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The Political and Economic Results of December 2012

In December 2012, the so-called ‘Magnitsky Law’ came into force in the United States. This law empowers and obliges the U.S. President to compose the list of persons responsible for the death of the Hermitage Capital Management investment fund’s counselor Sergey Magnitsky and persons violating human rights in Russia. The persons on that list will be barred from entry into the United States, and their assets in U.S. banks will be frozen. Although none of the influential Russian officials has been placed on this list so far, and any ‘symmetric’ counter-measures would evidently be futile, the Russian authorities have announced their intention to ban the adoption of Russian children by U.S. citizens, and the Russian parliament has passed the corresponding law. This response to the ‘Magnitsky Law’ is likely to further increase tensions in the relations between Russia and the United States. However, it cannot be ruled out that Vladimir Putin will refrain from signing this law because of its incompatibility with Russia’s international obligations, as he has already hinted in the course of a recent press conference. In December, Vladimir Putin announced that single-member electoral districts would be restored, and that 50% of seats in the State Duma would be allocated to their representatives. In the past, single-member districts were considered by the Russian authorities as a dangerous means for undesired politicians to enter Parliament. Nowadays the Kremlin is more interested in the prospect that United Russia, the ruling party, should gain an absolute majority in the State Duma, which becomes rather problematic because of its failure to win even 50% of the vote, and in some districts – even one-third of the vote, in elections under the current election system exclusively based on party lists. Vladimir Putin also announced that Russian officials will retain the right to own real estate abroad, although some unspecified restrictions will be introduced on their right to own foreign bank accounts and shares. This is a clear indication of the fact that the interests of his entourage are more important to Vladimir Putin than any gain in electoral votes that the introduction of such restrictions might bring him.

From Russia’s point of view, the most eye-catching events of December 2012 were the adoption of the long-expected but still highly contentious ‘Magnitsky Law’ in the USA and the attempts of the Russian authorities to somehow respond to it. A few words about the pre-history of these developments: lawyer Sergey Magnitsky who worked as a counsel for the Russian investment fund *Hermitage Capital Management*, once known as one of the biggest operators on the Russian share market, died in a pretrial detention facility after a gang of crooks had defrauded the Russian treasury of Rb 5.4bn in the form of fictitious VAT refunds by using the seals and documents seized by law enforcement officers in the course of a criminal investigation. It should be said that even major exporters usually have to spend years in litigating against the Tax Inspectorate for their VAT refunds. Surprisingly, in the ‘Magnitsky Affair’ the Tax Inspectorate had satisfied the claim for such exorbitant VAT refunds in the course of only one day, and then the law enforcement officers and tax inspectorate officials involved in this case began to purchase prestigious foreign real estate. The scandalous case was further aggravated by the fact that the then head of the Investigative Committee of the RF Ministry of Internal Affairs, Aleksey Anichin, and Deputy Prosecutor General Viktor Grin had taken part in the initiation of the investigation, while the officials who had approved the release of money to the crooks were, in fact, a number of ladies from the entourage of former head of the RF Tax Service and then

Minister of Defense Anatoly Serdiukov. So far, the position of the Russian authorities with regard to that case has been ambiguous: on the one hand, they seem to reluctantly acknowledge that the money was stolen and that Magnitsky did not get proper medical care, which led to his death; while on the other hand, they have found nobody - not even a single scapegoat - that they may put the blame on for these crimes. In due course, Aleksey Anichin was removed from office without any fuss, one of the investigators was put in jail for extortion in another case, while the rest of the 'team' provided evidence of their 'total innocence' and retained their jobs. The first attempts at imposing U.S. sanctions against the persons involved in the 'Magnitsky affair' and against human rights violators in Russia were made three years ago. For a long time, these attempts were blocked by the Obama administration who did not want to spoil their relations with the Russian authorities. However, later on, bearing in mind the looming U.S. presidential election, U.S. lawmakers - Democrats and Republicans alike - came to the conclusion that such a law should finally be adopted. Having haggled long and hard, President Obama managed to force an important concession from the Congress to the effect that the 'Magnitsky List' (the list of Russian officials who are going to be barred from entry into the United States and to have their assets in the USA frozen) should be personally composed by the U.S. President, while the opinion of the Congressmen will be recommendatory only. So far, the 'Magnitsky List' has not been published; at first, it even seemed that there was a good chance (for the Russian authorities) that the list would be limited to only the second-rate persons directly involved in the 'Magnitsky affair'...

