

Overall Score:

69 - Weak

Legal Framework Score:

88 - Strong

Actual Implementation Score:

52 - Very Weak

Category I. Civil Society, Public Information and Media

I-1. ⁶⁹Civil 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, civil society organization (CSO) activity in Russia was regulated by the federal law On Non-Commercial Organizations." On April 17, 2006, Russian Federal Law "On Introducing Amendments to Certain Legislative Acts of the Russian Federation" became effective. The new nongovernmental organization (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.

One of the major changes to the laws is 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 Rosregistratsiya. 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 to protect the right of association and to interfere with the exercise of that right only when "necessary in a democratic society for compelling state reasons."

Despite the new regulations making the work of NGOs harder, citizens still have a legal right to form CSOs.

See more about it here: "The Russian NGO Law: Potential Conflicts with International, National and Foreign Legislation," by Alison Kamhi, 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>.

References:

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

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

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

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

YES | NO

Comments:

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

In addition, senior management of any CSO now has to report to the proper state body 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 (Article 29). There is no ban on accepting foreign funding, unless otherwise prohibited by law (terrorism, etc.).

Once sponsors of the Russian human rights community, Western donor organizations rapidly lost interest in Russia. Figures are quite telling: European and American funds gave nearly \$80 million to Russian organizations within the framework of all sorts of democracy-promotion programs in 2006. In 2007, the total amounted to only about \$20 million, and this money went only to prominent organizations like the Moscow Helsinki Group and Memorial.

The exodus of activists awaits the human rights community in Russia in the near future. Absence of funding will first and foremost hurt human rights structures in the regions," said Alekseyeva. Almost 100 autonomous human rights organizations partners of the Moscow Helsinki Group, Memorial, Journalist Union, and so on → closed down in late 2007. However, Gorevoi reported that no right-to-protection human rights organizations closed down in Russia for lack of funding.

The Russian government is tightening its grip on Russia's nongovernmental sector. On July 2, 2008, Prime Minister Vladimir Putin issued a decree that dramatically rolled back the number of foreign-based nongovernmental organizations (NGOs) that will enjoy tax-exempt status in Russia. The chief targets of the decree appeared to be NGOs active in areas deemed nettlesome by the Russian government, such as human rights and the environment. NGOs that no longer qualify for exemptions will have to pay a 24 percent tax on all grants made inside Russia, starting Jan. 1, 2009.

The 24 percent tax rate is deemed prohibitive by many civil society activists, who believe the new rules are designed to force Western NGOs to pull out, thereby throttling the spirit of liberalization in Russia. Lokshina said Putin's decree was "certainly a demonstrative political gesture that is very illustrative of the climate foreign-funded NGOs and their donors have to deal with in Russia today."

Among the 89 NGOs impacted by the decree are the International Red Cross, the World Wildlife Fund, the Ford Foundation and the Eurasia Foundation. Of the 101 NGOs that enjoyed tax-free status prior to Putin's July 2 decree, only 12 stand to retain the privilege in 2009. The new qualifications for tax-exempt status were arbitrarily established by the government. NGOs themselves had no role in the outcome.

Although the government's methodology in refining the tax-exempt list was anything but transparent, a pattern can be detected in the outcome. Those organizations that will continue to enjoy the exemption tend to be intergovernmental groups, such as the Commission of the European Communities and the Council of the Baltic Sea States, along with several United Nations related entities, including the International Atomic Energy Agency.

"The Russian government likely feels that it can largely trust intergovernmental organizations, such as councils of government ministers or UN agencies, because it has a voice in those organizations and because other governments tend to understand Russia's wish to protect sovereignty," said Sundstrom. The Kremlin tends "not to trust private foundations, which are less in dialogue with the government and are also the biggest funders of NGOs critical of the government," she added.

Motives become clearer, however, when the tax-exempt move is viewed within the context of another government initiative to encourage the NGO sector's Russification. President Dmitry Medvedev has spoken repeatedly of the Russian government's desire to promote NGO activity. He has also plainly indicated that his administration views foreign NGO activity in Russia as meddling.

"I doubt that any developed Western country would tolerate such an overwhelming flood of foreign capital into its own third sector," Medvedev told German political and civil society leaders in Berlin in June. The Russian leader went on to indicate that the Russian government would increase the share of state funds used to support local NGO activity.

Medvedev also has been urging Russian corporations to become more active in philanthropic activity. Observers fully expect Russian businesses to step up. But under current circumstances in Russia, even if corporate donors provide most of the funding for local NGOs, the government would still be in position to call the shots. That is because the Kremlin effectively controls Russia's private sector, via the willingness of the political leadership to selectively apply taxation and criminal codes. Thus, it would be reasonable to expect that corporate support for the NGO sector would adhere strictly to the government's wishes. That means that any NGO that carries out work deemed detrimental or irksome by the Kremlin would likely be starved of funds.

Others, however, hold different opinions. Pamfilova believes that leaders of state structures and businesses in Russia have begun to realize to a greater extent the significance of NGOs. Pamfilova stressed that according to the data of Rosregistratsiya (Federal Registration Service), of the 36 percent of organizations that had reported on their activity as required by the new legislation, foreign funding currently amounts to less than 5 percent.

References:

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

<http://www.rg.ru/2006/01/17/nko-poryadok-dok.html>

Lyudmila Alekseyeva, Moscow Helsinki Group

Ruslan Gorevoi, Versia, No. 1, January 2008

Tanya Lokshina, researcher, Human Rights Watch Russia, Moscow

Russia: No Country for Charitable Souls," by Svetla Marinova, EurasiaNet, Aug. 1, 2008, <http://www.eurasianet.org/departments/insight/articles/eav080108.shtml>

Lisa Sundstrom, professor, University of British Columbia, Canada, and an expert on Russian civil society developments

Ella Pamfilova, head of the Council for Promoting the Development of the Institutions of a Civil Society and Human Rights, addressing a meeting of the St. Petersburg government on Feb. 12.

Russian human rights official notes increased domestic funding of NGOs," Interfax, Feb. 12, 2008

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 civil society organizations (CSOs) have to report only foreign donations. However, the Federal Registration Agency has a right to inspect any CSO and ask for any financial documentation. So, in fact, any funding can be checked by the government.

References:

Federal Law On Introducing Amendments to Certain Legislative Acts of the Russian Federation, Article 39, 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 civil society organizations (CSOs) are under state control now, and the government has tools to hinder or even stop any CSO's activities, especially those dealing with anti-corruption.

The following is an overview of the situation once Russian CSOs began living under new legislation passed in 2006. There is no specific information on Russian anti-corruption NGOs and problems they encountered under the new legislation, which does not cover anti-corruption as a special field of non-profit activity.

NGOs

NGO representatives say up to three-quarters of more than 200,000 officially registered noncommercial organizations could face closure.

Critics say that doing everything necessary to comply itself amounts to punishment.

Jens Siegert, head of the Heinrich Boll Foundation's Moscow office, said his organization, which is 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 requiring every organization 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. In addition, foreign-run organizations must report quarterly financial reports and, by Oct. 31 each year, a plan of their activities for the coming year that includes the amount of money allotted for each project. 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.

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

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.

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.

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, and its staffers are less harsh.

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.

CSOs have already been officially closed under dubious circumstances. Others are 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 by the Federal Registration Service (FRS) against NGOs from April 2006 to May 2007. Agora provided legal assistance to those concerned in 20 of them.

The cases demonstrated the FRS'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.

The Agora Association monitors relations between noncommercial organizations and the FRS. According to Agora figures, even professional lawyers, who are a minority among the activists in noncommercial organizations, cannot register an organization on the first try.

In 2001, all non-profit and public organizations were entered into the Unified State Register of Legal Entities. Once registered, they are to confirm by each April 15 that they are proceeding with activities. But after the NGO Act was toughened in 2006, only 216,000 of roughly 500,000 registered NGOs proved able to meet the deadline in 2008. In the next move, territorial branches of FRS set to filing legal suits to exclude NGOs from that register.

Of the 210,000 NGOs that met the deadline, only 36 percent have reported to the FRS the results of their work, Sergei Vasiliev, FRS head, said at a briefing published in Rossiiskaya Gazeta. Less than 20 percent submitted their report by April 15. The deadline was then moved to June 1 (28 percent of NGOs submitted reports by that date) and then to Sept. 1, by which date 36 percent of NGOs had filed reports, Vasiliev said. Some 64 percent of NGOs just ignore the legislation.

According to Vasiliev, there are several reasons why 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 emphasized that, according to the reports the FRS received, financial resources from abroad spent on NGOs work amounted to 20 billion rubles (US\$643 million). NGOs that failed to submit reports received much of their money from abroad, and it is not known how the money was spent. This is the problem to be tackled by the national security services, Vasiliev said.

Also, 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 figures like that, how can anyone raise the question of oppression?

There is no oppression at all, Vasiliev stressed. But the FRS 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 at 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 FRS. 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 — some 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.

However, experts of the Voronezh Interregional Group of Right Defenders studied statistics of NGOs closed by court decision in 2007. In the eight regions the survey covered, more than 600 NGOs were crossed out of the Unified State Register of Legal Entities, which meant near complete termination of their activities.

In many cases, the experts concluded, the FRS's actions could be viewed as a crackdown on NGOs that were working but were unwanted by local authorities. Russian statistics haven't been compiled yet, said Lyudmila Alekseeva, chief of the Moscow Helsinki Group, but it is already clear that a lot of public organizations are being dissolved in Russia under the current procedures.

Amendments to NGO Act were targeted at destroying any unwanted organization, Alekseeva emphasized.

The writer does not think there is a frontal attack on noncommercial organizations. It is more likely that the objective was to substantially raise the threshold for activity by noncommercial organizations, and to such a high level that 70 to 80 percent of organizations would be unable to cross that threshold. When amendments imposing a more difficult accounting procedure and adding a substantial bureaucratic element to noncommercial organizations' activities were adopted, the proportion that would pass through the sieve was only 20 percent.

The objective, the writer believes, is to make it impossible to register noncommercial organizations in the first place. Registration takes six to nine months. The FRS is turning into a punitive body. Specialists are learning how to monitor, find and identify infringements, and regions are exchanging positive practices. At the same time, regional FRS employees are highly unprofessional. 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 ending activities of and liquidating noncommercial organizations.

It is possible for NGOs to survive: Hire two bookkeepers instead of one, hire an office manager and hire a lawyer three times a year, but that takes resources. There is no longer an 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.

Even high-ranking public officials are for amending the law on non-profits. On Oct. 10, 2006, Russian President Vladimir Putin said at the Russian-German St. Petersburg Dialogue forum in Dresden that Russian registration authorities have denied registration to only two NGOs out of the 400 that filed applications. He maintains his stand almost a year later. Putin has said that the advent of a new law regulating NGOs "did not result in a catastrophe" in civic society and that, if need be, the law can be amended.

"As far as I understand, there was no catastrophe in Russia after the adoption of the law on nongovernmental organizations, contrary to what some predicted, he said. Maybe there is some excessive bureaucracy. We should see, and if there really are some obstructions, things may be changed."

The situation with Russian non-profits has drawn a lot of attention from the international community, including the U.S. The U.S. Commission on International Religious Freedom called on the Russian government to withdraw or substantially modify its amended law regulating NGOs, as outlined in a new in-depth legal analysis. According to the study, the law places disturbing restrictions on NGOs and further circumscribes the already limited role the government grants civil society in a country where democracy is under increasing threat. The report provides detailed legal analysis of the legislation and its impact. And key elements of the law are vague and open to arbitrary and discretionary interpretation and enforcement in many areas, resulting in a dramatic expansion in government powers, said Felice D. Gaer, commission chairwoman.

The confrontation between the FRS and rights activists clearly illustrates the most important attribute of NGOs operating in Russia: They are perceived through a prism of politics as a basic element complicating relations with the West. Sergei Markov, political analyst and Public Chamber member, expresses this point of view: "NGOs are the greatest political weapon of the 21st century. New forces came to power by means of political coups in the 19th century and by means of political parties in the 20th century. These days, the basic weapon used to increase political power is the NGO. In the lead-up to Russia's federal elections, the West will intensify funding for NGOs in Russia. The U.S. State Department has already said this openly."

In Russia, there's a characteristic division of NGOs into "ours" (state-funded) and "alien" (mostly funded by Western grants). The state is continuing its expansion into the non-profit sector, shaping civil society institutions to suit itself. Many Russian regions are establishing Public Chambers of their own. In accordance with a presidential decree, all federal ministries and agencies have sprouted Public Councils, described by independent NGOs as "ersatz civil society." It's interesting to note that the most active Public Councils belong to the security and law enforcement agencies, such as the Defense Ministry and the Emergencies Ministry. The state's increased attention to the non-profit system involves using the carrot and the stick: state funding and FRS restrictions. Via the Public Chamber, the state recently allocated a total of 250 million rubles (US\$8 million) to several hundred NGOs.

Duma members have a condescending attitude toward NGO activities, noting that "such organizations aren't very effective, since their activities are confined to competing for grants and spending them."

There's also the problem of weak links between NGOs and citizens, says Maria Lipman, an analyst at the Carnegie Moscow Center. "We are observing the progressive depoliticization of Russian society, a reduction of even the minimal level of civic participation that we saw during the period of turbulent change." Lipman maintains that Russian citizens now feel apathetic: "We can't change anything. They decide everything."

One reason Russian citizens have little confidence in NGOs is foreign funding. But Russian companies show little interest in donating to Russian NGOs, and this isn't entirely due to doubts about effective spending; it's also because private companies are

reluctant to get involved in politics. Lipman points out that Russian companies won't donate to anything that bears even a trace of politics.

FSB chief Nikolai Patrushev said on December 19, 2006, that foreign intelligence services are increasingly using international nongovernmental organizations and foreign press bureaus in Russia as cover for their agents. Indeed, some NGOs were prosecuted for security reasons.

The 2006 law makes it illegal for grass-roots groups to have people convicted of extremism as leaders or members.

The Russian-Chechen Friendship Society was prosecuted for failing to remove Stanislav Dmitrievsky, an adviser to the foundation who organized the Dissenter's March in Nizhni Novgorod in April 2007, from its board and membership roll. Moreover, the society was supposed to publicly denounce Dmitrievsky within five days of his conviction, which it refused to do. Oksana Chelysheva, one of the group's leaders, said her group would try to work in Russia in another form. She kept her promise and established the Tolerance Support Foundation, which works to promote tolerance among various ethnic groups in Nizhegorodskaya Province. The foundation also works on issues of abuse in Chechnya.

The authorities tried to silence it, too.

According to Oksana Chelysheva, director of the Tolerance Support Foundation in Nizhni Novgorod, about 280 miles east of Moscow, three officers from the department of computer crimes in the Russian internal affairs directorate, accompanied by two witnesses, appeared at the foundation's office. They presented a warrant ordering a complete inspection of the foundation's financial, administrative and other activities. The warrant did not contain the grounds for the inspection.

After the search, the police confiscated all four of the organization's computers, claiming that the foundation could not provide licenses for the software installed on them. Chelysheva received orders to appear for questioning at the Nizhni Novgorod police station on Aug. 31 regarding the unlicensed software discovered in the office.

Inspe

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Only 36 percent of Russian NGOs reported working results, Itar-Tass news agency, Sept. 11, 2007

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Over 600 NGOs Closed in Russia This Year, Kommersant daily, Aug. 20, 2007

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Only two out of 400 NGOs denied registration in Russia Putin, Interfax news agency, Oct. 10, 2006

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"Russian Court Backs Closing of Chechen Rights Group, by Peter Finn, Washington Post, Jan. 24, 2007

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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:

The Federal Security Service (FSS) on April 8 accused foreign nongovernmental organizations (NGOs) of helping terrorist groups recruit in the country.

Emissaries of foreign terror and religious extremist organizations, exploiting socioeconomic problems and ethnic and religious differences, are trying to conduct recruiting efforts," Nikolai Patrushev told law enforcement officials in televised comments. "Individual foreign nongovernmental organizations provide informational support to them to a large extent," he said.

He did not appear to identify any particular organization.

The Federal Registration Service (FRS), meanwhile, said the number of NGOs operating in Russia had dropped from 600,000 in 2002 to 227,577 in 2007, according to Vedomosti (a business daily newspaper co-sponsored by Russian media, the Wall Street Journal and the Financial Times). The drop in figures led some aid workers to speculate that the trend would get worse before it gets better.

"We are already forecasting that a mass liquidation of NGOs will occur this summer," Maria Konevskaya, director of the Resursny human rights organization in St. Petersburg, told Vedomosti. Konevskaya predicted an additional 15,000 to 20,000 NGOs would close this year.

President Vladimir Putin, his successor, Dmitry Medvedev and others have criticized the work of nongovernmental organizations such as human rights groups. Putin has defended new, tighter regulations on NGOs as a way to make sure they are not controlled by what he calls puppeteers from abroad.

In 2007, the first full year the new regulations were in effect, more than 11,000 NGOs out of over 227,000 were denied registration and 8,274 registered groups were closed by court order.

"As soon as a Russian organization begins to cooperate with the Council of Europe, the European Court of Human Rights and United Nations human rights organizations, it immediately becomes accused of working against Russia, of criticizing Russia to please the West," Human Rights Watch researcher into Russia Tatyana Lokshina said on Ekho Moskvyy radio.

"Linking NGOs to terrorist organizations is absolutely irresponsible; there is no confirmation of that," head of the Russian branch of the World Wildlife Fund Igor Chestin said. "Two years ago, an absolutely nonsensical law on NGOs was passed in Russia, which has affected the NGOs. Several thousand organizations that could not deal with official red tape have been closed. And none of those organizations was closed because of their links to terrorism or because they were carrying out activities harmful to Russia," he said.

Authorities are not simply accusing CSOs of anti-state activities; they are trying to stop those CSOs they consider dangerous.

In March 2008, investigators seized the computer servers of rights activist Stanislav Dmitriyevsky, the latest in a series of searches and criminal investigations against the longtime critic of human rights abuses in Chechnya. It happened at his office in Nizhny Novgorod. Dmitriyevsky said prosecutors told him that the search was connected to an investigation into purported extremism involving opposition coalition the Other Russia, which had organized the Dissenters' Marches against President Vladimir Putin. Dmitriyevsky's previous organization, the Russian-Chechen Friendship Society, was ordered to close by the Supreme Court last year for purportedly promoting extremism. He was also convicted in 2006 of extremist activity for publishing articles petitioning the Chechen government to end the conflict and given a two-year suspended sentence. Prosecutors later opened a new investigation into Dmitriyevsky's organization on the suspicion that it used pirated computer software.

In August 2007, new amendments to the law on combating extremist activities came into force. They added a new motivation of hatred against a specific group to the list of possible extremist motivations: The list now includes hatred against not only a specific race, religion or ethnicity but also political, ideological and social groups.

Government representatives and state-controlled media repeatedly accused human rights defenders and members of the opposition movement of working for foreign interests and being anti-Russian.

Human rights defenders and civil society activists were subjected to harassment and intimidation. Criminal charges, such as for using unlicensed computer software or for inciting hatred, were made selectively

against human rights defenders and independent journalists. Russian Prime Minister Vladimir Putin has downplayed the allegations about encroachments on human rights in Russia. "All this talk about human rights is often used as an instrument of pressure on Russia for achieving objectives that have nothing to do with the rights of man," Putin said.

The Russian government should reform regulations that are choking independent activism, Human Rights Watch said in its report. New laws and regulations giving the state broad authority to interfere with the work of nongovernmental organizations have been adopted in the context of growing authoritarianism in Russia. The 72-page report documents how these regulations have targeted various NGOs that work on controversial issues, seek to galvanize public dissent or receive foreign funding.

With the new rules, NGOs live under a looming threat of harassment, said Kenneth Roth, executive director of Human Rights Watch. And this is a serious threat to freedom of expression in Russia.

Roth was to have presented the report at a press conference in Moscow. However, the Foreign Ministry, aware of the plans, cited a changing array of technical reasons to refuse him a visa.

The new rules also include the 2006 law that gives the FRS broad control over NGOs. It can reject NGO registration applications, conduct intrusive inspections of NGOs and make extensive requests for documents, including confidential records. An inspection is a lengthy bureaucratic ordeal during which an NGO's substantive work can grind to a halt. Theoretically, an NGO can face a series of inspections. The FRS can issue warnings following inspections for a wide range of alleged violations, some of them petty. It also can petition to shut down an NGO for repeated or systematic violations. The FRA has said that in a period of four months in 2007, it issued warnings to 6000 NGOs.

The Human Rights Watch report illustrates how these rules work in practice, through examples of NGOs harassed by authorities or whose work was paralyzed by red tape. In 2007, for example, authorities conducted a month-long inspection of the Center for Enlightenment and Research Programs (CERP), a small St. Petersburg-based NGO. The local Registration Service criticized CERP for violating its mandate by conducting educational instead of enlightenment work and holding events outside of St. Petersburg, despite CERP's status as a regional organization. It also admonished CERP for a publication that officials said appeared to interfere with and discredit the work of state officials and undermine Russia's interests because it characterized police as not having sufficient awareness of the rights of refugees. The local Registration Service petitioned to have CERP dissolved. The case is pending.

Organizations that work on sensitive issues or receive foreign funding have been subjected to inspections for noncompliance with tax codes, software licensing or other regulations. Organizations that work on Chechnya are especially vulnerable. For example, throughout much of 2007 the Information Center of the NGO Council, a group that provides daily bulletins on the situation in Chechnya and Ingushetia, was threatened with dissolution by the tax service for being improperly registered and failing to pay back taxes. The organization is challenging a fine for the equivalent of US\$ 20,000 imposed by the tax service. The Russian government made clear that the 2006 law aims to control and monitor foreign funding of NGOs, which it has viewed with intense suspicion since the so-called color revolutions in Georgia in 2003 and Ukraine in 2004.

The Agora Interregional Human Rights Association has evaluated the situation with Russian CSOs and published a list of most common petty objections the FRS uses to shut down a CSO. According to Agora experts, it's very simple.

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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.

Comments:

Authorities are not simply accusing civil society organizations (CSOs) of anti-state activities; they are trying to stop those CSOs they consider dangerous.

In March 2008, investigators seized computer servers belonging to rights activist Stanislav Dmitriyevsky, the latest in a series of searches and criminal investigations against the longtime critic of human rights abuses in Chechnya. It happened at his office in Nizhny Novgorod. Dmitriyevsky said prosecutors told him that the search was connected to an investigation into purported extremism involving opposition coalition the Other Russia, which has organized the Dissenters' Marches against President Vladimir Putin.

Dmitriyevsky's previous organization, the Russian-Chechen Friendship Society, was ordered to close by the Supreme Court last year for purportedly promoting extremism. He was also convicted in 2006 of extremist activity for publishing articles petitioning the Chechen government to end the conflict and given a two-year suspended sentence. Prosecutors later opened a new investigation into Dmitriyevsky's organization on suspicion that it used pirated computer software.

In March 2008, activists from public and human rights organizations called on the authorities to put a stop to the bureaucratic and administrative pressure applied to them.

Non-profit organizations today suffer from administrative barriers and stifling bureaucratic controls no less than small businesses do," said a statement by leading Russian non-profit organizations that was published in Moscow on March 31. The statement was signed by representatives of the Center for Development of Democracy and Human Rights, the Russian branch of the World Wildlife Fund, the Moscow Helsinki Group, the Glasnost Defense Foundation, the Public Verdict foundation, the Golos association and others.

"Many non-profit organizations, facing one check after another that paralyze their activity, are wasting more and more of their time and limited resources on satisfying the requirements of inspectors and protecting themselves from lawlessness rather than getting on with their work. Suffering most of all are the thousands of small non-profit organizations that work 'on the ground,' directly offering help and services to those in need or facilitating the development of citizens' self-organization and mutual help," the statement continued. "It is now both more complicated and more expensive to register a non-profit organization than a business. It is easier for such an organization to be shut down than a business. Inspectors' powers are excessive, there is no limit to the list of documents that are required and demands on those being checked exceed the boundaries of the law on non-profit organizations, providing grounds for selective application of the law. Penalties are frequently not in proportion to the seriousness of technical violations: Non-profit organizations are shut down in situations when a warning or fine would be sufficient. More and more non-profit organizations are deciding to cease their activity, being unable to cope with the administrative pressure."

Leading Russian human rights activists have repeatedly suggested amending or annulling the law on non-profit organizations.

"That law should be abolished, not amended," Lyudmila Alekseyeva, head of the Moscow Helsinki Group, one of Russia's oldest human rights organizations, told Interfax. "In democratic countries, democracy is built on the fact that society monitors bureaucratic structures, and not the other way round. The law on non-profit organizations has placed non-profit organizations, which do not owe anything to anyone and do not ask anything of the state, under tedious everyday control. It is a damaging and undemocratic law."

On April 9, 2008, the Public Council of the Federal Registration Service (FRS) and the Public Chamber of the Commission for Civil Society Development met to discuss simplifying the registration procedures for CSOs. Their recommendations come down to introduction of less complicated and more understandable procedures of mandatory reporting.

Those present at the meeting admitted that the FRS was far too selective in its allegedly random audits CSOs. Meeting participants also said that the legislation included too many loopholes enabling the authorities to close whatever CSO incurred their wrath for some reason. More often than not, the authorities undertake to close CSOs for their educational efforts (the FRS views everything from single seminars to permanent programs as educational activities).

Participants advanced the opinion that the FRS was inordinately hard on CSOs that lacked the status of being federal organizations but had operated beyond the territories in which they were registered from their inception. It means that practically every CSO may be liquidated on this pretext (after all, their activists do travel to other regions, say, to meet with representatives of other CSOs).

Moreover, there are some dangerous local initiatives.

This is not an attempt to move the public and authorities to pity. The number of CSOs registered with the FRS and its regional departments went down by 12,000 between 2006 and 2007, the FRS press service told ITAR-TASS.

"Almost 11,000 CSOs were excluded from unified state registration as legal entities by tax bodies due to cessation of activities," the press service said. "The FRS regional departments file requests to courts asking to close down only those public organizations that, for several years, have not informed the FRS about their activity and have not responded to letters and warnings, that are not based at the address indicated in the documents submitted during the registration and that, in fact, do not carry out any activity at all.

The service went on to explained that the figures did not indicate any serious decline in the number of public and non-commercial organizations operating in Russia. "The FRS regional departments registered 5,708 newly set up public organizations and 12,665 other organizations in 2007," the source said.

According to Mariya Kanevskaya, director of the Human Rights Resource Center, there were 600,000 CSOs in Russia in 2002, around 380,000 in 2006, 2768,000 in 2007 and 227,000 in 2008.

Pavel Chikov, with the lawyers' group Agora in the central city of Kazan, said that out of an estimated 227,000 NGOs registered in Russia, 25 percent would meet this year's filing requirements. The government-run newspaper Rossiyskaya Gazeta also reported that only one-quarter of all NGOs have filed properly.

Organizations that fail to submit the financial forms can have their activities suspended and may be liquidated. Last year, when

Organizations that fail to submit the financial forms can have their activities suspended and may be liquidated. Last year, when the procedure was introduced, less than one-quarter of registered NGOs managed to submit the reports on time due to the complexity of the paperwork. The Kremlin is moving first against those outside the capital, confident that it will be able to set precedents there without international organizations or foreign embassies paying much attention.

However, not everyone agrees that new law on CSOs is ultimately bad.

In May 2008, the situation with the FRS and activities changed. According to a presidential decree, the power to register NGOs was handed over to the Ministry of Justice. Human rights campaigners were accusing the FRS of exceeding its powers and are asking Prosecutor-General Yuriy Chayka to deal with the situation.

Pavel Chirkov told Russian radio station Ekho Moskvy that the FRS is not complying with the president's decree, according to which the department has been deprived the power to control NGOs. Despite the decree, the FRS continues to carry them out, Chirkov said.

On May 28, 2008, at a session of the Council of Ministers of the Commonwealth of Independent States held in Minsk, Aleksandr Konovalov, justice minister in the new government, explained Russian authorities' ideology in relation to public organizations and political parties. He said that the state must create comfortable conditions for public organizations to register and operate, but also an efficient and justified monitoring system.

"Russia's policy in creating conditions for NGOs is based on two principles. First is the understanding that civil society in any country cannot develop without public organizations' active and transparent work. Second, public organizations' activities must not damage citizens' rights and interests, or upset the balance of private and state interests," Konovalov said.

Last year, 13,482 inspections, mainly financial, were carried out. In 2007, over 46,000 written official warnings were issued, which is three times more than in 2006.

"I think that this year and next year, this number will be growing," Konovalov said. He noted that 8351 requests to close down NGOs were sent to court and emphasized problems with foreign NGOs that "don't want to register or abide by the law." "Some foreign NGOs were closed down. We don't consider this a violation of human rights."

The case of Manana Aslamazyan, former president of the Moscow-based Educated Media Foundation, illustrates how a CSO the authorities don't want to exist is destroyed. This wasn't an anti-corruption/good governance CSO. Aslamazyan's widely respected foundation trained journalists and media executives. It was the legal successor of Internews Russia, which received much of its funding from the U.S. Agency for International Development and from European sources. The foundation had worked in Russia since 1992. The government viewed the foundation as too independent to be allowed to continue its activities.

Aslamazyan was charged in January 2007 with smuggling, after she carried a sum of money modestly exceeding the legal limit into Russia without declaring it. The charge, punishable by up to five years in prison, was widely seen as a pretext for a campaign against the non-governmental organization. It soon came under intense pressure from the authorities. In June 2007, police raided its Moscow headquarters, confiscated computers and documents and froze its bank accounts, after which Aslamazyan was placed under a second investigation for tax evasion. Just weeks later, the foundation shut its doors. Aslamazyan took refuge in Paris after the smuggling charges were filed.

On May 28, 2008, the Constitutional Court ruled in favor of Aslamaziyan, agreeing with her lawyers that the anti-smuggling law under which she had been charged was so vaguely worded as to be unconstitutional. The Interior Ministry's investigative committee, keeping in line with the court's ruling, dropped charges against Aslamazyan for smuggling just over \$13,000 into the country and scrapped an order for her arrest.

"The criminal case against Aslamazyan will be closed. She can come right now," said Irina Dudkina, head of the investigative committee's press service. "No one is going to go after her. The arrest warrant will be cancelled."

A new set of lesser smuggling charges were brought against Aslamazyan, but if found guilty she will face a fine, not prison. In September 2008, she was fined 1000 rubles (US\$40) by the Sheremetyevo Airport customs service.

It was only a partial victory, however, as Aslamazyan still faces tax-evasion charges. She said she doesn't plan to revive Educated Media, whose staff have found other jobs.

Rights activists and Western nations saw the developments as a glaring example of government pressure on foreign-funded NGOs which Putin accused of seeking to undermine his government and the curtailment of media freedom in Russia.

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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. YES is a positive score.

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

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

100

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

YES | NO

References:

Interview with Lyudmila Alekseyeva, chairwoman of the Moscow Helsinki 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 investigative journalist and a civil society organization (CSO) activist; one person can be engaged professionally in both activities. 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 such cases.

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

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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

References:

Interview with Lyudmila Alekseyeva, chairwoman of the Moscow Helsinki 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?

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.

Mikhail Shmakov, head of Russia's Federation of Independent Trade Unions (FNPR), noted an increasing number of strikes across the country but regretted the fact that legal protests were almost impossible.

It's practically impossible to stage a legal strike, which results in extremely negative manifestations of protests such as hunger strikes," Shmakov said.

Oleg Neterebsky, deputy president of the FNPR, in a statement in the end of January 2008 publicly criticized the existing Labor Code. He agreed that it is practically impossible to call a strike without breaking the law, and so there is no any mechanism of peaceful argument settlement.

Current legislation enables courts to acknowledge all strikes illegal on formal grounds.

Company managements justify their extremely aggressive behavior by blaming workers for Labor Code violations, while at the same time denying striking workers the right to conduct negotiations through their elected union representatives. This is because management refuses to recognize the legitimacy of worker-formed unions. Instead, they grant official status only to the purely symbolic unions, leftovers from the Soviet era that operate under an umbrella organization called the Federation of Independent Labor Unions.

At most enterprises, the local branch of FILU functions as a department of social affairs, run by the general director. Although FILU might serve some useful purpose, it is by no means a labor union. To fill the gap, a handful of a company's workers often form fledgling unions of their own. In most cases, management immediately cracks down on these unions. The director calls the offending workers into his office one at a time to demand that they withdraw their membership in the new union. If they refuse, he transfers them to low-paying jobs or fires them. Meanwhile, the official union stands on the side of the company's management and owners. What's more, management can usually find formal justification for its anti-union actions in the Labor Code.

From the beginning, the Labor Code was written in such a way as to make life easier for management. But business leaders are realizing that repressive measures do not work and that it would be more effective to negotiate with freely elected unions than to face the consequences of spontaneous and uncontrollable strikes. Even an organized strike would be easier to cope with than a spontaneous uprising. It is no longer a question of whether authorities will revise the Labor Code, but of when and how.

References:

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Legal strikes almost impossible in Russia union leader, Itar-Tass news agency, Jan. 29, 2008

"Labor Movement and Civil Society," Boris Kagarliitsky, director of the Institute of Globalization and Social Movements (Moscow), Feb. 19, 2008, <http://www.eurasianhome.org>

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"A Labor Code in Bad Need of Revision," Boris Kagarliitsky, director of the Institute of Globalization and Social Movements (Moscow), Moscow Times daily, April 3, 2008, <http://www.themoscowtimes.com/stories/2008/04/03/007.html>

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 a union becomes too politically active and/o 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, trade unions are not quite as active and popular today as in the mid-1990s. Still, in 2006 and 2007, Russian workers demonstrated a lot more activity than before.

For example, the summer of 2007 saw 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.

Although we hear much from optimistic government 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 (US\$186) per month, and a salary of 10,000 to 12,000 rubles (US\$310 to US\$372) per month is considered quite good, even for employees whose jobs 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, salaries differ significantly. Employees of domestic companies have noted this difference, and they are demanding equal pay for equal labor.

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 3000 strikes in Russia in 2006, but the Federal State Statistics Service (RosStat) recorded only 8. 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 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. We tried keeping count of strikes ourselves," said Elena Gerasimova, director of the Social and Labor Rights Center. "While RosStat was recording one strike a month, we recorded a strike every day."

Concealing the real state of affairs enables official bodies to kill two birds with one stone. On one hand, "8 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 of the real number.

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, 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 management. 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, during which a specially selected commission representing the workers negotiates with 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 percent 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, management holds all the cards in such cases.

According to Nikolai Karagin, AvtoVAZ 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 Khranov. But even union mediation doesn't always help. The SotsProf organization is trying to get four workers reinstated.

Still, experts say that strikes are rarely futile. They're difficult to organize, 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 percent → from 14,000 to 21,000 rubles (US\$433 and US\$650) a month. After a strike in June, delivery drivers at the Voskhod Bakery had their pay raised by 20 percent, with the promise of annual indexation.

Boris Kagariitsky considers the labor movement in Russia to be the first and the only real manifestation of the civil society in modern Russia not an artificial one, established for Western grants or sitting-in a fake Public Chamber but a real grassroots movement.

Enterprise owners respond to employee demands with natural irritation. Although there are differences, Western managers are used to negotiating with strikers. Russian managers and owners behave quite differently. During the strike at the Murmansk sea port, internal security "dealt" with employees. But when a strike was called in the port of Novorossiysk, which is larger and more important for the economy, the local Main Department of Internal Affairs was called by the local administration to suppress the troublemakers. According to Alexander Schepel, leader of the Russian Labor Confederation, the more influential the owner of the enterprise is, the more aggressive the interference of authorities. Some involve security services, some call for a special police squad and others involve the Prosecutor General's Office to deal with trade union.

Strikes have been on the rise in Russia during the last 18 months. It was started by transnational companies' workers and was continued by Russian corporations' employees. Labor disputes are becoming more intense and enduring. Official trade unions are helpless: They've failed to organize workers, who ignore those organizations, but neither can they serve the interests of

corporations by preventing or helping to regulate disputes. When grassroots worker groups of the official trade unions take initiative proposing to increase wages or improve the labor conditions, they find themselves in a conflict with superior agencies and have to turn for support to alternative labor organizations.

The majority of disputes are similar in that the management behaves aggressively, pleading violations of the Labor Code by workers. And the strikers cannot negotiate via alternative trade unions, even when they have one, for management refuses to recognize such trade unions and insists on working with the official trade union. But even should the latter take initiative, it is nailed down, just as the alternative trade unions are.

At the majority of enterprises, the official structures of the Russian Federation of Independent Trade Unions serve the interests of management. Sometimes these organizations do serve the interests of workers, but that single fact does not bring them an inch closer to being genuine trade unions. When a grassroots trade union does emerge, it is usually weak in numbers and is repressed by management, which has the Labor Code on its side. The union-member workers are invited one by one into the boss's office and are coerced to give up union membership, while instigators of the movement are paid less and/or forced to quit.

Under the current Labor Code, the employer is authorized to ignore an emerging workers union until its membership outnumbers already existing ones, which is practically impossible while intimidating and repression are practiced by management and the officially registered trade unions.

This policy results not in managers' triumph but in an uncontrollable strike. The situation usually develops in the following way: Management ignores the trade union and negotiates with the Federation of Trade Unions, which is equal to holding negotiations with oneself. For some time, the problems pile up unsolved, but only when the strike is on the horizon does the administration agree to negotiate with the alternative trade unions, which by that moment has already lost control of the situation.

No criminal sanctions are imposed for strikes, and administrative sanctions are ineffective. Should such a "troublemaker" be fired, he will immediately find a new and usually better-paid job. In Russia, the demand for skilled workers is strong. It is usually self-confident workers who start strikes. In many cases, managers use only threats and almost never resort to dismissing trade union activists. But when shareholders don't see any result from half-measures, they turn to police, prosecution and private security, hoping to regulate the situation by the means of force. The workers movement then becomes more radical and politicized.

Interestingly, Russian employers significantly under-record the number of strikes at their enterprises in official reports, said Oleg Neterebnsky, deputy president of the Federation of Registered Trade Unions (FNPR) and a Public Chamber member. Official data submitted by employers show that there were from 2 to 11 strikes involving about 1,000 people in 2007, according to Neterebnsky. However, statistics obtained by trade unions directly from employees indicate that Russia saw 1,072 labor disputes involving 470,000 people in 2007, he said.

Employers "succeed in finding sophisticated methods to rig the law, and the number of people working for the Russian labor inspectorates makes it possible to comprehensively inspect an enterprise no more often than once in 32 years," Neterebnsky said.

Khusain Tekayev, of the Prosecutor General's Office, said prosecution agencies uncovered more than 113,000 violations of the law on labor protection and 716,000 violations of people's labor rights, more than half of which concerned remuneration issues, in 2007.

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Boris Kagarlitsky, director of the Institute of Globalization Studies

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Police wear camouflage uniforms here," by Evgeniya Zubchenko, Novue Izvestiya daily, Aug. 1, 2007

"Protiv kogo druzhim by Valeri Panyushkin," Vedomosti daily, Feb. 5, 2008, <http://www.vedomosti.ru/newspaper/article.shtml?2008/02/05/140988>

Number of Labor Disputes In Russia Growing, Not Reflected In Official Reports Public Chamber Member, Interfax news agency, April 30, 2008

100: Trade unions are common and are an important part of 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:

Freedom of mass media is guaranteed. Censorship is prohibited."

On March 12, 2007, President Vladimir Putin signed a decree to consolidate two federal services: the Federal Service for Telecom Supervision (Rossvyaznadzor) and the 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 Cultural Heritage Protection – to supervise vehicles of data dissemination along with the content. The purpose is "to improve the efficiency of government's activities for cultural heritage protection" and "to eliminate interdepartmental contradictions and administrative barriers en route to information technology advances in Russia and to ease the system of their control," said representatives of the government's news service.

Even before the March 12 decree, however, the Russian authorities had begun exerting pressure on the Internet

This was one of the most stable and prominent successes of democratic Russia since the late 1980s. Unfortunately, Putin made some successful attempts to tame and regulate the media. From practical intimidation of the media, the authorities turned to legalizing their new understanding of freedom of the media right. The number of criminal cases against journalists, accusing them of libel and insulting public officials, is increasing.

On July 28, 2006, 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 they are 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, Committee to Protect Journalists 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 Russian Press Committee, in the beginning of 2008 Russia has 72,000 media outlets, of which almost 60,000 are printed media. Printed media in Russia grow at the annual rate of 10 percent.

The number of registered media has grown steadily over the last three years, Boris Boyarskov, head of the Federal Service for Supervision in Mass Communications, Communications and Preservation of Cultural Heritage, said on 12 March, Interfax news agency reported. In 2006, around 7,000 new media were registered, whereas in 2007 this number reached 9,111 (6,924 print and 2,187 electronic).

Boyarskov added that at present, 150 free and paid TV channels exist in Russia, which is three times more than three years ago. He noted that this shows that the media business in Russia is becoming profitable. According to expert estimates, media businesses accounts for 1.4 percent of GDP and have an average annual growth rate of at least 25 percent, Boyarskov was reported as saying.

In 2007, a total of 250 written warnings were issued to various media for breaking license agreements, and 104 orders to eliminate existing violations were sent out, he said. Boyarskov also gave recent media statistics: As of the beginning of 2008, 92,850 mass media were registered in Russia, of which 73,078 were print media and 19,772 were electronic, Interfax said in a later report.

The State Duma passed in a first reading on April 26, 2008, a bill that would allow courts to close media outlets for publishing libelous statements, a law critics say would give authorities an additional tool to crack down on dissent. The bill would add "dissemination of deliberately false information damaging individual honor and dignity" to the list of offenses for which a media outlet can be shut down. Under current law, courts can close media outlets for publishing state secrets, extremist statements and statements supporting terrorism.

All but one parliamentary deputy, Boris Reznik of United Russia, approved the bill. The bill's author, 24-year-old Robert Shlegel, the youngest deputy from the ruling United Russia party who had previously served as a spokesman for the pro-Kremlin youth group, Nashi, said on April 26 that the bill was aimed at making Russian media "more civilized."

Authorities have initiated numerous libel cases in recent years involving reports about public officials. In one high-profile case, Ivanovo journalist Vladimir Rakhmankov was convicted in October 2006 of publicly insulting a public official and fined 20,000

rubles (\$610) for referring to Putin as "a phallic symbol" in an opinion piece.

Oleg Panfilov, head of the Center for Journalism in Extreme Situations, said the amendment would give authorities an additional instrument to shut down independent-minded media outlets. "Now that television and most newspapers are under the Kremlin's control, authorities want to control the very few media outlets that remain free in the country," he said. "There still are a few newspapers and the Internet that are out of its control."

Kremlin critics would likely be targeted should the bill become law, Panfilov said. "It would work the same way the law on extremism works, only against those who oppose the powers-that-be," he said. "If the extremism law worked properly, many Duma deputies would be in jail for their extremist statements."

Mikhail Fedotov, secretary of the Russian Union of Journalists and author of the current law on mass media, said it was unnecessary to include the amendment in the media law because libel is already a criminal offense. "You should then include [in the media law] that you should not encourage murder, rape or theft," Fedotov said, according to Interfax.

Even without the libel amendment, "any word that a governor or mayor doesn't like is considered by courts to be false information, and the paper is simply closed," Fedotov said.

The law doesn't use the word "slander" but redefined it with "intentionally false information," which is just about anything. Perhaps more important than the vague, elastic language is the fact that the amendment gives the Ministry of Justice the power to issue warnings to media outlets for publishing slanderous and libelous material. Two warnings in 12 months allows the justice ministry to shut the media outlet down. pending trial.

It is a question of a court's right to close down media entities based on an accusation of libel. Previously, only the author of an article had been liable to punishment, and he got off with a fine if he was unable to prove the truthfulness of the article.

Theoretically, of course, judges may not deem a particular article to be libelous. However, the draft law proposed by deputy Robert Shlegel contains a dangerous norm: At the request of the Federal Service for Monitoring the Observance of Legislation in the Sphere of Mass Communication and Protection of the Cultural Heritage, the activity of a mass medium can be suspended for the duration of the investigation. The court may convene a year later. What would happen to any non-state media entity during this time?

Igor Yakovenko, the secretary general of the Russian Union of Journalists, has spoken categorically against amending the law so that the media would be obliged to retract their articles if federal or regional government bodies demand it. "At the present time, the Russian Constitution and the law on media rest on a number of basic principles, one of which being equal before the law," he said. "This means that all conflicts and disputes are resolved in court. If the amendments proposed by the prosecutors are adopted, the media will be subjected to bureaucrats."

Journalist are now prosecuted for libel more often than before. Every year, Russian courts examine about 3500 lawsuits against journalists in which plaintiffs seek to defend their honor and dignity, chairman of the Union of Journalists of Russian Vsevolod Bogdanov said. "This figure is higher than the total for similar cases in all other countries put together," Bogdanov said on June 10, 2008, at the first meeting of the working group to draft changes to legislation on the mass media. The meeting, chaired by First Deputy Chairman of the State Duma Oleg Morozov, was held at the State Duma. The chairman of the Union of Journalists pointed out that one of the reasons the number of these cases was so high was that lawsuits to defend honor and dignity are exempt from litigation fees.

"This law, if passed, would be detrimental to the media because it would allow for the closure of entire media outlets, not just the punishment of the author of the defamatory materials in question," Andrei Richter, director of the Moscow-based Media Law and Policy Institute. "It would also send a strong signal to the media that the state is watching what they publish, which, in turn, would have a chilling effect on their coverage."

The Russian Public Chamber also is against amendments to the law on the mass media, which will toughen responsibility for unreliable information. "Without legal guarantees for the right, the freedom of speech turns into an empty declaration," Pavel Astakhov, member of the Public Chamber and lawyer told Interfax. (On May 19, Duma Speaker Boris Gрызлов, a senior leader of United Russia, said that his party had changed its position on the bill. The administration was also against the amendments. President Dmitry Medvedev in effect sank proposed changes to the law on June 2, 2008. Medvedev made a critical note on the new amendments to the media bill and sent it to Parliament speaker Gрызлов.

"It would be logical to remove this draft from further discussion," Medvedev said in his note, published by Russia's three main news agencies. "It is obvious that the ... draft law could lead only to the creation of hindrances to the normal functioning of the media, and does not accomplish the declared aims: to defend citizens from the distribution of material that is libelous."

There won't be a new law on the media, since no new law is necessary; but there will be "a set of special laws" intended to regulate the Russian media industry. This was announced after the first meeting of a working group established by the United Russia faction in the Duma to prepare a new edition of the law on the media.

This meeting was attended by United Russia lawmakers and representatives of the Federation Council, the Public Chamber and the media industry (including the Russian Union of Journalists). The working group's initial objective was changed substantially. "Passing a new law on the media is no longer the group's purpose, thank God," said Mikhail Fedotov, Russian Union of Journalists secretary and author of the law that has been in place since 1991.

Senior Deputy Duma Speaker Oleg Morozov, chairman of the working group, said after the meeting that the group considers "the current law on the media to be fundamental and doctrinal." Thus, it needs only some changes related to "the real time-dependent innovations that couldn't have been foreseen 17 years ago," he said.

First of all, a number of new laws need to be passed to regulate specific sectors of the media industry. According to Morozov, the working group has decided to "compile a list of media problems, hear a number of reports on each problem and then use this information to write up proposals for lawmaking initiatives." Morozov said that all work on preparing the lawmaking initiatives should be completed in October. Apart from Morozov, the working group includes 11 members of Parliament.

There were attacks on the existing media law from other directions as well. In the April 10, 2008 session of the Duma security committee, without any special publicity the deputies were given a draft law prepared by the Russian Federation Prosecutor

General's Office, on intensifying the struggle against extremism. The prosecutors are therefore proposing to enhance their powers in the fight against extremism of all kinds and types.

They intend to reinforce the right of any state organ on the federal, regional or district level, to demand the mandatory publication by editorial offices of rebuttals on behalf of these structures. If a mass medium cannot prove the veracity of the published material, the rebuttal must be published under threat of a fine of between 3000 and 5000 rubles (US\$91 and US\$152). At the same time, newspapers will also be made to print warnings on the impermissibility of distributing extremist materials.

The Prosecutor General's Office draft law also aspires to solve the problems of the Internet. Information distributed on the Net is declared extremist through the court at the petition of the prosecutor, and after that, access to the site must be cut off. But if it appears over and over again, once again by decision of the court the provider must cut off access to the banned website to users from the Russian Federation territory. It is given only a month to do so after the court ruling.

The most recent World Public Opinion poll shows that the majority of people in the world favor freedom of the press. The answers of Russian residents show that they have a special opinion: Forty-four percent of them believe that authorities have the right to control the media and prevent the publication of materials that could destabilize the nation's mentality. But at the same time, 69 percent of those polled are convinced that Russia has a free press, and every sixth one thinks that there is too much media freedom.

This is a paradoxical situation. Two-thirds of Russians are enthusiastic supporters of society's democratic development, but they are not so sure about freedom of the press. The majority of them believe that the authorities should be controlled by the people. But isn't the press the most powerful and effective means of control?

Moreover, during the poll conducted by the All-Russian Public Opinion Research Centre (VTsIOM) two years ago, 63 percent of citizens voted for the introduction of state censorship. There were no more polls on this subject later.

According to estimates by the Levada Center, 56 percent of Russians are confident that "the Russian authorities do not threaten freedom of the press and the operation of the independent media in any way."

But the reality is different. The monitoring conducted by human rights organizations, for instance, the Glasnost Defense Foundation, shows that more and more editorial boards are being subjected to legal harassment, fines and eviction from their offices. More and more journalists are being dismissed, beaten and arrested. Russia has the second highest number of journalists killed while performing their professional duty during the last ten years.

Not all Russian citizens know that the Constitution bans censorship of the mass media, but most of them want it, according to a poll. Over half of respondents 58 percent said the mass media need state censorship, including 26 percent who demanded this emphatically, VTsIOM pollsters told Interfax, following a poll in 46 regions on May 31 and June 1.

One-quarter of those surveyed 24 percent oppose censorship, including 8 percent who oppose it "absolutely"; 18 percent were undecided. Forty percent of those polled said censorship was a shield against violence, excesses and vulgarity in the mass media.

