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Senators Bungled Anti-Magnitsky Road Show

By Jamison Firestone

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Correction appended

Last week, a delegation of Russian senators traveled to Washington to make a last-ditch attempt to derail the Sergei Magnitsky Rule of Law Accountability Act. By the time they were finished, the trip had turned into a fiasco, highlighting the need for the law they so vehemently oppose.

The Magnitsky act seeks in part to ban entry to the United States and freeze the U.S. assets of the people responsible for the illegal arrest, torture and murder of my former law partner, Sergei Magnitsky. It also seeks to do the same to any Russian government official who abuses his position to attack anti-corruption activists, journalists and people who defend fundamental human freedoms.

The Kremlin is categorically opposed to the Magnitsky act and argues that punishment of corrupt Russian officials must be left to the Russian government. It is adamant in asserting

that its criminal justice system works and should be trusted by other nations. To demonstrate why there is no need for the Magnitsky act, the senators said the purpose of the trip to Washington was to present findings of a new and independent Federation Council investigation of the Magnitsky affair.

The timing of the announcement was not coincidental. The Magnitsky act is sailing through hearing after hearing on Capitol Hill. There is huge inertia to pass it before the summer recess. Just about the only thing that could derail the act is if the Russians carried out a legitimate investigation and started prosecuting their own corrupt officials.

But the composition of the Russian delegation was disquieting. It was headed by Vitaly Malkin, whose net worth is estimated to be $1 billion according to Forbes magazine and who was previously named by the Canadian government in court proceedings as "a member of a group engaging in organized or transnational crime." Malkin has been banned from entering Canada. A politician accused of skimming $48 million off a debt-reduction deal with Angola and who enjoys immunity from prosecution in Russia was probably not the best choice to head a delegation determined to prove that the Russian government is capable of punishing its own corrupt officials.

Nonetheless, the delegation was initially welcomed by U.S. lawmakers and State Department officials who hoped for progress. The senators came with a PowerPoint presentation and handouts. It was clear that someone had put a lot of thought into the entire presentation, but that "someone" was not the senators. The same presentation had already been given by the Interior Ministry on more than one occasion. It was just a summary of the case used to arrest Magnitsky. Notably, the Kremlin's own human rights council has deemed the case against Magnitsky illegal for several reasons, including the fact that it was brought by officers Magnitsky had implicated in corruption — a clear conflict of interest. These fabricated charges against Magnitsky caused the U.S. officials to draft the Magnitsky act in the first place.

Thus, the senators presented the Interior Ministry case like it was their own. Like a bunch of amateur actors who didn't have a lot of time to learn their lines, the senators often jumbled their story. Far more damaging to their cause, they ignored all the facts that had discredited that case.

Each time this presentation ended and was thrown open to questions and answers, it became apparent just how ill-informed the senators were. They had not read a single sentence from the thousands of pages of evidence filed by the Hermitage Fund, Magnitsky, human rights activists and myself about the clear collusion of government and organized crime in the tax thefts and in Magnitsky's arrest and killing.

The senators' "independent investigation" didn't include reading the Kremlin human rights council's report about the illegal arrest of Magnitsky and that he had been badly beaten shortly before his death in detention by police officers while he was awaiting emergency surgery.

Nor did it include an investigation of the $3 million in assets that Artyom Kuznetsov, Magnitsky's arresting officer, registered in the name of his parents after the theft Magnitsky reported. Nor the $1.3 million in assets that the officer who opened the case against him, Pavel

Karpov, registered in the name of his mother. Nor did they investigate the $43 million in assets owned by tax officers whom Magnitsky accused of collusion with Interior Ministry officials. Nor did they investigate the flight records showing that all of these officials were flying around with a convicted criminal who happened to be the owner of the bank that received all the stolen money.

After several groups refused to meet with the visiting senators, they complained that they were getting the cold shoulder. The entire affair became so embarrassing that Mikhail Margelov, the head of the Federation Council's International Affairs Committee, admitted that no independent investigation had been done.

Much to their chagrin, the senators' roadshow became a vivid demonstration of why the Magnitsky act is so necessary. It was proof positive that the Russian government will not punish its own corrupt officials but will fight to protect them. It is proof that there is no functional justice system, only policy — a policy that has nothing to do with justice or respecting human rights but only with protecting the ability of Russian officials to steal and kill with impunity. The senators' roadshow was a government-sponsored attempt to protect the travel and banking privileges of an elite ruling class that considers itself above the law and wants to stay that way. Needless to say, the show was a huge flop.

Correction: The spelling of "Capitol Hill" has been corrected in this report.

Jamison Firestone is an attorney and Sergei Magnitsky's former boss.

The views expressed in opinion pieces do not necessarily reflect the position of The Moscow Times.

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