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Business Unimpressed by Khodorkovsky Release

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Mikhail Khodorkovsky **Igor Tabakov**

Two international business forums covering Russia this month have appeared oblivious to former Yukos chief Mikhail Khodorkovsky's recent release from jail — evidence that the drawing of a line under his politically tinged case hardly had an effect on the country's investment climate.

The Supreme Court's ruling on Thursday to allow Khodorkovsky's business partner Platon Lebedev to walk free is also unlikely to impress local and foreign investors.

"We have not spoken about Khodorkovsky here," Alexander Ivlev, a managing partner for consultancy firm EY in Russia, said by phone from Davos, a Swiss alpine resort hosting the second day of the World Economic Forum on Thursday.

The event had gone through most of the Russia-dedicated sessions and roundtable discussions by the time he made the statement. At one of the highest profile meetings concerning Russia, Clyde Tuggle, chief public affairs and communications officer of Coca-Cola, did not raise the subject, even as he shared his thoughts about how foreigners perceive the country's conditions for business.

He was speaking at a meeting that Deputy Prime Minister Arkady Dvorkovich held in Davos with members of the Russian Government's Advisory Council on Foreign Investment, made up of executives of major foreign companies operating in Russia.

Indra Nooyi, chief of PepsiCo, and also a member of the council, had expressed concern about the rules on sewage treatment by companies.

Likewise, speakers at the Gaidar Forum, an annual economic conference in Moscow headlined by Prime Minister Dmitry Medvedev earlier this month, did not broach the possibility during the three days of sessions that a free Khodorkovsky might serve as an encouragement for plowing more money into the country. Both forums, in Moscow and Davos, looked at ways to revive Russia's foundering growth.

Khodorkovsky may have become a martyr, exemplifying the fragility of any business — even one as huge as his former multi-billion oil colossus — in the face of the government's wrath and the subservience of the courts. But the prevailing opinion since he walked free after being pardoned by President Vladimir Putin in the waning days of December has been that the gesture did not serve as a turning point toward a stronger rule of law and was far from sufficient to cheer up the marketplace.

Bruce Misamore, a former Yukos chief executive who now is director of two Dutch foundations representing Yukos shareholders, said by telephone from Houston, Texas, that "a lack of rule of law and independent judiciary continue to depress confidence in the economy."

Long-time foreign investors in Russia agree.

"My opinion is that one of Russia's major problems is not the fate of Khodorkovsky but the fact that the judiciary is not independent from the executive," said Charles Henri Hirsch, who helps manage $75 million of the Equinox Russian Opportunities Fund. "Putin pardoning Khodorkovsky, if anything, reinforces this sentiment."

Bernard Sucher, a U.S. investor and entrepreneur in Russia, echoed that reflection, saying that letting Khodorkovsky out of jail was "plainly a decision taken by one man."

"Whatever the untransparent process was that led to Mr. Khodorkovsky's release, the sudden announcement just underlines again how much Russia is governed by the interests of insiders as opposed to institutions of law," he said in comments on the pardon.

Simply ending the incarceration is not enough to repair the damage done by the Yukos affair and Russia's ensuing transformation, Sucher said. The dismantling of the huge oil company and the prosecution of its owners signaled the country's sharp divergence from a path that many took for granted a decade ago — toward a set of political and economic arrangements that more or less resembled those predominant in Western Europe, he said.

"Since that time, state capitalism and quite possibly a leader-for-life have become the obvious features defining Russian governance," he said. "Coming after so much has fundamentally altered in the country, Mr. Khodorkovsky's release means little for the investment environment."

In fact, the expectations among money managers that Russian business standard were on track to converge with Western Europe's were never higher than they were in 2003, on the eve of Mr. Khodorkovsky's arrest, said Sucher, who was chairman of Alfa Capital, a major investment firm, at the time the Yukos affair began. Yukos by then had become the market's standard-bearer for improved corporate governance and its investors were raking in considerable profits.

"Though it was easy at the time to understand the Kremlin's animus towards Mr. Khodorkovsky and even — as an investor — discount his arrest, it was not so simple to ignore the farcical nature of the proceedings which unfolded against him and many of his associates," Sucher said. "The legal shenanigans that were meant to serve as a cover for the seizure of Yukos' assets in favor of Rosneft were shocking. The echoes of these events endure to this day and are features of many conversations between potential investors and those who make the investment case for Russia."

In addition, the Yukos scandal is not an isolated event. Another case that has come to the forefront of investors' concerns is that of Sergei Magnitsky, a lawyer for foreing investment fund Hermitage Capital, who ended up in prison because of his work and died there.

"Wherever you stand on the matter, the Magnitsky case — and particularly the way it appears to have been handled by the authorities — serves as an equally stubborn, damning counterpoint against any investment pitch made by and for Russia," Sucher said.

In addition, it is premature to close the chapter on the Yukos affair because, unlike Khodorkovsky, the company's other shareholders would love to recoup their losses, incurred when the company sank under government pressure.

Misamore's Dutch foundations will continue fighting international cases to seek compensation for all Yukos shareholders. The cases are against the Russian government and Rosneft, the state-controlled oil producer that took over most of Yukos's assets.

Washington, DC-based law firm Covington & Burling, which represents Spanish and U.S. minority shareholders in Yukos, is also in the middle of courtroom battles to get them their money back.

Alan Larson, the firm's senior international policy advisor, and Marney Cheek, a partner at the firm, said Russia's effort to put the Yukos affair behind it would not be complete without providing full and prompt payment of compensation to the shareholders.

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