the working group's recommendations, those held accountable for corruption-related crimes must include foreign officials, in particular, parliamentary deputies and members of international organizations – provisions currently lacking in Russian legislation," he said. Controls over Russian state officials could also be made stricter, and their families might have to declare their property and revenues, he said.

Grishankov said that Russia's Criminal Procedural Code could be amended to "simplify the procedure for returning assets taken abroad after corruption-related crimes."

Though Russia has ratified the UN Convention Against Corruption (UNCAC), which makes the bribing of a foreign official illegal, it has yet to conform its domestic legal framework with the UNCAC's provisions.

References:

Foreign officials could be held liable for corruption in Russia, RIA Novosti news agency, July 12, 2007.

An interesting overview of current national anti-corruption legislation was made by Mr S.Bochkov, Editor-in-Chief of Real Estate and Investment. Legal Control magazine, published in December 2006 (available at http://dpr.ru/journal/journal_29_29.htm).

YES: A YES score is earned if bribing a foreign official is illegal.

NO: A NO score is earned if this is not illegal.

70f. In law, using public resources for private gain is illegal.

YES | NO

Comments:

Yes, it is illegal.

References:

Criminal Code of Russian Federation, Article 285 and Article 286.

An interesting overview of current national anti-corruption legislation was made by Mr S.Bochkov, Editor-in-Chief of Real Estate and Investment. Legal Control magazine, published in December 2006 (available at http://dpr.ru/journal/journal_29_29.htm).

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.

70g. 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 (FFMS) 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.

Nonetheless, the FFMS management was eager to put insider trading under control. A senior official in the government's financial markets watchdog has called for investigators to be allowed to wiretap phones in an effort to crack down on illegal insider trading, but analysts said the measure would lack teeth due to weak legislation.

Bembya Khulkhachiyev, deputy head of the Federal Service for Financial Markets, said on September 12 that the service was planning to legalize wiretapping but was "not seeking [to take on] criminal investigative functions," Nezavisimaya Gazeta reported.

Khulkhachiyev said that even though the service reported about 800 cases of illegal insider trading to the Interior Ministry per year, they never led to criminal charges being filed. It was not immediately clear, however, whether Khulkhachiyev had support for his comments from the head of the service, Vladimir Milovidov.

The call for the state to eavesdrop on financial institutions comes as the watchdog has proposed new legislation to the State Duma that would tighten the rules on disclosure of insider information. Among other measures, the bill will seek to increase the maximum fine for illegal insider trading to 1 million rubles (US\$39,000) for legal entities and make company officials responsible for the practice liable for prosecution.

Under Russian law, insider trading is illegal if information is passed to a third party who then profits from it. But a loophole in the legislation means that someone who personally profits from privileged information from his own organization may not be acting illegally if that organization does not expressly forbid the practice.

Ivan Manayenko, an analyst at Veles Capital, said that while insider trading was a "daily occurrence, there is no mechanism to bring erring traders to book. Many traders regularly record their conversations with brokers, but the recordings are of little use because offenders cannot be prosecuted."

Alfa Bank strategist Erik DePoy said cases of illegal insider trading were not frequent enough to scare away investors. (Watchdog Seeks Right To Wiretap by Tai Adelaja, The Moscow Times, September 14, 2007, available at <http://www.themoscowtimes.com/stories/2007/09/14/042.html>)

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, Article 285 and Article 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>.

An interesting overview of current national anti-corruption legislation was made by Mr S.Bochkov, Editor-in-Chief of Real Estate and Investment. Legal Control magazine, published in December 2006 (available at http://dpr.ru/journal/journal_29_29.htm).

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.

70h. 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.

An interesting overview of current national anti-corruption legislation was made by Mr S.Bochkov, Editor-in-Chief of Real Estate and Investment. Legal Control magazine, published in December 2006 (available at http://dpr.ru/journal/journal_29_29.htm).

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.

70i. 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, Article 35.

An interesting overview of current national anti-corruption legislation was made by Mr S.Bochkov, Editor-in-Chief of Real Estate and Investment. Legal Control magazine, published in December 2006 (available at http://dpr.ru/journal/journal_29_29.htm).

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

71. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

100

71. 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, Council of Federation (the Russian Senate) announced that a new anti-corruption committee will be set by this body. 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, 2006 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, 2006. In July 2006, General Prosecutor Yuriy Chaika approved an anticorruption strategy for the prosecutor's office. "It is not just yet another plan but a fundamentally new approach to the problem. For the first time, it is not aimed just at detecting crimes and checking how state officials comply with the law on state and municipal service. We had to define clearly causes breeding corruption and detect flaws in the law." (Interview with Russian First Deputy General Prosecutor Aleksandr Buksman by Andrey Sharov: "No Give, No Take. The General Prosecutor's Office Has Launched an Offensive Against Corrupt Officials", Rossiyskaya Gazeta, November 8, 2006)

In June 2007, Interfax news agency cited the Prosecutor General Yuri Chaika who said that a special anti-corruption department will be established at the General Prosecutor's Office in the near future. According to him, this department will drawing on the specialized prosecutor service's experience of Spain where Chaika went for a business trip. A special department will be established at the General Prosecutor's Office, later on related units will appear in the regions but the be subordinate to General Prosecutor's Office, and not to a regional Prosecutor's Office. It should be reminded that in September 2006 Chaika had already announced an establishment of a special anti-corruption section at the General Prosecutor's Office that was supposed to reveal and prevent corrupt networks, as well as oversee the execution of the civil service legislation. (Chaika Will Set Up Anti-Corruption Special Forces, Lenta.ru news web-portal, June 22, 2007, available at <http://www.lenta.ru/news/2007/06/22/corruption/>).

According to prosecutors, the new structure will oversee the execution of the anti-corruption legislation. This initiative is something to be expected, say experts because Chaika was ready to take coordination and supervision of anti-corruption policy since his appointment.

Chaikas initiative corresponds to the commitment Russia made by ratifying the UN Convention against Corruption and CE Anti-Corruption Convention that stipulate for creating such a state anti-corruption agency. Related amendments to the Russian legislation were supposed to be prepared by Aug. 1, 2007 by interdepartmental anti-corruption task group under Viktor Ivanov. Vladimir Ovchinski, a member of this task force, said that there can be more than just one such agency. But anti-corruption activities should be coordinated by the General Prosecutor's Office. And it should be done pretty soon as GRECO Council of Europe anti-corruption watchdog will start monitoring Russias anti-corruption activities and related legislation, he said.

