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Experts Fear Calvey Settlement Rewards Strong-Arm Tactics

A multimillion dollar corporate “peace deal” was struck 20 months after Baring Vostok founder Michael Calvey was arrested on dubious charges.

By Jake Cordell

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Star U.S. investor Michael Calvey was arrested in February 2019 on charges which outraged the Russian business community and the liberal wing of Russia's political elite. **Alexander Zemlianichenko / AP / TASS**

The multimillion dollar settlement reached in the Baring Vostok civil case shows strong-arm tactics and criminalization of business disputes are still an effective ways to settle corporate conflicts in Russia, analysts told The Moscow Times.

Warring parties in the most high-profile business dispute of recent years — between U.S. investor Michael Calvey’s Baring Vostok investment outfit, and Artem Avetisyan’s Finvision

— struck a $32 million "peace agreement" Wednesday to end a series of civil claims currently ongoing in various Russian and international arbitration courts.

Meanwhile, Calvey and several of his associates remain under house arrest in Moscow, awaiting a trial on separate criminal charges of embezzlement. Many in the Russian business community see the charges as baseless, alleging they were instigated at the behest of Avetisyan in an attempt to pressure Calvey and Baring Vostok to settle the ongoing corporate dispute.

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That is a victory they have now seemingly won through the agreement struck Wednesday, analysts said.

"It looks like trumped-up criminal charges were used to force a settlement which is unbalanced," said Christopher Granville, managing director of consultancy TS Lombard and a former British diplomat in Moscow.

"In the big picture, it looks very depressing," he added. "Because judging by the public information, the settlement is one-sided. And in the meantime, the side which was attacked — Baring Vostok — has had almost two years of pre-trial detention or house arrest."

Asked whether the nature of the settlement suggests the strong-arm tactics have proven effective, Chris Tooke, an associate director at GPW political risk firm said: "Absolutely."

Under the parts of the deal which have been made public, Baring Vostok will drop arbitration claims — in which it had already won some early procedural rulings — and a subsidiary will hand over 2.5 billion rubles ($32 million).

Baring Vostok is thus giving up on its original arbitration dispute, the heart of which was a 17 billion-ruble ($220 million) claim against Avetisyan for asset-stripping a lender he owned before merging it with Vostochny Bank in a deal with Baring Vostok.

Exact details of the agreement have not been revealed and none of the parties involved who The Moscow Times was able to reach were willing to comment. Even independent analysts and outsiders who have previously spoken out in Calvey's support were reluctant to comment, citing fear of rocking the ongoing criminal case.

Hope, but no guarantee

There is a widespread assumption the criminal charges too will now be dropped, and that Calvey and his colleagues will be released. But it is not a done deal and some fear it will be difficult for Russian prosecutors to simply back down this far into the proceedings.

"Now that the civil case has been resolved you would certainly expect the criminal case to be resolved, fade away or somehow come to an end," Macro Advisory's Chris Weafer told The Moscow Times. "If that doesn't happen, it would be even more damaging."

“We hope the prosecutors won’t get stubborn and try to make a point. But they are not just going to say ‘we were waiting for the civil case’ — because that would imply they were in some way part of the civil process and that the criminal process was just there to add pressure,” Weafer said. “You have to go through the motions.”

Related article: Calvey Case: While Two Foreigners Are Under House Arrest, Their Three Russian Colleagues Remain in Jail

Calvey’s lawyer Timofey Gridnev told the RBC news site he hoped the fact a deal had been made would prompt the Russian authorities “to reconsider their attitude towards the criminal case against Calvey and his colleagues, and decide to terminate it.”

Arvetisyan’s Finvision has denied any link between the two cases — a point which was reiterated in the official statements agreed between the conflicting sides Wednesday.

Legally, there is no direct mechanism for a criminal case to be automatically dropped because of a resolution in civil proceedings, Valery Zinchenko, senior partner at law firm Pen & Paper told The Moscow Times. Sometimes a settlement in a civil case can be taken into account by the court or prosecution team in criminal proceedings, but there is no guarantee or even expectation that this should occur.

“In some instances the compensation of damages may indirectly facilitate the amendment of final charges [in a criminal case], but it never happens straightforwardly. Usually the criminal proceedings continue uninterrupted.” he said.

Lasting damage

Beyond the immediate implications for Calvey, French investor Philippe Delpal and their three Russian colleagues who were arrested in 2019, the terms of the deal and nature of the conflict are expected to leave a deep scar on Russia’s investment climate.

“I’m relieved that one of the most egregious episodes in the recent investment story looks like it’s now coming to an end,” Weafer added. “But it will leave a very bad legacy. The fact that it’s been resolved does not wipe away the fact that it happened in the first place.”

“The case has been a continuous talking point among investors. Every time I talk to companies about investing in Russia, the Baring Vostok case comes up. And it comes up all the time.”

He said the Calvey case has “certainly been more damaging” to Russia’s image as an investment case than the 2003 Yukos affair — a landmark event in President Vladimir Putin’s early reign when oligarch Mikhail Khodorkovsky was imprisoned and his oil company absorbed by the state.

“That was within the family. But when you attack a successful foreign company that’s investing in your country, then that’s a different level of concern,” Weafer said.

But separating the impact of the case from the other myriad problems Russia faces in

attracting investors — like sanctions, bureaucracy, ruble volatility, weak property rights, geopolitical instability, protectionist policies — is in many ways a moot point.

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"There are so many risks for any new investors to go into Russia," said Tooke. "Especially around rule of law, which doesn't seem set to get any better."

Granville says the Calvey case shows how sorting out Russia's corrupt courts should be the most pressing priority for anybody set on reform or improving the business climate.

"A very important point about the Calvey case is that it made a gigantic problem in Russia visible to the outside world," he said.

"Business people being banged up in pre-trial detention on trumped-up criminal charges, instigated by a business rival ... has long been a huge problem in Russia. There have been dozens and dozens of entrepreneurs, business owners and managers who have been victims. It took poor old Michael Calvey to be a victim for it to be widely visible."

Many have drawn parallels between the Calvey case and the arrest of Sistema owner Vladimir Yevtushenkov in 2014 in a dispute over oil company Bashneft.

Zinchenko also told The Moscow Times the use of "criminal proceedings as an instrument to resolve corporate disputes" was "common" in Russia. "Businesses frequently face criminal charges aimed at making an opponent more cooperative. Despite Russian authorities' demands to stop ... there are still criminal cases ongoing, which upon closer view don't have anything criminal [about them]. There is no doubt such a background undermines the investment environment in Russia."

Related article: What Putin Thinks About Michael Calvey's Arrest

Given the prevailing political mood in Moscow and deteriorating economic conditions across the country, Tooke does not predict change anytime soon.

"Putin will have to keep the security wing happy, so he needs to make sure they're well-fed. Under Russia's rent-based system, this means that in these kinds of disputes the power is ultimately going to stay with the *siloviki* and their associates."

Perhaps the most damaging aspect of the Calvey case is the kind of investors who are going to be put off coming to Russia, Weafer says. "If you're a big multinational company going to co invest with a big Russian state company like Rosneft or even a big corporate like Nornickel, that's fine. Those types of investments were not affected at all by the Baring Vostok case."

"But unfortunately it does affect the sort of investments that Russia needs, like in entrepreneurs, the technology sector and fast-growing industries — the sort of things that Baring Vostok are involved with."

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