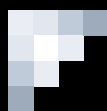




The Transition Project

Plan for Russia's Transition
to Democracy, Peace and Prosperity



FREE
RUSSIA
FOUNDATION

The Transition Project

Plan for Russia's Transition to Democracy,
Peace and Prosperity



www.4freerussia.org

2024

The Transition Project considers the issue of Russia's imminent political transition post-Putin and the requirements for its successful reorientation toward democratic development. The welfare and outlook for the Russian nation, as well as the interests of the global democratic community would be greatly improved if, in the aftermath of this transition, Russia reorients toward becoming a constructive and peaceful actor governed by the rule of law, as opposed to remaining a rogue unhinged pariah. Free Russia Foundation has developed a path, a blueprint to help realize this aspiration.

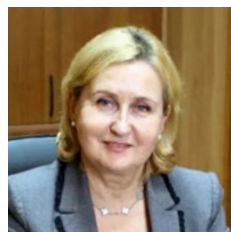
The Transition Project has organized an in-depth intellectual effort by exiled civil society leaders to articulate a comprehensive plan for a political transition toward democracy post-Putin, define key areas of reforms and their objectives, consider what specific contributions could be made toward this transformation by stakeholders and interest groups inside Russia as well as internationally, and engage the broader Russian civil society in refinement of these concepts and recommendations.

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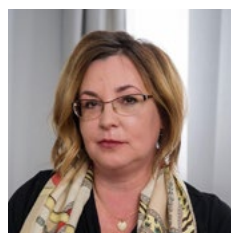
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Our Experts



Irina Alebastrova holds a Professor of Law degree with a thesis on social solidarity in constitutional law. She specializes in legal studies and has distinct interests in constitutional law, including Russian and international perspectives, constitutional reforms, human rights, governance forms, territorial organization, and extraordinary regimes. Alebastrova has worked as a professor for leading Russian law schools. She currently teaches at the Free University/Brīvā Universitāte.



Irina Busygina is a research fellow at the Davis Center for Russian and Eurasian Studies at Harvard University. Until 2022, she was Professor of Comparative Politics at the Higher School of Economics (St. Petersburg, Russia) and Director of the Center for Comparative Governance Studies of Power. Dr. Busygina is the author of nine academic monographs and more than 200 academic articles in English, German and Russian. Her research interests include comparative federalism and decentralization, Russian foreign policy, European Union — Russia relationship.



Mikhail Filippov is a political scientist and professor at Binghamton University (New York, US). He studies comparative federalism, intergovernmental relations, and European politics. His research focuses on contractual aspects of federal arrangements, selection and implementation of jurisdictional delineation in democratic federations, and the role of political agency in federal survival. Professor Filippov holds an M.A. in Political Science from the University of California at Riverside, an M.S. in Economics and Political Science from the California Institute of Technology, and a Ph.D. in Economics and Political Science from the California Institute of Technology. He has previously taught at Washington University in St. Louis.



Abbas Galliamov is a political scientist, political technologist, publicist and statesman. Between 2008-2010, he served on the Russian Prime Minister's speechwriting team. Worked as Deputy Head of the Presidential Administration of the Republic of Bashkortostan. Consulted on election campaigns in many regions of Russia. He is a regular contributor to Russian-language online publications and a commentator for a number of international media.



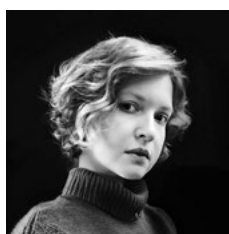
Vasily Gatov is a media analyst, visiting scholar at the Annenberg School for Communication and Journalism at the University of Southern California. Mr. Gatov has over 35 years of professional experience in domestic and international media: he has reported on the Chernobyl disaster, the failed coup d'état of 1991, and the first Chechen war. He has served as an executive director and strategist for several Russian media companies. Founder of Novosti Media Lab, a research organization dedicated to promoting innovation in communication and the social impact of media.



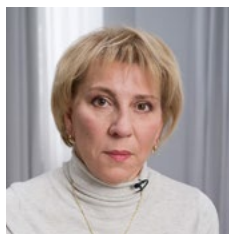
Vadim Grishin is a professorial lecturer at the George Washington University's Elliott School of International Affairs. He has also been a visiting fellow at the CSIS, and since 2014 has taught a course of Political Economics at Georgetown University. Dr. Grishin has an extensive experience working with the Bretton Woods Institutions. He served as a Board Member of the World Bank Group, Senior Adviser at the International Monetary Fund and as Consultant at the International Finance Corporation. He has been professionally involved in the field of economic diplomacy since the early 1990s.



Sergey Guriev, is a provost and professor of Economics at L'Institut d'études politiques de Paris (Sciences Po) and the incoming dean of London Business School (LBS). Dr. Guriev previously headed the New Economics School (Moscow) and was one of the leading intellectual figures supporting the modernisation of the Russian economy. From 2016 to 2019, he was chief economist at the European Bank of Reconstruction and Development (EBRD). Author of numerous publications and books on economics.



Olga Khvostunova is an independent researcher, author of numerous media articles and several academic publications, co-author of Media and Politics, a university textbook. Her area of expertise includes media analysis, political journalism, and expert institutions. She was a Fulbright visiting scholar at Columbia University (2010-2011). She also worked at the Institute of Modern Russia (2011-2022) and Free Russia Foundation (2022-2023). Since 2023, Olga is pursuing a PhD. in political science at Stony Brook University.



Elena Lukyanova is a Professor of Law, lawyer, attorney-at-law. Between 1983-2013, she worked as assistant, associate professor, and professor at the Faculty of Law of Lomonosov State University in Moscow, Russia. From 2013-2020, she was professor at the Department of Constitutional and Administrative Law, Faculty of Law, National Research University Higher School of Economics. Between 2010-2014, she served as a Member of the Public Chamber of Russia. One of the founders and professor of the Free University/Brīvā Universitāte. Laureate of the Moscow Helsinki Group Human Rights Prize and the Profession as a Journalist Award.



Natalya Lunde is an editor of the Transition Project. Ms. Lunde serves as Free Russia Foundation's Vice President for Global Operations. Prior to joining Free Russia, she worked at three prominent D.C. think-tanks: as Vice President for Development and Communications at the Potomac Foundation working on the transatlantic security issues, with an emphasis on the Baltic region and Ukraine (2015-2017); as Director of Public Affairs at the Center for Strategic and Budgetary Assessments, where she led outreach efforts to the Pentagon, the U.S. Congress, the media and the defense industry (2006-2015); and as Assistant Director for Congress and U.S. Foreign Policy at the Council on Foreign Relations (2005-2006).



Vladimir Milov is a politician, economist and public figure, Vice President of Free Russia Foundation. Chairman of the Democratic Choice party (2012-2015), Deputy Minister of Energy of Russia from May to October 2002. Member of the federal political council of the Solidarity movement (2008-2010). One of the founders of the coalition "For Russia without Arbitrariness and Corruption." Together with Boris Nemtsov, he co-authored the anti-corruption reports "Putin. Results. 10 Years" (2010) and "Putin. Corruption" (2011).



Ekaterina Mishina is a PhD in Law and a Counselor of Justice, I Class. Dr. Mishina served as Principal Legal Advisor to the Chief Justice of the Constitutional Court of Russia from 1995 to 1997. From 2005 to 2014, she was an associate professor at the Faculty of Law of the National Research University Higher School of Economics in Moscow. She held visiting professorships at the University of Michigan (Law School: 2012-2013, Department of Political Science: 2014-2016) and the Escola de Direito de São Paulo (2011). Since 2020, she is a professor at Free University/Brīvā Universitāte. Ms. Mishina has published widely on the issues of Russian constitutional law, Russia's post-Soviet transformation, legislative developments, and case law of the 2000s-2020s.



Nikolai Petrov is a visiting researcher at Stiftung Wissenschaft und Politik (SWP), Berlin, focused on Russian domestic politics and its impact on foreign policy, on political regime in Russia, elites and decision making. He is also a fellow at the Russia Program Global Academy, George Washington University, and consulting fellow at The Royal Institute of International Affairs (Chatham House), London. He is the author or editor of numerous publications dealing with analysis of Russia's political regime, post-Soviet transformation, socioeconomic and political development of Russia's regions, democratization, federalism, and elections, among other topics.



Andrei Richter is a researcher professor of Media Studies at Comenius University in Bratislava. He holds a doctorate in journalism, and a habilitated professorship in media studies from Slovakia. Earlier, he served as Director and a Senior Adviser at the Office of the OSCE Representative on Freedom of the Media in Vienna. Dr. Richter taught in universities of a number of countries. In Russia, he founded and led the Moscow Media Law and Policy Center, and was a long-time professor at the School of Journalism, Lomonosov Moscow State University, where he chaired a department in media law and history.



Ilya Shablinsky is a Professor of Law, author of several monographs, resides in Latvia. He was a professor at the National Research University Higher School of Economics in Moscow in 2000-2022.



Maria Voskobitova is a PhD in Law. Dr. Voskobitova started her career in 1999 as a human rights lawyer and currently has several pending cases before the ECtHR. She is the author of a number of articles on various aspects of the ECtHR case law. Dr. Voskobitova has extensive experience of implementing international programs on rule of law, capacity building, legal profession development and human rights programs.



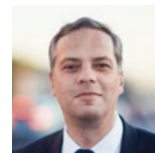
Vasily Zharkov is a researcher, visiting scholar at the European Humanities University (Vilnius). Since 2010, he has chaired the Political Science department and, since 2017, served as dean of the Political Studies faculty at the Moscow School of Social and Economic Sciences, a Russian-British university known as Shaninka. He is also an expert at the Moscow School of Political Studies, founded by Lena Nemirovskaya and Yuri Senokosov. Dr. Zharkov is a publicist with columns published in Novaya Gazeta, The New Times, The Moscow Times and other Russian liberal media.

Chapter I



Overview of the Current Environment

Vladimir Milov



With its invasion of Ukraine, Russia has emerged as one of the most aggressive dictatorships in the world. Opposition activities and mere criticism of the government are criminalized, and there are many more political prisoners than in late Soviet times. Most Russians seem to support the government's policies. Most independent public figures are either arrested or in exile.

There are fundamental factors that point to the weakness of the current political regime and its instability in the long term.

Authoritarian regimes are prone to unexpected collapses. Who could have predicted the collapse of the Soviet Union? U.S. President George Bush Sr. promised to “maintain the strongest possible relationship with the Soviet government” as late as August 1, 1991, three weeks before the coup d'état. Politicians and experts in the democratic world were completely unprepared for the Arab Spring of 2011 (and this, it should be noted, contributed to the failure of attempts at change in Tunisia, Egypt, and Libya).

The opening of a window of opportunity for democratic transformation can be sudden and unexpected, and failure to prepare for it can be costly for the country and the rest of the world. For example, it is very likely to lead to the revival of an aggressive dictatorship.

Examples of successful transitions from authoritarianism to democracy have involved extensive planning for democratic state-building, including from abroad. Such were the transitions in Brazil and South Korea, where Fernando Henrique Cardoso and Kim Dae-jung created plans for change at a time when the autocracies in those countries seemed strong.

A decent, convincing transition plan can inspire pro-democratic Russians who are demoralized today by the experience of the failed democratic experiment of the 1990s. **This is why the Transition Project, in the understanding of its authors, is not only a step toward planning the transition to Russia's democratic future, but also a tool to engage Russians in a debate about the future of their country.** It is through such debates that democracy is born.

Why is the Current Imperialist Dictatorship in Russia Unsustainable?

Observers who believe that the autocratic regime in Moscow is deeply rooted in society make the following arguments:

- historical experience (dominated by centuries of authoritarian rule and Russia's aggressive behavior towards its neighbors);
- loyalty of the Russian elite to dictatorial rule and imperialism;
- dominant public support for Vladimir Putin's policies;
- lack of visible protests against Putin's dictatorship and the war in Ukraine;
- conservatism of Russian society.

When examined in detail, none of these factors is fundamental. And everything is not so simple with the Russian elite and society.

Although Putin's regime often behaves as if motivated by a radical ideology, it is quite unlike the Nazi party in Hitler's Germany, mass religious fundamentalist or ultraconservative popular movements, or the mass totalitarian movement witnessed under communist dictatorships. The ruling United Russia party is an amorphous conglomeration of representatives of various levels of the ruling nomenklatura and is often perceived by the general public as the party of the untouchable bureaucracy. Attempts to create mass popular movements in support of the regime ("United People's Front," youth movements "Nashi" or "Coming Together") have not taken root and often disintegrate after administrative support is reduced.

Mass rallies in support of Putin and his policies are rare, and those that do exist are gathered through forced administrative mobilization of civil servants, often under the threat of dismissal and negative impact on their careers if they do not attend. Street rallies of extreme imperialist, conservative, and anti-Western political forces — the NOD, Fatherland, and hardline conservatives like Alexander Dugin — gather a maximum of 1,000-2,000 people (often no more than a few hundred), which is easy to track on YouTube.

Despite claims that Russians support the war (citing public opinion polls), the Russian authorities have failed to mobilize significant human resources for armed conflict with Ukraine since 2014 including after February 24, 2022. Volunteer turnout at recruiting stations has been so low (and Ukraine offers generous rewards for voluntary military service — several times the average monthly salary in most regions) that Putin had to resort to mandatory military

mobilization on September 21, 2022.

All this does not mesh with claims that Russians are a people particularly prone to enthusiastic support for authoritarian governments or to aggressive imperialist thinking. More likely, people just want to be left alone and allowed to pursue their private lives.

It is tempting to dwell on the catchy headlines that 70 or [80% of Russians support Putin or his war in Ukraine](#). But to understand what people's real views are, polling data must be studied very carefully.

We can start with the evolution of attitudes. Twenty years ago, at the beginning of Putin's presidency, Russians largely accepted the rules-based international order and were overwhelmingly positive toward the West, including the [prospect of Russia's accession to the European Union](#) and the creation of a Russia-NATO council (and many also the prospect of the country joining NATO). Russian public opinion was overwhelmingly positive about democratic change in Georgia or Ukraine — including expressions of support for the latter's territorial integrity. Both in 2014 and in 2022, the public did not demand intervention in Ukraine's internal affairs. Both the annexation of Crimea and the aggressive invasion were decided exclusively by the authorities, and the subsequent support of citizens was the result of intensive propaganda.

Indicators of support for the war should be treated with caution:

- The larger numbers are usually a [combination](#) of those who “strongly support” the war and those who support it with reservations (“support rather than oppose”). Excluding those who support the war with reservations, support drops to below 50%.
- After two years of war, the number of supporters of peace talks is [higher](#) than supporters of its continuation — and the number of those who disapprove of a possible second wave of mobilization is twice as high as those who approve. Three-quarters of those polled in February 2024 [would support](#) Putin signing a peace agreement as soon as tomorrow.
- Since the beginning of the war, opinion pollsters have been confronted with a huge and [unprecedented proportion](#) of respondents refusing to answer their questions. There are some methods to determine how many of those who refuse actually oppose the war (comparing data from anonymous street surveys with telephone surveys, or list experiments where respondents are asked whether they personally support a number of different statements, in random order, rather than one direct question).

The use of these methods shows that it is likely that at least 10-15% of Russians oppose the war, but prefer not to answer questions about it.

An important component is fear. Since the imprisonment of Alexei Navalny in 2021 and the destruction of the organized opposition, which was officially branded as “extremist,” the Russian state has returned to a practice of extreme repression not resorted to since the 1950s. In 10 years, the number of political prisoners in Russia has increased [15-fold](#).

According to the Memorial Human Rights Defense Center, there are more than 600 political prisoners in Russia’s prisons and colonies — three times as many as during the Brezhnev-Andropov era. According to the human rights NGO OVD-Info, more than 20,000 Russians [were detained](#) in 2022 in connection with political protests. In 2021-2022, security and law enforcement agencies detained, made home visits, and called employers of tens of thousands of Russian citizens to warn them against “participation in extremist activities.”

Since the beginning of the aggression against Ukraine in February 2022, the Russian authorities have introduced a new article into the Criminal Code of the Russian Federation — on discrediting the actions of the Russian armed forces (in other words, for any truthful account of the criminal war). Those who speak out against the war are given lengthy sentences.

It is difficult to expect that in such a repressive environment Russians will publicly show their real attitude to the authorities. Therefore, we surmise that public opinion polls and the temporary absence of large-scale street protests do not reflect the real desire of Russians for democratic change. Mass protests against the Soviet regime in the 1980s began only after the easing of some repressive measures: before that, pro-democratic tendencies in society were not visible to the naked eye.

At the same time, we saw a powerful surge of grassroots pro-democracy activism before the repressions began. Street actions from the Bolotnaya Square and Sakharov Avenue rallies in 2011-2012 to the Peace Marches against the war in Ukraine in 2014-2015 and the mass nationwide protests by supporters of Alexei Navalny in 2017-2021 proved that **pro-democracy forces are the strongest and most widely supported political camp in Russia in terms of mobilizing street protest**. This movement was not limited to Moscow and St. Petersburg: recall the months-long protests in Khabarovsk in 2020, when up to 100,000 residents of the region took to the streets to protest the arrest of the popularly elected governor Sergei Furgal. Many slogans at these rallies showed solidarity with the people of Belarus (where mass

protests against the stolen 2020 presidential election took place during the same period) and Ukraine. There were no imperialist or anti-Western slogans.

Another criterion for broad support for democratic ideas is audience reach on social media. The audience of opposition figures in 2022 has reached more than 30 million unique viewers on YouTube, of which 10-15 million are a regular audience. This is not a small number at all: to overcome the five-percent party threshold in the Duma elections, about 2.5 million votes are needed. These figures are comparable to the audience of state television.

The pro-democracy opposition is largely banned from running in Russian elections. But when it has been allowed to participate, it has performed surprisingly well. In 2013, Alexei Navalny received 27% in the Moscow mayoral election, although he was allowed into the race just two months before the vote and came under severe pressure during the campaign. Moscow's pro-Putin mayor, Sergei Sobyanin, narrowly avoided a runoff election. In Novosibirsk, Sergei Boiko, head of Navalny's regional headquarters, garnered almost 19% and came in second. We have seen many examples of prominent opposition figures being elected to public office in important local elections: Yevgeny Roizman was elected Mayor of Yekaterinburg, Ilya Yashin was elected Chairman of the Krasnoselsky District Council in Moscow, etc.

