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The Political and Economic Results of January 2013

January 2013 saw yet another surge in protests in Russia – now caused by Vladimir Putin’s approval, on New Year’s eve, of the draft law banning U.S. citizens to adopt Russian orphans (it should be noted that Russia’s authorities have so far failed to offer the orphans anything worth mentioning in return for the lost benefit). Russia’s authorities continued to busily erect some additional political barriers – this time by introducing the possibility for direct gubernatorial elections to be abolished by decision of regional legislatures. Private oil and gas companies were once again - and, in fact, for an indefinite length of time - denied the right to explore and exploit the resources of Russia’s continental shelf, thus dashing hopes that the Government might take a different decision on the matter. However, the Draft Law ‘On the Protection of the Population’s Health from the Effects of Tobacco Smoke...’ – which blatantly favored large retailers at the expense of small businesses – was somewhat mitigated; as a result, many types of small retail businesses will be able to continue trading in tobacco products.

In January, public attention in Russia was focused on the package of legislative acts informally known as the *Anti-Magnitsky Law*, which was finally signed by Vladimir Putin at the very end of 2012 after a period of initial hesitation. These laws adopted by the State Duma in the course of one week in December (although the essence of the *Magnitsky Bill* had been long known, and the inevitability of its passage through Congress had become apparent by the beginning of last autumn) contained a number of various measures. Some of them were mere declarations - for example, that the assets of U.S. citizens involved in some misdeeds or ‘human rights violations’ should be arrested, and that these persons should be banned from visiting Russia. Such declarations were inherently futile, because U.S. politicians do not own any assets in Russia, nor do they intend to visit this country. The other part of these laws continued to undermine the legal existence of Russia’s non-commercial organizations by introducing the possibility of their arbitrary closure and the imposition of heavy fines on such organizations for being simultaneously financed from abroad and getting involved in unspecified ‘political activities’¹. However, the State Duma had already made this situation extremely confused by passing, in summer 2012, the *Law on Foreign Agents*, which most of Russia’s human rights organizations had vowed to ignore, hoping that their standing in society would prevent the authorities from resorting to serious repressions. So far these hopes have proved to be well-founded.

However, the most noteworthy act passed in this respect by the State Duma was the cancellation of Russia’s adoption agreement with the USA, the prolongation of which had been agreed upon less than one month previously. The reason given for its cancellation was the deaths of adopted Russian children caused by the acts (or failure to act) of their U.S. foster parents, which U.S. courts judged to be accidental. The State Duma’s decision gave rise to a legal conundrum as well – the Agreement should be in force for one year since the moment of its

¹ For example, in the USA the category of *political activity* comprises the activities for which no charitable tax deduction will be available, which limits the application of this term to the issuance of propaganda materials for or against an election aspirant, candidate or political party.

denunciation by one of the parties, but it cannot be in force because U.S. citizens now have no right to adopt Russian children. Even some members of the Russian Government expressed opposition to this part of the *Anti-Magnitsky Law*, including the ministers directly concerned with the problem, such as the Minister of Foreign Affairs and the Minister of Education, who simply could not do otherwise bearing in mind that Russia was home to hundreds of thousands of orphans. However, the opponents of those ministers got the upper hand. The reasons behind their victory were as follows. Firstly, this action, unlike the rest of the State Duma's decisions, had had an international resonance. Therefore, the Russian authorities were eager to show that they indeed intended to use Russia's citizens, including orphans, as hostages, and would not hesitate to threaten harm to those foreign countries for which the protection of human rights is a priority. Secondly, the Russian authorities decided that the adoption of the Law would be in the interests of their domestic policies, and so would be warmly met by the general public as an anti-American measure - bearing in mind that the USA had long been depicted for domestic propaganda purposes as one of Russia's principal enemies. Moreover, the narrow, specialized and focused theme of orphans, which is not easily understood by many Russians (like the theme of the girls draconically punished one year ago for dancing in a church), perfectly served the purpose of focusing public attention on some small, intricate and dubious issues, and not on the issues of governance and election. It was a rather reasonable decision on the part of the authorities, although not without its flaws: having seemingly lost steam in December 2012, the opposition found a second wind in January 2013, when 20 to 25 thousand persons braved the frost and took part in a rally against the new law. Thirdly, the Law served as a litmus test for the loyalty of the ruling elite - the draft law was supported in the State Duma not only by *United Russia* MPs, but also by the leaderships of the CPRF, LDPR and *Fair Russia* factions (although some of their MPs voted against the draft law or abstained from voting). But to a much greater extent than the voting of the systemic opposition, the authorities were interested in the voting of certain individuals - big businessmen *cum* members of the RF Federation Council or the RF State Duma. The result of the latter voting can be characterized as a draw: more than two-thirds of this category of deputies voted for the Draft Law, in spite of the threat of the hypothetical sanctions that could be imposed against them by some foreign countries, which was a seemingly positive outcome for the authorities. However, almost one-third of MPs (that is, quite a lot of them!) refused to do so, and either demonstratively abstained from voting or voted against the Draft Law².

The response of foreign countries will become evident in the spring - by mid-April Barack Obama will have to personally compose the so-called *Magnitsky List*, and do this without offending U.S. public opinion. After the recent legislative innovations in Russia, it will be much more difficult for him to limit the blacklist to persons of minor importance, as it was in all likelihood initially planned.