Georgi Satarov, Chairman of Indem Foundation, said that an establishment of a special anti-corruption body will make any difference only it will be a part of a comprehensive anti-corruption strategy. A prosecutors supervision alone does not mean a thing, believes the expert. (Chaikas New Case by Anastasiya Kornya, Vedomosti daily, June 25, 2007, available at <http://www.vedomosti.ru/newspaper/article.shtml?2007/06/25/128059>)

In August 2007, such department was created. It will enforce the anti-corruption legislation, investigate related cases and press charges against corrupt officials and law enforcement agents. (General Prosecutor's Office Will Get Engaged with Anti-Corruption Legislation, Clerk news web-portal, August 22, 2007, available at <http://www.klerk.ru/news/?83910>).

On Oct. 2, 2007, Alexander Anikin, the head of the new Department, gave an interview to the official Rossiiskaya Gazeta daily. ("Special Prosecutor Office against Corruption", report by Andrei Sharov, available at <http://www.rg.ru/2007/10/02/korrupcia.html>). Among other things, he said his subordinates will be subject not only to a special selection and employment procedures, but to additional protection due to sensitivity of the cases they will deal with. Anikin is aware of potential political pressure both federal and regional because anti-corruption prosecutors will supervise law enforcement agencies as well, and wants to protect his Department from any interference, if necessary, with help from Prosecutor General himself.

Anikin doesn't believe his Department will be just another anti-corruption body, and he points at the international experience saying some countries, such as Spain, didn't establish any special anti-corruption bodies but gave additional authority to existing institutes. He is against creating any Anti-Corruption Committee.

According to Anikin, since summer 2006, when an anti-corruption unit was set up at the General Prosecutor's Office, over 92,000 violations of legislation on public and municipal service, or over four times more than in 2005, were revealed. It resulted in over 500 criminal cases against corrupt officials. During the first 9 months of 2007, 700 such suits were brought against bribe-takers.

Besides, there is the Commission on Fight against Corruption of the State Duma that headed by Michael Grishankov: <http://www.duma.gov.ru/anticorcom/history.htm>.

The other state bodies, including Ministry of Interior, focus in fighting corruption in its ranks.

In early February 2007, President Putin signed the decree establishing an interdepartmental anti-corruption task group. The first meeting of the task group took place in the Kremlin on March 1, 2007. The meeting was chaired by presidential aide Viktor Ivanov. The group is supposed to amend current legislation and define the functions and powers of a special anti-corruption body.

The task group includes representatives of the presidential administration, security structures, and supreme courts. Vladimir Katrenko (senior deputy leader of the United Russia faction of the State Duma) and Valery Torshin (deputy speaker of the Federation Council) are Ivanov's deputies. The task group also includes Senior Deputy Prosecutor General Alexander Buksman, FSB Deputy Director Yuri Gorbunov, Deputy Justice Minister Anatoly Bondar, Arkady Dvorkovich from the Kremlin's Expert Directorate, Viktor Zubkov from the Federal Financial Monitoring Service, and Mikhail Grishankov from the Duma's Anti-Corruption Commission.

Existence of an independent anti-corruption body is one of the demands specified by the UN and Council of Europe conventions. Who it will answer to and what its functions will be is probably the principal question at this point. "That's a minor matter. The body may be made answerable to the president or to the prime minister," Grishankov said and referred to Singapore where the anti-corruption investigation bureau answers to the prime minister. The task group had by August 1 to come up with proposals, but on August 14, 2007, President Putin moved the deadline to July 1, 2008 (For more information, go to <http://delo.ua/news/politics/world/info-46849.html>).

According to Nezavisimaya Gazeta daily, a Security Council meeting in October 2007 is likely to approve a decision to establish a special anti-corruption body. It is supposed to coordinate the activities of security and law enforcement agencies, but it won't be empowered to conduct operations and searches itself. Meanwhile, a key question remains unanswered: who will play first fiddle in managing this new anti-corruption body? The Federal Security Service (FSB) or the Prosecutor General's Office?

A Kremlin source told NG correspondent about preparations for a Security Council meeting in October – a meeting that will be devoted to countering corruption. According to the source, the powers of the new body will be defined in the law on countering corruption, drafted by an inter-agency working group headed by presidential aide Viktor Ivanov. The draft developed by the working group states that the President himself will appoint the head of the anti-corruption body. In effect, the President's appointment decision will determine how much political weight the new body will have. According to the current version of the draft, the anti-corruption body won't have some crucial powers: the right to engage in operative and search activity.

According to the draft, the specialized anti-corruption body will be empowered to exercise oversight and coordination for the activities of other agencies – especially the security and law enforcement agencies – in their anti-corruption efforts. The Kremlin source, who is involved in preparations for the Security Council meeting, says that the new body will direct investigations – and the security and law enforcement agencies will report to it. Duma member Gennadi Gudkov says that establishing a specialized anti-corruption body is "an attempt to alleviate the problem by existing methods."

Former prosecutor general Yuri Skuratov describes the specialized body as "stillborn." He adds: "Any effort at all in countering corruption is better than nothing. But we still shouldn't expect this to be very effective."

According to Gudkov, quality corruption-fighting would demand systematic measures such as "expanding the field of media criticism" and reforming the law enforcement agencies.

The Kremlin source says that the FSB and the Prosecutor General's Office are engaged in a power-struggle over who will play the leading role in the new anti-corruption body. The FSB director already heads the National Anti-Terrorist Committee, and the new anti-corruption body is being created after this committee. (THE RUSSIAN SECURITY COUNCIL WILL TACKLE CORRUPTION by Natalia Melikova, Nezavisimaya Gazeta daily, No. 179, August 29, 2007, available at http://www.ng.ru/politics/2007-08-29/1_sovet.html)

See also <http://www.vedomosti.ru/newspaper/article.shtml?2007/09/12/132610>
See also "Burning Up On the Job" by Vasilii Pronin, Versiya, No. 36, September 17, 2007; and <http://www.izbrannoe.ru/14616.html>.

Russia's new Prime-Minister Viktor Zubkov, who previously headed the government's money-laundering watchdog, also called for a new law on corruption and a federal agency to lead the fight against graft. Zubkov, addressing parliamentarians after he was overwhelmingly voted in, said he ordered the legislative chamber to revive the stalled anti-corruption bill. "Unprofessionalism and corruption are capable of sinking Russia," Zubkov told deputies. He pledged redoubled efforts to combat corruption and, as the former director of the Federal Financial Monitoring Service (which tracks money laundering), Zubkov seems particularly well-suited to deliver on that promise. (Zubkov suggested establishing an anti-corruption body, RIA Novosti news agency, September 14, 2007, available at <http://www.rian.ru/politics/russia/20070914/78717799.html>)

Zubkov also said that the Russian Federal Service of Financial Monitoring (Anti Money Laundering Service) will receive additional authority to fight corruption. According to him, prior to that, Federal Service of Financial Monitoring was accountable to Ministry of Finance, but from now on, it will be under his control. (Federal Service of Financial Monitoring Will Receive Additional Authority to

Fight Corruption, RIA Novosti news agency, September 26, 2007, available at <http://www.rian.ru/politics/russia/20070926/80974991.html>

Many Russian media interpreted President Vladimir Putin's selection of Viktor Zubkov as Russia's prime minister as signaling the start of a new anti-corruption campaign. Some commentators suggested a serious effort by Putin to address the issue, linking the appointment to wider developments, such as the drafting of other close Putin associates into the fight against corruption and anticorruption efforts in the regions. Others, however, portrayed the campaign as aimed largely at garnering electoral support for the authorities or predicted the corruption issue would be exploited to manage elite infighting before and after the elections. Zubkov and Putin (Kremlin.ru, 18 September).

