The Moscow Times
30 YEARS
INDEPENDENT NEWS FROM RUSSIA

To Avoid Revealing Income, 2 Universities Find a Very Old Loophole

By Roland Oliphant

February 23, 2012



Constitutional lawyers could be in for a headache: It turns out that institutions founded prior to 1991 may be exempt from President Dmitry Medvedev's flagship anti-corruption initiatives.

Or at least that's the opinion of St. Petersburg prosecutors, according to a letter published by anti-corruption campaigner Transparency International Russia director Yelena Panfilova.

The letter, received by Transparency International on Wednesday and posted on Facebook by Panfilova on Thursday, explains that the rectors of Russia's most venerable academic institutions — St. Petersburg State University and Moscow State University — are not bound to reveal their assets and income under the 2009 law.

Presidential Decree 560, which Medvedev issued in 2009, requires the heads of organizations "created by the Russian Federation" to publicly declare their own and their spouse's income

each year.

But, the letter explains, "after adoption of a 2010 law ... a new version of the University's Charter was approved, in which it is stated that the academic institution in question was founded by Peter I's decree of Jan. 22, 1724, entering into force by the Senate decree of Jan. 28, 1724."

In other words, because it was not founded by the Russian Federation, Medvedev's 2009 law does not apply to the institution's rector.

Moscow State University was founded by Empress Elizabeth on Jan. 25, 1755. January 25 is still celebrated as Students' Day.

"I honestly could not believe my eyes," Panfilova wrote on Facebook on Thursday.

Panfilova said the story began last summer, when Transparency International was sending routine follow-up letters to officials who had not made their annual declarations in the April to May window required by Medvedev's decree.

It is not unusual for the officials to take a long time to reply, and usually they come up with routine excuses like forgetting or being too busy, said Panfilova.

But when the answer came back from the Education Ministry in the fall, they were in for a shock.

"They said that because St. Petersburg State University was founded by Peter the Great, and because Moscow State University was founded by Empress Elizabeth, they were not institutions created by the Russian Federation and therefore not obliged to declare their income," she told The Moscow Times by telephone.

It was the first time anyone had tried that argument, she said.

Transparency International then wrote to St. Petersburg State University rector Nikolai Kropachev and Moscow State University rector Viktor Sadovnichy directly.

Kropachev repeated the Education Ministry's position in a written reply, but added that though not obliged to declare his income, he did so voluntarily and regularly, and included a link to the information on the university website.

Sadovnichy has yet to reply, said Panfilova, who added that there are no specific allegations of corruption against either official.

"I initially thought there was some mistake, even though Kropachev is a lawyer. But when we got the letter from the prosecutor's office yesterday [Wednesday], I decided enough is enough," she told The Moscow Times.

Transparency International has now sent letters to the presidential administration and the Prosecutor General's Office asking for clarification.

If they give the same answer, the organization says it will approach the Constitutional Court

to resolve the discrepancy.

If the Constitutional Court decides that the loophole is at least technically sound, closing it would require either changing Decree 560 or changing the law on universities — either of which would be a cumbersome process.

Theoretically, the legal impact is not huge, said Panfilova. Russian law is not based on precedent, so the position of the university rectors does not have the same kind of significance it would in Britain or the United States. But it raises interesting historical questions. The current Russian Navy was founded in 1992, for example, but could an admiral asked to declare his assets be able to claim its direct decent from Peter the Great's decree of 1696?

Unfortunately, we may never find out. Sergei Gorbylev, a lawyer at Yukov, Khrenov & Partners, said the universities had the right argument, but for the wrong reasons.

"It is true they are not obliged to declare their income, but it has nothing to do with the universities being founded by Peter the Great or Empress Elizabeth. It's because Decree 560 applies only to state corporations, like Rosatom. There is not yet any law obliging universities or similar nonprofit institutions to declare their income," he explained.

That could change in the future, however. Prime Minister Vladimir Putin has floated the idea of obliging university rectors to declare their incomes as part of his re-election campaign, said Gorbylev, and the idea has proven popular among students.

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