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Rights Council: Free Khodorkovsky

By Alexandra Odynova

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In a stinging rebuke of the justice system, the Kremlin's human rights council said Wednesday that former Yukos CEO Mikhail Khodorkovsky and his business partner Platon Lebedev had been jailed illegally in their second trial and their verdicts should be overturned.

Moreover, the legal system should be reformed to avoid a repeat of similar cases, the council said in a 400-page report based on the findings of nine state-employed and independent experts, both domestic and foreign.

The council's decisions have been ignored in the past, but Wednesday's report comes after two presidential candidates pledged to release Khodorkovsky and Lebedev, fueling new hopes that the two bitter enemies of Vladimir Putin's government might finally be freed.

President Dmitry Medvedev asked the council to look into Khodorkovsky's case in February.

The report compiles nine individual studies by prominent legal experts. It is the first inquiry of its kind into the Yukos affair.

The main conclusion of the extensive study found that Khodorkovsky and Lebedev had received "punishment for carrying out legal activities," Tamara Morshchakova, a council member and former Constitutional Court judge, said at the presentation of the findings in Moscow.

Most experts agreed that "the convicting authority groundlessly ran a serial prosecution" against Khodorkovsky and Lebedev, Morshchakova said. Moreover, the two men were sentenced twice for the same alleged wrongdoing, she said.

Khodorkovsky and Lebedev were jailed in 2005 for eight years on fraud and tax evasion charges. Last year, their sentences were extended until 2016 after another trial found them guilty of embezzling 218 million tons of oil as part of Yukos' operations.

But the Kremlin council's experts said there was no evidence of embezzlement, and the businessmen were acting in accordance with regular business practices accepted in Russia and worldwide.

A copy of the report was also presented Wednesday to Medvedev, who made no public comment about it.

The businessmen's supporters have insisted that charges were punishment ordered by Putin amid a political and business dispute with Khodorkovsky, who was recognized as a prisoner of conscience by Amnesty International following the second trial. Lebedev has also been recognized as a prisoner of conscience.

Presidential candidates Grigory Yavlinsky and Mikhail Prokhorov said recently that they would free Khodorkovsky if they win the March 4 vote. Although neither currently stand a chance against Putin, who is running for a third term, the proposal is bound to win support from the middle class, which is increasingly vocal in its disapproval of Putin's government and rights violations.

The Kremlin council didn't investigate the political background of the case, Morshchakova said. "It's just a scientific research into legal practices," she said at the news conference.

The expert group also included Jeffrey Kahn of the Southern Methodist University; Otto Luchterhandt of the University of Hamburg; Anatoly Naumov of the Academy of the Prosecutor General's Office; Oksana Oleinik of National Research University with Higher School of Economics; among others.

The council has formally recommended that the Investigative Committee reopen a check into the second Yukos case and the newly convened State Duma draft a bill amnestying both businessmen.

It also called for the amendment of numerous legal provisions to prevent the prosecution of other entrepreneurs, thousands of whom have been jailed on similar charges.

"Some 100,000 are jailed now in Russia for economic crimes," Mikhail Fedotov, chairman of the human rights council, told reporters. "The report concerns them as well."

This is not the first hard-hitting report by the Kremlin's rights council. Last summer, it

criticized law enforcement over the case of Hermitage Capital lawyer Sergei Magnitsky, who died in pretrial detention after being arrested on murky charges that his supporters say were revenge for his whistleblowing activities.

The council questioned the reasons for Magnitsky's detention and said he was beaten up shortly before his death, which was officially blamed on preexisting health problems.

The council has implicated dozens of mid-tier and senior officials in Magnitsky's death. But no arrests have followed the report of the council, which has no legal authority.

Still, council member Kirill Kabanov, who heads the National Anti-Corruption Committee, said he saw certain progress. "We have already held two meetings initiated by the Investigative Committee," Kabanov said.

Prosecutors were invited to Wednesday's event but did not show up for unspecified reasons, said Fedotov, the council chairman.

Neither the judge nor the prosecutors who worked on the second Yukos case could be reached for comment Wednesday.

Yury Shmidt, a defense lawyer for Khodorkovsky, said the report was "positive news."

"It will definitely have a positive impact on public opinion here and abroad," Shmidt said by telephone.

He said the council's finding should not be underestimated. "The government cannot ignore the report, given that it was initiated by President Medvedev himself and that the experts were independent and in no way involved in the trial," he said.

The report is of "great significance," agreed council member Dmitry Oreshkin, a political analyst. With this report, "we are seeking a revamp of the whole system," Oreshkin told The Moscow Times on the sidelines of the Wednesday event.

"Now judges will see that their actions are being watched," he said.

Intern Rina Soloveitchik contributed to this report.

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