Addressing the Duma prior to his confirmation, Zubkov exhorted the body to pass an existing draft law on corruption, noting: "We talk a lot about corruption, but in reality there is no clear definition of corruption, and nobody today knows how to fight it." He also called for creation of a permanent structure for fighting corruption, modeled after both the Federal Financial Monitoring Service, which he formerly headed, and the National Anti-terrorist Committee headed by FSB Director Nikolay Patrushev. Indicating the urgency of the issue, Zubkov declared that "only unprofessionalism and corruption" could "destroy" Russia (Rossiya TV, 14 September). Several media, particularly official sources, portrayed Putin's decision to nominate Zubkov as an effort to deepen the fight against corruption.

State-owned Rossiya TV cited Kremlin-linked commentator Vyacheslav Nikonov opining that Putin wanted to "strengthen" the government's "anti-corruption component" (12 September).

State-owned Mayak Radio broadcast analyst Dmitriy Orlov saying that Zubkov, with Putin's backing, could "make the fight against corruption his focus" (13 September).

The English-language daily Moscow Times declared: "Putin has pushed the fight against corruption to the forefront of the political agenda" (14 September).

Officials and former colleagues painted Zubkov as ideal in such a role. Audit Chamber Chairman Sergey Stepashin declared Zubkov a "brilliant specialist" who was "instrumental in strengthening the banking system of the country and purging the corrupt elements from it" (Interfax, 13 September).

Finance Minister Aleksey Kudrin called Zubkov "legendary" and highlighted his past efforts in establishing St. Petersburg's tax service and in "creating from scratch a system for fighting money laundering" in Russia (Moskovskie Novosti, 14 September).

Just Russia member and former Zubkov colleague Yelena Drapeko asserted Zubkov "knows about corruption in all the echelons of power and business," making him perfectly suited to pursue its "liquidation" (Trud, 14 September).

Some media noted Putin's appointment of Zubkov followed other appointments of competent and trusted associates to anti-corruption positions, and saw in this evidence of Putin's determination to address the issue (Tribuna, 14 September; Versiya, 17 September).

In February, Putin signed a decree creating an inter-departmental working group to tackle corruption and appointed his aide Viktor Ivanov to head it (ITAR-TASS, 5 February). Ivanov's group is expected to present a package of anti-corruption legislation to the Security Council in October (The Moscow Times, 14 September).

In June, Putin picked his old classmate Aleksandr Bastrykin to head the new "Investigations Committee" within the General Prosecutor's Office. Media noted the committee would have "unprecedented powers" and assume "all powers with regard to conducting criminal cases" (Kommersant.ru, 22 June; Gazeta.ru, 21 June).

In July, Deputy Prime Minister Sergey Naryshkin's Government Commission for Administrative Reform approved the testing of a "Model Program" for fighting corruption in the regional and federal executive branches. The program's main innovation included identifying posts most prone to corruption and placing officials in such posts under "instantly terminable" contracts, while offering them a better compens

References:

Interview with Dr. Andrei Chuklinov, Director of Research 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.

72. Is the anti-corruption agency effective?

64

72a. In law, the anti-corruption 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, passed on February 22, 1995

(<http://www.fsb.ru/under/fsb.html>).

Statute of the Federal Security Service passed Presidential Decree on August 11, 2003

(<http://www.fsb.ru/under/pologen.html>).

Constitution of Russia, Art. 129 regarding the Office of Public Prosecutor's system in Russia

(<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.

72b. In practice, the anti-corruption agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

On Oct. 2, 2007, Alexander Anikin, the head of the new Department, gave an interview to the official Rossiiskaya Gazeta daily. Among other things, he said his subordinates will be subject not only to a special selection and employment procedures, but to additional protection due to sensitivity of the cases they will deal with. Anikin is aware of potential political pressure both federal and regional because anti-corruption prosecutors will supervise law enforcement agencies as well, and wants to protect his Department from any interference, if necessary, with help from Prosecutor General himself.

References:

Special Prosecutor Office against Corruption", report by Andrei Sharov, Rossiiskaya Gazeta daily, October 2, 2007, available at <http://www.rj.ru/2007/10/02/korrupcia.html>.

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.

72c. In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

All high-ranking officials are appointed and removed by the president (with regard to all so-called power agencies) or by the prime-minister after a consultation with the president. The history of President Vladimir Putin's appointments and sacking shows us that even if some explanations might be provided to the general public, the rationale as well as the actual situation in the area is unavailable. Experts still argue what was behind the casting that took place in summer 2006 when the then Prosecutor General V. Ustinov resigned and changed places with Minister of Justice Yu. Chaika. We can only guess why V. Zubkov and not some other person became the new prime-minister. Experts have to deal with riddles and come up with guesswork why some Minister or Governor was sacked while another one for the same activities (or lack of them) awarded.

References:

Interview with Dr. Andrei Chuklinov, Director of Research, Transparency International-Russia.

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.

72d. In practice, appointments to the anti-corruption 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:

Interview with Dr. Andrei Chuklinov, Director of Research 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.

72e. In practice, the anti-corruption 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:

Interview with Dr. Andrei Chuklinov, Director of Research 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.

72f. In practice, the anti-corruption agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

References:

Interview with Dr. Andrei Chuklinov, Director of Research 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.

72g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

According to the law, both agencies 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 agency is truly accountable and transparent.

References:

Interview with Dr. Andrei Chuklinov, Director of Research 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.

72h. In practice, the anti-corruption 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 to fight corruption decisively and consistently.

An essential condition for fighting corruption is to have the means to control the bureaucracy," Indem head Georgy Satarov told The Associated Press, alleging that there was no rule of law in Putin's Russia. (Russia Bribe-Taking on Par With Revenue by Henry Meyer, Associated Press, November 7, 2006)

Today, corruption related offenses are as a general rule punishable by a fine or sentence (oftentimes suspended) – possibly with a temporary ban on holding certain positions of authority for up to three to five years.