However, colleagues of the state sociologists believe that the VTsIOM results do not reflect the population's real opinion, because the question was put incorrectly. "This is a typical VTsIOM approach. It is obvious that you will get the result they got with such a point-blank question. This is evidently the result the people who ordered the study need," Doctor of Sociological Sciences Andrey Milekhin, president of the Romir research holding company, believes. Doubts are also elicited by the use of the

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"Russian Public Chamber against media law amendments," Interfax news agency, May 3, 2008, <http://www.vremya.ru/2008/82/51/203738.html>

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"Russians want media censorship ___ poll, Interfax news agency, June 18, 2008

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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 persists, 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. Although the government generally respected citizens' rights to freedom of expression, it sometimes restricts 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. The 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 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, Committee to Protect Journalists (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."

Article 29 of the Russian Constitution says: "Everyone has the freedom of thought and speech." There are different types 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 the press means the prohibition of the influence and pressure (censorship) on the media by state authorities.

References:

Constitution of the Russian Federation, 1993, Chapter 2; Article 29

Press release from the Committee to Protect Journalists (CPJ), July 28, 2006

<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?

63

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 articles critical of authorities. The government is applying new tactics: Instead of closing an opposition media entity, it buys it, most often indirectly, via loyal businessmen.

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

References:

Russian journalists celebrate professional holiday," Itar-Tass news agency, Jan. 13, 2007

Mikhail Seslavinsky, Russian press agency chief

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, 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.

Speaking about the media coverage of the presidential election campaign in January through March 2008, Interfax news agency reported that Boris Boyarskov, head of the Federal Service for Supervision in Mass Communications, Communications and Preservation of Cultural Heritage, said on 12 March that 67 cases of violating electoral law had been discovered, four of which were by audiovisual media. Federal print media did not commit any violations during the election campaign, he said. In addition, 74 warnings were issued to various media for extremist activity, compared with 64 in 2006 and only 28 in 2005, Boyarskov said. Boyarskov added that newspapers Limonka, Generalnaya Liniya and Korpus had been closed on court orders. Another newspaper, Duel, is in the process of being disbanded; the trial on its case has been going on for two years now.

According to Boyarskov, his agency has issued over 500 warnings to media entities since 2004, when the agency was created, mostly to broadcast media entities.

References:

Law on Mass Media, Article 61

Governmental Decree #301, 2004

Russian state watchdog head comments on Internet, media, extremism," Interfax news agency, Moscow, March 12, 2008

Interview with Boris Boyarskov, head of the Federal Service for Supervision in Mass Communications, Communications and Preservation of Cultural Heritage, April 21, 2008, Kommersant daily, <http://www.kommersant.ru/doc.aspx?DocsID=885170>

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. An application is officially reviewed within a month.

References:

<http://www.rsoc.ru/main/directions/rwork/smi/>

http://www.yurcom.ru/svidetelstv_smi/

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, such as Infinity Group (<http://www.infinity-group.ru/certificate.htm>), that provide assistance obtaining broadcasting licenses within the reasonable time period. Their fees are significantly larger than the state fee and is more than US\$550. The official price charged for consideration of a license application is 300 rubles (US\$10), and for getting a license 1000 rubles (US\$34).

References:

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<http://www.telekon.ru/service/detail.php?ID=994>

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?

63

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

Comments:

As with many other licensing issues, the process is more time-consuming than it is expensive. There are some companies, such as Infinity Group (<http://www.infinity-group.ru/certificate.htm>), that provide assistance obtaining broadcasting licenses within the reasonable time period. Their fees are significantly larger than the state fee and is more than US\$550. The official price charged for consideration of a license application is 300 rubles (US\$10), and for getting a license 1000 rubles (US\$34).

As part of the broader pattern, the state is paying more attention to international media, especially international broadcasting. Authorities have focused on U.S. government funded Radio Free Europe/Radio Liberty (RFE/RL), whose 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.

References:

Telekon consulting agency Moscow

<http://www.telekon.ru/service/>

<http://www.telekon.ru/service/detail.php?ID=994>

Democracy's Façade," by Christopher Walker and Robert Ortung, The Moscow Times daily, Oct. 5, 2007, <http://www.moscowtimes.ru/article/857/49/193879.htm>

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

Comments:

Speaking about media coverage of the presidential election campaign from January through March 2008, Interfax news agency on March 12 reported that Boris Boyarskov, head of the Federal Service for Supervision in Mass Communications, Communications and Preservation of Cultural Heritage, said that 67 cases of electoral law violation had been discovered, four of which were by audiovisual media. The federal print media did not commit any violations during the election campaign, he said. In addition, 74 warnings were issued to various media for extremist activity, compared with 64 in 2006 and only 28 in 2005, Boyarskov said.

He also said that the newspapers Limonka, Generalnaya Liniya and Korpus had been closed on court orders. Another newspaper, Duel, is in the process of being disbanded; the trial on its case has been going on for two years now.

According to Boyarskov, his agency has issued over 500 warnings to media entities since 2004, when the agency was created, mostly to broadcast media entities.

On May 12, 2008, a new oversight service, called Rossvyazkonmndzor and headed by Boyarskov, was created.

According to Vedomosti daily publication on Jan. 21, 2009 (<http://www.vedomosti.ru/newspaper/article.shtml?2009/01/21/177825>), allocation of radio and TV frequencies is performed by State Frequency Board on a mixed basis – per request and by tender. As a result, this system is considered to be less transparent than it should be and State Frequency Board was once and again of time accused on bias though Mr Andrei Beskorovainy, ex Chairman of Federal Communications Agency that manages the State Frequency Board disagrees claiming that everything was done by the law and in collegial manner. Detailed information on media licensing is available here: <http://www.delso.ru/info.details.asp?Id=555>.

References:

http://www.broadcasting.ru/newstext.php?news_id=35630

http://www.broadcasting.ru/newstext.php?news_id=30971

http://www.broadcasting.ru/newstext.php?news_id=35223

http://www.rsoc.ru/site/news/?id_news=1392

http://www.rsoc.ru/site/news/?id_news=1414

Russian state watchdog head comments on Internet, media, extremism," Interfax news agency, Moscow, March 12, 2008

Federal Service for Supervision in Mass Communications, Communications and Preservation of Cultural Heritage, Boris Boyarskov, Kommersant daily, April 21, 2008, <http://www.kommersant.ru/doc.aspx?DocsID=885170>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/05/13/148213>

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 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. The agency can also revoke these licenses. Technical broadcasting licenses are 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:

<http://www.rsoc.ru/main/directions/lic/radio/> and here http://www.rsoc.ru/site/news/?id_news=1467

http://www.broadcasting.ru/newstext.php?news_id=3153

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 a national channel, and up to 100 minimum monthly wages if foreign citizens will own or co-own the channel. However, 300 rubles (US\$11) is charged for processing an application.

References:

<http://www.rsoc.ru/main/directions/lic/radio/>

<http://www.telekon.ru/service/detail.php?ID=995>

<http://www.telekon.ru/docs/catalog.php?BID=36>

http://www.broadcasting.ru/newstext.php?news_id=3153

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 on-line.

100 | 75 | 50 | 25 | 0

Comments:

To begin with, the Internet is not very popular with Russians yet. The most active Internetchik's" are well-off Russian citizens with per capita income of more than 5000 Rubles (US\$153) a month). They use electronic mail and news sites more often than others do. They 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.

The Internet in general should be considered an influential medium, especially because it provides 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 problem in Russia is not that there are no outlets where free expression is possible. The problem 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 (LJ), a popular U.S. blog site. In Russia, the site currently has more than 1.1 million users and 67,500 interest groups. On September 5, 2007, alone, 1600 new Russian users joined Live Journal, 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 a few 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 that otherwise 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 nowadays in Russia unfold in Runet and especially in LJ. Many politicians have opened their web diaries there, as communications on the Web stands 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. 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 than shutting down a TV channel or a newspaper. The main reason the Kremlin wants to control the Internet is not to eliminate pornography but rather 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, authorities instead use hackers to crash the systems at opportune moments.

The Interior Ministry submitted to the State Duma, the lower house of parliament, a number of proposals aimed at censorship in the Internet. Konstantin Machabeli, the director of the ministry's department for specialized technologies, told Itar-Tass in October 2007 that the ministry possesses a set of technological capabilities for blocking websites that propagate extremist or terrorist information.

Last but not least, the former director of Russia's Federal Security Service (FSB), Nikolai Patrushev said at a meeting of the National Antiterrorist Committee on June 5, 2007, that control over the Internet is essential. Experts also claim that the efforts to put the Internet under total state control, as in China, are doomed to failure. In China, the government controls the only channel of access to the international Web, while any respectable provider in Russia has several channels of access. Introduction of control will require an overall change of laws, including the Constitution, and a re-division or, rather, toughening of the market of Web services.

The number of Internet users in Russia increased by 40 percent in 2007, according to preliminary estimates, reaching 35 million, Prime Tass, the economic news agency, reported Minister of Information Technologies and Communications Leonid Reiman saying on Feb. 11, 2008. In 2007, the number of computers in use went up by more than 8 million as compared to 2006 and reached 31.2 million units by the end of 2007, Prime Tass said.

According to Reiman's, over 30 percent of Russian families have a computer at home, Prime Tass said.

Most Internet users (55 percent) live in Moscow. Most Russian citizens use the Internet at home: 66 percent.

The Web's influence in Russia is restricted because access is limited. The phone system is antiquated, meaning connections are slow. Internet service is difficult to find in poorer provinces, and personal computers are still a luxury.

The popularity of the Internet has doubled in Russia over the past three years, although more than half of Russian citizens do not log on, according to a study conducted by the All-Russian Public Opinion Research Centre (VTSIOM). In 2008, 20 percent of Russians turned to the Internet for news as compared to 10 percent in 2007. Sixty-nine percent of the 1600 respondents say they do not use the Internet at all (in 2006, that proportion was 76 percent), while another 11 percent turn to the resources of the global Web every day. Nine percent log on the Web several times per week, 7 percent several times per month and 3 percent no less than once in six months.

The Internet is more popular in big cities than in rural areas. Thus, the number of web users in Moscow and St Petersburg total 41 percent, while in rural areas only 12 percent.

Russia's blogs increasingly serve as alternative sources of information to the mainstream media, which is becoming more restricted in what they can say or write about the Kremlin. But the media crackdown has also been extended to the blogosphere. For example, authorities have already initiated criminal proceedings against several bloggers in a town in the Komi republic and other regional cities on the grounds of inciting interethnic or racial hatred or of extremism, which is defined and interpreted very broadly by law enforcement officials. New legislation makes it possible to label any critical commentary of federal or regional authorities as extremism.

The Russian blogosphere is truly becoming more courageous, offering its own take on events as an alternative to the official line. In other words, it is becoming a political liability. More than 20 million Russians actively use the Internet, and of those, 3.5 million actively participate in blogs → 2.6 times more than last year.

Russia's blogosphere is more concentrated than in other countries, with 75 percent of all blogs located on one of five web sites: <http://www.LiveJournal.com>, <http://www.LiveInternet.ru>, <http://www.Diary.ru>, <http://www.Blogs@Mail.ru> and <http://www.LovePlanet.ru>. LiveInternet hosts the most blogs, but no more than 20 percent are updated regularly. More than 7000 new blogs and 210,000 entries appear on the Russian Internet every day.

According to Oleg Panfilov, a free press advocate who heads the Moscow-based Center for Journalism in Extreme Situations, Russian authorities have been wary of the Internet's growing importance for years.

In January 2008, the state made one more attempt to regulate the Internet through legislation. The Federation Council discussed the first draft law "On the Internet" on Jan. 29, at the Information Policy Commission. According to its chairman, Lyudmila Narusova, the main aim of the document is to define the chief areas and regulate "a number of things in the Internet, since in unscrupulous hands this provokes offenses and crimes of various kinds." As examples of such "things," Narusova pointed to child pornography, which is widespread in the Internet, trade in children and instructions on how to assemble explosive substances.

Federation Council Chairman Sergey Mironov also pointed to the need to regulate the Internet. "This sphere must be regulated. At the same time there can be no censorship in the Internet. This is my principled position," Mironov pointed out.

Yuriy Sharandin, head of the Federation Council Constitutional Legislation Committee, in turn remarked that "it is not just possible but necessary to regulate content." Only not to regulate it in advance, as then this would be censorship, but to have punishments for violations of laws → for example, for disseminating pornography and information that incites racial or ethnic discord," Sharandin said.

However, not everything in the document excludes the possibility of the state pressuring the Internet community. The text of the law provides, inter alia, for the creation of a new combined organ of state power "carrying out regulatory functions in the sphere of the development and use of the Internet." According to the text of the law, precisely this organ is authorized to combat crimes committed with the help of the Internet (these functions are now distributed among various security departments) and to draft further legal acts on the working of the Internet.

This is not the first year that the idea of compiling a single law to regulate the Internet has been nurtured in the corridors of power, although previously the matter had been confined to just a few amendments. Meanwhile, the Internet public gives a hostile reception to any state initiative in this sphere, fearing the introduction of censorship in the Russian segment of the worldwide web.

(
It was decided to get back to issue later in the year.

The current draft law, On the Internet, has been developed on request of the Inter-parliamentary Assembly of CIS. It is recommendatory to the Assembly member countries.

Curiously, the term "Internet" has no definition in the legislation. There are no laws defining the terms "Internet," "site" or, for example, "spam" either in Russia or in most CIS countries.

Representatives of the Federation Council, Interior Ministry, Justice Ministry and Public Chamber presented on February 11, 2008, the drafts for "legal control over the Internet." The proposal is to amend mass media laws and register as mass media all websites with a daily audience of at least 1000, which corresponds to Clause 12 of the Mass Media Act imposing such registration on all media with a daily circulation of at least 1000. The initiative is technically non-feasible, the analysts say.

There are now some 5000 websites in the Russian language with an audience of more than 1000 people per day.

Another proposal is to amend the Clause 57 that makes mass media not liable for the release of non-adequate information or slander, should it be word-for-word re-publication of another medium's report.

Slutsker said the changes were necessary because there was no clear-cut definition of Internet mass media in the current press law, which was passed in 1991, three years before the appearance of RuNet. He said the changes would only regulate excesses by online journalists and would not affect blogs, social networking sites or search engines. The effort replicates a similar move in 2005, when Dmitry Frolov, head of the Federal Security Service's Information Security Center, told the Federation Council that authorities deserved broader powers to control telecommunications and the Internet. Under Russian law, senators cannot initiate laws. Any Federation Council member seeking to introduce a bill must go through the relevant Duma committee.

All Internet sites should be registered as mass media outlets, Boris Boyarskov, the chief of the Federal Service for Supervision of Legislation of Mass Communications and Protection of Cultural Heritage (Rossvyazokhrankultury), said on March 12, 2008. "It is the personal business of the site author whether or not to register the website," he said.

At any rate, the website author is responsible for observing the legislation in the work of the web portal, Boyarskov said.

Some Internet entities have already been registered as mass media, but on the whole they do not need official papers to exist.

The chief of the mass communications watchdog noted that the service he heads is not going to introduce any restrictions on the Internet. "The current regulations are quite enough to fight with law violations in the Internet," he said.

Authorities should take a measured approach to policing the Internet, President-elect Dmitry Medvedev said on April 3, 2008, Speaking at the opening of the 12th annual Russian Internet Forum.

Other agencies, Such as the Prosecutor General's Office have sought to control the Internet, but currently, there are no plans to introduce restrictions on the Internet in Russia, head of the Federal Service for Supervision in Mass Communications, Communications and Preservation of Cultural Heritage Boris Boyarskov said on March 12, Interfax news agency reported.

However, a decree from the Information Technologies and Communications Ministry, made public on February 26, 2008, requires all telecommunication companies and ISPs to allow the Federal Security Service (FSB) unrestricted monitoring of all communications: phone calls, text messages and e-mails, so the FSB has unrestricted access to their networks and, consequently, to customers' private data. Departmental order is therefore above the Constitution, which demands a court verdict for eavesdropping (or its analogs).

In Order #6 (January 16, 2008) Minister Leonid Reiman instructs providers to install special equipment linked to and controlled from terminals manned by the FSB. The equipment in question enables secret services to identify senders and addressees, listen to telephone conversations, copy e-mail letters and establish the whereabouts of cell phone users. Moreover, the Federal Security Service chooses these targets entirely on its own, so that providers themselves remain unaware of what customers secret services are interested in at any given moment.

Telecoms and ISPs are also required to install, at their own expense, the equipment allowing the FSB to monitor communications. The equipment costs as much as US\$100,000. The decree is related to a program called SORM-2, which was introduced in 1998 to allow the FSB to monitor the Internet.

References:

Russia: Media Clampdown Sees Blogs Flourish," Chloe Arnold, Radio Free Europe/Radio Liberty, Sept. 10, 2007

"Russian Blogs: Tool for Opposition and State," Robert Ortung, Russian Analytical Digest, No. 28 (Oct. 2, 2007), 2-7, <http://www.res.ethz.ch/analysis/rad/details.cfm?lng=en&id=39831>

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 on-line.

100 | 75 | 50 | 25 | 0

Comments:

The government is tuned in to what goes on, on the Internet and is capable of taking measures against what it calls illegal activities." However, state agencies are not capable of much with regard to silencing extremists.

Representatives of 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 with respect to websites organized by the Russkiy Marsh in 2007 and 2008.

Criminal cases opened against Russian users of the Internet under most variegated pretexts become increasingly frequent. The first such case was opened in early April against a reader of an Internet magazine. Savva Terentyev, a man from the city of Syktyvkar in the northeast of Russia, is looking at the prospect of four years in jail after leaving an unflattering remark 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 Russian Internet, 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.

Local and regional authorities do not censor citizens creating content online, but they prosecute them for it. For example, Kemerovo prosecutors have opened a criminal investigation into the activities of an opposition activist following allegations that he made offensive comments about law enforcement officers in a blog. The blogger, Dmitry Solovyov, coordinator of the Kemerovo region branch of the Oborona movement, faces up to two years in prison if charged and convicted.

Oborona's Moscow coordinator, Oleg Kozlovsky, said the case was an attempt to intimidate members of the movement, which has regularly participated in rallies staged by opposition coalition The Other Russia. "This is an attempt to put pressure on Oborona, both at the local and federal levels," Kozlovsky said on August 18, 2008. Solovyov is suspected of libeling and inciting hatred against police and Federal Security Service officers in his posts on LiveJournal, Kozlovsky said. He said the Kemerovo regional branch of the Investigative Committee opened the case on Aug. 11 at the request of the FSB's local branch, and that the postings in question were made from December 2006 to June 2008 under the nickname dimon77.

An entry from March, titled "The People in Gray Won't Break Oborona," accuses Interior Ministry and FSB officers of silencing opposition, delivering "unjust verdicts," "beating confessions out" of people, intimidation and committing dissenters to psychiatric asylums.

Solovyov did not author the contents of the March posting but instead quoted a piece by another blogger, citing the original. Examined on Aug. 18, none of the posts in Solovyov's blog referencing the Interior Ministry or FSB contained insulting epithets or incitement to violence.

Andrei Richter, head of Moscow's Media Law and Policy Institute, said the cases of Solovyov and Komi republic blogger Savva Terentyev, who was handed a one-year suspended prison sentence in July for inciting hatred against the police, represented "a dangerous trend."

"People will be afraid to voice their opinions," Richter said. As of Nov. 11, 2008, there was no news on Solovyov's case.

Blogger Savva Terentyev was the first journalist to be sentenced for "inciting hatred" under the new Law on Extremism. The 22-year-old was charged in August 2007 with inciting hatred against officials for a February 2007 post on a LiveJournal blog in which he said police officers should be "periodically set on fire" in the main squares of the country's cities. In March 2008, prosecutors in the Komi republic sent the case to court, citing the incendiary blog post about police officers. In July 2008, he was handed a one-year suspended prison sentence.

References:

Russia: Media Clampdown Sees Blogs Flourish," Chloe Arnold, Radio Free Europe/Radio Liberty, Sept. 10, 2007

"Activist Placed Under Investigation for Blog," Natalya Krainova, The Moscow Times daily, Aug. 18, 2008, <http://www.moscowtimes.ru/article/1010/42/369852.htm>

<http://www.newizv.ru/news/2008-10-29/100741/>

http://www.ng.ru/politics/2008-06-09/1_nko.html

<http://www.themoscowtimes.com/stories/2008/03/13/014.html>

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:

The only truly independent radio station in Russia is Gazprom-owned Echo of Moscow

It was difficult before July 2006, now it has become dangerous. 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. The 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 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, Committee to Protect Journalists (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 ending the activities of a mass media company: "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 three warnings.

For instance, in 2007, seven warnings about extremism were issued to mass media; seven warnings were issued during the first ten months of 2008.

Genri Reznik, president of the Moscow Lawyers Bureau, stated that the Strasbourg experience on violations of freedom of speech and self-expression "was late in arriving," and thousands of lawsuits on protection of honor, dignity and business reputation were "smashed" by independent Russian media. (It is surprising that the court even ventures to defend the "business reputation" of a prosecutor or official: By law this applies only to civil-relations entities.) The norm equating slander against the highest officials to extremism is very harmful. Also untenable is the absence of a statute of limitations (measured in months in countries abroad). Reznik recalled that in choosing between the right of protection of individual privacy and the right of society to information, the European Court is increasingly tending to give priority to the latter, and public figures in the West are less protected from criticism than ordinary citizens.

References:

<http://www.novayagazeta.ru/data/2008/64/00.html>

Law on Mass Media

<http://www.rsoc.ru/cmssc/upload/documents/20080117170712Yv.doc>

<http://www.rsoc.ru/cmssc/upload/documents/20081027145814Lx.doc>

<http://www.rsoc.ru/main/directions/contr/smi/>

http://www.newyorker.com/reporting/2008/09/22/080922fa_fact_remnick?printable=true

<http://www.washingtonpost.com/wp-dyn/content/article/2008/09/14/AR2008091402249.html>

Not into the annals then into analysis: Novaya's forecast for political broadcasting," by Nataliya Rostova, Gazeta.ru news website, Sept. 18, 2008

<http://www.kommersant.ru/doc.aspx?DocsID=887088>

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

Kommersant asked Fedorov who is currently putting the most pressure on the media. He said, Perhaps surprisingly, it is not officials. The media feel the most pressure from interest groups." This does not necessarily mean oligarchs and businessmen, but it always implies people who are influential in the region.

References:

<http://www.ifex.org>

Valeriy Fedorov, director of the All-Russian Center for the Study of Public Opinion [VTsIOM], Kommersant daily (Moscow)

Rating of 100 Means Complete Paradise: VTsIOM Director Comments on Methodology Used to Assess Freedom of Speech," Viktor Khamrayev, Kommersant daily, June 11, 2008, <http://www.kommersant.ru/doc.aspx?DocsID=902224>

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 is 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 national and regional levels.

The law on the media is not observed in its essence here: I am insisting that there is no freedom of speech on our televisions, and not only on television," Russian Television Academy former President and prominent TV journalist Vladimir Pozner said at a roundtable conference on March 26, 2008.

During the recent parliamentary and presidential election campaigns, there were some absolutely banned things: you cannot talk about this, you cannot show this, and you cannot invite that one.

The information policy that has taken shape in Russia "in fact does not provide for free debate and in fact does not provide for live broadcasts," said Pavel Gusev, chairman of the Public Chamber's Media and Freedom of Speech Commission. He added that the media law had no clauses pertaining to the activity of publishers and media owners. "Not only authorities but also owners put pressure on the media, and we must do something about that," he said.

At a talk show in fall 2007, a prominent political analyst named Mikhail G. Delyagin had some tart words about Vladimir Putin. When the program was later televised, Delyagin was not. Not only were his remarks cut, he was also digitally erased from the show. (The technicians may have worked a bit hastily, leaving his disembodied legs in one shot.) Delyagin, it turned out, has for some time resided on the so-called stop list, a roster of political opponents and other critics of the government who have been barred from TV news and political talk shows by the Kremlin.

Ms. Proshutinskaya's program, "The People Want to Know," had been censored before. In an interview, Proshutinskaya conceded that Delyagin had been digitally erased from the program. She said she had been embarrassed by the incident, as well as the one with Ryzhkov, explaining that the network was responsible. The Kremlin had so intimidated the networks, she said, that self-censorship was rampant.

"I would be lying if I said that it is easy to work these days," she said. "The leadership of the channels, are in very lucrative positions and because of their great fear of losing their jobs, they overdo everything."

The management of her network would not comment. But the network's news director, Mikhail A. Ponomaryov, said journalists and hosts of talk shows had no choice but to comply with the rules.

"It would be stupid to say that we can do whatever we want," he said. "If the owner of the company thinks that we should not show a person, as much as I want to, I cannot do it."

Opponents who were on TV a year or two ago all but vanished during the campaigns in 2007 and 2008.

Senior government officials deny the existence of a stop list, saying that people hostile to the Kremlin do not appear on TV simply because their views are not newsworthy. In interviews, journalists said that they did not believe the Kremlin kept an official master stop list but that the networks kept their own, and that they all operated under an informal stop list an understanding of the Kremlin's likes and dislikes.

Vladimir V. Pozner, host of "Times," a political talk show on the top national network, Channel One, said the pressure to conform to Kremlin dictates had intensified over 2007 and had not eased even after the campaign.

"The elections have led to almost a paranoia on the part of the Kremlin administration about who is on television," said Pozner. In practice, he explained, he tells Channel One executives whom he wants to invite on the show, and they weed out anyone they think is a persona non grata. "They will say, 'Well, you know we can't do that; it's not possible. Please, don't put us in this situation.' You can't invite so and so, whether it be Kasparov or Kasyanov or someone else."

Vladimir R. Solovyov, another political talk show host, said Pozner was complaining only because his ratings were down and he was looking for someone to blame if his program was canceled. Solovyov, a vocal supporter of Putin, said he had never been bullied by the Kremlin. Yet last year, his show, "Throw Down the Gauntlet," regularly featured members of opposition parties. This year, the only politicians to appear have been leaders of Mr. Putin's party, United Russia, and an allied party. Asked why he had not invited opposition leaders lately, Solovyov said, "No one supports them. They have nothing to say."

"At present, the main problem is the state taking over the media. The state should, not just in words but in reality, leave the media market," Yuri Yakovenko, general secretary of the Russian Journalistic Union, said on Feb. 15, 2008.

The financial crisis has its toll on Russian media in a curious way. The editor of a Russian Internet news portal accused authorities on Nov. 19, 2008, of censoring bad news about the financial crisis after prosecutors questioned journalists reporting on troubled banks. Sverdlovsk regional prosecutors said they had been ordered to monitor for signs of "information attacks" on banks after reports of liquidity problems sparked a run on several local banks last month.

The inquiry followed a speech by President Dmitry Medvedev earlier that month in which he urged law enforcement agencies to prosecute anyone maliciously spreading rumors that could cause banks to collapse.

Aksana Panova, editor of the Internet publication www.ura.ru, based in the regional capital, Yekaterinburg, said a prosecutor had summoned her for questioning about her sources of information. Rimma Bobina, an official in the local prosecutor's office, said investigators would also be following what other media report.

"An investigation is under way into cases of information attacks, via the Internet, on credit institutions in Yekaterinburg," Bobina said. "We are conducting daily monitoring of all media."

References:

Glasnost Defense Foundation President Alexei Simonov on the International Freedom of Exchange website, <http://www.ifex.org>

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"State should leave Russia's media market Union of Journalists," RIA-Novosti news agency, Feb. 15, 2008

"Journalist Accuses Prosecutors of Censoring Crisis Coverage," The Moscow Times daily, Nov. 20, 2008, <http://www.moscowtimes.ru/article/1010/42/372492.htm>

<http://www.kommersant.ru/doc.aspx?DocsID=1077888>

<http://www.newizv.ru/news/2008-11-24/102051/>

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 publicly disclose their ownership.

YES | NO

Comments:

According to the 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."

Prof. 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.

Bank Rossiya, whose largest shareholder is Yuri Kovalchuk, a close ally of Prime Minister Vladimir Putin, is gathering television channels Ren-TV and St. Petersburg-based Channel 5 under a single holding called National Media Group. Bank Rossiya, steelmaker Severstal, oil firm Surgutneftegaz and insurance group Sogaz will pool the 68 percent of Ren-TV and 72 percent of Channel 5 they currently control.

Lyubov Sovershayeva, the head of Bank Rossiya unit Abros, will head the new company, National Media Group said. He has chaired the board at Ren-TV since 2006, the board of Petersburg TV and Radio Company and is the owner of Channel 5 since last year.

The statement also said Bank Rossiya, which currently owns a 38 percent stake in Channel 5 through Abros, will initially have a controlling stake in the holding and that other media assets, including daily newspaper Izvestia, may also be included in the new holding. The founders of the National Media Group are uniting their media assets "with a view to making the channels more competitive and their management more efficient," the statement said. The group would be "guided by the need" to educate young people and to establish "efficient information exchange among the public, business and the authorities."

Meanwhile, the Russian government is against allowing foreign investors to own Russian media.

References:

Law on Mass Media, Article 10

Putin Ally Puts TV Channels into National Media Holding," The Moscow Times daily, Feb. 18, 2008, <http://www.themoscowtimes.com/stories/2008/02/18/053.html>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/03/05/142977>

<http://www.newizv.ru/news/2008-03-19/86764>

YES: A YES score is earned if print media companies are required by law to publicly 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 publicly disclosed.

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

YES | NO

Comments:

According to Article 10, the application for the registration of a mass medium shall indicate information about the founder (co-founders) provided for by the present law....”

Prof. 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 into the law, as the founder could be also an owner of mass media.

References:

Law on Mass Media, Article 10

YES: A YES score is earned if broadcast media companies are required by law to publicly 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 publicly disclosed.

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

100 | 75 | 50 | 25 | 0

Comments:

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

There is a difference between professional practices and state interference, as the latter is 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.

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

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 Prime Minister Vladimir Putin. 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.

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.”

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 Moskv. 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.

State control or influence over almost all media outlets remains a serious concern, particularly as it affects the political landscape and Russians' ability to make informed electoral choices. 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."

The evidence suggests that planting stories, long practiced in Russia, is becoming even more widespread. Whether they like it or not, journalists, elected officials, business people and public relations executives are locked in a corrupt cycle that most think they can't break. The inevitable result is TV news barely fit to watch and newspapers unfit to read.

Prior to March 2, 2008 presidential election, surveys demonstrated that on average more than 80 percent of Russians supported the policies of the departing leader, Vladimir Putin, and 65 percent voted for his United Russia Party in the December parliamentary elections.

One of the major tools for achieving such public consolidation in Russia was imposing government control over the major media. The bulk of the Russian population gets its news from Russian television, which broadcasts mostly upbeat news about the country and its leaders. Russian television constantly broadcasts the image of Russia as a rapidly developing country that is implementing reforms in health, education, housing and industry, led by a corruption-fighting government. The news also presents Russia as a world leader in international politics and economy. Viewers see Russian officials who care about problems and are working to overcome them.

The main newspapers and news websites are little different, projecting pro-Kremlin news and commentary. These include Izvestia, Komsomolskaya Pravda, Moskovsky Komsomolets, Rossiyskaya Gazeta, and strana.ru, lenta.ru and regnum.ru. In contrast, a number of independent news websites, which Russians collectively call Runet, provide much more reliable information. Newsru.com is one of the leading independent news sources in Russia today. The site provides news in the fields of politics, social life, economics, sports, culture, religion, technology, travel and entertainment. The site also offers video content. Other sites, such as InoPressa.ru and Zagolovki.ru, provide links to important international media with news about Russia. Gazeta.ru, grani.ru, polit.ru, and utro.ru also provide quality and independent sources of news. Some daily newspapers Kommersant, Novye Izvestia and Vedomosti offer a good standard of journalism in both print and online versions.

Independent radio broadcasts are also available online. The site of one of the best and most independent news sources, Echo Moskvy, provides news in text and audio formats, giving users access to opinion by and interviews with the best Russian journalists, political scientists, and writers.

Besides the best journalists, Echo Moskvy is one of the few Russian media companies to interview opposition politicians and human rights activists whose voices are rarely heard in the pro-government media. Moreover, Echo Moskvy regularly invites foreign political and cultural celebrities visiting Moscow.

Some foreign-owned media also broadcast news in Russian. One of the most popular, the news channel Euronews, runs nightly and in the mornings on one of the federal TV channels, and 24 hours a day on pay TV and the Internet. Although Euronews has no exclusive coverage of Russia, it broadcasts in-depth reports about European affairs and the news of the rest of the world.

Foreign radio broadcasters offering 24-hour news and commentary are Svoboda (Radio Liberty), which is financed by the U.S. government, and the BBC Russian service. Many Russians regard these stations' websites as reliable news sources.

Along with Internet news resources, many Russian viewers also have access the major worldwide television news channels such as CNN, BBC World and CNBC. The Russian public, however, instinctively tends to trust domestic more than foreign media.

Despite the range of media, a wide range of information about life in this vast country is still not accessible. Certain geographical and subject areas are barely covered. Most Russians living outside of the north Caucasus have little knowledge about this turbulent region. Life in Ingushetia, Chechnya and Dagestan differs significantly from Central Russia. Armed clashes, kidnapping and cruel human rights violations happen there every day, but often go unreported. The federal forces "victories" over "terrorists" and Chechnya's return to stability following the 1994-1996 and 1999-2000 military campaigns is about the only thing that the pro-government media report on the north Caucasus.

The independent voices (for instance, Caucasian Knot, Chechnya.ru and the Chechenskoye obschestvo newspaper) provide more information on the region, but to get a full picture of life in the northern Caucasus is still impossible: Independent reporting from this region is dangerous and journalists who practice it are persecuted. Coverage of Russian officials' corruption, political opposition and human rights violations is highly restricted in the pro-government media as well.

The biweekly Novaya Gazeta, as well as human rights web wire Prima-news.ru, try to report on these subjects, but they have limited resources and face official barriers. Novaya Gazeta is a leader in investigative journalism, but it has paid a high price for its intrepid work: Three of the newspaper's journalists, Anna Politkovskaya, Igor Domnikov and Yuri Shchekochikhin, have been slain since 2003.

In Russia today, those who want to get a clearer picture of domestic politics and current affairs must develop critical thinking skills and try to combine information from various media. That is difficult to do for most Russians, as the Internet is such an important source of independent reporting.

References:

Freedom of Press 2008: <http://www.freedomhouse.org/uploads/top08/OverviewEssay2008.pdf>

Presentation by Alexei Simonov, founder and the head of the Glasnost Defense Foundation, Russia

Russia: Pressure Mounting on Opposition, Media," Victor Yasmann, RFE/RL, April 24, 2007

"Freedom of the Press 2008," report on Russia by Freedom House, April 29, 2008

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:

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 the attention in domestic mass media. The positions of major parties on television and radio are leveling off, he told foreign journalists on Sept. 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.

A report from the Center for Journalism in Extreme Situations said that then First Deputy Prime Minister Dmitry Medvedev got fully half of the time devoted to politics in nightly newscasts during the run-up to the last election. "Most of this coverage amounts to propaganda," group head Oleg Panfilov said at a news conference. "It was exclusively positive or neutral in tone. Putin himself got less than 40 percent of the time, whereas the most time devoted to any of Medvedev's rivals was 6 percent, said the report, which was based on monitoring nationwide TV channels' broadcasts between Jan. 10 and Feb. 1, 2008.

Panfilov said television newscasts were not governed by the election law that stipulates equal and free airtime be given to presidential candidates. Medvedev's rivals were given spots for running their announcements in early morning or after midnight, Panfilov said. He said that Communist Party chief Gennady Zyuganov received about 6 percent of mostly neutral television coverage, while Andrei Bogdanov, the obscure leader of a little-known party, and flamboyant ultranationalist Vladimir Zhirinovskiy were each given 2 to 3 percent.

Since Putin came to power in 1999, nationwide television channels have come under state control. One independent radio station retains nationwide reach. Independent-minded newspapers are largely limited to Moscow and St. Petersburg.

Official perception is different. The election campaign of all four candidates for the Russian presidency on the whole receives rather equal coverage in the media, Chairman of the Russian Central Election Commission (CEC) Vladimir Churov said at a press conference. The CEC chief recalled that the "election legislation separates the activities of a person occupying a state post and as a presidential candidate." Churov stressed that three out of the four candidates occupied state posts and that "their activities on the posts are also reported" in the media.

The CEC chairman cited data from two monitoring studies according to which each of the candidates got a roughly equal number of mentions in the press. "None of them enjoys noticeable preference," the CEC head noted.

Churov does not link the frequent appearance of then First Vice Prime Minister Dmitry Medvedev on television information program with the election campaign. "If this takes place, it is caused rather by program statements made by the Russian president," according to the CEC chairman. Churov also stressed that the "the work activity of the government headed by Viktor Zubkov has really intensified, and citizens share the view that the government should not decrease its activity during the election period."

Three federal television channels and three radio stations, namely Channel One, Rossiya and TV-Tsentr, and the radio stations Mayak, Radio of Russia and Voice of Russia each gave presidential candidates free time to deliver their campaign speeches. Each television network or radio station assigned seven hours for the election campaign. So federal television channels granted 42 hours of airtime for canvassing. About half of this free airtime was intended for some debates between the candidates.

References:

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

<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/>

How political parties were covered by the media in mid-October 2008, after the parliamentary campaign was officially announced: 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," Vladimir Razuvayev Jr., Nezavisimaya Gazeta, Oct. 24, 2007

"Ruling, Opposition Parties Get Equal Attention In Mass Media Churov," Interfax news agency, Sept. 13, 2007

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.

100 | 75 | 50 | 25 | 0

Comments:

VTsIOM (one of the largest polling agencies in Russia, controlled by the state) polls indicate that citizens believe the opposition does get sufficient coverage on national television and in the press, and that if it does get less coverage than United Russia, 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 January and February 2008, they monitored five Russian television networks (Channel One, Rossiya, TV Center, NTV and Ren-TV). The media unit analyzed primetime news programs, assessing and producing findings on the time allocated to all candidates running in the March 2 presidential elections, as well as the time allocation given to the President Putin. The tone of the coverage was also evaluated. Quantitative analysis measured the total amount of time devoted to election contestants and the president on news programs. Qualitative analysis evaluates the tone in which the monitored subjects have been portrayed: positive, neutral or negative.

According to the report, state broadcasters failed comprehensively to meet their legal obligation to create equal conditions for all candidates by demonstrating clear bias in favor of Dmitry Medvedev, both in tone and in amount of coverage. Private broadcaster NTV showed a similar pattern of political favoritism to that of state broadcasters, whereas Ren TV offered a more balanced coverage of the candidates and President Putin.

Much of Medvedev's coverage was while he was on a tour of the Russian regions as first deputy prime minister, a practice the groups criticized as indirect campaigning paid for by the state.

Neither the president nor the prime minister are being given the coverage this bureaucrat is getting," said Russian election monitoring agency Golos analyst Alexander Kynev. "He is not campaigning as a candidate but as an already elected head of state."

The Communist Party and Liberal Democratic Party of Russia (LDPR) joined forces to fight state television channels, which, they said were giving uneven coverage to their candidates, Gennady Zyuganov and Vladimir Zhirinovskiy, respectively. Duma members sent an inquiry to Vladimir Churov, chairman of the Central Elections Commission (CEC), demanding that the commission respond to the predominance of United Russia Party candidate Dmitry Medvedev in state television campaign coverage. Thirty Duma members from the Communist Party and LDPR signed the inquiry. The seven-page document details campaign coverage on Channel One, Rossiya and TVTs and shows that the campaign actions of Medvedev received 85.1 percent of the coverage. Zhirinovskiy received 7.2 percent, Zyuganov 5.3 percent and candidate Andrey Bogdanov received 2.4 percent. The authors of the inquiry say that those facts call "into question the legitimacy of all the election campaign as a whole."

Mikhail Kasyanov, who was later denied registration as a presidential candidate, had complained earlier to the CEC about the fact that paid political announcements were charged on the basis of ratings points and not by the minute. That complaint was not considered by the CEC. The Communists have complained during other elections as well. In response, one television station voluntarily gave time for Zyuganov and his advisers on a non-political talk show.

On Feb. 25, 2008 the Court ruled there was no violation of election law.

References:

MEMO 2008 report, <http://www.memo98.sk/en/index.php?base=data/foreign/rus/1204222397.txt>

TV Coverage of Candidates Protested," Maria-Luiza Tirmaste, Kommersant daily, Feb. 14, 2008, <http://www.kommersant.ru/doc.aspx?DocsID=852698&NodesID=2>

http://www.newsru.com/russia/21jan2008/cik_kprf.html

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<http://afp.google.com/article/ALeqM5gfhj1xEAOUfdXzINAsS-4AmSCaAA>

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?

67

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.

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 cases annually, plus another 5000 to 6000 civil cases in which journalists are defendants," Oleg Panfilov, 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 grow," 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 unlawfully held for liable.

Elaborating on prosecutions of journalists in Russia, Panfilov also pointed out that previously 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.

Reporters investigating corruption in Russia are to be protected by a new law. Under new legislation, they'll be able to apply for special protection, as do court witnesses. The law will come into effect by the beginning of 2009. A new national plan to fight corruption, which President Dmitry Medvedev released in late 2008, includes providing state protection for reporters investigating corruption.

On January 13, 2008, the President of the Glasnost Defense Foundation (GDF), Aleksey Simonov, told the Interfax news agency: "Last year in the Russian Federation, the GDF registered 1502 conflicts affecting journalists and the mass media." The Interfax news agency was told that over the past eight years, a greater number of conflicts was only registered in 2002, 1540. In 2006, for example, there were 1345 such conflicts; in 2005, 1322.

There were eight cases of the death of journalists among the accidents that happened last year.

The GDF also noted that 75 cases of attacks on journalists, 11 cases of attacks on editorial offices and 33 instances of censorship were registered in 2007, and 46 journalists and mass media outlets were subjected to criminal prosecution. "Some 220 lawsuits amounting to more than 231million rubles (US\$7 million) were instituted against journalists and the mass media; 124 of them were heard, 64 were granted and more than 5.6 million rubles (US\$172,000) were collected as monetary compensation for moral damages," the foundation noted.

According to the foundation's information, in 2007 there were also 238 cases of journalists being refused access to information, including a ban on carrying out audio and video recording and photography, and refusal of accreditation. "There were 92 cases of confiscation of print runs; this is more than three times more than in any other year since 2000," the agency's source noted.

There are other ways besides physical harm to stop an investigative journalist from reporting on his/her findings, for example, by stopping a journalist from entering the country. Natalya Morar, an investigative journalist who reported that the Kremlin maintained secret funds to finance political parties, was refused entry to Russia at Domodedovo Airport on Feb. 27, 2008, after border guards said she was a threat to national security. An unidentified law enforcement official said she had been added to a government blacklist, RIA-Novosti reported.

Morar said her imminent deportation was "without doubt" linked to an article she wrote in the magazine claiming the Kremlin secretly financed friendly parties during the fall State Duma election campaign. The article named Kremlin Chief of Staff Sergei Sobyanyin and Vladislav Surkov, his deputy, as the controllers of the funds.

Morar first heard about the decision to blacklist her on Dec. 16, 2008, after returning from a vacation in Israel. Federal Security Service officials informed her of the "undesirability of her presence in Russia" and ordered her out of the country, she said. Foreign Ministry sources told RIA-Novosti that Morar was listed as *persona non grata* and therefore banned.

Another way to stop journalists from performing their professional duties is to accuse them of using pirated software, as this is a criminal offense. Nineteen criminal cases were opened against journalists on charges of using unlicensed software between July 2007 and March 2008, according to the Russian Union of Journalists' data.

Activists for the defense of journalists' rights said the use of pirated software by Russian mass media was widespread because the media outlets couldn't afford to buy licensed programs. As a result, it is a convenient pretext on which the authorities can persecute news outlets offering critical coverage. "I am sure that over a half of all Russian mass media offices use pirated software," Oleg Panfilov, head of the Center for Journalism in Extreme Situations.

One journalist familiar with this problem is Sergei Kurt-Adzhiyev, former editor of Novaya Gazeta in Samara, who is currently on trial for using pirated software in his newspaper's office. Police raided the Nizhny Novgorod and Samara offices of Novaya Gazeta, an outspoken opposition newspaper, in search of pirated software last year, confiscating office computers and paralyzing the papers' work.

Unlicensed copies of programs such as Microsoft Office are on sale at outdoor markets and kiosks throughout the country, at a fraction of the price of authentic copies. Microsoft has announced that it will sell its software to less wealthy media outlets at discount prices in an effort to help them avoid pressure from the authorities based on the possession and use of pirated programs. The move is part of a joint project between Microsoft Rus and the Russian Union of Journalists to achieve greater transparency and prevent persecution of the media. Microsoft Rus spokesman Yevgeny Danilov called this a "nonprofit project" for Microsoft, which he said had its own reasons for trying to help the media. "Our main interest with the project is to see that the newspapers that are published today be still published tomorrow, because we read them," Danilov said.

In February 2008, the Committee to Protect Journalists (CPJ) presented its latest report titled "Attacks on The Media (2007)". At least 65 journalists were murdered worldwide in the line of duty, almost half of them in Iraq. The state of affairs for freedom of expression in Russia was castigated as unacceptable.

CPJ, an international non-governmental organization with headquarters in New York, has been drafting these reports for years. Authors of the report analyzed the situation in Russia and point out that the recent parliamentary campaign included "certain events disturbing for the media and civil society." CPJ experts are convinced that media outlets and nongovernmental organizations (NGOs) with the temerity to criticize the regime are put under pressure or closed altogether. "Russian authorities made use of the charges of extremism and bureaucratic means of punishment," the report stated. Still, the authors did comment on "certain progress" made in investigation of assassinations of Igor Domnikov, Yuri Schekochikhin and Anna Politkovskaya (all of them Novaya Gazeta journalists).

CPJ analysts also commented on the new trends in the relationship between the powers-that-be and the media. "Regional authorities used fabricated charges in connection with copyright violations or the use of piratical software to shut down independent or oppositionist media outlets on the eve of elections," experts said. The report made references to Sergei Kurt-Adzhiyev, the Novaya Gazeta (Samara) editor charged with the use of unlicensed software. As for assassinations, the CPJ report only mentions the death of Ivan Safronov, military observer of Kommersant.

According to the Glasnost Protection Foundation, eight journalists including Safronov perished in Russia in 2007. "They mostly concentrate on whatever deaths foment scandals or whatever, while a great number of journalists killed in the provinces are never even mentioned," Glasnost Protection Foundation President Aleksei Simonov said. On the other hand, data always differ depending on the criteria used by the compiling organization. Reporters Without Frontiers, for example, claims that 86 journalists were killed in 2007, while the International Journalistic Organization compiled a list of 100 (but this structure does not differentiate between journalists and their assistants).

In any event, specialists tend to agree with CPJ's conclusions on the state of affairs with freedom of expression in Russia. "They say true," Igor Yakovenko, General Secretary of the Russian Journalistic Union, said. "Most media outlets accepted the rules of the game forced on them by the authorities. By and large, there is nobody left to apply pressure to. Most journalists are trying to revert to the double-think practiced in the Soviet Union," Yakovenko said.

Simonov agrees that journalists in Russia gave in. "Freedom of expression exists only in several newspapers, one radio broadcaster and one program on REN-TV channel," Simonov said. "All others play one and the same tune."

Since 2007, the Law on Extremism has been actively used to silence and/or prosecute journalists. For example, a Perm journalist has been questioned by local prosecutors and may face criminal charges after he penned an article identifying what he characterized as positive similarities between President Vladimir Putin and Adolf Hitler.

Igor Averkiyev, 47, editor of the newspaper Lichnoye Delo, was summoned to the city's Leninsky District Prosecutor's Office on Feb. 19, 2008, to answer questions about an article called "Putin Is Our Good Hitler," published in the newspaper Za Cheloveka in December 2007. The story compares the eight years of Putin's rule to the early years of Hitler's rule in Nazi Germany. Averkiyev wrote that "like Hitler, Putin is the savior of the Fatherland, the guardian of greatness, stability and order," who also "safeguards the country from enemies, both foreign and domestic." During the campaign leading up to December's 2007 State Duma elections, Averkiyev claimed, Putin "tried on the mantle of 'national leader,' thus practically making a claim to absolute power in Russia, unlimited by elections, parliaments or constitutions limited only by the leader's personal ambition and the people's for him."

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Glasnost Defense Foundation survey

One example of such prosecution is illustrative. On October 22, a regional court of Saratov, a major city on Volga river, found guilty on the charge of libel 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 member of Parliament. 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, Oct. 22, 2007, <http://www.kommersant.ru/doc.aspx?DocsID=817650>.

However, prosecution against journalists backfires sometimes.

"Russian Journalists Fated to Appeal to Strasbourg Court More Often CJES Head," Interfax news agency, Aug. 2, 2007

"New law protects journalists," July 22, 2008, <http://www.russiatoday.ru>

"Russian NGO says journalists' work becoming more dangerous and difficult," Interfax news agency, Jan. 13, 2008

<http://www.newizv.ru/news/2008-01-15/82604/>

Sometimes attackers are caught and prosecuted: <http://www.newizv.ru/news/2008-03-17/86518/>

"Critical Journalist Stopped at Airport," David Nowak, The Moscow Times daily, Feb. 28, 2008, <http://www.themoscowtimes.com/stories/2008/02/28/011.html>

"Domodedovo Limbo for Barred Journalist," David Nowak, The Moscow Times daily, Feb. 29, 2008, <http://www.themoscowtimes.com/stories/2008/02/29/011.html>

"Microsoft Cuts Software Prices for Some Media," Natalya Krainova, The Moscow Times daily, April 7, 2008, <http://www.themoscowtimes.com/stories/2008/04/07/011.html>

On Sergei Kurt-Adzhiyev's case: http://www.ng.ru/regions/2008-04-02/6_soft.html

<http://www.novayagazeta.ru/data/2008/55/03.html>

"Tragic Count," Yevgenia Zubchenko, Novye Izvestia daily (Moscow), Feb. 5, 2008, <http://www.newizv.ru/news/2008-02-05/83894/>

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 would 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.

According to the Glasnost Defense Foundation's official data, over 50 journalists in Russia were assaulted in 2008; two have disappeared without trace. Five newspaper offices have been attacked and vandalized.

Law enforcement agencies will recognize that an attack on a journalist may be directly linked to the journalist's occupation only if the journalist was on an authorized mission. In every other case, they hasten to come up with some other explanation, usually unrelated to the occupation of and indirectly compromising the victim.

Authorities are harassing Novaya Gazeta's correspondents in the regions. A criminal case also reached the court, this time, in Omsk. Novaya Gazeta's correspondent Georgiy Borodyanskiy has been accused of assaulting a man, who attacked Borodyanskiy first. Here is one telling detail: The provocation coincided with a business trip the correspondent took. On Feb. 15, 2008, he was going to photograph the dachas of the region's elite. The person who started the fight already admitted that he thought the correspondent was someone else." In short, he made a mistake. This has not stopped the judicial proceedings.

