

***Filling Institutional Voids: Market Self Organisation,
Informal Sector or Organised Crime***

A CRCE Colloquium

Wednesday 25 September – Saturday 28 September 2013

***Russia: Unofficial Asset Grabbing and
Official Anti-Corruption Campaigns***

Chairman: Silvana Malle

Discussion leaders: Philip Hanson – *Illicit Grabbing of Assets*

Alexander Chepurenko – *Informal and Shadow Economy in Russia*

Silvana Malle: Next we have two very distinguished speakers: Phil Hanson, who has been speaking here for many years, and Mr. Alexander Chepurenko who is joining us for the first time today.

Phil is one of the most distinguished scholars in the world on the Soviet economy, Russian economy, Central Asian countries, we all know his work. Many of us have read Mr Chepurenko who has written very many papers and books in Russian and other languages, and his main interest lies in entrepreneurship and SME policies. He has also written on economic thought, the institutionalization of the private economy of Russia, and since 2005 he has been teaching in the Faculty of Sociology at the Higher School of Economics in Moscow. He is a member of the German Society for East European Studies, since 2008 he has been Vice President of the Russian Sociologists Society, and since 2005 he has been Vice President of the European Council for Small Business and Entrepreneurship.

So we are going to have a very interesting session, and we know that Phil has already been working for quite a long time on this subject; and we are very interested in what you are going to say as a very distinguished scholar and with direct knowledge of the Russian economy and society. I would propose a maximum of 20 minutes, if you could use less then that would be even better, and then we will have a discussion.

I just want to alert you to one interesting event in Russia – there is a major speech of Medvedev today, in which he sorts of hammers against the state for private entrepreneurship and so on. So we will see what will come out of that, but maybe it is political spiel.

Philip Hanson: I am going to be talking mainly about illicit grabbing of assets. I will spell out my definition of it a bit later. This is what is commonly known in Russia as *reiderstvo*. My perspective is that of an outside observer, and I'm sure that Alexander will both add to, and quite likely subtract from, some of the things that I say, as he is in a better place to know the inside story.

I can perhaps start with a quotation from the message from a number of entrepreneurs, mostly IT entrepreneurs, posted on the website

entrepreneurs.novalni.ru, in which they spoke of a social contract they envisioned between themselves and Alexander Navalny when he was running for mayor of Moscow. However they were obviously seeing him not simply as a candidate for the mayor's position but more as a representative of some kind of embryonic political force.

We are entrepreneurs of the knowledge economy; the rule of law, independent courts and free elections are for us not abstract values but the most important mechanisms ensuring honest competition and protecting us from the whims of the authority.

One source of this particular concern – and there were incidentally 201 signatories by the 26th of August – the rule of law as something that should be able to ensure honest competition and protection from the authorities is what I would define as 'asset grabbing' or the illicit acquisition of a business or a part of a business, usually with the assistance of law enforcement officers and/or the courts.

This is a common experience. In a moment I will quote some numbers and I'm sure that Alexander can explain more about what lies behind them, and indeed how meaningful some of these numbers are. But first I would mention that interestingly there's an organisation called Business Solidarity which was quoted last year in *RBK Daily* as saying that there were about 50,000 cases a year of entrepreneurs who were being charged or having - cases brought against them under the heading of economical crimes. The number of economic crime articles in the criminal code at that time was 53. There are a large number of articles in the criminal code which are considered to be so-called economic crimes. A more recent source- from *Novosti* in fact-on the number of cases brought under only ten of those articles gave them as 31,028 in number.

I'm throwing some more numbers at you because I'm puzzled by these numbers, provided by Boris Titov, and I'm interested to learn more about what they mean. Boris Titov is the chair of Delovaya Rossiya, which is the association representing mainly small and medium-sized firms and he is also latterly the Ombudsman for business in Russia. He has claimed that in 2012. 150,000 such cases were started of which 30,000 went to court, 5000 cases were dropped, and then he asked the question – and he after all ought to be in a position to know the answer – “What happened to the rest of them?”

In the same round table discussion Vladimir Radchenko, former judge of the Supreme Court said that the explanation was what he referred to rather broadly as corruption. So one possible interpretation of that exchange is that Radchenko was referring to people buying themselves out of such cases, buying themselves out from coercion by the law enforcement agencies. So what is going on? I suggest that what we're seeing are the acquisition of assets often perhaps usually by business rivals who have better political connections, better political protection than the people who are subjected to these attacks and who are able to use the various articles of the criminal code to acquire assets. Amongst the articles most heavily used are: article 159 on swindling and article 160 on embezzlement.