The authorities continued their onslaught on human rights. In January, the State Duma rushed to pass the Law on the Possibility of Abolishing Direct Gubernatorial Elections in a Region by Decision of That Region's Legislative Assembly (practically all such assemblies are

² For example, the billionaires Suleiman Kerimov and Boris Spiegel abstained from voting, while the billionaire Sergey Petrov voted against the Draft Law. The prominent businessmen Ahmed Palankoev, Ye. Malkin, Viacheslav Derev, Konstantin Dobrynin and businesswoman Larisa Ponomareva abstained from voting, while the businessman Viktor Ozerov cast a 'Nay' vote.

controlled by United Russia). The Law was adopted in its first reading, thus setting a legislative speed record of sorts, because the idea of partially scrapping direct gubernatorial elections had been first raised by Vladimir Putin as recently as last December. For the sake of comparison it should be noted that the Draft Law on the Mandatory Direct Election of City Mayors introduced by the RF Government into the State Duma as early as September 2012 has not yet been scheduled for consideration in Russia's parliament. It cannot be said, however, that the recently passed law is absolutely groundless. For example, many experts had expressed concern that direct popular elections in the multi-ethnic republics of the North Caucasus, especially in Dagestan, Karachaevo-Cherkessia and Kabardino-Balkaria, were fraught with the risk of civil war, because the ethnic groups defeated at the polls would have lost everything, bearing in mind the predominance of the State in that region's economy and the State's monopoly on land resources (in Dagestan and Kabardino-Balkaria). However, there was absolutely no reason for extending the Law onto the entire territory of Russia. In fact, the intention behind the Law is crystal clear: elections should take place only in those constituencies where, unlike the opposition, United Russia can put forth a popular candidate. Otherwise, the governor will not be elected, but selected by Putin. However, judging by the elections in the spring and autumn of 2012, and the highly memorable December 2011 elections, the political situation in Russia is prone to rapid changes. And when it becomes obvious that things are in flux, the opposition gets both the money and mass media attention, which it cannot hope to enjoy in a static situation. Therefore the issue of gubernatorial elections will remain one of the long-term destabilizing factors for Russia's authoritarian system.

January 2013 has finally brought clarity to the long saga of the Draft Law *On the Protection of the Population's Health from the Effects of Tobacco Smoke...* and the accompanying draft laws introducing amendments to tax legislation and the consumer law. This draft law could well have been named *The Law on Combating Small Businesses*, because, contrary to common sense, it forbade small businesses to trade in high margin tobacco products, while permitting large retail networks to do so. Thus, small businesses were to be delivered a second heavy blow over a short period of time. The first blow was the planned ban on the sale of beer at kiosks and small shops. If the law had passed in its initial version, it would have meant a catastrophe for street-side kiosks and small shops - despite the fact that only one-half of Russia's population smoke and drink beer - the customer would have refrained from visiting the kiosks to purchase any other goods as well, but would have willy-nilly gone for that purpose to a large retail network trading in everything, including beer and tobacco products. The other victims of the Law would have been small-scale producers - the natural fellow travelers of small businesses. Such producers are denied access to large retail networks because of the small volumes of goods they can supply and their unwillingness to pay enormous penalties for even the slightest violation of delivery time or any other terms of delivery, etc. Had the Law been passed unamended, the number of unemployed and outraged in Russia's towns and cities would have considerably increased. Scared by this prospect, the authorities backed down a bit: in the decisive second reading of the Law, shops with trading space of up to 50 square meters were spared the axe. Kiosks, booths and stalls were stripped of the right to trade in beer and tobacco products - but not immediately. They were given a new lease on life - until June 2014.

In January 2013, the RF Government made an effort to resolve last year's torturous dispute over the terms of developing the hydrocarbon deposits of Russia's continental shelf. It

should be reminded that, according to Russian legislation, the only companies vested with the right to explore and exploit the resources of Russia's continental shelf are *Gazprom* and *Rosneft*. Their 15-year-long monopoly in that field has been absolutely fruitless – unlike the activities of the private companies developing the hydrocarbon deposits of the Caspian Sea shelf. Last year, practically all Russian big companies, with the exception of *Gazprom* and *Rosneft*, began to demand that this monopoly should be abolished. From time to time, various government ministers also made similar demands. Vladimir Putin voiced his disappointment over the two companies' failures on Russia's continental shelf. However, the liberalization program mapped by the RF Ministry of Natural Resources and Ecology once again failed to be upheld, this time by the January 2013 meeting of high ranking officials at Novyi Urengoi, specifically devoted to developing Russia's continental shelf. Moreover, the RF Government announced its decision that the issue of liberalizing the terms of natural gas extraction from continental shelf deposits should be closed, and that *Gazprom* and *Rosneft* should be granted new licenses for the right of exploring and exploiting the resources of the undistributed subsoil fund. As regards the concept that private companies should be granted access to the continental shelf, the Government stated that another round of deliberations on that issue was eventually to be held. In return, the grateful state companies habitually promised to drill deeper and faster. In fact, it can be concluded that Russia's big private business have suffered yet another defeat, while the RF government officials concerned with this issue turned out to be unreliable allies, and clearly preferred not to engage in any serious discussion of the related matters.