The preliminary hearing was held on March 19. The judge, A.V. Bezverkhaya, explained that Borodyanskiy was charged with violating Section 116 of the Code of Criminal Procedure (assault) pursuant to the preliminary findings in the forensic report the plaintiff had submitted to the court. So far, medical personnel had confirmed a bump on Romanyuk's leg. The "victim's" reported ligament sprain and "concussion" were still to be substantiated.

According to Igor Yakovenko, secretary-general of Russian Union of Journalists, officials in Omsk did not like the idea of an investigative journalism piece on the location of the regional leaders' dachas in the conservation zone, so arrangements were made for a provocative act by the police against Borodyanskiy.

As a result, some journalists are fleeing the country. The most famous recent case of a journalist being attacked for his reporting on corruption is Michail Beketov, editor and owner of Khimkinskaya Pravda, a weekly in the town on Moscow's northern outskirts. He was brutally assaulted by unidentified assailants in an attack his colleagues said was linked to his criticism of local authorities' deforestation plans. After laying unconscious in his garden for almost two days, he was discovered, bloodied and unconscious, on Nov. 15, 2008. Beketov had repeatedly told friends that he had received threats "from criminals" over his newspaper's critical articles about plans by the Khimki city administration to fell swathes of trees in the Khimki Forest. His car had been set on fire. In summer 2008, he returned home to discover his dog lying dead on his doorstep. The Khimki administration is accused by many of being behind the attack.

Beketov is in coma, and his leg was amputated.

"To be a journalist in Russia is suicide. It's suicide if you talk about truth," says Vladimir Yurov, a colleague and friend of Beketov's. Yurov, the editor of another independent Khimki newspaper, has been attacked three times. On the latest occasion, thugs stabbed him 10 times. He survived. "The prosecutor wasn't interested," he says, adding: "I'm still working."

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<http://www.kommersant.ru/doc.aspx?DocslD=1080992&NodesID=7>

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:

Russian Prosecutor General Yuri 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" conducted its own investigation into the murder. Sokolov says the paper's findings support 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 have been related to two previous crimes of similar magnitude: the murders of Central Bank executive Andrei Kozlov last year and of Forbes Russia editor Paul Khlebnikov in 2004. Chaika said the suspects belonged to a gang specializing in this sort of crime.

According to Vsevolod Bogdanov, chairman of the Russian Journalistic Union, 80 percent of murders in Russia are solved eventually. Yet only 20 percent of murders of journalists are solved. There is not a region in Russia where a journalist wasn't killed or physically harmed because of his professional duties.

According to Committee to Protect Journalists (CPJ) report *Deadly News*, released in February 2008, in 2002, 25 journalists were killed in Russia; in 2006, 16 died violent deaths; in 2007, four were murdered. Of this number, monitors believe that 13 died because of their work.

According the Russia's own media monitors, the Glasnost Defense Foundation (GDF), founded 1991, and the Center for Journalism in Extreme Situations (CJES) founded in 2000, there were eight contract killings of journalists in Russia. Those behind the eight contract killings have never been brought to trial. A prominent recent case confirms this deplorable pattern.

In 2000, Igor Domnikov was beaten so badly in the entrance hall of his Moscow apartment block that he died in the hospital two months later, without regaining consciousness. In August 2007, his killers were sentenced to long prison terms, but the man identified as having ordered and paid for the attack was not put on trial.

Finally, there are eight deaths whose cause is still "unconfirmed," partly through lack of serious investigation, although suspicions remain strong.

The death of Moscow journalist Ivan Safronov in 2007, for instance, was firmly linked by his newspaper to his investigation of arms deals. An attempt to open any criminal investigation, even by invoking Article 110 of the Criminal Code (incitement to suicide), was rejected by the law enforcement agencies.

An ambiguous institutional change subsequently offered a dim hope of renewed activity. In September 2007, the instigation and investigation of criminal cases ceased to be among the duties of the prosecutor general's office. These cases were entrusted to a new investigative committee, headed by Vladimir Putin's fellow law student from Leningrad University, Alexander Bastrykin. Ostensibly still part of the prosecutor general's office, the committee became a rival to the most powerful law enforcement agency in the land. There were certain immediate gestures. The Domnikov files were re-opened to consider whether to take up the demands of his family, his newspaper and lawyers that the person who ordered the fatal beating also be brought to trial. The committee decided to re-open the investigation into the suspicious circumstances of Yury Shchekochikhin's death.

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Interview with Vsevolod Bogdanov, chairman of the Russian Journalistic Union, *Novye Izvestiya* daily (Moscow), Feb. 6, 2008, <http://www.newizv.ru/news/2008-02-06/83992/>

Barometers of Freedom," John Crowfoot, Spring 2008

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.

64 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 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 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 within the Federal Special-Purpose Program Electronic Russia 2002-2010, which is currently being implemented. Implementation of the project, however, has already run into considerable problems due to insufficient funding.

However, the legal means and mechanisms to access information about government work organs are still not defined in existing law. Today, there is still no legally defined term information about the work of government organs."

There is some contradiction between the norms established by the Constitution itself.

According to Article 29, every person has a right to freely seek and get information by any legal means. However, according to Article 24, central government and local self-government organs, and their officials, have to ensure that every person can access documents and materials that directly affect his rights and freedoms, if not otherwise stipulated by law.

Information about the work of government organs, which regulating agencies permit, is often limited by them to information that directly involves rights and freedoms of the interested persons only. 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 cases in which the request deals with some other government record, it is often up to officials to decide if and how it can be released, and there is almost no chance of enforcing the law in cases in which 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, especially the executive branch, as their main source of information. And surveys reveal that more than a third of journalists face problems securing information from officials on a regular basis. Russia still doesn't have a federal freedom of information (FOI) law that regulates access to information held by public and municipal bodies.

Federal law provides for the high-quality and efficient provision of information to citizens, organs of state power, organs of local self-government, other organizations and public associations on the basis of state information resources. It also describes the "Exercise of Right of Access to Information from Information Resources" and the "Guarantee of Information Supply," pointing out that the cost of information services lays within 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 in 4 out of 89 Russian regions. 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. There are more than 20 kinds of information that have limited or prohibited access. Information with limited access is regulated by special legal acts. Nevertheless, the basic rules of 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 information held by state and local bodies using the request mechanism is too complicated if not impossible. However, the appeals mechanism is working. 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 state and local bodies do not require providing documentation as well as a citizens' request. There are also some regional laws on citizens' appeals, for example in Moscow and Sverdlovsk region.

There were significant changes in the federal legislation in 2006. On July 27, 2006, the Law on Personal Data was adopted. It replaced an out-of-date law. Adoption of the Law on Personal Data is due to ratification on Dec. 19, 2005, of the Convention of the Council of Europe for the Protection of Individuals with Regard to Automatic Processing of Personal Data (1981). According to experts, the new Law on Personal Data complies with the basic requirements of European legislation regarding 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 information in some way. Basically this law has to regulate realization of the right to 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 come 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 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 pre-election populism, it would be very significant.

More than half the respondents to a survey carried out by the Association of Managers and Kommersant classified the measure as populism. Less than 10 percent of respondents classified tax amnesty in the same way.

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.

President Dmitry Medvedev noted on July 17, 2008, that citizens' free access to information is one of the most meaningful characteristics of democratic development.

The Doctrine of Information Security, approved by the president on Sept. 9, 2000, names observance of the constitutional right of citizens in issues of obtaining and using information as the top priority among national interests of Russia.

The Strategy of Development of an Information Society in the Russian Federation, approved by the president on February 7, 2008, set the tasks of ensuring a high level of access to information and technologies for the population, and also of improving the system of state guarantees of citizens' constitutional rights in the information sphere.

The Council for Informational Society Development will develop for the president proposals for informational society development and use its expertise to vet relevant draft laws.

The Institute for Information Freedom Development was founded in 2004 by lawyer Ivan Pavlov. The organization aims at investigating, identifying and solving problems of access to socially significant information, with a particular focus on electronic media as a powerful tool in achieving transparency and access to government information.

In October 2008, the institute published a legal and sociological analysis of the state of access to government information in Russia, which identifies contradictions between the Constitutional rights of access and actual legal norms and official practices.

President Dmitry Medvedev noted on July 17, 2008, that free access to information for citizens is one of the most meaningful characteristics of democratic development.

The Constitution stipulates the right of every person to "seek, get, transfer, produce and disseminate information by any legal means." This constitutional norm represents the basis and the main legal regulator in the issues of freedom of information and government transparency.

The Doctrine of Information Security, approved by the president on Sept. 9, 2000, names observance of the constitutional right of citizens to obtain and use information as the top priority among national interests of Russia in the information sphere.

The Strategy of Development of Information Society in the Russian Federation, approved by the president on Feb. 7, 2008, set the tasks of ensuring a high level of access to information and technologies for the population, and of improving the system of state guarantees of citizens' constitutional rights in the information sphere for state organs.

Lately, a number of normative legal acts were passed that regulate the sphere of access to information, including the work of organs of state: Federal Law About Information, Information Technologies and Protection of Information, Federal Law About Personal Data and Federal Law About the Procedure of Consideration of Requests from Citizens of the Russian Federation. However, the legal means and mechanisms of access to information about the work of government organs are still not defined in the existing law. Today in Russia, there is still no legally defined term "information about the work of government organs."

There is some contradiction between the norms established by the Constitution itself.

According to section 4 of Article 29, every person has a right to freely seek and get information by any legal means. However, according to section 2 of Article 24, organs of central government and organs of local self-government and their officials have to ensure for every person the possibility of access to documents and materials, which directly affect his rights and freedoms, if not otherwise stipulated by law. The sphere of information about the work of government organs, access to which the regulating agencies permit, is often limited by them to the information that directly involves rights and freedoms of the interested persons only.

The report finds that existing national law establishes the right of any interested persons to have free access to any information about the activities of government organs. However, the implementation of the existing law shows that the entities implementing the law often do not fully recognize the right of citizens to have access to information about the work of state and local organs. One of the main reasons for the gap between the law and the practice is the absence of a mechanism of realization and protection of the right of access defined by the federal law. In this situation the norms established by the federal laws named above have to some extent only declaratory character.

In regards to limiting access to information, the existing law has a number of substantial deficiencies, which call for legislative measures. In particular, the law on state and business secrets has provisions that contradict the norms of the Constitution. In accordance with the existing law, the right to free access to information about the work of government organs is limited to that part of information that is classified as a state secret or a business secret by the federal law. The non-transparent procedures for classifying concrete information, which are established by the present laws, in practice allow massive blocs of socially important information to be inaccessible in the shadow of state secrets.

The Law on State Secrets has several substantive deficiencies. The first and foremost serious deficiency is that the notion of a state secret in its legal interpretation today has all the characteristics of a business secret. The second deficiency is that, in direct violation of the Constitution, the law presupposes a possibility of drawing up and applying unpublished internal normative legal acts directly affecting the rights and freedoms of citizens. The absolute majority of decrees establishing extensive lists of documents subject to classification secret are covered with some level of classification themselves and are not published officially.

The work on a draft of federal law On Ensuring Access to Information About Activities of State Organs and Organs of Local Administration began in the Ministry of Economic Development and Trade of the Russian Federation in 2002. President Putin repeatedly pointed to the need to pass such a law, for example, in his annual Report to the Federal Assembly on April 25, 2005. The first draft of this law was approved at a Cabinet meeting on June 23, 2005. However, it took a year and half for this draft to reach the State Duma. The draft established the presumption of openness of information about the activities of state organs with the exception of information classified as secret. The draft bill was approved in the first reading by the State Duma on April 18, 2007, after which its further consideration was halted.

The law on access to legal and environmental information contains many contradictions, collisions and omissions that negatively affect protection of the right of the citizens to access information on these subjects. In contradiction to the norms of federal laws named above, the Law on Hydrometeorological Service stipulates the possibility of limiting access to such information. A serious obstacle to access of environmental information are the provisions of the Resolution #497 on Licensing of Activities in Hydrometeorology and Related Spheres. In addition, national law does not provide a legal definition of terms such as "environmental information," "data on the state of the environment" and related terms.

At the present time, in the absolute majority of cases, fees for access to information about the work of government organs is determined not by federal law but by sub-legal normative acts. Cases where some agencies try to charge fees for access to legal information or information on technological norms and standards are a cause of special concern.

Modern information technologies are an effective means for ensuring the right citizens to access information about the work of government organs. However, the government organs are not using such methods to disseminate information about their own activities as posting it on their official websites and in easy-to-access places.

The absence of adequate opportunities for citizens to practice their right to access information about activities of the government provides grounds for the development of such negative societal phenomena as corruption and legal nihilism.

The existing practice of providing and disseminating information by the government contradicts the principle of presumption of informational openness. This study has clearly demonstrated the inequality of relationship between state organs as producers and holders of the socially important information and citizens, who mainly play the role of applicants for information, and officials at all levels of government are trying to apply the "permission-based" procedure for obtaining information.

Dissemination of information about the work of government organs should be the task of official sources of information created and maintained by those government organs. The current functioning of official sources of information does not satisfy the needs of the citizens.

This study shows that government organs are trying to use mass media intensively to inform the population. However, one should mention the dangerous tendencies that come with this practice. First of all, government officials are trying to shift the

responsibility for informing the population about the work of the government, for the quality of that information and for citizen satisfaction to the mass media. Secondly, informing the population through mass media is sub

References:

Russian Constitution, 1993, Chapter 2; Article 15, Part 3; Article 24, Section 2; Article 29, Section 4;

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

<http://www.rg.ru/2007/09/26/putin-ivanov.html>

<http://www.kommersant.ru/doc.aspx?DocsID=808465>

<http://www.vz.ru/news/2008/11/6/226551.html>

Study of a long and quite uncompleted process of formation of press freedom legislation in Russia, Viktor N. Monakhov, JD, senior research fellow and professor, Institute of State and Law (Russian Academy of Sciences), UNESCO Chair on Copyright and Other Intellectual Property Rights, April 2008, <http://www.svobodainfo.org/info/page/eng?tid=633200090&nd=458211757>

Boris Panteleev, lawyer, Center of Extreme Journalism, http://sibirp.ru/attachments/mod_catalogue/11/file_1535.doc

Institute for Information Freedom Development, <http://www.svobodainfo.org/>

Federal Law On Information, Informatization and Protection of Information, 1995, Articles 3, 12, 13

Law On Consideration of Appeals of Citizens, 2006

Law on Personal Data and Law on Information, Information Technologies and Protection of Information, 2006

Government Relations in 2006 and at the Turn of 2007," Sergei Litovchenko, executive director, Russian Managers Association, The Moscow Times daily, Feb. 27, 2007

<http://www.rg.ru/2007/08/15/sudyi.html>

Doctrine of Information Security

Strategy of Development of an Information Society in the Russian Federation

Presidential Decree on the Council for Informational Society Development in Russia, 2008

"Glass Half Full or Half Empty? National Report on Freedom of Information in Russia: Mutual Misunderstanding," Institute for Information Freedom Development, 2008, <http://idealsandrights.wordpress.com/2008/11/07/public-access-to-information-in-russia/>

Editorial: "Intimidation of Journalists: Deputies Amend Media Law Without Thinking About Consequences," Nezavisimaya Gazeta daily, April 28, 2008

"White House buttons up back door," Petr Natreba and Alla Barakhova, Kommersant daily, April 7, 2008, <http://www.kommersant.ru/doc.aspx?DocsID=877358>,

<http://www.kommersant.ru/doc.aspx?DocsID=877340>

<http://www.themoscowtimes.com/stories/2008/04/08/014.html>

<http://www.moscowtimes.ru/article/600/42/362508.htm>

<http://www.kommersant.ru/doc.aspx?DocsID=879034>;

<http://corp.cnews.ru/news/top/index.shtml?2008/03/03/290373>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/04/08/145377>

<http://www.vremya.ru/2008/21/4/197356.html>

<http://www.newizv.ru/news/2008-05-14/89932/>

"Russian monitoring body concerned over violations of journalists' rights," Interfax news agency, Nov 14, 2008

<http://www.vz.ru/news/2008/11/6/226551.html>

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:

The Code of Civil Procedure has made this possible since July 2002.

Although 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 access to information is denied.

References:

Code of Civil Procedure, Articles 254-258

Law on Mass Media and Articles 24, 58

Code of Civil Procedure, Article 206

Code of Administrative Offenses, Article 5.39

Criminal Code, Article 140

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 European Union 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). 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. Both Russian and foreign citizens can buy numerous databases on Moscow real estate (who owns what in Moscow), taxes, 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, you get it, provided you can afford it. Most are pretty cheap, starting at about 200 Rubles (US\$7); some are very

References:

Siberian Press Development Institute, <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?

50

13a. In practice, citizens receive responses to access to information requests within a reasonable time period.

Comments:

In the regions where Freedom of Information legislation exists, the law gives public officials 30 days to provide the requested information. If some additional bodies (besides regional) 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, receiving a response to information requests within a reasonable time period is not possible.

An interesting study by Dr. D. Sivovolov, senior lecturer, Department of Sociology and Social Technologies for Management, Ural State Technical University (UPI), about modernizing state governance when establishing an information society was published in September 2008. Governmental information resources open great possibilities for a dialog, but citizens have access only to official monologs.

Why are public officials so eager to keep their records in secret? Only because they don't want to inform the public of their activities? Or because they want to use this information for their personal profit? What can a governmental official theoretically sell? He or she may possess something essential that can easily be sold: information. Does an information market exist?

Updated personal databases are always on sale. Thus, the right of Russians to protect personal data accumulated by governmental agencies is actively discussed. Journalists think that the state of affairs is far from good.

In October 2007, the judicial department of the Supreme Court admitted that no criminal cases had been initiated since 2005 on a charge of unlawful refusal to give information as if there were no information accessibility problem in Russia. According to law, a public official who fails to respond to a request for information filed by a citizen should be punished. However, the existing legislation doesn't provide such a norm. The Law on Civil Service states that a guilty public official can be disciplined: reprimanded and even fined (see more here). In July 2008, a group of deputies introduced a draft law to fix this loophole, but they were not supported by the State Duma.

Online contact with authorities has become more and more popular among Russians. Experts from the Romir research holding company reported on how efficient this kind of interaction between citizens and governmental agencies can be.

In 2006 and 2007, Novaya Gazeta tried to get information from Onishchenko, head of Rospotrebnadzor (Russian Agency of Protection of Consumer Rights) on a number of topics under the agency's jurisdiction. Onishchenko failed to reply four times, ignoring the newspaper's requests completely. It went to court, and Moscow judge T. Fedosova in July 2008 ruled, quite contrary to the Law on Media, that Rospotrebnadzor is not obliged to respond to requests a newspaper could seek elsewhere.

References:

Glass Half Full or Half Empty? National Report on Freedom of Information in Russia: Mutual Misunderstanding," National Report on Freedom of Information in Russia. Oct. 9, 2008, http://www.freedominfo.org/documents/russia_report_summary.pdf

Study of issues of state governance modernizing in Russia when establishing an informational society, D.V.Sivovolov, senior lecturer, Department of Sociology and Social Technologies for Management, Ural State Technical University

http://www.nytimes.com/2007/10/27/world/europe/27pavlov.html?_r=3&oref=slogin&oref=slogin&oref=slogin

<http://chinovnik.uapa.ru/modern/article.php?id=787>

Article, Anastasiya Pestova, Institute for Freedom of Information Development, <http://www.svobodainfo.org/info/page/eng?tid=633200090&nd=458213029>

Article, Dmitriy Harchenko, Kommersant daily, Feb. 11, 2008, <http://www.kommersant.ru/doc-y.aspx?DocsID=850453>

<http://www.moscowtimes.ru/article/1010/42/362275.htm>

<http://www.newizv.ru/news/2008-04-29/89458/>

<http://www.newizv.ru/news/2008-08-26/96698/>

<http://www.newizv.ru/news/2008-07-01/93018/>

<http://www.newizv.ru/news/2008-07-01/93018/>

ITAR-TASS news agency, June 11, 2008, <http://www.itartass.ur.ru/analit/inquest/?id=496>

What interaction between a citizen and a Moscow city officials should look like, http://www.ng.ru/moscow/2008-06-11/8_info.html

Law on Media, Article 39

<http://www.novayagazeta.ru/data/2008/52/00.html>

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 freedom of information legislation exists, 10 pages of printed data are free. The rest depends on local department policy: It usually costs a few rubles per page or a price comparable to similar services provided by public libraries and archives.

Due to the absence of a proper mechanism on the federal level, receiving a response to information requests for any legal fee is not possible. However, some information may be provided, especially to journalists, for free.

According to the report, access to information is ensured in practice exclusively by commercial organizations, such as Kodex, Garant, Konsultant Plus and others, which provide access to databases of legal information. They charge fees for the information, which sometimes is a serious obstacle for citizens.

References:

Glass Half Full or Half Empty? National Report on Freedom of Information in Russia: Mutual Misunderstanding," National Report on Freedom of Information in Russia. Oct. 9, 2008, http://www.freedominfo.org/documents/russia_report_summary.pdf

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 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 state and local bodies require only a citizens' request.

References:

Glass Half Full or Half Empty? National Report on Freedom of Information in Russia: Mutual Misunderstanding," National Report on Freedom of Information in Russia. Oct. 9, 2008, http://www.freedominfo.org/documents/russia_report_summary.pdf

Access to Information report, Marina Savintseva, program coordinator of Access to Information program at Transparency International Russia, http://www.transparency.org.ru/doc/ACCESS_TO_INFORMATION_IN_RUSSIA_2006_01252_6.doc

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:

According to Pestova, the judicial department of the Supreme Court acts as though there is no information accessibility problem in Russia. The department says that no criminal cases based on a charge of unlawful refusal to give information have been initiated since 2005.

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:

Glass Half Full or Half Empty? National Report on Freedom of Information in Russia: Mutual Misunderstanding," National Report on Freedom of Information in Russia. Oct. 9, 2008, http://www.freedominfo.org/documents/russia_report_summary.pdf

Access to Information report, Marina Savintseva, program coordinator of Access to Information program at Transparency International Russia, http://www.transparency.org.ru/doc/ACCESS_TO_INFORMATION_IN_RUSSIA_2006_01252_6.doc

Where nothing is, nothing can be had?, by Anastasia Pestova, Oct. 23, 2007, <http://www.svobodainfo.org/info/page/eng?tid=633200090&nd=458207821>

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 law. Nizhnii Novgorod freedom of information states that a citizen can receive even partially classified information, provided all classified data is deleted.

Existing Russian national law establishes the right of any interested persons to have free access to any information about the activities of government organs. However, entities implementing the law often do not fully recognize the right of citizens to access information. One of the main reasons for the gap between the law and the practice is the absence of a mechanism to acknowledge and protect citizen's right of access defined by the federal law. Therefore, the norms established by federal, to some extent, have only declaratory character.

In regards to limiting access to information, the existing law has a number of substantial deficiencies, which need to be remedied by legislative measures. In particular, the law on state and business secrets has provisions that contradict the norms of the Constitution. In accordance with existing law, the right to free access to information about the work of government organs is limited with regard to that part of information that is classified as state secret or business secret by the federal law. The non-

transparent procedures for classifying information, which are established by current laws, in practice, allow the situation in which massive blocs of socially important information is left inaccessible in the shadow of state secrets.

References:

National Report on Freedom of Information in Russia: Mutual Misunderstanding”, the National Report on Freedom of Information in Russia, http://www.freedominfo.org/documents/russia_report_summary.pdf

“Access to Information,” report by Marina Savintseva, program coordinator of the Access to Information program at Transparency International Russia, http://www.transparency.org.ru/doc/ACCESS_TO_INFORMATION_IN_RUSSIA_2006_01252_6.doc

Decree of the President of Russian Federation: List of Information of a Confidential Character, March 1997

Law on State Secret, 2003

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. ⁷⁸Voting & 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.

The Constitution makes no mention of a minimal threshold for voter turnout. This standard is set in legislation: 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 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 supports 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 to 15 percent who are active opponents of the authorities, an election could be considered invalid.

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.

There were other, no less important changes. The presidential election of 2008 followed 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 number 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 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. Central Election Commission 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 major novelty in the recent campaign was the introduction of a proportional electoral system — also known as the party lists system — which requires candidates to run on a registered party list, in contrast to a majoritarian system, which 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 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.

Amendments to electoral legislation have made registration of parties more difficult. Parties have to divide their lists of candidates into sub-regional 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 in this manner: 31 percent of all submitted lists, compared to 10 percent last summer. The primary obstacles to registration were high bond amounts (90 million rubles (US\$2.7 million) in St. Petersburg — an all-time record) and trickery (practically all political parties that collected signatures had their candidate lists rejected).

Another nuance: Participants of the political process were not permitted to counter-campaign in this election. Fears that criticism of opponents might be taken for extremism encouraged unprecedented use of dirty campaign tactics.

Compared to the Duma elections of 2003, the number of parties decreased almost threefold. Four years ago, 44 political parties were allowed to run in the elections, and 23 parties and blocks were included in the ballots. With the exception of United Russia and A Just Russia, just about every political party that has tried to register for the parliamentary elections scheduled for March in 14 regions across the country have run into difficulties. Opposition parties have been barred from races in a number of regions in what analysts call an attempt by local authorities to settle score with dissident groups and demonstrate their loyalty to the Kremlin.

References:

Constitution, 1993, Chapter 2

CEC to Announce Number of Parties to Run in Duma Polls," ITAR-TASS news agency, Sept. 5, 2007

"Battling to Get Back on Ballot," Nabi Abdullaev and Galina Stolyarova, Moscow Times daily, Jan. 30, 2007

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:

Presidential elections must be held on the second Sunday of the month in which the previous presidential elections were held. If the designated Sunday follows a national holiday, elections shall take place a week earlier. In 2008, the second Sunday of March followed International Women's Day, March 8, so the elections were held on March 2.

The post of a president elected in a universal vote was established in Russia in a nationwide referendum of March 17, 1991. The Constitution says that the Russian president shall be elected for the period of four years through a universal, equal, direct and secret vote. Any Russian citizen older than 35, who has permanently lived in the country for no less than a decade, can be elected president. One and the same person cannot have more than two terms of presidency in a row.

The election is held nationwide by the majority system and may have two rounds. However, regional authorities can ask the Central Election Commission to change the election date for certain reasons, most often, to combine a federal and a local election.

References:

Russian Constitution, 1993, Chapter 2

Law on Presidential Elections

Over 15 Million Rubles Transferred to Medvedev's Election Fund, Itar-Tass news agency, Jan. 13, 2008

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?

83

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

100 | 75 | 50 | 25 | 0

Comments:

Yes, this is guaranteed by the Constitution.

The Central Electoral Commission (CEC) estimated the population of Russia at 107 million in early August 2007. In theory, the figure should only comprise citizens of the Russian Federation aged 18 and over, 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 in 2007. 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 million to 110.7 million in the first half of 2003, and then fell again to 108.9 million by the election in December, but Vladimir Putin was elected 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 data released by the State Statistics Committee, however, the population of the Russian Federation dropped by 175,000 in 2007. Does this mean that the decline in population has 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 Russians who are not supposed to vote because they are classified as inadequate or because they are serving time in colonies. The Federal Penitentiary Service estimates the number of prisoners in Russia at 716,000.

There were many reported cases of citizens voting under constraint: students, army conscripts, employees of state bodies, etc.

"In Novosibirsk a voter reported on behalf of his colleagues that a manager of an enterprise refused to pay February wages, demanding that everyone go to vote and then report to him," Public Chamber member Andrey Przhezdomskiy was said on Russian Ren TV on March 2, 2008. Central Elections Commission chief Vladimir Churov said on March 4 that his commission was aware of "blatant" incidents of students and employees being pressured to vote in Sunday's presidential election.

"Unfortunately, administrators at various levels from dormitory supervisors to heads of large companies have their own understanding of the meaning of the phrase 'awareness creation,'" Churov told a news conference, Itar-Tass reported. Alexander Kynev, deputy head of Golos, the only independent Russian election-monitoring group, told reporters that his organization was contacted by students complaining that they had been threatened with eviction from their dormitories if they did not vote. Several voters called Golos' hotline and said they were forced to obtain absentee ballots and vote at polling stations set up on their work premises, he added. Churov said he had information that students living in dormitories were threatened with being moved to a worse room if they did not vote.

References:

Constitution of Russia, Article 32

Federal Law on Basic Guarantees of Electoral Rights and the Rights of Citizens of the Russian Federation to Participate in a Referendum, 2002, http://www.adhmaro.ru/power/izcom/zacon/zac_gar/zac_gar.htm

<http://www.nr2.ru/ekb/160217.html>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/02/27/142432>

<http://www.newizv.ru/news/2008-02-19/84879/>; <http://www.strana.ru/doc.html?id=91062>

First Complaints of Violations in Russian Presidential Poll Reported," BBC Monitoring, March 3, 2008

"Elections Chief Acknowledges Violations," The Moscow Times daily, March 5, 2008, <http://www.themoscowtimes.com/stories/2008/03/05/016.html>

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 the opposition regularly complains about. Ballots are at the disposal of local election commissions, usually controlled by local authorities, so the former allegedly abuse their position to manipulate the results.

The introduction of mass application of absentee voting certificates (almost 2.4 million) in the December 2007 parliamentary election was a clear attempt to influence and manipulate the voting process.

During the Putin administration, so-called administrative resource" became the main instrument used to provide the necessary election results. The authorities are involved in vote-rigging all over the country, from Dagestan to Moscow oblast. Lack of independent election observers makes it only easier.

In North Caucasus republic of Ingushetiya, the opposition organized a protest campaign, "I didn't vote," during the December 2007 parliamentary campaign. According to the campaign leaders, 54 percent (90,000 voters signed statements refusing to vote) of registered voters participated in this protest. However, republican leaders reported that 98 percent of voters did vote and that the vast majority of them cast their votes for Edinaya Rossiya political party (the ruling party). All these statements were taken to Moscow and passed to the Prosecutor General's Office. The Republican election commission didn't receive a single complaint.

By law, the precinct electoral commission the one that actually holds the election issues the ballots and counts the votes is not empowered to invalidate the results of the voting in the precinct under any circumstances, regardless of violations that may have been committed. Superior commissions are more capable of judging the credibility of voting results. If there are more ballots in the mobile ballot box than there should be, the law requires that all the ballots in that box be invalidated. If the permanent ballot box contains 10 times as many ballots as the number issued in the precinct, however, all of them are deemed valid. The official record of these "voting results" is valid, and superior commissions know what to do with the extra votes.

The Criminal Code sets a penalty of up to three years in prison for the illegal production of election ballots and the storage or transport of illegally produced election ballots. It sets no penalty, however, for the issuance of fake precinct release forms and the use of these forms to vote more than once. Each fake release form is exchanged for a real ballot, however, and a bus loaded with "repeat voters" with a supply of fake precinct release forms can make the rounds of dozens of election precincts on election day. And this cannot be noticed by observers in the precinct or by honest members of electoral commissions.

The law does not require proof of this "accuracy" of recounts. By law, protests of observers citing figures from the original "erroneous" record of voting results can be ignored. And an honest commission member who protests violations he witnessed does not even have the right to petition the court.

Complaints about the falsification of results by electoral commissions can be filed only by electoral commissions as collective bodies and by no one else. Election legislation spells out the procedures for the performance of many actions, but there is no penalty for their violation. As the chairman of the Central Electoral Commission frankly told the Supreme Court in 2004, "A violation is something for which a penalty has been set." He implied that statutes do not have to be observed if there is no penalty, and the court tacitly agreed with her. Given this view of the law and its provisions, these are not statutes at all.

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Recordnye pokazateli neyavki," Musa Muradov, Victor Khamradov, Kommersant daily, Jan.16, 2008, <http://www.kommersant.ru/doc.aspx?DocsID=842411&NodesID=2>

On this and other similar violations during State Duma December 2007 and presidential March 2008 campaigns: <http://www.novayagazeta.ru/data/2008/83/27.html>

Civil Code, Section 259

"The Regime's Victories Are Always Legal," Leonid Kirichenko, expert on election law, Nezavisimaya Gazeta daily, Jan. 18, 2007

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, regional authorities can ask the Central Election Commission to change the election date for certain reasons, most often, to combine a federal and a local election.

References:

Russian Federal Law on Presidential Elections in the Russian Federation, 2003, http://www.adhmmao.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?

60

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

YES | NO

References:

Russian Constitution, 1993, Chapter 2

Federal Law on Political Parties, 2001

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

References:

Russian Constitution, 1993, Chapter 2, Article 32

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 establish a new party, 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 on the 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 said.

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.

Under the latest reading of the law on political parties, a political party must 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 that 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.

It was not the only party that suffered under the new legislation. Electoral officials also barred The Other Russia from participating in State Duma elections. As expected, the Central Elections Commission (CEC) declined to register a candidate list submitted by the opposition alliance, spokeswoman Lyudmila Mamina said. The group, which united liberals, leftists and nationalists opposed to then President Vladimir Putin's policies, had submitted papers 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. Only registered parties could take part in the Dec. 2, 2008 vote. Kasparov is the driving force behind The Other Russia, and it elected him as its candidate for the March 2008 Presidential election.

The new demands left but 14 political parties in Russia. The latest developments will leave even fewer than that before long. The Agrarian Party, URF, Civil Force, Democratic Party and Social Justice Party are about to succumb to mergers or absorptions and therefore to become history. A similar lot probably awaits the Green Party. All of that will leave but 9 political parties in Russia.

Some specialists expect only six political parties to survive long enough to participate in the next federal parliamentary election, 4 of which will be represented in the Duma; and Yabloko, and the medley crew of the Union of Right Forces, Civil Power and Democratic Party activists. The Kremlin has already engineered replacement of leadership in all three structures earmarked for the merger so that they are run by more loyal figures. Absolutely loyal Leonid Gozman replaced Nikita Belykh in the Union of Right Forces, Mikhail Barshevsky was ousted from Civil Power in favor of Boris Titov (leader of the Business Russia association), and journalist Georgy Bovt (associated with Vladislav Surkov of the Kremlin) is the new Democratic Party leader instead of Andrei Bogdanov.

All other political parties are offered a choice: self-disbandment or absorption by some larger structure. Gennadi Seleznev's Russian Revival Party was liquidated in July 2008. Sazhi Umalotova's Party of Peace and Unity and Sergei Baburin's People's Union will follow suit next year. The rest will be told in no uncertain terms to stop fooling around and merge with the authorized" political structures.

Aleksei Podberezkin's Social Justice Party has already voted to merge with Fair Russia. Gennadi Semigin's Russian Patriots and the Green Party were instructed to ask Fair Russia for absorption too. The latter had initially aspired to absorption by United Russia, only to be told that it was not nearly as significant as it thought itself to be and should therefore be content with Fair Russia. The Agrarian Party is the only more or less formidable political structure United Russia wanted for its own. It even has a leverage with the agrarians' leader Plotnikov.

When Plotnikov ceased being a Duma deputy, he was expected to vacate the apartment on Ulof Palme Street in central Moscow and return to his native settlement of Gusevka, not far from Uryupinsk. To say that Plotnikov loathed the idea is to say nothing at all. United Russia then made him an offer. Plotnikov became official aide to Oleg Morozov's Duma Senior Deputy Chairman and in this capacity retained the apartment in Moscow in return for Agrarian Party's merger with Fair Russia. It is up to the Agrarian Party convention now.

With the adoption of the current party legislation, the creation of new parties is in practice 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 such as underground parties of authoritarian regimes, are effective if they have at least 1 party member for every 10,000 citizens.

All efforts to establish a new political organization are inevitably frustrated. People's Democratic Union leader Mikhail Kasianov complained to the European Court for Human Rights when Russian authorities denied registration to his new political party (People for Democracy and Justice). Running down the 56,000 members of the would-be party followers submitted documents on, the authorities discovered 37 people who could not be on any lists at all (some had been dead for years, others were juveniles). So registration was denied. As a matter of fact, the Great Russia party was denied official registration on similar grounds. Denis Bilunov, executive director of the United Civil Front, considered the reduction of the number of parties "a wholly logical process."

Stanislav Belkovsky of the National Strategy Institute remains stone-cold confident that the authorities are out to accomplish the same old end of establishing a bipartisan system. United Russia will occupy the right flank of the political spectrum in this system, and the left flank will be reserved for some amalgamation of the CPRF and Fair Russia. This merger would have been engineered already but for the apparent weakness of Fair Russia. As for all others, Belkovsky said they could become political forces to be reckoned with only in an alliance with parts of the elite, "which is possible, in theory, due to the financial crisis under way."

Another serious obstacle in forming an independent political party is funding. The opposition is now 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, with 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. 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.

In short, burdensome registration requirements are not being fairly applied. The major problem is that opposition parties are small, fragmented and weak. Accordingly, it is easy to discriminate against them. But there are still a large number of political parties in Russia. The major problem, along with the ability to form political parties, is the conduct of meaningful opposition politics.

Whatever political parties may be called "independent" do what they can to retain official registration, which enables them to remain on the legal political terrain. Experts meanwhile warn that the financial crisis the country is sinking into may have its effect on the Russian politics too.

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Six Political Parties Out of 15," Mikhail Tulskey, Argumenty Nedeli weekly, No. 41, October 2008

System of Several Parties," Yevgenia Zubchenko, Novye Izvestia daily, Oct. 7, 2008

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.

100 | 75 | 50 | 25 | 0

Comments:

Golos (Vote or Voice), a nongovernmental election-monitoring organization, released on its first monitoring results for Russia's current presidential campaign on Feb.5, 2008.

According to Golos, the rights of would-be presidential candidates have been violated ever since the Central Electoral Commission (CEC) started accepting applications for registration.

For example, the law says that presidential candidates must have lived in Russia for at least ten years," said Golos analyst Alexander Kynev, regional programs director at the Information Policy Development Foundation. "In the case of candidate Vladimir Bukovsky, a court interpreted this requirement in a way that was not in Bukovsky's favor, stating that a candidate must have been a permanent resident of Russia for the ten years immediately prior to the election."

According to Kynev, party candidates and independents obviously didn't receive equal treatment. Independents were faced with the task of collecting 2 million signatures during the New Year holiday season and proving that at least 95% of those signatures were real and in order.

The law now requires a non-party candidate to collect 2 million signatures in one month, with less than 5 percent spoilage; the previous law required 1 million signatures with a 25 percent allowable spoilage. Furthermore, a reduction in the number of viable political parties means fewer individuals can be nominated as party candidates and must instead overcome the higher barriers for non-party candidates.

"Of 80,260 signatures collected in support of Mikhail Kasyanov, most were faulty due to the negligence of regional notaries or errors in filling out signature collection forms," said Andrei Buzin, chairman of the Inter-Regional Voter Association.

"The denial of registration was quite predictable," political scientist Dmitry Oreshkin told Interfax on Jan. 27, 2008. "It was clear that he would be barred the moment he submitted the signatures. The election is turning into a demonstration of loyalty to the federal center by the regional elites. The possibility of current authorities' emerging a loser is nil," he added.

Finally, the report notes the lack of time between the Duma and presidential elections rushed the nominating process and hampered the ability of non-party candidates to meet required deadlines, providing another avenue to prevent non-party candidates from registering.

Together these factors have limited the number of presidential candidates able to register for the election. As a result, Golos reports that the contest was the least representative and least competitive race since presidential elections were introduced in 1991.

Along with Dimitry Medvedev, who was nominated by the pro-Kremlin United Russia party and was backed by then President Vladimir Putin, three other candidates were registered by the commission. These included Communist leader Gennady Zyuganov and Liberal Democratic Party head Vladimir Zhirinovskiy, both of whose parties' nominations meant that they did not have to gather signatures.

But even if Kasyanov were allowed to run, he would not have achieved much, given that his popularity is around 1 percent. Such a low popularity rating among candidates who try to pose a genuine challenge to the Kremlin is the result of the Kremlin's manipulation of public opinion, consolidating power and stifling political competition. These actions have made free and fair election campaigns impossible in Russia for years to come, and no international observers can change that.

The use of what are euphemistically called "administrative measures" by Russian officials, including official pressure and outright fraud, to guarantee that elections yield the results the government wants is rapidly spreading from the national level to the lowest, local municipal assemblies. Anastasiya Karimova, a Kommersant correspondent, describes what happened to her when she ran for the municipal assembly in Moscow's Basman district on March 2, 2008, an experience she says provided her with some "priceless" lessons on the nature of Russian politics.

Authorities also coerced advertisers into giving billboard space to United Russia ahead of the March 2, 2008, presidential election, executives with two ad firms said. United Russia was backing Medvedev. The executives said that local officials demanded billboard space at below-market rates, exploiting the firms' fears of reprisals if they refuse to comply. Medvedev's campaign team and the pro-Kremlin United Russia party, which spearheaded his campaign, denied involvement, while officials in the regions concerned declined to comment.

Golos said that a majority of the violations occurred not at the ballot box, but rather in the run-up to the election and during the tallying of votes. Authorities, meanwhile, either denied any voting irregularities or dismissed them as negligible.

"These are free and democratic elections, and they were preceded by a free and democratic campaign," Kremlin spokesman Dmitry Peskov said on March 2, 2008.

Numerous observers and voters called the Golos hotline and reported incidents of ballot boxes being stuffed ahead of the vote, according to the election watchdog's web site, which was being updated with fresh allegations of fraud all day March 2, 2008.

"Most fraud occurs when election officials compile lists of voters, including people who are not eligible to vote in their district," Golos head Lilia Shibanova said. Observers at polling stations simply cannot distinguish repeat voters who visit numerous polling stations to cast ballots for a candidate backed by authorities from real voters, Shibanova said.

Roman Udot, an independent observer, told The Moscow Times that a less subtle approach was used at Polling Station No. 1513 in the Pechatniki district in southeast Moscow. He said he peered through the slots of both the sealed ballot boxes at the polling station and saw neatly stacked ballots, despite the fact that voting had not yet begun. The top ballot in each stack had a mark next to Medvedev's name, Udot said. He managed to take a photograph of the stack of ballots in one of the boxes and posted the pictures on his blog, romanik.livejournal.com. The photographs appear to support his

claim. "I reported this to the election officials," Udot said in a telephone interview. "I called police, and they came here for a while. What drives me nuts is that no one cares or takes any action."

City elections commission officials from the opposition party Yabloko were investigating Udot's claim, the party said.

A city police spokesman said there were no incidents of police being called to polling stations over purported fraud.

Election officials later disqualified the ballots in question, Udot said. "There was a real crime committed here that now will turn into a minor irregularity," he said.

The liberal Union of Right Forces party reported a similar case of ballot stuffing in central Moscow and filed a report with city prosecutors, the party said. Employees in state-run institutions also said in interviews that they had been bribed or pressured to vote by their bosses. Doctors were also ordered to keep patients at the hospital until Monday, regardless of medical necessity, so they could vote there.

The staff of a children's outpatient clinic in St Petersburg was not paid bonuses because not all of them had taken absentee ballot papers as instructed by the clinic's administration, radio Ekho Moskvy reported on March 2, 2008.

A 22-member observer mission from the Parliamentary Assembly of the Council of Europe (PACE) concluded that the "flaws" it noted during the December parliamentary election had been repeated. "Candidate registration concerns could not have been accommodated, putting into question the degree of how fair the election was," PACE said in a statement on its website.

The European Union sent President-elect Dmitry Medvedev barbed congratulations on his election, saying the poll had been smoothly carried out but had not been truly competitive.

"The EU also regrets that the electoral process did not allow for truly competitive elections," said a statement issued on March 4, 2008.

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"Abuse Is Universal," Natalia Rozhkova, Vremya Novostei daily, July 31, 2008

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. A system of party lists may discourage or prevent independent 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.

100 | 75 | 50 | 25 | 0

Comments:

The opposition is represented in the State Duma only by the Communist Party of the Russian Federation. Two other major rivals, Union of Right Forces (SPS) and Yabloko Party, lost the vote in December 2003 parliamentary election. In a series of amendments to 13 election-related laws, on July 6, 2005 the lower house gave its final approval to rules requiring parliamentary deputies to be elected from official party lists, blocking seats for parties that fail to attract 7 percent of the vote and prohibiting the formation of electoral blocs and factions.

The new law went into effect on January 1, 2006. Opposition leaders said the election-law reform package could disenfranchise millions of voters who would be unrepresented in Parliament. Proponents of the reforms say Russia's fledgling democracy needs a boost to its party system if it is to thrive. Although marginal blocs and parties might be weeded out, the new rules 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\$55.3 million), they also raise the ceiling on campaign budgets, which opposition parties called another advantage for United Russia.

The amendments introduced electronic voting systems in some areas, which opposition parties fear might be easily manipulated. The amendments 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 to multiple polling stations voting for the same candidate.

Vladimir Ryzhkov, a prominent independent politician, said, "The Kremlin has taken into account the Ukrainian experience."

Even Alexander Ivanchenko, head of the Central Electoral Commission from 1996 to 1999 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 either to pay a US\$2 million bond or to 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 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."

Ivanchenko added that 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 Kryshtanovskaya. "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 candidate 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, former 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 when addressing the Duma in July 2006. "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 to 4 million voters whom we can lose," Veshnyakov said on state-owned Radio Rossii radio station. Despite Veshnyakov's critical remarks, the Duma still passed all the changes to the electoral rules.

This is not all. The Duma is beginning to emulate Kremlin's and Russian White House's model of the dialogue between newsmakers and the media. Even pro-Kremlin Liberal Democrats (LDPR) grumble. LDPR leader Vladimir Zhirinovskiy accused Duma Chairman Boris Gryzlov of installing overseers who monitor lawmakers themselves and press representatives. The plenary meeting chairman is now permitted to restrict the number of speakers on any given subject from every faction to a single lawmaker. Needless to say, this rule affects the opposition.

Currently, three political parties formally represent the opposition in the current State Duma: the Communist Party, Fair Russia and the Liberal Democratic Party of Russia. Six committees of 32 are chaired by representatives of opposition, but all of them are of minor importance.

Of 450 deputies of the State Duma, 315 belong to the Edinaya Rossiya political party fraction, which gives that party a constitutional majority at the national legislature.

References:

Various Russian media reports

Whip and Overseers," Rustem Falyakhov, RBK Daily news agency, April 17, 2008

http://www.ng.ru/politics/2008-12-01/1_transperency.html

<http://www.klerk.ru/more/?95858>

<http://www.vremya.ru/2008/3/4/195640.html>

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

18. Is the election monitoring agency effective?

60

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

YES | NO

Comments:

In law, yes. But reality is different. The fact that the chairman of the commission is appointed by the government makes him dependent on the authorities.

In February 2008, the Central Election Commission (CEC) appointed a working group that was in charge of deciding the results of March 2008 presidential election. All members of this group belonged to Edinaya Rossiya, the ruling political party. Representatives of other political parties at CEC were kept out of its activities.

References:

Russian Constitution, 1993

Votes in the Hands of Bears," Anastasiya Kornya, Vedomosti daily, Feb. 27, 2008, <http://www.vedomosti.ru/newspaper/article.shtml?2008/02/27/142434>

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.

100 | 75 | 50 | 25 | 0

Comments:

Formally yes. In practice, bodies of regional election commissions include representatives of the parties. Since only one opposition party – the Communist Party of the Russian Federation – is more or less represented in the vast majority of Russian regions, 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 are now presidential appointees makes it easier for the Kremlin to manipulate election commissions. In theory impartial, they run local elections, and half their members are nominated by the governor.

"During the Central Election Commission's (CEC) past two terms – when I was not a CEC member – the executive branch has come to dominate the electoral process, and this dominance has intensified as Parliament's powers have been reduced," Alexander Ivanchenko, former chairman of CEC and now head of the Independent Institute of Elections, said in an interview. "This has also had an impact on the CEC's personnel configuration. The electoral system has been switched to manual control. This 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. It has 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 mean adjusting the electoral system to suit the needs of one particular party."

Members of the Central Electoral Commission frequently and readily discuss the penalties for election rigging, but they never say that according to the law on guarantees of citizens' electoral rights (Section 29), an electoral commission member may not be charged with a crime or even fined for election rigging or any other crime without the consent of the procurator general or the procurator of the component of the Russian Federation.

References:

Interview with Alexander Ivanchenko, former chairman of the Central Electoral Commission (CEC)

People Are Well Aware That Elections Are Being Taken Away From Us," Irina Nagornykh, Kommersant-Vlast weekly, No. 4, Feb. 5, 2007

On political interference with regional election commissions selection, see "Election Commissions for Choice," Alexandra Larintzeva, Victor Khamraev, Irina Nagornykh, Kommersant daily, Aug. 7, 2007, <http://www.kommersant.ru/doc.aspx?DocID=793496&NodesID=2>

There are two election commissions in Stavropol Krai (South Russia), one selected by the Central Election Commission, and the other one, appointed by the local legislature.

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

"The Regime's Victories Are Always Legal," Leonid Kirichenko, expert on election law, Nezavisimaya Gazeta daily, Jan. 18, 2007

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 CEC's staff largely consists of professional lawyers. A new provision of the law establishes a mandatory requirement that the chairman 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.

After the 2008 presidential campaign, the CEC paid approximately \$40 million in bonuses to election commissions (mostly senior officials). Payments amounted to 200 percent of election commission employees' wages. Many officials were awarded medals. The opposition pointed out that quite often, those who encouraged the officials were accused of being in violation of election legislation.

References:

Interview with Andrei Buzin, chairman of the Inter-Regional Voter Association, http://www.gazeta.ru/comments/2008/03/05_x_2658365.shtml

Over the limit election," Anastaiya Kornya, Vedomosti daily, May 7, 2008, <http://www.vedomosti.ru/newspaper/article.shtml?2008/05/07/147804>,

<http://www.vedomosti.ru/newspaper/article.shtml?2008/05/29/149768>

http://www.gazeta.ru/politics/2008/08/05_a_2801864.shtml

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 the Central Election Commission (CEC) was appointed, he prohibited CEC members from meeting with journalists and discussing its decisions with them.

On March 7, 2008, the CEC summed up the results of the March 2, 2008, presidential election. Contrary to law, it didn't see into any of 220 complaints filed with it. Regional commissions did the same. Most complaints came from Communist Party and almost all of them deal with violations of electoral law committed by local election commissions. The CEC decided to forward all these complaints to the regional election commissions, according Deputy Chairman of the CEC Stanislav Vavilov.

