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Russia Pushes Ahead With Law to Confiscate Foreign Assets

By Howard Amos

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Building of the Russian State Duma

The Russian government has introduced a bill to parliament that allows the confiscation of property belonging to foreign states, sparking fears of a tit-for-tat round of seizures if European countries implement court rulings against Russia won by the shareholders of former oil giant Yukos.

The new law, which is scheduled to come into force in January 2016, allows Russian courts to limit the legal immunity formerly enjoyed by foreign states on its soil.

President Vladimir Putin called for Russia to be ready to implement reciprocal measures in June after bailiffs in France and Belgium briefly arrested real estate and accounts belonging to the Russian state, citing European court rulings awarding substantial damages to the owners of Yukos.

European courts ruled that Yukos was broken up by the Kremlin in the 2000s and its billionaire owner Mikhail Khodorkovsky imprisoned on falsified charges — accusations rejected by Moscow.

Russian officials vigorously denounced the seizures in June, describing them as "illegal" and "unfriendly" and promising that Russia would not let them go unanswered.

'Principle of Reciprocity'

The legislation empowers Russian courts to seize the property of foreign states on "a principle of reciprocity," according to a copy of the law posted Wednesday on the State Duma's website.

Officially titled "On the legal immunity of foreign states and the property of foreign states in the Russian Federation," the law runs to some 28 pages. The government publicly approved a version of the law drafted by the Justice Ministry for the first time on July 21.

Officials characterized it as a warning to Western countries that might seek to continue the confiscations of Russian property that happened earlier this year.

"The idea of the legislation is of a preventative character," said Konstantin Dobrynin, a senator in Russia's upper house of parliament and deputy head of the chamber's constitutional law committee.

"The [Russian] state wants to make a point and say: Please bear in mind that we will do the same with your property in response," Dobrynin said in written comments to The Moscow Times.

Russia's Interests

Putin told reporters on June 19, the day after the French and Belgian seizures took place, that Russia would respond.

"There cannot not be a reaction, we will defend our interests," said Putin. "We have encountered similar displays before, including from our European partners and companies."

Putin mentioned the case of Swiss trading outfit Noga, which repeatedly tried to freeze Russian state assets during a decade-long legal battle that originated in a 1997 Stockholm arbitration court ruling in favor of the company.

Russia succeeded in blocking all Noga's attempts.

The text of the new law on the Duma's website notes that Russia has seen an upsurge in incidences of companies and individuals taking the country to international courts in recent years.

"The number of cases brought against the Russian Federation and its different branches in foreign courts is steadily increasing and the agreement of the Russian Federation for its participation in the cases is not asked for," an appendix to the law reads.

Yukos Suits

Yukos shareholders brought a series of cases against the Russian government after Khodorkovsky was arrested at gunpoint on a Siberian runway in 2003 on charges of tax evasion. Most of the company's assets were subsequently nationalized and transferred to state-owned oil producer Rosneft.

Last July, the shareholders were awarded an unprecedented $50 billion in damages by an international arbitration court in The Hague. The court ruled that the Russian authorities had subjected Yukos — once Russia's biggest oil producer — to politically motivated attacks.

Russia has not paid the compensation, refusing to recognize the court's authority, and the shareholders have begun petitioning local courts in Europe and the United States to seize assets, mainly bank accounts and real estate, belonging to the Russian state.

"It will take a number of years, we always knew it would ... but we've got the stamina and budget," Tim Osborne, director of the GML group of Yukos shareholders, told the Reuters news agency in July.

Targets

The main targets of French and Belgium bailiffs in June appeared to be the bank accounts of Russian diplomats as well as property owned by state-controlled media holdings, including the TASS news agency. Several dozen companies in Belgium and France were asked to provide information on whether they held any Russian state assets, local media reported at the time.

Similarly, the new Russian law appears to allow for property owned by foreign states, including cultural and media organizations, to be confiscated in a tit-for-tat battle, according to experts contacted by The Moscow Times.

However, companies, even those owned or part-owned by foreign governments, are unlikely to fall under the remit of the law, they said.

Diplomatic buildings and embassies will also be exempt from any seizures, according to Alexei Panich, a lawyer at Herbert Smith Freehills firm in Moscow.

“There are a series of international agreements protecting this type of property,” he said.

Senator Dobrynin said that investors should not be spooked by the new legislation.

“It won't stretch to the arrest of the property of private companies because this would work against Russia's national interests and then we'd have to forget about foreign investment [for good],” he said.

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