It is clear that the Russian authorities are simply unable to generate a 'symmetric response' to this US law. Of course, they can impose a ban on entry into Russia of any American politicians disliked by the Kremlin, or to deprive them of the right to own Russian assets. However, any such bans would be totally futile, because American politicians are not eager to live in Russia or to carry on any business activities therein. Therefore, the Russian authorities have invented a different law, which imposes sanctions against persons involved in violation of the rights of the Russian children adopted in the USA. They have also banned the adoption of Russian children by US citizens, and have also adopted yet another restrictive law which forbids the receipt of funding from any foreign sources for the purpose of conducting political activities in Russia. It should be noted, however, that although the Russian authorities have always tended to characterize as political any activities carried out by non-governmental organizations, none of the NGOs has so far been closed - in spite of numerous threats to do so. *United Russia* named the anti-US adoption law after Dima Yakovlev, the two-year-old boy who had died in 2008 after his American adoptive father left him locked for hours in a sweltering car. The US judge, after considering this tragic case, had ruled that Dima Yakovlev's death was an accident and had acquitted his adoptive father. Although the law was voted for by the heads of all four State Duma factions, some members of three of those factions (*United Russia*, the CPRF, and *Fair Russia*) abstained from voting. The decision of the Russian parliament caused a wave of indignation across the world, focused on the adoption ban. Among other things, these international protests were fueled by the fact that Russia has more than half a million of abandoned children, who are in fact orphans, although most of them have parents; while foreigners, even before the adoption of the new law, were permitted to adopt only sick children, whose chances to find adoptive parents in Russia were very slim. And finally, in Russia the number of accidents involving orphans is many times higher than in more developed countries.

If the Russian authorities had been resolved to further retaliate for the ‘Magnitsky List’, they could have undoubtedly resort to numerous other measures that would have been really harmful to US interests – from putting an end to NATO’s cargo transit to Afghanistan to the withdrawal of government assets from US treasury bonds to the imposition of various restrictions on US exports to Russia (in a manner favored by Russia’s chief sanitary inspector Gennady Onishchenko), which would have looked quite understandable to both Americans and Russians. They did not do so. Nevertheless, the recent decision of the RF State Duma immediately escalated tensions in US-Russia relations. Thus, a petition demanding that the Russian lawmakers who had supported the retaliatory Russian law be added to the ‘Magnitsky List’ appeared on the White House website and in the course of a few days collected many thousands of signatures. It should be noted that the petition targeted a number of prominent Russian businessmen and persons from Vladimir Putin’s entourage. However, it is far from certain that the law will actually be signed by Putin in its present version – in his December press conference he approved of the bill in principle, but refrained from giving any definite answer to the direct question of whether or not he would sign it. Instead, he referred to the necessity to analyze the bill in order to make sure that it complied with Russia’s international obligations (the draft law is clearly dubious from the point of view of the UN Convention on the Rights of the Child and the Russia – United States Bilateral Adoption Agreement, which is valid over one year beginning from the date of its annulment by one of the parties).

The second most important event of the month was the traditional New Year’s Eve press conference of Vladimir Putin and the annual Presidential Address to the RF Federal Assembly. The press conference lasted four hours. One of its undeclared aims was to refute the rumors of Putin’s serious illness, fueled by his having stopped travelling for 8 weeks in October and November. The highlights of the press conference were as follows. Vladimir Putin announced that he was satisfied with the work of the RF Government, thus making it clear that the cabinet would not be sacked - at least for the time being. As regards the fate of former Minister of Defense Anatoly Serdiukov who had been accused of corruption in Russian media reports, Putin said that it was better to ‘wait and see how the court decides’ (however, Serdiukov has not been declared a suspect as yet, and for now criminal proceedings are expected to be initiated only against several of his subordinates). President Putin was evasive when asked about Magnitsky, Khodorkovsky and the detained suspects in the Bolotnaya case (the May 6 riots in Moscow). On the other hand, he referred - although not directly but in the form of a lengthy discourse - to the possibility of canceling gubernatorial elections in a number of subjects of the Russian Federation. On the whole, the style of the press conference was rather surprising – the journalists put to the President a lot of poignant and unpleasant questions (concerning the political situation in Russia, corruption, the administration of justice, and the strange reply to the US ‘Magnitsky Law’, etc.), while Putin, as usually, skillfully parried them, but did not say anything new.