It is another matter that the inevitability of punishment is as important as its proportionality. Georgy Satarov, head of the INDEM foundation and member of the Anti-Corruption public council, says there is a very high proportion of suspended sentences passed in corruption cases. Furthermore, the State Duma often grants amnesties that also cover corruption-related convictions. (Russia's Anti-Corruption Drive Impeded by Selective Justice by Yekaterina Zabrodina, Moscow News, December 8, 2006)

References:

Interview with Dr. Andrei Chuklinov, Director of Research 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.

72i. In practice, when necessary, the anti-corruption 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.

References:

Interview with Dr. Andrei Chuklinov, Director of Research 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.

73a. 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.

References:

Interview with Dr. Andrei Chuklinov, Director of Research at the Transparency International-Russia.

On current anti-corruption activity of FSB and General Prosecutor's Office in South Russia: 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/contacts/order/> (the December 2006 Instruction on Reviewing Complaints by Citizens is located here:

http://genproc.gov.ru/ru/documents/legal_bases/index.shtml?item_id=49); 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.

73b. In practice, citizens can complain to the anti-corruption 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:

Interview with Dr. Andrei Chuklinov, Director of Research 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.

74. Is there an appeals mechanism for challenging criminal judgments?

75

74a. 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, Article 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.

74b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

In law (Article 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.

Shortcomings of Russian legislation and judicial system result mass appeals to European Court of Human Rights. In 2006, Russian citizens filed some 12,000 complaints — a fifth of all case sent to the court that year. In turn, the court was able to hand down final judgments in just 102 cases.

Many victims say the Strasbourg court is the only legitimate alternative to Russia's own corrupt and deeply flawed justice system. Rights activists say the fact that Russia accounts for the largest number cases filed to the European court is an indicator of Russians' frustration with domestic courts.

Olga Vishnyovskaya, a Russian lawyer at the court, says most plaintiffs are suing security forces for abducting and killing their loved ones. Russian human rights organizations estimate that between 3,000 and 5,000 people have disappeared and are feared dead in Chechnya since Russian troops in 1999 launched a second campaign to crush Chechnya's self-declared independence.

Suddenly, Russia is being forced to acknowledge the extent of the atrocities. The year 2006 saw the first Strasbourg court rulings holding Russia responsible for civilian deaths in Chechnya. The court ordered Russia to pay 90,000 euros (US\$116,500) in damages to Imakayeva for the loss of her son and husband.

In another case, the court ordered Moscow to pay nearly 70,000 euros (\$89,500) in damages to relatives of Nura Luluyeva, a nurse whose body was found in a mass grave in 2001. She had been detained during a raid on a Grozny market a year earlier. A forensic report established that she had died of injuries resulting from severe beating.

In October 2006, the court found Russia responsible for the shooting deaths of six Chechens, including a pregnant woman and a 3-year-old child in February 2000. And in the latest judgment, the Strasbourg court on January 18 ruled that the Russian military tortured two Chechen brothers in 2000. Adam and Arbi Chitayev say they were beaten with water bottles and truncheons, and nearly strangled. Each brother was awarded 38,815 euros (\$50,250) in compensation.

Since Russia is a member of the Council of Europe, the court's decisions are binding, and Vishnyovskaya says Moscow has so far never failed to pay. But there is little sign that Russia is fulfilling the court's more important demands — to bring the perpetrators to justice and prevent similar atrocities from happening again. Part of the problem

lies in the hostility with which Russian political circles view the Strasbourg court, whose judgments are sometimes seen as part of a broad anti-Russian campaign.

At least one nongovernmental organization providing legal assistance to victims of human rights abuse in the North Caucasus came under pressure from the Russian government. The Dutch-based Stichting Russian Justice Initiative, which is currently representing clients in more than 100 cases before the European Court of Human Rights, was informed by Moscow in November 2006 it lacked the documentation needed to be legally registered in Russia. Still, cases continue to be filed to Strasbourg from the North Caucasus. Some 200 Chechen cases are currently pending at the court. (Council Of Europe: Moscow Confronted With More Cases From Caucasus " Claire Bigg, RFE/RL, January 23, 2007)

At the beginning of 2007, the overall number of complaints (still not considered by the European Court) lodged with the court against the Russian Federation comprised around 22 percent of the total number of appeals (in absolute terms around 20,000). The increase in the number of appeals against Russia comprised 38 percent in 2006.

We should talk about the systemic crisis in our legal system. About the fact that serious flaws exist in the Russian judicial system, in the activity of our law-enforcement agencies and the authorities as a whole. As a result of these systemic flaws, a manifestly abnormal hypertrophied trend is emerging whereby a supra-national legal system – the European court – is replacing the Russian legal system to an ever greater extent.

Judge for yourselves. Around half of the total number of complaints to the European Court question the failure to execute judicial decisions, approximately another quarter the violation of the principle of legal clarity as a result of judicial decisions, which have entered into legal force, being revoked under review procedures. There is more or less the same proportion of decisions pronounced by the European Court on complaints deemed admissible. This means the system for executing judicial decisions in Russia is not working. ("Judicial Protection – Between Globalization and Sovereignty", an article Russian Constitutional Court Chairman Valeriy Zorkin, Rossiyskaya Gazeta, July 24, 2007) See also "Report: top Russian judge calls for barring citizens from appealing to European court", AP, July 7, 2008.

References:

An interview with 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.

74c. 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:

An interview with 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.

75. In practice, do judgments in the criminal system follow written law?

50

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100 | 75 | 50 | 25 | 0

Comments:

On January 11, President Vladimir Putin discussed human rights with members of the Council for Assisting the Development of Civil Society Institutions and Human Rights.

Tamara Morshchakova, a retired Constitutional Court judge, expressed some harsh criticism of the justice system, saying that it doesn't ensure independent justice. Any ruling in any court case can be dictated from outside. This can be done by any state official of any rank – the structure itself does not protect a court against this," Morshchakova explained.

As a result, Russian citizens do not trust the judiciary system. The Sociology Center at the Russian Academy of State Service (RAGS) conducted an opinion poll (an element of effectiveness monitoring for a federal target program called Development of Judiciary in 2007-11). Results of the poll are as follows: 33.9% of respondents refuse to recognize Russia as a state subject to the rule of law, while 30% claim that it is. Twenty-six percent of respondents say they trust the judiciary and 38% distrust it.

The opinion poll was conducted in 98 locations between June 3 and 9. The RAGS approached 2,499 people. Yuri Sidorenko, Chairman of the Judicial Council, points out that the program is doing fine because some opinion polls in the past put the distrust level at 80%.

ROMIR General Director Andrei Milekhin claims that opinion polls regularly indicate the public's distrust of all state institutions save for presidency.

