

Russia

Politics/governance

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The importance of imprisoning corrupt officials

Property developers are clear direct winners from the clampdown on the state mafia

A growing – albeit neglected – body of official data shows that not only are more officials being investigated for corruption; an increasing number of senior officials at the regional level are being convicted on charges of bribery and extorting from business and sent to jail. Based on these data, we examine the progress being made towards containing corruption – a key risk factor for all investment in Russia.

Key judgments

- ❑ Structural anti-corruption measures cannot succeed without a parallel drive to deprive an ever-more brazen officialdom of its sense of impunity.
- ❑ Through the growing number of prison sentences, this indispensable “fear factor” is being instilled in the heartland of corruption – that is, among senior regional officials (lawmakers, mayors, bureaucrats with regulatory powers, law-enforcement officers).
- ❑ Data on the intensifying repression of corruption since 2008 must therefore be reckoned a clear positive, regardless of how much still needs to be done – especially towards addressing the impunity of notorious “state mafia” figures at the national level.
- ❑ Transparent companies will benefit from the fact that three-quarters of all corruption-related court cases are now on bribery charges (up from under a half in 2004). Around 15 per cent of prison sentences handed down to high-level officials on corruption charges in the first nine months of 2009 relate to real estate – the most fertile ground for extortion. So the most immediate sector beneficiary will be property development and construction – **PIK Group**, **LSR Group** and **AFI Development** are the leading listed companies.

CORE CASE

"It is the job of the courts – with the broad support of the public – to cleanse [Russia] of corruption. This is a difficult task but it can be done. Other countries have succeeded in doing it."

(President Dmitry Medvedev, in his September 2009 article entitled "Russia Forwards!")

The 'fear factor'

Earlier this year, we examined the renewed anti-corruption drive which is the strategic priority of Dmitry Medvedev's presidency. As described in that [note](#) ("Corruption and the Crisis", February 2009), the most recent initiatives have aimed to develop – and make more systematic – policies dating from the early 2000s which are designed to minimize the scope for "state mafia" activities (such as embezzling public money and extorting from business). Our analysis of data which tracked the implementation of those measures revealed that the problem was not so much that the measures (reducing the quantity and scope of bureaucratic interventions in business) were futile: in fact, the desired effects (easier registration of new business and lighter licensing requirements) began to be felt in most of the regions surveyed. Rather, this initial effort was hampered by the state mafia's innovative strategies to circumvent such reforms in order to continue and even intensify its predatory behaviour.

Herein lies an important explanation for the near-universal perception that – even in comparison with the breathtaking plunder of the 1990s – the corruption problem has worsened in the present decade. The fundamental policy response has been to pass legislation designed to interdict the state mafia's "business" strategies – from depriving the police of powers which have made it easy to shake down small business to replacing permitting and licensing regimes (and the accompanying bribery) with self-certification and accreditation by self-regulatory organizations. In addition, the Medvedev administration has introduced the radical step of requiring all officials and their immediate families to declare their incomes.

At the same time, the ever more brazen rent-seeking by bureaucrats highlights the reality that while such fundamental regulatory (or, more often, de-regulatory) responses will always be the most important component of any serious anti-corruption efforts, something else is required. That something is the "fear factor" – or, put another way, reducing the sense of impunity. Against the background of Russia's horrific history in the 20th century, the use of the word "repression" is bound to cause foreboding. But what Russia's lawyer-president has in mind is repression of wrongdoing by due process of law. That means driving the law-enforcement process of investigations and indictments (many of which fail to yield results) into the courts to secure convictions and exemplary punishments.