This is a vicious circle, according to Andrei Buzin, because regional election commissions have already approved the results of the election and review them can only a court.

The CEC summed up the results of the Dec. 2, 2007, parliamentary election on Dec. 8, even though the law allowed to do it within two weeks. The CEC decided to review none of the 126 complaints the on the grounds of their weakness," according to Vavilov.

Meanwhile, the CEC is restricting access by journalists to CEC headquarters and its members. In July 2008, the CEC's press-service was completely changed: Everyone hired by Churov's predecessor was fired and new personnel hired.

References:

http://www.cikrf.ru/politparty/finance/svodn_otchet_07.jsp

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

Obzhalovaniyu ne podlezhit," Anastasiya Kornya and Nataliya Kostenko, Vedomosti daily, March 8, 2008, <http://www.vedomosti.ru/newspaper/article.shtml?2008/03/07/143154>.

<http://www.vedomosti.ru/newspaper/article.shtml?2008/03/21/144065>

For information on access to information on past elections available on CEC and other official and semi-official websites, see a very interesting article by Alexander Kynev, regional programs director at the Information Policy Development Foundation, http://www.gazeta.ru/comments/2008/08/31_x_2827308.shtml

Starting July 2008, all information on elections in Russia prior to September 2003 was removed from CEC's website "due to technical reasons", as Vladimir Churov, chairman of the CEC explained, <http://www.kommersant.ru/doc.aspx?DocsID=1027137;http://www.novayagazeta.ru/data/2008/72/16.html>

http://www.ng.ru/politics/2008-07-24/3_journalists.html

http://www.gazeta.ru/politics/2008/07/16_a_2784297.shtml

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 or candidate is illegal for another. In general, the wrath of the election commissions is almost always aimed at rival parties, both before and during the election cycle. For example, in October 2007, the Petrazavodsk regional election commission warned a local branch of the Yabloko party about targeting voters something that the chairman of the St. Petersburg City Legislature, a member of Edinaya Rossiya party, had been practicing since 2003 on a much larger scale and without any warning from local election commission or law enforcement. 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 have had their candidate lists registered in all 14 regions.

The CEC created a special media monitoring body for December 2007 State Duma and 2008 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 Aug. 6, 2007. The body will be part of the newly formed Instruction Center for Election Technologies, headed by Alexander Ivanchenko, former head of the CEC. Ivanchenko stressed that the body did not have the ability to punish those in violation.

A slightly removed but still related topic is how the CEC is planning to obtain the data on violations of election legislation and how media and civil society can assist the commission. Instead, more than 20 non-governmental public organizations (NGOs) united 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 200 was to monitor the whole election process, both for the regional parliamentary and the State Duma election in 2007. In each region where an election took place, local public organizations followed the course of campaigning and voting, and reported all their findings to Right to Choose.

Aleksandr Auzan, president of the institute for the public project Public Treaty, believes all is not lost. The Russian electoral system is dying, he said. Public control as such is not envisaged by the law. It does exist, but only via party representatives. Our task is to work on preventive action among other things: to monitor the pre-election situation, to expose what happens beforehand and 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. By July 2007, there were 29 NGOs that plan to monitor the elections. However, by October 2007, this organization had ceased its activities, which came as an unpleasant surprise even for some of its members. All the traces of its existence have been erased. Thus, journalists were unable to find the Civil Pool pages on the Internet. All references to it automatically are switched to the presidential council site.

Aleksandr Auzan, also head of the Social Accord National Project Institute, which was 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 made on Oct. 1, the day that Vladimir Putin declared he had agreed to head the United Russia list.

"What was the Civil Pool meant for?" Auzan asked. "We were trying to rescue the dying Russian electoral system, proceeding from the position that President Putin 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, we thought that we would be able to bring about dissolution of the regional electoral commissions where there were obvious violations in the spring elections and that we could have sanctions imposed on television and radio companies that violated the legislation. 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 Oct. 1, it became obvious to pool members that the situation had changed radically. By that evening, they had begun to consult, and on Oct. 2, a resolution on self-dissolution was made. 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.

There were other opinions, however. According to Auzan, Sergey Borisov, head of coalition member OPORA and who was personally invited by Vladimir Putin to head the "party of power" United Russia Congress, considers it necessary to continue to observe the elections.

The number of public coalitions 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 civil society efforts to act as a united front against violations of the law during the forthcoming elections. It should be noted that with the amendment to the electoral legislation during the last two years, 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 became clear that public association forces were 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, also moved away from its initial idea of observing and distanced itself as far as possible from independent public observers.

Andrey Przhezdonskiy, the foundation's head, allegedly received a grant to organize a hotline during the elections, after which a couple of organizations that were to 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.

Russian NGOs worked with the Central Elections Commission (CEC) to prevent violations of election laws during the upcoming parliamentary election campaign. "An agreement has been signed with CEC Chairman Churov) 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 Przhezdonskiy, 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 were set up in the centers of all federal districts starting on September 17, he said.

On March 7, 2008, the CEC summed up the results of the March 2, 2008, presidential election. Contrary to law, it didn't see into any of 220 complaints filed with it. Regional commissions did the same. Most of the complaints came from Communist Party, and almost all of them dealt with violations of electoral law committed by local election commissions. The CEC decided to forward all these complaints to the regional election commissions, according Deputy Chairman of CEC Stanislav Vavilov.

The CEC summed up the results of the December 2, 2007, parliamentary election on December 8, even though the law allowed to do it within two weeks. The CEC decide to review none of the 126 complaints on the ground of their "weakness," according to Vavilov.

References:

<http://www.politruussia.ru/life/7511.html>

<http://www.nr2.ru/policy/147200.html>

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

<http://www.rosbaltsouth.ru/2007/10/12/421961.html>

<http://www.zaks.ru/new/archive/view/33597>

New Body to Monitor Coverage of Duma Vote," Nikolaus von Twickel, Moscow Times daily, Aug. 7, 2007

"NGOs unite to monitor Russian elections," report by Russian Ekho Moskvyy radio, 5 March, 2007

"Pamfilova Insists on Better Public Monitoring of Federal Elections," Interfax news agency, July 4, 2007

"Public Activists Will Not Be Admitted to Polling Stations," Natalya Kostenko, Nezavisimaya Gazeta, Oct. 18, 2007

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

"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 at <http://www.24rus.ru/more.php?UID=20517>.

"Obzhalovaniyu ne podlezhit," Anastasiya Kornya and Nataliya Kostenko, Vedomosti daily, March 8, 2008, <http://www.vedomosti.ru/newspaper/article.shtml?2008/03/07/143154>. See also <http://www.vedomosti.ru/newspaper/article.shtml?2008/03/21/144065>.

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?

63

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 observers of signatures for absent voters and even for deceased ones. Apparently, such information (who will be absent on polling day; who died but is still on a list of voters at a local election commission) is provided to the local election commission members by local authorities.

References:

Statute of State System of Voter Registration: Resolution of the Central Election Commission of Russia, 2005, http://gov.cap.ru/home/93/chebs_w/razdel/other/tik/low/polog_reg.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 procedures, although legal (and political) practice shows that it's hardly possible to implement it.

References:

Federal Law on the Election of Deputies of the State Duma of the Federal Council of the Russian Federation (2005, amended in 2007), Article 39, paragraph 9; Article 44, paragraph 7; Chapter 13

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

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

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 an almost an impossible challenge. Political opposition can press charges and even get a fair enough trial, but no State Duma member has ever been ever stripped of his/her mandate because of a court decision. Edinaya Rossiya, the ruling party, can bend the law as it pleases, but no court would prosecute it or its representatives.

The results of the previous State Duma election were challenged in the Supreme Court in 2004. In particular, Communist Party spokesman Solovyev said that 57,000 precinct electoral commissions' out of a total of 95,000 commissions official reports had been rewritten in 2003 after the observers had left.

The law does provide for the rewriting of an official record on the pretext of a discovered error. This official record will be deemed accurate whether it is identified as revised" or not. The law does not require proof of this "accuracy." By law, observers' protests citing figures from the original "erroneous" record of voting results can be ignored. Finally, an honest commission member who protests violations he witnessed does not even have the right to petition the court. The Civil Code of Procedure takes care of this. Complaints about the falsification of results by electoral commissions can be filed only by electoral commissions as collective bodies and by no one else.

Election legislation spells out the procedures for the performance of many actions, but there is no penalty for their violation. As the chairman of the Central Electoral Commission frankly told the Supreme Court in 2004, "a violation is something for which a penalty has been set." He implied that statutes do not have to be observed if there is no penalty, and the court tacitly agreed with her. Given this view of the law and its provisions, these are not statutes at all.

The Supreme Court on July 16, 2008, rejected a request by the Communist Party to have the results of the State Duma elections annulled on the grounds of what the party described as massive electoral violations. Judge Nikolai Tolcheyev issued a short ruling to wrap up the two-day hearing, saying only that the court had decided to dismiss the complaint and that the full ruling would be issued in writing in the coming days.

The Communists presented 12,000 documents as evidence of electoral fraud in the Dec. 2, 2007, elections in which they captured 11.6 percent of the vote, far behind the 64 percent garnered by pro-Kremlin party United Russia, which now has a constitutional majority in the Duma. Among other purported violations, the Communists claimed that they had proof that 200,000 votes were stolen from them in favor of United Russia. Vadim Solovyov, a lawyer for the Communists, said the party would appeal the ruling and would take its case to the European Court of Human Rights in Strasbourg should the appeal be rejected.

"The court was polite but not objective, and it did not examine the evidence presented by us," Solovyov told reporters in the courtroom after the hearing.

The party also accused United Russia of cheating voters by having more than 100 prominent candidates on its lists who subsequently did not take up their Duma seats, including then-President Vladimir Putin, who headed the United Russia ticket.

The Supreme Court earlier in July 2008 rejected a similar appeal by the liberal party Union of Right Forces, or SPS, which fell considerably short of the 7 percent needed to win Duma seats, capturing just 0.96 of the vote.

SPS complained to the court that authorities had seized millions of copies of its campaign booklets, ostensibly to "inspect" the content but really, the party argued, to hamper its campaign. SPS leader Nikita Belykh has also accused Central Elections Commission (CEC) chief Vladimir Churov of providing false information to the European Court of Human Rights about the number of campaign booklets seized from the party. Belykh is appealing to the Strasburg court, which has yet to decide on similar complaints filed by fellow liberal party Yabloko and the Communists following the 2003 Duma elections.

The Communists have also announced that they will press for changes in election laws, including a measure forcing candidates to participate in election campaigns.

Opposition parties have heavily criticized President Dmitry Medvedev for not campaigning at all in the run-up to the March 2 presidential election. Medvedev, then first deputy prime minister, explained at the time that he was too busy with his job to campaign.

References:

<http://kprf.ru/vibory2007/chronicle/52603.html>

<http://kprf.ru/tv/52524.html>; <http://www.samara.yabloko.ru/news/index.phtml?id=1828>

NGOs report violations even before official start of Russian election campaign," Interfax news agency, Oct.31, 2007

"Campaign Seizures," Igor Romanov, Nezavisimaya Gazeta daily, Oct. 30, 2007, http://www.ng.ru/politics/2007-10-30/1_izuyatia.html

Interview with Andrei Buzin, chairman of the Inter-Regional Voter Association, Kommersant daily, May 4, 2008, <http://www.kommersant.ru/doc.aspx?DocsID=888541>

Civil Code of Procedure, Section 259

"The Regime's Victories Are Always Legal," Leonid Kirichenko, expert on election law, Nezavisimaya Gazeta daily, Jan. 18, 2007

See also http://www.gazeta.ru/politics/2008/01/30_a_2613093.shtml;

<http://www.themoscowtimes.com/stories/2008/04/08/011.html>;

<http://www.vedomosti.ru/newspaper/article.shtml?2008/04/18/146406>;

<http://www.vedomosti.ru/newspaper/article.shtml?2008/04/10/145629>;

<http://www.vedomosti.ru/newspaper/article.shtml?2008/04/17/146316>;

<http://www.newizv.ru/news/2008-04-24/89155/>;

<http://www.novayagazeta.ru/data/2008/36/05.html>;

<http://www.vedomosti.ru/newspaper/article.shtml?2008/06/06/150626>;

<http://www.kommersant.ru/doc.aspx?DocsID=862857&NodesID=2>;

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http://www.ng.ru/politics/2008-02-11/3_slepye.html;

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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:

Security personnel at Russian penitentiaries usually are 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 Russians who are not supposed to vote because they are "inadequate" or because they are serving their time in colonies. The Federal Penitentiary Service estimates the number of prisoners in Russia at 716,000.

However, Russia's 107 million voters will almost certainly include people in detention cells and prisons, i.e. the ones 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."

Khomyakov 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."

There is a legion of voters whose adequacy is questionable. 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 asked. "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.

The Russian Interior Ministry said on Feb. 12, 2008, that 450,000 personnel would be deployed to ensure security at the election. Then President Vladimir Putin ordered Russia's domestic intelligence service to increase its vigilance against attempts by foreigners to interfere in the March presidential election. Putin has portrayed domestic liberal opponents, who accuse him of reviving autocratic rule, as Western puppets.

"This country is a sovereign state, and we will not allow anyone to manipulate the election campaign from abroad," he said.

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Publications in federal Russian newspapers

Do Only Old People Vote?" Kira Vasilieva, Novye Izvestia daily, Aug. 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, although it hard to prove such actions. See <http://www.novayagazeta.ru/data/2007/63/15.html>.

"Russian election authorities expect about 300 foreign monitors," RIA Novosti news agency, Feb. 13, 2008. See also <http://www.rg.ru/2008/02/20/cik-podgotovka.html>;

<http://www.kommersant.ru/doc.aspx?DocsID=862374>

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For reports on police using force to cover violations of election commissions during the March 2, 2008, presidential election, see <http://www.newsru.com/russia/03mar2008/navynos2008.html>.

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 are not 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.

District commissions must keep observers informed and invited to observe all events and measures, including rewrites of voting records if they become necessary and their resubmission to regional commissions. Observers must accept these invitations. This is what happened in our hypothetical exercise on August 7. We had 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 to ask vote-counters to move over if they can't see the procedure clearly. Observers may not handle ballot papers, but they can ask to see them if they are recognized as invalid. That's what we are teaching the observers sent to us by parties. However, observers from the Organization for Security and Co-operation in Europe were issued visas so late for the State Duma elections in December 2007 that they decided on Nov. 16 not to participate in election monitoring.

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Vladimir Churov: If There s Any Pressure, Complain to Me," Tamara Zamyatina, Moskovskie Novosti weekly, Aug. 17, 2007

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 into a saga. Europe's top elections watchdog said on Oct. 18 that 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," said Urdur Gunnarsdottir, spokesman for the elections division of the Organization for Security and Cooperation in Europe (OSCE). "We've received assurances from Russian representatives that an invitation will be forthcoming, but we haven't had one. 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 (CEC), Vladimir Churov, 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. Observers from the Council of Europe's Parliamentary Assembly (PACE) were ready to go to Russia in September.

The PACE Bureau decided on Sept. 13 to send a 10-member pre-election mission and a 60-member main mission, but the problem was there was no invitation, said Vladimir Dronov, head of PACE's department of inter-parliamentary cooperation and election monitoring and chief adviser to PACE chairman. 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 this way for the first time. I think we will get the invitation, but we'll get it late, said Dronov.

Konstantin Kosachev, head of the State Duma Committee on Foreign Affairs, said that Russia was going to invite just 30 (and not 60) PACE observers. However, Russia did not invite European Parliament members at all. They fell out of favor in June 2007, after United Russia deputy Gadжимet Safaraliev charged the EU with attempting to interfere in the election campaign in Russia. The pretext was a fellowship of 23.5 million rubles (US\$653,000) granted by the EU to the European University in St. Petersburg and to the Ural State Service Academy for implementing a 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 interference of a foreign quasi-state, which the EU is, said the deputy, demanding that the Prosecutor General's 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 Parliament's 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 took the authorities' actions differently. Communist Party Deputy Chairman Ivan Melnikov said the delay in inviting the international observers was due to bureaucratic tardiness. Former 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 at 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, OSCE observers and other international experts "will be allowed to watch just the voting on December 2." Ryzhkov predicted there would 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. 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 weeks prior to the election. By election day in 2003, there were 450 OSCE observers in Russia, according to officials with the group.

Moscow has proposed a significant reduction in numbers, according to a confidential draft proposal circulated last month to the OSCE. The document, published on Oct. 25 on The New York Times' 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 Oct. 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, then 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 Oct. 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 was 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."

CEC chief Churov extolled Russia's electoral system in a question-and-answer session published in 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.

The State Duma finally began sending out invitations to international observers to monitor the upcoming elections on Oct. 30, less than five weeks before the Dec. 2 vote. Churov said the number of international observers would be limited to 300 to 400, compared with 1100 for the last elections, in 2003.

The number is insufficient for the country's 95,000 polling stations, Golos head Lilia Shebanova, said on Oct. 30. "That number alone is necessary to cover Moscow and the Moscow region," she said, Interfax reported. Golos is a coalition of nongovernmental organizations (NGOs) tracking elections.

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.

The head of Russia's Central Electoral Commission has urged international observers not to make any comments on polling day, Russian news agency ITAR-TASS 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: Polling day is a day of silence," he was quoted as saying.

An organization that does not deal with international monitoring and protection of electoral rights might not be accredited for monitoring the preparations for and voting during the elections to the fifth State Duma, said Igor Borisov of the 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 Oct. 31.

"This is not so much related to issues concerning electoral procedures and "the exercise by citizens' political rights, as with a possibility of certain extremist or any other unlawful acts in Russia," he said.

The conditions sparked an unusually angry reaction on Oct. 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, Urdrur 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, said on Oct. 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.

Observers from the Organization for Security and Cooperation in Europe were issued visas so late for the State Duma elections in December 2007 that they decided on Nov. 16 not to participate in election monitoring.

Case study: Participation of the OSCE's monitoring group in the March 2008 presidential election

The Organization for Security and Cooperation in Europe said on Jan. 29, 2008, that Russia has placed severe limits on the work it can carry out during its March presidential election.

"The invitation that we received has serious restrictions both in terms of the number of observers and time they are allowed to observe," said Curtis Budden, spokesman for the Office for Democratic Institutions and Human Rights, the OSCE's Warsaw-based elections watchdog.

He said Moscow would allow the monitors to enter Russia on Feb. 28, which would not give them enough time to prepare to observe the March 2 vote.

Central Elections Commission chief Vladimir Churov announced on Jan. 28, 2008, that the country had invited only 400 international monitors (including 70 ODIHR observers) to observe the presidential election. Half the number that participated four years ago.

"The commission has no black list of unwelcome observers; we will not make any exceptions in our invitations," CEC member Igor Borisov said on Jan. 29, 2008. "At the same time, we would like election observers who come here to be objective. The evaluation of the ballot must be based on clear and coherent principles."

The OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) insists that a long-range monitoring mission should be deployed ahead of the Russian presidential elections. OSCE/ODIHR observers will not be able to organize full-scale monitoring if they "arrive three days before the elections," Curtis Budden, ODIHR acting spokesperson said on Jan. 30, 2008.

The ODIHR boycotted Russia's parliamentary polls on Dec. 2, 2007, citing visa delays and "unprecedented restrictions." Moscow dismissed the charges, accusing the Organization for Security and Cooperation in Europe of ineffectiveness and bias. The OSCE called the December parliamentary elections, which saw a landslide victory for the Kremlin-backed United Russia party, "not fair."

The OSCE's monitoring group normally conducts both long-term and short-term missions, observing the quality of the campaign for at least two months as well as the conduct of voting on the day of the election. In the last Russian presidential election in 2004, the group had 387 long-term and short-term observers.

"We are not satisfied with their conditions because they don't allow meaningful observation," Budden said.

Russia angrily complains that the OSCE, which has criticized the conduct of numerous elections in the post

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"Poll Body Restricts OSCE Delegation," Nikolaus von Twickel and Natalya Krainova, The Moscow Times, Nov. 1, 2007, <http://www.moscowtimes.ru/article/850/49/193238.htm>. See also <http://www.vedomosti.ru/newspaper/article.shtml?2007/11/01/135375>;

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For an interesting analysis of the situation with overdue invitations to international observers, see "Witness Protection Program," Madina Shavlokhova, Gazeta, Oct. 30, 2007, <http://www.gazeta.ru/politics/elections2007/articles/2274690.shtml>. See more about it at <http://www.kommersant.ru/doc.aspx?DocslD=824213>;

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"OSCE Criticizes Observer Restrictions," The Associated Press, Jan. 30, 2008, <http://www.themoscowtimes.com/stories/2008/01/30/013.html>

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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.

17. 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:

<http://www.cikrf.ru>. English version is also at <http://www.cikrf.ru/eng/>

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 exists 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.

74
II-3. Political Financing

20. Are there regulations governing the financing of political parties?

100

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\$1.2 million to US\$7.5 million). For candidates in single-member constituencies, it increased from 1.5 million rubles to 6 million rubles (US\$45,000 to US\$181,000). Second, there was an increase in the permissible limit for donations to election funds from private sponsors: from legal entities up to 8.75 million rubles (US\$236,000); from individual sponsors up to 175,000 rubles (US\$5,300). Third, criminal liability was introduced for illegal overspending if the amounts involved exceeded by more than 10 percent the limits prescribed for parties or candidates. Fourth, the electoral commissions were charged with auditing the cash inflow from legal and natural persons, in an attempt 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, former chairman of Yukos Oil Company, after he openly supported political parties in the Duma.

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

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 political parties.

YES | NO

Comments:

Yes. The overall spending limit on a campaign is 6 million rubles (US\$181,000) for the Duma and 250 million rubles (US\$7.5 million) for parties. Initiation and membership fees make up a mere 0.5 percent of the revenues of Russian political parties.

Donations made to 19 out of the 21 parties that had official registration in the second quarter of 2007 were mostly from commercial companies – some 86 percent of total funds. Of the 637 million rubles (US\$19 million) the parties received from April through June, non-profit organizations contributed a mere 78 million (US\$2.3 million).

References:

Federal Law on Election of Deputies of the State Duma, Federal Legislature of the Russian Federation, Article 66

Federal Law on Presidential Election in the Russian Federation

Federal Law on Election of Deputies of the State Duma, Article 64

Federal Legislature of the Russian Federation

Report by the Russian Central Election Commission (CEC)

Membership Fees Less Than 1 Percent of Russian Parties Revenues, Itar-Tass, Aug. 30, 2007

YES: A YES score is earned if there are any limits in size on individual contributions to political parties. A YES score is also 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 in a discriminatory manner.

20c. In law, there are limits on corporate donations to political parties.

YES | NO

Comments:

Yes. The limit is 100 times the minimum wage amount from corporations and 10 times the minimum wage amount from individuals.

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, sources of campaign funds can include the parties' own money and voluntary donations, as long as the amount taken from each party's 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

Federal Legislature of the Russian Federation

Federal Law on Presidential Elections in the Russian Federation

<http://www.yabloko.ru/Union/helpsubsidlaw.html>

YES: A YES score is earned if there are any limits in size on corporate contributions to political parties. A YES score is earned if corporate contributions are prohibited.

NO: A NO score is earned if there are no limits on corporate contributions to political parties. A NO score is also earned if limits are applied by the government on opposition parties 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 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 (CEC) did not find any violations besides some minor ones; no one was prosecuted; no polling results were contested. Since January 2006, the CEC has audited political parties for the legality of their income and expenditures 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. A new level of transparency and financial openness has been achieved. Financial reports are open to public scrutiny, and they are closely studied not only by journalists but also by political opponents. During the election campaign, finances will be a subject of rivals' close attention.

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 CEC makes it clear that no party relies on membership dues; most of their money comes from donations. For example, unidentified well-wishers gave United Russia 279 million rubles (US\$8.6 million). The Russian Party of Life, led by Sergei Mironov, received the Kremlin's blessing last summer, and afterward it also became popular with Russia's philanthropists, receiving 60 million rubles (US\$1.8 million) in donations. In comparison, Yabloko got 10 million rubles (US\$307,000) and the Union of Right forces (SPS) got only 2 million rubles (US\$61,000).

According to the law on political parties, a party may receive donations from individuals or legal entities, and all donations must be documented and 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 (NGOs); 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 NGO intermediaries. Parties also receive funding from the state. This is based on election results: 5 rubles (US\$0.15) per vote. But this form of state funding is only available to parties that got at least 3 percent of the vote in the most recent 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 US\$5 to US\$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 US\$250 to US\$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 US\$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 US\$150 to US\$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 to 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."

So parties that 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 not voters of their merits. 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 5 rubles (US\$0.15) a head.

The cost of elections is rising rapidly. In the Irkutsk region, for example, the campaign spending limit for the October 2008 regional legislature elections was ten times higher than in the last cycle. The same trend is being observed in other regions. In the Irkutsk region, the campaign spending limit is 60 million rubles (US\$1.8 million) for parties and 2.5 million rubles (\$76,000) for individual candidates in single-mandate districts. Last time, in 2004, parties were allowed to spend 5 million rubles (US\$153,000) plus 10 percent for inflation. A party that registers a candidate list and one candidate per district could spend up to 110 million rubles (US\$3.4 million) on its campaign.

Limits in other regions are lower, but not by much. The Zabaikalsky territory sets a limit of 20 million rubles (US\$612,000) for parties. The Kemerovo region and Chechnya set a limit of 30 million rubles (US\$918,000). The lowest limit is Sakhalin's: only 10 million rubles (US\$306,000)

CEC member Yevgeny Kolyushin confirms that elections are becoming more expensive. In his opinion, the reason for this isn't confined to inflation and generally rising prices (especially electronic media advertising); there is also the United Russia's efforts to eliminate competition. According to law, bonds lodged for registration in elections are calculated as a percentage of campaign spending limits (at least 10 percent, but it's usually 15 percent). As Kolyushin points out, the higher the spending limit, the higher the bond, making it more expensive for parties to register for elections.

Of the five regions, the Irkutsk region has the highest bond amount: 6 million rubles (US\$184,000). Chechnya's bond is 4.5 million rubles (US\$138,000), while the Kemerovo region and the Zabaikalsky territory set their bonds at 3 million rubles (US\$92,000)

"The unjustifiably high cost of elections is detrimental to a multi-party system," says Gennadi Gudkov, a member of the Just

Russia faction in the Duma. Parties that can't afford the bond are now trying the alternative option of collecting signatures leaving them open to disqualification on invented pretexts.

References:

Federal Law on Election of Deputies of the State Duma

Federal Legislature of the Russian Federation

Federal Law on Presidential Elections in the Russian Federation

CEC chief warns of risk NGOs may launder election money," Itar-Tass news agency, Dec. 20, 2006

"Mandate Gold," Mariam Magomedova, Novye Izvestia daily, Jan. 17, 2007

"Election Inflation," Anastasia Kornia, Elena Ragozina, Vedomosti daily, July 23, 2008

YES: A YES score is earned if there are any limits in 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 the disclosure of donations to political parties.

YES | NO

Comments:

The law requires a political party, within 30 days after the official announcement of parliamentary election results, to provide general information on its donations to the Central Election Commission (CEC), which reviews the report. For the first time in Russian political practice, the CEC has started auditing political parties for the legality of their income and expenditure of funds. The CEC is charged with this task under the federal law on political parties. Previously, the CEC controlled party finances only in election periods, but from now on monitoring will be done on a permanent basis. Local election commissions control 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, Article 60

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

NO: A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties, 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 and expenditures of political parties.

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 the independent auditing of party finances and expenditures. 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' finances and expenditures or if such requirements exist but allow for parties to self-audit.

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

YES | NO

Comments:

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

References:

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

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 the financing of political parties. 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 there regulations governing the financing of individual political candidates?

100

21a. In law, there are regulations governing private contributions to individual political candidates.

YES | NO

Comments:

Cash contributions are not registered in anyway whatsoever.

References:

Alexander Yurin, executive director of the Institute for Election Systems Development.

YES: A YES score is earned if there are any formal rules (by law or regulation) controlling private contributions to individual political candidates, including prohibitions against foreign donations.

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

21b. In law, there are limits on individual donations to political candidates.

YES | NO

Comments:

After the Yukos case, political parties cannot count on contributions from private companies any more.

The Law on Presidential Elections was amended after 2004 to match the amendments to the Law on Political Parties and the Law on Fundamental Guarantees of Voting and Referenda Rights in the Russian Federation.

In contrast to previous elections, candidates may have larger campaign funds: less than 400 million rubles (US\$12 million) in contrast to the previous 250 million (7.5 million). A candidate in the second round may have campaign funds of less than 500 million rubles (US\$14 million) versus 300 million rubles (US\$9 million) in the past.

References:

Alexander Yurin, executive director of Institute for Election Systems Development

Over 15 Million Rubles Transferred to Medvedev's Election Fund, Itar-Tass news agency, Jan. 13, 2008

YES: A YES score is earned if there are any limits in size on individual contributions to political candidates. A YES score is also 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 candidates in a discriminatory manner.

21c. In law, there are limits on corporate donations to individual political candidates.

YES | NO

Comments:

Yes. Violation of the campaign-spending ceiling in excess of 10 percent may be grounds for a court appeal by the loser to void the election results. However, such investigations take place only against opposition parties. Among the measures applied can be a legal procedure for suspension of party activity 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.

The Law on Presidential Elections was amended after 2004 to match the amendments to the Law on Political Parties and the Law on Fundamental Guarantees of Voting and Referenda Rights in the Russian Federation.

In contrast to previous elections, candidates may have larger campaign funds: less than 400 million rubles (US\$12 million) in contrast to the previous 250 million (7.5 million). A candidate in the second round may have campaign funds of less than 500 million rubles (US\$14 million) versus 300 million rubles (US\$9 million) in the past.

References:

Alexander Yurin, executive director of Institute for Election Systems Development

Over 15 Million Rubles Transferred to Medvedev's Election Fund, Itar-Tass news agency, Jan. 13, 2008

YES: A YES score is earned if there are any limits in size on corporate contributions to individual political candidates. A YES score is earned if corporate contributions are prohibited.

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

21d. In law, there are requirements for the disclosure of donations to individual political candidates.

YES | NO

Comments:

The 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 to ensure that nothing will guarantee a rival candidate's/party's success. Therefore, any penalties are imposed upon opposition parties.

References:

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

<http://www.kommersant.ru/doc.aspx?DocsID=783006&NodesID=2>

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

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

donations.

21e. In law, there are requirements for the independent auditing of the campaign finances of individual political candidates.

YES | NO

Comments:

The 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 to ensure that nothing will guarantee a rival candidate's/party's success. Therefore, any penalties are imposed upon opposition parties.

References:

Alexander Yurin, executive director of Institute for Election Systems Development

YES: A YES score is earned if there is a legal or regulatory requirement for the independent auditing of an individual candidate's campaign finances and expenditures. 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 an individual candidate's campaign finances and expenditures or if such requirements exist but allow for candidates to self-audit.

21f. In law, there is an agency or entity that monitors the financing of individual political candidates' campaigns.

YES | NO

Comments:

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

References:

Alexander Yurin, executive director of Institute for Election Systems Development

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 the financing of individual political candidates' campaigns. 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.

22. Are the regulations governing the political financing of parties effective?

50

22a. In practice, the limits on individual donations to political parties are effective in regulating an individual's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

Comments:

Cash contributions are not registered in any way whatsoever.

References:

Central Election Commission of Russia, section on financial reports of political parties in 2007-2008, <http://www.cikrf.ru/politparty/finance/rashod.jsp>.

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a 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 political party. However, exceptions and loopholes exist through which individuals can indirectly support 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 party; unregulated loans to 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 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.

22b. In practice, the limits on corporate donations to political parties are effective in regulating a company's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

Comments:

After Yukos, the opposition cannot count on private companies anymore. With regard to state-approved or state-created political parties, corporations are told whom to support and there is no danger of breaking the law.

In some regions, representatives of Edinaya Rossiya (the ruling party) were soliciting donations from friendly civil society organizations for Dmitri Medvedev' s presidential campaign. There is no information if any funds were provided/received. These Edinaya Rossiya officials were fired.

References:

Central Election Commission of Russia, section on financial reports of political parties in 2007-2008, <http://www.cikrf.ru/politparty/finance/rashod.jsp>

<http://www.arkhangelsk.izbirkom.ru/way/0F1DD435-5B6F-429A-B277-E09114D7443C/obj/3CBEA7F2-D534-4125-9BC7-C09208983C9B.html>

<http://www.themoscowtimes.com/stories/2008/01/15/014.html>

100: Existing limits represent the full extent to which a company can directly or indirectly financially support a 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 political party. However, exceptions and loopholes exist through which companies can indirectly support 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 party; unregulated loans to 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 political parties 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.

22c. In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.

Comments:

Yes. Violation of the campaign-spending ceiling in excess of 10 percent may be grounds for a court appeal by the loser to void the election results. However, such investigations take place only against opposition parties. Among the measures applied can be a legal procedure for suspension of party activity 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.

References:

Central Election Commission of Russia, section on financial reports of political parties in 2007-2008, <http://www.cikrf.ru/politparty/finance/rashod.jsp>

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.

22d. In practice, when necessary, an agency or entity monitoring the financing of political parties independently initiates investigations.

Comments:

ction 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 to ensure that nothing will guarantee a rival candidate's/party's success. Therefore, any penalties are imposed upon opposition parties.

References:

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

<http://www.kommersant.ru/doc.aspx?DocsID=783006&NodesID=2>. See also <http://www.cikrf.ru/postancik/Zp080977.jsp>.

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of political parties. 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.

22e. In practice, when necessary, an agency or entity monitoring the financing of political parties imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

ction 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 to ensure that nothing will guarantee a rival candidate's/party's success. Therefore, any penalties are imposed upon opposition parties.

References:

Publications of the Russian media

Opposition websites

<http://www.c-society.ru/wind.php?ID=291684&soch=1>

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.

22f. In practice, contributions to political parties are audited.

100 | 75 | 50 | 25 | 0

Comments:

On September 19, 2007, then Prime Minister Victor Zubkov assigned the Ministry of Interior, the Federal Tax Service and other state bodies to audit contributions to Russian political parties. However, the practice shows that Edinaya Rossiya (the ruling party) never comes under scrutiny. Such auditing is used only for opposition parties.

References:

Publications in Russian media.

Central Election Commission of Russia, section on financial reports of political parties in 2007-2008, <http://www.cikrf.ru/politparty/finance/rashod.jsp>

<http://www.arkhangelsk.izbirkom.ru/way/0F1DD435-5B6F-429A-B277-E09114D7443C/obj/3CBEA7F2-D534-4125-9BC7-C09208983C9B.html>

<http://www.gzt.ru/politics/2007/09/19/125941.html>

100: Political party 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 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 may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

25:

0: Party 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.

23a. In practice, the limits on individual donations to political candidates are effective in regulating an individual's ability to financially support a particular candidate.

100 | 75 | 50 | 25 | 0

Comments:

Cash contributions are not registered in any way whatsoever.

References:

Central Election Commission of Russia, section on financial reports of political parties in 2007-2008, <http://www.cikrf.ru/politparty/finance/rashod.jsp>

<http://www.arkhangelsk.izbirkom.ru/way/0F1DD435-5B6F-429A-B277-E09114D7443C/obj/3CBEA7F2-D534-4125-9BC7-C09208983C9B.html>

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a political candidate. 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 particular candidate. However, exceptions and loopholes exist through which individuals can indirectly support particular political candidates 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; unregulated loans to candidates (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 particular political candidate 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.

23b. In practice, the limits on corporate donations to individual candidates are effective in regulating a company's ability to financially support a candidate.

100 | 75 | 50 | 25 | 0

Comments:

After Yukos, the opposition cannot count on private companies anymore. With regard to state-approved or state-created political parties, corporations are told whom to support and there is no danger of breaking the law.

References:

Central Election Commission of Russia, section on financial reports of political parties in 2007-2008, <http://www.cikrf.ru/politparty/finance/rashod.jsp>

<http://www.arkhangelsk.izbirkom.ru/way/0F1DD435-5B6F-429A-B277-E09114D7443C/obj/3CBEA7F2-D534-4125-9BC7-C09208983C9B.html>

100: Existing limits represent the full extent to which a company can directly or indirectly financially support an individual candidate. 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 an individual candidate. However, exceptions and loopholes exist through which companies can indirectly support individual candidates 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; unregulated loans to candidates (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 individual candidates 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.

23c. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

The 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 to ensure that nothing will guarantee a rival candidate's/party's success. Therefore, any penalties are imposed upon opposition parties.

References:

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

<http://www.kommersant.ru/doc.aspx?DocsID=783006&NodesID=2>. See also <http://www.cikrf.ru/postancik/Zp080977.jsp>

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of individual candidates' campaigns. 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.

23d. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

The 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 to ensure that nothing will guarantee a rival candidate's/party's success. Therefore, any penalties are imposed upon opposition parties.

References:

Publications in the Russian media,

Opposition party websites

<http://www.c-society.ru/wind.php?ID=291684&soch=1>

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.

23e. In practice, the finances of individual candidates' campaigns are audited.

100 | 75 | 50 | 25 | 0

Comments:

Politics rules here. Real opposition candidates come under scrutiny; others are tolerated. After checking and correcting three opposition presidential contenders' public asset and income disclosure forms, in mid January 2008 the Central Election Commission (CEC) released the information in packages available to voters at all polling stations. Minor (and not so minor) inaccuracies created a scandal when representatives of the Communist Party of RF at CEC promised not ask questions about Medvedev's apartment (not mention in his disclosure form) if CEC would drop claims against Zyuganov (leader of Communist Party of RF).

On September 19, 2007, then Prime Minister Victor Zubkov assigned the Ministry of Interior and the Federal Tax Service to audit asset and income declarations of candidates running for the State Duma and for president of Russia.

References:

Publications in Russian media

<http://www.newsru.com/russia/17jan2008/imush.html>

<http://www.kommersant.ru/doc.aspx?DocsID=844238>

<http://www.kommersant.ru/doc.aspx?DocsID=844489>

<http://www.themoscowtimes.com/stories/2008/01/22/015.html>

<http://elections.rbc.ru/elections2007/11/02/2008/140396.shtml>

http://www.ng.ru/politics/2008-02-18/4_medvedev.html

<http://www.novayagazeta.ru/data/2008/01/00.html>

<http://www.kommersant.ru/doc.aspx?DocsID=853261&NodesID=2>

<http://www.gzt.ru/politics/2007/09/19/125941.html>

100: The finances of individual candidates' campaigns are regularly audited using generally accepted auditing practices.

75:

50: The finances of individual candidates' campaigns are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions.

25:

0: The finances of individual candidates' campaigns 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.

24. Can citizens access records related to the financing of political parties?

83

24a. In practice, political parties disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Russian political parties are required to submit quarterly reports to the Central Election Commission CEC, which then makes them available to general public by publishing them on its website.

On February 11, 2008, the CEC made public financial reports of Russian political parties for the last quarter of 2007, when the December parliamentary campaign took place.

The CEC wasn't satisfied with the reports political parties submitted on their 2007 activities but allowed the parties to work on the reports. According to the CEC, the main violations of procedure are the failure to file accounts, late filing, accepting sums exceeding the legal limits or failure to return those sums. (CEC does not consider the last a serious violation but instead a technical violation. There were 199 cases in which territorial offices of the Federal Registration Service were informed, and in seven cases, regional party offices were charged with administrative violations.

The CEC is considering making financial reporting simpler. CEC member Elena Dubrovina stated that parties need to have the opportunity to correct technical errors before the accounts are published. And the accounts are too complex. The forms need to be maximally simplified." She intends to make those proposals to the commission. Parties are in favor of her suggestions. "Large volumes of funds returned by the parties shows that the requirements for party financing are excessively regulated," commented State Duma member and head of the Communist Party legal service Vadim Solov'yev.

References:

Publications in Russian media

Amendments to the Law on Political Parties, 2004

<http://www.kommersant.ru/doc.aspx?DocsID=851789&NodesID=2>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/08/22/158798>

<http://www.kommersant.ru/doc.aspx?DocsID=1014433>

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

75:

50: Political parties 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 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.

24b. In practice, citizens can access the financial records of political parties 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, which reviews submitted reports and makes them public on its website. In practice, it depends on the goodwill of political parties to disclose this information to the public of their own free will. Lately, the Central Election Commission has been making reports available to the media and thus, to the general public.

References:

Central Election Commission of Russia, section on financial reports of political parties in 2007-2008, <http://www.cikrf.ru/politparty/finance/rashod.jsp>

Various media reports

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.

24c. In practice, citizens can access the financial records of political parties at a reasonable cost.

Comments:

The law requires a political party within six months after an election to provide general information on its donations to the Central Election Commission, which reviews a requested report and makes it public on its website. Therefore, the cost of access to such information is either free or quite modest.

References:

Central Election Commission of Russia, section on financial reports of political parties in 2007-2008, <http://www.cikrf.ru/politparty/finance/rashod.jsp>

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.

25. Can citizens access records related to the financing of individual candidates' campaigns?

83

25a. In practice, individual political candidates disclose data relating to financial support and expenditures within a reasonable time period.

References:

Publications in Russian media

Central Election Commission of Russia, section on financial reports of political parties in 2007-2008, http://www.cikrf.ru/elect_president/finans/index.jsp

Over 15 Million Rubles Transferred to Medvedev's Election Fund," Itar-Tass news agency, Jan. 13, 2008

"Who Are Medvedev's Sponsors?" Anastaisya Kornya, Vedomosti daily, Feb.13, 2008, <http://www.vedomosti.ru/newspaper/article.shtml?2008/02/13/141615>

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

75:

50: Individual 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: Individual 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.

25b. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

Central Election Commission of Russia, section on financial reports of political parties in 2007-2008, http://www.cikrf.ru/elect_president/finans/index.jsp

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.

25c. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Such information is available on the Internet or in public libraries.

References:

Central Election Commission of Russia, section on financial reports of political parties in 2007-2008, http://www.cikrf.ru/elect_president/finans/index.jsp

Publications of Russian media

Bulletins of the Central Election Commission

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. ~~Executive~~ Executive Accountability

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

27a. In practice, the chief executive gives reasons for his/her policy decisions.

100 | 75 | 50 | 25 | 0

Comments:

In practice, members of the executive branch sometimes give reasons for their policy decisions, although any serious discussion is not expected or promoted. There are regular debates over important policy issues, but only a small group of experts is favored by national media (while some, mostly anti-Putin, experts are blacklisted) and no serious changes to any policy came as a result of such debates. However, Putin (as both president and as prime minister) 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, Prime Minister Putin is notorious for lack of comment on his personal appointments. He kept this habit after becoming prime minister.

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

References:

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

Michail Krasnov, former aide to President

Yeltsin, <http://www.novayagazeta.ru/data/2007/45/14.html>, <http://www.novayagazeta.ru/data/2007/56/02.html>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/01/11/139466>; <http://www.smoney.ru/article.shtml?2008/01/28/4780>

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.

27b. 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:

Russian Constitution, 1993, Chapter 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).

27c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the judiciary sometimes reviews the actions of the executive, especially in the regions. However, such cases are usually an exception rather than the rule. Higher courts (Constitutional Court, Supreme Court, 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 rely 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.

27d. 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.

28. Is the executive leadership subject to criminal proceedings?

100

28a. 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.

In 2001, the Law on Guarantees to Former Presidents was passed to protect former President Boris Yeltsin. Former President Vladimir Putin is entitled to the same privileges. Among other things, he is immune from prosecution for crimes he committed while in the office, except for grave crimes.

References:

Constitution of Russia, Article 91

<http://eup.ru/facts.asp?site=12dec.ru&id=7C702E9AA73D2E34C32573EA0068AED1>

Severance Pay," by Nadezhda Krasilova, Artem Oparin, Evgeniya Zubchenko, Novye Izvestiya daily, Feb. 29, 2008, <http://www.newizv.ru/news/2008-02-29/85531>

Law on Guarantees to Former Presidents of the Russian Federation and Members of His Family

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.

28b. In law, ministerial-level officials can be prosecuted for crimes they commit.

YES | NO

References:

<http://www.kommersant.ru/doc.aspx?DocsID=854623&NodesID=7>

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.

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

53

29a. In law, the heads of state and government are required to file a regular asset disclosure form.

YES | NO

Comments:

Western news media ran reports in late 2007 that quoted political analyst Stanislav Belkovsky as saying the former President Vladimir Putin controlled stakes in oil and gas companies and that his fortune was at least US\$40 billion. Putin scorned reports that he had amassed huge personal wealth during his tenure, calling them nonsense picked out of someone's nose" at a news conference on Feb.14, 2008.

"I have seen some papers about this. Just gossip that's not worth discussing," Putin said in his first public response to the allegations. "It's simply rubbish. They picked everything out of someone's nose and smeared it on their little papers."

Putin was responding to a question from Douglas Birch, Moscow bureau chief of The Associated Press, who started by mentioning the media reports that said Putin could be Europe's richest man. "If it's true, what are the sources of your wealth?" Birch asked in Russian.

In interviews with British newspaper The Guardian and German newspaper Die Welt, Belkovsky claimed that Putin secretly controlled 37 percent of oil company Surgutneftegaz, 4.5 percent of Gazprom and at least 75 percent of Gunvor, a Swiss oil trader.

Putin on Feb. 14 said he was Europe's and the world's wealthiest man, but noted that fortune was measured in emotions, not money. "I collect emotions. My wealth is that the Russian people and, perhaps, God have twice entrusted me to lead such a great country as Russia," Putin said.

Putin's statement to the Central Elections Commission as a candidate in December's State Duma elections said he owned an apartment in St. Petersburg, two vintage Soviet-era cars, a plot of land outside Moscow and US\$149,000 in bank accounts. Belkovsky, who said his information about Putin came from Kremlin sources but declined to provide any supporting documents, insisted on Feb. 14 that he was right.

References:

Decree # 484 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, 1997, <http://www.transparency.org.ru/CENTER/DOC/ps9eng.doc>

Federal Law on Public Civil Service, 2004, Article 20, Paragraph 1

"No Presidential Fortune, Just Rich Feelings," Anatoly Medetsky, The Moscow Times daily, Feb. 15, 2008, <http://www.themoscowtimes.com/stories/2008/02/15/002.html>

<http://www.realestate.ru/new.aspx?id=8625>

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.

29b. 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 then annually, by April 30, for the previous financial year. However, no sanctions for violation of this regulation are specified.

References:

Decree # 484 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, Article 20, paragraph 1.

<http://www.realestate.ru/new.aspx?id=8625>

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.

29c. 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 worth more than five minimum monthly wages are considered federal property and have to be passed to the corresponding state body (with some exceptions specified by the law). If unreported, they are considered a bribe.

References:

Federal Law on Public Civil Service, 2004, Article 17, Paragraph 1, Subparagraph 6

Civil Code of Russian Federation, Article 575

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.

29d. 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 have to be submitted to corresponding human resources department or unit.

References:

Federal Law on Public Civil Service, 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.

29e. 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, 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, 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.

29f. 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 in 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 cases 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.

29g. 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 given 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. 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.

29h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

Comments:

Such audits can be used as a tool against disloyal public officials or during anti-corruption campaigns but not as an instrument of regular and unbiased enforcement of anti-corruption policy.

References:

Interview with a high-ranking official of the Russian Audit Chamber

<http://www.kommersant.ru/doc.aspx?DocsID=844489>,

<http://www.realestate.ru/new.aspx?id=8625>

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.

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

33

30a. In law, citizens can access the asset disclosure records of the heads of state and government.

YES | NO

Comments:

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, 2004, Article 20, Paragraph 5

<http://www.gzt.ru/politics/2007/09/19/125941.html>; <http://www.mk.ru/blogs/MK/2007/11/09/society/322740/>

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.

30b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

Comments:

No, this information is not available to the average citizen at a specific public agency, although sometimes it is disclosed through

the media.

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 former President Putin's income and assets (besides his official salary), as well as detailed information on financial situation of former Prime Minister Fradkov is outside of public domain. Their official salaries (but not bonuses and non-monetary compensation) 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 former President Putin was disclosed in late October 2007, after he announced his intention to run for the State Duma in December 2007.

In mid January 2008, the Central Election Commission (CEC) made public asset and income disclosure forms of three presidential contenders. CEC checked this information and included all incorrect financial statements in the informational package made available to voters at all polling stations. That minor (and so minor) inaccuracies in Medvedev's contenders' disclosure forms were included in these packages created a scandal when representatives of the Communist Party at CEC promised not to ask questions about Medvedev's apartments, allegedly worth a few million dollars, (not mention in his disclosure form) if the CEC would drop claims against Gennady Zyuganov, leader of Communist Party.

References:

Federal Law on Public Civil Service, 2004, Article 20, Paragraph 5

<http://www.moscowtimes.ru/article/850/49/193322.htm>

<http://www.gzt.ru/politics/2007/09/19/125941.html>

<http://www.mk.ru/blogs/MK/2007/11/09/society/322740/>

<http://www.newsru.com/russia/17jan2008/imush.html>

<http://www.kommersant.ru/doc.aspx?DocsID=844238>

<http://www.kommersant.ru/doc.aspx?DocsID=844489>

<http://www.themoscowtimes.com/stories/2008/01/22/015.html>

<http://elections.rbc.ru/elections2007/11/02/2008/140396.shtml>

http://www.ng.ru/politics/2008-02-18/4_medvedev.html

<http://www.novayagazeta.ru/data/2008/01/00.html>

here: <http://www.realestate.ru/new.aspx?id=8625>

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.

30c. 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 to an average citizen at a specific public agency, although it is sometimes is disclosed through the media.

References:

Federal Law on Public Civil Service, 2004, Article 20, Paragraph 5

<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>

<http://www.gzt.ru/politics/2007/09/19/125941.html>; <http://www.mk.ru/blogs/MK/2007/11/09/society/322740/>

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

75:

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

25:

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

26. Can citizens sue the government for infringement of their civil rights?

100

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

YES | NO

Comments:

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

References:

Russian Constitution, 1993, Chapter 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.

31. Official government functions are kept separate and distinct from the functions of the ruling political party.

50

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

100 | 75 | 50 | 25 | 0

Comments:

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 state administration resources during various local and regional election campaigns and enjoys obvious state support. Most Russian governors and many top-ranking state officials are members of United Russia. United Russia enjoys unlimited support and assistance (including financial) from former President Putin and his subordinates. By 2007, the ruling party publicly proclaimed itself to be the party working for the benefit of the President Putin.

In May 2008, lawyers representing the Communist Party of the Russian Federation filed three inquiries at Ministry of Justice asking it to evaluate the legality of Vladimir Putin being elected chairman of Edinaya Rosssiya in April 2008.