Civil Force leader Mikhail Barshevsky says it will take profound reforms to make the judiciary a genuine branch of the government, recognized by the public. As things stand, the judiciary is financed by the state which doesn't tolerate too much independence. ("CITIZENS DON'T TRUST THE COURTS" by Anastasia Kornya, Vedomosti daily, August 9, 2007)

References:

THE SOURCE OF WATER IS IN THE KREMLIN" by Alexander Podrabinek, Novaya Gazeta three-weekly, No. 2, January 15-17, 2007.

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.

76. In practice, are judicial decisions enforced by the state?

50

76. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

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. The head of the Federal Service of Court Marshals, Nikolai Vinnichenko, admits this service is affected by corruption. He claims the fact Russia is number one in the amount complaints submitted to the Strasburg European Court on Human Rights has nothing to do with his service and points a finger at courts and Ministry of Finance. Vinnichenko said his service can not enforce the law because of a lack of funds and personnel. On regional level, corruption is 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.

Shortcomings of Russian legislation and judicial system do result in mass appeals to European Court of Human Rights. In 2006, Russian citizens filed some 12,000 complaints — a fifth of all cases sent to the court that year. In turn, the court was able to hand down final judgments in just 102 cases. Many victims say the Strasbourg court is the only legitimate alternative to Russia's own corrupt and deeply flawed justice system. Rights activists say the fact that Russia accounts for the largest number of cases filed to the European court is an indicator of Russians' frustration with domestic courts.

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In another case, the court ordered Moscow to pay nearly 70,000 euros (US\$89,500) in damages to relatives of Nura Luluyeva, a nurse whose body was found in a mass grave in 2001. She had been detained during a raid on a Grozny market a year earlier. A forensic report established that she had died of injuries resulting from severe beating. In October 2006, the court found Russia responsible for the shooting deaths of six Chechens, including a pregnant woman and a three-year-old child in February 2000.

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Part of the problem lies in the hostility with which Russian political circles view the Strasbourg court, whose judgments are sometimes seen as part of a broad anti-Russian campaign

At least one nongovernmental organization providing legal assistance to victims of human rights abuse in the North Caucasus came under pressure from the Russian government. The Dutch-based Stichting Russian Justice Initiative, which is currently representing clients in more than 100 cases before the European Court of Human Rights, was informed by Moscow in November 2006 it lacked the documentation needed to be legally registered in Russia. Still, cases continue to be filed to Strasbourg from the North Caucasus. Some 200 Chechen cases are currently pending at the court. (Council Of Europe: Moscow Confronted With More Cases From Caucasus " Claire Bigg, RFE/RL, January 23, 2007)

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Judge for yourselves. Around half of the total number of complaints to the European Court question the failure to execute judicial decisions, approximately another quarter the violation of the principle of legal clarity as a result of judicial decisions, which have entered into legal force, being revoked under review procedures. There is more or less the same proportion of decisions pronounced by the European Court on complaints deemed admissible. This means the system for executing judicial decisions in Russia is not working. ("Judicial Protection — Between Globalization and Sovereignty", an article Russian Constitutional Court Chairman Valeriy Zorkin, Rossiyskaya Gazeta, July 24, 2007) See also "Report: top Russian judge calls for barring citizens from appealing to European court", AP, July 7, 2008.

See more about it here: <http://www.vedomosti.ru/newspaper/article.shtml?2007/01/24/119438>;
<http://www.vedomosti.ru/newspaper/article.shtml?2007/03/15/122316>;
<http://www.novayagazeta.ru/data/2007/36/25.html>;
<http://www.novayagazeta.ru/data/2007/52/16.html>.

References:

Tarja Halonen, the Finnish president, was quoted as saying in provincial daily H4meen Sanomat on December 5, 2006 that if the Russian government knew nothing about the recent political murders the situation was alarming and that if it did, the situation was even more alarming. (See more about it here: Rule of law failing in Russia -Finland's Halonen, Virtual Finland.fi, December 6, 2006).

See

also: http://www.espch.ru/component/option.com_frontpage/Itemid,1/http://www.mediacrata.ru/owa/mc/mc_region_time.html?a_id=11470
<http://www.fssp.ru/default.asp?RID=16&mid=2001>
<http://www.fssp.ru/default.asp?RID=16&mid=805>
<http://newsvo.ru/rubrics/proisshestviya/2007/04/03/17:08:58.html>
<http://www.rian.ru/politics/court/20070424/64294596.html>
http://www.nakanune.ru/news/2007/06/27/66_sudebnyx_pristavov_zaural_ja

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.

77. Is the judiciary able to act independently?

56

77a. In law, the independence of the judiciary is guaranteed.

YES | NO

Comments:

Yes, the law guarantees this.

References:

Constitution of Russia, Article 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.

77b. 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.

The International Bar Association is concerned by the fact that in a number of cases judges have been dismissed under pressure from corrupt court chairmen and other officials, Transparency International said in its annual Global Corruption Report released in May 2007 (Report Finds Endemic Corruption in the Judiciary", The Moscow Times, May 25, 2007).

The global civil society organization says in Russia, political powers have increased their influence over the judiciary. For judges who refuse to be compromised political retaliation can be swift and harsh ("Russian Courts under Political Pressure Transparency International", Kommersant daily, may 25, 2007).

Official position on TI report, see <http://www.strana.ru/text/stories/03/06/24/3354/314532.html> and <http://www.zakon.kz/our/news/news.asp?id=30108188>.

References:

Tomara Morshakova, ex Deputy Chief Justice of Russia: <http://www.advokatrus.ru/doc/834/print?PHPSESSID=649c7a30aae7922ec45ed1994fe8e89c>:

An example of how judges are selected: <http://2006.novayagazeta.ru/nomer/2006/67n/n67n-s19.shtml>.

What people think about Russian judges and court system in general – see also "Courts Are Not Trusted" by Anastasiya Kornya, Vedomosti daily, August 9, 2007.

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.

77c. 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 three 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 Arbitrate 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.

77d. 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, Article 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.

78. Are judges safe when adjudicating corruption cases?

100

78a. 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. However, the judiciary take the issue seriously. In 2006, Russia's Supreme Court justice department has bought 12,000 pistols in order to ensure judges' security.

According to an interview in the Itogi magazine with the Director General of the Justice Department Aleksandr Gusev, the problem of judges' security is so serious, that we solved the issue by offering a government-issue weapon and now, a judge can get a gun at the first request".

He stressed that for the first time in the history of the courts, 94.7 million rubles had been allocated to the safety of judges in the general jurisdiction as part of a new targeted program. ("Russian judges who fear attack to be issued with pistols", Interfax-AVN news agency, 19 February, 2007)

References:

An interview with 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. YES is a positive score.