All this proves that pro-democratic forces are not marginalized in Russia at all. There are strong pro-democratic sentiments in the country that are suppressed only by extreme repression and fear, and **they will return as soon as the fear recedes or the authorities cannot maintain the current level of repression.**

Many pessimists claim that Russian society is dominated by extremely conservative values. However, the "conservatism" of Russians is greatly overestimated. According to Pew Research, less than 20% of Russians say that religion plays an important role in their lives. Church attendance on religious holidays is [getting lower](#). Russia is one of the world leaders in the number of abortions. Most Russians are pragmatic people for whom daily survival and personal well-being come first; they [do not believe in politics and ideologies](#) and often support the government because they believe it is the safest choice, not because they like the government's policies.

Many behavioral characteristics — support for direct popular elections of regional and local officials, higher turnout in cases of real electoral competition, good ability to self-organize to protect the interests of the local community, basic demand for the rule of law and rejection of lawlessness — indicate that **Russians sincerely [prefer a democratic form of government and accountability of the authorities](#), rather than being mere pawns in the game played by the central ruler**. Social justice is [the most important value](#) for Russians, and its understanding is [in line](#) with that of Europe.

Of course, it is a long way from the basic requirement of democratic mechanisms and the rule of law to building a functioning democracy. There are factors that may impede democratic transition: a general deep skepticism about politics and democratic values, lack of sufficient democratic experience, residual effects of Putin-era propaganda, memory of the difficulties of the 1990s, and possible new problems arising from the transition and accompanying reforms. Since Russian reluctance to challenge authorities and embrace democracy is not born of innate conservatism or imperialist instincts, an organizational-educational effort could be directed at challenging the supposition that democracy is hopelessly idealistic and that those working for it will be crushed by the regime.

The influence of the Russian political elite on the long-term authoritarian-imperialist political course is overestimated. Most members of the Russian elite are opportunists, not tied to a particular ideology, and might see it to their advantage to adjust their positions should Putin's departure usher in a leadership potentially inclined toward relative relaxation and greater social harmony. Most members of Putin's business oligarchy are heavily dependent on state aid and various exclusive benefits provided by the government. Many of them are managers of state-controlled corporations and banks. Their position has been significantly weakened by Western sanctions.

The only notable exception is Putin's powerful security apparatus. Even this apparently cohesive and hard-nosed group cannot be considered an insurmountable obstacle to democratic transformation. In this report we outline our vision of how to deal with it.

The Russian political elite [will press for](#) the lifting of sanctions, in exchange for which the West will presumably insist upon meaningful reforms, a rejection of Russian imperialism, and an acceptance of full responsibility for the consequences of Russia's barbaric aggression against Ukraine, including prosecution of war criminals and payment of adequate reparations to Ukraine. In our report, we argue that many in Russia would be willing to accept these

conditions as a precondition for normalizing relations with the West.

Imperialism and authoritarianism are not ingrained in Russian society and the political elite. Moreover, we believe there is a nascent strong demand for democratic governance and the rule of law — such democratic instincts can be seen as a good potential basis for future reforms. Personal difficulties of the elites caused by Western sanctions will create a strong demand for normalization of relations with the West, which can be used as a lever to stimulate reforms.

Can Russia Be Reformed at All?

Many observers point to the failed democratic experiment of the 1990s as key evidence that Russians are not inclined to support democracy. But this claim fails to take into account many of the realities of the 1990s experiment:

- Russian society has never supported the transition from democracy to authoritarianism. Putin gradually consolidated his power in the early 2000s and for some time pretended that the Russian state still protected democratic norms and rights because he knew that society would oppose the outright dismantling of democratic institutions.
- Corruption, oligarchy, and the weakness of democratic institutions were strongly rejected by the majority of Russians and, ironically, were a primary identifiable reason for the growing support for “rule by force” in the late 1990s and early 2000s (and the reason for this support was Putin’s [promise](#) to restore order — as we can see, not fulfilled). The democratic experiment took place in extreme conditions by world and historical standards (economic collapse, low average oil price). These distorting conditions do not allow us to judge Russia’s ability or inability to build democracy based only on the data of the attempt in the 1990s.
- The 1980s and 1990s, despite all their failures, created a significant space of freedom (from the presence of influential pro-democratic opinion leaders to widespread public support for social pluralism and democratic forms of government) that even Putin could not completely eliminate, and resistance to the restoration of autocracy [continued unabated](#).

Potential reformers are also aware of the policy flaws of the 1990s and have spent decades discussing in detail how to avoid such mistakes in the future (while in the 1980s reformers and society were driven by illusions that the mere transition to a free society and market economy would be enough to guarantee the sustainability of a strong democratic society). Enough knowledge and

understanding has been accumulated on what to do to avoid repeating the mistakes of the 1990s experiment. A [separate chapter](#) of our report is devoted to processing the experience of the post-Soviet transition.

Russia has a fair chance for a successful democratic transformation. At least the market economy in the country has already been built. Of course, there will be resistance from the conservative part of society, gripped by imperial nostalgia and anti-Western sentiments inherited from the Putin era. In the report we [describe](#) how to [cope with this](#) and build [coalitions with various political forces](#).

New Challenges Posed by War

Obviously, Putin's barbaric war against Ukraine and the subsequent isolation from the Western world has significantly complicated possible democratic transformation in Russia. Restoring international trust in Russia will not be an easy task that will take time and effort. But it is possible.

Russia can demonstrate a determination to abandon its imperialist past and help rebuild Ukraine and repair the damage caused by Putin. Ways could be found to finance Ukraine's reconstruction with Russian money that would not be an undue burden on the Russian economy and society – we describe these opportunities in [chapter 6](#).

The foundation of past pro-market reforms holds the potential for recovery and growth, suppressed by Putin's dirigiste and corrupt economic policies of the past couple of decades; this potential can be realized.

The collapse of oil and gas exports to Europe presents not only a problem but also an opportunity. The rent from exports has largely contributed to crony capitalism, oligarchy, inequality, and the suppression of non-oil and gas sectors of the economy. The fact that Russia will no longer depend on hydrocarbon rents provides an opportunity to build a new type of economy — one that is fairer and not dependent on redistribution of oil and gas revenues. For example, Russia can enter the market of goods and services for renewable energy, which, according to estimates of the International Energy Agency, will grow to \$1 trillion by 2050. Green energy is much fairer than oil and gas in terms of distribution of added value: it does not bring super profits, and it is also very labor-intensive, especially in terms of skilled labor, which means that most of the added value goes not to oligarchic profits, but to labor and wages.

In the project, we will attempt to outline a roadmap for overcoming these difficulties and restoring relations with Ukraine and the West.

The Main Components of Democratic Transformation

Contrary to the popular belief that anti-Putin forces are divided, **there is a surprising unity regarding the actual post-Putin reform program in Russia.** Different political groups — not only liberal forces, but also supporters of a communist or nationalist program — share key principles that should form the basis for building a new prosperous democratic Russia:

- transfer of powers from the executive to parliament;
- formation of a coalition government of national confidence on the basis of free and fair parliamentary elections;
- building a true federation with strong regions and municipalities and a limited central government;
- abolition of all restrictions on political and civil rights introduced under Vladimir Putin, introduction of the highest possible standards of freedom of speech, assembly, political and civil activity;
- adoption of a constitutional and legal framework to guarantee the prevention of a possible future revival of centralized rule by strongmen;
- ensuring a significant degree of autonomy and self-determination for Russia's ethnic minorities;
- rejection of Russia's imperialist and militarist past in legislation and practical policy;
- guaranteeing the independence of the judiciary;
- building an economy in which competition, small and medium-sized enterprises flourish; promoting economic policies that reduce inequality;
- ensuring sustainable socially and environmentally responsible policies; building a socially oriented market economy;
- establishing an institutional framework to effectively combat corruption, undue influence and the emergence of oligarchy.

Successful implementation of such measures would help build a completely different Russian state. And since Russians do [not feel politically represented](#), broader representation through competitive elections at various levels — federal, regional, local — would encourage a significant part of the population to engage in broad support for the transformation program.

There is no guarantee that the transformation will be rapid and successful. There is skepticism even among some of the authors of the

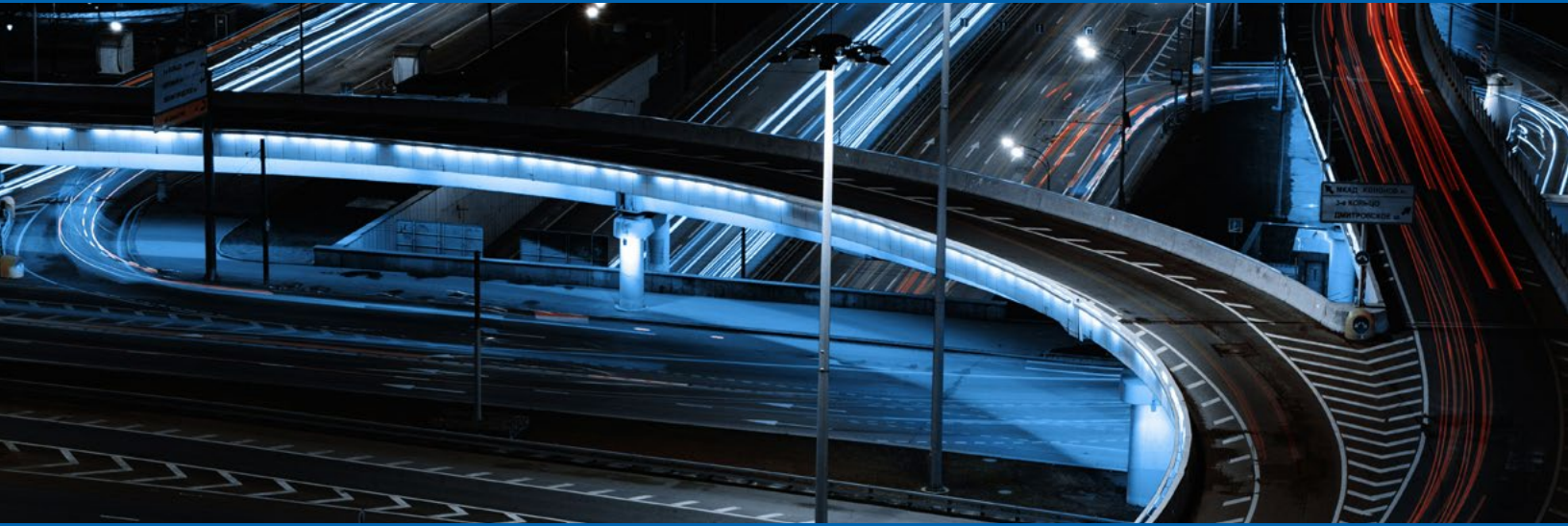
Transition Project. Nevertheless, we agree that it is important to outline a vision for such a transformation attempt, and to identify potential opportunities and risks to be addressed.

In this monograph, we begin to outline a shared vision of how such transformational change might be realized in Russia. We try to envision how different end-of-regime scenarios could be a starting point for democratization ([Chapter 2](#)); pay considerable attention to the experience of the post-Soviet transition and lessons learned ([Chapter 3](#)); detailed mechanisms for restoring fundamental freedoms and ensuring basic human dignity and civil rights ([Chapter 4](#)); devolution of power to parliament, regions, and local communities ([Chapter 5](#)); decentralization of the economy, creating sustainable conditions for economic growth, investment, competition, small and medium-sized enterprises, and preventing the resurgence of oligarchy and centralized economic power ([Chapter 6](#)); establishing and enforcing the rule of law ([Chapter 7](#)); and reconciliation with the world and rejection of Russian imperialism and militarism ([Chapter 8](#)).

Separate chapters of the report focus on the phases of transition and the importance of timely and rapid implementation of key reforms necessary to ensure the overall success of reforms ([Chapter 9](#)), building coalitions to support the reform agenda ([Chapter 10](#)), securing the support of the Russian people for reforms ([Chapter 11](#)), and the role of international organizations ([Chapter 12](#)).

Our task was more than ambitious — to create a step-by-step guide to democratic transit. I hope that we have come close to achieving it.

Chapter II



Scenarios for Democratic Transition

**Vasily
Zharkov**



**Nikolay
Petrov**



Under what circumstances could the collapse of Putin's regime occur, what will replace it, and under what conditions is a turn to democracy possible? In this chapter, we will consider only those basic scenarios of regime change that could lead the country to the start of a democratic transit. These scenarios are based on the general international and Russian practice of personalist dictatorships. These regimes usually end as a result of the death of a dictator (the death of Stalin in the USSR and Franco in Spain), a coup from the top (Portugal, African countries) or a popular uprising (the Philippines, the Arab Spring).

At first, we propose to consider three scenarios in an isolated “pure” form, then we will elaborate on what is needed for the turn to democratization to be realized in each of them.

Three Basic Scenarios

The first scenario is a **popular uprising**: people take to the streets, clashes with the police begin, the police fail, power is seized and the current elites are displaced. As of spring 2024, the probability of such a scenario is very low. Most of the near-liberal opposition organizations are currently banned in the Russian Federation, and their leaders have been pushed into the opposition. If there is an uprising in Russia, it is more likely to take place under radical left-wing or far-right slogans, similar to the rebellion of Yevgeniy Prigozhin in June 2023. It is very likely that the weakening of the central government as a result of such an uprising will lead to the strengthening and coming to the fore of regional elites and leaders, who, similar to the 1990s, will seek autarchy. If there is no convincing leader and force in the capital capable of uniting the country on new grounds, the strengthening of separatism is inevitable, at least in a significant part of the Russian regions.

The second scenario is a coup **d'état or the sudden death of a dictator** as a result of poorly verifiable causes. The impetus for such a coup could be the growing yearning in the elites for “Putinism without Putin,” as [described by](#) Nikita Savin, a lecturer at the Moscow Higher School of Social and Economic Sciences (Shaninka): “The notion that there were many good things about

Putinism and that, if not for the war, this regime could have outlived its creator and gradually democratized, is now increasingly gripping the minds of those who were generally satisfied with the state of affairs before February 2022. The war ... has turned Vladimir Putin into a major threat to Putinism. Neo-Putinism can unite the notional oligarchs, the state bureaucracy, and citizens who are tired of war and economic hardship but are not ready for radical change.” Today’s Russia is undergoing forced demodernization, which is manifested in the systematic and cynical violation of law, the constant fomentation of the darkest ideas in the public space, and the decline of the urban educated class. This demoralizes a significant part of the elites, not to mention frustrating the relatively small educated stratum of society. The feeling of discomfort and threats to the established order create preconditions for a “reverse rebound” — a desire to develop in a different way. This scenario assumes gradual liberalization by analogy with the transition to “collective leadership” in the 1950s, the condemnation of the “cult of personality” and the release of political prisoners.

Vasily Zharkov, a historian and guest lecturer at the European Humanities University in Vilnius, calls the third scenario the “**baobab effect**” — Putin’s outwardly stable system collapses under its own weight, as it is corroded inside by corruption and the moral decay of civil servants.

Possible Paths to Democracy

A popular uprising in the context of growing repression and the “digital gulag” is not very likely. Nevertheless, it cannot be completely discounted. The experience of Romania in 1989, in particular, shows the possibility of many thousands of people suddenly taking to the streets and successfully resisting despite a regime based upon open terror. Today, the Russian authorities are doing everything to prevent such a scenario. Putin was personally traumatized by the events of the popular revolution in the GDR 35 years ago and is constantly taking preventive measures against its repetition in Russia. How successful his attempts will be, history will show. In any case, left-democratic rather than right-liberal forces will be at the head of the rebels. These are the people to whom Alexei Navalny’s Anti-Corruption Foundation is now appealing, gaining new audiences inside Russia. There is a latent demand in Russian society for the creation of a free and fair state, and significant actors in the sustainability of democratization will be the key actors — in [Chapter 11, “Securing Support and Buy-In from the Russian People,”](#) we talk in detail about how to engage society in the reform process.

Once people judge that participation in political protests is unlikely to expose them to violence by the authorities, the **return of the masses to politics will become almost inevitable**. And this will be generally good news, because democratization is impossible without the broad participation of a critical mass of citizens. Democracy cannot be effectively built from above, so even if changes in the country do not start with mass popular demonstrations, they will definitely be involved at the next stage. Representatives of the expert community should stop being afraid of this scenario, because only it is capable of ensuring a successful transition to a democratic form of government. The only “but” here is the fact that broad popular support can be used by one of the forces to establish its own political hegemony, as happened with Yeltsin in 1991. Therefore, it is **very important to ensure the diversity of political forces in their struggle for power, relying on the support of the street**. In this case, instead of transition to another regime of personal power through an era of new “turmoil”, it will be possible to launch the successful development of sustainable and effective democratic institutions.

The longing for early Putinism and the inconveniences caused by sanctions are not enough for the scenario of a **coup from the top to** materialize. Under the conditions of personalist dictatorship, not only the social masses but also the elites are deprived of subjectivity and agency. Having no ground for cohesion and action and being under the close watch of the security services, they are forced to go with the flow and wait for the hour when the dictator himself will pass away. Dialogue with different groups in the elites and society and attempts to involve them in anti-Putin activities are necessary for the success of the subsequent transit — we will discuss this in detail [in Chapter 10, “Power Coalitions.”](#) Today’s **anti-war movement in exile needs to think about expanding its social base of support inside the country** through dialogue with those layers in the elites and Russian society who are skeptical of the war, but frightened by the seeming total rejection of everything Russian in the West and obliged to put on the mask of fervent patriots.

The chances of democratization after the death or removal of a dictator increase in the case of an “elite split,” when none of the existing factions is capable of establishing supremacy and concomitant subordination of the others. This situation forces the elites to reach an agreement by creating and developing public institutions of power based on the rule of law and public control. They will begin to do this because in the absence of obvious supremacy on the part of one of the oligarchic groups and the increase in the number of actors due to the inclusion of regional elites and middle layers of bureaucracy and business in the struggle to solve controversial issues, the dictator’s office,

where previously there was enough space for the meeting of the seven most significant businessmen in power, will not be enough for them. In order to balance the interests and power of numerous groups and players, mere collusion will no longer be enough. The **“fight of bulldogs under the carpet” will inevitably be brought into the public space, and its moderation will require not “the word of a kid,” but laws and procedures that are understandable and acceptable to all parties.** Power, having been taken out of the Kremlin offices, will become public. Thus, there will be a pragmatic demand for democratic institutions - parliament and political parties, which will become an arena for open balancing and harmonization of interests of different groups of influence. Disputes over property and other business interests will be resolved in courts. Taken together, this new reality will create a demand for the development of effective judicial and executive institutions, which will be promptly satisfied for purely pragmatic reasons.

Now let us look at the **scenario of the collapse of the system** due to natural causes. The structure of the “baobab” of Russian statehood is actually amenable to political analysis, and its future can be predicted with a certain degree of certainty. We can estimate the extent to which its core has decayed. We can also guess what will remain intact after the system is finally rotten, i.e. the “baobab effect” is realized. This analysis allows us to see in the future a possible hybrid scenario of a coup from the top and the collapse of the current (doomed) Putin system due to natural causes.

