

Sales at Below-Market Prices Increasingly Treated as Theft

By [The Moscow Times](#)

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Russian courts are increasingly treating sales at “below-market prices” as theft, setting a trend that could result in a wider crackdown on businesspeople.

The Moscow City Court on Wednesday published a statement explaining the rationale for its rejection in December 2012 of an appeal of the guilty verdict in the high-profile Yukos embezzlement case, Vedomosti reported Thursday.

The court argued that theft, defined as “gratuitous acquisition,” meant absence of “equivalent compensation,” i.e., the market price, as opposed to a lack of any compensation.

The approach may result in a more repressive policy toward businesspeople, said Igor Pastukhov of the Yust law firm.

The charges in the high-profile Oboronservis corruption case are similar, with company

employees being accused of selling Oboronservis assets at a below-market price, Vedomosti reported.

In December 2012 the Investigative Committee opened a criminal case against opposition leader Alexei Navalny and his brother Oleg, accusing them of theft by providing postal delivery services at a below-market price. The move has been widely derided in some media and in the blogosphere, with publicist Yulia Latynina quipping that in the past a just price was determined by kings and gods but Russia is the first country in history where it is set by investigators.

The Moscow City Court's decision is a distorted interpretation of a 2008 ruling by the Supreme Court according to which replacing property with a less valuable item should be considered theft, said Konstantin Rivkin, a former lawyer of Yukos co-owner Platon Lebedev.

But the Moscow City Court's decision contradicts the Constitutional Court ruling that prices are to be determined by voluntary agreement of the parties, he said.

If Russian courts pursue this policy, any petty official will have the right to decide what price a product should be sold at, said Yana Yakovleva, head of business lobby Biznes-Solidarnost.

Lebedev and Mikhail Khodorkovsky, Yukos' former majority owner, were arrested in 2003 and subsequently sentenced to eight-year prison terms on charges of tax evasion and fraud, in what is widely believed to be a politically motivated case. In 2010, they were sentenced to another five years for theft of Yukos' oil, but in December 2012 the term was cut to three years.

Testifying in court in 2010, former Industry and Trade Minister Viktor Khristenko denied that Yukos' pricing policy could be defined as theft, while former top officials Viktor Gerashchenko, Mikhail Kasyanov and German Gref also said they did not know of any evidence for the alleged theft.

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