References:

Decree of the President Statute of Administration of President of Russia," 2004, Article 1

<http://www.vedomosti.ru/newspaper/article.shtml?2008/05/22/149068>

<http://www.kommersant.ru/doc.aspx?DocsID=1011059&NodesID=2>

<http://www.newsru.com/russia/17apr2008/edross.html>

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

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

83

32a. 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:

Russian Constitution, 1993, Chapter 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).

32b. 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 a 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:

<http://www.ksrf.ru/news/msg.asp?id=172&pg=1>

<http://www.ksrf.ru/news/msg.asp?id=175&pg=1>

<http://www.ksrf.ru/news/msg.asp?id=176&pg=1>

<http://www.ksrf.ru/news/msg.asp?id=177&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.

32c. In law, are members of the national legislature subject to criminal proceedings?

YES | NO

Comments:

They can be prosecuted only after a majority of the State Duma agrees to lift the immunity due to 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 there have been no cases since the current Duma was elected.

On June 9, 2008, Chairman of the Russian Supreme Court Vyacheslav Lebedev announced that he would introduce a draft law to the State Duma on lifting immunity from so called special objects": national legislators and judges. According to current legislation, prosecutors first have to submit relevant information on a suspect to the Supreme Court, so a panel of three judges would decide whether to grant such permission. If granted, prosecutors can move to the next step: asking the Higher Qualification Commission (HQC) of the Supreme Court or national legislature to lift immunity of the suspect. Lebedev believed there was no need to involve Supreme Court.

If passed into law, a few thousand people enjoying legal immunity may find themselves subject to legal scrutiny in line with ordinary state employees and other state officials.

Anton Ivanov, chairman of the Supreme Arbitration Court of Russia, came out against limiting the immunity of judges. "We need to concentrate attention on this. This is a very dangerous road," he said. "Given the current condition of law enforcement organs, this would lead to complete subordination to them. You know as well as I do how law enforcement organs react to an acquittal and release from custody: Judges are being put on blacklists. I can imagine how many more judges in local areas will be deprived of their freedom if their immunity is limited." In Mr. Ivanov's opinion, if some kind of limitation can occur, it would "only be within the judicial system itself."

Valentin Kuznetsov, chairman of the HQC, expressed his point of view on the problems of judicial independence and immunity: "Formerly, only one person, the general prosecutor, could petition the HQC to open a criminal file against a judge. This level has now been lowered to the deputy general prosecutor, chairman of the Investigations Committee of the prosecutor's office.

On July 24, 2008, the Supreme Court of Russia ruled that national legislators and judges accused of crimes can be prosecuted after they retire.

On October 20, 2008, Alexander Savinkov, first deputy minister of Justice reduced the number of "special objects": national legislators, judges, prosecutors, auditors of the Audit Chamber and members of election commissions (approximately 28,000 people nationwide). Between 2001 and 2006, three national legislators were prosecuted after the national legislature agreed to lift immunity. Between 2005 and 2007, the State Duma refused to prosecute six deputies

The Moscow City Court on July 17, 2008, convicted former Kalmykia Senator Levon Chakhmakhchyan of fraud and sentenced him to nine years in prison, concluding a case that saw his lawyer flee the country and receive political asylum in the United States. Judge Yelena Guchenkova found the former senator guilty of accepting a US\$300,000 bribe two years ago a charge Chakhmakhchyan vociferously denied throughout Thursday's verdict. Prosecutors said Chakhmakhchyan demanded a US\$1.5 million bribe from Alexander Pleshakov, chairman of the Transaero airline, in exchange for quashing a negative Audit Chamber report on his company's activities.

In November 2008, President Medvedev submitted a package of anti-corruption bills to the State Duma, which a few days later approved them on the first reading. Among other initiatives, the draft laws introduce the immunity of judges. In addition, judges' assets and income can be made public, but only federal media can supply the information. If such information is provided, it should be published within a week. An application by a media entity can be rejected if the publication can be used as a means to apply pressure on a specific judge.

A recent case that of State Duma Deputy Valery Draganov. The Supreme Court ruled on December 8, 2008, that an investigation could be opened into the activities of State Duma Deputy Valery Draganov on suspicion of negligence and abuse of office when he was head of the State Customs Committee in the late 1990s. The ruling clears the way for the Prosecutor General's Office to

send a request to the State Duma to strip the United Russia deputy of his parliamentary immunity. The Duma must then vote on whether to grant the request.

The Investigative Committee alleges that Draganov abused his authority by ordering customs payments to be placed into accounts at a bank not officially authorized by the government to perform such operations. If charged and convicted, Draganov faces up to 10 years in prison.

The Supreme Court already ruled in October that investigators had enough evidence to open a case against Draganov, but his lawyers appealed. Subsequent appeals are not allowed, said Draganov's lawyer, Yuri Gervis of Interfax reported.

Spokesmen for the Investigative Committee and the Prosecutor General's Office were unable to confirm when the request to lift Draganov's immunity would go to the State Duma.

The request would likely be examined first by the Duma's Credentials and Ethics Commission, after which it will be sent to the State Duma Council, made up of deputies holding official positions in the legislature, said Vladimir Aseyev, first deputy chairman of the parliament's Rules Committee Itar-Tass reported.

References:

Constitution of Russia, Chapter 7

Criminal Procedure Code, 2002, 2002, Article 448

<http://www.kommersant.ru/doc.aspx?DocsID=901845>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/06/10/151042>

Judges Are Being Put on Blacklists," Yekaterina Butorina, Vremya Novostei daily, June 12, 2008

<http://www.rg.ru/2008/07/24/vzjatka.html>

<http://www.newizv.ru/news/2008-10-20/100110/>

"Convenient Victims," Mariam Magomedova, Novye Izvestiya daily, July 22, 2008, <http://www.newizv.ru/print/94400>

(_Ex-Senator Convicted of Fraud_ by Yelena Shuster, The Moscow Times daily, 18 July 2008, available at <http://www.moscowtimes.ru/article/1010/42/369031.htm>).

See also <http://www.vedomosti.ru/newspaper/article.shtml?2008/07/18/155399>

<http://www.rian.ru/society/20080620/111435955.html>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/12/02/171760>

<http://www.kommersant.ru/doc.aspx?DocsID=1088861>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/12/10/173031>

<http://www.russiatoday.com/news/news/33006>

"Draganov Could Face Charges of Abuse and Negligence," Anna Malpas, Dec. 9, 2008, <http://www.moscowtimes.ru/article/600/42/373022.htm>

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. A NO score is also earned if the legislative branch itself controls whether investigative or prosecutorial immunity can be lifted on members of the legislature.

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

18

33a. In law, members of the national legislature are required to file an asset disclosure form.

YES | NO

Comments:

They have to file an asset disclosure on annual basis.

On Oct.30, 2007, the Central Election Commission made public information on candidates running for the State Duma.

According to Forbes magazine, there are 12 billionaires in the national legislature. Their total wealth amounts to US\$41 billion.

References:

Russian Federation Law on Election of Deputies of the State Duma, Federal Legislature of the Russian Federation, 2003, Article 10, <http://www.duma.gov.ru/index.jsp?t=Status/gj01.html>

<http://www.tverobl.ru/news/news29672.php>

http://www.newsru.com/russia/18feb2008/gos_mlrld.html and <http://www.kommersant.ru/doc.aspx?DocsID=874006>

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.

33b. 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.

References:

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

On Civil Public Service Law

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.

33c. 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, which 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 the official is working. However, Article 575 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

Civil Code of Russia, Article 575

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.

33d. 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. Although the Central Election Commission (CEC) evaluates the asset disclosure forms of the members of legislature every four years, the CEC is not an independent institution.

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.

33e. 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

<http://www.vedomosti.ru/newspaper/article.shtml?2008/02/12/141500>

100: The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no cases 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 offTM 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.

33f. 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. 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.

33g. 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.

On September 19, 2007, then Prime Minister Victor Zubkov charged the Ministry of Interior and the Federal Tax Service to audit asset and income declarations of candidates running for the State Duma and president of Russia.

According to Forbes magazine, there are 12 billionaires in the national legislature. Their total wealth amounts to US\$41 billion.

References:

Interview with a high-ranking official of Russian Audit Chamber

<http://www.gzt.ru/politics/2007/09/19/125941.html>

http://www.newsru.com/russia/18feb2008/gos_mlrld.html

<http://www.kommersant.ru/doc.aspx?DocsID=874006>

<http://www.kommersant.ru/doc.aspx?DocsID=853261&NodesID=2>

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.

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

17

34a. In law, citizens can access the asset disclosure records of members of the national legislature.

YES | NO

Comments:

Every four years, candidates to the State Duma submit financial asset and income declarations to Central Election Commission, which make them public. They are published in various media (including on the Internet) and are available to the general public for a modest fee (price of a newspaper) or for free (public library or Internet).

References:

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

<http://www.mk.ru/blogs/MK/2007/11/09/society/322740/>

<http://www.compromat.ru/main/vybory/decl2007.htm>

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.

34b. 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. Every four years, during parliamentary elections, financial disclosures are made public by Central Election Commission. Otherwise they are not available to general public.

References:

Interview with a high-ranking official of Russian Audit Chamber

<http://www.kp.ru/daily/24076/312352/>

<http://www.nr2.ru/policy/173811.html>

<http://www.vedomosti.ru/newspaper/article.shtml?2007/10/15/134333>

<http://www.tverobl.ru/news/news29672.php>

<http://vff-s.narod.ru/dem/vyb161.html#934>

<http://vff-s.narod.ru/dem/vyb161.html#944>

<http://vff-s.narod.ru/dem/vyb161.html#952>

<http://www.compromat.ru/main/vybory/decl2007.htm>

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.

34c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Every four years, candidates to the State Duma submit financial asset and income declarations to Central Election Commission, which make them public. They are published in various media (including on the Internet) and are available to the general public for a modest fee (price of a newspaper) or for free (public library or Internet).

References:

interview with a high-ranking official of Russian Audit Chamber

<http://www.mk.ru/blogs/MK/2007/11/09/society/322740/>

<http://www.compromat.ru/main/vybory/decl2007.htm>

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.

35. Can citizens access legislative processes and documents?

92

35a. 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 the general public.

References:

<http://www.duma.gov.ru/>

<http://wbase.duma.gov.ru/steno/nph-sdb.exe>

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.

35b. In practice, citizens can access records of legislative processes and documents within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Records and documents (including transcripts of all sessions) are available online within two days on the State Duma official Web site or free with the exception of closed sessions discussing issues related to national security.

References:

Interview with a high-ranking official at Russian Audit Chamber

<http://www.duma.gov.ru>

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.

35c. In practice, citizens can access records of legislative processes and documents at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Records and documents (including transcripts of all sessions) are available online within two days on State Duma official website for free with the exception of closed sessions discussing issues related to national security.

References:

Interview with a high-ranking official of Russian Audit Chamber

<http://www.duma.gov.ru>

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.

52
III-3. Judicial Accountability

36. Are judges appointed fairly?

83

36a. In law, there is a transparent procedure for selecting national-level judges.

YES | NO

Comments:

The procedure for selecting national-level judges: A qualifications chamber that consists of judges (two-thirds) and representatives of the 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. Candidates for higher courts are presented by the president and approved by the Council of Federation. However, such a transparent procedure is not the rule. Quite often, a selection is based not on the merits of a potential candidate but on his/her personal connections and political affiliations. If draft legislation submitted by the Economic Development and Trade Ministry is adopted, leading judges would then be elected, and a special court would then hears cases against judges. The measures, which consist of amendments to federal laws, are in line with Kremlin efforts to clean up the corruption-plagued judiciary.

References:

Interview with Dr. Vasilii A. Vlasikhin, legal expert (Moscow)

Bill Would Establish Elections for Judges," The Moscow Times daily, Nov. 30, 2007

<http://www.vedomosti.ru/newspaper/article.shtml?2006/11/29/116701>

http://www.vkks.ru/ss_detale.php?region=72&id=2534&w

<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.

36b. In practice, professional criteria are followed in selecting 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 mean much less than personal connections and political affiliations.

Speaking of court reform, Pavel Astakhov said in an interview that the first thing that needs to be reformed is the system of appointing judges. Over the last five years, not a single lawyer has been appointed a judge; judges are mostly former employees of the law-enforcement agencies," he noted.

In April 2008, the Russian Supreme Court suggested psychological and polygraph tests for judge position applicants. A pilot project to that effect has been completed in the Kursk region, Alexander Gusev said. He explained that they had developed methods for a comprehensive psychological analysis, which made it possible to learn why a person wanted to be a judge. "The pilot project in the Kursk region was successful, but laws must be changed to hold similar projects elsewhere. I think psychological tests have been sufficient so far. We think that such tests must be taken by all the persons who wish to become judges," Gusev said. The proposals will be discussed at the upcoming congress of Russian judges, he added.

Vladimir Mau, known as the new president's "braincenter," said, "We have fallen into a trap of negative selection. It is not the best judges who wind up in the qualification pools but the most submissive ones." Mau suggested that attention be focused on "the educational background" of candidates ("people with background as a lawyer or human rights advocate" should be appointed judges," as should those who have completed study at "the appropriate educational institutions"). Finally, he stated that independence of the court is inconceivable without a democratic system: a two-party system at least.

Genri Reznik, president of the Moscow Lawyers Bureau, recalls only one case, on the 1950s, in which a lawyer for a short time became a Russian judge: "You will not see lawyers in the federal courts, even though they comprise 7 percent of the world's judges." Those who become judges are people with "repressive" orientation: Many are people from law enforcement agencies, prosecutors.

Case study: Boev vs. Solovyev: A senior federal judge testified in court that a Kremlin official threatened to derail her career if she did not reverse a ruling handed down against the Federal Property Fund.

Yelena Valyavina, first deputy chairwoman of the Supreme Arbitration Court, told Moscow's Dorogomilovsky District Court that Valery Boyev, an adviser on personnel appointments in the presidential administration, said she would not be returned to her post if she refused to change her position, Kommersant reported on May 13, 2008. "I was told unambiguously [by Boyev] that if I wanted to be re-elected [to my position], I'd face problems," Valyavina testified as a defense witness on May 12, 2008, in a libel

lawsuit filed by Boyev against radio news program host Vladimir Solovyov. On the Solovyiniye Treli program on Serebryany Dozhd radio, Solovyov said there were "no independent courts in Russia," but that the courtswere "courts dependent on Boyev," Kommersant reported.

In her testimony, Valyavina said Boyev asked her in the fall of 2005 to change her ruling regarding the proper ownership of a share package in Tolyattiazot, the country's biggest producer of ammonia. She said Boyev made his threat when she refused to comply.

In 1996, the Samara region's Property Fund sold a 6.1 percent stake in Tolyattiazot to joint Russian-Swiss agricultural company Tafoo. In March 2004, the Federal Property Ministry appealed the deal. After having its first two attempts turned down, a third appellate court ruled that the Tolyattiazot deal should be voided. The Supreme Arbitration Court overturned that ruling in November 2005. Boyev dropped the lawsuit before a scheduled May 26 hearing in which Solovyov's lawyer, Shota Gorgadze, said three more high-level judges from across Russia were expected to testify as witnesses.

References:

Interview with Dr. Vasilii A. Vlasikhin, legal expert (Moscow)

<http://www.rg.ru/2007/08/08/sudyi.html>

Interview with Pavel Astakhov, lawyer and member of the Public Chamber, Ekho Moskvyy radio, May 20, 2008

<http://www.kommersant.ru/doc.aspx?DocsID=894260&NodesID=2>

Interview with Alexander Gusev, general director of the Supreme Court's Court Department, Rossiyskaya Gazeta, <http://www.rg.ru/2008/04/10/gusev.html>

Statement by Vladimir Mau, director of the National Economy Academy, roundtable discussion dealing with problems of Russia's judicial system, Modern Development Institute, June 2008

A Lack of Confidence in the Judge: Roundtable Conference Presents President Medvedev with an Explanation of Why Russians Are Appealing to Strasbourg," Ilya Kriger, Novaya Gazeta, July 3, 2008

"Judge Tells of Kremlin Threat," Natalya Krainova, The Moscow Times daily, May 14, 2008, <http://www.moscowtimes.ru/article/1010/42/362715.htm>

<http://www.kommersant.ru/doc.aspx?DocsID=891082>

<http://www.kommersant.ru/doc.aspx?DocsID=891080>

<http://www.kommersant.ru/doc.aspx?DocsID=883908>

<http://www.kommersant.ru/doc.aspx?DocsID=895214&NodesID=6>

<http://www.vremya.ru/2008/91/4/204617.html>

http://www.ng.ru/politics/2008-09-12/4_sud.html

<http://www.vedomosti.ru/newspaper/article.shtml?2008/09/12/160917>

<http://www.kommersant.ru/doc.aspx?DocsID=1041038>

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.

36c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

YES | NO

Comments:

Candidates for the higher courts are presented by the president and approved by the Council of Federation (the upper chamber of the legislative).

References:

Constitution of Russia, Articles 126, 128

<http://www.kommersant.ru/doc.aspx?DocsID=811234>

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).

37. Can members of the judiciary be held accountable for their actions?

75

37a. 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.

At a convention of Russian judges on December 2, 2008, President Dmitry Medvedev discussed several proposals intended to improve the country's judicial system, ITAR-TASS reported. Medvedev announced an initiative to establish a single disciplinary body that will be responsible for the supervision of judges.

References:

Criminal Procedures Code, 2002

<http://www.vedomosti.ru/newspaper/article.shtml?2008/12/04/172176>

<http://www.rg.ru/2003/11/20/sudy.html>

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).

37b. 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, even for participants of a specific trial.

At a convention of Russian judges on December 2, 2008, President Dmitry Medvedev discussed several proposals intended to improve the country's judicial system, ITAR-TASS reported. Medvedev announced an initiative to establish a single disciplinary body that will be responsible for the supervision of judges.

References:

Interview with Dr. Vasilii A. Vlasikhin, legal expert (Moscow)

<http://www.rg.ru/2003/11/20/sudy.html>

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.

37c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

YES | NO

Comments:

A Higher Qualification Commission is 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).

At a convention of Russian judges on December 2, 2008, President Dmitry Medvedev discussed several proposals intended to improve the country's judicial system, ITAR-TASS reported. Medvedev announced an initiative to establish a single disciplinary body that will be responsible for the supervision of judges.

References:

Statute on Qualification Commissions, 2002, http://www.supcourt.ru/oss_detale.php?id=461

http://www.supcourt.ru/oss_vkks.php

Instruction on the order of operations of Higher Qualification Commission of the Russian Federation, 2007, http://www.vkks.ru/ss_detale.php?id=771

<http://www.vedomosti.ru/newspaper/article.shtml?2008/12/04/172176>

<http://www.rg.ru/2003/11/20/sudy.html>

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.

37d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

YES | NO

Comments:

A higher Qualification Commission is 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.

At a convention of Russian judges on December 2, 2008, President Dmitry Medvedev discussed several proposals intended to improve the country's judicial system, ITAR-TASS reported. Medvedev announced an initiative to establish a single disciplinary body that will be responsible for the supervision of judges.

References:

http://www.supcourt.ru/oss_vkks.php

Instruction on the order of operations of Higher Qualification Commission of the Russian Federation, 2007, http://www.vkks.ru/ss_detale.php?id=771

<http://www.vedomosti.ru/newspaper/article.shtml?2008/12/04/172176>

<http://www.rg.ru/2003/11/20/sudy.html>

YES: A YES score is earned if there are formal rules establishing that the judicial disciplinary agency (or equivalent mechanism) is protected from political interference by the executive and legislative 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 or legislative committee.

37e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

A higher Qualification Commission is 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.

On the Higher Qualification Commission website is a list of judges that were relieved of their responsibilities in 2005-2006 by the Commission but this information was not updated to include 2007-2008 decisions.

References:

http://www.vkks.ru/ss_detale.php?id=3542@ion=74

<http://www.kommersant.ru/doc.aspx?DocsID=810228>

<http://www.rg.ru/2003/11/20/sudy.html>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/02/29/142618>

<http://www.kommersant.ru/doc.aspx?DocsID=858902&NodesID=2>

http://www.expert.ru/printissues/expert/2008/10/makiazh_dlya_femidy/

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.

37f. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

On the Higher Qualification Commission (HQC) website is a list of judges that were relieved of their responsibilities in 2005 and 2006 by the commission, but this information was not updated to include 2007 and 2008 decisions.

The HQC was set up by the Supreme Court of the Russian Federation and reviews questionable rulings and evaluates the behavior of judges if they violate the law and can dismiss them.

In February 2008, the Constitutional Court of Russia ruled that qualification commissions should decide on removing a judge via secret vote only and directed the national legislature to amend the existing legislation within six months

According to Anton Ivanov, chairman of the Supreme Arbitration Court of Russia, on average 100 judges are called to account a year. According to Sergei Pashin, retired federal judge, in 2007, 270 judges were disciplined, and 40 were removed. In 2005 contracts with 73 judges were terminated.

President Dmitry Medvedev presented several proposals intended to improve the country's judicial system at a convention of Russian judges on December 2, 2008. ITAR-TASS reported. Medvedev announced an initiative to establish a single disciplinary body that will be responsible for the supervision of judges.

References:

http://www.vkks.ru/ss_detale.php?id=3542@ion=74

<http://www.kommersant.ru/doc.aspx?DocsID=810228>

<http://www.regnum.ru/news/879290.html>

<http://www.rg.ru/2007/10/23/reg-vvolga/sudii.html>

<http://www.rg.ru/2003/11/20/sudy.html>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/02/29/142618>

<http://www.kommersant.ru/doc.aspx?DocsID=858902&NodesID=2>

http://www.expert.ru/printissues/expert/2008/10/makiazh_dlya_femidy/

<http://www.vedomosti.ru/newspaper/article.shtml?2008/08/05/157175>; <http://www.kommersant.ru/doc.aspx?DocsID=1045797>

<http://www.rg.ru/2008/10/28/sudia.html>

<http://www.rg.ru/2008/06/10/sudii.html>

<http://www.newizv.ru/news/2008-12-02/102527/>

<http://www.rg.ru/2008/05/28/sudii.html>

<http://www.kommersant.ru/doc.aspx?DocsID=914749>

<http://www.kommersant.ru/doc.aspx?DocsID=1024365&NodesID=6>

http://www.ng.ru/politics/2008-07-01/4_femida.html

<http://www.vedomosti.ru/newspaper/article.shtml?2008/12/04/172176>

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.

38. Are there regulations governing conflicts of interest for the national-level judiciary?

0

38a. In law, members of the national-level judiciary are required to file an asset disclosure form.

YES | NO

Comments:

No, there were no such requirements in law as of the study period of this report. However, according a package of anti-corruption bills introduced to the State Duma by President Medvedev in early November 2008 and approved in the first reading a week later, the system of filing an annual asset and income disclosure form by all public officials will be extended to the judiciary. All judges and members of their immediate family will have to submit these forms but to their superior, not to the tax agency as public officials do. Judge-position applicants will have to submit such forms to qualification commissions. How disclosure forms will be audited is to be decided by the Supreme Court of Russia, the Supreme Arbitration Court of Russia and the Constitutional Court of Russia. If incorrect or insufficient information is provided, judges can be disciplined or even removed.

The bills also suggest prohibiting judges and members of their family from accepting gifts and hospitality.

Information on assets and income of judges can be made public. Only federal media can supply it. If such information is provided, it should be published within a week. An application by a media entity can be rejected if the publication can be used as a means to apply pressure on a specific judge.

References:

Federal Law On Statute of Judges in Russian Federation, 1992, <http://www.stavsud.ru/kraysud/zakon/status>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/10/09/164145>

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.

38b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

YES | **NO**

Comments:

No, there were no such requirements in law as of the study period of this report. However, according a package of anti-corruption bills introduced to the State Duma by President Medvedev in early November 2008 and approved in the first reading a week later, the system of filing an annual asset and income disclosure form by all public officials will be extended to the judiciary. All judges and members of their immediate family will have to submit these forms but to their superior, not to the tax agency as public officials do. Judge-position applicants will have to submit such forms to qualification commissions. How disclosure forms will be audited is to be decided by the Supreme Court of Russia, the Supreme Arbitration Court of Russia and the Constitutional Court of Russia. If incorrect or insufficient information is provided, judges can be disciplined or even removed. The bills also suggest prohibiting judges and members of their family from accepting gifts and hospitality.

Information on assets and income of judges can be made public. Only federal media can supply it. If such information is provided, it should be published within a week. An application by a media entity can be rejected if the publication can be used as a means to apply pressure on a specific judge.

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.

38c. 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.

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.

38d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.

YES | **NO**

Comments:

No, there are no such requirements.

In November 2008, President Medvedev submitted a package of anti-corruption bills to the State Duma, which a few days later approved them on the first reading. Among other initiatives, the draft laws introduce mandatory asset and income control of judges (and members of their families) and judge-position applicants.

References:

Federal Law On Statute of Judges in Russian Federation, 1992, <http://www.stavsud.ru/kraysud/zakon/status>

Interview with Larisa Brycheva, head of the State Legal Department of the Administration of the President, Rossiiskaya Gazeta daily, Nov. 18, 2008t, <http://www.rg.ru/2008/11/18/sud.html>).

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.

38e. 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:

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 cases 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.

38f. 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.

According a package of anti-corruption bills introduced to the State Duma by President Medvedev in early November 2008 and approved in the first reading a week later, the system of filing an annual asset and income disclosure form by all public officials will be extended to the judiciary. All judges and members of their immediate family will have to submit these forms but to their superior, not to the tax agency as public officials do. Judge-position applicants will have to submit such forms to qualification commissions. How disclosure forms will be audited is to be decided by the Supreme Court of Russia, the Supreme Arbitration Court of Russia and the Constitutional Court of Russia. If incorrect or insufficient information is provided, judges can be disciplined or even removed. Information on assets and income of judges can be made public. Only federal media can supply it. If such information is provided, it should be published within a week. An application by a media entity can be rejected if the publication can be used as a means to apply pressure on a specific judge.

References:

Interview with Dr. Vasili A. Vlasikhin, legal expert (Moscow)

<http://www.vedomosti.ru/newspaper/article.shtml?2008/10/09/164145>

100: The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced. 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.

38g. In practice, national-level judiciary asset disclosures are audited.

100 | 75 | 50 | 25 | 0

Comments:

There are no such legal requirements.

In November 2008, President Medvedev submitted a package of anti-corruption bills to the State Duma, which a few days later approved them on the first reading. Among other initiatives, the draft laws introduce mandatory asset and income control of judges (and members of their families) and judge-position applicants.

Information on assets and income of judges can be made public. Only federal media can supply it. If such information is provided, it should be published within a week. An application by a media entity can be rejected if the publication can be used as a means to apply pressure on a specific judge.

References:

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.

39. Can citizens access the asset disclosure records of members of the national-level judiciary?

0

39a. 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.

In November 2008, President Medvedev submitted a package of anti-corruption bills to the State Duma, which a few days later approved them on the first reading. Among other initiatives, the draft laws introduce mandatory asset and income control of judges (and members of their families) and judge-position applicants.

Information on assets and income of judges can be made public. Only federal media can supply it. If such information is provided, it should be published within a week. An application by a media entity can be rejected if the publication can be used as a means to apply pressure on a specific judge.

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.

39b. 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.

In November 2008, President Medvedev submitted a package of anti-corruption bills to the State Duma, which a few days later approved them on the first reading. Among other initiatives, the draft laws introduce mandatory asset and income control of judges (and members of their families) and judge-position applicants.

Information on assets and income of judges can be made public. Only federal media can supply it. If such information is provided, it should be published within a week. An application by a media entity can be rejected if the publication can be used as a means to apply pressure on a specific judge.

References:

Interview with Dr. Vasilii 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.

39c. 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.

In November 2008, President Medvedev submitted a package of anti-corruption bills to the State Duma, which a few days later approved them on the first reading. Among other initiatives, the draft laws introduce mandatory asset and income control of judges (and members of their families) and judge-position applicants.

Information on assets and income of judges can be made public. Only federal media can supply it. If such information is provided, it should be published within a week. An application by a media entity can be rejected if the publication can be used as a means to apply pressure on a specific judge.

References:

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

40. Can the legislature provide input to the national budget?

92

40a. In law, the legislature can amend the budget.

YES | NO

References:

Russian Constitution, 1993, 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.

40b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | 0

Comments:

Yes, significant public expenditures require legislative approval. In practice, a change in budget expenditures requires an amendment to the budget law.

On Oct. 31, 2008 the State Duma allowed the federal government to amend the budget without an agreement (A>3;0A>20=85) with the national legislature, but only for one year, until Jan. 1, 2010. The government will be able in 2009 to move the budget funds as it sees fit but staying within the budget. However, the government still has to get an approval from a special commission of seven deputies of the State Duma (four of them belong to the Edinaya Rossiya ruling party) and seven senators of the Council of Federation.

Prior to that, all amendments to the budget have to be approved via special laws. A government submits a proposal to the State Duma, which has 25 days to review it; then it moves to the Council of Federation for another four days. Finally it arrives at the president for his confirmation.

References:

<http://www.rg.ru/2006/08/23/byudzhets-2007.html>; <http://www.rg.ru/2006/08/17/budget.html>

Budget Code of the Russian Federation N 145 FZ, Article 11, <http://www.garant.ru/main/12012604-000.htm>

<http://www.vremya.ru/2008/204/4/216272.html>

<http://www.kommersant.ru/doc.aspx?DocsID=1052025&NodesID=4>

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.

40c. 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, the 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 or the logic of the whole process. It should be noted that the State Duma has a special arm for such monitoring, the Audit Chamber, via which it can provide necessary input. The government also is interested in cooperation with the Duma during budget processes. However, since the State Duma is totally controlled by the pro-president party, real decisions are made beforehand in the Kremlin administration.

On Oct. 31, 2008 the State Duma allowed the federal government to amend the budget without an agreement (A>3;0A>20=85) with the national legislature, but only for one year, until Jan. 1, 2010. The government will be able in 2009 to move the budget funds as it sees fit but staying within the budget. However, the government still has to get an approval from a special commission of seven deputies of the State Duma (four of them belong to the Edinaya Rossiya ruling party) and seven senators of the Council of Federation.

References:

Publications in Russian media

<http://www.vremya.ru/2008/204/4/216272.html>

<http://www.kommersant.ru/doc.aspx?DocsID=1052025&NodesID=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.

41. Can citizens access the national budgetary process?

42

41a. 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 law requires a political party, within 30 days after the official announcement of parliamentary election results, to provide general information on its donations to the Central Election Commission (CEC), which reviews the report. For the first time in Russian political practice, the CEC has started auditing political parties for the legality of their income and expenditure of funds. The CEC is charged with this task under the federal law on political parties. Previously, the CEC controlled party finances only in election periods, but from now on monitoring will be done on a permanent basis. Local election commissions control the financial activity of regional branches of the parties.

Chairman of the Audit Chamber Sergei Stepashin criticized the 2008-2010 budget for, among other problems, insufficient transparency in allocating funds for national projects

The media reports on major budget debates in the State Duma, but there is no live broadcast or 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.

The following demonstrates how a national budgetary process is conducted.

1. Before final approval of the budget, the executive consults with members of the legislature. On Feb. 2, 2007, the Council of Federation of the Federal Assembly of the Russian Federation accepted the decision on the formation of the concept of the federal budget for 2008 to 2010. The decision was published on Feb. 8, 2007. The zero^o reading was conducted. Minister of Finance A. Kudrin communicated with representatives of all factions, and the basic figures of the budget were discussed.
2. The executive released the timetable of the 2008-2010 budget draft preparation to the public.
3. The president's pre-budget statement for 2008 was released to the public on March 9, 2007. It contained the basic directions and reference points of budgetary policy for 2008 to 2010. The pre-budget statement for 2006 was released to the public on May 24, 2005. The 2008-2010 federal budget was developed on the basis of the perspective financial plan of the Russian Federation for 2007 to 2009. The government order from Dec. 30, 2006, was presented to the public on March 30, 2007.
4. The pre-budget statement describes government policies and priorities. The explanatory note describes the basic characteristics of the federal budget for 2008 to 2010.
5. Parliamentary hearings in the Council of Federation were held on May 14, 2007, to discuss the forecast of social and economic development of the Russian Federation through 2010 and the parameters of the 2008-2010 federal budget. Members of the Council of Federation, deputies of the State Duma, representatives of scientific organizations and the accounts chamber of the Russian Federation take part in parliamentary hearings.
6. Transcripts of all sessions are available on the Internet. The transcript of the State Duma session discussing the third reading of the federal budget statement is at <http://wbase.duma.gov.ru/steno/nph-sdb.exe?B0CW>.

References:

http://www.vsp.ru/show_article.php?id=41970

<http://www.rg.ru/2007/05/15/budget.html>

<http://www.government.ru/>

Budget Code of the Russian Federation, Article 170

<http://www.duma.ru/> and http://www.council.gov.ru/files/parliament_attend/84.doc

<http://wbase.duma.gov.ru/steno/nph-sdb.exe?BOCW>

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.

41b. 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.

The Council of Federation undertakes parliamentary hearings in roundtable meetings and other forums in which testimony from the executive branch and the public is heard. Citizens' voices are heard if they provide expert opinion."

References:

<http://uglich.ru/rayon/vlast/official/page1175/1/3/>

<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.

41c. In practice, citizens can access itemized budget allocations.

100 | 75 | 50 | 25 | 0

Comments:

Access to information on itemized budget allocations differs based on the level of government and from region to region. At the federal level, full information is available. In regions like St. Petersburg, Karelia, Samara, Perm and Tomsk, the budgets, with itemized allocations, are available on the Internet. The approved budget is printed in the official newspapers. A deficit is observed in local government information and in the so-called secret articles in the federal budget (defense, nuclear power development, etc.).

Some foreign and international donors supported a number of projects on Open Budget in 2000-2004, but funding declined since then and some relevant programs were canceled. For some years, the Strategy Center (St. Petersburg) has conducted a Transparent Budget program; unfortunately, these activities are almost over.

References:

http://www.obninsk.ru/economika/budget/?b_year=2007

http://www.obninsk.ru/economika/budget/?b_year=20080

<http://www.transparentbudget.ru/eng/index.html>

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.

43. Is the legislative committee overseeing the expenditure of public funds effective?

67

43a. 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 from among willing Members of Parliament. The Audit Chamber is funded by the government and is governed by its own charter. However, since the Audit Chamber reports to the State Duma on a regular basis, we can accept it as an equivalent report.

The year-end reports of the executive departments that discuss the actual budget for the year are released to the legislature and public six months or less after the end of the fiscal year. The Audit Chamber undertakes an audit of the annual reports, the results of which are available on the website of the Audit Chamber.

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.

43b. 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 in the State Duma. The Audit Chamber is an independent body and acts in a nonpartisan manner even 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 from among willing Members of Parliament. The United Russia political party holds a majority in the 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.

There is less and less pluralism in the Russian political process now. There is only one strong party, United Russia; others either follow it or have no notable influence on policymaking.

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.

43c. 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 the Ministry of Finance, which have the final say in such matters. The results of investigations (formed as recommendations) may not be taken into account by the legislative and executive branches. The executive branch does not make available to the public what steps it has taken to address audit recommendations or findings that indicate a need for remedial action.

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.

42. Is there a separate legislative committee which provides oversight of public funds?

100

42. 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. Although a Budget Committee exists in the State Duma it only deals with national budget via discussing the budget and passing it. What happens later, is not of any concern of this Committee or any other Committee of the State Duma. Tax Committee in the State Duma is dealing with passing laws on taxes. Both committees have no oversight functions whatsoever.

Parliament has to rely on the data collected by the Audit Chamber. The Audit Chamber fulfills the oversight function on behalf of Parliament and is very much equal to a legislative committee.

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).

Category IV. Administration and Civil Service

IV-1. ⁵⁷ Civil Service Regulations

44. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

75

44a. 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. In fall 2008, a draft ethics code for public officials was introduced to the State Duma. Edinaya Rossiya, the ruling political party, is discussing it.

References:

Federal Law on Public Civil Service, 2004, Article 4

<http://www.kommersant.ru/doc.aspx?DocsID=1038306&NodesID=2>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/10/10/164249>

<http://www.trud.ru/issue/article.php?id=200812032270101>

<http://www.newizv.ru/news/2008-03-19/86765/>

http://www.gazeta.ru/politics/elections2008/2008/03/19_a_2672032.shtml

<http://www.rg.ru/2008/04/09/volokita.html>

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.

44b. 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 resigned as defense minister because his father-in-law was 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. It is curious that it took six full days for Serdyukov to submit his resignation. Russia 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 Sept. 18, 2007, Zubkov linked it to their family ties.

Serdyukov made a point of saying that he was stepping down for ethical reason. 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 married Cabinet ministers Health and Social Development Minister Tatyana Golikova and Industry and Energy Minister Sergei Khristenko because neither works under the other. (Deputy Prime Minister Sergei Naryshkin, who supervises public administration reform in the government, said on Sept. 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. "I have to say that we have good, comradely relations.")

Then President Vladimir Putin refused to accept Anatoly Serdyukov's resignation.

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 Deputy Prime Minister Sergei Ivanov work in banks: Sergei, 27, is a vice president at Gazprombank, while Alexander, 31, works at Vneshekonombank. Sergei Matviyenko, the son of St. Petersburg's governor, is vice president at VTB bank. Dmitry Patrushev, son of the former Federal Security Service director, reportedly oversees loans to oil companies at the same bank. Patrushev's younger brother, Andrei, 27, advises Rosneft chairman Igor Sechin. The list could go on and on.

A Russian citizen cannot become or remain a civil servant in cases of close kinship ties with sitting civil servants (parents, spouses, brothers, sisters, sons, daughters) if their civil service position is/would be immediately subordinate to or under the control of such a relative. Everyone knows that nepotism in Russian government institutions is not rare. The situation for civil servants is even worse, as the concept of being "under control" is quite blurred.

References:

Federal Law on Public Civil Service, 2004

Russkaya Sluzhba Novostei radio service

Take the High Road against Corruption," The Moscow Times daily, Sept. 20, 2007, <http://www.moscowtimes.ru/article/858/49/194217.htm>.

"Defense Minister Resigns over Family Ties," Miriam Elder and Francesca Mereu, The Moscow Times daily, Sept. 19, 2007, <http://www.moscowtimes.ru/article/850/49/194224.htm>

"The Law of In-Laws," Kommersant daily, Sept.24, 2007, http://www.kommersant.com/p806986/Relatives_Nepotism_Serdyukov/

"Minister Says Family Ties Won't Affect Cabinet," The Moscow Times daily, Sept. 27, 2007, <http://www.moscowtimes.ru/article/850/49/194046.htm>

"Russia: Anticorruption Figure Sees Troubling Trends in Russia," Veronika Bode, RFE/RL, Oct. 1, 2007

<http://www.rg.ru/2008/06/25/reg-jugrossii/237022.html>

<http://www.novayagazeta.ru/data/2008/91/16.html>

<http://www.novayagazeta.ru/data/2008/92/18.html>

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.

44c. In law, there is an independent redress mechanism for the civil service.

YES | NO

Comments:

A civil servant seeking redress of a grievance can either go to a conflict commission of his/her state body or to court.

References:

Federal Law on Public Civil Service, Article 58, Part 7, Chapter 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. The mechanism should be independent of their supervisors but can still be located within the government agency or entity (such as a special commission or board). Civil servants are able to appeal the mechanism's decisions to the judiciary.

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

44d. 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 post in public service for a limited period of time (two to three years). Ultimately, there is no legal statute prohibiting civil servants convicted of corruption from future government employment for good. In practice, public officials are prohibited on an ad hoc basis.

The Criminal Code also includes a ban on taking any post after an imprisonment (up to three years). Such a decision is part of a verdict.

References:

Federal Law on Public Civil Service, 2004, Article 16

Criminal Code of Russia, Articles 285, 286, 291

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 or if the ban is not a lifetime ban.

45. Is the law governing the administration and civil service effective?

39

45a. 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, consists of four ministers: Aleksandr Zhukov, Sergey Shoygu (Ministry of Civil Defense, Emergencies and Natural Disasters), Yuriy Trutnev (Ministry of Natural Resources) and Aleksey Gordeyev (Ministry of Agriculture). 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. In October 2007, Egor Stroev, governor of Oryol Region and a member of the High Council of Edinaya Rossiya, the ruling party, made a decision to enlist more members for his

party. At a September 2007 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 the sacking of the governors of Novgorod and Samara regions who failed to provide an expected support to Edinaya Rossiya for the March 11, 2007, election.

References:

Various publications in Russian media

Editorial: The Kremlin's Favorite," <http://www.Gazeta.ru>, Aug. 2, 2007

"Or To Be Sent to Back of Beyond," Valentina Ostroushko, Novye Izvestiya daily, Sept. 5, 2007, <http://www.newizv.ru/news/2007-09-05/75536/>

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.

45b. In practice, civil servants are appointed and evaluated according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

Appointments and evaluations are often 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 mid- and high-ranking officials. Many websites of Russian state bodies don't have a vacancy section, and no information about how to apply for a position available at specific state body is provided.

President Dmitry Medvedev should be commended for publicly admitting what everyone knew was a large contributing factor to corruption in post-Communist Russia. Addressing a group of his key aides and selected ministers on July 23, 2008, the president acknowledged that government posts are filled on the basis of nepotism rather than meritocracy, and in some cases, they are put up for sale. Medvedev also lamented the lack of qualified candidates for gubernatorial posts and other senior positions, describing the situation as a personnel famine." The president said he would personally handpick candidates for governors posts to form a "presidential reserve."

On the same day that Medvedev spoke, a Kremlin official told Vedomosti daily that the president wants to institute a policy in which appointments will be transparent and comply with clear and objective criteria. Candidates should preferably have experience in both the public and private sectors. The official said career law enforcement and military officers would not be welcomed.

Presidents have been handpicking governors for three years, and it doesn't seem to have helped achieve a sustainable, nationwide improvement in the quality of governance. If the president is serious about making the regional system of public administration efficient, he should be doing a lot more than simply issuing statements about nepotism and corruption in personnel policy. He should take concrete steps to improve the quality of training for officials and design a coherent, transparent system of performance evaluation, in which promotion and pay raises are based on merit. He should also push to make the legislative and judicial branches of power in the regions independent and efficient.

No matter how capable Medvedev's appointee may be, he/she won't be able to do a good job unless there is a robust Parliament, judicial system and civil society to provide both help and oversight.

Critics maintain, however, that some regional bosses still find it easy to help friends and relatives into office, especially in the North Caucasus, where nepotism is widespread.

The Kremlin itself has come under fire from critics who say that many people close to Putin including Medvedev were appointed to senior government posts during his eight years in office.

Russian Liberal Democratic Party (LDPR) leader Vladimir Zhirinovskiy said on the cost of state positions: "A governor is somewhere around 5 to 7 million euros (US\$6.5 to 9 million, and a seat in the Federation Council is the same. Certain lower-level offices, a department head or a federal service director, for example, will be a little less, 4 or 3 euros (US\$ 5 or 3.9 million)." There is no reason not to believe Zhirinovskiy, who is in a position to know.

It's not a first attempt by Medvedev to explain his stand on civil service. When he was still First Deputy Prime Minister, he stated his belief in a need for a better legal-education background of state employees. "The core of a law-governed state means the

organization and implementation of laws. To achieve this, it is necessary to give state employees a more thorough and better legal training in specific fields of their activity," Medvedev told a congress of the association of Russian lawyers on Jan. 29, 2008.

References:

The Law of the In-Laws," Vlast monthly, Sept. 24, 2007, <http://www.kommersant.ru/doc.aspx?DocsID=806986>

<http://www.moscowtimes.ru/article/600/42/369148.htm>

"A New Idea Smacks of Old Nomenklatura," The Moscow Times daily, July 28, 2008, <http://www.moscowtimes.ru/article/1023/42/369239.htm>, <http://www.moscowtimes.ru/article/600/42/369148.htm>

"Let's Strike with a Fight Against Corruption and Lawlessness and Sloppiness!" Aleksandr Podrabinek," Yezhednevny Zhurnal, July 29, 2008

"State employees to have legal background, Russian deputy premier says," Interfax news agency, Jan. 29, 2008

<http://www.smoney.ru/article.shtml?2008/01/28/4780>

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.

45c. 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 in which relatives of 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.

Publication of The Law of In-Laws" followed the resignation submitted by Russia's acting Defense Minister Anatoly Serdyukov who claimed he has to step down because the new prime minister, Viktor Zubkov, is his father-in-law. President Putin didn't accept it.

By law, a Russian citizen cannot become or remain a civil servant in cases of close kinship ties with civil servants (parents, spouses, brothers, sisters, sons, daughters) if their civil service implies being immediately subordinate to or under control of relative. Vlast found 35 examples of kinship ties within the Russian power institutions.

Among conscientious officials, it is believed that it is bad to accept bribes, but showing preference to one's close relatives and friends is the norm.

References:

Report in Vlast monthly, Sept.24, 2007, <http://www.kommersant.ru/doc.aspx?DocsID=806986>

<http://www.novayagazeta.ru/data/2007/58/00.html>

The Law of In-Laws," Kommersant daily, Sept. 24, 2007, http://www.kommersant.com/p806986/Relatives_Nepotism_Serdyukov/

<http://www.novayagazeta.ru/data/2008/04/00.html>

<http://www.novayagazeta.ru/data/2008/36/00.html>

<http://news.mail.ru/economics/1786805/>

<http://www.kommersant.ru/doc.aspx?DocsID=1013564&NodesID=6>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/08/28/159268>

<http://www.newizv.ru/news/2008-04-10/88227/>

"Corruption Is an Additional Tax Levied on Citizens," interview with Vladimir Yuzhakov, head of the Administrative Reform project at the Center for Strategic Developments, Irina Granik, July 8, 2008, <http://www.Gazeta.ru>

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.

45d. In practice, civil servants have clear job descriptions.

100 | 75 | 50 | 25 | 0

Comments:

A contract with a public official has to have a job description. 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:

Interview with a high-ranking official of Russian Audit Chamber

Federal Law on Public Civil Service, Articles 24, 27

100: Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable representation of positions in terms of a person's authority, responsibility 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.

45e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | 75 | 50 | 25 | 0

Comments:

Russian officials have enjoyed an unprecedented rise in their wages since 2004. However, this increase affects mostly high-ranking officials. Nonetheless, almost all Russian public officials have additional, often non-monetary bonuses. Up to 50 percent of their rent, sometimes including utilities, is subsidized by state or municipal authorities. They have free health insurance (top officials have not 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 trips to a sanatorium for the whole family and a company car with a driver. Besides basic salary, high-ranking public officials get quarterly bonuses that double their pay.

In October 2007, Novaya Gazeta published a list of holders of a special Aeroflot Business Pass, a free pass for (largely) business-class trips on domestic (and for most holders, international) flights. Most passholders are high-ranking public officials; some are businessmen. Aeroflot is a state-run corporation

References:

<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>

<http://www.novayagazeta.ru/data/2007/82/00.html>

<http://www.newizv.ru/news/2007-04-26/68647/>

<http://www.vedomosti.ru/newspaper/article.shtml?2007/07/11/129017>

<http://www.novayagazeta.ru/data/2007/63/00.html>

Bribes As Salary Supplements," Kira Vasilieva, Novye Izvestia, Oct. 11, 2007

<http://www.rg.ru/pril/article/22/86/26/bankomata.gif>

<http://www.rg.ru/2008/05/20/chinovniki-zarplata.html>

http://www.ng.ru/economics/2008-06-10/5_income.html

<http://www.newsru.com/russia/19nov2008/rospr.html>

<http://www.rg.ru/2008/03/18/chinovniki.html>

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.

45f. 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 or unpublished. (With regard to law enforcement agencies, there is no valid data on the number of police Russia in general or in any major city.) The Russian Statistics Agency Rosstat regularly releases information on public sector employment, but it is not clear if its figures cover the entire public sector, including so-called power agencies (police, security service, emergency corps, the military, etc.) or only civil servants.

The Law On State Civil Service, which changes the system for the formation and operation of government, envisions filling many positions by competition. They are already being conducted, and even the prosecutor's office watches to see that the positions are filled through competition. But the law does not describe the competition procedure concretely enough. The actual appointment is all the same left to the discretion of the boss. This makes the person appointed to the position dependent on his future boss rather than on the results of the competition. The lack of this detail and the procedure for conducting the competition preserves the basis for corruption.

References:

Interview with a high-ranking official of Russian Audit Chamber

<http://www.newizv.ru/news/2008-04-10/88227/>

Law On State Civil Service, 2004

Corruption Is an Additional Tax Levied on Citizens," interview with Vladimir Yuzhakov, head of the Administrative Reform project at the Center for Strategic Developments, conducted by Irina Granik, July 8, 2008, <http://www.gazeta.ru>

<http://www.kommersant.ru/doc.aspx?DocsID=906708&NodesID=2>

<http://www.rg.ru/2008/07/31/reg-kavkaz/sudzadolzhnost.html>

<http://www.kommersant.ru/doc.aspx?DocsID=896962>

<http://www.newizv.ru/news/2008-04-24/89149/>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/06/03/150133>

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.

45g. In practice, the independent redress mechanism for the civil service is effective.

100 | 75 | 50 | 25 | 0

Comments:

No, quite often, 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.

45h. 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. And their salaries have been significantly raised and continue to grow. According to figures released on Sept. 14, 2007, by the Federal Statistics Service (RosStat), executive branch employee salaries rose by 22.9 percent in the previous six months alone, to an average of 23,029 rubles (US\$704.90) a month.

Bureaucrats are still crying poor, but their average salaries are now higher than the average income for citizens in general (13,500 rubles [US\$ 413.22] a month as of July 2007). Regional bureaucrats at various levels grew richer in the first half of 2007 as well. 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\$483.80) a month. The real salaries of regional executive branch employees rose by 22.9 percent, to 23,029 rubles (US\$705.03) a month. The salaries of local government employees reached 13,692 rubles (US\$419.18) a month, a rise of 22.7 percent.

In real terms, counting inflation, the salaries of regional bureaucrats rose by 14 percent; average incomes for citizens in general rose by 17.4 percent.

Public servants and officials aren't limiting their incomes. 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. 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\$1837) 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 are still living on 10,000 rubles (US\$306) a month. Within the first six months of 2008, the average salary of Russian public officials reached 23,300 rubles (US\$714). The average salary in Russia was 17,500 rubles (US\$536).