The evidence to date

In his annual "state of the nation" address on 12 November, Medvedev cited figures on corruption convictions in the first half of 2009: no fewer than 532 officials and more than 700 law-enforcement agents. Such numbers have often been included in public statements by the top leadership, and it is easy to imagine the staffers and speech writers hurriedly extracting from the law-

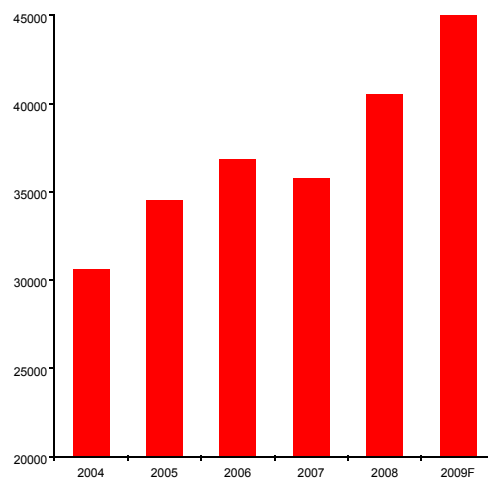
enforcement agencies such isolated data points to illustrate the leader's theme. But the difference now is that those very agencies are regularly releasing data on prosecutions, trials and convictions for corruption-related offences.

The main such agencies are the Ministry of the Interior (which combines various police functions) and the Investigative Committee (an autonomous agency within the Federal General Prosecutor's Office established in September 2007 and headed by Alexander Bastrykin, who knew Vladimir Putin in the late Soviet era and who in private conversations has spoken of being encouraged by Putin to go after corrupt officials without fear or favour). On the basis of the information these agencies are releasing – and despite the fact that much of the data is incomplete and/or does not lend itself to comparison – it is becoming possible to form a fuller picture of the repressive part of the authorities' anti-corruption drive.

The number of court cases remains stagnant ...

Ministry of the Interior figures for the period 2004-09 show a steady increase in the annual number of registered cases of malfeasance in office (that number has grown by almost 50 per cent in the period to a projected 2009 total of 45,000 – see Chart 1 below). But the mere registration of a corruption investigation does not mean, of course, that an indictment – let alone a successful prosecution – will follow. And sceptics will assume that the incidence of corrupt actions has increased much faster than the number of cases investigated.

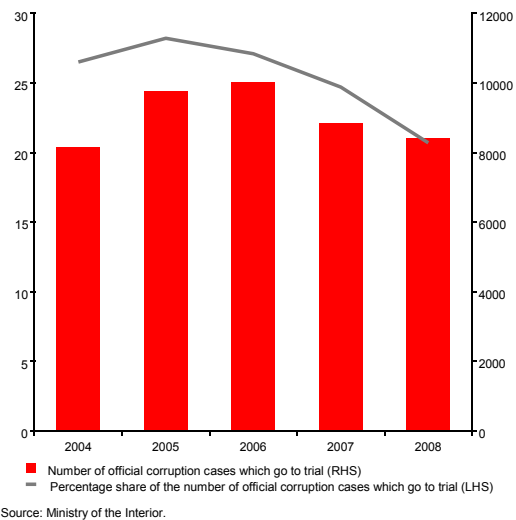
Chart 1: Registered cases of official corruption, 2004-09F



Source: Ministry of the Interior.

Moreover, increased efforts to stamp out corruption among officialdom have not yet translated into an increase in the number of indicted officials standing trial. On the contrary, during the past several years the percentage of registered cases of malfeasance in office that went to trial has tailed off: in 2005, 28 per cent of such cases ended up in court; in 2008, the corresponding figure was just 21 per cent. A likely reason for this decline is that law-enforcement officials aim to please their superiors by initiating more corruption investigations, but such enthusiasm is no substitute for evidence that will stand up in court.

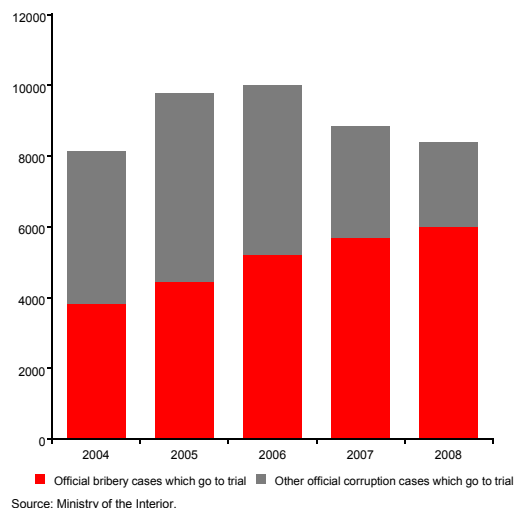
Chart 2: Official corruption cases which go to trial, 2004-08