Nikolai Petrov, political scientist, economic geographer, and visiting researcher at the Foundation for Science and Politics in Berlin, proposes to divide the “baobab” into a “core” and a “bark”, to distinguish two models of state governance — conditionally Putin’s, to which he gives no more than five years, and conditionally technocratic, or Mishustinian. This technocratic system deserves close analysis.

The technocratic managerial model emerged with the arrival of Mikhail Mishustin in the prime ministerial position in 2020, developed and strengthened in a pandemic situation, and was further developed during the war. Its expansion was facilitated first by Putin’s self-isolation and then by his focus on war and foreign policy. The new model is gradually growing through the old one, which is less and less active and capable.

Putin’s model, which is running out of steam before our eyes, relies on powerful corporate bosses and the power resource (fear). It is based on siloviki and on chaebols — state corporations directly subordinate to the autocrat, inefficient and performing any task assigned from above. The president

appoints to all important positions people who are unpopular even in their own corporations. This is done to prevent executives from establishing a support base within their corporations instead keeping them completely dependent on the head of state who appointed them. Inexplicably, employees of corporations who are unhappy with such executives, nevertheless remain loyal to the President, in line with an old Russian adage “the Czar is great, it’s his boyars that are the real problem.” This arrangement is detrimental to the effectiveness of corporate management, but quite rational when considered as a mechanism of sustaining the power of Putin as the system’s overlord. Putin’s model is characterized by supercentralization, autonomous systems of information gathering by intelligence services, and control through managed conflicts and repression. Formats of collective discussion and decision-making in this model are very few, since all important decisions are made by one person.

The technocratic (Mishustinian) model is more institutionalized and somewhat less centralized. It allows for delegation of authority, relies on teamwork with headquarters, established information support and feedback. Mishustin initially came with a team of deputy prime ministers. With no authority to form his own team of ministers, he purged and radically restructured the government apparatus to suit himself at the turn of 2020 and 2021. In size and partly in function, it is now the prime minister’s personal staff, the “Big Premier,” just as the presidential administration is the “Big President.” The difference is that the “Big Prime Minister,” composed of Mishustin’s deputy prime ministers and government staff, is not exclusively monocentric and has built-in formats for collective decision-making, such as strategic government sessions on key areas. It is more dynamic and expands both in terms of ministries through replacement of deputy ministers, i.e., strengthening the government apparatus, and in terms of regions: these include deputy prime ministers in charge of federal districts as government envoys, a system of trips by the prime minister and deputy prime ministers around the country, and regional management centers. To solve complex and urgent problems, there is the Government Coordination Center and a system of sectoral operational headquarters.

Putin’s model is based on fear and rare handouts, while the technocratic (Mishustinian) model is based on positive incentives and more subtle tuning. As a result, there is a contrast in effectiveness: Putin has both worse results (war) and failures (Prigozhin’s mutiny). And what works more or less for him belongs more to the new technocratic model.

So, when Putin’s system collapses, what will remain is a shell — a technocratic system of governance, created over the past few years under

the leadership of young, smart and ambitious officials, efficient, based on operational staffs and information gathering, which, unlike Putin's system, which is atrophied within itself, has feedback. The technocrats came to power in the past decade in a significantly stronger position than their predecessors because they represent a team. We are talking about a vertical of civilian management of the country, understandable and transparent for citizens through the one-stop-shop system "My Documents," the application "My Tax" for the self-employed, etc. This system is efficient and workable in contrast to the "core" in the form of special services and state corporations, which devour huge resources and are unable to cope with the growing challenges inside and outside the country.

In the scenario where Putin's "baobab" collapses naturally, technocrats, if they manage to maintain control over the situation, will seek to establish feedback from society through the development of democratic institutions and procedures as a critical missing component in completing their management model. Russian technocrats, unlike their Chinese counterparts, are much more Westernized, in terms of values. Many younger generation of Russian managers have studied and worked in the U.S. and the U.K., they are used to leading a Western lifestyle and have personal ties with the EU and the North America. They would be eager to finalize the system of the Russian state in the image of Western liberal democracy.

These technocrats with a Western way of thinking undoubtedly realize that a system of governance hedging on a singular autocrat, where everything is decided "in manual mode," is extremely unstable and ineffective. It depends too much on subjective factors — views, mood and even psychophysical state of one person. Life in such a system is unpredictable and does not guarantee any certainty about any project in the future. Technocrats are usually interested in long-term development and are ready to invest in the future if it is clear and predictable. In order to avoid a repeat of the case of Mikhail Khodorkovsky's seizure of Yukos and the current even broader review of privatization in Russia, they would have to respect the norms, rules and institutions that ensure the rule of law, legitimacy and transparency of private property and investments in it within the country.

Therefore, **they look at democracy as a necessary tool of governance**, as seeking to cut off radical populist forces but ensuring political representation for the majority of citizens who are also interested in a normal and predictable future. Democracy is the last stone in their construction, whose place is now occupied by Putin's rotten core. In case of its self-destruction, the technocrats

can put democracy in its proper place. Therefore, they will have to combine the described scenarios in practice.

It is difficult to imagine any one of the three scenarios described above being realized in a pure form. Rather, on the contrary, a hybrid model combining their elements is more likely. For example, in the case of the beginning of the obvious collapse of Putin's core political structure, technocratic elites may begin to take active steps to change power. At the same time, the people may realize that participation in mass demonstrations is no longer dangerous in terms of the threat of police violence and jail time, that it is possible to protest legally and freely, and tens and hundreds of thousands of people may take to the streets. We have already seen this happen between 2018-2024, when the authorities were unprepared for mass protests on occasions unrelated to the federal political agenda (protests of local communities in the Arkhangelsk region, Yekaterinburg, and Bashkiria, including environmental protests against construction that contradicted the interests of residents). We can also recall the very recent mass protests with mass detentions (after the arrest of Alexei Navalny and the start of the full-scale military aggression against Ukraine), and the long lines of citizens waiting to vote for anti-war presidential candidates this spring. People's desire to express their political will has been stable. If the technocrats in power gradually and at least partially decriminalize participation in mass actions, as was the case under Gorbachev in 1988-1991, street activity would increase dramatically and on a national scale.

Thus elements of the three scenarios will be combined in one — the real one. Democracy and transition to it are impossible without the inclusion of the widest possible layer of citizens.

Thus, **Russia's movement towards democracy is possible only if Putin's regime collapses due to its limited capacity and futility from the point of view of the country's development objectives.** The rationality of the elites' choice in favor of democracy would be due to their desire for long-term and transparent rules of the game, making the results of their investments predictable and providing firm guarantees resting upon law and respect for it. Such guarantees can be made only on the basis of the primacy of the law, the rule of law and equality of all before the law.

Broad social strata are also potentially interested in their share of political participation and expanding their influence on power. The main thing is that none of the elite groups should be able to subvert or do an end-run around the system by resorting to populist appeals to seize and consolidate power. Therefore, it is very important that political pluralism return to politics as

widely as possible, which will help to guarantee against the usurpation of power by one of the political groups and the creation of stable public institutions to harmonize the interests and claims to power of various segments of the elite and society. Such a hybrid scenario of the beginning of the transit looks optimal from the point of view of the necessary results.

Objectives and Time Horizons of the Opposition

The mood within the elites will be crucial in terms of launching a democratic transit. Broad public interest in supporting democratic transition is critical to its successful implementation and completion. It is therefore critical for the opposition in exile and at home to engage on both fronts: to seek opportunities to interact with constructive parts of the elites and to try to engage the masses in a broad democratic movement. At the same time, it is very important not to forget about international support for Russia's democratization. All three components should form the basis of the opposition's strategy in the medium and long term. Let us address these three components separately.

After the death of an autocrat, one can expect the formation of a coalition that begins to distribute spheres of influence. "I see the scenario of 1953," Nikolai Petrov argues. "The leader leaves, a coalition emerges, which will be mainly ensured by a strong governance model and a strong prime minister." The personalist regime is replaced, at least for a while, by a more competitive model, at which point there is a window of opportunity for a variety of democratic institutions. This can lead to the formation of coalitions through elections (we talk more about this [in Chapter 9 on the sequence of reforms](#)), attempts by the new government to find allies in middle business, regional elites, etc. **Institutions — be they elections, federalism, or local self-governance (all three are necessary for building a sustainable democracy in Russia) — once established, have greater inertia.** If the new Russian government manages to secure and shore up democratic progress, we may see a democratic Russia within about a decade as these practices and social capital build up.

Speaking about international support for change, Nikolai Petrov is sure that it makes sense for the Russian opposition to convey its position to Western politicians in the expectation that it will be included in general packages of measures. "If we believe that a mandatory institutional condition for transit in Russia is the restoration of the system of elections and changeability of power, this can be put into the mouths of Western politicians at the moment when rational technocratic players (Mishustin's tentative team) come to negotiate with

the West on the easing of sanctions,” the expert says.

Vasily Zharkov also believes that Russians in exile may try to influence the formation of the West’s strategy toward Russia. Now everything is reduced to Kennan’s thesis about the need to contain Russia — this approach did not work very well during the Cold War and even less so in today’s multipolar world. The big question is whether it remains central to determining the West’s long-term foreign policy toward Russia (at least many think tanks insist on continuing the containment policy even after Putin’s departure). If this is true, this approach to Russia is myopic.

The policy of containment in the case of the situation of the second quarter of the 21st century may be too limited in its actual possibilities. First, deterrence of Russia would be successful only if China and other countries of the Global South joined the Western coalition. Since this is not expected to happen in the coming years, there is a huge gap in the chain of containment through which the Putin regime conducts trade and financial transactions with the entire world, including some partners in the West itself. Second, the containment policy serves as an incentive for mobilization within Russia itself. The Putin regime has additional arguments for elites and society as to why war with the West is inevitable and the costs of war must be borne. Just as the policy of containment in the late 1940s led to the Cold War and the mobilization of the USSR’s military-industrial potential over the next several decades. Similar actions now could lead to Russia becoming a military camp besieged and ready for endless continuation and expansion of hostilities.

Finally, the policy of containment weakens the country’s prospects for democratization, because in the context of isolation and the presumption of hostility toward every Russian citizen, especially those with a lot of money, neither Russian elites nor Russian society see any sense in fighting Putin’s regime. While containing Russia’s current aggressive actions in Eastern Europe (in Ukraine and the Baltic states) and in the Middle East (in Syria and Libya), the Western alliance needs to offer the forces within the country capable of forming an alternative to Putinism a roadmap for détente and a way out of the new Cold War that suits all sides of the current confrontation. Russia needs to be integrated into the system of international relations (we discuss this [in detail in Chapter 8 of the Transition Project](#)).

In projecting Russia’s democratic future, the opposition should first of all seek dialog with the main social forces within the country. This should be done at the level of both the elites and the people as a whole. Democratization of the country cannot be done from above, without the active participation of society.

Therefore, the **main task of the opposition today is to explore the possibilities of supporting democratic changes inside the country and to** assist the forces capable of realizing them at the level of each of the possible scenarios and when they are combined at the level of real practice. This is why it is so important to seek dialog with all possible stakeholders.

The Russian opposition in its agenda should become more responsive to the interests and aspirations of the people inside the country. This means carefully analyzing and responding to the popular demand for social justice. Opposition leaders need to stop apologizing for the reforms of the 1990s, of which Russian society has a very negative memory. On the contrary, they should embrace the concept that Putin's regime is the direct result, consequence and continuation of a policy that was anti-human and cruel to millions of people. Recognize the unjust results of privatization in Russia 30 years ago and propose a compromise and a way forward, fair for all parties, to break through the current trap where the only way to hold on to one's personal wealth (expropriated from the national coffers) is by remaining in good graces with Putin's personalistic and petulant regime.

The democratization of the country is impossible without engaging wider segments of the society, not only the remnants of the middle class in the big cities, but also the broader working class and the poor throughout the country, and securing their buy in of transformation. The Russian opposition needs to make a left turn in its rhetoric and political course — only this can win the support of millions. At the top of the agenda must be overcoming the poverty and disenfranchisement of the tens of millions of Russians forced to live under the oppression of Putin's regime without the slightest hope for real representation of their interests within the country. When the opposition manages to become a force that resonates with the people's aspirations, it will have a chance of success.

Russia's protest infrastructure has been destroyed by years of repression. However, civil society in exile and inside the country is training important skills for solidarity-based political action, participating in education and outreach programs supported by Western donor NGOs, and donating to opposition public initiatives and media outlets. People are ready to take to the streets any time it becomes possible to do so legally and safely. The coup d'état activates the sleeping "change agents" in society. Supporting the street through mass demonstrations can galvanize elites to take more decisive action against the dictator.

Independent research centers in the West need to continue to study the

mood of people in Russia, their values, fears, and needs. The image of the future should be simple and understandable to all recipients. At the same time, it should not involve the destruction of existing norms, rules and institutions, but rather their improvement and gradual transformation. If we destroy everything at once, we will get not long-term democratization, but a failure into chaos and at the next step — another round of tyranny.

We can already look for negotiators among adequate representatives of the elites. Sociologist Anna Kuleshova from Social Foresight Group says that both representatives of law enforcement agencies and judges come to her for anonymous interviews. “The fact that there are people who disagree with the war at the lower level of these structures allows us to hope that there are also people at the upper levels. Right now, for both the elites and ordinary Russians, democracy is not so valuable; it is associated not even with a temporary, but with a permanent deterioration in living standards. No one understands what will happen to them after Putin; all citizens without exception need a guarantee of a normal life. **If the understanding that after the change of power it will not be worse, but rather better, becomes widespread, the unlikely scenario of serious changes will be possible.** There is interest in serious changes, people are not interested in the preservation of Putinism.” Independent media can be used to spread this understanding.

It is now quite difficult to predict the timeframe for the realization of each of the three scenarios. The experts interviewed for this chapter are more inclined to believe that the count is years. The first symptoms of the “baobab effect” are already manifesting themselves as the authorities demonstrate their diminishing ability to protect people from winter frosts, spring floods and Islamic terrorists all year round. Prigozhin’s attempted mutiny could happen again at almost any time with the participation of one or another group of security forces. Popular demonstrations are least likely, at least until there are groups within the elites interested in supporting the street.

The only thing that can be stated with certainty at the moment is that the historically existing Russian regime is doomed, and the sooner it falls, the faster and more successful the process of its democratization can take place. The current regime is much weaker ideologically and structurally than the Soviet regime that preceded it. It persists not so much because of its power as because of the lack of strength and organization of its opponents. In any case, while the Soviet regime degenerated and moved toward its collapse within 40 years after World War II, the current Russian regime is definitely less than a decade away from its final collapse. The fatal symptoms of this are already visible now.

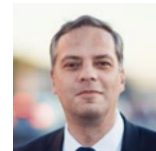
Russia without Putin has a chance for a normal future, and there are groups in power that are capable of negotiating. Getting in touch with them and offering them an adequate alternative to the current “besieged fortress” model means working for the preservation of the state as such after Putin’s departure.

Chapter III



Lessons Learned: Post-Soviet Experience and Russia's Recent Track Record

Vladimir Milov



Any reforms and attempts at democratic transformation should be based on a thorough analysis of lessons learned and correction of past mistakes. We have a vast amount of material to study that the reformers of the 1990s did not have. Over the past two decades, there has been an animated intellectual discussion in Russia about the shortcomings and mistakes of previous democratic transformations and what is needed to prevent a regression to authoritarianism if Russia is to have a chance for a new democratic experiment.

We see that the country has slid towards authoritarianism. Does this mean that the democratic experiment of the 1990s was an absolute failure?

Despite very difficult conditions (centralized Soviet economy, consistently low oil prices), Russia managed to complete the decade of reforms with economic growth. It started in 1999 and ended in 2008 with average GDP growth of 7% per year and average real disposable income growth of more than 12% per year. The transition to a market economy happened: according to the EBRD, the private sector's share of Russian GDP reached 70% by the end of the 1990s. When Putin began to restrict private initiative in the economy and pluralism in the political system, growth effectively stopped.

In the 1990s, Russia succeeded in creating a space of freedom and a prototype of democratic institutions that would have a huge impact on its future development. Parliamentary elections in December 1999 were recognized by the international community as free and fair and resulted in a highly competitive parliament of 9 factions, which was able to pass key reform packages that ensured economic growth in the 2000s. Until 2005, Russia was ranked "partly free" in Freedom House's index of democracies. The experience of more than a decade of political pluralism, freedom of the press, assembly, religion, and political competition will have a profound impact on the thinking of generations to come. The political resistance of the last decade, the mass protests of 2012-2021, the emergence of popular political leaders and intellectuals (Alexei Navalny, Yevgeny Roizman, Ilya Yashin, etc.) are the result of the 1990s.

Russians were never happy about corruption or weakness of the law, they were against the war in Chechnya — Boris Nemtsov, then governor of Nizhny Novgorod, collected a million signatures against the war in 10 days and brought the folders to the Kremlin. Unfortunately, no real mechanisms of public influence

on the situation in the country were formed. This allowed Vladimir Putin to gradually seize power, imitating democratic institutions along the way. In 2004, he canceled gubernatorial elections, using the Beslan terrorist attack as a pretext. He changed in his favor the system of elections to the upper house of parliament (the Federation Council), the system of appointing judges, established control over key TV channels, newspapers, corporations, manipulated the results of the 2003 parliamentary elections to ensure a “constitutional” supermajority (more than two-thirds of seats) in the State Duma for the ruling United Russia party¹. All this time he aimed to convince the public that Russia was a democratic state. And people believed. The “Great Awakening” began only in 2011 with the protests on Bolotnaya Square and Sakharov Avenue, but it was too late, the nascent democratic institutions had been dismantled.

Many Russians did not notice the onset of dictatorship. But they cannot be accused of deliberately abandoning the gains of the democratic reforms of the 1990s. The electoral behavior of citizens, public opinion polls, and Putin’s willingness to maintain a pseudo-democratic facade for decades testify to this: there was a demand in Russian society for order and a quiet life, but there was no demand for authoritarianism.

What Went Wrong

Russia’s independence in 1991 was the result of rapid and rather chaotic changes that were in no way institutionally prepared. No one had planned in advance for the development of a democratic political system: the **plans of a group of economists, many of whom later took reformist positions in the government, were only concerned with the transition to a market economy.** Much less attention was paid to political reforms.

