



WSJ BLOG/Corruption Currents: Russia Criminalizes Foreign Bribery

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Russian President Dmitry Medvedev, who has made tamping down on corruption his signature issue, signed a bill on Wednesday outlawing foreign bribery and allowing prosecutors to seek large fines instead of prison sentences for graft.

The law pushed Russia closer to accession to the Organization for Economic Cooperation & Development's anti-bribery convention, a key anticorruption benchmark and a prerequisite for full membership to the OECD, which Russia has sought since 2009.

U.S. officials had openly lobbied for the law. At a speech in Moscow in March, the chief of the Justice Department's Criminal Division, Lanny Breuer, said the law represented a "significant moment of opportunity" for Russia in its struggle to rein in corruption.

The country ranked 154th out of 178 nations in Transparency International's 2010 Corruption Perceptions Index. The U.S., by comparison, ranked 22nd.

The law's emphasis on economic sanctions--imprisonment had been the primary anti-graft penalty--has overshadowed the foreign bribery provisions, as the Kremlin battles the perception among Russians that domestic corruption goes largely unpunished. Russian state-owned media made no mention of those provisions Wednesday, nor did Medvedev in his statement announcing the signing of the law.

The law creates a four-tier system of fines for public corruption based on the size of the bribe: small (up to 25,000 rubles, or about \$914); significant (up to 150,000 rubles, or \$5,486); large (up to 1 million rubles, or \$36,580); and very large (everything else).

"Experience shows that even the threat of imprisonment to 12 years does not deter bribes," Medvedev said in the statement. "It appears that in some cases, economic measures such as fines can be more productive."

The law makes bribing a foreign official, personally or through an intermediary, a crime punishable with a fine of up 90 times the amount of the bribe - or, alternatively, with a prison term of up to 12 years and a fine of 70 times the amount of the bribe. (Those are the maximum sentences for giving a "very large bribe." A large bribe carries a fines of

up to 80 times the amount of the bribe, or a prison term of up to 10 years with a fine of 60 times the amount of the bribe, and so on.)

The same penalties apply to those found guilty of conveying bribes, such as consultants. Specific multipliers will be determined by judges.

Foreign officials who accept bribes face a fine of up to 100 times the amount of the bribe. Or they could receive as many as 15 years in prison with a fine of up to 70 times the amount of the bribe.

The law provides a defense for extortion and frees bribe-givers and go-betweens from liability if they voluntarily report their crime to the authorities or facilitate the investigation--a major departure from U.S. law, which offers no safe harbor for self-reporting.

Companies that pay bribes to foreign officials to secure business advantage can be fined up to 100 times the amount of the bribe. The fine structure for corporate offenses is slightly different, qualifying large bribes as having a value of more than 1 million rubles and "especially large" bribes as having a value of more than 20 million rubles.

Unlike in the U.S. Foreign Corrupt Practices Act, the Russian law provides for administrative but not criminal sanctions against companies.

The law defines a foreign official as "any person, whether elected or appointed, that holds any position at the legislative, executive, administrative or judiciary body of a foreign state, and any person performing a public function for a foreign state, including any public agency or public enterprise."

The Russian law marks a striking "shift in attitudes toward international corruption caused by the U.S. Foreign Corrupt Practices Act," which in 1977 became the first law to ban foreign bribery, said R. Christopher Cook, a partner at Jones Day LLP in Washington who handles FCPA cases.

Most of the Western world followed suit, creating an international standard that has Russia adopted as part of its bid to join the OECD, Cook said.

OECD Secretary-General Angel Gurría said a statement Thursday that the law "paves the way" for Russia to join the anti-bribery convention. The OECD council will discuss Russia's request to join in the next few days and could decide on the matter at its meeting later this month, Gurría said.

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