... but the focus is on bribe-taking

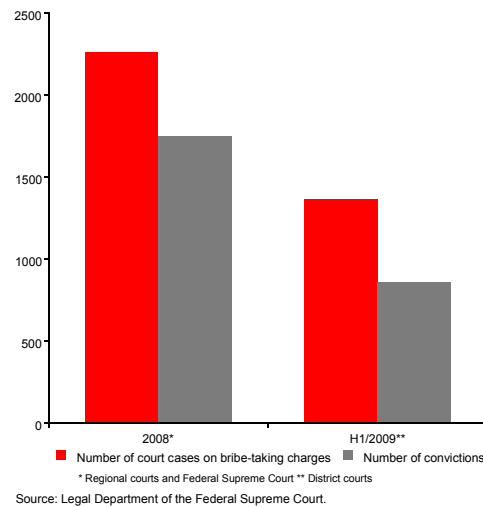
At the same time, Ministry of the Interior figures show that while bribe-taking accounts for just under one-third of all registered cases of malfeasance in office, the vast majority of corruption cases that do go to trial are on charges of accepting or demanding bribes. In 2008, almost three-quarters of officials who appeared in court on corruption charges were accused of bribe-taking. This represents a significant increase over 2004, when less than half of the defendants in corruption trials faced bribe-taking charges.

Chart 3: Bribe-taking cases which go to trial (as a share of total official corruption cases which end in court), 2004-08



Also positive is the high percentage of bribe-taking cases which end in convictions, according to figures provided by the Legal Department of the Supreme Court. In the first half of 2009, almost two-thirds of those who appeared in either regional (oblast) courts or in the Supreme Court in Moscow on charges of accepting bribes were convicted. At the level of district (raion) court, the figures are even more encouraging: more than three quarters of bribe-taking cases in 2008 ended in convictions.

Chart 4: Convictions of officials found guilty of bribe-taking, 2008 – H1/09



Note: The 2009 figures may understate the reality since they come from district courts only.

Which officials are investigated on corruption charges ...

Among officialdom, it is law-enforcement officers and people working in the executive branch (at both the regional and sub-regional levels) who are most frequently the subject of criminal investigations into suspected corruption. The Investigative Committee reports that after bribe-taking, the most common corruption-related charges are abuse of power and misappropriation of public or other funds. With regard to the last-named crime, a growing number of corruption cases involve the suspected officials channelling their ill-gotten gains through commercial entities in whose management they or their proxies (including relatives) are involved.

The Investigative Committee also reports an increase in the number of criminal cases brought against officials with “special legal status” (that is, members of legislatures, mayors, judges, lawyers and criminal investigators, including those working for the Investigative Committee itself), many of whom have immunity but can be stripped of that privilege, at the request of prosecutors, by the body to which they belong. While some 900 such officials were investigated on corruption charges in 2005, the number had risen to around 1,450 in 2008 – an increase of more than 60 per cent over three years. Of these, just under half were (regional) lawmakers and just under one-quarter were mayors (see Table 1 below). Overall, officials “with special legal status” now account for 15 per cent of all criminal cases brought on corruption charges.

Breakdown of cases opened against officials 'with special legal status' in 2008

Position	Number of criminal cases opened
Deputy	642
Mayor	306
Judge	29
Lawyer	136
Investigator (Ministry of the Interior)	143
Investigator (Investigative Committee)	32

Source: Interview with head of the Investigative Committee Alexander Bastrykin, "Tribuna", 5 August 2009.

... and how many end up behind bars?

While no figures are available on how many officials with "special legal status" appear in court on corruption charges and are eventually convicted and sentenced, it is possible to gain a snapshot of how often such officials are being found guilty of corruption – and, crucially, what kind of punishments are being meted out – from a detailed electronic log of corruption cases and trials published on the Investigative Committee's website.

According to that log, some 50 officials with "special legal status" or occupying a high-ranking position in an executive body or agency at the regional or municipal level have been sentenced on corruption charges during the period January-October 2009. Of these, the majority (almost 60 per cent) received a suspended prison term and/or fines. The remainder of those sentenced (just over 40 per cent) were sent to jail for terms that ranged from two-and-a-half to nine years.