Economic reforms were indeed needed: even in the relatively benign 1970s, the standard of living of the Russian population was quite low, with Leonid Brezhnev, General Secretary of the CPSU Central Committee, publicly acknowledging “a shortage of food for the population.” By the late 1980s there were widespread shortages of food and essential goods. Political change was seen as a bonus: the implication was that once a free market economy was

¹ In the 2003 State Duma elections, the United Russia party won only 37.6% of the votes under the proportional system, and 223 out of 450 deputy mandates, including majority districts — less than 50% of the seats overall. However, as a result of pressure and bribery of many elected deputies, dozens of them declared to join the United Russia faction, which allowed the ruling party to create a “constitutional” majority, more than two-thirds of the seats, enabling it to pass laws and even amendments to the Constitution unilaterally, without asking the consent of other parties and factions.

introduced, living standards would rise and functioning institutions would begin to emerge (as if by themselves).

As a result, the chaotic state of Russian political institutions in the early years of reforms led to the constitutional crisis of 1992-1993 (culminating in the October 1993 clashes in Moscow) and widespread disillusionment with the reforms among Russian society, whose standard of living plummeted. Several important issues have been left out of the picture:

- The post of president was only introduced into the Constitution in April 1991, but there was no clear division of powers between the president and the Congress of People's Deputies/High Council.
- The Russian parliament, the Congress of People's Deputies of the Russian Federation, was elected in March 1990, when the country was still under the rule of the Communist Party (86% of the deputies elected in March 1990 were members of the CPSU, although they represented different factions; independent parties were banned). When Boris Yeltsin became president (June 1991), Russia was still part of the USSR. People's deputies and the president were elected before it was known that they would assume full responsibility for governing the country, instead of performing limited functions within the federation of the USSR.
- After the collapse of the USSR in the fall of 1991, economic reforms came first. The next elections were held only in December 1993.
- Boris Yeltsin in October 1991 demanded additional powers for economic reforms for one year, which were granted by an overwhelming majority of the Congress of People's Deputies. De facto rule by decree was established. Later, the parliament tried to regain supreme power, and this resulted in a constitutional crisis. The super-presidential system, formalized by the 1993 Constitution, grew out of these powers.
- Many pro-reform deputies moved to work in the government or the presidential administration and, accordingly, were stripped of their parliamentary mandates. President Yeltsin's opponents began to dominate the parliament. Had it not been for the mass exodus of people's elected representatives to the executive branch, the balance of forces in parliament would have been different, and the scale of the crisis could have been minimized. The regular rotation of members of the permanent part of the parliament (the Supreme Soviet) at semi-annual sessions of the Congress of People's Deputies, conducted by the anti-Yeltsin leadership of the parliament, reduced the share of pro-reform forces in the Supreme Soviet

and contributed to further polarization.

In a chaotic institutional environment with a Constitution written in a completely different country a decade and a half ago, with no elections, no political parties, etc., the political environment quickly degenerated to a rivalry of personal interests and political groups. Political discourse quickly polarized into camps of supporters and opponents of reforms, and the institutional environment receded into the background. Many reformist politicians sincerely believed that the main thing was to keep them in power and prevent anti-reformists from gaining power.

Had it been possible to call a Constituent Assembly and new elections in the fall of 1991, during a brief period of political consensus when Yeltsin's proposals for economic reform and additional powers were supported by more than 90% of the votes at the Congress of People's Deputies, the process might have gone more smoothly. Russia would have had a new constitution, a new parliament, and a new configuration of political parties — something that did not materialize in 1991-1993.

But the realities were such that without rapid economic reforms, the country was in danger of real famine and destabilization (the Soviet economic system had completely collapsed by the end of 1991, market mechanisms were not working, and food and basic consumer goods were disappearing from stores). This explains the excessive focus on the economy to the detriment of political institutions.

Another important factor worth mentioning is that many political mistakes were made back in the 1980s. Had Soviet leader Mikhail Gorbachev embarked more decisively on the path of economic and political reform, rather than resisting it until the last moment with the conservatives around him who later led a revanchist putsch in August 1991, the transition would have been much smoother and would not have taken the form of crisis management when the country was on the verge of starvation.

Thus, the situation quickly turned into a feud between the pro-presidential camp and the anti-Yeltsin opposition. The anti-Yeltsin camp is often portrayed as more democratic because it represented parliament rather than a semi-authoritarian strongman president with extraordinary powers, but in reality it leaned just as much toward the semi-authoritarian rule of Supreme Soviet Chairman Ruslan Khasbulatov and his inner circle. The constitutional crisis of 1992-1993 was not a struggle of democrats against an authoritarian president (although some anti-Yeltsin forces sincerely believed it was) — it was a struggle for total control of the country between two personalist camps with little interest

in building democratic institutions.

The result of the “winner-takes-all” competition was the adoption of a super-presidential Constitution in 1993. The Constitution of the Russian Federation was not undemocratic, but it had many design flaws and ambiguities — for example, there was no clarity on the appointment/election of the upper house of parliament or regional governors — and gave the president more room for maneuver than any other political institution, making him the de facto arbiter of all ambiguous issues. The Constitution was adopted without detailed discussion: amid a political crisis, Boris Yeltsin hastily convened a constitutional meeting on June 5, 1993, consisting mainly of his supporters, and the Constitution was adopted in a referendum on December 12, 1993. The draft Constitution was published only a month before the vote. This did not support either the quality of the new Constitution or its credibility. And Yeltsin’s focus on winning the political struggle against his personal opponents subsequently led to Putin’s seizure of power and re-autocratization.

The constitutional crisis of 1992-1993 could have been avoided (or at least minimized) if the construction of political institutions had started immediately after the collapse of the USSR in 1991, instead of being postponed to the future. The crisis culminated in the tragic clashes in Moscow in October 1993, initiated mass disillusionment with Yeltsin and the reforms, and led to demands for “order” and a “strong hand” at the very end of the 1990s (and then to longing for former supposed greatness and dangerous resentment). Putin, an energetic officer, was able to use this demand for his subsequent seizure of power.

Because of the closed decision-making system in Yeltsin’s inner circle, such phenomena as “loans in exchange for shares” emerged, and an oligarchy was born. In a more balanced institutional environment, this would have been significantly more difficult. Many reformers who would have been very useful throughout the 1990s and beyond found themselves discredited and politically buried after joining Yeltsin’s camp, which sank with the disgraced president.

Due to the lack of development of political parties in 1991-1993, Russian politicians lacked incentives to work directly with the population and develop skills to promote political ideas and persuade people through campaigning. Most focused on trying to achieve their goals in the corridors of power. Ordinary voters could not properly participate in building democratic institutions.

Note that the early parliamentarism of 1990-1993 in Russia (and onwards from 1994) was not an example to be replicated. Parliament fiercely rejected demands to reform itself from the outdated Soviet system of a Congress of Deputies and a rotating Supreme Soviet into a professional, permanently sitting

parliament. Even when in April 1993 67% of Russians voted to dissolve the Russian parliament, the Congress of Deputies flatly refused to dissolve itself (even though its term was coming to an end). This self-dissolution would have helped avoid the October 1993 confrontation: President Yeltsin favored early presidential and parliamentary elections as a universal solution to the crisis. As a result of the mass exodus of pro-reform deputies to work in Yeltsin's administration, the parliament turned dangerously toward the counter-reform majority and made obstructionism against Yeltsin its main objective, which did not reflect public opinion at the time.

As a result, the authority of parliament as an institution fell to an incredibly low level in the first years of reforms. The State Duma has not been able to regain it: since 1993, it too has been dominated by communists and other anti-Yeltsin opposition groups, and has developed a similar obstructionist and revisionist image. The idea of parliamentarism has not spread widely in Russia — and this is not only Yeltsin's or Putin's fault. **Special institutional measures need to be taken to make parliament a functioning democratic institution** that is not prone to chaos and capture by revisionist forces. Examples of such parliamentary capture in the post-communist era are widely known — from Viktor Orban's Hungary to Aleksandar Vucic's Serbia, Ukraine under Viktor Yanukovich or Moldova under Vladimir Voronin, etc.

Another important institutional weakness of the 1990s was the failure to address regional self-governance issues. The Yeltsin administration was unwilling to grant significant powers to the regions; disputes over whether governors should be directly elected by the population or centrally appointed continued until 1996, when a special decision of the Constitutional Court established that governors should be elected. However, Yeltsin's 1993 Constitution did not explicitly state that Russian regional governors should be directly elected by the population, which allowed Putin to later abolish gubernatorial elections.

And the 1993 Constitution failed to properly spell out these issues². The emphasis in Articles 71-72 is on compiling a list of issues of exclusive jurisdiction of the federal government and joint federal-regional jurisdiction, while Article 73 contains an empty formula "everything not specified above remains under the jurisdiction of the regions." The powers of the regions are not defined, leaving room for the subsequent redistribution of power in favor of the federal center. The Constitution did not define an independent financial base for the regions, the taxes from which form the exclusive source of regional revenues, which

2 See Appendix C for proposed amendments to the Articles of the Constitution.

allowed Putin to redistribute taxes in favor of the federal center in 2004 (before the counter-reform, the distribution of tax revenues between the center and the regions was about 50/50, whereas afterwards the federal center received about 65% of all revenues from consolidated tax revenues, leaving the regions only 35%). The lack of an independent revenue base undermined the political autonomy of the regions and the very foundations of federalism. The dependence of governors on federal subsidies to finance vital regional expenditures made them more politically loyal.

Another issue that should have been spelled out in the Constitution is the basic design of the system of power in the regions, guaranteeing the necessary checks and balances that counterbalance the coercive power of the regional government in the same way that the corresponding checks should counterbalance the power at the federal level. In the years that followed, regional governors widely abused their powers throughout Russia, voluntarily changing the way regional legislatures are elected and operate, etc.

Local self-government in Russia de facto never appeared after 1991. The powers and financial basis of local self-government were extremely limited and primitive; the 1993 Constitution only declaratively proclaimed local self-government without providing real mechanisms to guarantee its sustainability and influence. Direct elections of mayors and district heads were completely abolished by Putin and the regions in the 2000s. Local authorities' own tax revenues have never exceeded 5% of the total consolidated budget of Russia. In 1998, Russia introduced a local sales tax (maximum 5%) to create an independent tax base for the districts. However, local authorities had to fight with the regions to ensure that this money actually went to local budgets, and the Constitutional Court twice ruled the local sales tax unconstitutional. Since 2004, this tax has been abolished, leaving local authorities with crumbs from the table of general revenues of the consolidated budget.

The design flaws concerning regional autonomy and local self-governance are understandable. Since the early 1990s, the uncertain status of the Russian regions and their constant attempts to pursue their own protectionist policies and obstruct federal reforms forced Yeltsin's camp of reformers to seek to minimize regional autonomy in order to ensure the implementation of the market reform program. Political and public awareness of the importance of local self-government was and remains low — people do not understand why another level of government other than federal and regional is needed. Numerous high-profile cases of abuse of local power in cities, towns and districts by inadequate populists or outright criminals were used by the central government as a

justification for eliminating the autonomy of local self-government. Both federal and regional authorities considered local self-government as an undesirable competitor in the struggle for control and jointly suppressed its emergence.

However, where local self-government has been able to emerge and sustain itself, it has served as an important guarantor of political competition, a certain degree of media freedom and transparency of governance, as well as a necessary element of the system of political checks and balances. As an example, the intense political competition between regional governors and popularly elected mayors of regional capitals helped to maintain a significant degree of press freedom and political competition in many regions until the 2000s.

Another systemic failure of institution-building in the 1990s was the inability to establish a functioning independent judiciary. The 1993 Constitution immediately established that judges were to be appointed by the president (Article 128), which effectively blocked the possibility of genuine judicial independence. A study by the publication *Project* showed that in 1995-2000 70-75% of candidates for the position of judge were closely connected with the administrative and law enforcement apparatus — their professional biography included either administrative or law enforcement agencies — and only 20-25% of candidates were selected from the bar or the corporate sector. In the Putin era, the balance has shifted even further.

Let us summarize:

- The reforms were sudden, and their actors had no time to carefully plan the construction of democratic institutions;
- Concerned about rapidly declining living standards, the population was preoccupied with survival and not too interested in the development of political institutions;
- The political class was consumed by power struggles; any institution-building was viewed through the prism of how institutions would affect the president's ability to promote reforms or the ability of his opponents to obstruct reforms (thus the super-presidential Constitution of 1993 was born);
- Parliament has failed to become an effective and respected political institution, and as a result, the demand for parliamentarism in Russia is low;
- The process of drafting the new Constitution was not inclusive;
- The president suppressed the development of regional autonomy, laying the constitutional foundations for Putin's destruction of federalism in the

2000s;

- No lustration was carried out, and members of the Soviet security services were given a pass into the civilian administration of the new Russia;
- Both the president and the regions had motives to stifle the development of strong local self-government in Russia, which never effectively established itself as a serious authority;

Politicians had no incentive to form parties and work with the electorate — both the development of an “insider” political culture and the disillusionment and disengagement of the Russian population from politics led to this;

Russia has failed to create an independent judicial system.

Could it Have Been Worse?

A lot of things could have gone much worse in the 1990s.

First, Russia avoided an all-out war against or between regions or a war against former Soviet republics aimed at restoring the USSR, following the scenario of Yugoslavia under Slobodan Milosevic. In the early 1990s, many regions considered independence, but these aspirations were resolved through negotiations and the peaceful conclusion of the Federal Treaty in 1992. (However, the bloody example of the suppression of the Chechen attempt to secede shows that although Yeltsin had invited the regions to “take as much sovereignty as they could swallow”, he clearly did not have in mind the possibility of their real self-determination.)

The 1993 anti-Yeltsin coup was led by conservatives and revanchists who tried to restore the USSR by force. In March 1996, the State Duma, where communists and nationalists held a majority of seats, passed a resolution calling for the denunciation of the 1991 Belovezh Agreement on the dissolution of the USSR (effectively opening the way for actions aimed at restoring the Soviet Union by force). That these attempts failed can be explained by Yeltsin’s ability to maintain the loyalty of the law enforcement and intelligence agencies, as well as by the pluralistic political environment of that era. Later, under Putin’s authoritarian system, revisionist policies succeeded.

Economic reforms could have been much less successful. Economic growth began as early as 1997, and from 1999 came a decade of economic boom with an average annual GDP growth of 7 percent. The private sector’s share of GDP grew. The pluralistic environment of the 1990s and the absence of an etatist grip on business played an important role here. As the 1994-1996

period of indecision showed³, stalled reforms can significantly delay growth, while intensified reforms (as happened after 1997) can accelerate it. Without pluralism, relative relaxation of rules for business, and serious reforms, Russia could easily stagnate for decades.

What Lessons Can Be Learned From the Events of the 1990s

The chances of a successful democratic transition next time will be higher for the following reasons:

- Russia's next transition period will not be complicated by comparable economic difficulties. Russia's economic problems caused by Western sanctions, war and the inefficiency of Putin's crony system are severe, but they do not compare to what Russia faced in 1991 — the collapse of the old Soviet economic mechanisms and the complete absence of market relations. Russia still has a functioning market economy; it does not need to be built from scratch;
- Reconciliation with Ukraine and the West, which while clearly will not happen overnight, and might likely take decades, could give a significant boost to the Russian economy and provide an influx of investment. Investors retain a strong interest in Russia because of its market size and other competitive advantages. With the right economic policies (which we discuss in Chapter 6), Russia's economic development will be comparable to the impressive economic growth of the 2000s rather than the painful and slow institution-building period of the 1990s;
- The accumulated knowledge about the experience of the post-Soviet transition will help avoid the mistakes made in the 1980s and 1990s. At that time, politicians and the population had illusions about building a functioning democracy. Now these illusions are gone, and many professionals in and outside Russia are studying the mistakes of reformers and the experience of transition in different countries;
- The values of the current proponents of reforms coincide with the values of a huge part of the population. They are the need to build a socially and environmentally responsible economy; to reduce inequality; to fight nepotism, corruption and oligarchy; to help small businesses develop

³ During this period, prominent reformers were mostly outside the government, which was dominated by the old Soviet nomenklatura.

instead of cultivating the domination of a handful of state corporations; to reconcile with the civilized world and end wars. This differs from the situation in the early 1990s, when the reformers' agenda was predominantly to build a free market economy;

- Long years of repression and suppression of political initiative and self-expression of the Russian population have created a demand for political institutional reforms. This is confirmed both by the popularity of Alexei Navalny and other opposition politicians, and by the electoral behavior of Russians (remember the active support for anti-war presidential candidates in the 2024 elections). Opposition politicians, experts, and journalists have tens of millions of subscribers on YouTube — this is a testament to the heightened interest to reforms. One might anticipate that in the course of the next political transformation, the grassroots demand for reforms will be much stronger and more definite than in the 1990s;
- Despite disagreements among Russian pro-democracy political groups, there is broad consensus on the major policies discussed in this report (discussed in more detail in Chapter 1). There is also consensus that these differences can be resolved through free and fair parliamentary elections and further civilized negotiations on practical policies and a reform agenda within the framework of government coalition agreements between political parties.

There are some important lessons to be learned from the experience of the post-Soviet transition:

1. Plan and prioritize democratic institution-building in advance

The time horizon for implementing democratic reforms will be relatively short (we look at time factors in Chapter 9), and the results that must be achieved in this short period will be significant or there will be a backlash. Therefore, careful pre-planning and rapid action to build major institutions is required. Within a few years, Russia should become a decentralized, open country with checks and balances in place that can cope with attempts to dismantle democratic institutions or revive imperialist revanchism.

2. Create a quick and effective system of checks, balances and emergency brakes that will prevent strongmen from coming to power

The focus in building democratic institutions for transition should be on creating a system that prevents a resurgence of Putin-like rule by force and on building an inclusive political system whose form is shaped by a wide range of diverse actors across the country rather than a limited number of players tied to

the federal government. As the experience of the 1990s shows, although pro-imperialist and etatist forces may be strong, a diverse, albeit imperfect, system of institutions can help to prevent the country from sliding toward authoritarianism and aggressive imperialism. On the other hand, the institutional weaknesses of the state system of the 1990s described above (too much emphasis on the power of the president as a “guarantor” of reforms with weaknesses in other institutions) allowed the fragile democracy to collapse and the authoritarian rule of the siloviki to be established.

The key measures on which there is consensus among various political forces, not only in the liberal part of the political spectrum, are as follows:

- Limiting the powers of the president⁴ and the federal government;
- Maximize devolution of powers to parliament;
- Establishment of significant regional autonomy and local self-government;
- Establishment of a truly independent judiciary;
- Creation of a legislative framework regulating relations between the government and big business (including laws regulating conflicts of interest and lobbying) to limit the excessive influence of big business on the government, as was the case in the 1990s;
- Creating a legal framework that limits the influence of both the government and big business on the media;
- Limiting the powers of the military and security forces and establishing a strong system of independent civilian oversight of these structures to prevent them from being used to consolidate power;
- Legislative definition of the range of actions aimed at possible undemocratic seizure of power, creation of an early warning system protecting democratic institutions, and launch of an additional mechanism of public control (Russian analog of the Venice Commission)⁵.

