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Kremlin Is Hiding Behind a Blacklist

By Michael Bohm

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You would have thought that the Kremlin would have shown a little more appreciation for the fact that U.S. President Barack Obama approved only 18 minor figures for the open portion of the Magnitsky list. After all, the original "Cardin list" included 60 Russian suspects directly tied to the death of Sergei Magnitsky and to the related $230 million corruption scheme. What's more, U.S. Representative James McGovern, co-author of the Magnitsky Act, wanted to expand the public list well beyond the Magnitsky affair, as stipulated in the legislation itself, to include more than 280 suspected violators of human rights, including Investigative Committee head Alexander Bastrykin and Prosecutor General Yury Chaika.

Eighteen obscure Russians on the Magnitsky list is surely an anticlimax to a drama that has been building for the past year. Although there is also a closed portion of the list that reportedly contains nine lawmakers and politicians, it is not a public embarrassment to the Kremlin precisely because it is classified.

Yet Obama's heavily watered-down public list, which was presumably an effort to revive his much-battered "reset" with Moscow, was lost on Russia's leaders. Alexei Pushkov, who heads the State Duma's International Affairs Committee, said that any Magnitsky list, even the most

modest one, is "a permanent and serious negative factor" in U.S.-Russian relations. Foreign Ministry spokesman Alexander Lukashevich described the U.S. action as "Russophobic" and "blackmail." This was followed by Duma Speaker Sergei Naryshkin's statement on Monday that the Magnitsky list "violates all fundamental principles of justice."

Why all of this affected indignation?

The Kremlin is trying to shift blame for the Magnitsky affair onto the U.S.

It says the U.S. is trying to discredit Russia and ruin bilateral relations.

The best explanation is that Russian authorities want to deflect attention away from their cover-up of the Magnitsky affair by shifting blame onto the United States, a page taken right from the classic Soviet propaganda playbook. The Kremlin says the U.S., by provoking Russia with its "anti-Russian" Magnitsky list, is meddling in the country's internal affairs, trying to discredit Russia, and ruining U.S.-Russian relations. Notably, Soviet propagandists said the same thing when the West criticized the Kremlin for repressing dissidents.

The only thing missing from the current campaign is the allegation that Magnitsky was a secret U.S. agent who died on purpose just to spite Russia and besmirch its reputation. But that allegation could still come.

The Kremlin's campaign is an attempt to divert attention away from the fact that the Investigative Committee closed the Magnitsky murder and corruption cases on March 19 without a single conviction. This was despite the fact that there was abundant evidence — including from Russia's own presidential human rights council — to try dozens of Russian officials on charges of murder, complicity to commit murder, conspiracy, criminal negligence, embezzlement, extortion, forgery, falsification of evidence, false arrest, international wire fraud, money laundering and other crimes. Even the basic question of how mid-level bureaucrats tied to the Magnitsky affair purchased multimillion-dollar real estate on their modest state salaries was not investigated.

Even more outrageous, the only trial in the entire Magnitsky affair has been against Magnitsky himself for tax evasion. Conspicuously, the trial, which started in March, was initiated only after Obama signed the Magnitsky Act and more than three years after Magnitsky died. The lawyers representing the Magnitsky family refused to take part in this

farce, forcing the judge to appoint two defense attorneys to represent the deceased defendant. Yet one of these court-appointed lawyers, Nikolai Gerasimov, told the judge during an April court session that he, too, does not want to participate in a criminal trial against a dead man. The judge will likely have to find new defense lawyers when the trial resumes in May.

To make matters worse, President Vladimir Putin's spokesman, Dmitry Peskov, said on Rossia television on Sunday: "The Magnitsky affair should not even be discussed outside of Russia. This is intolerable, and we will never accept this."

The Kremlin's odd understanding of "healthy debate" directly contradicts the international human rights conventions that Russia has signed since the Soviet collapse. These treaties are founded on the basic principle that human rights violations are, by definition, a global issue and that no country can claim "sovereign rights" — or "sovereign democracy" in Russia's case — to shield itself from international criticism.

This "limited sovereignty" principle certainly applies to the U.S. as well, which is why such issues as U.S. abuse of prisoners at Guantanamo, for example, remain hotly debated both within the U.S. and across the globe. Most important, this public discussion and pressure has led to many positive changes in U.S. policy toward terrorist suspects, including the closing of CIA secret prisons and the ending of waterboarding and other forms of torture, although clearly much more needs to be done.

What makes the Kremlin's propaganda campaign against the U.S. Magnitsky list even more distasteful is that it is not supported by many Russians. According to a Dec. 12 Levada poll, 44 percent support the Magnitsky Act, while only 21 percent are against it. (Thirty-five percent had difficulty answering.) This once again shows that the Kremlin is out of touch with the people and is more interested in preserving the Omerta-like system of loyalty that protects corrupt bureaucrats — even mid-level ones whom you would think would be expendable amid the Kremlin's declared "anti-corruption campaign."

The real question is why Russia is wasting its time on creating a blacklist of supposed U.S. human rights violators when it should have created its own blacklist against those implicated in the Magnitsky affair long before U.S. lawmakers did. Had Russian authorities properly investigated and tried the dozens of people accused in the Magnitsky death and embezzlement cases, there would never have been a U.S. Magnitsky list in the first place.

The Kremlin committed two huge offenses in the Magnitsky affair: It did nothing to prosecute the suspects in the case, and then it blamed the U.S. for its own negligence and concealment of the crimes.

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