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.

78b. 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. However, the judiciary take the issue seriously. In 2006, Russia's Supreme Court justice department has bought 12,000 pistols in order to ensure judges' security.

According to an interview in the Itogi magazine with the director-general of the justice department Aleksandr Gusev, the problem of judges' security is so serious, that we solved the issue by offering a government-issue weapon and now, a judge can get a gun at the first request".

He stressed that for the first time in the history of the courts, 94.7 million rubles had been allocated to the safety of judges in the general jurisdiction as part of a new targeted program. ("Russian judges who fear attack to be issued with pistols", Interfax-AVN news agency, 19 February, 2007)

References:

An interview with 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. YES is a positive score.

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.

79. Do citizens have equal access to the justice system?

79

79a. 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 on Russian society, including politicians and law enforcement agents, makes suspect that some rulings, 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.

79b. In practice, women have full access to the judicial system.

100 | 75 | 50 | 25 | 0

Comments:

This is true.

References:

An interview with Dr. Vasily 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. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

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. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

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. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

79c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

YES | NO

Comments:

See more about it here: <http://www.rg.ru/2007/10/05/advokat.html>.

References:

Constitution of Russia, Article 46, 48.

YES: A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

NO: A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

79d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | 50 | 25 | 0

Comments:

Quite often, the police torture and beat people into confession 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.

The government acknowledges the problem of low legal education of its citizens and tries to amend it. By June 2007, Russia was supposed to be covered by a giant network of legal support centers, where any citizen would be able to get some legal advice. This grandiose project is being organized by the Russian Association of Lawyers (RAL) – where Vladimir Putin holds Membership Card No. 1 and Dmitri Medvedev chairs the council of trustees. However, experts say that the RAL project will provide excellent infrastructure for collecting sociological data, and could be used for election campaign purposes as well. (THE LEGAL ADVICE NATIONAL PROJECT™ by Anastasia Kornya, Anna Nikolaeva, Vedomosti daily, December 13, 2006). So far, this project is far from being implemented in full.

References:

An interview with Dr. Vasily A. Vlasihin, legal expert (Moscow).

An interesting report by Boris Yamshanov "The Treasury Will pay For Everything" (Rossiiskaya gazeta daily, October 5, 2007) is available here: <http://www.rg.ru/2007/10/05/advokat.html>.

100: State-provided legal aid is basic, but well-trained and effective in representing the rights of impoverished defendants.

75:

50: State-provided legal aid is available, but flawed. Legal aid may be unavailable to some impoverished 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 impoverished defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

79e. 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:

An interview with Dr. Vasily A. Vlasihin, legal expert (Moscow).

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.

79f. 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:

An interview with Dr. Vasily 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.

79g. 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:

An interview with Dr. Vasily 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.

80. Is the law enforcement agency (i.e. the police) effective?

58

80a. 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 November 2006, within the framework of the index of human rights abuses by law enforcement of the Public Verdict Foundation, the Levada Center reported that only 2 percent of those surveyed feel protected against the arbitrary actions of the police, courts and prosecutors. Only 4 percent trust the law enforcement agents while 71 percent don't.

References:

An interview with Dr. Vasily A. Vlasihin, legal expert (Moscow).

http://www.publicverdict.org/ru/index_p/12-2006.html and <http://www.publicverdict.org/ru/articles/research/5301106.html>.

An interesting survey of law enforcement agents conducted by Public Verdict Foundation provides a lot of information on what police themselves think about their problems: <http://www.publicverdict.org/ru/articles/research/2903061.html>.

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.

80b. In practice, the law enforcement 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 July 2007, the Interior Ministry drafted a bill that would raise salaries and introduce a standard hierarchy among law enforcement officials. The bill calls for 89 billion rubles (US\$3.5 billion) annually to create and maintain a standard hierarchy of ranks, promotions and salaries for officials in eight ministries and agencies: the Interior Ministry, the Justice Ministry, the Emergency Situations Ministry, the Federal Prison Service, the Federal Drug Control Service, the State Courier Service, the Federal Migration Service and the Federal Customs Service.

See more about it here: «Interior Ministry Draft Bill to Bring Pay Rise for Police», The Moscow Times daily, July 25, 2007.

See more about it here: <http://www.point.ru/daily/2007/04/03/5904>

In October 2007, a plan of increasing (result-oriented) funding for the Ministry of Interior for 2008-2010 was released. For more information, see <http://www.newizv.ru/news/2007-10-25/78736/>

The real funding of law enforcement bodies is classified: <http://www.novayagazeta.ru/data/2007/16/15.html>

References:

An interview with Svetlana Perova, Luitenant General, Head of Financial-Economic Department of Ministry of Interior, March 2, 2007 (available at <http://www.mvd.ru/press/interview/4635/>).

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.

80c. In practice, the law enforcement 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:

An interview with 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.

81. Can law enforcement officials be held accountable for their actions?

75

81a. 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/contacts/order/>), 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/>). There is an opportunity to file a complaint online at Ministry of Interior website: <http://forum.mvd.ru/priem/>.

References:

Various non-governmental organizations provide support to ordinary citizens. See more about Public Verdict Foundation activities here: <http://www.regions.ru/news/2055710/print/>.

A story of a victim of police brutality is available here: <http://www.hro.org/court/2007/04/10.php?printv=1>.

Instruction by General prosecutor's Office on reviewing complaints of citizens passed in December 2006, is available here: http://genproc.gov.ru/ru/documents/legal_bases/index.shtml?item_id=49.

YES: A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions. A YES score is earned if a broader mechanism such as the national ombudsman, human rights commission, or anti-corruption agency has jurisdiction over the police.

NO: A NO score is earned if there is no such mechanism

81b. In practice, the independent law enforcement complaint 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.

There is some local data to crimes committed by law enforcement agents and how they were prosecuted – <http://www.regnum.ru/news/873612.html>; <http://www.regnum.ru/news/730831.html>;
A study of police crimes and brutality in 2003-2006 conducted by Agora Interregional Human Rights Association is available here: <http://www.regnum.ru/news/736799.html>. Most policemen receive suspended sentences or even acquitted.

An impressive relevant news archive is located here: <http://www.regnum.ru/dossier/65.html>.

According to the law on citizen's complaints, complaints are reviewed and responded to within a month. An additional month (but no more than 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>.

There is an opportunity to file a complaint online at Ministry of Interior Web site: <http://forum.mvd.ru/priem/>.

According to Instruction by General Prosecutor's Office on reviewing complaints of citizens passed in December 2006, the General Prosecutor's Office has to respond to a complaint within 15 days if it's a simple one, and a month if it's more complicated (available here: http://genproc.gov.ru/ru/documents/legal_bases/index.shtml?item_id=49).