Some of the key measures of this kind will be discussed in this report; there may be others that should be the subject of careful public debate.

4 Perhaps the presidency will be abolished altogether; this is to be determined in further discussions.

5 For example, when the government or government-affiliated entities seek to establish control over the media, or when the system of appointing civil servants or judges is proposed to be changed in favor of increasing the powers of the central government. Such steps should be spelled out in detail in the law, and a mechanism of public scrutiny should be established to be triggered as soon as someone takes such steps.

3. Promote the development of parliamentarism

The unsuccessful parliamentary experiment of the 1990s and early 2000s was a factor in the failure of democratic reforms. The promotion of Russian parliamentarism should become the central focus of building new democratic institutions. How to make the new parliament successful?

Parliament should be given real powers to form the executive branch of government. In the 1990s and 2000s, these powers were mostly advisory or limited to veto power on some important issues (e.g., appointing the head of government). Instead, parliament must determine the composition of government through parliamentary coalition agreements. The process of negotiating and concluding such coalition agreements as a result of free and fair elections should be detailed in the law.

The primacy of parliamentarism should be transferred to regional and local levels. Since the early 1990s, regional and local parliaments and legislative councils have rapidly degenerated into an annex to the executive, contributing to the decline of parliamentarism at the national level. Regional and local legislatures should be given decisive powers in the formation of the executive and related oversight. This should limit the powers of the executive at the regional and local levels to the same extent as at the federal level.

Permanent institutionalized oversight by parliamentary bodies at various levels throughout the country (federal, regional, local) over the executive branch should become the basis of the new system of power and the new norm of the Russian democratic system and insurance against usurpation of power by the executive branch. But it is also necessary to create mechanisms to protect against potential seizure of power by the parliament; we have seen this in some transition countries (including even EU member states such as Hungary).

Giving real powers to parliamentary bodies and the coalition system will also stimulate the development of functioning representative political parties, something that was not achieved in the experiment of the 1990s.

4. Promote regional autonomy and local self-governance

The failure to create strong regional autonomy and strong, empowered local self-governance were key failures of the democratic experiment of the 1990s. Promoting regional autonomy and local self-governance is a key element of our vision of a new, decentralized Russia where citizens actively participate in democratic governance and institutional checks and balances protect Russian democracy from backsliding. These issues are discussed in more detail in Chapter 5 of our report.

5. Encourage political parties, build coalitions, and constantly engage with voters

The new system should create guarantees for an ecosystem of independent political parties to thrive. The transition to a parliamentary system of government at the federal, regional and local levels will give parties a boost and encourage them to actively engage with grassroots voters — ordinary members of Russian society — to secure their positions of power.

6. Carry out lustrations

Today, it is actively discussed that the opportunity was missed in the early 1990s to carry out lustration and close the way for former Soviet intelligence officers to enter the civilian government of the new Russia. The fact that former KGB officers, including Putin and his entourage, infiltrated the system of government contributed greatly to the demise of democracy: the intelligence officers in the Soviet Union were trained to disregard human rights and dignity.

The authors of the report believe that lustration should be an integral part of the new democratic construction in Russia. The new government must be civic-minded and free of authoritarian and hate-mongering biases. Although lustration is not a panacea, as many people think, it can help create a new civil society-oriented system of government. The experience of Central and Eastern Europe in conducting post-communist lustration should be analyzed in detail and competently applied in Russian conditions.

7. Reject imperialism and militarism

Resentment, the longing for a huge strong state that everyone fears, brought terrible consequences: wars in Chechnya, Georgia, Moldova, Syria, finally in Ukraine. The new political order has been purged of any potential influence of the aggressive imperialist school of thought and of any means that might allow Russia to wage wars of aggression in the future. Such arrangements should take into account the experience of democratic state-building in Germany and Japan after 1945. The new basic legal framework should include:

- Legal rejection of imperialist and expansionist traditions;
- Recognition of the full sovereignty of Russia's neighbors and any state, rejection of the idea of "zones of Russian influence", recognition of policies aimed at undermining the sovereignty of other states as illegal and punishable;
- Sharp reduction of Russia's legally authorized military capabilities to the basic needs of defense against possible intervention, complete elimination

of any offensive strike forces, and elimination of technical capabilities for strategic military buildup in the research and industrial sectors.

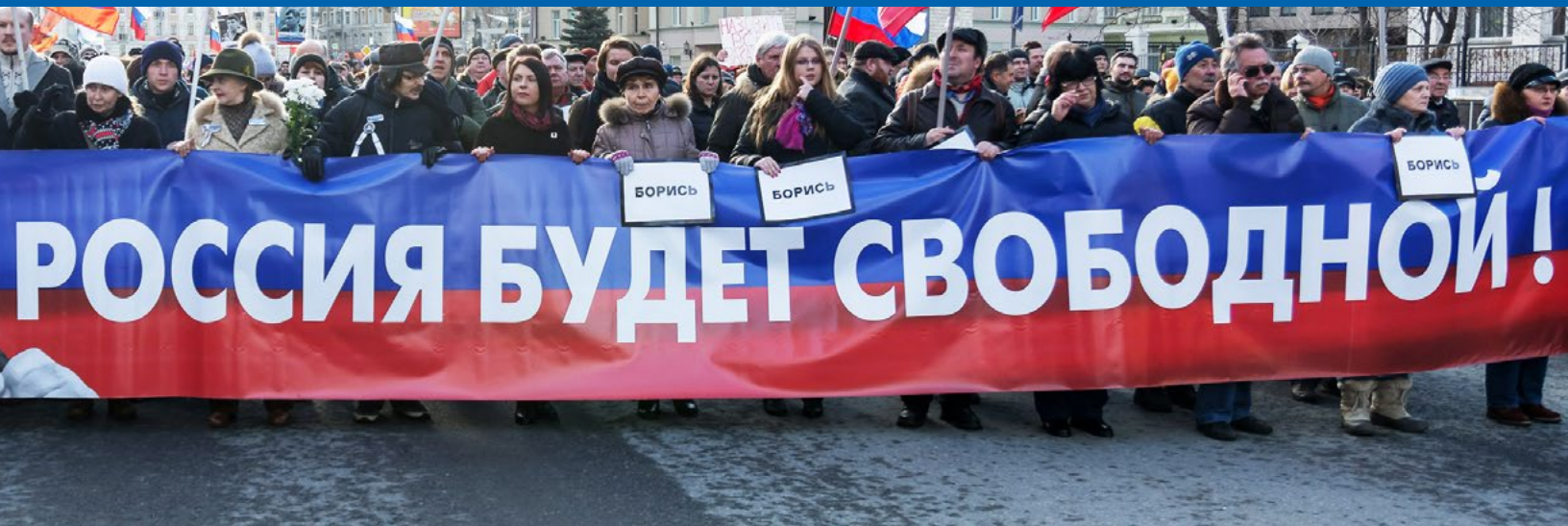
8. Ensure media freedom

As the experience of the 1990s and 2000s shows, media bias can be a significant negative factor contributing to citizens' disillusionment with democracy and creating favorable conditions for propaganda, the takeover of private media and, ultimately, for an authoritarian seizure of power. Special mechanisms are needed to protect the media from takeover or undue influence by the state or private players (oligarchs). Alexei Navalny's presidential program for 2018 proposed such mechanisms; these issues are also addressed in our report.

9. Ensure that human rights and dignity are prioritized in legislation and the political system

The Russian system of governance, as well as the legislative system that emerged after 1991, were oriented mainly to the powers of the state and paid only limited and declarative attention to the protection of human rights and dignity. They are seen as secondary to the powers of the state necessary to ensure "order", "security", etc. In the Criminal Code and the Code of Administrative Offenses of the Russian Federation there is a huge bias: ordinary citizens are punished for the smallest crimes, while such significant crimes as abuse of power by state officials remain unpunished or are punished insignificantly. Part 3 of Article 55 of the 1993 Constitution of the Russian Federation opens the way for the authorities to any abuse of civil rights: it allows them to legislatively curtail the constitutional rights of Russian citizens "in order to protect the foundations of the constitutional order, morality, health, rights and legitimate interests of other persons, to ensure the defense of the country and security of the state." This provision has been widely used by Putin since 2000 to introduce and pass laws aimed at limiting the powers of citizens and expanding the powers of the state.

Chapter IV



Transition Concept: Return to Basic Freedoms



Introduction

By 2022, the Russian Federation has signed and ratified dozens of international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the European Convention on the Protection of Human Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Yet, over the last two decades, Russian authorities' implementation of many of these treaties' provisions has been at best flawed and at worst, they were willfully ignored or grossly violated.

In the last five years, abuses against basic rights and freedoms in violation of the country's own Constitution have grown exponentially. In 2018, Russia emerged as the leading country in terms of the number of complaints filed to the European Court of Human Rights. The ECtHR has often found Russia guilty of violating the following articles of the European Convention on Human Rights:

- right to life and prohibition of torture
- right to the security of person and respect for private and family life
- freedom of expression
- freedom of assembly and association
- freedom of thought, conscience and religion
- prohibition of discrimination.

Russia under Vladimir Putin has emerged as one of the most egregious human rights abusers in recent years, even though its constitution, undermined as it was by the 2020 amendments, still provides for ample protection for basic human rights. The key problem is that this protection has increasingly become a declaration on paper in the absence of real, working implementation and watchdog mechanisms. The key problem is the consolidation of all political power in the hands of the president and the lack of independent legislative and judiciary. Two related problems are the silenced independent media and intimidated civil society. Finally, the history of rights protection in Russia shows that, with a few exceptions, the public never fought for their rights, especially for political rights and civil liberties. They were often simply handed down to it

from above.

Based on the recent opinion polls, Russians value personal freedoms the most alongside rights to social security — the attitudes that are likely the result of the Soviet system structure, which was, to an extent, inherited by the current regime (see Table). Rights to participation in social and political life as well as freedom of assembly are at the bottom of the list. Yet, it is noteworthy that the right to fair trial and freedom of speech are at the top, with the value for the latter showing significant progress. In 2017, only 34 percent of the respondents said that freedom of speech was most important; in 2021, 61 percent who said so. These are also the two rights that the respondents noted as most often violated in 2021.

Going forward, democratic reformers will need to reckon with these problems to make sure that rights and freedoms are not simply handed down from above again, but upon securing genuine separation of powers, they should actively engage independent media and civil society organizations to educate the public about their rights and serve as watchdogs and exert pressure on authorities to enforce adherence to and protection of these rights.

Rights and freedoms that Russians consider most important (2017-2021)

| Which rights and freedoms are most important? | | | | |
|--|------|------|------|-------|
| | 2017 | 2018 | 2019 | 2021* |
| right to life, freedom, inviolability of person | 72 | 76 | 78 | 75 |
| right to medical aid | 70 | 65 | 70 | 62 |
| right to fair trial | 50 | 53 | 64 | 62 |
| freedom of speech | 34 | 42 | 58 | 61 |
| inviolability of property, housing | 46 | 49 | 57 | 53 |
| right to social protection, dignified standard of living | 57 | 53 | 62 | 52 |
| right to work, good conditions, and fair pay | 56 | 53 | 58 | 51 |
| right to rest and leisure | 39 | 40 | 52 | 50 |
| right to free education, equal access to education | 59 | 57 | 59 | 49 |
| right to private property | 40 | 38 | 50 | 46 |
| freedom of movement and residence | 29 | 33 | 42 | 44 |
| freedom from violence, humiliation, and arbitrariness | 38 | 38 | 45 | 44 |
| right to access information | 25 | 28 | 39 | 39 |
| right to create a family and equality in marriage | 28 | 35 | 43 | 38 |
| freedom of belief, freedom of conscience | 22 | 28 | 40 | 36 |
| right to participate in social and political life | 16 | 21 | 30 | 26 |

| | | | | |
|--|----|----|----|----|
| freedom of peaceful assembly (marches, demonstrations) and association | 13 | 21 | 28 | 26 |
| undecided | 3 | 4 | 1 | 2 |

Source: [Levada Center](#)

Human Rights in Russia: the Current State of Affairs

Since the Russian government launched an unjustified aggressive war in Ukraine, the situation with human rights and basic freedoms in Russia has been deteriorating. According to the Freedom House’s 2023 Freedom in the World report, Russia, which has been rated “not free” since 2004, dropped further in the “global freedom score,” finding itself alongside countries, like the Republic of Congo and Chad.

Specifically, Freedom House’s analysis shows that in the category of political rights, Russia scored zero points for electoral process (with no fair and free elections and no fair electoral laws) and only a few points for political pluralism (with very limited opportunities to organize political parties or other competitive political groups) and participation (with complete prohibition of political opposition) as well as in the functioning of the government (with no real representation and very little transparency). Indeed, while Russia’s political system envisions a strong presidency, the current president’s powers are *de facto* largely unlimited: he enjoys “loyalist security forces, a subservient judiciary, a controlled media environment, and a legislature consisting of a ruling party and pliable opposition factions.”

In the category of civil liberties, Russia scored zero points in freedom of expression and belief (with no independent media, no academic freedom, and very narrow opportunities to freely express personal views on political or other sensitive subjects as well as freely practice religious beliefs). There is no freedom of assembly and no freedom for NGOs, especially human rights organizations, to do their work. In terms of the rule of law, there is no protection from the illegitimate use of physical force, and no equal policy application under the law.

The judiciary is deemed almost entirely dependent and there is almost no due process in civil and criminal matters. The score is slightly better in terms of personal autonomy and individual rights, but only if compared to previous categories.

Following the February 2022 invasion in Ukraine, Russia was expelled from the Council of Europe, which allowed Russian authorities to stop pretending that they adhere to European laws, principles, and values. In September 2022, Russia ceased to be a party to the European Convention on Human Rights, Russian petitions to the European Court of Human Rights were suspended, although the Court consequently decided to proceed with reviewing the admitted cases.

A break with the ECtHR was a logical continuation of the Kremlin's policies in recent years. As part of the 2020 constitutional reform, Russia had already adopted amendments that “decisions of interstate bodies” (e.g. ECtHR) shall not be “subject to enforcement in the Russian Federation” if they run counter to the Constitution.

In April 2022, the United Nations General Assembly's vote also suspended Russia from the UN Human Rights Council for gross and systematic violations of human rights. Previously, Libya was similarly suspended from UNHRC in 2011 for violent repression of protests by Muammar Gaddafi's regime. In October 2022, the UNHRC appointed a Special Rapporteur to investigate human rights abuses in Russia — an unprecedented move that for the first time in the Council's history targets one of the five permanent members of the Security Council.

Several investigations into Russia's human rights abuses were initiated in 2022 under the Moscow Mechanism (human dimension) of the Organization for Security and Cooperation (OSCE). In September 2022, an in-depth analysis of Russia's legislative and administrative practices was delivered based on decisions by the ECtHR, opinions by the Venice Commission, statements by the OSCE's autonomous institutions, reports, and testimonies by civil society, etc. Regarding the legislative changes in the realms of freedom of association, freedom of expression, and freedom of peaceful assembly, the report concluded that “Russian legislation is obsessed with restricting these rights more and more. [...] Russian legislation in this area is clearly incompatible with the rule of law. On the contrary, the multitude of detailed provisions gives the authorities wide discretionary powers and thus provides the basis for arbitrariness.” Another report on human rights violations delivered at the end of December 2022 concluded that “with its internal clampdown on human rights and fundamental freedoms, the Russian Federation has helped prepare the ground for its war of aggression against Ukraine.”

It should be noted that Russia's war in Ukraine opened an entirely new dimension of human rights abuses, including violations of Russian citizens' rights during mass conscription, the enlisting of convicts into private military companies, extrajudicial executions, detentions of those who refuse to participate in the war

in illegal prisons, as well as violations of the rights of Ukrainian prisoners of war and civilians, including children. Another area concerns human rights, violations of humanitarian law, and war crimes, including willful killings, attacks on civilians, unlawful confinement, torture, rape, and forced transfers and deportations of children committed by Russia in Ukraine.

In the future, the results of the special rapporteurs' work for the OSCE and the UNHRC could become the basis for reforming Russia into a state that respects the rule of law and where the fundamental human rights and civil liberties are applied indiscriminately.

2012-2022: a Decade of Human Rights Abuses

The human rights situation in Russia had been deteriorating before the full-fledged war in Ukraine. Freedom House estimates that Russia's overall score with regards to political rights and civil freedoms has dropped by 11 points over the last decade — from the already low 27 down to 16 out of 100.

In 2012, Russia introduced limits on public assemblies, re-criminalized libel, expanded the definition of “treason” to criminalize involvement in international human rights advocacy, forced NGOs that receive foreign funding and engage in political activity (vaguely defined) to register as “foreign agents,” and imposed new restrictions on internet content.

In 2013, Russian parliament adopted new laws restricting LGBTI rights and freedom of expression and infringing on the right to privacy. In 2014, following the Ukraine crisis, annexation of Crimea and the war in Donbass, Russia imposed further harsh restrictions on media and independent groups. Bloggers with more than 3,000 daily visitors were required to register as mass media, custodial terms were introduced for extremist calls on the Internet, including re-posts on social media, “separatist” calls were criminalized, foreign ownership of Russian media was severely restricted, and Russian Internet users were prohibited from storing personal data on foreign servers.

Year 2015 was marked by the introduction of a new law on “undesirable foreign organizations,” which authorized the extrajudicial banning of foreign or international groups that allegedly undermine Russia's security, defense, or constitutional order.

A counterterrorism legislative package, known as the “Yarovaya Law” adopted in 2016, required that telecommunications and Internet companies retain copies of all contents of communications for six months, including text

messages, voice, data, and images and disclose these data to authorities, on request and without a court order — in violation of privacy and other human rights.

In the runup to the 2018 presidential elections, Russian authorities clamped down on the freedom of assembly: in the first six months of 2017, the number of people that received administrative punishments for supposedly violating the country's regulations on public gatherings was 2.5 times higher than that of the entire previous year. A leader of political opposition Alexei Navalny, who was killed by Putin regime, and his presidential campaign team were systematically harassed. The law on "undesirable organizations" was more frequently used in 2017, too. The extremist legislation was also more actively used to stifle dissent: the number of people imprisoned for extremist speech almost doubled. The media legislation was amended to allow the government to designate any media organization or information distributor of foreign origin as "foreign media performing the functions of a foreign agent."