References:

Interview with a high-ranking official of Russian Audit Chamber

<http://www.vedomosti.ru/newspaper/article.shtml?2007/10/23/134819>

<http://www.rg.ru/pril/article/22/86/26/bankomata.gif>

<http://www.rg.ru/2008/05/20/chinovniki-zarplata.html>

http://www.ng.ru/economics/2008-06-10/5_income.html

<http://www.newizv.ru/news/2008-06-10/91701/>

<http://news.mail.ru/politics/1822229/>

<http://www.izvestia.ru/economic/article3114674/>

<http://www.newizv.ru/news/2008-04-28/89366/>

<http://www.kommersant.ru/doc.aspx?DocsID=1023874>

Salaries Rise Lines Remain," Olga Gorelik, Izvestia daily (Moscow), Sept. 17, 2007

"Profitable Chair," Kommersant daily, Sept.17, 2007, <http://www.kommersant.ru/doc.aspx?DocsID=805133>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/03/26/144337>

<http://www.zakon.kz/our/news/news.asp?id=30170356>

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.

45i. 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 supervisory positions for up to three years. A permanent ban on 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.

Sometimes, public officials convicted for corruption manage to be employed in the public sector before the ban set by the court is over.

Corrupt judges help corrupt officials either avoid punishment altogether or get a suspended sentence. Evgeni Grigorev, prosecutor of Saratov region, said on Feb. 8, 2008, at a meeting of regional law enforcement bodies that courts prefer suspended sentences for corruption crimes. In 2007, 81 percent of corrupt officials were handed suspended sentences. Grigorev was later killed in contract-style murder for prosecuting corruption, investigators believe.

References:

Interview with a high-ranking official of the Russian Audit Chamber

<http://www.novayagazeta.ru/data/2007/06/24.html>

<http://www.polit.ru/news/2008/04/29/mchs.html>

<http://www.rian.ru/society/20080620/111435955.html>

<http://www.utro.ru/news/2008/09/11/766502.shtml>

<http://www.nabludatel.ru/lenta.htm?act=lenta&id=7686&year=2008&mon=11>

<http://www.vesti.ru/doc.html?id=179957>; <http://www.rg.ru/2008/09/05/sudimost.html>

<http://www.vesti.ru/doc.html?id=198005>

<http://www.izvestia.ru/news/news184667>

<http://www.vesti.ru/doc.html?id=211237>

Interview with Rashid Nurgaliev, Minister of Interior, Rossiiskaya Gazeta daily on Oct. 14, 2008, <http://www.rg.ru/2008/10/14/mvd.html>

<http://babr.ru/?pt=news&event=v1&IDE=43972>

<http://www.izvestia.ru/news/news182796>

<http://www.rg.ru/2008/07/31/reg-kuban/krupnogohinovnikaocudili.html>

<http://www.polit.ru/news/2008/01/30/spiker.htm>

<http://www.rian.ru/society/20080430/106267223.html>

<http://www.rg.ru/2008/03/25/reg-chernoz/neulovimaya.html>

<http://www.rg.ru/2008/07/29/reg-dvostok/korrupciya.html>

<http://news.mail.ru/incident/1608866/>

<http://www.kommersant.ru/doc.aspx?DocsID=1013171>

<http://en.rian.ru/russia/20080214/99163689.html>

<http://www.newsland.ru/News/Detail/id/260709/>

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. Some bans are only temporary.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

46. Are there regulations addressing conflicts of interest for civil servants?

56

46a. In law, senior members of the civil service are required to file an asset disclosure form.

YES | NO

Comments:

It is customary to believe that the Law on Declarations of Property by Officials protects society from corruption. However, after making a study of current legal practice, the Supreme Court came to the following conclusion: If a state employee fails to present the compulsory declaration, it is not possible even to fine him or her. There is no corresponding article in the Russian Federation Code on administrative violations. The code does not cover the responsibility of state employees to observe official restrictions.

In September 2008, the National Anti-Corruption Council approved a package of anti-corruption bills. In November 2008, President Medvedev submitted the bills to the State Duma, which approved by it on the first reading a week later. This draft legislation introduced a norm for mandatory filing of asset and income disclosure forms for all public officials (which has been mandatory since 2004) as well as their family members (which was not mandatory before). What constitutes family" raised some eyebrows. The draft law recognizes only the spouse and juvenile children as family, not adult children, parents or siblings. Journalists wanted to know why, and Volkov became clearly edgy. "That's not easy," he said. "After all, adult children do not necessarily live with their parents. Human rights must be kept in mind."

In May 2008, the mayor of Moscow City, Yuri Luzhkov, signed a decree making it mandatory for Moscow Government officials to file asset and income disclosure forms and how this information can be made public.

References:

Decree of the President of the Russian Federation on measures to strengthen discipline in the civil service, June 4, 1996, http://www.transparency.org.ru/CENTER/DOC/decree810eng_doc

Law on Declarations of Property by Officials

Editorial: The Fight Against Corruption: The First Joint Project of the Tandem of Leaders; radical decisions are still impossible without Putin's support, Nezavisimaya Gazeta daily, March 25, 2008, http://www.ng.ru/editorial/2008-03-25/2_red.html

<http://www.gazeta.ru/business/2008/04/03/2685494.shtml>

<http://www.gazeta.ru/business/2008/04/03/2685494.shtml>

<http://www.kommersant.ru/doc.aspx?DocsID=1034099>

<http://www.rg.ru/2008/12/03/konovalov.html>

War on Corruption to begin in 2009, Boris Klin, Izvestia daily, Oct. 7, 2008

<http://www.newsru.com/russia/21may2008/luzhkov.html>

YES: A YES score is earned if senior members of the civil service 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 senior member of the civil service is not required to disclose assets.

46b. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

YES | NO

Comments:

The Law on State Civil Service has important norms for regulating conflicts of interest when an official's official and personal interests intersect. It is not a matter of catching the official after the fact but of eliminating the situation that creates the opportunity for corrupt actions. The law prescribes that the official inform the leadership of possible conflicts of interest and avoid them.

Reports from the General Prosecutor's Office describe particular cases of conflict of interest, but nothing is heard about commissions regulating these conflicts or that a certain official himself stated them and made the decision to leave his position on the grounds, for example, that his relative had bought a company that was in his particular sphere of regulation.

The General Prosecutor's Office should monitor commissions' activities to regulate conflicts of interest, compare declarations and make a decision in cases in which it is discovered that an official concealed information on conflicts of interest.

This would not eliminate the problem of corruption altogether, but it eliminates one of the key links in the above-mentioned shadow decision-making system.

References:

Federal Law on Public Civil Service, Article 17, Part 1, Paragraph 15

<http://www.gazeta.ru/business/2008/04/03/2685494.shtml>; <http://www.rg.ru/2008/06/25/buksman.html>

Corruption Is an Additional Tax Levied on Citizens," interview with Vladimir Yuzhakov, head of the Administrative Reform project at the Center for Strategic Developments, Irina Granik, July 8, 2008, <http://www.gazeta.ru> news

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.

46c. 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 that s/he oversaw as a public servant. However, no sanctions for violating this regulation are specified.

In September 2008, the National Anti-Corruption Council approved a package of anti-corruption bills. In November 2008, President Medvedev submitted the bills to the State Duma, which approved by it on the first reading a week later. This draft legislation introduced a norm for mandatory filing of asset and income disclosure forms for all public officials (which has been mandatory since 2004) as well as their family members (which was not mandatory before). One of the key provisions of the package is the two-year ban on employment of a former bureaucrat by a company with which s/he had ties during his or her government service. Currently, former bureaucrats frequently find new jobs in a business they supervised while in civil service. But the employment ban isn't as tough now. The National Anti-Corruption Council decided that the moratorium could be lifted should the former state employer agree to it.

References:

Federal Law on Public Civil Service, 2004, Article 17, Paragraph 3, Subparagraph 1

<http://www.vedomosti.ru/newspaper/article.shtml?2008/10/01/163111>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/10/06/163656>

<http://www.newizv.ru/news/2008-08-22/96513/>

<http://www.gazeta.ru/business/2008/04/03/2685494.shtml>

Profession Ban Elaborated for Bureaucrats," Suzanna Farizova and Yuri Chernega, Kommersant daily, Oct. 1, 2008, <http://www.kommersant.ru/doc.aspx?DocsID=1034099>

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.

46d. In law, there are regulations governing gifts and hospitality offered to civil servants.

YES | NO

Comments:

Yes, gifts worth more than five minimum monthly wages are considered federal property and have to be passed to the appropriate state body (with some exceptions specified by the law). If unreported, they are considered a bribe.

In June 2008, the Investigative Committee (IC) under the Prosecutor General's Office floated a bill that would eliminate a legal loophole that allows government officials to accept gifts worth less than 11,500 rubles (US\$352).

Public servants at the federal, regional and municipal levels are permitted to receive gifts in connection with their duties as long as no gift is worth more than 11,500 rubles (US\$352), five times the minimum monthly wage. Any gifts received during official functions or travel worth over 11,500 rubles (US\$352) must be declared federal property and handed over to the recipient's state body.

However, the IC has pointed out that Article 290 forbids officials and public servants from accepting any money or other items in connection with the performance of their duties and that to do so is bribery. The IC proposes eliminating the contradiction between the two laws.

This isn't the first time a ban on receiving gifts has been proposed as an anti-corruption measure. In late 2006, the Supreme Arbitration Court proposed legislation that would set procedures for receiving and declaring gifts. The court proposed increasing the value limit for gifts and making public servants declare any gifts worth more than 100,000 rubles (US\$3,068), except for gifts from close relatives. On December 11, 2008, the State Duma working group on anti-corruption legislation, in preparation for the second reading of the anti-corruption legislation President Medvedev submitted to the Duma in November 2008, recommended reducing the price of a gift a public official can accept legally from 5,000 (US\$153) rubles to 3,000 rubles (US\$92).

References:

Decree of the President of the Russian Federation on measures to strengthen discipline in the civil service, 1996, <http://www.transparency.org.ru/CENTER/DOC/decree810eng.doc>

Federal Law on Public Civil Service, 2004, Article 17, Paragraph 1, Subparagraph 6

Civil Code, Article 575

Criminal Code, Article 290

Angerous Present," Mariam Magomedova, Novye Izvestia daily, June 16, 2008, <http://www.newizv.ru/news/2008-06-16/91958/>

<http://www.moscowtimes.ru/article/600/42/368542.htm>; <http://www.moscowtimes.ru/article/1010/42/368301.htm>

<http://www.utro.ru/news/2008/12/11/786648.shtml?1517>

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.

46e. In law, there are requirements for the independent auditing of the asset disclosure forms of senior members of the civil service.

YES | **NO**

Comments:

It is customary to believe that the Law on Declarations of Property by Officials protects society from corruption. However, after making a study of current legal practices, the Supreme Court came to the following conclusion: If a state employee fails to present the compulsory declaration, it is not possible even to fine him or her. There is no corresponding article in the Code on Administrative Violations, which does not cover the responsibility of state employees to observe official restrictions.

In September 2008, the National Anti-Corruption Council approved a package of anti-corruption bills. In November 2008, President Medvedev submitted the bills to the State Duma, which approved by it on the first reading a week later. This draft legislation introduced a norm for mandatory filing of asset and income disclosure forms for all public officials (which has been mandatory since 2004) as well as their family members (which was not mandatory before). Officials and their families will be expected to declare their income and assets. What constitutes family" raised some eyebrows. The draft law recognizes only the spouse and juvenile children as family, not adult children, parents or siblings. Journalists wanted to know why, and Volkov became clearly edgy. "That's not easy," he said. "After all, adult children do not necessarily live with their parents. Human rights must be kept in mind."

References:

Interview with a high-ranking official of the Russian Audit Chamber

Law on Declarations of Property by Officials

Russian Federation Code on Administrative Violations

Editorial: The Fight Against Corruption: The First Joint Project of the Tandem of Leaders; radical decisions are still impossible without Putin's support," Nezavisimaya Gazeta daily, March 25, 2008, http://www.ng.ru/editorial/2008-03-25/2_red.html

<http://www.gazeta.ru/business/2008/04/03/2685494.shtml>

<http://www.gazeta.ru/business/2008/04/03/2685494.shtml>

<http://www.kommersant.ru/doc.aspx?DocsID=1034099>

<http://www.rg.ru/2008/12/03/konovalov.html>

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of civil service 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 civil service asset disclosures or if such requirements exist but allow for self-auditing.

46f. 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 work on their coming retirements while still in office.

In September 2008, the National Anti-Corruption Council has approved a package of anti-corruption bills that, in the beginning of November 2008 President Medvedev submitted to the State Duma, which approved by it on the first reading a week later. One of the key provisions of the package is the two-year ban on employment of a former bureaucrat by a company with which he/she has had ties during his or her government service. Currently, former bureaucrats frequently find new offices in a business that they supervised while in civil service.

But the employment ban isn't as tough now. The National Anti-Corruption Council decided that the moratorium could be lifted should the former state employer agree to it.

References:

Interview with a high-ranking official of the Russian Audit Chamber

Profession Ban Elaborated for Bureaucrats," Suzanna Farizova and Yuri Chernega, Kommersant daily, Oct. 1, 2008, <http://www.kommersant.ru/doc.aspx?DocsID=1034099>

<http://www.gazeta.ru/business/2008/04/03/2685494.shtml>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/10/01/163111>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/10/06/163656>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/08/01/156964>

100: The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no cases 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.

46g. 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.

In June 2008, the Investigative Committee (IC) under the Prosecutor General's Office floated a bill that would eliminate a legal loophole that allows government officials to accept gifts worth less than 11,500 rubles (US\$352).

Public servants at the federal, regional and municipal levels are permitted to receive gifts in connection with their duties as long as no gift is worth more than 11,500 rubles (US\$352), five times the minimum monthly wage. Any gifts received during official functions or travel worth over 11,500 rubles (US\$352) must be declared federal property and handed over to the recipient's state body.

However, the IC has pointed out that Article 290 forbids officials and public servants from accepting any money or other items in connection with the performance of their duties and that to do so in bribery. The IC proposes eliminating the contradiction between the two laws.

This isn't the first time a ban on receiving gifts has been proposed as an anti-corruption measure. In late 2006, the Supreme Arbitration Court proposed legislation that would set procedures for receiving and declaring gifts. The court proposed increasing the value limit for gifts and making public servants declare any gifts worth more than 100,000 rubles (US\$3,068), except for gifts from close relatives. On December 11, 2008, the State Duma working group on anti-corruption legislation, in preparation for the second reading of the anti-corruption legislation President Medvedev submitted to the Duma in November 2008, recommended reducing the price of a gift a public official can accept legally from 5,000 (US\$153) rubles to 3,000 rubles (US\$92).

References:

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<http://www.utro.ru/news/2008/12/11/786648.shtml?1517>

A Dangerous Present," Mariam Magomedova, Novye Izvestia daily, June 16, 2008, <http://www.newizv.ru/news/2008-06-16/91958/>

<http://www.moscowtimes.ru/article/600/42/368542.htm>

<http://www.moscowtimes.ru/article/1010/42/368301.htm>

http://www.ng.ru/regions/2008-06-23/8_Karreras.html

100: The regulations governing gifts and hospitality to civil servants are regularly enforced. 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.

46h. 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.

The Law on State Civil Service has important norms for regulating conflicts-of-Interest when an official's official and personal interests intersect. It is not a matter of catching the official after the fact but of eliminating the situation that creates the opportunity for corrupt actions. The law prescribes that the official inform the leadership of possible conflicts of interest and avoid them.

Reports from the General Prosecutor's Office describe particular cases of conflict of interest, but nothing is heard about commissions regulating these conflicts or that a certain official himself stated them and made the decision to leave his position on the grounds, for example, that his relative had bought a company that was in his particular sphere of regulation.

The General Prosecutor's Office should monitor commissions' activities to regulate conflicts of interest, compare declarations and make a decision in cases in which it is discovered that an official concealed information on conflicts of interest.

This would not eliminates the problem of corruption altogether, but it eliminates one of the key links in the above-mentioned shadow decision-making system.

The General Prosecutor's Office describes particular cases of conflicts-of-interest. But nothing is heard of the activity of commissions to regulate these conflicts or that a certain official himself stated them and made the decision to leave his position on the grounds, for example, that his relative had bought a company that was in this particular official's sphere of regulation. And after all, officials today have more than 2,500 regulatory functions.

By law, public servants are prohibited from being involved in business. However, the breaking of this is a very common problem from top to bottom. Many businessmen enter civil service without cutting their ties to commercial projects. Even more public officials acquire business interests while in the service and actively enrich themselves.

For example, Kalmykia's prosecutors have opened a criminal investigation into the mayor of Moscow's income based on allegations that his administration overpaid for goods purchased from a company owned by his parents. The abuse-of-office case involving Elista Mayor Rady Burulov centers on a municipal payment in 2006 of 16.9 million rubles (US\$158,000) for unspecified petroleum products from a local company called Barrel, according to a statement posted on the Kalmykia Prosecutor's Office web site. An investigation showed that the sum exceeded the market price by more than \$30,000, the statement said. Further investigation revealed that Burulov's parents owned Barrel. If charged and convicted, Burulov, whose City Hall website profile lists awards such as a 2004 medal for Best Municipal Servant, faces up to two years in prison and a ban from holding public office.

Some 100,000 Russian government officials have been implicated in various offences incompatible with public service, including involvement in commercial activities, said Russian Prosecutor General Yury Chaika. A number of facts have been established confirming that these government officials were unlawfully involved in commercial activities, owned shares and stakes, held paid jobs in commercial entities and even simply failed to submit (tax) declarations, something that is required by law," Chaika said at a Prosecutor General's Office expanded board meeting in Moscow on Feb 19, 2008

In October 2007, a list of high-ranking officials in 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.

References:

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

<http://www.novayagazeta.ru/data/2007/color9/03.html>

Law on State Civil Service, 2004

Corruption Is an Additional Tax Levied on Citizens," interview with Vladimir Yuzhakov, head of the Administrative Reform project at the Center for Strategic Developments, Irina Granik, Gazeta.ru news July 8, 2008

<http://www.rg.ru/2008/06/25/buksman.html>

<http://www.izbrannoe.ru/17709.html>; <http://www.izbrannoe.ru/17703.html>; <http://www.vremya.ru/2007/196/4/189903.html>

<http://www.novayagazeta.ru/data/2007/58/00.html>; <http://www.novayagazeta.ru/data/2007/49/03.html>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/02/08/141345>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/04/01/144729>

<http://www.nakanune.ru/news/2008/05/29/2119898>

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<http://www.nakanune.ru/news/2008/08/27/2128431>

http://www.ng.ru/editorial/2008-03-25/2_red.html

<http://www.rg.ru/2008/06/25/buksman.html>

<http://www.altapress.ru/15208/>

<http://www.sobkorr.ru/news/48C62856C5E2C.html>

<http://www.kommersant.ru/doc.aspx?DocsID=1033109>

<http://txt.newsru.com/russia/28mar2008/doklad.html>

"Elista Mayor Investigated for Fees to Parents' Firm," The Moscow Times, March 21, 2008

Some 100,000 Russian Gov't Officials Unlawfully Involved In Business Activities Prosecutor, Interfax news agency, Feb. 19, 2008

<http://www.novayagazeta.ru/data/2008/04/00.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.

46i. In practice, civil service asset disclosures are audited.

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

Comments:

The requirement to declare income is legislatively established for officials, but the problem is that no one checks these declarations. The lack of a strict norm turns it into a worthless formality. The state civil service law has a key provision that undermines the anticorruption sense of all other norms: Leader may” but are not “obligated to” take disciplinary steps against those who commit disciplinary offenses. This norm reinforces the system of officials’ personal dependence on his or her leader. Replacing one word in the law would lop off fundamental opportunities for corruption.

“Such declarations are not being checked properly, for example, regarding assets abroad, and there is no statistics on how decisions made by officials affect the business activities of their relatives,” said Elena Panfilova, general director of Russia’s Bureau of Transparency International.

Who will audit the financial declarations submitted by public officials is not clear yet. The draft law says it will be done either by the head of a government body or by a competent agency. This is to be clarified by the President.

References:

Interview with a high-ranking official of the Russian Audit Chamber

Law on State Civil Service

<http://www.nakanune.ru/news/2008/11/21/2138183>

<http://www.nakanune.ru/news/2008/12/02/2139431>

<http://www.rg.ru/2008/12/03/konovalov.html>

Medvedev cracks down on corruption,” analytical department of RIA RosBusinessConsulting, May 20, 2008

“Corruption Is an Additional Tax Levied on Citizens,” interview with Vladimir Yuzhakov, head of the Administrative Reform project at the Center for Strategic Developments, Irina Granik, special to Gazeta.Ru-Kommentarii, , July 8, 2008, <http://www.azeta.ru>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/10/07/163780>

100: Civil service asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Civil service 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: Civil service 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.

47. Can citizens access the asset disclosure records of senior civil servants?

47a. 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 and 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. Trutnev's income declined from US\$7.9 million in 2005, according to an annual list of ministerial income declarations published on August 3, 2007. The country's monthly average wage was at 13,810 rubles (about \$ 423.50) in June 2007, according to the State Statistics Service. In 2005, Trutnev received payments for a stake in EKS, which also owns a chain of supermarkets, and reported the highest earnings of any Cabinet member.

Defense Minister Anatoly Serdyukov earned the least, about US\$49,000. Then 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.

Then 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. Former Prime Minister Mikhail Fradkov's earnings rose 44 percent, to about 2.6 million rubles (US\$797,325).

The problem with accessing these declarations is that there is no opportunity to verify them.

In May 2008, Mayor of Moscow City Yuri Luzhkov signed a decree making it mandatory that Moscow government officials file asset and income disclosure forms, and how this information can be made public.

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 of 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," 2004, Article 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

http://www.ng.ru/politics/2007-07-23/3_senator.html

"Trutnev Is Cabinet's Top Earner," The Moscow Times daily, Aug. 6, 2007

<http://www.newsru.com/russia/21may2008/luzhkov.html>

Rossiiskaya Gazeta website

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.

47b. 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 in 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 is free. However, according to experts, available data are 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.

In May 2008, Mayor of Moscow City Yuri Luzhkov signed a decree making it mandatory that Moscow government officials file asset and income disclosure forms, and how this information can be made public.

References:

Federal Law on Public Civil Service, 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.newsru.com/russia/21may2008/luzhkov.html>

<http://www.compromat.ru/main/luzhkov/dohodychinovnikov.htm>

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.

47c. 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 they are published in the media.

In May 2008, Mayor of Moscow City Yuri Luzhkov signed a decree making it mandatory that Moscow government officials file asset and income disclosure forms, and how this information can be made public.

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

<http://www.newsru.com/russia/21may2008/luzhkov.html>

<http://www.compromat.ru/main/luzhkov/dohodychinovnikov.htm>

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

48. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

6

48a. 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 adopted important international anti-corruption conventions produced by United Nations and the Council of Europe that requires introducing similar regulation into national legislation. It is assumed that 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 through 2008 (almost 1 billion rubles (US\$30.6 million). However, the fight against organized crime, 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, new job and even a new face. Now witnesses are formally offered a broad range of services," including bodyguards, change of job, relocation, classification of data and, finally, such exotic measure as plastic surgery.

In September 2008, the National Anti-Corruption Council approved a package of anti-corruption bills that President Medvedev submitted in the beginning of November 2008 to the State Duma, which approved by it on the first reading a week later. This draft legislation introduced a norm for the mandatory reporting cases of corruption, graft, abuse of power or abuse of resources by public officials. In the December 11, 2008, meeting of the State Duma working group on anti-corruption, it was decided to remove a norm for whistle-blowing from the text of the anti-corruption legislation prepared for the second hearing. There is a lot of argument on this issue.

Quite likely, the second reading will take place in spring 2009. There is some evidence that the anti-corruption legislation not go into effect until Jan. 1, 2009.

References:

<http://anticorr.ru/content/8442.html>

<http://www.prime-tass.ru/news/show.asp?id=584613&ct=news>

The text of the law, <http://www.in-audit.ru/modules/iContent2/index.php?page=415>

Federal Witness protection Program, http://www.businesspravo.ru/Docum/DocumShow_DocumID_110084.html

An interesting if outdated interview with State Duma Security Committee Chairman Vladimir Vasiliev, http://daily_sec.ru/dailypblshow.cfm?rid=17&pid=12091&pos=10&stp=10&cd=21&cm=2&cy=2007

<http://www.novostivolgograda.ru/vlast/21620.html>

<http://www.rg.ru/2008/06/27/komitet.html>

http://gazeta.ru/politics/2008/10/06_a_2850097.shtml

<http://www.gazeta.ru/social/2008/12/03/2903232.shtml>

<http://www.kommersant.ru/doc.aspx?DocsiD=1088121>

<http://www.polit.ru/news/2008/12/11/korruptz.html>

<http://www.kommersant.ru/doc.aspx?DocsiD=1092620>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/12/12/173429>

<http://www.rg.ru/2008/12/04/korruptcia.html>

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.

48b. 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 a long-delayed law on witness-protection and allocated a significant amount of funding for its implementation in 2006 through 2008 (almost 1 billion rubles (US\$30.6 million). However, the fight against organized crime, not corruption, was named the main objective of this program. There are no data how many cases deal with whistle-blowers from the public sector. According to experts, this program was applied largely to personal crimes, not crimes against the state, such as bribery. However, there is a lack of funds for the Witness Protection Program.

References:

<http://anticorr.ru/content/8442.html>

Witness Protection Law

<http://www.vremya.ru/2007/115/13/181951.html>.

<http://www.vremya.ru/2008/162/51/211861.html>.

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.

48c. 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:

Interview with Dr. Vasilii 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.

48d. 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.

Comments:

The private sector does not cover this issue either.

According to a PricewaterhouseCoopers report on corporate anticorruption activities in 14 countries released in February 2008, managers in BRIC countries (Brazil, Russia, India, China) consider corruption a natural and ineradicable phenomenon. The effectiveness of corporate anti-corruption programs in these countries is significantly lower than in other world.

In May 2008, Ernst & Young experts approached 1186 directors and top managers of financial and legal departments of private businesses in 34 countries. Over 60 percent of respondents appraised the problems posed by bribes and corruption as critical and very critical. The data compiled in Russia in the meantime differed: National anti-corruption legislation is viewed as efficient by 85 percent of Europeans but by only 26 percent of Russians.

All respondents agree that whenever a company is accused of corruption, the accusations have the worst impact on investors. Western businesses care about their reputation and clientele, but Russian businesses are upset only by the prospect of losing their suppliers. Caught red-handed, managers in Russia begin thinking in terms of their company's reputation only when the company finds itself unable to expand its operations (they do not care for public opinion at all). Western companies fear fines more than their Russian counterparts (40 percent versus 24 percent). On the other hand, Russians fear imprisonment for corruption more than the Europeans do (38 percent versus 23 percent).

In Russia, corruption risks are more personified than they are elsewhere," Ivan Ryutov of Ernst & Young said.

Where the war on corruption is concerned, Russians count on businesses' own internal structures and divisions. An internal audit is viewed as a solution by 64 percent Russians and 46 percent Europeans. Scrutiny of business deals in advance is seen as a solution by 44 percent of Russians and 12 percent of Europeans. (And yet, only 46 percent of Russians appraise the performance of internal audit divisions as adequate.) Top managers in Europe, on the other hand, count on preventive measures: 59 percent suggest an emphasis on better work with personnel.

"Practically all Russian businesses are involved in corruption relations. As things stand, the availability of administrative resources is the best criterion of success in business," National Anti-Corruption Committee Chairman Kirill Kabanov said.

However, largely unnoticed, many Russian companies are beginning to do something about corruption even before new legislation is put into place. They are starting by getting their own houses in order. They are strengthening corporate governance by creating clearer separation of board and management competencies and responsibilities; introducing International Financial Reporting Standards (IFRS), greater transparency of accounts and disclosure of shareholders; and nominating independent directors to the board. At the management level, they are introducing ethical codes, internal audit procedures and diverse ways for employees to raise concerns about non-compliance. TNK-BP has even appointed a unique "anti-corruption manager" whose role is not so much to police employees as to help them understand the basic principles of responsible business.

The largest companies' purchasing power offers them the opportunity to spread good business practices up the supply chain to the small- and medium-sized enterprises in their regions. For example, United Energy System's transition to an electronic purchasing system reduced the number of corrupt middlemen. Multinationals such as Nestlé, with 13 production companies in Russia, insist on international labor, health and safety standards from local suppliers. Indeed the fact that multinationals can operate according to the standards in their home markets provides a powerful statement to local business.

A few other businesses are also openly refusing to pay bribes, including Ernst & Young, which encourages clients to follow its lead. "If a company wishes to get recognition from its Western partners, it should have a zero-tolerance policy toward any corruption payments," Ivan Ryutov, head of fraud investigation and disputes services at Ernst & Young, wrote in an e-mail. "That is why we always recommend that our clients think about their image and reputation rather than entering into dubious corruption schemes."

References:

Interview with Dr. Vasilii A. Vlasikhin, legal expert (Moscow)

<http://kommersant.ru/doc.aspx?DocsID=859074>

Bribes, Sweet Bribes," Maria Selivanova, RBK Daily, May 15, 2008

"Just say 'Nyeti!'" Brook Horowitz, executive director of the Russian office of the International Business Leaders Forum, International Herald Tribune, June 12, 2008, <http://www.iht.com/articles/2008/06/12/opinion/edhorowitz.php>

"Everyone Pays, Few Want to Stop," Francesca Mereu, The Moscow Times daily, June 20, 2008

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.

50. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

0

50a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

References:

Interview with a high-ranking Audit Chamber of Russia 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.

50b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

No such mechanism exists.

References:

Interview with a high-ranking Audit Chamber of Russia official.

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.

50c. 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.

50d. 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:

Interview with a high-ranking official of Russian Audit Chamber

100: When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies' investigations.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

49. Is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

0

49. 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 placing complaints against public officials. However, under its anti-corruption mandate, the General Prosecutor's Office is collecting such information regardless of 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, although some experts claim this was 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.

There are some regional initiatives to create mechanism to report corruption but for citizens, not public officials.

References:

Ministry of Economic Development and Trade website

Anti-corruption program for federal executive bodies, 2007-2008 and 2008-2011

<http://ar.economy.gov.ru/regions/federal/anticorrupt/>

<http://www.nakanune.ru/news/2008/08/04/2126013>

<http://skavkaz.rfn.ru/rnews.html?id=145467&cid=8>

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.

2 IV-3. Procurement

51. Is the public procurement process effective?

90

51a. In law, there are regulations addressing conflicts of interest for public procurement officials.

YES | NO

Comments:

On Sept. 11, 2007, a discussion took place in the State Duma on public procurement in Russia regarding corruption. It was covered by various publications. Current legislation on public procurement is under review by the National Legislature.

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 for selecting suppliers for public orders. In the first reading, senators were pressing 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 on contracts with authorities. In construction contracts, development companies have to meet certain qualification criteria. The draft requires that auctions 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 (along with Tatarstan) is considered to be the region where many advanced and pilot methods are tested.

References:

Interview with Dr. Andrei Khramkin, director of the Government Procurement Institute, Russian Civil Service Academy, and chairman of the Procurement Expert Association, <http://governance.developmentgateway.org/Content-item-view.10976+M5a887b0e621.0.html>

<http://www.vedomosti.ru/newspaper/article.shtml?2007/07/10/128948>

<http://www.kommersant.ru/doc.aspx?DocsID=790427>

<http://www.kommersant.ru/doc.aspx?DocsID=806374&NodesID=2>

MPs and public officials speak against corruption in public procurement," "Leave the middlemen out," Dmitri Kazmin and Elena Ivanova, Vedomosti daily, Sept. 11, 2007, <http://www.polit.ru/news/2007/09/11/goszakaz.html>

Federal Law "On Civil Service," 2004, Article 14, Paragraph 2; Article 16, Paragraph 1, Subparagraph 5; Article 19, paragraphs 1-8

<http://www.vedomosti.ru/newspaper/article.shtml?2007/09/12/132597>

<http://www.newizv.ru/news/2007-09-12/75990/>

"Loophole for Millions," Peter Geltishchev, Novye Izvestiya daily, Sept. 12, 2007

"Innovations against corruption," Irina Barygina, Rossiiskaya Gazeta daily, Sept. 18, 2007, <http://www.rg.ru/2007/09/18/korrupciya.html> and <http://www.lenta.ru/news/2007/09/13/innovat/>

"Russia Toughens Auction Rules for Public Contracts," Kommersant daily, July 12, 2007, http://www.kommersant.com/p781900/Auction_Public_Contracts_Parliament/

<http://www.vedomosti.ru/newspaper/article.shtml?2007/07/05/128722>

<http://www.rg.ru/2007/07/05/internet-aukcion.html>

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.

51b. In law, there is mandatory professional training for public procurement officials.

YES | NO

Comments:

Starting Jan. 1, 2009, procurement commissions will have to include at least one person with public procurement retraining or advanced training.

References:

Interview with Dr. Andrei Khramkin, director of the Government Procurement Institute, Russian Civil Service Academy, and chairman of the Procurement Expert Association

Governmental Regulation On Providing Staff for Public Procurement of State Needs, 1998

Federal Law On Awarding Contracts for the Supply of Goods, Performance of Works, Provision of Services for National and Municipal Needs, 2005, Article 7, Paragraph 3

YES: A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process. A YES score is earned if such training is mandated for portions of the broader civil service, to include procurement officials.

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.

51c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | 50 | 25 | 0

Comments:

In January 2006, the Federal Anti-Monopoly Service of Russia was put in charge of monitoring public procurement in Russia. (Prior to that, the Economic Development and Trade Ministry was responsible for it.) According to experts, the situation with enforcement of conflict-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.

References:

Interview with Dr. Andrei Khramkin, director of the Government Procurement Institute, Russian Civil Service Academy, and chairman of the Procurement Expert Association

<http://top.rbc.ru/society/23/10/2007/123498.shtml>

"Demand is Married to Supply," Anatoli Brazhnikov, Novaya Gazeta, Sept. 9, 2007, <http://www.novayagazeta.ru/data/2007/51/31.html>

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.

51d. 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. 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, and chairman of the Procurement Expert Association

Federal Law On Civil Service #79, 2004

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.

51e. In law, major procurements require competitive bidding.

YES | NO

Comments:

All major procurements require competitive bidding, with the exception provided by the law.

Sergei Stepashin, chairman of the Audit Chamber of Russia, claims that since 2005, after Federal Law No N94-F, was adopted, prices on the state-purchases market surpass prices on the consumer and corporate markets. The number of participants in bidding has declined by an average of 20 percent, but the number of contracts with the only agent has quadrupled.

References:

Interview with Dr. Andrei Khramkin, director of the Government Procurement Institute, Russian Civil Service Academy, and chairman of the Procurement Expert Association

http://www.ng.ru/economics/2008-06-19/1_vladivostok.html?mthree=1

The Fight Against Corruption Has No Sectors," interview with Stepashin, Rossiyskaya Gazeta daily, Sept. 24, 2008, <http://www.rg.ru/2008/09/24/korruptciya.html>

Federal Law On Awarding Contracts for the Supply of Goods, Performance of Works, Provision of Services for National and Municipal Needs, 2005

Federal Law #N94-FZ On Distribution of Orders for the Delivery of Goods, the Performance of Work, and the Rendering of Services for State and Municipal Needs, 2005

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).

51f. In law, strict formal requirements limit the extent of sole sourcing.

YES | NO

Comments:

Such requirements exist. However, World Bank experts reviewing the law on public procurement called the limits on sole sourcing too strict. The latest amendments to the law, passed in 2007, allow avoiding the limits on sole sourcing on more occasions than before. According to Alexander Nazarov, the number of sole sourcing contracts went down significantly. However, he believes that the federal law on public procurement exists in a vacuum and is implemented very formally. Nonetheless, over 100 billion rubles (US\$3 billion) were saved due to the introduction of the new legislation in 2006 and more than 70 billion rubles (US\$2 billion) over the first six months of 2007. There are other evaluations, though.

Sergei Stepashin, chairman of the Audit Chamber of Russia, claims that since 2005, after Federal Law No N94-F, was adopted, prices on the state-purchases market surpass prices on the consumer and corporate markets. The number of participants in bidding has declined by an average of 20 percent, but the number of contracts with the only agent has quadrupled.

References:

Interview with Dr. Andrei Khramkin, director of the Government Procurement Institute, Russian Civil Service Academy, and chairman of the Procurement Expert Association

Federal Law On Awarding Contracts for the Supply of Goods, Performance of Works, Provision of Services for National and Municipal Needs, 2005, Article 55

Alexander Nazarov, auditor of the Audit Chamber of Russia

MPs and public officials speak against corruption in public procurement," Polit.ru news agency, Sept. 11, 2007, <http://www.polit.ru/news/2007/09/11/goszakaz.html>

"Loophole for Millions," Peter Geltishchev, Novye Izvestiya daily, Sept. 12, 2007, <http://www.newizv.ru/news/2007-09-12/75990/>

"Innovations against corruption," Irina Barygina, Rossiiskaya Gazeta daily, Sept. 18, 2007, <http://www.rg.ru/2007/09/18/korruptciya.html>

"The Fight Against Corruption Has No Sectors," interview with Stepashin, Rossiyskaya Gazeta daily, Sept. 24, 2008, <http://www.rg.ru/2008/09/24/korruptciya.html>

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.

51g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

YES | NO

Comments:

There is a clear appealing mechanism. Besides, in case of any suspicions of foul play, there is an opportunity to bring such suspicions to the prosecutor's office, which can initiate and conduct an investigation.

References:

Interview with Dr. Andrei Khramkin, director of the Government Procurement Institute, Russian Civil Service Academy, and chairman of the Procurement Expert Association

Federal Law On Awarding Contracts for the Supply of Goods, Performance of Works, Provision of Services for National and Municipal Needs, 2005, Chapter 8

Public Procurement Control: Will the new Russian law on public procurement protect from corrupt practices?" Dr. Andrei Khramkin, <http://governance.developmentgateway.org/Content-item-view.10976+M54df34adfc3.0.html>

<http://www.vedomosti.ru/newspaper/article.shtml?2007/10/26/135079>

<http://www.vedomosti.ru/newspaper/article.shtml?2007/08/15/131050>

<http://www.rg.ru/2007/09/19/reg-primorie/otkat.html>

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.

51h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

YES | NO

Comments:

They can do it.

References:

Interview with Dr. Andrei Khramkin, director of the Government Procurement Institute, Russian Civil Service Academy, and chairman of the Procurement Expert Association

Federal Law On Awarding Contracts for the Supply of Goods, Performance of Works, Provision of Services for National and Municipal Needs, 2005

Public Procurement Control: Will the new Russian law on public procurement protect from corrupt practices?" Dr Andrei Khramkin, <http://governance.developmentgateway.org/Content-item-view.10976+M54df34adfc3.0.html>

<http://www.vedomosti.ru/newspaper/article.shtml?2007/10/25/134970>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/02/01/140820>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/04/18/146418>

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.

51i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

YES | NO

Comments:

Such companies are included on the register of dishonest suppliers. Since May 2007, this register has been on and open to interested parties.

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. 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, and chairman of the Procurement Expert Association

Federal Law On Awarding Contracts for the Supply of Goods, Performance of Works, Provision of Services for National and Municipal Needs, 2005, Article 19

<http://rnp.fas.gov.ru/?rpage=687&status=find>

YES: A YES score is earned if there are formal procurement blacklists, designed to prevent convicted companies from doing business with the government.

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

51j. 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:

Declining a bid from a blacklisted company has become common practice.

References:

Interview with Dr. Andrei Khramkin, director of the Government Procurement Institute, Russian Civil Service Academy, and chairman of the Procurement Expert Association

Federal Law On Awarding Contracts for the Supply of Goods, Performance of Works, Provision of Services for National and Municipal Needs, 2005

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.

52. Can citizens access the public procurement process?

83

52a. In law, citizens can access public procurement regulations.

YES | NO

Comments:

Most of the information is posted on the official public procurement website.

References:

Interview with Dr. Andrei Khramkin, director of the Government Procurement Institute, Russian Civil Service Academy, and chairman of the Procurement Expert Association

Federal Law On Awarding Contracts for the Supply of Goods, Performance of Works, Provision of Services for National and Municipal Needs, 2005

<http://www.zakupki.gov.ru>

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.

52b. In law, the government is required to publicly announce the results of procurement decisions.

YES | NO

Comments:

This is required by law.

References:

Interview with Dr. Andrei Khramkin, director of the Government Procurement Institute, Russian Civil Service Academy, and chairman of the Procurement Expert Association

Federal Law On Awarding Contracts for the Supply of Goods, Performance of Works, Provision of Services for National and Municipal Needs, 2005

<http://www.vedomosti.ru/newspaper/article.shtml?2008/02/08/141325>

<http://www.rg.ru/2008/03/19/korruptsiya.html>

<http://www.rg.ru/2008/03/25/goszakupki.html>

<http://www.rg.ru/2008/04/10/antikorrupcia.html>

<http://www.rg.ru/2008/05/30/goszakaz.html>

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.

52c. 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 website. This technical problem is largely over, and the general public can access this information within a reasonable time period.

References:

Interview with Dr. Andrei Khramkin, director of the Government Procurement Institute, Russian Civil Service Academy, and 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.

52d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

According to law, information posted on the official public procurement website is available to everyone for free. A subscription to "Competitive Bidding," the official bulletin, is not very expensive and is open to everyone. Information on the website and in the bulletin is identical.

References:

Interview with Dr. Andrei Khramkin, director of the Government Procurement Institute, Russian Civil Service Academy, and chairman of the Procurement Expert Association

Federal Law On Awarding Contracts for the Supply of Goods, Performance of Works, Provision of Services for National and Municipal Needs, 2005

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.

52e. 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, the situation can differ from the availability of tender notices to most bidders to a complete lack of information for everyone besides a few selected bidders.

According to amendments to Federal Law #94, starting Jan.1, 2009 federal bodies do not have to place advertisements on public tenders in federal media. The only official source of information on public tenders is the federal procurement portal administered by the Ministry of Economic Development and Trade. However, the website is still being tested and will start working at full capacity on Jan.1, 2010. Currently, another portal is being used, <http://www.zakupki.gov.ru/>.

References:

Interview with Dr. Andrei Khramkin, director of the Government Procurement Institute, Russian Civil Service Academy, and chairman of the Procurement Expert Association

<http://www.kommersant.ru/doc.aspx?DocsID=800546>

Anti-Corruption Practices in Russian Public Procurement," Dr. Andrei Khramkin, Director of the Government Procurement Institute, Russian Civil Service Academy, and chairman of the Procurement Expert Association, http://governance.developmentgateway.org/Content-Item-view.10976+M5095da5ba31_0.html

<http://www.vedomosti.ru/newspaper/article.shtml?2007/09/03/132036>

<http://www.rg.ru/2008/03/25/portal.html>

<http://www.zakupki.gov.ru/>

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.

52f. 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, and 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

53. Is the privatization process effective?

75

53a. 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.

53b. 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. No specific legislation related to government officials involved in privatization exists.

References:

Federal Law on Civil Service, 2004, Article 19

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.

53c. 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 most important privatizations in Russia, and conflict-of-interest was so widespread that it was simply ignored, and no action was taken. There were no major privatization deals in 2008. In fact, the state is slowly but steadily taking back what was once passed into private hands. As a result, corruption is embedded into nationalization to the same extent it was embedded into privatization.

References:

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.

54. Can citizens access the terms and conditions of privatization bids?

85

54a. 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.

54b. In practice, privatizations are effectively advertised.

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

Comments:

Privatization is one of the gray areas of the Russian economy. What enterprises will be privatized, when and how, is often unknown to the general public and even the interested parties. 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.

References:

Perm Krai official website on local privatization: <http://perm.ru/economiq/propertyofpermregion/>

<http://perm.ru/economiq/propertyofpermregion/?document=1387>

Editorial, Vedomosti daily, July 17, 2007, <http://www.vedomosti.ru/newspaper/article.shtml?2007/07/18/129463>

<http://www.vedomosti.ru/newspaper/article.shtml?2007/07/18/129430>

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.

54c. 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.

54d. In practice, citizens can access privatization regulations within a reasonable time period.

Comments:

Such information has to be published a month ahead of a tender, but in fact, this information is often available only selectively.

For 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 of selecting winners ahead of a tender. Therefore, the in-depth information on privatization is quite often closed to the public. However, often another scheme is applied. The terms and conditions of privatization bids are specified in a way that only certain companies can apply. With regard to assets of small value, the government is usually interesting in getting rid of them and does not try to conceal any information.

References:

Till May 2008, Russian Foundation of Federal Property (a specialized state body under Government of Russian Federation) provided such data in its News section (<http://www.fpf.ru/sale.aspx?CatalogId=392>). Since May 2008, State Agency on State Property Management is in charge of privatization in Russia.

Federal Law on Privatization of State and Municipal Enterprises, Article 15

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.

54e. In practice, citizens can access privatization regulations at a reasonable cost.

Comments:

The Russian Foundation of Federal Property provides such data. If the information is available, it is free.

References:

The Russian Foundation of Federal Property, <http://rosim.ru/doing/privatization/2008.htm>

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.

56. Is the national ombudsman effective?

61

56a. 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 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 by law from political influence and interference because, 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.

56b. In practice, the ombudsman is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

Yes, 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, Vladimir Lukin, was one of the founders and leaders of an opposition Yabloko party. After the party lost all its seats in the Duma as a result of 2003 parliamentary election, he was personally selected by President Putin, and the Duma appointed him. There have been no indications so far that the ombudsman was subject to any political interference. It is also true his office has almost no say in any major policy-making process.

References:

<http://www.novayagazeta.ru/data/2007/52/10.html>

<http://www.vremya.ru/2007/116/4/182047.html>

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

56c. 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 the agreement of the State Duma, may initiate a criminal case against the commissioner if it is proved that s/he committed a crime. No Ombudsman has been removed from office. (The Institute of Human Rights Commission in the Russian Federation is 15 years old.)

Currently, the ombudsman is selected by the president (and has a status of an adviser to the president) and appointed by State Duma. S/he can be removed by the president or State Duma.

Regional heads of ombudsman offices are selected by the governor and appointed by regional legislature. In January 2008, a draft law was introduced to the State Duma according to which the national ombudsman will have a right to agree or disagree with regional appointees and thus have a direct say in selecting them. However, some regional ombudsmen were forced into power by governors and are quite unpopular. A lot of regional ombudsmen are selected from among former law enforcement officers prosecutors, police or retiring regional top officials and have a history of confrontation with local human rights organizations.

References:

Federal Law on Human Rights Commissioner in Russian Federation, Article 12

<http://www.newizv.ru/news/2008-01-21/82965/>

<http://www.newizv.ru/news/2008-02-05/83898/>

<http://www.novayagazeta.ru/data/2008/24/16.html>

http://www.ng.ru/regions/2008-04-07/7_ombudsmen.html

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.

56d. 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 any staff members have relevant training in human rights and civil society theory. In October 2005, the Moscow Helsinki Group started a two-year project on capacity-building of the ombudsman staff. A special manual, "Human Rights," was prepared, published and distributed among the staffers.

Since 1998, the St. Petersburg Humanities and Political Studies Center has run a program to train regional ombudsman staff members and potential members. Strategy (within the Tacis Bistro program) has consulted the federal ombudsman staff on organizational issues and trained them in the basic skills they need to perform more efficiently. Between 2001 and 2006, the center conducted a program aimed at supporting the national ombudsman. It also hosts the regional ombudsmen website

Between 2005 and 2007, JURIX, a Russian nongovernmental organization focusing on legal aid and education conducted a special program on support of regional ombudsmen.

References:

<http://www.jurix.ru/sections/programs/institutions/ombudsman.htm>

<http://www.mhg.ru/files/knigi/kursombuds.pdf>

<http://www.strategy-spb.ru/?do=prog&prog=1>

<http://www.ombu.ru>

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.

56e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

Comments:

According to 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. In this way, the ombudsman supports the independence of his agency. In regions, the situation is quite different: Often, appointments to the ombudsman's staff are made by regional authorities, and the ombudsman, who depends on the authorities for funding, has to accept them.

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 ombudsman's duties.

References:

<http://hro1.org/node/3477>

<http://hro1.org/node/2313>; <http://hro1.org/node/1283>

<http://hro1.org/node/1191>; <http://hro1.org/node/992>

Human Rights Group Join Forces," Galina Stolyarova, St. Petersburg Times, Aug. 7, 2007

<http://ombudsman.mos.ru/index.php?id=structure>

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.

56f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Yes, it receives regular funding, as do all other federal agencies.

References:

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.

56g. 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 are made public via press conferences, media publications and on the Internet. However, they rarely lead to any active discussion in society or investigation. Any significant findings on human rights violations Russia has experience during the last year were made and publicized by the media.

On February 14, 2008, Ombudsman Vladimir Lukin made his annual report to the president. He said that the number of complaints went down to 28,000 in 2007 from 30,000 in 2006. Content had also changed, he said. In 2006, complaints were mostly about the social and economic situation, whereas in 2007, violations in the economic arena made up only one-sixth of the total number. Lukin noted that in 2007, 50 percent of the complaints reaching his office concerned violations of the rights of citizens by officials working in the militia, prosecutors' offices, courts or penal system. The most sensitive aspect is the violation of rights is connected with the failure to enforce judicial decisions, Lukin said. Because of this, some 80 percent of Russian citizens' appeals to the European Court of Human Rights are precisely over such problems.

Lukin's colleagues in the nongovernmental sector do not think the situation in the social sphere has improved. Sure, complaints against judges are more frequent nowadays than they were once, but neither has the number of other complaints gone down," Lyudmila Alekseyeva of the Moscow Helsinki Group said.

After meeting with the president, Lukin delivered his address to the Council of Federation and State Duma, where his report was met with indifference. In 2008, the national ombudsman planned to focus on violations of electoral rights.

References:

<http://www.ombudsman.gov.ru/doc/ezdoc/07.shtml>

Book of Complaints and Warnings," Mikhail Moshkin, Vremya Novostei daily, Feb. 14, 2008

<http://www.kommersant.ru/doc.aspx?DocsID=853269&NodesID=7>

<http://www.rg.ru/2008/02/14/prezident.html>

<http://www.newizv.ru/news/2008-03-20/86861/>

<http://www.rg.ru/2008/06/04/lukin.html>

"Russia Ombudsman to Deliver Annual Human Rights Report at Duma," March 21, 2008, Itar-Tass news agency

<http://www.newizv.ru/news/2008-02-15/84663/>

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.