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 may take three to six months to resolve. Serious abuses are not investigated with any urgency.

81c. 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, the Prosecutor General's Office and Federal Security Service both oversee Ministry of Interior activities.

References:

The Web site of Internal Security Service within Ministry of Interior of Russia is located here: <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 may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

NO: A NO score is earned if no such agency/entity exists.

81d. 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 – in November 2006, two former Moscow prosecutors were sentenced to four years for accepting a US\$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>).

Anastasiya Kornya, Alexei Nickolskii, Nadezhda Ivanitskaya, In Charge of Corruption, Vedomosti, October 16, 2006. See also New Prosecutor General Sets Up a Special Anti-corruption Division, (<http://lenta.ru/news/2006/06/29/reform/>). The August-September 2006 General Prosecutors Office inspection of 11 ministries, services and agencies resulted in opening 600 criminal cases, more than 1,100 lawsuits sent to court, and disciplinary action against over 2,500 public officials. (Vladislav Kulikov, General Approach Towards Public Officials, Rossiiskaya Gazeta, October 24, 2006).

According to Evgenii Shkolov, head of Economic Security Department of Ministry of Interior, 8,075 corrupt crimes were identified during the first six months of 2007, and criminal proceedings were instituted against 2,762 public officials (for more information, see: <http://www.lenta.ru/news/2007/07/25/half/>).

References:

See an interview with Major General Daguntsev, the head of Internal Security Service at <http://www.mvdinform.ru/struct/3307/4076/100060/>.

Regional departments of Internal Security Service are also active in revealing and prosecuting corrupt law enforcement agents. See a report on Altai Krai here: <http://www.regnum.ru/news/873612.html>.

In the past two years, 16 staffers of the prosecutor's office were criminally prosecuted. Many were dismissed. The Main Organizational Inspection Administration was set up within the General Prosecutor's Office, its responsibilities include verifying signals coming from our employees." (Interview with Russian First Deputy General Prosecutor Aleksandr Buksman by Andrey Sharov: "No Give, No Take. The General Prosecutor's Office Has Launched an Offensive Against Corrupt Officials", Rossiyskaya Gazeta, November 8, 2006)

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.

81e. 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 Police, 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.

81f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | 50 | 25 | 0

Comments:

However, generally, it is small fish that are sacked; senior officials are let go quietly.

There is one issue law enforcement agencies are accused of and that they try to avoid admitting on an official basis – torture. Human rights group Amnesty International on November 22, 2006 denounced the use of torture and the poor treatment practiced by the Russian police forces to extract confessions.

According to a report by Amnesty titled Russian Federation: Torture and forced ‘confessions’ in detention”, Russian non-governmental organizations said that their investigations found more than 100 cases of torture in just 11 of Russia’s 89 regions. Not included in the 11 regions studied were the North Caucasus, where “the incidence of torture is even higher”, or Chechnya, Amnesty said.

According to the group, the easiest way for “poorly paid and poorly trained” police officers to obtain promotions in Russia, which has a high level of crime, is to “solve” as many cases as possible, “and too often, the approach to solving a crime is to extract a ‘confession”.

Amnesty said that, according to several testimonies, lawyers are not present while suspects in detention are being questioned, families are not informed that they have been detained, and if they are not tortured by police, suspects are left at the “mercy of convicts who do the torturing for the police”.

Incidences of torture and poor treatment are seldom investigated effectively and when they are, those responsible are rarely prosecuted, Amnesty said, condemning the lack of an “effective, independent and nationally enforced system” of controls on the Russian penal system. For the time being, existing agencies are not completely independent, are not allowed to pay announced visits, and have no powers of enforcement, Amnesty said. (Amnesty condemns torture of suspects by Russian police, AFP, Nov 22 2006)

National organizations addressed this issue, too. The Committee Against Torture NGO from Nizhniy Novgorod on March 28, 2007 presented a survey conducted together with the Sociology Institute of the Russian Academy of Sciences. It says that both incarcerated citizens and ordinary citizens have come across use of violence by the law-enforcement agencies in Russia. The survey involved more than 5,500 people in St Petersburg, Nizhniy Novgorod, Pskov, Chita and the Republic of Komi.

Expert of the Sociology Institute Professor Yakov Gilinskiy told journalists that “over 4.12 percent of respondents said they personally were subjected to torture over the past year.” Asked if they could recall incidents in which the law-enforcement agencies used violence against them, 21.3 percent of respondents in St Petersburg gave the affirmative answer, he said.

According to the survey, more than 50 percent of respondents in St Petersburg, Pskov, Nizhniy Novgorod, the Republic of Komi and Chita think that torture is used in Russia. (Russian human rights report highlights police violence against opposition, Interfax news agency, March 28, 2007)

The respondents referred to manhandling and cold cells that lacked sanitary facilities. Some respondents referred to mistreatment and outright torture. Twenty-eight percent respondents in the Republic of Komi said they had been tortured with electricity. Twelve percent respondents in Pskov said the police had used asphyxiation (with or without the use of respirators) as standard operating procedure. Particularly appalling is the information that only one in three victims of police brutality suspect that they were tortured to make them confess. Sixty-four (!) percent believe that the police tortured them just for fun or because they felt like it.

Gennadi Gudkov of the Duma Security Committee (ex-officer of the Federal Security Service) attributes the widespread use of torture to plummeting skills of the police, indifferent personnel recruitment, and lack of public oversight. The official statistics compiled and published by the Interior Ministry fail to note that anything is amiss (in terms of torture). Only four incidents of “coercion to confess” were officially recorded in 2004, and not a single police officer was so much as reprimanded. (A COUNTRY OF VICTIMS by Gennadi Savchenko, Gazeta daily, March 29, 2007)

There has been no official reaction to the report. Authorities have generally been unwilling to discuss torture as a phenomenon, preferring instead to deal with the issue on a case-by-case basis. Andrei Dmitriev, National Bolshevik leader in St. Petersburg, says torture is used systematically against members of protest groups and small opposition parties. During the beating the police reportedly demand "cooperation," seeking to recruit informants, try to obtain confessions, or even prevent a protest event.

Dmitriev said that even with traumas documented by clinics and hospitals it is extremely difficult to get prosecutors to open a case because the offenders almost always wear masks. Sociologist Valentin Golbert said the survey revealed no typical victim of torture in Russia. People suffer from torture regardless of their age, social class, ethnic origin, or professional occupation, he said. We have testimonies from children, pensioners, students of physics from the respected Moscow University, and even police officers themselves, who have endured torture.