In its 2018 period report on human rights in Russia, the UN Human Rights Council already stated that the International Covenant on Civil and Political Rights was not being respected in the country

In 2019, negative trends in Russian only strengthened. The scope of the foreign agent law was expanded, allowing authorities to apply the "foreign agent" status to private persons, including bloggers and independent journalists. First criminal cases were initiated under the law on "undesirable organizations." A group of new laws severely restricted freedom of speech, introducing bans on dissemination of "fake news" or expressing "blatant disrespect" for the state (it was later found out that the overwhelming majority of such charges involved alleged insults against Putin). The law on "sovereign Runet" envisaged the creation of a national domain system, providing the government with centralized control of the country's internet traffic that would enhance its capacity to conduct fine-grain censorship of internet traffic.

2020 was marked by constitutional reform, with a number of discriminatory principles (e.g. definition of marriage as a union between a man and a woman, mention of "trust in God, transferred by ancestors," repositioning the Russian language from a national language to "the language of the state-forming nation, being a part of multi-national union of equal nations of Russia") finding further legal entrenchment in constitutional amendments. Also, using the COVID-19 pandemic as a pretext, all mass gatherings were also banned, and police interfered even with single-person protests, which did not require approval, referring to the social distancing and mandatory mask regime even when

protesters wore masks.

It is clear that over the last decade, especially since Russia's 2022 invasion of Ukraine, the country has degraded to the level of uncivilized countries in terms of rights and freedoms protection. But the war only accelerated the processes that had already been in place in the country. Major human rights abuses are complemented with adoptions of repressive, restrictive, and discriminatory laws, arbitrary application of law, and deterioration of the quality of justice in general.

Media Reform and Civil Society Engagement

Media reform should be one of the central pieces of the task on restoration of basic rights in Russia. A powerful propaganda machine is one of the pillars of the current regime. Dismantling this machine and democratizing the media space should be a priority for democratic reformers. This task, however, is impossible without a comprehensive reform of the political system and judiciary.

Freedom of Speech

Media reform is inherently linked to restoration of freedom of speech — a basic right whose importance has significantly grown in Russian in recent years. Despite the fact that freedom of speech is formally guaranteed by the Constitution, protection of this right is not a subject of wide public discussion: the state has secured the right to define it for itself. Reformers should start with getting this right back and engage in discussions about the essence and meaning of free speech in Russia.

Freedom of speech cannot be absolute — it is limited by the modern person's existence in the bounds of civilized society, whose members have rights and freedoms as well as responsibilities. There are limitations when it comes to issues such as right to privacy, libel, obscene behavior, pornography, incitement of hatred, violence and overthrowing of the government, commercial information, and state secrets, national security, etc.

A classic criterion that defines the relationship between freedom and its limitations in democratic societies is the so-called “principle of harm” put forward by John Stuart Mill in his essay “On Liberty” (1859):

“That principle is, that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against

his will, is to prevent harm to others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign.”

Freedom of speech exists within a country’s legal system. Thus, the expansive interpretation of freedom of speech in the United States is provided for by the country’s history and the specifics of the American political and legal systems and is therefore different from the more conservative approach practiced in European countries, not to mention developing countries and authoritarian regimes. **Developing the Russian definition of freedom of speech, reformers should thus account for legal, political, and social factors that influence the way freedom of speech is perceived by the Russian public.**

Media Reform Experiences in Other Post-Soviet Countries

Effective media reform needs thorough preparation, which includes analyzing the mistakes of previous Russian transitions and experiences in other post-Soviet and authoritarian regimes, as well as reflecting on the existing structural problems in the Russian media system. Ideally, these processes should take place in an open discussion with the participation of independent experts and members of the media and civil society.

During the democratic transition of the 1990s, media reforms in the post-Soviet space typically followed two stages: first, censorship was formally abolished, and freedom of speech was pronounced, and second, the public space was opened up for members of society. The adoption of democratic legislation and regulation of the media sphere was the fulcrum of these media reforms. It was assumed that market mechanisms and “correct” laws would bring the media up to democratic standards.

However, it soon became clear that in most post-Soviet countries, including Russia, media laws were “imitational”: legislation was often directly borrowed (sometimes simply by translation) from developed democracies, where it corresponded to national media systems. Such borrowing did not account for the specifics of post-Soviet political culture, the existing power structures and their relations with the media, a weak and passive civil society, or the historical context of each country. As analyses of these media reforms’ results show, they were most successful when the reform’s agenda and plan were developed with the participation of civil society members, journalists, and researchers (e.g., Croatia in the late 1990s). When media reform was handed down “from above,” its results were always worse. Reformers should keep these mistakes in mind.

Reformers might be interested in Poland’s experience, where, similarly to

Russia, a dual (state corporatist) media model has been identified by media scholars. They can also consider best practices of media policy implementation in Estonia, which holds the 15th place in the 2020 World Press Freedom Index by Reporters Without Borders. This is higher than all other post-Soviet countries and some developed democracies, such as the U.S. and the U.K. Important lessons can be learned from the history of German media regulation after 1945, as well as following the reunification of the Federal German Republic and the German Democratic Republic.

Preliminary Tasks

Numerous analyses of the Russian media system identify the following problems:

- a monocentric state-controlled media model;
- repressive legislation and regulation;
- a powerful propaganda apparatus;
- a scarcity of high-quality independent journalism;
- excessive commercialization and corporatization;
- a low level of professionalism and journalistic ethics;
- the public's low levels of media literacy and trust in the media.

A media reform plan that provides solutions for all of these problems can be used as a blueprint. **In each case, the following objectives should be seen as priorities: liberalization of repressive legislation and regulation of the media; dismantlement of the propaganda apparatus created to promote the current regime's interests; and liberalization of the monocentric mass media model** (e.g., through the privatization of the state's major media assets). Other problems of the Russian media system can be addressed in the long-term if the initial democratization stages are successfully implemented.

To start off, reformers must create a task force, which should include media scholars, independent journalists, members of civil society and groups that protect journalists' rights, media reform experts, as well as media owners. Ideally, the reform should be based on a wide approach that aims to transform the entire media system and not just the pertinent media law, but, more realistically, reformers could use a modular approach, one based on the most optimal components of the reform that can be implemented in the present moment.

Some of the suggested first steps for the task force include:

- answer the conceptual question “What is the Russian understanding of freedom of speech?” and formulate a desired model for a future media system;
- conduct an inventory of assets and operating parameters of the Russian media system (e.g., national and regional media, ownership system, laws and regulations, professional unions, etc.);
- pay special attention to the independent media segment; its representatives should be involved in the reform planning discussions, and their support must be enlisted in the event of the opening of the political system;
- formulate the tasks that need to be completed at each stage of the reform.

When choosing the new media model, reformers should also review the mistakes made during earlier attempts at transition — attempts to borrow or imitate Western models or to impose media reform on the public “from above.” The optimal solution would be reaching a consensus decision on the desired media model over the course of open discussions involving all the members of the task force. Special attention should be paid to such factors as the government’s influence on media development (e.g., through subsidies), media policy, laws and regulations (in particular, to prevent concentration of media assets), as well as the media’s dual role as a democratic institution and as a business. Discussion of the future media model must be directly linked to the development of political reform, including choosing the best-fitting political model for Russia.

Research on media reform in other countries shows that media activists campaigning for the protection of freedom of speech play an important part in its successful implementation. Educating and informing the public about its rights, these activists bring more people into the discussion, facilitating the development of civic consciousness and laying the groundwork for future public support of the reform.

To implement the first steps of transition, reformers need to create a public commission on media reform (potentially modeled after the task force), which will face a number of crucial questions concerning the scale and radicality of the reform at this stage and will need to develop clear legal and economic mechanisms for the demonopolization and deconcentration of the media system, closure or suspension of propaganda outlets, firing of odious media figures, etc. The transparency and universality of these mechanisms will facilitate public acceptance of the reform.

Here the reformers can learn from the experience of the United States,

where the public Commission on Freedom of the Press (also known as the Hutchins Commission) was created in 1947 to review the state of U.S. media. In its final report, titled “A Free and Responsible Press,” the commission offered the following duties the media must perform in order to be considered free and responsible:

- offer a truthful, comprehensive account of the day’s events in a context which gives them meaning (be accurate and not lie);
- serve as a forum for the exchange of comment and criticism;
- offer a representative picture of constituent groups in society (no stereotyping);
- present and clarify the goals and values of the society;
- give every member of the society full access to information the press supplies (to serve the public’s right to know).

The commission also emphasized the media’s role as a political institution — to serve as a “watchdog” over the state, and to inform and educate citizens in a way that makes them capable of self-governance. Today, one may add to the list the media’s responsibilities to guarantee political pluralism and the inclusivity of public discourse.

First Steps

1. End the persecution of journalists based on their professional activity

Reformers must end the illegal prosecution of journalists, review and close criminal and administrative cases initiated against them, release those arrested or serving prison terms, and offer due compensation to the victims of repressive law enforcement.

2. Repeal repressive media laws and regulations

Over the past two decades, over 20 federal repressive laws have been introduced to Russian media legislation, which have had a detrimental effect on the work of the media overall, but especially on independent journalists. These laws should be repealed.

3. Dismantle the propaganda apparatus

The dismantling of the existing propaganda apparatus and disinformation system built by the current regime is a mandatory step of media reform; television networks and publishers that were instrumental in furthering the regime’s interests and manipulating public opinion must be suspended or shut down.

Below is a preliminary list of state agencies whose powers should be amended with regards to restoration of the freedom of information.

a. Government Agencies

Here, reformers should aim to decrease the state's involvement in the regulation of media work and the media market at large, as well as curtail the control and oversight functions of various agencies. Below are the main government bodies that currently formulate and regulate Russian information policy, whose work should be substantially revised (e.g., administration change, closure, profound reform).

Presidential administration is responsible for the state information policy. It is also shared by the Presidential Domestic Policy Directorate; the Presidential Directorate for Public Relations and Communications; the Presidential Directorate for Social Projects; and the Presidential Directorate for the Development of Information and Communication Technology and Communication Infrastructure.

Mintsifra (the Ministry of Digital Development, Communications, and Mass Communications) is responsible for the state policy on and normative and legal regulation of information technologies, electronic and mail communications, mass communications and media, including electronic media (internet, TV, and radio communications, new technologies), press, publishing, and printing activity, as well as personal data processing.

Roskomnadzor (Federal Service for Supervision of Communications, Information Technology, and Mass Media) is responsible for control and oversight of state policy implementation in the aforementioned areas. In particular, it is responsible for licensing mass media, radio frequencies (along with the Defense Ministry and the Federal Protective Service), regulating the internet, etc.

State Duma contributes to regulation through its Committee on Information Policy, Information Technology and Communications and Commission on the Investigation of Foreign Interference in Russia's Internal Affairs.

Federation Council contributes to regulation through its Interim Commission on Information Policy and Cooperation with the Media, Interim Commission for Legislative Regulation of Cybersecurity and Digital Technologies, and Interim Commission for the Protection of State Sovereignty and Prevention of Interference in Russia's Internal Affairs.

b. Media Assets

Considering the long traditions of the Russian government's strong control

over the media system, growing media etatization (state interference), and the ruling regime's efforts in building a powerful propaganda machine, this part of the reform is fraught with many challenges and requires a complex approach. Reformers should pay special attention to the inventory of Russian media assets at the preliminary stage and identify those that should or should not be reformed.

- **State-controlled assets** created exclusively for propaganda purposes, which must be either suspended or completely shut down (e.g., the Patriot Media Group, RT network, and Russia's Public Television).
- **National state-controlled assets** that could undergo substantial reform (e.g., Channel One and VGTRK — the All-Russia State Television and Radio Broadcasting Company); as a first step, their propaganda shows should be shut down and editorial policies and practices of the news programs reformed.
- **Assets that are formally private** but are in fact controlled by the state and/or concentrated within large media holdings (e.g., Gazprom Media, the National Media Group). These can be disbanded, relicensed, and resold to independent companies through properly organized bidding.
- **Quality media assets** that are formally private but loyal to the state. These can be potentially recovered in the event of the opening of the political system and a subsequent change in ownership and top management (e.g., Kommersant, Vedomosti, RBC).
- **Mass media assets** that are formally private but loyal to the state and have a widely recognizable brand, lengthy history, large audience, and vast regional network (e.g., Komsomolskaya Pravda, Moskovsky Komsomolets). Reformers can attempt to involve them in a constructive dialogue.

4. Engage the surviving independent media

Over the course of the reform, a number of prominent Russian media outlets might be closed, suspended, or subjected to significant reformatting. The gaps, especially in television broadcasting, can be bridged by engaging the resources of independent media projects (journalists, editors, producers, media managers). **Delivering objective information to the public about the implementation of media reform (and what is to come) will be key to its success.** Therefore, as noted earlier, at the preliminary stage reformers should think this process through and develop mechanisms for tentative or long-term recruitment of independent professionals without compromising their status.

At this stage, reformers can also support independent outlets (through

subsidies or tax benefits) that have proved their competence, professionalism, and commitment to the ethical standards of journalism under the conditions of Russian authoritarianism. Here reformers might tap the experiences of Scandinavian countries (Sweden, Denmark, Finland, Norway, Iceland), which traditionally rank high in press freedom indices. They have developed state mechanisms to support the media and secure its status as the “fourth estate.” For example, Sweden has had a system of media subsidies since the 1960s, allowing for lower entry barriers to circulation and distribution systems, implementing regular technological updates, developing regional journalism, and promoting diversity and pluralism within the media.

Engaging Civil Society

A return to basic freedoms is impossible without engaging Russian civil society into the transition process. A “strong civil society” is the sphere of uncoerced human association between the individual and the state and is one of the cornerstones of democracy, “good governance,” pluralism, and the achievement of important social and economic goals. Civil society is needed to facilitate social cohesion and develop common values. Modern states are too complex to be based upon the state and the market only. Civil society offers a form of citizens’ participation in governing or representing their interests outside political structures. The values of human dignity and equality that undergird fundamental human rights and freedoms can also be facilitated by civil society, which often encourages innovation and transformation.

It is often argued that civil society can only exist in the liberal Western environment: a chess club in Russia, while being a human association, would not constitute a civil society organization. Yet, **Russian civil society, despite being described as weak and passive, has a powerful potential for engagement, especially on social issues.**

One of the mistakes of the 1990s reforms in post-Communist countries was direct exporting of the civil society practices outside the Western political and economic settings, which had often resulted in mimicry and ineffectiveness. Another explanation is that those civil societies were oppositional in nature: following the initial revolutionary spark, activists left the streets and their civic organizations, while societies remained largely passive and depoliticized.

However, over the last 20 years, Russian civil society has made significant progress. Formally, there are over 200,000 registered civil society organizations in Russia today, although exact statistics are unknown, since this number

includes state corporations that have nonprofit status in Russia, thus distorting data. Still, this is a significant number that should not be ignored.

Russian Civil Society: Constraints and Potential

The civil society developed both regardless of the state but also with its help. In the late 1990s and early 2000s, the state paid little attention to the nonprofit sector: civil society organizations (CSOs) developed randomly and were mainly supported by foreign funds. Most of the work was done through their enthusiasm and volunteer work.

But with the advent of the so-called “color revolutions” in various countries, CSOs suddenly found themselves under close surveillance by the state, since many of them participated in the revolutionary events. In Russia, authorities decided to take the nonprofit sector under control and tightened regulation. They started to create and champion loyal nonprofits, e.g. so-called GONGOs (government-organized NGOs) to work closely with the state and take up some of its social functions. As a result, many CSOs became largely dependent on the state. Whereas there used to be numerous domestic foundations that distributed budgetary funds for nonprofits, since 2017, all of them were merged into a single Presidential Grants Foundation, which has emerged as the main source of funding for the nonprofits’ social projects.

The authorities also purposefully divided CSOs into either “bad” (opposing the state) or “good” (loyal to the state) category. The latter are the CSOs that provide social services useful to the state, working in the politically benign areas, such as sports, education, and culture. The former are usually engaged in advocacy, such as human rights or pro-democracy organizations, and are often seen as acting under foreign influence. This division is further spurred by the propaganda media and the introduction of marginalizing and stigmatizing laws, e.g. on “undesirable” organizations or on “foreign agents.”

Still, despite significant pressures from the state, Russian civil society also saw a number of positive trends. Over the last 20 years, philanthropy and charities have flourished in Russia, private donations have skyrocketed, and fundraising has become ubiquitous. Popularity of volunteering is another significant development, which was originally encouraged by the state which saw both volunteers and charities as additional resources for social projects that could be implemented without zero cost for the state budget. The nonprofit sector has also grown more professionally, boosted using new information technologies, which allowed for creation of various network communities and structures, joint activities, and collaborations, including international experience.

Self-organization within the nonprofit sector has also increased, and there is a growing interest in social entrepreneurship and social investment. Expansion of informal civic activities often involving young people is yet another prominent trait of Russian civil society. These activities include not only protests, but also proactive self-organization to solve common problems.

In other words, reformers should not discount Russian civil society as weak and passive but rather tap its potential and let it develop with full force. Associations, non-government organizations, charities, and other civic initiative groups play an important role in exerting pressure on state power, serving as safeguards of basic freedom and democratic processes. They also provide **opportunities and means for ordinary people to become involved in the protection of human rights, advocacy, and eventually political participation.**

First Steps

At the early stages of transition, reformers can follow a blueprint of restoration of basic freedom similar to the one outlined above with regards to media reform.

1. End the persecution of civil society activists and organizations

This includes ending their illegal prosecution, reviewing and closing criminal and administrative cases against them, releasing those arrested or serving prison terms, and duly compensating the victims of repressive law enforcement.

2. Repeal repressive laws and regulations that regulate the nonprofit sector

First and foremost, reformers should repeal the laws on “foreign agents” and “undesirable” organizations. As of the end of March 2023, there were 565 “foreign agents” of various types and 77 “undesirable” organizations in Russia’s Ministry of Justice’s respective blacklists. These lists should be eliminated, and reputations of the blacklisted individuals and organizations officially restored.

3. Bring back exiles and re-engage with international civil society groups

Reformers’ work on restoring basic freedoms will benefit from the experience of the human rights and civil society organizations that were forced into exile to be able to continue their operations. Restoration of the prominent human rights organizations that were forcefully and illegally shut down (e.g. Memorial, Moscow Helsinki Group) is another crucial task. Re-engaging with international and foreign civil society groups will also be beneficial.

As a guiding principle, reformers should remember that civil society is a sphere that exists apart from the state. It is an area of human life where people come together and form groups, pursue common interests, communicate about

important issues, and take action to achieve their goals and solve common problems. If these associations are controlled or simply tolerated by the state by default and not by design, there is no guarantee that the state would not interfere. Therefore, the state needs to be bound by rule of law to not interfere with the civil society. And creating legal and practical mechanisms for defining and safeguarding these boundaries is a task for further stages of the transition reforms.

