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When Losing a Libel Case in Russia Is a Victory for Independent Press

It says something about the state of independent journalism in Russia when losing a defamation case represents progress.

By Elizaveta Osetinskaya

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Last Monday, a group of Russian journalists gathered in a Moscow bar to celebrate an important court decision. The case had been brought against them and RBC, the largest private digital media house in Russia (and my employer until May 2016) by Igor Sechin, the CEO of state oil giant Rosneft, and one of the most powerful men in Russia.

The journalists had lost the case, but there was enough in the detail of the judge's decision to offer cause for some optimism for Russia's somewhat despairing independent media community. What this meant was that the bankruptcy of one of the last independent media outlets in Russia had, at the very least, been postponed.

The article that RBC was being sued over said that Sechin had asked the Kremlin to obstruct its

stakeholder and competitor, British Petroleum. The judge acknowledged the article was damaging, but decreased the damage claims 8,000 fold—from over $50 million to a symbolic $6500.

Sechin is well known for assertively challenging the property rights of his rivals. In an interview given to RBC, Mikhail Khodorkovsky, the one-time owner of oil giant Yukos, claimed he had "reliable information" that Sechin was behind the 2003-2004 attack on Yukos, which resulted in its bankruptcy. Khodorkovsky's Yukos then became part of Rosneft, where Sechin now works as CEO.

In 2014, another private oil company, Bashneft, was taken away from its shareholders to eventually become part of Rosneft. Just few weeks ago, economic minister Alexey Ulyukaev, who publicly disagreed with making Bashneft part of the state-owned oil empire, and then calling that process "privatization," was arrested in a development that shocked the entire Russian political establishment. The minister, who is accused of taking a $2 million bribe from Rosneft, was arrested in a sting operation inside Rosneft's offices.

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Sechin has now turned his attention to another group: Russia's independent media. In 2004, he launched and won a lawsuit against Forbes Russia, blaming journalists for damaging his reputation because they estimated his annual income to be $50 million. This year, he went to court against Novaya Gazeta, who linked Sechin to an exclusive, Dutch-made yacht. Then he sued the Vedomosti newspaper for publishing a story about the building of a fancy country house.

The court has supported Sechin's claims without exception. But the RBC case was expected to be different. Not least because the requested damages (about $50 million) exceeded any previous claims in Russian history, and was equal to half of the media company's gross income.

My biggest fear was that the lawsuit against RBC had a rather different goal in mind: to punish the company shareholder Mikhail Prokhorov for allowing reporters to break taboos and cross "red lines." During my term at RBC in 2014-2016, the publication developed a reputation for unprecedented investigations into sensitive issues, such as the presence of Russian troops in East Ukraine, the fortunes of the Russian Orthodox Church, the President's family business and, finally, the Panama papers leaks.

Prokhorov did not appear in the editorial room and did not stop us from reporting. But in Russia there are few incentives to protect freedom of speech. I was not alone in worrying that the court decision might end RBC as a company and/or take it away from current shareholders. Considering previous experiences with the oil industry, that outcome would not be something new for the plaintiff. It would have meant the end of any objective reporting in the country.

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From my new home in California, I stayed up until about 2am to hear the court's decision

(I took up a JSK Knight Fellowship at Stanford University following my resignation.). When it came through, I asked myself why independent media survived in that hostile environment. I came to the conclusion that there was no conspiracy. I assumed that the judge simply did not want to create a precedent by exceeding the normal amount of damages awarded in such cases. He fined the journalists the same amount as 99 percent as his colleagues had done for many years.

Even in Russia, no one has bankrupted an established media outlet over a single publication. This is how Putin's system of stability works: no one wants to take responsibility. To take RBC away from Prokhorov would have been to assume huge responsibility, and someone in the system has to make this decision.

Now is not the time to relax. The court decision exposed the plaintiff as over-reactive, but Sechin may take a different view.

He is known to be a persistent fighter as he pushes his rivals through court appeals.

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