Coercion is the main motive behind using physical cruelty, and you are at risk if you are a suspect. One Nizhny Novgorod police officer interviewed by the researchers on condition of anonymity threw some light on the excessive use of force on suspects. Yes, I do beat them, the officer said. It would take me about two weeks to solve a crime using the methods they taught me at the police academy, whereas a colleague who knows nothing about the job would get a confession overnight by beating the hell out of any suspect. And because the bosses demand conviction statistics, no one cares who is put behind the bars, as long as some semblance of bureaucratic procedure is adhered to.

The definition of the word torture in Russia's Criminal Code is different from the phrasing used by the UN Committee Against Torture. In international law, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for obtaining information or a confession, punishing them for an act they have committed or are suspected of having committed, or intimidating or coercing them. This is the definition used by the study's researchers. By contrast, the Russian penal code defines torture simply as a form of inflicting pain. The UN committee has twice advised Russia, most recently in November, to amend its law and introduce a definition consistent with international legal practice as well as incorporate a separate article on the use of torture by law enforcement agencies, but nothing has been changed. (Unmasked: Brutality as Usual by Galina Stolyarova, a writer for The St. Petersburg Times, an English-language newspaper, Transitions Online, www.tol.cz, 19 April 2007)

The abuses by law enforcement agents in Chechnya became an issue in March 2007. Russian federal police in war-battered Chechnya regularly engage in torture of detainees, the republic's president declared on March 16, 2007, as he announced a criminal investigation into the alleged abuse. President Ramzan Kadyrov, whose own Chechen forces have faced frequent allegations of human rights abuses, including kidnappings, torture and killings, singled out a detention facility known as ORB-2 and run by the Russian Interior Ministry in the town of Urus-Martan. Tatyana Kasatkina, executive director of Memorial, a human rights center in Moscow, said abuses at ORB-2 are so well-known that it may have become impossible for Kadyrov to ignore them.

Kasatkina said she believed that Kadyrov, who won the region's top post this month, may have addressed the issue in a bid to demonstrate his concern for the safety of Chechens and raise his prestige among ordinary citizens. He may also be trying to further increase his power by putting pressure on a powerful organization not under his control, she said. (Chechnya accuses police of torture by David Holley, Los Angeles Times, March 17, 2007)

Torture at jails was discussed in January 2007 during a meeting of the Council for Developing Civil Society Institutions and Human Rights. "The penitentiary system in Russia has remained unchanged since the Soviet era. In fact, inmates nowadays are even more helpless in the face of wardens' tyranny than they were then," says Lev Ponomarev, head of the Movement for Human Rights, who is not a Council member. According to the estimates made by this organization (mostly relying on evidence of ex-inmates themselves), there are about 40 "torture jails" in Russia. That means prisons where inmates are subjected to systematic torture and mistreatment

According to Ponomarev, public oversight for the penitentiary system is practically non-existent, since "non-governmental organizations are constantly denied permission to visit prisons." (HUMAN RIGHTS ACTIVISTS ARE NEEDED IN JAILS by Gennadi Savchenko, Madina Shavlokhova, Gazeta daily, January 12, 2007)

An interesting approach towards the situation with Russian law enforcement and Putin's attempts to reform the system was presented by Brian Taylor, assistant professor, Department of Political Science, Syracuse University, in April 2007 at Kennan Institute. Under former President Boris Yeltsin, two key trends developed among law enforcement agencies, Taylor noted. The first was decentralization, in which the central government yielded control over the police to regional authorities. The second was a commercialization of the police, in which members of these agencies profited from their positions rather than working exclusively for the state. After becoming president, Vladimir Putin vowed to reverse both processes by re-centralizing control over law enforcement agencies and fighting corruption. Though Putin was quite successful at the former, social surveys and police prosecution records indicate that the fight against corruption has not yielded the same positive results, according to Taylor.

The commercialization or privatization of the police, however, was much more difficult to fight, Taylor observed. What should theoretically be a public legal good (protection of private property rights) became first a criminalized private good (mafia protection or kryshovanie), and then a service provided by corrupt state officials, he explained. As a result, the capacity of law enforcement to fulfill their core tasks is not significantly higher under Putin than it was under Yeltsin, Taylor claimed. Furthermore, it is unlikely that greater centralization and increased funding for the power ministries will strengthen the fight against police corruption, especially when the mechanisms that make corrupt activity dangerous – such as criminal prosecutions – are not in place, he noted.

Taylor stated that Putin's centralization of law enforcement agencies has not necessarily strengthened the state. At the same time, criminal cases have been brought against economic and political adversaries, and police have become involved in foreign policy disputes by harassing minorities or foreign citizens. Taylor cited the harassment of Georgians that took place in Moscow in fall 2006.

Taylor cautioned that exclusive reliance on internal monitoring and self-policing by the Russian state will make it more difficult to weed out corruption. So long as state officials exploit access to institutions for personal gain, recentralizing coercion won't strengthen the state, he concluded. (Putin's State-Building Project: The Case of Law Enforcement, Kennan Institute, April 23, 2007; event summary available at http://www.wilsoncenter.org/index.cfm?topic_id=1424&fuseaction=topics.event_summary&event_id=228342)

Police are indeed very much involved in market activities. In June 2007, authorities have detained a senior Moscow police officer suspected of bugging businessmen's phones in return for payment from their rivals, Kommersant daily reported on June 22. The newspaper said that investigators from the Russian Interior Ministry's internal security division had arrested Mikhail Yanykin, a senior officer at the Moscow criminal police department in charge of wiretapping and shadowing operations.

The newspaper said that Yanykin had turned bugging phones into a regular business. Russian law requires a court sanction for police eavesdropping on phone conversations. Yanykin and his accomplices bypassed this requirement by tacitly adding businessmen's names to official requests for wiretapping as part of ongoing criminal investigations, the paper said. Kommersant said that a deputy head of the Moscow criminal police was also temporarily relieved of his duties as part of the probe. ("Report: Moscow police bugged phones for money", AP, June 22, 2007). Similar activities in Saratov (Volga region) also led to arrests (see more here: <http://control.hro.org/okno/mvd/2007/09/27.php>).

References:

An interview with Dr. Vasily A. Vlasihin, legal expert (Moscow).

See more about corrupt police officers

here: <http://www.regnum.ru/news/891615.html>; <http://www.regnum.ru/news/892973.html>; <http://www.regnum.ru/news/694999.html>; <http://www.regnum.ru/news/id=129943>; <http://www.regnum.ru/news/885233.html>; <http://www.regnum.ru/news/883266.html>; <http://www.regnum.ru/news/881401.html>; <http://www.regnum.ru/news/877094.html>; <http://www.regnum.ru/news/689889.html>; <http://www.regnum.ru/news/683781.html>; <http://www.regnum.ru/news/6>

A very impressive collection of reports on corruption on a national scale is available here: <http://www.regnum.ru/dossier/279.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.