Decisions on Freedom of Assembly

The war in Ukraine has had a negative impact on freedom of assembly in Russia. Mass protests against the invasion lack coordination, and people who go out with solitary anti-war pickets are regularly detained. Detentions and administrative persecution of participants of peaceful protest actions in Russia number in the thousands: since the beginning of the full-scale invasion of Ukraine, the security forces have made more than 19,000 arrests for their anti-war position. Courts impose fines totaling tens of millions of rubles annually, government agencies dismiss employees who protest, and universities warn students against participating in uncoordinated actions and threaten expulsions. In 2023, at least 74 people criminal cases were initiated against Russians detained at anti-war rallies and protests against mobilization.

Having worked with the issue of restriction of freedom of assembly in Russia for many years, we are convinced that improvements are impossible without corresponding changes in many other areas, such as improving the overall quality of regulatory regulation, guarantees of independent and fair trial, accountability and transparency of government actions, and the responsibility of officials for decisions taken. But no less important is the task of articulating specific solutions. For example, the practice of arbitrarily outlawing public events or an imbalance of responsibility that leads to the suppression of people's desire to exercise the right to freedom of assembly is a composite of many phenomena.

In the process of reforming the situation with freedom of assembly, the following five key issues will need to be resolved:

1. The Ban on Spontaneous Gatherings and the Problem of Coordination

Russian legislation does not provide for the legal possibility of holding a spontaneous gathering. Any public event must be coordinated with the authorities in advance. The deadlines for submitting a notification are strictly regulated by law, and the broad powers of the authorities to control the location

and timing of actions in practice lead to their ability to prevent any undesirable events from taking place. The “uncoordinated” status of the meeting leads to a number of negative consequences – from the forceful dispersion of the event and the persecution of its participants and alleged organizers, to a ban on the dissemination of information about such actions. The steps necessary to reform the coordination system are discussed in detail in the report of the Memorial Human Rights Center and OVD-Info in the context of the execution of the ECHR ruling in the case “Lashmankin and Others v. Russia.” The main points are:

- Russian authorities and courts should allow uncoordinated but peaceful public events. Restrictive rules for mass public events should not apply to small-scale actions. Solitary pickets should not be subject to restrictions imposed for mass public events (for more information, see the report of the Department of Internal Affairs-Info “Single Pickets: Laws and what should be changed in them”).
- The deadlines for submitting a notification for a public event should be extended, and the complex variability of deadlines for submitting a notification for different forms of public events should be eliminated. Sports, cultural and other mass events organized by the authorities should not be prioritized over other gatherings, including the timing of notification.

2. Restrictions During Meetings

Police officers and representatives of other law enforcement agencies restrict the rights of participants in protest actions at both uncoordinated and coordinated events. Uncoordinated actions often record mass detentions, unjustified use of force against protesters and passers-by, as well as police blocking streets, disabling or restricting mobile Internet traffic at the meeting place.

To minimize these problems, the following measures should be taken:

- Detention as a preventive measure should be used only in extreme cases to prevent or suppress harm when other means do not allow achieving a result. Every case of detention at a public event must be justified, and participation in a peaceful assembly that is not coordinated with the authorities should not be a reason for detention.
- Law enforcement officials who obstruct the exercise of the right to freedom of assembly must be held accountable.
- Restrictions against signage should only apply to exceptional cases, for example, related to incitement to hatred or real calls for violence.

- The government must stop harassment and intimidation of children and their parents for expressing anti-war views. All penalties on parents in connection with the exercise by their children of the right to freedom of assembly, as well as other rights should be abolished. Measures should be developed to support the exercise of the right to freedom of assembly by representatives of various vulnerable groups.
- The authorities should publicly disclose the reasons and the need to suppress public events, block the movement of processions, and use special means.
- The government must ensure the openness and transparency of the judicial process, including in emergency situations (for example, by introducing video broadcasts of meetings). The courts should report on the cases and reasons for the non-admission of journalists and listeners, as well as to publish all judicial acts issued by the courts and not falling under the restrictions of the law (in certain criminal cases).
- The rule-making process should also be transparent. Draft regulations justifying the need for their adoption should be published in advance. It is also necessary to ensure the prompt publication of broadcasts and transcripts of the discussion of amendments not only at the plenary sessions of the State Duma, but also those of the relevant committees of the Federation Council, as well as those held at regional legislative bodies. A full list of regulatory documents governing public events should be published in one place and kept up-to-date in the public domain.

3. Collection of Personal Data and Their Use Against Protesters

In the context of rapid digitalization, the problem of unrestricted government collection and storage of data on protest participants is becoming more acute, and harassment based on this information is becoming more widespread. To resolve the problem, we offer the following recommendations:

- Legally restrict the use of tracking, video surveillance, facial recognition and social media monitoring tools.
- Prohibit the use of facial recognition systems in order to restrict the exercise of political rights.
- Face recognition systems should not be used in proceedings on administrative offenses and should be used only in cases of nonviolent crimes, since the negative consequences of interference with privacy in this case will be higher than the public danger that such crimes and offenses

imply. The results of the application of such measures should be considered inadmissible evidence in cases of prosecution in connection with the actions.

- Repeal the provisions of the law on mandatory genomic registration and fingerprinting of persons subjected to administrative arrest, as well as limit the use of these measures against people involved in criminal cases of nonviolent crimes.
- Legislatively provide guarantees regarding the storage of personal data in various databases of the state: provide grounds and restrictions on access to such data, the duration of their storage and destruction. To create an effective system of control over the receipt, use and storage of information about private life by public authorities, to prevent “leaks” of information and abuse of authority.

4. Penalties for Protest Participation

Two articles of the Code of Administrative Offences are applied to participants and alleged organizers of peaceful uncoordinated actions en-mass: on violation of the procedure for holding a public event (20.2 of the Administrative Code) and on holding a “mass simultaneous stay that caused a violation of public order” (20.2.2 of the Administrative Code). Both articles provide penalties in the form of forced labor, a fine or arrest. For repeated violations under these articles, a fine of 150 to 300,000 rubles could be levied, as well as between 40 to 200 hours of forced labor, and up to 30 days of arrest.

To solve these problems, we propose the following measures:

- Repeal the articles of the law on repeated violations of the law on public events (Article 212.1 of the Criminal Code, part 8 of Article 20.2 of the Administrative Code). The repetition of any such violation does not make it more dangerous. Severe penalties for repeated violations, up to imprisonment, create a “chilling effect” of the exercise of freedom of assembly: people are afraid to use their legitimate right.
- Repeal articles that actually introduced military censorship (primarily articles 20.3.3 Administrative Code of the Russian Federation, 280.3, 207.3 OF the Criminal Code of the Russian Federation).
- Narrow down and define more clearly the concepts used in laws restricting freedom of assembly and expression; eliminate duplication of various offenses and crimes. Eliminate liability for the “uncoordinated” status of a public event, including for organizing a public event without notification, participating in such an event or involving minors in it.

- Reduce penalty and eliminate minimum penalty limit established by law in all paragraphs of Articles 20.2 and 20.2.2 of the Administrative Code (the Constitutional Court of the Russian Federation indicated the need to abolish the lower limit of punishment in a decision dated February 14, 2013).

5. Discriminatory Approach Towards Assemblies

Stricter requirements are imposed on public events than on mass events (sports, entertainment, etc.), and violations in the “protest” context are fraught with more severe penalties. To address this issue, we propose the following measures:

- Eliminate discriminatory treatment of persons who exercise their right to freedom of assembly compared to persons with other (commercial) interests. When determining the venue of meetings, the interests of not only tourists and passers-by, but also people who want to collectively express their opinions should be taken into account;
- To stop using epidemiological risks and other crisis situations as an unconditional basis for restricting freedom of assembly. International bodies, including health authorities, should develop clear guidelines and best practices on how to exercise freedom of assembly in one form or another in specific crisis conditions.

Recent years have clearly demonstrated that the human rights situation in one country is linked to international security. Unleashing an aggressive war seems to be a slightly simpler task under the conditions of pervasive censorship and suppression of civil society institutions, restrictions on the rights and freedoms of citizens. In this regard, international solidarity and international dialogue are required to mitigate threats to the international security.

The ongoing war and increasing repression occupy much of the attention of those who think about human rights. But even after February 2022, we continue witnessing many instances of Russian citizens exercising their right to peaceful assembly, we see that this is really a key right, which in practice is needed by a large number of very different people.

Conclusion: Key Tasks

Regardless of the type of power transfer that awaits Russia, the first order tasks for the transition and restoration of basic freedoms should include:

Ceasing the persecution of human rights defenders, journalists, civic and political activists, opposition politicians, and private individuals for exercising their basic rights. All political prisoners must be released.

Repealing repressive laws and regulations (such as the war censorship laws) that violate basic human rights and revising other restrictive, abusive, and discriminatory legislations that encroach on fundamental rights and freedoms.

Dismantling the propaganda apparatus and engaging the independent media's resources to open up the information space and re-introduce freedom of speech and expression.

Re-affirming Russia's obligations under international human rights treaties and realigning its domestic legislation to protect individuals and groups against human rights abuses.

It should be noted that these tasks will be ineffective without comprehensive reforms of the political system and judiciary that need to secure a genuine separation of powers (independent legislative and judiciary) and without engagement and stimulation of the civil society.

Another crucial task of this process is to ensure exhaustive and detailed investigations of the war crimes and human rights abuses related to Russia's war in Ukraine. Without documenting, reckoning with, and paying for these crimes, no future democratic transition would be possible for Russia. The results of the investigations conducted by the special rapporteurs appointed by the UN Human Rights Council and the OSCE could serve as an important building block for reforming Russia into a state based on the rule of law and respect for fundamental human rights and freedoms.

International human rights agreements and their status in the Russian Federation

| International Bill of Human Rights | Signature | Ratification | Accession | Entry into Force |
|---|-------------|--------------|-------------|------------------|
| International Covenant on Economic, Social and Cultural Rights | 18 Mar 1968 | 16 Oct 1973 | | |
| International Covenant on Civil and Political Rights | 18 Mar 1968 | 16 Oct 1973 | | |
| Optional Protocol to the International Covenant on Civil and Political Rights | | | 1 Oct 1991 | |
| Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty | not signed | | | |
| Prevention of Discrimination on the Basis of Race, Religion, or Belief; and Protection of Minorities | Signature | Ratification | Accession | Entry into Force |
| International Convention on the Elimination of All Forms of Racial Discrimination | 7 Mar 1966 | 4 Feb 1969 | | |
| Women's Human Rights | Signature | Ratification | Accession | Entry into Force |
| Convention on the Elimination of All Forms of Discrimination against Women | 17 Jul 1980 | | | |
| Optional Protocol to the Convention on the Elimination of Discrimination against Women | 8 May 2001 | | | |
| United Nations Convention against Transnational Organized Crime | 12 Dec 2000 | | | |
| Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime Preamble, supplementing the United Nations Convention against Transnational Organized Crime | 12 Dec 2000 | | | |
| Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime | 12 Dec 2000 | | | |
| Slavery and Slavery-Like Practices | Signature | Ratification | Accession | Entry into Force |
| Slavery Convention | not signed | | | |
| Protocol amending the Slavery Convention | not signed | | | |
| Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery | 7 Sept 1956 | 12 Apr 1957 | | |
| Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others | | | 11 Aug 1954 | |
| Protection from Torture, Ill-Treatment and Disappearance | Signature | Ratification | Accession | Entry into Force |
| European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment | 28 Feb 1996 | 5 May 1998 | | 1 Sep 1998 |

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|--|------------------|---------------------|------------------|-------------------------|
| Protocol 1 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment | 28 Feb 1996 | 5 May 1998 | | 1 Mar 2002 |
| Protocol 2 to the European Convention for the Prevention of Torture and inhuman or Degrading Treatment of Punishment | 28 Feb 1996 | 5 May 1998 | | 1 Mar 2002 |
| Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment | 10 Dec 1985 | 3 Mar 1987 | | |
| Optional Protocol of the Convention against Torture | | | | |
| Convention for the Protection of All Persons from Enforced Disappearance | | | | |
| Interstate communication procedure under the International Convention for the Protection of All Persons from Enforced Disappearance | | | | |
| Rights of the Child | Signature | Ratification | Accession | Entry into Force |
| Convention on the Rights of the Child | 26 Jan 1990 | 16 Aug 1990 | | |
| Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts | 15 Feb 2001 | 24 Sep 2008 | | |
| Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography | 26 Sep 2012 | 24 Sep 2013 | | |
| Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour | | 25 Mar 2003 | | |
| Freedom of Association | Signature | Ratification | Accession | Entry into Force |
| Freedom of Association and Protection of the Right to Organise Convention | | 10 Aug 1956 | | |
| Right to Organise and Collective Bargaining Convention | | 10 Aug 1956 | | |
| Employment and Forced Labour | Signature | Ratification | Accession | Entry into Force |
| Convention concerning Forced or Compulsory Labor | | 23 Jun 1956 | | |
| Equal Remuneration Convention | | 30 Apr 1956 | | |
| Abolition of Forced Labor Convention | | 2 Jul 1998 | | |
| Discrimination (Employment and Occupation) Convention | | 4 May 1961 | | |
| Employment Policy Convention | | 22 Sep 1967 | | |
| Convention concerning Occupational Safety and Health and the Working Environment | | 2 Jul 1998 | | |
| Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families | not signed | | | |
| Convention on the Rights of Persons with Disabilities | 24 Sep 2008 | 25 Sep 2008 | | |

| Education | Signature | Ratification | Accession | Entry into Force |
|---|--------------|--------------|-------------|------------------|
| Convention against Discrimination in Education | | Ratified | | |
| Refugees and Asylum | Signature | Ratification | Accession | Entry into Force |
| Convention relating to the Status of Refugees | | | 2 Feb 1993 | |
| Protocol Relating to the Status of Refugees | | | 2 Feb 1993 | |
| Nationality, Statelessness, and the Rights of Aliens | Signature | Ratification | Accession | Entry into Force |
| Convention on the Reduction of Statelessness | not signed | | | |
| Convention relating to the Status of Stateless Persons | not signed | | | |
| War Crimes and Crimes Against Humanity, Genocide, and Terrorism | Signature | Ratification | Accession | Entry into Force |
| Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity | 6 Jan 1969 | 22 Apr 1969 | | |
| Convention on the Prevention and Punishment of the Crime of Genocide | 16 Dec 1949 | 3 May 1954 | | |
| Rome Statute of the International Criminal Court | 13 Sep 2000 | | | |
| Law of Armed Conflict | Signature | Ratification | Accession | Entry into Force |
| Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field | 12 Dec 1949 | 10 May 1954 | | |
| Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea | 12 Dec 1949 | 10 May 1954 | | |
| Geneva Convention relative to the Treatment of Prisoners of War | 12 Dec 1949 | 10 May 1954 | | |
| Geneva Convention relative to the Protection of Civilian Persons in Time of War | 12 Dec 1949 | 10 May 1954 | | |
| Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) | 12 Dec 1977 | 29 Sep 1989 | | |
| Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims on Non-International Armed Conflicts (Protocol II) | 12 Dec 1977 | 29 Sep 1989 | | |
| Terrorism and Human Rights | Signature | Ratification | Accession | Entry into Force |
| International Convention Against the Taking of Hostages | | | 11 Jun 1987 | |
| International Convention for the Suppression of Terrorist Bombing | | 8 May 2001 | | |
| International Convention for the Suppression of the Financing of Terrorism | 27 Nov 2002 | | | |
| International Convention for the Suppression of Unlawful Seizure of Aircraft | 24 Sept 1971 | | | |

| | | | | |
|--|------------------|---------------------|------------------|-------------------------|
| International Convention on the Prevention and Punishment of Crimes Against International Protected Persons | | 15 Jan 1976 | | |
| U.N. Activities and Employees | Signature | Ratification | Accession | Entry into Force |
| Convention on the Privileges and Immunities of the United Nations | | | 22 Sep 1953 | |
| Convention on the Safety of United Nations and Associated Personnel | 26 Sep 1995 | 25 Jun 2001 | | |
| European Regional Conventions | Signature | Ratification | Accession | Entry into Force |
| [European] Convention for the Protection of Human Rights and Fundamental Freedoms* | 28 Feb 1996 | 5 May 1998 | | 5 May 1998 |
| Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms* | 28 Feb 1996 | 5 May 1998 | | 5 May 1998 |
| Protocol 2 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms* | 28 Feb 1996 | 5 May 1998 | | 5 May 1998 |
| Protocol 3 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms* | 28 Feb 1996 | 5 May 1998 | | 5 May 1998 |
| Protocol 4 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms* | 28 Feb 1996 | 5 May 1998 | | 5 May 1998 |
| Protocol 5 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms* | 28 Feb 1996 | 5 May 1998 | | 5 May 1998 |
| Protocol 6 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms | 16 Apr 1997 | | | |
| Protocol 7 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms* | 28 Feb 1996 | 5 May 1998 | | 1 Aug 1998 |
| Protocol 8 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms* | 28 Feb 1996 | 5 May 1998 | | 5 May 1998 |
| Protocol 9 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms | 28 Feb 1996 | 5 May 1998 | | 1 Sep 1998 |
| Protocol 10 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms | 28 Feb 1996 | 5 May 1998 | | |
| Protocol 11 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms* | 28 Feb 1996 | 5 May 1998 | | 1 Nov 1998 |
| Protocol 12 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms | 4 Nov 2000 | | | |
| Protocol 13 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms | | | | |
| Protocol 14 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms* | signed | | | |
| Protocol 15 to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms* | signed | | | |
| European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment | 28 Feb 1996 | 5 May 1998 | | 1 Sep 1998 |
| Protocol 1 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment | 28 Feb 1996 | 5 May 1998 | | 1 Mar 2002 |

| Protocol 2 to the European Convention for the Prevention of Torture and inhuman or Degrading Treatment of Punishment | 28 Feb 1996 | 5 May 1998 | | 1 Mar 2002 |
|--|-------------|--------------|-----------|------------------|
| Cultural Rights | Signature | Ratification | Accession | Entry into Force |
| CESCR - International Covenant on Economic, Social and Cultural Rights | 18 Mar 1968 | 16 Oct 1973 | | |

* *Denounced by the Federal Law [43-FZ](#) of February 28, 2023 “On the termination of international treaties of the Council of Europe with respect to the Russian Federation.”*

Source: *The United Nations Treaty Bodies [database](#), University of Minnesota, [Human Rights Library](#).*

Chapter V



Transition Concept: Devolution of Power

**Irina
Busygina**



**Mikhail
Filippov**



Introduction

The previous chapters have discussed the vulnerabilities of the current political regime in Russia, focusing on the sources of instability of non-democratic, particularly personalistic systems. It is important to understand that if democratic reforms are attempted against the backdrop of a possible collapse of Vladimir Putin's regime, it will be necessary not only to create a new political system with democratic characteristics, but also to minimize the negative consequences of the crisis and destruction of political institutions that preceded the reforms, and to prevent the reestablishment of a non-democratic regime. Moreover, in the context of a huge and diverse country, it is important (and difficult!) to maintain a model of a state that will not only be strong yet limited, but also one where the principles of federalism are practiced.