Now swindling and embezzlement are- -- well, swindling is a bit vague but embezzlement is a crime in any country. So there must be some proportion of these cases which would be prosecuted in any country. So what's special about Russia? Well one question would be the numbers, and it would be interesting -and I haven't yet done this- to compare numbers of comparable cases brought in different

countries under these kinds of headings. The other possible difference is the coverage of economic crime. My question is: why is this whole phenomenon apparently quite widespread, apparently quite extensive and clearly a source of concern to the business community? Perhaps particularly, although not exclusively, the small business community and I think there are certain reasons why this phenomenon has become so important in Russia,

First of all, many police officers and judges can be bought, which one would like to think is not the case in some other countries.

Secondly, there is a Soviet legacy of distrust of business.

Thirdly, the duration and harshness of pre-trial detention in Russia is a key factor. This is an exceptional situation and one of the arguments that has been put forward by people who want to change the situation is precisely that pre-trial detention for economic crimes should be scrapped. But the whole business of pre-trial detention, which you might remember from the Magnitsky case and indeed from the Khodorkovsky cases, entails that people arrested on suspicion and not yet having charges brought formally against them in court are detained for a very long time and often in worse conditions than they may subsequently have to put up with in camp or prison.

The fourth reason that I would suggest that there is a limited scope for business to defend itself against this kind of difficulty, and that in turn is to do with the weakness of civil society in Russia. However this limited scope is not limited to zero. There is quite clearly from the bottom up, some activity trying to change things and it stems in part *Delovaya Rossiya* and from Business Solidarity. Here in particular I would give precedence to anything Alexander has to say on this but I do think that these bottom-up initiatives are, if you like, genuine in the sense that they are not being purely promoted from above. Boris Titov's appointment as Ombudsman for business is an interesting example. There was some criticism in the press, some liberal journalists being very sceptical about the role he would play and about the very nature of there being an official role of Ombudsman for business.

But I think the record is encouraging as far as that particular individual, with that particular track record, is concerned. He is associated amongst other things with the website www.nocorruption.biz. This website invites people who have been subjected to *reiderstvo* to report their cases, with as much information as possible, to the local organisation and that organisation will then try to get the whole incident re-considered by the relevant political authority. Of course the relevant political authority is usually the department of state which is responsible for the attack in the first place -- it might be the Ministry of Internal Affairs or whatever. There is at least a process being started, which is an attempt to rectify things on a case-by-case basis.

I want to mention briefly that what I visualize as a bottom-up effort, a grass roots effort, is paralleled by a high level official anti-corruption campaign. I think that the high level official anti-corruption campaign is still growing but it doesn't mean that it's necessarily incapable of being used to some good ends. One particularly interesting example of one string of official anti-corruption campaigns is Putin's call for 'de-offshore-isation' in his speech to the federal assembly on the 12th of December 2012. The call was for legislation which would prohibit certain offshore ownership activities, at least for officials, and there is obviously some attempt to do this for the whole population but that would be very, very strange and drastic indeed.

I think the genesis of the anti-corruption campaign, as a whole, is a fear on the part of the authorities of being outflanked by people like Alexei Navalny who has made a name as an anti-corruption campaigner,- and who are beginning to attract interest and support for their anti-corruption campaigns. So the authorities had to have an anti-corruption campaign of their own, but it's also possible to believe that as a colleague of mine in England, Alex Pravda, has said that obviously what the authorities want most of all is a kind of Weberian but authoritarian state machinery; one that actually works properly with officials limiting themselves to their official responsibilities and fulfilling them accurately and conscientiously. What we now have as far as the 'de-offshore-isation' legislation is concerned – what has been legislated so far – is a ban on senior officials, political office holders, Duma deputies, Federation Council members and their immediate families possessing bank accounts and other financial assets abroad. They are allowed to possess real estate abroad, but they have to declare it and explain how they managed to pay for it.

This is obviously a clearly very contentious matter. I would suggest that there are three advantages of this legislation from a Kremlin point of view. It can be selectively enforced to punish some while keeping others vulnerable to fears of prosecution, in a state that Alena Ledeneva has called for suspended punishment. Secondly, it deters business people from entering politics. It is the formal reason given for Mikhail Prokhorov not entering the mayoral race in Moscow – precisely because he could not divest himself of his overseas assets in time. I think thirdly, it plays to popular and officially stimulated distrust of the outside world. The outside world is threatening and people who put their assets abroad are being unpatriotic and disloyal.

Now to sum up: what I'm saying is there is a phenomenon, asset-grabbing, which requires some explanation, which is important to the very considerable limitations faced by, particularly, small business in Russia and seems to have its origins in various institutional features of the present Russian political economy. It is damaging to investment, innovation and growth. There is, I think, a very hopeful sign of some resistance to this coming from below, and there is a parallel top-down anti-corruption campaign or campaigns which in my view are largely cynical and manipulative.