56h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

Yes, it can initiate investigations and did so a few times, but the ombudsman's office has no authority other than to make the results of an investigation public and submit them to the Duma for a review.

In 2005, Zerkalo" presenter Nikolay Svanidze asked Russian Human Rights Commissioner Vladimir Lukin what could 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 of amendments to the Federal Law on Human Rights Commissioner, granting him a right to ask the 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. Quite often, such information is forwarded only 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 is occurring or has occurred. For example, Lukin attempted to stop the amendments to electoral legislation.

In September 2008, Rashid Nurgaliev, Minister of Interior, said that local police will cooperate more closely with regional ombudsmen.

References:

Interview with Russian Human Rights Commissioner Vladimir Lukin, Sept. 17, 2005, Russia TV's Zerkalo" program

<http://hro1.org/node/1511>

<http://www.ombu.ru/node/1573>; <http://hro1.org/node/3690>

<http://www.newizv.ru/news/2008-09-30/98861/>

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.

56i. 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 complaints to raise public awareness of some issue and suggesting amendments to existing legislation and practices.

Local ombudsman branches do fight some cases by providing legal support. However, an ombudsman can interfere only after the case in question has been heard by a court and its ruling appealed.

References:

Federal Law on Human Rights Commissioner in Russian Federation

http://ombudsman.gov.ru/doc/vistup10/p11a_10_07.shtml

<http://www.ombudsman.kaluga.ru/news/?content=item&item=410>

<http://www.ombudsman.kaluga.ru/news/?content=item&item=527>

<http://www.ombudsman.kaluga.ru/about/?content=complaint>

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.

56j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

Comments:

Although President Putin met 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.

Larisa Arap, a United Civil Front activist, was confined to a psychiatric hospital in August 2007 for what many experts believed was 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 ().

Vladimir Lukin said that judges prevent the ombudsman from defending the rights of citizens:

Yamshanov: How do the courts react to your appeals?

Lukin: Not infrequently, they obstruct the ombudsman in the exercise of his powers to provide a state defense of human rights.

Yamshanov: But, after all, you have rights given by law, for example, to petition the supervisory levels to examine the legality of a judicial ruling and its compliance with international obligations in the human rights field.

Lukin: The courts of the supervisory levels do not like to review petitions brought by the ombudsman, and in this they refer to the procedural codes, and there is no such requirement there. In the Moscow courts of general jurisdiction, for example, the opinion is forming that the ombudsman does not have the right to defend in court citizens' rights that are violated on a mass scale by state organs or officials.

Lukin was not exaggerating. He did meet with reluctance and sometimes even the unwillingness of the Russian judiciary to cooperate with him.

References:

<http://hro1.org/node/2771>

I'm Neither a Prosecutor nor a Psychiatrist, Roza TsvetkovaNezavisimaya, Gazeta, Aug. 15, 2007

Judicial Error," interview with Vladimir Lukin, Russia's human rights ombudsman, Boris Yamshanov, Rossiyskaya Gazeta daily, Feb. 8, 2008, <http://www.rg.ru/2008/02/08/lukin.html>

<http://www.novayagazeta.ru/data/2008/20/01.html>

<http://www.novayagazeta.ru/data/2008/86/01.html>

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's reports are often ignored, or given superficial attention. Ombudsman's reports do not lead to policy changes.

56k. 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). Sometimes they act quite fast; sometimes they don't act at all.

In May 2008, the ombudsman of Rostov region submitted a draft law to the State Duma appealing for a right of reference to the court. According to existing legislation, the right to go to the law to protect human rights belongs to the president, prosecutors and the national ombudsman. Regional ombudsmen who deal with the vast majority of human rights abuse don't have such right.

References:

<http://ombudsman.gov.ru/galo/galo26.shtml>

<http://ombudsman.gov.ru/galo/galo25.shtml>

<http://www.ombudsman.gov.ru/galo/galo27.shtml>

<http://www.ombudsman.gov.ru/galo/galo28.shtml>

<http://www.ombudsman.gov.ru/galo/galo29.shtml>

<http://www.ombudsman.gov.ru/galo/galo30.shtml>

<http://www.ombudsman.gov.ru/galo/galo31.shtml>

<http://www.novayagazeta.ru/data/2008/24/16.html>

<http://www.rg.ru/2008/05/28/rostov-popravki.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.

57. Can citizens access the reports of the ombudsman?

100

57a. In law, citizens can access reports of the ombudsman(s).

YES | NO

Comments:

They are uploaded to the ombudsman website and published in the Rossiskaya Gazeta daily, the State Duma official newspaper.

References:

Federal Law on Human Rights Commissioner in Russian Federation, Article

33, <http://www.ombudsman.gov.ru/doc/documents.shtml>

<http://www.ombudsman.gov.ru/doc/ezdoc/07.shtml> and <http://www.rg.ru/2008/03/14/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.

57b. 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 ombudsman website within a couple of weeks.

References:

Federal Law on Human Rights Commissioner in Russian Federation, Article 33, <http://www.ombudsman.gov.ru/doc/documents.shtml>

<http://www.ombudsman.gov.ru/doc/ezdoc/07.shtml> and <http://www.rg.ru/2008/03/14/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.

57c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

These reports are available at <http://www.ombudsman.gov.ru/doc/documents.shtml> and are free.

References:

Federal Law on Human Rights Commissioner in Russian Federation, Article 33, <http://www.ombudsman.gov.ru/doc/documents.shtml>

<http://www.ombudsman.gov.ru/doc/ezdoc/07.shtml> and <http://www.rg.ru/2008/03/14/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.

55. Is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

55. 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. As of September 2007, there were 41 regional ombudsmans (out of 86 Russian regions).

References:

<http://www.ombudsman.gov.ru>

Federal Law on Human Rights Commissioner in Russian Federation, 1997, http://www.democracy.ru/library/laws/federal/law_N1fzk.html

YES: A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

NO: A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

V-2. Supreme Audit Institution

59. Is the supreme audit institution effective?

72

59a. 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 the Audit Chamber of the 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.

59b. 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, as the current State Duma is under the control of United Russia, the ruling party, and rubber-stamps all presidential initiatives, removal of the head of the Audit Chamber for political reason is not out of the question.

Sergei Stepashin, Chairman of the Audit Chamber of Russia, is often accused of personal corruption. These accusations alone, if proved right, can lead to his resignation. His subordinates provide a lot evidence to his critics.

References:

Interview with a high-ranking official of the Audit Chamber of Russia

<http://www.moscow-post.ru/economics/001221637448665/>

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.

59c. 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, 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 nominated and voted into power the head of the chamber and six of its auditors, while the Federation Council selected 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, the State Duma and Council of Federation can appoint any and all auditors to the Audit Chamber of Russia by recommendation of the president of Russia.

On July 17, 2008, the Moscow City Court convicted former Kalmykia Senator Levon Chakhmakhchyan of fraud and sentenced him to nine years in prison. Judge Yelena Guchenkova found the former senator guilty of accepting a US\$300,000 bribe two years ago, a charge Chakhmakhchyan vociferously denied.

Convicted along with Chakhmakhchyan were Igor Arushanov, chief accountant of the Association of Russian-Armenian Business Partnership, and Chakhmakhchyan's son-in-law, Audit Chamber official Armen Oganessian. Oganessian was sentenced to eight years in prison, while Arushanov received a seven-year sentence. Prosecutors said Chakhmakhchyan demanded a US\$1.5 million bribe from Alexander Pleshakov, chairman of the Transaero airline, in exchange for quashing a negative Audit Chamber report on his company's activities.

References:

High-ranking official of Audit Chamber of Russia.

<http://www.vremya.ru/2007/177/4/188046.html>

<http://www.kommersant.ru/doc.aspx?DocsID=809152>

<http://www.moscowtimes.ru/article/852/49/194017.htm>

<http://www.gazeta.ru/social/2007/09/27/2196142.shtml>

<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>

Ex-Senator Convicted of Fraud," Yelena Shuster, The Moscow Times, July 18, 2008, <http://www.moscowtimes.ru/article/1010/42/369031.htm>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/07/18/155399>

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.

59d. In practice, audit agency appointments support the independence of the agency.

100 | 75 | 50 | 25 | 0

Comments:

Yes, in practice audit agency appointments usually support the independence of the agency.

References:

Interview with a high-ranking official of the Audit Chamber of Russia

<http://www.newizv.ru/news/2007-10-22/78464/>

<http://www.rg.ru/2007/10/12/palata.html>

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.

59e. In practice, the audit agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Yes, in practice the agency receives regular funding.

References:

Interview with a high-ranking official of the 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.

59f. In practice, the audit agency makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

Yes, reports are made on an annual basis.

Information on Audit Chamber activities is often covered by the media and experts. Sergei Stepashin, chairman of Audit Chamber of Russia, gives a lot interviews.

The Audit Chamber said on Nov. 2, 2008, that it had found 73.4 billion rubles (US\$2.2 billion) in violations, including 1.9 billion rubles (US\$58 million) in federal budget money, at government-funded institutions through September 2008. Of the misappropriated budget money, 803 million rubles (US\$24 million) were recovered, the Audit Chamber said in a statement on its website.

The chamber, which oversees the use of government money, said it uncovered financial and budget violations at 622 projects in 58 of the country's regions. Most of the violations occurred in federally funded projects, but corrupt practices have also been uncovered at regional governments' projects, the statement said.

In a separate statement, the Audit Chamber also criticized the Federal Service for the Environmental, Technological and Atomic Inspection for serious oversights that prevented optimal use of its 2008 budget. As a result, the watchdog was able to utilize only 39.3 percent of its budget in the first half of 2008, the statement said. The chamber also said it found evidence that some of the expenses for conducting environmental testing were highly inflated.

References:

Interview with a high-ranking official of the Audit Chamber of Russia

<http://www.ach.gov.ru/bulletins/>

<http://www.ach.gov.ru/bulletins/2008-5.php>

<http://www.ach.gov.ru/results/reports/2007.php>

http://www.ng.ru/economics/2008-04-04/5_stepashin.html

<http://www.rg.ru/2008/05/20/stepashin.html>

<http://www.rg.ru/2008/09/24/korruptciya.html>

Audit Finds \$2.7Bln in Violations," The Moscow Times daily, Nov. 7, 2008, <http://www.moscowtimes.ru/article/600/42/372197.htm>

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.

59g. 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 law, all state bodies, businesses, institutions, and organizations, without regard to form 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 the Ministry of Finance (as the chamber deals with budget funds) and 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. 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.

We transfer the materials on the most extensive abuses to the general prosecutor's office. Around 200 cases are started every year on the basis of our materials. In 2006 and 2007, there were 11 officials convicted and more than 30 people brought to administrative responsibility, Sergei Stepashin, chairman of the Audit Chamber of Russia, told Rossiyskaya Gazeta.

References:

Interview with a high-ranking official of the Audit Chamber of Russia

The Fight Against Corruption Has No Sectors," interview with Sergei Stepashin, chairman of the Audit Chamber of Russia, Rossiyskaya Gazeta daily, Sept. 24, 2008, <http://www.rg.ru/2008/09/24/korruptciya.html>.

100: Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25:

0: Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

59h. In practice, the audit agency is able to initiate its own investigations.

100 | 75 | 50 | 25 | 0

Comments:

No, although Sergei Stepashin, chairman of the Audit Chamber, as well as other high-ranking public officials, are for amending existing legislation to allow the Audit Chamber to initiate its own investigations.

The Audit Chamber is open to complaints from ordinary citizens and uses such information in its activities.

Prior to September 2007, when a group of high-ranking Audit Chamber auditors were arrested for corruption, they were not investigated by the chamber. In early October 2007, an internal audit body was set up at the Audit Chamber aimed at fighting corruption in its ranks.

References:

Interview with a high-ranking official of the Audit Chamber of Russia

<http://www.rian.ru/economy/20080528/108691169.html>; <http://www.rg.ru/2008/09/24/korruptciya.html>

<http://www.rg.ru/2007/10/10/palata.html>

<http://grani.ru/Society/Law/m.128131.html?1520>

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.

60. Can citizens access reports of the supreme audit institution?

100

60a. 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:

Interview with a high-ranking official of the Audit Chamber of Russia

<http://www.ach.gov.ru/bulletins/>

<http://www.ach.gov.ru/bulletins/2008-5.php>

<http://www.ach.gov.ru/results/reports/2007.php>

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.

60b. 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, then included in a monthly Audit Chamber bulletin and uploaded its website. It takes time to make these reports public.

References:

Interview with a high-ranking official of the 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.

60c. 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:

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.

58. Is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

58. 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 the Russian Federation.

References:

Federal Law on Audit Chamber of the Russian Federation, 1994, <http://www.ach.gov.ru/zakon/>

<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.

91
V-3. Taxes and Customs

62. Is the tax collection agency effective?

88

62a. 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. The agency is aimed at getting taxes no matter what, and is evaluated accordingly, even if the law is interpreted and bent in order to reach this objective.

References:

Interview with a high-ranking Tax Service official

Ernst & Young poll, <http://www.alawtech.ru/2007/11/15/2.html>

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 tax agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Yes, the agency receives regular funding.

References:

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.

65. Is the customs and excise agency effective?

88

65a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Yes, the agency almost always has a professional, full-time staff.

References:

Ernst & Young poll, <http://www.alawtech.ru/2007/11/15/2.html>

Interview with Gen. Gennadi Khabotov, head of the Siberian Customs Department, <http://www.vremya.ru/2008/6/4/195860.html>

<http://www.vesti.ru/doc.html?id=185434>

<http://www.klerk.ru/law/news/?121529>

<http://grani.ru/Events/Crime/m.145176.html?1054>

<http://www.themoscowtimes.com/stories/2008/03/05/012.html>

<http://www.newsru.com/russia/26jun2008/graniza.html>

<http://www.trud.ru/issue/article.php?id=200807221330801>

<http://www.vesti.ru/doc.html?id=202028>; http://www.gazeta.ru/auto/2008/08/22_a_2818634.shtml

<http://www.kommersant.ru/doc.aspx?DocsID=864609>; <http://www.kommersant.ru/doc.aspx?DocsID=883469>

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.

65b. In practice, the customs and excise agency 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 of Russia

Interview with Gen. Gennadi Khabotov, head of the Siberian Customs Department. <http://www.vremya.ru/2008/6/4/195860.html>

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

61. Is there a national tax collection agency?

100

61. In law, is there a national tax collection agency?

YES | NO

Comments:

Yes, the agency is called the Federal Tax Service and was established in November 1991.

References:

<http://www.nalog.ru/index.php?topic=mnsrus>

<http://www.nalog.ru/>

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.

63. Are tax laws enforced uniformly and without discrimination?

25

63. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

Comments:

The media are full of reports on tax officials extorting bribes from businessmen for a report showing a lack of financial violations at his/her enterprise or for a reduction of taxes due. However, usually only low- and middle-rank tax officers go to court for bribery; their superiors are not prosecuted. With regard to major taxpayers, trial of the 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. On a regular basis, TNK-BP, oil giant, MTS, telephone major, etc., have to fight off tax police claims of payments due in the tens of millions of dollars. This problem is recognized by both national and foreign leaders. Russian businesses are the main victims of tax police.

References:

Tax Service Calls U.S. Ambassador Address Interference In Russian Court Jurisdiction," Interfax news agency, July 10, 2007

Ernst & Young poll, <http://www.alawtech.ru/2007/11/15/2.html>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/09/03/159812>

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.

64. Is there a national customs and excise agency?

100

64. In law, is there a national customs and excise agency?

YES | NO

Comments:

Yes, there is a national customs and excise agency, the Federal Customs Service of Russia. It provides 46 percent of budget revenue.

References:

Russian Customs official website, <http://www.customs.ru/ru/>

Customs legislation: <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.

66. Are customs and excise laws enforced uniformly and without discrimination?

25

66. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

Comments:

Corruption seems to be routine at customs, and unofficial payments are highly standardized.

References:

<http://www.tks.ru/crime/2007/10/26/03/print>

<http://news.vl.ru/world/2008/02/01/customers/>

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.

68. Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

85

68a. In law, the agency, series of agencies, 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 are all other administration nominees.

References:

<http://www.mgi.ru/rosim/pologenie/>

YES: A YES score is earned only if the agency, series of agencies, 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, series of agencies, or equivalent mechanism is a subordinate part of any government ministry or agency.

68b. In practice, the agency, series of agencies, 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.

References:

Interview with a high-ranking official of the Audit Chamber, Russia

<http://www.mgi.ru/rosim/structure/>

100: The agency, series of agencies, or equivalent mechanism has staff sufficient to fulfill its basic mandate.

75:

50: The agency, series of agencies, or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency, series of agencies, or equivalent mechanism has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

68c. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Yes, the agency receives regular funding.

References:

Interview with a high-ranking official of the Audit Chamber, Russia.

100: The agency, series of agencies, 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 agency, series of agencies, 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.

68d. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

The statute gives the agency powers to supervise and audit state-owned enterprises, as well as press charges if any violations are uncovered. An important role is played by the Russian Audit Chamber. The Russian Accounts Chamber inspected all state-owned corporations in 2008. The chamber focused particularly on United Energy Systems of Russia, Gazprom, Russian Railways, Russian Mail and a number of the other largest companies. The controlling agency is also carrying out inspections in the regions, which receive subsidies from the federal budget. The Accounts Chamber hired 75 more staff for this new task, said head of the Accounts Chamber Sergei Stepashin.

References:

Statute of Federal Agency for Management of Federal Property, Articles 5, 6, 7, <http://www.mgi.ru/rosim/pologenie/>

Russian Accounts Chamber to Inspect All State Corporations in 2008," Interfax news agency, Nov. 21, 2007

100: When irregularities are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

75:

50: The agency, series of agencies, or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency, series of agencies, or equivalent mechanism does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency, series of agencies, or equivalent mechanism may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

68e. In practice, when necessary, the agency, series of agencies, 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. However, some such enterprises as Gazprom are absolutely out of reach of the agency head.

References:

Interview with a high-ranking Audit Chamber official

100: When rules violations are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

75:

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

25:

0: The agency, series of agencies, or equivalent mechanism does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency, series of agencies, or equivalent mechanism may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency, series of agencies, or equivalent mechanism may be partisan in its application of power.

69. Can citizens access the financial records of state-owned companies?

70

69a. In law, citizens can access the financial records of state-owned companies.

YES | NO

Comments:

According to Art. 27 of the Law on Federal and Municipal Unitary Enterprises a state-owned enterprise is required to make public its records (<http://nalog.consultant.ru/doc39768>). It does not specify how and when so relevant federal laws must be applied.

Access to information published in printed media was restricted to the public due to the lack of such publications in most public libraries, as well as limited circulation of some printed media and, in some cases, the quite expensive cost of a subscription. Many records are available on the Internet. It should be noted that financial transparency is gaining more and more recognition among Russian companies, especially if they prepare for IPOs 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:

Art. 27 of the Law on Federal and Municipal Unitary Enterprises

http://www.rao-ees.ru/investor/reporting/show_cgj?content.htm

<http://www.gazprom.ru/articles/article25767.shtm>

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.

69b. In practice, the financial records of state-owned companies are regularly updated.

100 | 75 | 50 | 25 | 0

Comments:

In November 2007 and 2008, Standard & Poor's international rating agency published the results of a survey on information

transparency of Russian state corporations. This rating is defined by 108 criteria, divided into three separate groups: disclosure of shareholders' rights and property structure, financial reporting, and disclosure of managerial staff, and board of directors. Despite the fact that the rating itself didn't increase seriously (on average), the number of transparent companies did. For instance, many more entities are disclosing financial accountancy before annual shareholders meetings.

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 commercially motivated and do not correspond to the interests of investors.

According to experts, the state is quite careless about its property and often enough is not aware of the current situation with its assets.

Recently, when the state began to establish state corporations in Russia, an ongoing discussion on them, their future and their effectiveness emerged. Seven corporations were created in 2007, all of them as non-profits. More state corporations were established in 2008.

The state corporations that have been or are being created in Russia will hardly be able to perform the economic modernization functions they have been entrusted with. At the same time, there is a risk that state assets and huge financial resources that have been passed under their management will be used ineffectively and embezzled. This warning was voiced yesterday on April 7 by Mikhail Delyagin, director of the Institute for Globalization Problems. In his opinion, the state has the right to control commanding heights in the economy, but due to the absence of effective control mechanisms, state corporations in their present form can only be beneficial for corrupt bureaucrats.

A fundamental drawback of present-day state corporations is hidden in the mechanism of their creation – specifically, in the fact that assets and money are passed to them as their property for free. Against the background of other six corporations, the only exception in this respect is Rosatom (Federal Atomic Energy Agency), because following its liquidation its property will be returned to the state. "This gives reason to suppose that a large-scale scam is being prepared to privatize assets that will remain after the liquidation of some state corporations," Delyagin opined.

In addition to the fact that state corporations may not be declared bankruptcy, which allows them to operate in the least effective manner, the law does not stipulate any effective procedure for exercising control over their activities. According to regulations, state corporations are required to publish annual reports and to report to the government every three months, while other controlling bodies are not authorized to monitor their activity. Therefore, corporations' financial information will prove significantly less representative than that published by such economic entities as open joint-stock companies, while the controllability and transparency of their activity will equal zero.

"I know only too well what government control means: I is the absence of control," Delyagin said. "In actuality, state corporations are structures more secretive than Gazprom."

According to Delyagin, the impression is that the creation of state corporations has become a special kind of pre-electoral payment to Russian bureaucracy. "In the old days, bribes were paid to pensioners, but at present nothing depends on people, which is why it is bureaucrats who are bribed," the economist concluded, adding that "many state corporations will live until the change of the political system and will do just fine, but later they will face a painful reality check."

By the way, deputies of the State Duma believe anti-corruption legislation should cover employees of state corporations as well.

At the same time, First Deputy Prime Minister Igor Shuvalov said on June 8, 2008, that the Russian government would remove many government officials from state companies' boards and cut the number of strategic companies.

"We will soon re-elect the boards of directors of companies wholly owned by the government, removing as many officials as possible and replacing them with managers," Shuvalov said at the St. Petersburg Economic Forum.

Arkady Dvorkovich, an assistant to the president, said at the forum that the government would start replacing government officials with independent directors before these companies' annual shareholder meetings, scheduled for sometime before July 1. He added that foreigners would also be elected as directors at such companies.

Shuvalov said the government would change corporate governance at state companies and make them more transparent.

However, amid vows to limit state interference, the state's stake grows. According to Elena Krasnitskaya, corporate governance analyst for the Troika Dialog investment bank, the market value of the state's shareholding portfolio hit US\$469 billion in 2007, equaling 40 percent of the capitalization of Russia's stock market.

For the time being, however, state involvement in Russia's economy appears, if anything, to be increasing. Prime-Tass noted that "state-controlled conglomerates" are being created in a host of industries, including oil and gas, aircraft manufacturing, aircraft engine making, airline travel, banking, shipping, shipbuilding, titanium, bearing manufacturing, residential utilities, steel, nanotechnology and nuclear energy, as well as for the construction of Olympic facilities. The news agency noted that proposals had also been put forward to create state companies for airports, machine tools, automobile manufacturing, military electronics, toll roads, investment promotion, grain exports, pharmaceuticals and fishing (Prime-Tass, December 11, 2007).

References:

Standard & Poor's Russian-language website: <http://www.standardandpoors.ru/>

<http://www.e-disclosure.ru>

http://www.gAAP-IFRS.com/news/gAAP_IFRS/2334/

<http://www.standardandpoors.ru/page.php?path=trans2008>

http://www.micex.com/press/issue_6379.html

State Corporations Charged With Stimulating Corruption. Economist Mikhail Delyagin Warns of a New Scam Involving Embezzlement of State-Owned Resources and Assets," Aleksey Shcheglov, Nezavisimaya Gazeta daily, April 8, 2008, http://www.ng.ru/economics/2008-04-08/5_deliagin.html

"Official: Government to remove officials from companies' boards, cut strategic company list, Prime-Tass news agency, June 9, 2008

<http://gazeta.ru/column/milov/2715226.shtml>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/01/21/140006>

http://www.times.spb.ru/index.php?action_id=2&story_id=24272

<http://www.vedomosti.ru/newspaper/article.shtml?2008/05/07/147841>

<http://news.mail.ru/politics/1810955/>; <http://www.vedomosti.ru/newspaper/article.shtml?2008/12/03/171977>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/10/28/166240>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/05/07/147849>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/05/07/147849>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/05/20/148813>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/09/05/160104>

100: State-owned companies always publicly 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, file the information behind schedule, or not publicly disclose certain data.

25:

0: Financial data is not publicly available, or is consistently superficial or otherwise of no value.

69c. 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 mandatory, according to IAS . 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 2009.

References:

<http://www.uba.ru/news?news=8018>

<http://www.klerk.ru/articles/?109167>

<http://www.standardandpoors.ru/page.php?path=trans2008>

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.

69d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The largest Russian joint-stock companies, such as Gazprom, RAO EES, etc., release their financial records within a reasonable period of time. Such financial reports are available on companies's websites (accessible by anyone) and in printed form (harder to obtain).

Not only the general public but minority stakeholders can't access the financial records of state-owned companies. A Moscow court on Aug. 20, 2008, rejected a demand by a minority shareholder that state oil giant Rosneft shed more light on its deals with oil trader Gunvor. In a separate case, the court turned down a demand by the same shareholder that pipeline monopoly Transneft disclose the recipients of 7.2 billion rubles (US\$220 million) in donations in 2007.

The shareholder, Alexei Navalny, former deputy head of the Moscow branch of Yabloko, the liberal political party, sought the information after he complained that the companies paid low dividends for last year. The lawsuits sought to make it possible for minority shareholders to influence their companies' policies, said Alexander Glushenkov, a lawyer representing Navalny.

In their rulings, the court cited a law about joint stock companies that says only shareholders who control more than 25 percent of a company can gain access to its financial records, Glushenkov said.

Navalny said he owned stakes worth 50,000 (US\$1,527) to 100,000 rubles (US\$3,054) each in Rosneft and Transneft. Navalny said he began seeking details on Rosneft's deals with Gunvor after the U.S. edition of Forbes magazine included Gennady Timchenko, a Gunvor founder and acquaintance of Prime Minister Vladimir Putin, on its billionaire list for the first time this year. Forbes put Timchenko's personal fortune at US\$2.5 billion.

Rosneft is one of Gunvor's top three Russian clients. The others are Gazprom, Neft and TNK-BP, but TNK-BP sells all its crude at open tenders.

Transneft spent more money on charity than on maintaining its pipelines last year, Navalny said: 7 billion rubles (US\$214 million) compared to 5 billion rubles (US\$153 million).

Greater transparency at Russian oil companies would reassure investors that they were being treated fairly at a time when the companies have had to increase production spending, said Vitaly Gromadin, an analyst at Arbat Capital. The companies have cited heavy taxes, depleting fields and soaring costs as primary reasons for low dividends. When a barrel of oil goes for over US\$100, Rosneft's dividend yield of 1.5 a year seems ridiculous.

Transneft's spending on charity puzzled the market because it has seen five years of negative cash flow, a result of pouring money into a pipeline to connect eastern Siberia to the Pacific Ocean, Gromadin said.

Being tight-lipped can harm companies' valuations. Surgutneftegaz has as much as US\$20 billion in its accounts, but its capitalization is as low as US\$28 billion, Gromadin said.

References:

<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.com/eng/articles/article20163.shtml>

<http://www.rosneft.ru/Investors/information/annualreports/>

Activist Shareholder's Claims Thrown Out," The Moscow Times daily, Aug. 21, 2008, <http://www.moscowtimes.ru/article/1009/42/370146.htm>

http://www.ng.ru/economics/2008-08-21/100_akcioner.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.

69e. 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. But many records are available online for free. However, if such records are not open, they might be hard to obtain.

References:

<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.com/eng/articles/article20163.shtml>

<http://www.rosneft.ru/Investors/information/annualreports/>

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. Is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

100

67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

YES | NO

Comments:

General oversight is provided by the Federal Agency for Management of Federal Property, which that is in charge of all publicly owned companies. The Federal State Unitary Enterprises are managed by specific ministries and agencies.

In December 2004, the 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. Nothing has come out of this initiative so far. The state is supervising state-owned enterprises, especially such important taxpayers as Gazprom, Russian Railways, etc., by appointing top public officials to their boards. Usually a vice prime minister is chairman of the board of directors. Government ministers and Kremlin insiders now sit on the boards of the country's largest companies.

Under President Vladimir Putin, the number of state-owned enterprises grew. Russia is not going to build state capitalism with giant, government-controlled corporations holding sway over the economy, Putin told business leaders on December 11, 2007. State corporations should not monopolize Russia," Putin added, after his ally and anointed successor, Dmitry Medvedev, proposed that Putin become prime minister after the 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."

Kommersant daily published an interview on Nov. 30, 2007, that gave an unprecedentedly open and detailed picture of a financial structure, Finansgrup, that is close to the Kremlin siloviki and their putative leader, former deputy Kremlin administration chief Igor Sechin.

References:

Federal Agency for Management of Federal Property, www.mgi.ru

<http://www.minprom.gov.ru/ministry/agency/energo/3>

<http://www.reestrfr.ru>

http://www.businesspress.ru/newspaper/article_mld_3_ald_325944.html

<http://www.gazprom.ru/subjects/groups/sovet.shtml>

http://center.rzd.ru/wps/portal/center?STRUCTURE_ID=834

Putin Plays Down the State's Role," The Moscow Times daily, Dec, 12, 2007, <http://www.moscowtimes.ru/article/1009/42/351744.htm>

<http://www.moscowtimes.ru/article/1009/42/351958.htm>

<http://www.vedomosti.ru/newspaper/article.shtml?2007/12/03/137242>

<http://www.kommersant.ru/doc.aspx?DocsID=831908>

YES: A YES score is earned if there is an agency, series of agencies, or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. A YES score can be earned if several government agencies or ministries oversee different state-owned enterprises. 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, or if some state-owned companies are free from government oversight.

85
V-5. Business Licensing and Regulation

70. Are business licenses available to all citizens?

81

70a. 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, 2001, http://www.consultant.ru/popular/license/38_1.html

<http://www.cliff.ru/documents/fzlicens.html>

<http://protos-consulting.ru/zakon/>

<http://licence.rk-audit.ru/licence-laws.html>

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

70b. In law, a complaint mechanism exists if a business license request is denied.

YES | NO

Comments:

If 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, 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.

70c. 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:

Between 2001 and 2007, the Center for Economic and Financial Research (CEFR), an independent Moscow-based think tank, in collaboration with the World Bank and with the financial support of USAID, conducted a project to monitor administrative barriers to small business development in Russia. Two thousand firms from 20 regions in 7 federal districts were surveyed in 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 portion of inspections by licensing authorities that leads to financial losses for firms.

Licenses can be obtained within 60 days, although a bribe usually speeds up the process.

Yuri Chaika, prosecutor general of Russia, told Rossiiskaya Gazeta how Rostekhnadzor (Russian Federal Service for Ecological, Technical and Atomic Supervision) was extorting bribes for licenses.

References:

<http://www.cefir.ru/index.php?!=eng&id=261>

<http://www.novayagazeta.ru/data/2007/52/22.html>

Interview with Yuri Chaika, prosecutor general of Russia, daily, Oct. 28, 2008, <http://www.rg.ru/2008/10/28/a277247.html>

<http://informpskov.ru/society/47260.html>

100: Licenses are not required, or licenses can be obtained within roughly one week.

75:

50: Licensing is required and takes around one month. Some groups may be delayed up to a three months

25:

0: Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

70d. 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 1300 rubles (US\$40), but a businessman is required to submit many papers in order to obtain a license. Therefore, unofficial payments (i.e. bribery) that inevitably accompany this process hike up the price significantly. On the other hand, there are hundreds of organizations helping companies obtain a license. They work closely with licensing bodies (quite often in the same building) and ask from US\$300 to US\$6000 for a full package.

References:

<http://www.cefir.ru/index.php?l=eng&id=261>

http://www.genincor.ru/index.php?category_id=5; <http://licence.rk-audit.ru/>

<http://www.vedomosti.ru/newspaper/article.shtml?2007/08/21/131350>

<http://www.novayagazeta.ru/data/2007/52/22.html>

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.

71. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

100

71a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

YES | NO

Comments:

Business regulatory requirements are notorious for complexity, opacity and inconsistency. According to law, state bodies are required to make information on all standards public, primarily via their websites.

One of the key players in this field, the 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 on its website. Instead, the agency placed links to online stores of two organizations that sell the standards for much more than a reasonable fee.

In 2005, the Institute for Information Freedom Development (St. Petersburg) filed a case against the agency for not providing publicly important information. The court ruled in February 2006 that Federal Agency on Technical Regulation and Metrology has to upload this information to its website. The agency lost its appeal in June 2006, but it took more than a year for the agency to execute the court decision 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, www.protect.gost.ru.

Analysis of the documents available there shows that only the standards that were passed after September 2006 were uploaded. Documents prior to September 2006 are either not available at all or not available in full. Besides that, the standards are available in a special graphic format that a search using usual search engines does not find. And, these files can't be printed and saved. You don't get 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. It seems 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 making all standards open to public for free for ten days, then offering them for a fee.

References:

<http://www.svobodainfo.org/info/page/?tid=633200055>

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.standard.ru/>

Decree of the Russian Government #594, Sept. 25, 2003

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.

71b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

YES | NO

Comments:

Business regulatory requirements are notorious for complexity, opacity and inconsistency. According to law, state bodies are required to make information on all standards public, primarily via their websites.

One of the key players in this field, the 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 on its website. Instead, the agency placed links to online stores of two organizations that sell the standards for much more than a reasonable fee.

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References:

<http://www.svobodainfo.org/info/page/?tid=633200055>; http://www.gost.ru/wps/portal/pages.OrderOfStandards?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.standard.ru/>

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.

71c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

YES | NO

Comments:

Business regulatory requirements are notorious for complexity, opacity and inconsistency. According to law, state bodies are required to make information on all standards public, primarily via their websites.

One of the key players in this field, the 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 on its website. Instead, the agency placed links to online stores of two organizations that sell the standards for much more than a reasonable fee.

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<http://www.standard.ru/>

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.

72. Does government effectively enforce basic health, environmental, and safety standards on businesses?

25

72a. 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

References:

<http://www.cefir.ru/index.php?!=eng&id=261>.

<http://www.vedomosti.ru/newspaper/article.shtml?2007/06/04/126880>

<http://www.newizv.ru/news/2008-05-29/90878/>

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<http://www.novostivolgograd.ru/kriminal/23831.html>

<http://www.moscowtimes.ru/article/1010/42/371032.htm>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/09/18/161561>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/12/11/173268>

Interview with Yuri Chaika, prosecutor General of Russia, Rossiiskaya Gazeta daily, Oct. 28, 2008, <http://www.rg.ru/2008/10/28/a277247.html>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/11/27/171073>

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.

72b. 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

References:

<http://www.cefir.ru/index.php?l=eng&id=261>

<http://www.vedomosti.ru/newspaper/article.shtml?2007/06/04/126880>

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Interview with Yuri Chaika, prosecutor general of Russia, Rossiiskaya Gazeta daily, Oct. 28, 2008, <http://www.rg.ru/2008/10/28/a277247.html>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/11/27/171073>

Neither Inspections Nor Arrest. Deputies Propose Prohibiting Police From Taking Part in Inspections of Small, Medium-Sized Businesses, Judges From Issuing Arrest Warrants for Senior Managers, Shareholders, Comptrollers," Natalya Kostenko with assistance from Aleksandr Tsygankov and Marina Chunareva, Vedomosti, Nov. 10, 2008

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:

50: Business inspections by the government to ensure public environmental 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 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.

72c. 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 are 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. In 2007, the Ministry of Economic Development and Trade introduced a number of initiatives, but they were not supported until spring 2008, when President Medvedev strongly recommended amendments to the existing legislation.

Businessmen are both unhappy with permanent inspections and plans to limit them. On May 28, 2008, the Moscow government announced that it has reached an agreement with Moscow Department of Ministry of Interior according to which any police inspection would be conducted only after a written authorization of the department head is issued. Businessmen's reaction was, Now we will have to pay more.

A few years ago, main complaints from businesses were against Fire Department and Consumer Protection Agency inspections. Now businesspeople complain about visits of tax police and criminal police.

According to the Ministry of Economic Development and Trade, the police will lose 32 causes for inspecting small and medium-size businesses. Currently, police act as public health inspectors, building inspectors and tax police. Basically, the police can check almost anything and have a right to do it. Businessmen prefer to pay to get them away. As a result, they add a 10 percent corruption tax" to the price of everything they offer, and consumers pay for it. Prosecutors try to curb graft but hardly succeed. According to the Prosecutor General's Office, some 1 million violations of the rights of businessmen were cited by corrupt officials; 5,000 criminal cases were opened, and 38,000 officials are accused of extortion

On Sept. 17, 2008, the State Duma passed on the first reading a bill aimed at reducing the myriad inspections and red tape that business owners are subjected to, Interfax reported. The bill would limit the number of planned state inspections of a business to one every three years and would forbid inspectors from spending more than 70 hours per year carrying out checks on the premises of a small business.

On Dec. 10, 2008, Duma deputies also passed on the second reading a bill banning law enforcement agencies from carrying out tax inspections without a request from tax authorities. Furthermore, law enforcement officers will be required to give business owners stamped photocopies of any confiscated documents.

Amendments are to be introduced to the Criminal Procedural Code and the law on the police. These amendments, which limit the police's right to search an enterprise's premises or to confiscate documents from an enterprise, were introduced following statements by President Dmitriy Medvedev and passed on their first reading by the State Duma in September. By the time of the second reading, State Duma deputies proposed stripping the MVD (Ministry of Internal Affairs) of this right altogether. The police should participate in checks only together with tax authorities, and the latter may request police assistance only if they have problems gaining access to an enterprise, Vladimir Medinskiy, the sponsor of the initiative, believes.

According to Vedomosti, Mikhail Orlov, chairman of the expert council of the State Duma's budget committee, said that some kind of procedures for inspections must be introduced, adding that as a non-participant in tax affairs, the MVD operates according to its own laws, which permits it to do anything from searching cars to full-fledged inspections under the guise of operational investigative activities, the material of which cannot be appealed.

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<http://www.cefir.ru/index.php?l=eng&id=261>

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Interview with Yuri Chaika, prosecutor general of Russia, Rossiiskaya Gazeta daily, Oct. 28, 2008, <http://www.rg.ru/2008/10/28/a277247.html>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/11/27/171073>

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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.

VI-1. ⁷³ Anti-Corruption Law

73. Is there legislation criminalizing corruption?

89

73a. In law, attempted corruption is illegal.

YES | NO

Comments:

In March 2008, the Levada Center polling agency conducted a poll (March 14-17) about the results of Vladimir Putin's eight years in power. The areas in which Putin is perceived as having failed: countering corruption and bribery (32%), restraining the influence of oligarchs (18%) and countering crime (17%). Despite this, 70% of respondents say they are satisfied with Putin's policies in the area of raising living standards and 55% would like to see him run for president again.

In Dmitry Medvedev's January 22, 2008, speech to the Civic Forum, a gathering of representatives from Russian non-governmental organizations (NGOs) and other groups sponsored by the Kremlin-appointed Public Chamber, then President Vladimir Putin's successor declared that the fight against corruption must become a national program."

"Disregard for the law manifests itself in crime, including corruption in government agencies corruption that has assumed an enormous scope today. The fight against it must evolve into a national program," Medvedev said.

The then First Deputy Prime Minister also called Russia a country of "legal nihilism" that manifests itself in the form of "crime," including "corruption in the power bodies," which, he said, exists on a "huge scale" in Russia today. No European country can boast of such "disdain for the law," Medvedev said.

On February 18, 2008, he told Itogi Magazine that cavalry-like attacks on corruption will not produce effective results. He added the fight against corruption remained among his "priorities."

"There is one thing I can say for sure: I do not support showcase whipping. This is a serious problem, and it needs a comprehensive solution," Medvedev said.

Putin echoed Medvedev's promises: "We will definitely pass anti-corruption legislation. We need to increase the pay of officials," the then Russian president said at a press conference in Moscow on Feb. 14, 2008.

Putin also favored the development of civil society institutions to fight corruption. "What counts most is that we develop civil society institutions and control on the part of civil society and the media over the condition of the governance apparatus. I never forget about this," he said.

A week later Medvedev explained that he sees total disrespect for the law as the main cause of corruption in Russia.

"The fact that a significant proportion of the population does not give a damn about observing of the law is at the root of this phenomenon," he said on Feb. 26, 2008, in answer to questions from journalists in Ufa. "Either we learn to lead law-abiding lives and comply with the law without thinking whether or not it needs to be observed, or people will think that they can do whatever they like."

The national program to fight against corruption, he went on, encompasses economic, psychological and legal issues.

"Many of these problems exist not just because of low incomes," Medvedev observed. "Corruption as a phenomenon reared its head especially in the 20th century. Moral stimuli disappeared. Religious morals disappeared for a long eight decades. The only check was the Communist party membership card, but then it disappeared too. That is why not just legal norms but also the raising of morals is needed to fight corruption."

However, such rhetoric didn't impress Russians, according to a March 2008 opinion poll by the Levada Center: 69% of those polled didn't believe Medvedev would fight corruption more effectively than Putin.

On March 19, 2008, now President Medvedev said at a meeting with Public Chamber members that fight against corruption should envision a system of stimuli for bona fide officials. He added that corruption in Russia can only be beaten by a strong civil society. It is necessary to create a system in which officials "are not armored against public attention," he said. "Our task is to create a system that would allow civic structures to participate in working out state policy and appraising its quality," the new president said.

He added that he wanted civil society groups to scrutinize legislation before it came into force.

The first sign that Medvedev was serious about fighting the endemic graft economists say is hampering growth came when he ordered anti-corruption steps to protect small businesses on April 27, 2008. Arbitrary inspections by officials from firemen to the police are often an excuse to extort bribes from small firms and must end, Medvedev told a State Council meeting in Tobolsk.

"This proposal might leave some officials from the fire, sanitary services and police ... close to a heart attack, because this is what they make money on, both officially and illegally," Medvedev told the council. "The proposal goes as follows: Controlling bodies should be barred from entering small enterprises," he said. "They can only enter if there is an appropriate instruction from a court or prosecutor."

Medvedev also ordered the government to review legislation to protect small companies from being forced to enter into dubious contracts with officials.

"It is clear this is a legalized bribe, which was formerly passed on in an envelope and now dressed up in a perfectly respectable form," he said.

Later, Medvedev ordered the Prosecutor General to protect small and medium-size businesses from corrupt officials.

Medvedev announced the signing of the anticorruption plan during a visit to the town of Gagarin, in Smolensk Region, on July 31, 2008. He was there to acquaint himself with conditions for small business. Minister of Economic Development Elvira Nabiullina talked about the decree On Immediate Measures for the Elimination of Administrative Barriers to Business Activity. She said that the 13 most massive forms of activity were identified and that an informative, rather than permissive, procedure will be instated for them. In addition, she said, six forms of licensing were cancelled and were to be replaced with insurance.

On May 19, 2008, less than two weeks after taking office, Medvedev said he would sign a decree on new anti-corruption measures, according to a speech posted on the Kremlin website, <http://www.Kremlin.ru>.

"The level of corruption remains extremely high," Medvedev said. "In 2007 alone, 10,500 criminal cases involving corruption were launched, and we understand perfectly well that this is only the tip of the iceberg."

Medvedev will head an anti-corruption council to be set up in Russia in the near future, Kremlin chief of staff Sergei Naryshkin said after a meeting with group of senior Kremlin, government and law enforcement officials on May 19.

Medvedev also gave instructions to draw up a national action plan to counter corruption.

"We need a package of measures, not pin-point decisions; we need a national anti-corruption program," Medvedev said, singling out three major sectors. First, he said, anti-corruption laws should be updated. Second, the national program should include measures to fight economic and social corruption, as well as preventive measures. Third, Medvedev said, anti-corruption behavior needs to be encouraged in the country, and people needed to be educated on the legal aspects of the issue.

Russian news agencies said Medvedev's chief of staff, Sergei Naryshkin, would head a committee to coordinate the new campaign. The Prosecutor General's Office will coordinate all law enforcement activities related to the counter-corruption effort of Russian authorities.

"Corruption isn't a phenomenon of Russia; corruption exists everywhere," Naryshkin said, adding that "the extent and the depth of the problem is different."

On June 5, 2008, Medvedev met with Prosecutor General Yuri Chaika and asked for the closure of gaps in federal and regional legislation that could be used for corrupt ends. Medvedev told reporters in Berlin on June 5 that his administration would be making "some very serious proposals" to "improve legislation to counter corruption," calling this "important for changing life in Russia for the better."

On June 25, 2008, Naryshkin told Medvedev that the presidium of the president's council for countermeasures to corruption had prepared a four-part draft national plan to combat corruption: legislative backing, improvement of public administration, a fight against legal nihilism and improvement of lawyers' professional training, and action in materialization of the plan. The details may be termed revolutionary. The measures proposed granting journalists and representatives of civil society organizations (CSOs) conducting their own anti-corruption inquiries a system of official protection similar to the witness-protection program. NGOs fighting corruption would come under the protection of the state, and many of their representatives would even become part of a specially formed civic anti-corruption body.

One further important innovation in the national plan is giving broad powers to officers of the operational services. The new legislation would allow the use of equipment in the prosecuting of people suspected of having committed less serious crimes. According to Gazeta's source, the possibility of provocations is ruled out lest it increase corruption among the task-force officers.

The national plan reflects previous initiatives. Government officials whose relatives have not given a full accounting of their property will be administratively and criminally liable. The anti-corruption legislation will affect corporations and public servants.

According to Gazeta's information, there is just one fundamental question that the administration has not settled: which department will be responsible for pursuing and coordinating the anti-corruption fight. A Gazeta source close to the administration claims that there are, in fact, two drafts. One entrusts execution of the plan to the Office of the Prosecutor General, and supervision and execution of the plan's provisions will be given to the Federal Financial Monitoring Service or the Ministry of Justice. The second draft version provides for the creation of an absolutely new non-uniformed entity, the Anti-Corruption Council, under the auspices of the president, for example, which is by authority alone to control execution of the national plan.

Medvedev was to present the bill to the entire Duma for a vote in the fall, and it should have been passed by year's end.

On July 31, 2008, President Medvedev signed the National Anticorruption Plan (NAP). Sergey Naryshkin, chief of the presidential executive staff and head of the interagency working group on combating corruption, outlined the details of the plan. It has four sections. The first is the legislative basis for the anticorruption campaign. Naryshkin explained that it entailed the passage of the law On Counteracting Corruption, which will contain a definition of corruption and corrupt practices, and prescribes the procedure for the criminal prosecution of them. The president may have introduced that law into the State Duma by October 1.

Later, amendments will be introduced to 25 laws that concern activities of the police, the court system and so on. They include a ban on persons with criminal records working in the civil service and corrections to certain court practices. The Kremlin is particularly perturbed by the practically unlimited authority that chief judges now have over the division of cases among judges and the formation of qualifying collegiums. That will change. Electronic assignment of cases to judges is under discussion. It is possible that not only will civil servants have to file declarations of property and income, but members of their families will have to as well.

The second section of the NAP is devoted to improving state management. That means creating fair competition in the economy, transferring some authority from the federal level to the regional (with consequent stricter supervision of its exercising) and implementing civil freedom of information rights. In this section, a personnel service for the prevention of corruption will be formed in state bodies.

The third section is the improvement of legal awareness. The Association of Jurists of Russia's support will be essential for this, and the public will have access to the Law TV channel.

The fourth section is a list of priority measures in the fight against corruption. The presidential executive staff is made responsible for the functioning of the commissions to oversee the behavior of civil servants, and the government is to implement the transition to electronic trading in sales of confiscated property and state and municipal purchasing.

Agencies and regions were to develop their own anticorruption plans by October 1, 2008. They are to give periodic accounts of the results of their efforts before the presidium of the working group on fighting corruption. A body was to have been assigned responsibility before the end of the year for the fight against corruption. That issue is not yet firmly resolved, but the Kremlin is leaning toward giving the function to the Prosecutor General's Office. No anticorruption agency will be created.

The Kremlin does not expect fast results from the anticorruption campaign. The drafters of the document emphasize that the idea behind the campaign is not to punish as many people as possible (stricter laws are not being proposed to that end). "The main thing isn't severity," stated one Kremlin official. "People should feel the inescapability of punishment."

On Sept. 9, 2008, Medvedev signed a decree saying that a special department responsible for anti-corruption would be set up at Ministry of Interior and that regional departments will have respective units.

On Sept. 30, 2008, the Presidential Anti-Corruption Council approved at its first meeting a package of four bills that will lay the legal foundation for Medvedev's anti-corruption plan. The whole package was to have been admitted to the Duma on September 30," Presidential Administration Director Sergei Naryshkin announced. "The package includes a main anti-corruption bill and amendments to 25 current laws, among other measures. The law on prevention of corruption is the core. It outlines principles of state policy and gives definitions of corruption, corruption offense and corruption crime." The national anti-corruption plan includes amendment of the legislation that is expected to tighten responsibility for corruption and advance its prevention.

The Prosecutor General's Office and Justice Ministry will be instructed to examine draft laws for corruption potential. All structures of the executive branch of government will form monitoring commissions to keep an eye on state officials' conduct. The legislation would require state officials to inform their superiors of any known cases involving corruption.

"It is also important to instruct special services to hunt down assets bought by corrupt officials. These assets will be nationalized, and the inevitability of use his or her position for personal enrichment," Naryshkin said.

The Russian president determines the state policy in the corruption fight. He can decide to establish a special coordinating body for the corruption fight. The government empowers various agencies with various anti-corruption functions. The Prosecutor General is supervising the law enforcement agencies. The Prosecutor General's Office will launch nationwide examination of the use of state property in early 2009. The Audit Chamber is controlling the budget execution.

Changing citizens' mentality and attitude will prove the most taxing endeavor of all. Opinion polls indicate that over 70% Russians encountered corruption. What is particularly upsetting, however, is that an overwhelming majority of Russians view corruption as a norm rather than a crime.

These bills are very likely to pass at the State Duma. However, in the five months of preparation, state bureaucrats managed to weaken a number of provisions in the package. The bills call for some tough measures, such as confiscation of property from corrupt officials, while in some regards the initially proposed plans have been softened to better deal with business realities.