By far the biggest group (almost 40 per cent) among these officials is formed by mayors and deputy mayors of smaller population centres in regions throughout the country; most frequently they were found guilty of bribe-taking and/or exceeding official powers. The second biggest group (around 13 per cent) is made up of head or deputy heads of the regional branches of federal agencies, in particular the Federal Tax Service and the Federal Property Fund.

Among the more severe sentences was that handed down to a former departmental head of the Investigative Committee (nine years' hard labour and a substantial fine) for accepting bribes totalling more than €750,000 from a leading local businessman. For extorting less than one-tenth of that sum (around €70,000) to approve a local company's application to purchase land both a mayor and his deputy in the Ulyanovsk region went down for six years and six-and-a-half years, respectively. And the former mayor of Kuznetsk in the Penza region received a three-and-a-half year prison sentence for abuse of office and exceeding official powers to benefit a company belonging to his brother (leased retail premises and two plots of land were transferred to that company with the help of the ex-municipal head).

The Investigative Committee's electronic log reveals the stark realities of corruption as practised now by officials throughout the country – as well as detailing the prison sentences handed down to corrupt officials. To view a digest of all this information, click [here](#).

WRAP

"The problem of corruption cannot be solved only by putting those guilty of corruption into prison, but imprisoning culprits must be part of the solution."

(President Dmitry Medvedev, in his annual "state of the nation" address, 12 November 2009)

The necessity of chipping away at impunity

...

It cannot be denied that the growing trend of senior regional officials being convicted on corruption charges and sent to prison is unlikely to leave anyone very impressed. Least impressed of all will be the Russian public. The popular view of corruption prosecutions is that they amount to nothing more than some kind of reckoning between various high-up bosses – all of them more or less corrupt – who have fallen out with one another. The authorities clearly have no illusions about such public attitudes since, significantly, little play is made in the state media of the increase in prosecutions and convictions.

Turning from the man in the street to the hard-headed analyst, scepticism will generally stem from the principle that "the fish rots from the head down". According to this view, stepping up repression in the heartland of corruption – that is, among bureaucrats and law enforcers with real power in the regions and localities – will remain ineffective as long as senior officials at the national level continue to get away with the (huge) spoils.

Yet none of this invalidates the principle underscored by Medvedev in his latest "state of the nation" address: putting corrupt officials behind bars is necessary. To the extent that the numbers are increasing, that can only be a good thing. Instilling the "fear factor" is not merely an adjunct to structural anti-corruption measures; it is the prerequisite for those measures being successful – and having a greater impact in the short term.

... and the benefits for business

If the different forms of official corruption are ranked by the extent of the damage done to the business climate, investment and growth, the straightforward stealing of public funds may be reckoned less serious than the various kinds of extortion from companies. Thus, it is encouraging to see that one of the harsher sentences meted out so far this year to a ranking official – five-and-a-half years' hard labour – was for demanding 25 per cent of the equity in an entrepreneurial start-up business in Irkutsk as the price for issuing a licence and providing "protection". (The equity was to have been transferred to the official's wife: here again is the [link](#) to our digest of the serious state mafia rackets which have been successfully prosecuted in 2009.)

Property developers to benefit most

Perhaps the most fertile soil for extortion is, literally, soil – that is, local officials providing land for real estate development. The information included in the Investigative Committee's electronic corruption log suggests a trend towards clamping down on rent-seeking officials (usually heads of local administrations) who oversee the privatization of plots of land owned by the state or local authorities: around one-sixth of the cases listed involve officials' seeking to profit from their powers in this area. While this figure probably

reflects the frequency of this form of corruption rather than an explicit political order to target land-related extortion in particular, such prosecutions are consistent with the Medvedev administration's drive to increase and improve access to idle state-owned land for residential housing construction. (Medvedev's first decree, issued immediately after his inauguration in May 2008, was on the freeing up of idle land owned by federal institutions for this very purpose.)

It follows that the most direct company beneficiaries from the stepped-up repression of official corruption will be homebuilders. The leading listed companies in this sector are **PIK Group**, **LSR Group** and **AFI Development**.

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