Vladimir Putin’s annual Presidential Address to the RF Federal Assembly was much more informative. It was announced that several legislative initiatives were to be launched in the nearest future. As regards the field of politics, Putin declared that Russia should return to the pre-2004 system of elections to the State Duma, whereby 50% of Duma members were elected in single-member districts. Also, Putin proposed to ‘think about’ restoring the electoral blocs’ right to participate in elections, although he refrained from promising anything more definite with regard to that issue. Given current conditions, the former initiative is clearly advantageous for

United Russia – for example, if the 2011 elections had been held under an electoral system whereby 50% of the legislative seats were allocated to single-member districts, the Opposition would have been able to win only in 5 or 6 districts out of 225 (in St. Petersburg, Maritime Krai, Yaroslavl Oblast and Sverdlovsk Oblast) and, in absence of any fraud, in several other districts in Moscow and Moscow Oblast. In a situation characterized by the existence of multiple political parties vigorously competing with one other, United Russia will have a clear advantage from the very start. In 2004, the authorities had had a very different aim – to purge the political arena of any non-systemic players who could have won in some places due to their personal popularity (e.g. Vladimir Ryzhkov in Altai Krai, or Yevgeny Roizman in Sverdlovsk Oblast). At present, the authorities believe it to be more important for them to secure a stable majority for *United Russia*, which has become much less confident of the outcome of any party-list electoral contest among political parties – because people have begun to vote for anybody but *United Russia*'s nominees. This fact makes it necessary for *United Russia* to take into account the interests of its coalition partners – the CPRF or the LDPR, while the few disloyal ‘lone wolves’ are now considered as a lesser evil. Unlike this initiative, the idea of restoring the electoral blocs’ right to participate in elections, clearly advantageous for the Opposition, is likely to remain on paper.

The second important issue touched upon in the annual Presidential Address was the ‘national question’. Apparently having forgotten that only four years previously he had called himself and Dmitry Medvedev ‘*nationalists in a good sense of the word*’, Putin now severely criticized nationalism. At the same time, Putin made an attempt at treading lightly on that issue – thus, having said that Russia should combat illegal migration, that no later than 2015 entry into Russia should only be made possible for those CIS citizens who hold international passports, and that ‘*we would not allow the emergence of closed ethnic enclaves in Russia with their informal jurisdiction, existing outside the country’s common legal and cultural norms, and disdainfully disregarding the accepted standards, laws and regulations*’, he did not mention the most important thing – that the procedure for acquiring Russian citizenship must be considerably simplified. In this connection, it should not be forgotten that, as early as November 2012, several members of the RF Federation Council introduced into the State Duma an outrageous draft law whereby Russian citizenship should be granted to all citizens of the USSR and the Russian Empire and their direct descendants, irrespective of whether or not they are proficient in the Russian language. Having encountered public outcry and, apparently, some strong opposition in Russia’s corridors of power (for example, Viktor Ivanov, the influential head of the Federal Drug Control Service (*Gosnarkokontrol*), has always been an outspoken proponent of tightening Russia’s migration regime), the draft law was stopped in its tracks. Its authors put a brave face on a sorry business and exculpated themselves by saying that their draft was focused exclusively on the indigenous ethnic groups populating the Russian Federation’s constituent republics, such as the Tatars or the Mordvins, and not to the tens of millions of Uzbeks, Tajiks and Kyrgyz. However, judging from the Presidential Address to the RF Federal Assembly, it should be expected that the attempts to rapidly replace the ethnic Russian population by immigrants from Central Asia will continue under the pretext of stimulating Russia’s economic growth. Yet another - and probably even more important - reason for such initiatives is to increase the number of voters for United Russia. It should be noted that the degree of success of these attempts will totally depend on Russian society.

Finally, Vladimir Putin came up with a compromise between the idea of ‘nationalizing’ Russia’s elite and the protests of that elite who do not want to be nationalized because they believe that it is much safer to own assets in countries ruled by law rather than in Russia. Finally, he fleshed out his reasoning as follows: ‘...*the right of civil servants to have bank accounts, securities and shares abroad should be restricted. How can the public have confidence in an official or politician who says high-sounding words about the national good but at the same time tries to take his money and assets out of the country? [...] As for the ownership of foreign real estate, it must be declared in accordance with the law, and the official must submit a report on the cost of the property, and the origin of the funds used to purchase it.*’ Thus, it is clear that officials will certainly be permitted to own real estate abroad (where it is very difficult to hide one’s immovable property), while their ownership of bank accounts and shares will be somehow ‘restricted’. Despite the active PR campaign in favor of depriving Russia’s officials of the right to own foreign assets and the huge popular support for this idea, such an outcome of this ‘anti-corruption crusade’ indicates that Vladimir Putin continues to seriously take into account the interests of his entourage, while this entourage will continue to depend on foreign jurisdictions.