The most significant amendments

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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, http://dpr.ru/journal/journal_29_29.htm

<http://www.garant.ru/main/10008000-030.htm#2030>

<http://www.moscowtimes.ru/article/850/49/195573.htm>

On existing anti-corruption legislation, <http://www.newizv.ru/news/2008-01-29/83415/>

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YES: A YES score is earned if corruption laws include attempted acts.

NO: A NO score is earned if this is not illegal.

73b. In law, extortion is illegal.

YES | NO

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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.

73c. In law, offering a bribe (i.e. active corruption) is illegal.

YES | NO

Comments:

Yes, offering a bribe is illegal, although there is difference between offering a bribe and giving a bribe.

Actually giving or taking sums in cash has become the exception, not the rule. There are other forms of corruption. They mostly include tenders, public procurement, kickbacks and inflated project costs. There's also what they call conditional remuneration⁷ 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.

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Sergei Stepashin: Bribes Are Out, Kickbacks Are In," interview with Auditing Chamber Chairman Sergei Stepashin, Valentina Druzhinina, Komsomolskaya Pravda daily, July 12, 2007

YES: A YES score is earned if offering a bribe is illegal.

NO: A NO score is earned if this is not illegal.

73d. 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 the Model Anti-Corruption Program in the executive branch 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," Naryshkin said at a press conference on July 20, 2008. 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 that 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 in the next budget cycle. Another Economic Development Ministry official told us that "corruption-hazard" officials might also get extra benefit, such as housing or free public transport.

The program was tested at the federal level in 2007 and 2008, and testing at the regional level will go into 2010. Both pilot programs are identical and were launched at 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 (US\$7 million) was spent on the program in 2007. Very likely, the program will become the basis for a national campaign if it is 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 #269. Prior to that, the commissions' goals were undefined, but now they will be required to coordinate their efforts with human resources 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.

Anti-corruption measures are mainly oriented toward monitoring 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, and making state purchases, as well as those who make appointments to such posts. In addition, the list will include any officials 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 the 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, it 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 a 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 is so strict that it borders on being a violation of human rights.

In reality, everything depends on the makeup of the anti-corruption 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 human resource departments, and outside experts. The experts will come only from scientific organizations or educational institutions whose activities are related to government service. They will 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 have sought to exploit by initiating a public crackdown on graft ahead of the March 2008 presidential election, when President Vladimir Putin handed 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 Yuri Korgunyk, a political analyst at the Indem anti-corruption think tank. "It's just rubbish. 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, Korgunyk noted. "It's not all about raising wages and conditions. 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."

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YES: A YES score is earned if receiving a bribe is illegal.

NO: A NO score is earned if this is not illegal.

73e. 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. 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 the 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 added that Russia's Criminal Procedural Code could be amended to "simplify the procedure for returning assets taken abroad after corruption-related crimes."

In March 2006, Russia ratified the UN Convention Against Corruption (UNCAC), which makes the bribing of a foreign official illegal, but the country has yet to conform its domestic legal framework with the UNCAC's provisions.

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A very good analysis of current anti-corruption legislation was made by Sergei Zagrebnev, a lawyer, and published in Vedomosti daily on March 3, 2008, <http://www.vedomosti.ru/newspaper/article.shtml?2008/03/03/142728>

On existing anti-corruption legislation see <http://www.newizv.ru/news/2008-01-29/83415/>

A detailed description of the draft anti-corruption law submitted by President Medvedev to the State Duma and September 3, 2008, and adopted in the first reading on November 7, 2008: <http://www.rian.ru/society/20080930/151734964.html>

<http://www.rosbalt.ru/2008/11/07/539489.html>

Some members of the Council of Federation criticized the draft law and said the norm was absurd and should be deleted from the legislation, <http://www.rian.ru/politics/20081125/155834392.html>

YES: A YES score is earned if bribing a foreign official is illegal.

NO: A NO score is earned if this is not illegal.

73f. 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 S. Bochkov, editor-in-chief of Real Estate and Investment Legal Control magazine, published in December 2006, http://djpr.ru/journal/journal_29_29.htm

A very good analysis of current anti-corruption legislation was made by Sergei Zagrebnev, a lawyer, and published in Vedomosti daily on March 3, 2008, <http://www.vedomosti.ru/newspaper/article.shtml?2008/03/03/142728>

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<http://www.rosbalt.ru/2008/11/07/539489.html>

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.

73g. 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. According to Vedomosti daily, Federal Financial Markets Service (FFMS) will not be able to monitor public officials any more (each ministry and the Central Bank will do the monitoring themselves) but instead are to focus on the private sector only. Experts consider new draft almost toothless. Nonetheless, 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, 2007, that the service was planning to legalize wiretapping but was not seeking [to take on] criminal investigative functions," Nezavisimaya Gazeta reported. Khulkhachiyev added 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\$31,000) 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. And the government does try to prosecute corrupt officials that sell confidential information.

References:

Criminal Code of Russian Federation, Article 285 and Article 286

<http://www.vedomosti.ru/newspaper/article.shtml?2006/09/04/112022>

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, http://dpr.ru/journal/journal_29_29.htm

A very good analysis of current anti-corruption legislation was made by Sergei Zagrebnev, a lawyer, and published in Vedomosti daily on March 3, 2008, <http://www.vedomosti.ru/newspaper/article.shtml?2008/03/03/142728>

On existing anti-corruption legislation see <http://www.newizv.ru/news/2008-01-29/83415/>

A detailed description of the draft anti-corruption law submitted by President Medvedev to the State Duma and September 3, 2008, and adopted in the first reading on November 7, 2008: <http://www.rian.ru/society/20080930/151734964.html>

<http://www.rosbalt.ru/2008/11/07/539489.html>

Watchdog Seeks Right to Wiretap,” Tai Adelaja, The Moscow Times, Sept. 14, 2007, <http://www.moscowtimes.ru/article/852/49/194355.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.

73h. In law, money laundering is illegal.

YES | NO

Comments:

Yes, money laundering is illegal.

The Russian government’s money-laundering watchdog must fill a gaping hole in its ranks, U.S. and European experts said in a report released on October 1, 2008, suggesting that the service’s oversight might not be tight enough.

The number of ... vacancies at Rosfinmonitoring is somewhat high, and all vacancies should be filled as a priority matter,” the report said, referring to the Federal Financial Monitoring Service.

The Third Round Evaluation Report on Russia compiled by experts from the Council of Europe, the Financial Action Task Force and Eurasian Group examined the country’s progress fighting money laundering and the financing of terrorism. The group interviewed bankers, casino representatives and government officials, including First Deputy Prime Minister Viktor Zubkov, who led the watchdog until 2007.

A source at the monitoring service said vacancies had not affected its operations because they are in supporting departments. “These aren’t the people who work with information,” the source said on condition of anonymity because he was not authorized to speak to the press.

The service’s website has listed just five vacancies since April 2008, excluding those for a cleaning lady and a plumber.

If the group’s recommendations were followed, the country’s bureaucracy could grow substantially. The report said the Federal Customs Service should increase hiring to help deter illegal cross-border currency movements. It also recommended “substantially” expanding the staff at the Federal Service for Financial Markets, the Federal Insurance Supervision Service and the Federal Communications Agency.

Other recommended measures include preventing criminals from owning large stakes in banks and other financial institutions. The report said holders with a stake of 10 percent instead of the current 20 percent or more should be subject to checks. Russia should also criminalize insider trading and market manipulation, the report said.

References:

Federal Law on Money Laundering, 2001, http://www.transparency.org.ru/CENTER/DOC/leg_profit5.doc

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, http://dpr.ru/journal/journal_29_29.htm

A very good analysis of current anti-corruption legislation was made by Sergei Zagrebnev, a lawyer, and published in Vedomosti daily on March 3, 2008, <http://www.vedomosti.ru/newspaper/article.shtml?2008/03/03/142728>

On existing anti-corruption legislation see <http://www.newizv.ru/news/2008-01-29/83415/>

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<http://www.rosbalt.ru/2008/11/07/539489.html>

Lack of Staff to Fight Money Launderers,” Anatoly Medetsky, The Moscow Times daily, Oct. 2, 2008, <http://www.moscowtimes.ru/article/600/42/371376.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.

73i. 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 S. Bochkov, editor-in-chief of Real Estate and Investment Legal Control magazine, published in December 2006, http://dpr.ru/journal/journal_29_29.htm

A very good analysis of current anti-corruption legislation was made by Sergei Zagrebnev, a lawyer, and published in Vedomosti daily on March 3, 2008, <http://www.vedomosti.ru/newspaper/article.shtml?2008/03/03/142728>

On existing anti-corruption legislation see <http://www.newizv.ru/news/2008-01-29/83415/>

A detailed description of the draft anti-corruption law submitted by President Medvedev to the State Duma and September 3, 2008, and adopted in the first reading on November 7, 2008: <http://www.rian.ru/society/20080930/151734964.html>

<http://www.rosbalt.ru/2008/11/07/539489.html>

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

75. Is the anti-corruption agency effective?

61

75a. 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 the Prosecutor General, whose candidacy is approved by Council of Federation.

References:

Federal Law on Federal Security Service Bodies, 1995, <http://www.fsb.ru/psb/npd/single.htm%21id%3D10340801%40fsbNpa.html>

<http://www.fsb.ru/psb/npd/single.htm%21id%3D10343050%40fsbNpa.html>

Statute of the Federal Security Service, 2003, <http://www.fsb.ru/psb/npd/single.htm%21id%3D10343058%40fsbNpa.html>

Constitution of Russia, Article 129, <http://www.genproc.gov.ru/documents/legal-base/document-2/>

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.

75b. 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, head of the new department, gave an interview to the official daily Rossiiskaya Gazeta . Among other things, he said his subordinates will be subject not only to special selection and employment procedures but also to additional protection due to the 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, and he 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, Oct. 2, 2007, <http://www.rg.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.

75c. 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 consultation with the president. The history of President Vladimir Putin's appointments and sacking shows that even if some explanations might be provided to the general public, the rationale as well as the actual situation 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 M. Fradkov and later V. Zubkov, and not some other person, became the new prime minister. Experts have to deal with riddles and can only guess why some minister or governor was sacked, while another one is awarded for the same activities (or lack of them).

References:

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.

75d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

As both the Federal Security Agency and General Prosecutor's Office are very politics-centered and politics-dependent state bodies, all major appointments are approved by the administration of the president and are based on political and personal rather than professional criteria.

References:

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.

75e. 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.

On June 1, 2008, President Dmitry Medvedev signed a decree permitting the Prosecutor General's Office to hire 2000 new officials. The planned expansion will include two waves, beginning on July 1, 2008, and January 1, 2009.

References:

Interview with Dr. Andrei Chuklinov, director of Research at the Transparency International, Russia

Yuri Chaika Took to Wing," Mikhail Vinogradov, Yuri Zainashev, Gazeta. Ru news agency, June 3, 2008

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.

75f. In practice, the anti-corruption agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

References:

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.

75g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

According to law, both agencies are accountable to the president, who is their main evaluator, and the government. They do make regular public presentations and briefings, but how full and timely such reports are depends on their leadership and the administration of the president. Neither agency is truly and transparent or accountable to the public and/or the State Duma.

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.

75h. 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 the authority, funding and staff to execute a full-fledged anti-corruption strategy. But judging by level of corruption in Russia, this is not happening in practice. What they really lack is the political will to fight corruption decisively and consistently and, especially, on non-selective basis.

As a general rule today, corruption-related offenses are punishable by a fine or sentence (often suspended), generally 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. Experts say there a very high proportion of suspended sentences is passed in corruption cases. Furthermore, the State Duma often grants amnesties that also cover corruption-related convictions.

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.

75i. 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.

76. Can citizens access the anti-corruption agency?

76a. 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 the 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.

On March 24, 2008, the prosecutor general's website opened to public the ability to leave a complaint on an act of corruption. A special department was set up to review such complaints and to pass them to appropriate agencies, notifying the complainer what agency his/her complaint was forwarded to.

Later on, in May 2008, a similar service was offered to businessmen. It's a special section entitled Prosecutor Supervision of the Observance of Rights of Economic Entities. In this section visitors find a special blank form they are invited to fill in if they believe their rights have been violated.

The same service is available at regional departments of the Prosecutor General's Office. However, experience so far shows that such hotlines are pretty cold most of the time.

References:

Interview with Dr. Andrei Chuklinov, director of Research at the Transparency International, Russia

In July 2006, the prosecutor general set up a special department specializing in complaints: <http://www.genproc.gov.ru/ipriem/corrupt/>

On General Prosecutor's Office activity in this field: <http://www.genproc.gov.ru/ipriem/corrupt/works/>

<http://www.genproc.gov.ru>

<http://top.rbc.ru/society/19/02/2008/142778.shtml>

<http://www.rg.ru/2008/03/25/site-korruptciya.html>

<http://www.rg.ru/2008/03/25/site-korruptciya.html>

<http://www.rg.ru/2008/05/30/a231874.html>

Businessmen May Visit Prosecutor's website to Ask for Protection, Itar-Tass news agency, May 29,

<http://www.niann.ru/?id=333306&template=yandex>

<http://skavkaz.rfn.ru/rnews.html?id=143969&cid=7>

<http://www.rg.ru/2008/07/25/reg-vvolga/kliknivlast.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.

76b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.

100 | 75 | 50 | 25 | 0

Comments:

Citizens who complain to FSB and General Prosecutor's Office about extortion reveal 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.

On March 24, 2008, the prosecutor general's website opened to public the ability to leave a complaint on an act of corruption. A special department was set up to review such complaints and to pass them to appropriate agencies, notifying the complainer what agency his/her complaint was forwarded to.

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<http://www.genproc.gov.ru>

<http://top.rbc.ru/society/19/02/2008/142778.shtml>

<http://www.rg.ru/2008/03/25/site-korruptsiya.html>

<http://www.rg.ru/2008/03/25/site-korruptsiya.html>

<http://www.rg.ru/2008/05/30/a231874.html>

Businessmen May Visit Prosecutor's website to Ask for Protection, Itar-Tass news agency, May 29,

<http://www.niann.ru/?id=333306&template=yandex>

<http://skavkaz.rfn.ru/rnews.html?id=143969&cid=7>

<http://www.rg.ru/2008/07/25/reg-vvolga/kliknivlast.html>

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 agency (or group of agencies) with a legal mandate to address corruption?

100

74. 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, the Council of Federation (the Russian Senate) announced that a new anti-corruption committee will be set by this body. The main agencies that 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 Chief Prosecutor, Yury Chaika, on June 29, 2006, 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 by RIA Novosti news agency on June 29, 2006. In July 2006, Chaika approved an anticorruption strategy for the prosecutor's office.

"It is not just 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 clearly define causes breeding corruption and detect flaws in the law."

A number of government agencies are involved in anti-corruption activities, each planning to take all anti-corruption agenda under its control. One of them is the Prosecutor General's Office's Investigative Committee (SKP). Alexander Bastrykin, head of the SKP, said on March 25, 2008, that over the previous few months, his subordinates had prosecuted over 500 state officials and bureaucrats "from the upper and middle echelons." The SKP's plans for the future appear to be the same as those of any other new agency: expanding staff and establishing various goal-specific subunits. Bastrykin said that the SKP intends to ask the federal government to increase its staff by 4500. He pointed out that according to the presidential decree that established the SKP, it should have 16,656 staff members. Bastrykin also said that the SKP plans to establish special units to handle extremist crimes and corruption.

There is also an anti-corruption commission at the State Duma, chaired by former policemen Alexei Volkov. It is mostly involved in anti-corruption monitoring of the draft laws. The opposition doubts that there will be a real campaign against corruption, noting that all previous Dumas also set up such commissions, without reducing the level of corruption in the government.

The new commission has members of all Duma factions sitting on it in numbers proportional to their representation in Parliament. There are eight members from United Russia, two from the Communists, one from the LDPR and one from Just Russia. The commission is chaired by Alexey Volkov, former head of the Interior Department (police, Russian abbreviation UVD) of Kursk and Amur Regions. The deputy chairman of the commission is former assistant prosecutor general Vladimir Kolesnikov. The purpose of the commission is to "study legislation and identify clauses in it that encourage the emergence or expansion of corruption and preparation of proposals for the improvement of legislation in the area of counteracting corruption." The commission will also be authorized to examine draft laws before their first readings.

Starting September 2008, the Council of Federation had a special anti-corruption department.

The Ministry of Interior is also involved in fight against corruption, although not directly. On September 9, 2008, President Medvedev signed a decree setting up a special department responsible for anti-corruption within Ministry of Interior. Regional departments will have respective units (see more about it here:). Thus, the Ministry of Interior became an active anti-corruption player among others. Later Minister of Interior reported that Ministry has its own Anti-Corruption Plan for 2008-2010 (

The best candidate to be an anti-corruption agency is the Prosecutor General's Office. Most likely, President Medvedev shares this view. On June 1, 2008, he signed a decree permitting the Prosecutor General's Office to hire 2000 new officials. The planned expansion happened in two waves, one beginning on July 1, 2008, and the other on Jan. 1, 2009.

Corruption was one of the main topics at a meeting held by the collegium of the Prosecutor General's Office on July 29, 2008 to discuss the results of the office's work for the first half of the year. According to Gazeta daily, the top prosecutors reported that 27,000 crimes related to corruption were uncovered during that period, a figure 10 percent higher than during first six months of 2007. Indeed, the newspaper quoted First Deputy Prosecutor General Aleksandr Buksman as saying that the number of "corruption crimes" is "steadily" growing, with 6 percent more bribes uncovered during the first half of this year than during the first half of 2007. According to Prosecutor General Yuri Chaika, prosecutors across the country investigated 4,000 instances of suspected corruption during the first half of 2008, resulting in 1,500 criminal cases. Chaika complained that "operational-investigative activity" had produced poor results, reiterating that the fight against corruption is not a "one-time action" and calling on his subordinates to return to the 4,000 cases and work harder to achieve "positive results."

Some independent experts, however, have questioned whether the prosecutor's corruption statistics reflect the true state of affairs or are simply the tip of the iceberg. Gazeta quoted Genry Reznik, president of Moscow's Chamber of Lawyers, as estimating that no more than 3 percent of the total number of acts of corruption lie "on the surface" and are reflected in the official statistics.

The 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," Grishankov said. "The body may be made answerable to the president or to the prime minister," he added, and referred to Singapore, where the anti-corruption investigation bureau answers to the prime minister.

The public and many observers, though, remain skeptical and for good reason. The history of anti-corruption drives stretching back deep into the Soviet era gives little cause for optimism. A poll by the Public Opinion Foundation released in mid September found that two-thirds of Russians believe that it is "impossible" to root out corruption in the political system. Four-fifths think that even substantial raises for public-sector workers and officials will not solve the corruption problem, while 28 percent said they had personally been affected by some form of corruption within the past year. The public, as usual, identified the police, customs officials, hospitals, prosecutors and judges as the main loci of corruption in Russia.

But corruption extends to the very pinnacles of the political system.

"It is known that a minister's portfolio costs as much as 10 million euros (US\$12.9 million); a governor's chair, about the same; a deputy's mandate runs about 5 million euros (US\$6.4 million)," Duma Deputy Speaker and Liberal Democratic Party of Russia leader Vladimir Zhirinovskiy told Ekspert (No. 33). Duma Deputy Viktor Cherepkov told Regnum in May 2007 that a good place on a political party's list of candidates for the December 2, 2007, legislative elections cost US\$7 million, up from US\$3 million in the 2003 elections.

President Dmitry Medvedev is reportedly planning to create a new post of presidential aide for the fight against corruption and was planning to sign a presidential decree to that effect before the end of June 2008. According to Nezavisimaya gazeta daily that reported that rumor in mid-June 2008, in setting up the post of anti-corruption aide, Medvedev is aiming both to take personal control over the fight against corruption and to carry out what the newspaper called a "soft" purge of the country's security/law-enforcement apparatus, thereby getting rid of some of his enemies among the siloviki. According to Nezavisimaya gazeta, the new presidential aide formally will be involved in the fight against corruption within the state apparatus in general, not simply inside the law-enforcement bodies, and will be responsible for drafting legislation and statutes aimed at intensifying the fight against bribe-taking at all levels of the bureaucracy. The new presidential anti-corruption aide, however, will, above all, be involved in preparing "certain personnel reshuffles" inside the Federal Security Service (FSB), the Interior Ministry (MVD) and the Federal Narcotics

Control Service (FSKN), and in providing Medvedev with lists of the most "odious" corrupt officials inside these bodies, the newspaper reported.

More broadly, whoever is appointed will help the new president begin forming his own "vertical of power," one subordinated and accountable to him and to him only. Most likely this will not occur in the near future.

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<http://www.gzt.ru>, July 29

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Overview of various anti-corruption bodies in Russia and a schedule set by the national anti-corruption plan: <http://www.gzt.ru/politics/2008/07/29/223034.html>

<http://www.rosbalt.ru/2008/6/17/494581.html>

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See an interview with Rashid Nurgaliev, Minister of Interior, from Rosssiiskaya Gazeta daily, Oct. 14, 2008, <http://www.rg.ru/2008/10/14/mvd.html>

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Prosecutors in the regions are actively prosecuting corruption, <http://babr.ru/?pt=news&event=v1&IDE=43241>

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There is a very sharp competition between the Investigative Committee and the Prosecutor General's Office with regard to who will be put in charge of anti-corruption activities. See more about it at <http://www.rg.ru/2008/06/17/prokuratura-komitet.html>;

<http://www.vedomosti.ru/newspaper/article.shtml?2008/06/07/150750;>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/07/30/156679>:

http://gazeta.ru/politics/2008/07/29_a_2796117.shtml

<http://www.kommersant.ru/doc.aspx?DocsID=1029735>

The Council of Federation is for setting a special anti-corruption agency. The chairman of Audit Chamber of Russia is against it, <http://www.vesti.ru/doc.html?id=170922>;

<http://www.rbc.ru/rbcfreenews.shtml?/20080324124512.shtml>

See an overview of various anti-corruption bodies in Russia and a schedule set by the national anti-corruption plan: <http://www.gzt.ru/politics/2008/07/29/223034.html>

“Chaika Will Set Up Anti-Corruption Special Forces,” Lenta.ru news, June 22, 2007, <http://www.lenta.ru/news/2007/06/22/corruption/>

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.

70
VI-3. Rule of Law

77. Is there an appeals mechanism for challenging criminal judgments?

75

77a. 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, 2002, Chapters. 43, 44

<http://www.kadis.ru/daily/index.html?id=9189>

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.

77b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

In law, appeals should be reviewed no later than two weeks after they are 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 the Russian legislative and judicial systems result in mass appeals to the European Court of Human Rights.

References:

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

Criminal Procedure Code, Article 363

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.

77c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

This is true, unless expensive lawyers are hired.

References:

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. Attorneys fees are not a barrier to appeals.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments. Attorneys fees present somewhat of a barrier to pursuing appeal.

25:

0: The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments. Attorneys fees greatly discourage the use of the appeals process.

78. Do judgments in the criminal system follow written law?

50

78. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

Comments:

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 from 2007-2011). Results of the poll show that 33.9 percent of respondents refuse to recognize Russia as a state subject to the rule of law, while 30 percent claim that it is. Twenty-six percent of respondents say they trust the judiciary, and 38 percent distrust it.

The opinion poll was conducted in 98 locations between June 3 and 9. RAGS approached 2499 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 percent. 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.

Alena Ledeneva, University College London said: How widespread is telephone justice in courts in Russia in general? In an all-Russia survey, almost one-third of respondents seemed satisfied with the workings of the courts (12 percent replied that all court decisions are made by law and 18 percent replied that only a few judges take bribes and are subject to pressure). More than half of the respondents, however, acknowledged the susceptibility of judges either to corrupt payments or other forms of pressure: 25 percent of respondents said that judges take bribes as a rule, although there are also principled judges, and a further 20 percent said that even these principled judges would react to pressure on particular cases. Seven percent said that 'all court decisions are made either for a bribe or under pressure from above.'" The remaining 18 percent were "don't knows."

Legal experts who I interviewed in Russia largely agree on the following formula. Although it is ridiculous to suggest that every court case in Russia is decided according to directives from above, means of influencing a particular case can be found when needed. In other words, pressure does not have to be pervasive to be fully effective. Moreover, the form of influence can be chosen according to the personality of a judge. Court chairmen have a variety of ways of dealing with non-compliant judges known for their personal integrity. Direct forms of influence might not even be necessary when dependent judges or court chairmen practice self-censorship the so-called chilling effect.

A judge of the Constitutional Court of the Russian Federation, Boris Ebzeyev, has accused Russian courts of attempts to ignore the Constitution.

"There is a threatening growth in the number of rulings by the Constitutional Court that are not implemented or are implemented badly. I have to say with a particularly great regret that some colleagues in the courts of general jurisdiction and arbitration courts are resorting to the most refined methods of creating legal loopholes while thinking it possible to ignore these rulings,"

References:

Citizens Don't Trust the Courts," Anastasia Kornya, Vedomosti daily, Aug. 9, 2007

Criticism on Moscow courts decisions by Olga Egorova, chairwoman of the Moscow City Court: <http://www.kommersant.ru/doc.aspx?DocsID=851521&NodesID=6>

"Medvedev's crackdown on corruption in courts," Alena Ledeneva, University College London, RIA Novosti news agency, May 29, 2008

"Russia Judge Complains That Ruling of Constitutional Court Are Being Ignored," Interfax, May, 23, 2008, <http://www.newizv.ru/news/2008-11-12/101411/>

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.

79. Are judicial decisions enforced by the state?

50

79. 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. The tax service sometimes takes years to follow 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 number of complaints submitted to the Strasbourg European Court on Human Rights has nothing to do with his service and points a finger at courts and the Ministry of Finance. Vinnichenko said his service cannot enforce the law because of a lack of funds and personnel. On the regional level, corruption is also admitted and discussed.

In 2007, the European Court of Human Rights ruled that Russia pay 4.3 million euros (US\$5.5 million) in damages to illegally prosecuted Russian citizens, Prosecutor General Yuri Chaika said in Moscow on May 27, 2008. A large-scale inspection conducted by prosecutors last year uncovered numerous abuses of preliminary investigation procedures. The number of granted lawsuits seeking rehabilitation and the repayment of damages suffered through the fault of law enforcement agencies, increased from 419 to 538, while the sum recovered from the Russian treasury exceeded 94 million rubles (US\$28.5 million)," Chaika told senior officials of the Prosecutor General's Office.

According to the European Court, 46 percent of court decisions on collecting money from the state are not enforced.

The Kremlin's critics have long claimed that the law in Russia is selectively applied and politically manipulated. In his multiple post-election public appearances, President Medvedev repeatedly emphasized his vision for Russia as a law-based society, where no one, including the highest government officials, is above the law, and where the courts and law-enforcement agencies strictly follow the letter and spirit of the law to protect the rights of Russian citizens, even when this is against the interests of state institutions.

Medvedev faces a legacy that will be difficult to overcome. Although Vladimir Putin came to power with a promise to institutionalize the "dictatorship of law," his rule was characterized more by selective application and creative law-making aimed at serving specific policy objectives, both in the economic and political spheres. In many cases, Putin and his team purposefully twisted the law to fit their purposes, and many of the legal novelties of the past eight years deserve careful revision, and perhaps even to be repealed.

Medvedev spoke forcefully against venality and called for harsh measures against corrupt government officials. He also indicated that he perceives a free media to be one of the tools that can help root out corruption and make government officials accountable to the public.

Russia's Prosecutor General Yuri Chaika, speaking at an enlarged meeting of the Russian Prosecutor-General's Office's leadership with regard to compensation of damage to people illegally charged with criminal responsibility, said that in 2007 alone, 5265 people were eventually exonerated after being wrongly charged. Thousands of people are illegally charged with criminal responsibility in Russia every year, he said. "It's self-evident that the reason for this lies in negligent investigation of criminal cases instituted without sufficient grounds, while charges are often based only on testimonies of witnesses," Chaika emphasized. He added that in actual fact, illegal accusations are slapped down on people who are put into custody.

"On perceiving this serious problem, we should explore in detail the situation and take adequate measures," he went on to say. "A great share of responsibility also rests with prosecutors, who should nip in the bud violations of human rights, no matter by which side they are made."

The Supreme Court of Russia in September 2008 introduced a draft law according to which any delays getting a fair trial and/or enforcing a court decision can be compensated by the state as an alternative to a addressing European Court of Human Rights.

A similar attempt was made in April 2008 by the Supreme Arbitration Court of Russia to regulate a procedure of getting compensation from the state for damage caused by public officials. Currently it's almost impossible, first, to have a court rule in favor of a company or an individual that lost property due to the activity or inactivity of certain public officials and, second, to have such compensation paid by the state.

The majority of appeals to the Russian human rights ombudsman is about the non-fulfillment of court orders, Human Rights Ombudsman Vladimir Lukin told Russian President Dmitry Medvedev on June 10, 2008. He said he daily received about 30,000 appeals from Russian citizens.

The court system "is the main source of complaints," Lukin said. "First and foremost, we have a problem with the fulfillment of court orders. Oddly, courts are power bodies but their orders are frequently ignored."

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Strasbourg Court Obliges Russia to Repay Over 4 Million Euros to Illegally Prosecuted Citizens," Interfax news agency, May 27, 2008

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"Thousands of people illegally put on trial in Russia annually," ITAR-TASS news agency, May 27, 2008

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"Russians complain of neglect of court orders human rights ombudsman," ITAR-TASS, June 10, 2008

What Russian citizens think of Russian justice system: <http://www.newizv.ru/news/2008-06-16/91929/>

What members of the Russian judiciary think of the Russian justice system: <http://www.newizv.ru/news/2008-06-25/92627/>

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.

80. Is the judiciary able to act independently?

63

80a. In law, the independence of the judiciary is guaranteed.

YES | NO

Comments:

Case study: Lyudmila Maikova, chairwoman of the Moscow Arbitration Court

It is extremely rare for a senior judge to face disciplinary proceedings. However, on May 12, 2008, Anton Ivanov, chairman of Supreme Arbitration Court of Russia and a former university classmate of President Medvedev's, filed a request to have Lyudmila Maikova, chairwoman of the Federal Arbitration Court in the Moscow District since 1995, suspended from her duties for damaging the authority of the judicial branch and the reputation of the judiciary," Kommersant daily reported. Ivanov's request said Maikova, who had been on the bench in a number of legal disputes involving the city government, received help from City Hall in 2004 to swap her own apartment for two others and to buy another from a developer at less than market price.

The application was signed by Anton Ivanov, chairman of the High Arbitration Court, and Maikova could not be reached for comment. "Ethical norms were broken in this apartment affair," Interfax quoted Ivanov as saying. "In cases such as this, we can speak of a breach of (judges') independence and impartiality."

In September 2005, a woman was sentenced for attempting to influence a court decision by making a telephone call about a property in central Moscow, pretending to be calling on behalf of the chairman of the Supreme Arbitration Court. Back then, in an interview with Parlamentskaya Gazeta, Maikova was asked: "How strong is 'telephone justice' in Russia? Is it hard for the court to be independent?" She dismissed the idea as gossip and myth.

On July 16, 2008, the High Qualification Commission of the Supreme Court of Russia dismissed Ivanov's request for lack of argument. The outcome of next meeting of the commission, which was to take place on Nov. 7, 2008, was not known at press time.

References:

Yes, the law guarantees this. Constitution of Russia, Article 120;

Federal law about the status of judges, N 3132-I, 1992, with amendments on April 14, 1993; June 21, 1995; July 17, 1999; June 20, 2000; Dec. 15, 2001; Aug. 22, 2004; April 5, 2005; March 2; and July 24, 2007, Articles 4, 9

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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.

80b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

Political interference is the norm. The judges take bribes and bend to higher court opinion. Quite often, the selection on judges is based not the best but the most loyal or those who have some flaws: It is easier to control them.

Chairman of the Supreme Court of Russia Vyacheslav Lebedev, talking with journalists on June 11, 2008, remarked that if pressure is put on a judge, he should report it immediately. Is there pressure? Write an official report, and it will be turned over to the General Prosecutor's office immediately, the same day," he said, noting that he has not received a single such report in recent times.

Case study: Boev vs. Solovyev

A senior federal judge has testified in court that a Kremlin official threatened to derail her career if she did not reverse a ruling handed down against the Federal Property Fund. Yelena Valyavina, first deputy chairwoman of the Supreme Arbitration Court, told Moscow's Drogomilovsky District Court that Valery Boyev, an adviser on personnel appointments in the presidential administration, said she would not be returned to her post if she refused to change her position, Kommersant reported on May 13, 2008. "I was told unambiguously [by Boyev] that if I wanted to be re-elected [to my position], I'd face problems," Valyavina testified as a defense witness on May 12, 2008 in a libel lawsuit filed by Boyev against radio news program host Vladimir Solovyov.

On the Soloviyiniye Treli program on Serebryany Dozhd radio, Solovyov said there were "no independent courts in Russia," but there were "courts dependent on Boyev," Kommersant reported.

In her testimony, Valyavina said Boyev asked her in the fall of 2005 to change her ruling regarding the proper ownership of a share package in Tolyattiazot, the country's biggest producer of ammonia. She said Boyev made his threat when she refused to comply.

In 1996, the Samara region's Property Fund sold a 6.1 percent stake in Tolyattiazot to joint Russian-Swiss agricultural company Tafoo. In March 2004, the Federal Property Ministry appealed the deal. After having its first two attempts turned down, a third appellate court ruled that the Tolyattiazot deal should be voided. The Supreme Arbitration Court overturned that ruling in November 2005. Boyev dropped the lawsuit before a scheduled May 26 hearing in which Solovyov's lawyer, Shota Gorgadze, said three more high-level judges from across Russia were expected to testify as witnesses.

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Courts Are Not Trusted," Anastasiya Kornya, Vedomosti daily, Aug. 9, 2007

"Judges Are Being Put on Blacklists," Yekaterina Butorina, Vremya Novostei daily, June 12, 2008

"Judge Tells of Kremlin Threat," Natalya Krainova, The Moscow Times daily, May 14, 2008, <http://www.moscowtimes.ru/article/1010/42/362715.htm>

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On a scandalous appointment of the head of a regional department of the Court Department of the Supreme Court of Russia, despite the fact that judges were against it: <http://www.kommersant.ru/doc.aspx?DocsID=1041038>

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.

80c. In law, there is a transparent and objective system for distributing cases to national-level judges.

YES | NO

Comments:

No, cases are distributed by a chairman according to subjective criteria. Vyacheslav Lebedev, chairman of Supreme Court of Russia, said at the sixth 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 has changed, and no draft law was discussed.

References:

http://www.allrus.info/main.php?ID=215045&rat_doc=1

Legal commentary on this situation: <http://kalinovsky-k.narod.ru/p/komm-227.htm>

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.

80d. 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.

On May 19-29, 2008, Leandro Despouy, the UN's special rapporteur on the justice system, came to Moscow to evaluate Russia's justice system.

Despite the fact that there is substantial progress in some aspects (of judicial reform), it has not moved forward as much as one would have expected," Despouy, on his first visit to Russia in the rapporteur's role, told a news conference before leaving Russia. Problems with the Russian justice system that Despouy highlighted in a preliminary report include:

Reports of judges being pressured to hand down decisions that suit officials' political agenda.

A lack of transparency in the selection of judges and a practice of drawing most judges from the ranks of state prosecutors or court officials, not defense lawyers.

Pressure applied to defense lawyers because of their professional activity. (There have been a number of cases of lawyers facing disciplinary action or even prosecution after defending clients who have fallen out with the authorities.)

A proposal to amend the law on the status of defense lawyers "may threaten their independence" by allowing officials to withdraw their license to practice.

Case study: Lyudmila Maikova, Chairperson of Moscow Arbitration Court

It is extremely rare for a senior judge to face disciplinary proceedings. However, on May 12, 2008, Anton Ivanov, chairman of Supreme Arbitration Court of Russia and a former university classmate of President Medvedev's, filed a request to have Lyudmila Maikova, chairwoman of the Federal Arbitration Court in the Moscow District since 1995, suspended from her duties for "damaging the authority of the judicial branch and the reputation of the judiciary," Kommersant daily reported. Ivanov's request said Maikova, who had been on the bench in a number of legal disputes involving the city government, received help from City Hall in 2004 to swap her own apartment for two others and to buy another from a developer at less than market price.

The application was signed by Anton Ivanov, chairman of the High Arbitration Court, and Maikova could not be reached for comment. "Ethical norms were broken in this apartment affair," Interfax quoted Ivanov as saying. "In cases such as this, we can speak of a breach of (judges') independence and impartiality."

In September 2005, a woman was sentenced for attempting to influence a court decision by making a telephone call about a property in central Moscow, pretending to be calling on behalf of the chairman of the Supreme Arbitration Court. Back then, in an interview with *Parlamentskaya Gazeta*, Maikova was asked: "How strong is 'telephone justice' in Russia? Is it hard for the court to be independent?" She dismissed the idea as gossip and myth.

On July 16, 2008, the High Qualification Commission of the Supreme Court of Russia dismissed Ivanov's request for lack of argument. The outcome of next meeting of the commission, which was to take place on Nov. 7, 2008, was not known at press time.

References:

Constitution of Russia, Article 121

Federal law about the status of judges, N 3132-I, 1992, Articles 11, 13, 14, 15, with amendments on April 14, 1993; June 21, 1995; July 17, 1999; June 20, 2000; Dec. 15, 2001; Aug. 22, 2004; April 5, 2005; March 2 and July 24, 2007

Russia urged to reform justice system, Reuters, May 30, 2008

<http://www.newizv.ru/news/2008-05-20/90297/>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/05/20/148832>

<http://www.kommersant.ru/doc.aspx?DocsID=893830>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/05/30/149888>

<http://www.kommersant.ru/doc.aspx?DocsID=901869>

<http://www.kommersant.ru/doc.aspx?DocsID=913044>

<http://www.kommersant.ru/doc.aspx?DocsID=913160>

<http://www.vedomosti.ru/newspaper/article.shtml?2008/11/11/168237>

On the removal on national-level judges, <http://www.vedomosti.ru/newspaper/article.shtml?2008/05/21/148936>

<http://v102.ru/investigation/5333.html>

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.

81. Are judges safe when adjudicating corruption cases?

100

81a. 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 for adjudicating corruption cases.

References:

Interview with Dr. Vasilii 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.

81b. 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 for adjudicating corruption cases.

References:

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.

82. Do citizens have equal access to the justice system?

79

82a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

Comments:

No judge has 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 immigrants, were affected by such bias. There seems to be a systematic bias against not only illegal immigrants but also inhabitants of the Russian part of the Northern Caucasus.

An opinion on jury trials in Russia

In mid January 2008, a Moscow Oblast Court jury acquitted Roman Polusmyak for the second time. In the presence of a large number of witnesses, he killed a young Armenian man on a commuter train, then, in the interval between acquittals, managed to attack a Dagestani as well.

The court of the street," as the great Russian jurist Anatoliy Koni called trial by jury in a positive sense, is being transformed into "street justice" that reflects all the fears, prejudices, xenophobia and stupidity of the common man. It has become a miniature replica of the mass consciousness that, for example, does not like foreign spies and hates the "natives."

And so juries acquitted the murderers of a Tajik girl and view scientists who disseminate information about known-to-all-to-be-guilty perpetrators of serious state crimes.

In this case we are not talking in particular of xenophobic sentiments. In the era of Putin stability, notable for unprecedented nationalism that is now enshrined even in the highest level of government and for a serious indifference on the part of the public toward what is happening in the country, reports of an Armenian, a Tajik, a Vietnamese, an Indian or an Azerbaijani being murdered have become commonplace in news headlines.

The absence of irreversible punishment is part of that problem, a factor that contributes to the increase in the number of ethnically motivated crimes.

A jury is made up of the people. Why should jurors decide any differently than would the majority that secretly, or openly, wants to drive out the "aborigine," and do so by any means necessary, including beatings, derision, murder and extra-judicial vengeance.

Today, society supports those in power. And those in power in our country do not like spies and visitors from neighboring republics. Why, then, should the people like them, either?

Simply by getting their hands on such a powerful weapon for "speaking" his opinion as a jury, the ordinary citizen utilizes it as best he can: to acquit the poor boy who is unhappy with the stranglehold of the "blacks."

References:

Henry Reznik, chairman of the Moscow Bar Association and a member of the Public Chamber of Russia, <http://www.nazlobu.ru/opinions/print582.htm>

Street Justice,” commentary by Andrey Kolesnikov, Gazeta.ru news website, Jan. 29, 2008

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.

82b. In practice, women have full access to the judicial system.

100 | 75 | 50 | 25 | 0

Comments:

This is true.

References:

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

100: Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system. 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.

82c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

YES | NO

References:

Constitution of Russia, Articles 46, 48

The Treasury Will Pay for Everything, Boris Yamshanov, Rossiiskaya gazeta daily, Oct. 5, 2007, <http://www.rg.ru/2007/10/05/advokat.html>

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.

82d. 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 accused of petty and not so petty crimes into confession. 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.

Russian prosecutors transferred to courts more than 277,000 lawsuits related to protecting citizens' rights in 2007, Russian Deputy Prosecutor General Aleksandr Zvyagintsev said on April 22, 2008, at a meeting with Luc Van den Brande and Theodoros Pangalos, the PACE (Parliamentary Assembly of the Council of Europe) rapporteurs who are preparing a report on the honoring by Russia of its Council of Europe obligations.

The guests have been told that in 2007, 2 million citizens appealed to the prosecution agencies, and almost a quarter of the appeals were satisfied. In the area of labor relations alone, prosecutors identified over 716,000 violations of the law. Adequate prosecution measures were taken regarding all violations of the law, and, in particular, more than 277,000 lawsuits and applications were transferred to court for defending citizens' rights that had been violated," says a message of the Russian Prosecutor General's office, posted at its website.

It was mentioned during the conversation that "the most vulnerable and poor categories of people, who cannot afford to hire a qualified lawyer to protect their interests in court, most often appeal to prosecutor's offices, asking to help them defend their rights. Prosecutor's offices defend citizens' rights free of charge, and in a speedy and efficient manner," the document says.

References:

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

The Treasury Will Pay for Everything, Boris Yamshanov, Rossiiskaya gazeta daily, Oct. 5, 2007, <http://www.rg.ru/2007/10/05/advokat.html>

"Over 2 million Russians appealed to prosecutors in 2007 deputy prosecutor-general," Interfax news agency, April 23, 2008

<http://www.newizv.ru/news/2008-04-24/89156/>

See more on the Ministry of Justice initiative to provide free legal counsel for defendants who can't afford it: <http://www.rg.ru/2008/12/03/konovalov.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.

82e. 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:

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. Attorneys fees do not represent a major cost to citizens.

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. Attorneys fees are a significant consideration in whether to bring a case.

25:

0: The cost of engaging the legal system prevents middle class citizens from filing suits. Attorneys fees are high enough to discourage most citizens from bringing a case.

82f. 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:

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. Attorneys fees do not represent a major cost to small businesses.

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. Attorneys fees are a significant consideration in whether to bring a case.

25:

0: The cost of engaging the legal system prevents small businesses from filing suits. Attorneys fees are high enough to discourage most small businesses from bringing a case.

82g. 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 strained and complicated.

References:

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.

VI-4. Law Enforcement

83. Is the law enforcement agency (i.e. the police) effective?

50

83a. 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 proper education and are deprived of sufficient legal knowledge. A 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 March 2008, at the request of the Public Verdict Foundation the Levada Center polling agency conducted an opinion poll to evaluate the Russians' attitude towards the police. Thirty-six percent appraised the performance as "so-so," 15 percent as "bad" and 7 percent as "very bad." Only 27 percent of respondents praised law enforcement agencies.

Sociologists first reported the population's distrust in law enforcement agencies in the late 1980s, and nothing has changed since then. Boris Dubin of the Levada Center claims that Russians' negative attitude toward law enforcement agencies is not even surprising anymore. This negative attitude is based on what the Russians are informed of by the media and told by friends and colleagues, and on their personal experiences.

Inadequacy of the police is usually (60 percent) ascribed to lack of professionalism. Experts point out that the population feels itself highly vulnerable. Moreover, it is aware of lawlessness on the part of the police.

"Only 25 percent believe that the police are trying to promote interests of the population," Dubin said. Thirty-one percent claims that the police are extremely indifferent, and 17 percent think that law enforcement agencies promote the interests of the wealthy. Ten percent have the impression that the police promote their own interests only.

The concept of providing internal security to the Ministry of Interior and the Federal Migration Service for 2008 through 2012 was approved recently, and the relevant government bodies began to implement it. One of the key elements of the concept is application of lie detectors to enrollees to police academies and in hiring process at all police bodies. Another key element is mandatory asset and income disclosure of all personnel. Some experts believe none of these measures will prove fruitful, as internal security bodies have enough instruments to fight corruption in police ranks if applied properly. On the other hand, if applied properly, such measures would lead to the firing of almost all police, low and, high, and complete lack of candidates willing to work in the police.

References:

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

In June 2008, Public Verdict released report on the misconduct of Russian law enforcement officers, <http://www.publicverdict.org/ru/articles/research/230608.html>

Local Policeman: Russians Are Dissatisfied with the Police and Demand Changes," Yevgenia Zubchenko, Novye Izvestia daily, March 20, 2008

On application of lie detectors in the hiring of traffic police in the Republic of Tatarstan see <http://www.kolesa.ru/news/id/55510.html>

http://www.ng.ru/ideas/2008-07-22/5_nurgaliev.html

<http://www.gzt.ru/politics/2008/12/02/223019.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.

83b. In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

Comments:

Salaries of Russian police were raised twice in 2008: 9 percent starting February 1 and another 9 percent starting October 1. Salaries will be raised again 7 percent on Aug. 1, 2009 and 6.5 percent on Jan. 1, 2010.

Beginning on January 1, 2011, all Russian police will be funded by the federal government only (currently, federal center provides 61 percent of the funding and the rest comes from the regions).

References:

Various publications in Russian media

<http://www.rg.ru/2008/02/05/voennie-zarplata.html>

<http://news.mail.ru/politics/1652103/>; <http://news.mail.ru/politics/1658479/>

<http://www.rg.ru/2008/06/03/militsia.html>

<http://www.newizv.ru/news/2008-02-08/84163/>

On illegal income of Moscow

police: http://www.moscor.ru/social/chernaja_kassa_stolichnoj_militsii/ and <http://auto.mail.ru/text.html?id=27195>

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.

83c. 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:

Interview with Dr. Vasilij 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.

84. Can law enforcement officials be held accountable for their actions?

75

84a. 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 the Prosecutor General's Office, the Federal Security Service and the Department of Internal Security of Ministry of Interior. Citizens can file a complaint online at the Ministry of Interior website: <http://forum.mvd.ru/priem/>. In 2007, over 10,000 complaints were submitted via the Ministry of Interior website.

References:

Various non-governmental organizations provide support to ordinary citizens. See more about Public Verdict Foundation activities here: <http://www.publicverdict.org/ru/articles/police.html>.

In June 2008, Public Verdict released report on misconduct by Russian law enforcement officers: <http://www.publicverdict.org/ru/articles/research/230608.html>

Human Rights Organization report about police brutality and how citizens can fight it: <http://hro1.org/taxonomy/term/3>

Prosecutor General in July 2006 set up a special department specializing in complaints: <http://www.genproc.gov.ru/jpriem/corrupt/>

<http://www.newizv.ru/news/2008-06-05/91341/>

<http://www.genproc.gov.ru/contacts/order/>

<http://www.fsb.ru/fsb/webreception.htm>

<http://www.mvdinform.ru/struct/3307/>

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

84b. 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 became active only recently and has yet to be enforced. However, according to the 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 are some local data about crimes committed by law enforcement agents and how they were prosecuted. Most policemen receive suspended sentences or even get acquitted.

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/>.

On reviewing complaints of citizens, the General Prosecutor's Office must now respond to a complaint within 15 days if it's a simple one and a month if it's more complicated: <http://www.genproc.gov.ru/documents/orders/document-8/>

<http://www.genproc.gov.ru/documents/orders/document-26/>

Story of a victim of police brutality: <http://www.publicverdict.org/ru/articles/fperson/2060508.html>

<http://www.regnum.ru/news/873612.html>

<http://www.regnum.ru/news/1087530.html>;

<http://www.regnum.ru/news/1088529.html>

<http://www.regnum.ru/news/1010588.html>

<http://www.regnum.ru/dossier/65.html>

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.

84c. 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. Besides, the Prosecutor General's Office and the Federal Security Service both oversee Ministry of Interior activities.

References:

Internal Security Service within the Ministry of Interior, <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.

84d. 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. However, the General Prosecutor's Office, which 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 for political reasons.

But even the prosecutor's subordinates admit that the cases made public are the ones that are not difficult to prosecute and are of little significance. Some top-ranking public officials claim anti-corruption efforts are not so impressive and effective.

References:

Interview with Major General Daguntsev, head of the Internal Security Service, <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>

On activities of the Internal Security Service of the Ministry of Interior: <http://www.rg.ru/2008/10/21/mvd.html>;

<http://www.rg.ru/2008/10/23/korruptciya.html>

<http://www.rg.ru/2008/10/21/beret.html>

<http://www.utro.ru/articles/2008/10/21/776336.shtml>

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.

84e. In law, law enforcement officials are not immune from criminal proceedings.

YES | NO

Comments:

Law enforcement officials are not immune from prosecution.

References:

Federal Law on Police, 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.

84f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | 50 | 25 | 0

Comments:

Generally, it is the small fish that are sacked; senior officials are let go quietly.

One issue that law enforcement agencies are accused of is that they try to avoid admitting torture on an official basis.

In November 2007, the Public Verdict Foundation, an organization committed to creating an atmosphere of public intolerance to abusive practices by law enforcement agents in Russia and to establishing public control over law enforcement, submitted its shadow report on the Observance of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by the Russian Federation. In June 2008, the foundation released its report on misconduct of Russian law enforcement officers.

References:

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

There are some local data about crimes committed by law enforcement agents and how they were prosecuted: <http://www.regnum.ru/news/873612.html>
<http://www.regnum.ru/news/1087530.html>

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http://www.ng.ru/ngregions/2008-07-21/10_tomsk.html;

<http://www.nakanune.ru/news/2008/10/03/2132413>

A collection of reports on corruption on a national scale: <http://www.regnum.ru/dossier/65.html>

<http://www.publicverdict.org/ru/articles/research/300108.html>

<http://www.publicverdict.org/eng/articles/police/1111207.html>

<http://www.publicverdict.org/ru/articles/research/230608.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.