To avoid a return to another version of Putin's model of the state, the post-Putin model must create and maintain a state that is both strong and limited, not only by institutions but also by active public participation. Historical experience shows that the key elements of society — elites, population, business and regions — proved unable to effectively coordinate their actions to prevent the degradation of the political system and the consolidation of Putin's personalistic regime and then his overt external aggression. Therefore, the new reforms need to introduce institutions, or rules of the game, that allow different political and social actors to coordinate their actions against new attempts to concentrate power. **The key here is to change the incentives for central elites, political parties, civil society, and regional leaders.**

Political scientists and economists describe the division of public decision-making as being organized horizontally and vertically. The horizontal level is the principle of separation of powers with checks and balances. The vertical level is federalism and devolution of decision-making. By choosing a system of separation of rules, one can try to change the motivations of the elites and the population and thereby create a strong democratic state. The mechanisms of sharing state decision-making horizontally and vertically are closely related and should complement each other. **Devolution is the transfer of political power and administrative authority from the central level to lower levels: regions,**

provinces and municipalities. Importantly, this form of decentralization does not simply transfer executive powers, but also creates or strengthens autonomous local governments that are accountable to local populations.

Although redistribution of powers between the executive and the legislature is not formally classified as devolution, without such redistribution decentralization is often impossible. On the other hand, decentralization affects the nature of relations between the executive and the legislature, defining their roles and limits of authority. In this context, the “big devolution” in Russia should be carried out along two vectors: redistribution of real power between the parliament and the president (horizontally) and redistribution between the central level, regions and municipalities (vertically).

It is crucial to ensure that the limitations and framework for the state should not be merely formal, enshrined in documents, including the Constitution. What matters most is how institutions function in reality. The effectiveness of institutions is determined not only by the legislative framework, but also by the willingness of elites and citizens to abide by these rules, to demand compliance from others, and to have mechanisms to enforce them. **The Constitution and laws, while important, do not serve as automatic constraints. A complex and effective system of multiple safeguards and constraints is required.** For starters, it must include the institutions of federalism and decentralization, expanding the powers of parliament and representative bodies in the regions. But it also should include competitive elections at all levels, political parties, independence of the judiciary, and incentives that make politicians dependent on the regions and the business community rather than oligarchs, and motivate them to work in the regions and with business.

Putin’s model of the state is a simple hierarchical model, a model of vertical power. We can call this state criminal, dysfunctional, or inefficient. It is clear, however, that if it is inefficient, it is not so in everything: its stakeholders receive enough dividends to sustain the system. The state is inefficient in other respects, however: it is unable to facilitate social development (in any sense of the term) and contribute to the competitiveness of the national economy internationally. In many ways, it drags the country backward, and one of the conditions for the efficiency is the simplicity of this state.

A strong but institution-limited state that we are envisioning is a complex model. Such a state must not only be built, but also *customized and finetuned*. Moreover, it is not a question of a one-time, but a permanent adjustment, which should involve elites as well as society.

A very important issue concerns the role of veto holders — stakeholders

whose consent is required to change the status quo. A complex state, limited by a multitude of institutions and characterized by horizontal and vertical separation of powers, presupposes recognition of many such veto-holders. Unlike the situation in contemporary Russia, the interests of these actors will be very diverse. And at the same time, they must find incentives to cooperate, otherwise the decision-making process will be paralyzed, which may lead to a crisis of the state.

If the system is not set up properly, the state weakens as veto-holders refuse to cooperate. In this case, society may demand a return to a simplified model of governance with a strong leader. It should be taken into account that the **existing body of work on democratic transit emphasizes a strong state as a key condition for the successful completion of the reform process**¹. Accordingly, we must find a balance between maintaining a strong state, which is necessary for a successful democratic transit, and the existence of multiple veto players.

The basic principles of selecting rules and institutions (institutional design) can be crystallized from the lessons offered by political science and economics over the past 30 years.

Institutional Design Choices

Since the collapse of the USSR, political science and economic science have accumulated a considerable amount of new knowledge about the conditions necessary for the beginning of democratization and successful consolidation of democracy, but much is still controversial. Nevertheless, based on a number of theoretical findings and generalizations, it is possible to summarize some general principles of what the political science and economics literature calls constitutional, or institutional design. This literature seeks to answer questions about how to create the right incentives to maintain an effective and stable democratic system. It is about incentives for everyone who affects the political system, from government managers and political leaders to bureaucrats,

1 “We found that state capacity, operationalized as administrative capacity, dramatically lowers the risk that a democracy will experience a democratic breakdown. It is almost irrelevant how values of polyarchy are translated into a definition of democracies and autocracies: for nearly every possible cut point, high state capacity is an important predictor of continued democracy.” Hicken A., Baltz S., & Vassalai F. (2022). Political Institutions and Democracy. In M. Coppedge, A. Edgell, C. Knutsen, & S. Lindberg (Eds.), *Why Democracies Develop and Decline* (PP. 161-184). Cambridge: Cambridge University Press, 2022.
Text available at: https://samuelbaltz.net/files/vdem_chapter.pdf.

regional leaders, and voters. The assumption is that these incentives can be adjusted by changing the rules of the game (institutions) in society.

There are two interrelated definitions of institutions. According to the definition proposed by Douglass North, institutions are restrictions on the interaction of people in society. These constraints can be both formal and informal, and together they constitute the rules of the game. Another definition, presented by James March and Johan Olsen, views institutions as a relatively stable set of rules and organized practices embedded in structures. For example, the institutions of federalism and decentralization constrain the election of politicians and citizens while at the same time functioning as relatively autonomous structural actors interacting with other institutional actors (president, parliament, courts). This duality in the understanding of institutions is important for analyzing their role and significance. Institutions as rules of the game influence the incentives, expectations and strategic choices of political actors. The significance of institutions as organized actors lies in their relative autonomy from other institutions and the individuals who constitute them.

A particular institution can strongly influence political strategies while having little autonomy as a political actor. For example, in the United States, politicians are virtually without exception affiliated with one of the two major political parties. In this context, political parties are very strong and influential institutions. As organizations, however, they are relatively weak: they are often internally divided and do not have well-defined political agendas or party discipline. This organizational weakness and flexibility contribute to their continued role in shaping political strategies in the United States.

Ultimately, the goal of institutional design is not only to form autonomous organizations that can act independently of each other, but also to create incentives that guide the actions of all players influencing the political system in the desired direction. Based on this logic, a strong parliament is not just a body capable of acting independently of the executive and judiciary, but a structure that influences the changing priorities of politicians and civil servants. Similarly, strong regions are not those that simply have autonomy from the center and pursue their own policies, but those that actually influence decision-making in a federal state. **Thus, the effectiveness of individual institutions should be assessed primarily not by their autonomy, but by their ability to influence the incentives and choices of actors in the political process.**

This approach emphasizes the importance of an integrated view of institutional design, where each institution is part of a broad system of interrelated rules of the game and incentives. It also calls for a more

balanced and critical understanding of the role of each individual institution in the overall system, based on its ability to influence the behavior and choices of key actors.

The key findings of the institutional design literature are as follows:

1. Formal rules enshrined in the constitution and other legal documents are a necessary but not sufficient condition for successful institutional design. In this context, even with an unchanged constitutional text, political practices can be significantly transformed if actors choose to ignore or reinterpret formal provisions (the example of the U.S. Constitution). Formal norms are valid to the extent that they are respected by major political actors. This finding is particularly important for the institutional design of federal and decentralized systems.
2. Political institutions act as part of a complex interconnected system. The effectiveness of their real influence on the behavior of politicians and other participants of the political process depends on the system of given incentives. These incentives are not determined by isolated rules, but are shaped by the entire political system. For example, at the level of central and regional government, politicians face a multitude of constraints and incentives set by different institutions. One such constraint is the principles of federalism. However, the principles of federalism are not always prioritized in specific decisions. Thus, the actual functioning of federalism depends not only on the formal provisions of the constitution, but also on a host of other factors, including the judicial system, budgetary constraints, parliamentary organization, political parties, and local governance practices. This finding emphasizes the importance of an integrated approach to institutional design and the need to consider multiple factors to achieve effective and sustainable political systems.
3. Assessment of the role of institutions in the political system is possible only in conjunction with other elements of this system and the dominant conditions in it. Let us illustrate it by the example of the institution of the presidency. Even within a stable constitutional framework, its role can be subject to serious changes and is conditioned by many factors. Fluctuations in public sentiment, internal and external threats, the emergence of new political figures or the fragmentation of opposition forces — all this can redefine the spheres of influence and powers of the president without formal legal changes. The practice of federalism is even more susceptible to contextual influences. As the examples of the United States and Canada show, even with unchanged constitutional provisions, federalism and

decentralization systems can undergo significant transformations. This adaptability of institutional roles within a constant constitutional framework emphasizes the need for in-depth contextual analysis. (In the next section, we will look more closely at the fluidity of the role of the presidency. The analysis will cover the interaction of the presidency with other institutional factors, as well as the conditions under which its influence may increase and decrease.)

4. Unilateral changes to a rule or institution often do not have foreseeable positive outcomes if they do not fit harmoniously into the existing institutional matrix. Such initiatives not only fail to achieve their goals, but may also generate unintended negative consequences. As an example, consider the modification of electoral rules in order to stimulate political competition. If this modification is not coordinated with other institutional elements, such as the party system and the judiciary, the outcome may be counterproductive. In particular, a new, seemingly more competitive electoral system may unexpectedly reinvigorate the role of informal donors and strengthen patronage ties, thus encouraging political corruption.
5. Similar or even the same formal institutions may produce different results depending on the political and social context. What has proven effective in one country does not guarantee success in another. The same constitutional provisions may serve as a basis for stability and development in one country, while in another they may lead to social tensions and even political crisis. A classic example is the choice between a unitary and a federal system of government, which has different consequences depending on a set of territorial, ethnic and historical factors. Or a more specific example: in the same society, or even in different historical periods of the same society, detailing the powers of the federal center can be either successful or counterproductive. Under certain conditions, the federal center may need to reserve the right to additional powers.

Thus, the **social, cultural and historical characteristics of a country play a key role in the functioning of its institutional system.** Expectations also have a significant impact. The same institution may differ significantly in its effectiveness under different cultural codes, social expectations, levels of education and economic development, which, in turn, may influence the social and political outcomes of its application.

6. It is necessary to take into account the phenomenon, which in Russian-language scientific literature is referred to as institutional inertia (in English *path dependence*). This term indicates that historically established practices

and decisions significantly limit the range of possible future changes in the institutional structure. Thus, the choice of certain institutions and their potential role are to a large extent determined by previous decisions and existing patterns. Even if it seems to policy makers that various options for institutional change are possible, in practice the choices are often limited by pre-existing norms, laws or even informal practices. This usually greatly reduces the effectiveness of attempts to radically restructure the system and creates significant risks, such as weakening the state and increasing social tensions.

Analyzing the institutional track is crucial not only to understand the current functioning of institutions, but also to assess their potential for future change. Ignoring this factor can lead to decisions that will be ineffective or even harmful in the long run. It should be emphasized that attempts to modify institutions that do not take into account the institutional track often entail the reproduction of old practices in a new context. In these conditions, even seemingly significant changes may turn out to be only superficial; new institutional forms may function according to the old mechanisms, acquiring only a new formal shell. This dynamic in the Russian context is vividly illustrated by the popular expression: “no matter what one tries to do, one still gets a Kalashnikov assault rifle.”

7. Different systems of institutions can create similar incentives for key political actors and thus lead to the desired outcome. For example, it is possible to “customize” the presidential system in combination with other institutions and political parties so that it functions similarly to a parliamentary system. A comparison attributed to Peter Ordeshuk, an American professor and prominent theorist of institutional design, is appropriate here. He reminded that engineers have at their disposal many different models (systems) of flying machines – from a rocket to an airplane and a helicopter. The key is to create and maintain lift. However, and this is fundamentally important, it is impossible to take the best of one model and combine it with the best of another. Such a machine will not fly.

Similarly, one cannot take the best of one institutional model and combine it with the best of another. In practice, such mixed combinations of institutions often bring together the worst rather than the best. Therefore, in the course of discussing alternative constitutional proposals, the creators of institutions are forced to make compromises.

When we create new institutions, we change the rules, and accordingly, the results change for the participants in the political arena: someone wins and

someone loses. In practice, institutions always have a redistributive character and cause discontent on the part of those who would like to block the changes or return to the previous system. In order to prevent the destruction of new institutions and regression, it is necessary to create many *safeguards*, which are, in fact, also institutions. All these institutional safeguards must work in concert, as part of a unified system, and at the same time reinforce each other.

We have listed seven conclusions that can be drawn from the literature on institutional design. There are considerably more, but hopefully this is enough to convince the reader: the **problem of institutional design is extremely complex and requires careful consideration, discussion and, most importantly, anchoring to a specific political and economic and cultural situation.**

At the current stage, our task is to identify problem areas and formulate key issues, as the specific context and conditions for reforms have not yet been defined.

President and Parliament

What form of interaction between the executive and the legislature is the most effective for establishing a balance of power and promoting democracy? The current practice of the Russian state is based on the model of a strong presidential system, which some experts call the super-presidential model. However, after the fall of Putin's personalist regime, a transition to one of the variants of semi-presidentialism is most likely. Understanding the variety of variants of semi-presidentialism is key to assessing Russia's institutional capacity.

A semi-presidential system combines a president elected in general elections with a prime minister and a cabinet of ministers who are accountable to the legislature. Political scientists distinguish two subtypes of semi-presidential systems:

- A presidential-parliamentary model, where both parliament and the president can change the prime minister or cabinet;
- A prime-presidential model in which the prime minister/cabinet is solely accountable to parliament.

This distinction is crucial because it defines the relationship between the executive and the legislature and sets the framework for presidential dominance. It also determines the ability of the president and prime minister to implement necessary policy reforms in the event of disagreement. In a large and diverse country such as Russia, a prime-presidential model in which the prime minister/

cabinet is solely accountable to parliament is likely to provoke conflict between the president and a significant proportion of parliamentarians. Such a model may, however, be workable in small and homogeneous countries.

It is important to note that both forms of semi-presidency may in practice result in a very wide sphere of influence for the president. Formal constitutional powers are only one of the factors that shape the opportunities for the president to dominate the state. Informal levers are of enormous importance. Assessing the full range of formal and informal resources is critical to assessing the president's *real* political power.

In Russia, the Constitution formally envisages a presidential-parliamentary model. However, in practice, as is well known, the country has received a super-presidential system due to the limited role of the parliament, the dependence of political parties on the Presidential Administration, and the high popularity of the president. (As we noted earlier, situations where formal constitutional provisions work differently depending on the context are the rule rather than the exception.)

Possible reforms of the presidency and parliament are likely to be dictated by the desire to reduce the likelihood of the formation of a new personalist regime and to create a more balanced system of power. However, as we noted above, any institutional reforms in a country as large as Russia need to be carried out in such a way that the state remains strong and capable of implementing the necessary decisions.

The presidential-parliamentary model may be preferable if the priority is to rebuild the country after the political and economic collapse that is likely after the fall of the Putin regime. However, if the main objective is to reduce the potential for concentration of power in the hands of the president and his administration, the prime-presidential model may be more effective, provided that decisions that could cause conflicts and divisions in parliament are consciously avoided.

The experience of Ukraine should be taken into account, where changes in the model of relations between the president and parliament have often been the result of political compromises rather than a long-term strategy. This practice of compromise can lead to political instability, unpredictability of the political system and interregional conflicts over parliamentary representation. It is therefore important that any changes are well thought out and based on careful analysis, taking into account the specifics of the Russian context.

The academic literature has analyzed the impact of presidential and semi-presidential models on the quality and survivability of democracy compared to

parliamentarism and presidential system. However, the theoretical conclusions remain contradictory. On the one hand, parliamentary regimes often provide for greater democratic stability. On the other hand, presidential and semi-presidential models are often chosen in countries with less favorable conditions for democratic transition, such as large and diverse countries with high levels of social inequality. At the same time, it should be kept in mind that any reforms that strengthen the role of parliament in the Russian context will increase the potential for conflict between the president and parliament until new political parties are formed.

In a presidential system, power is divided between two separately elected institutions, the executive and the legislature (i.e., the president and the parliament). In a parliamentary system, the executive is elected by the parliament and answers to it. As is well known, the presidential form of constitutional democracy first emerged in America. Instead of the monarch, the office of the president was created, elected for a fixed term and responsible for controlling the state bureaucracy. In parallel, a Congress (parliament) was elected as a legislative and political counterweight to the office of president. Since then, separate elections for president and parliament have been a feature of all democratic presidential regimes. But copying only this feature of the American model, many countries have encountered significant difficulties: it turned out that to **realize the principle of separation of powers it is not enough to prescribe in the Constitution the powers of the president and parliament. It is also necessary to create incentives for effective interaction and cooperation between the branches of government.**

The principle of a president elected for a fixed term means that (except in the unlikely event of impeachment) the president cannot be recalled or resign early. The majority of the researchers focused on the presidential model agree that it is in this inability to dismiss a president elected independently of parliament that the potential for the separation of powers to develop into a conflict between the president and parliament lies. To prevent this conflict, the electoral fate of the president and parliament must be linked in some way: the practical experience of many presidential regimes suggests that crises are inevitable where heads of state rely on electoral support independent of parliament. In practice, various constitutional and political measures have been proposed to create common electoral incentives for the president and parliament. In the Russian Federation, for example, the constitution gives the president the tools to dissolve the Duma early and thus to some extent links the fate of MPs to their willingness to cooperate with the president.

Political incentives for constructive cooperation between the president and parliament are created by reliance on political parties during elections.

If the president and the majority in parliament rely on the same political parties or coalitions during elections, their political fate is linked. In this way, common political incentives for cooperation are formed.

The fundamental practical question is whether the government is consolidated or divided. The government is consolidated when the president's party has a majority in parliament and divided when a minority of parliamentarians are behind the president. In the case of a divided government, two situations are possible: the other (non-presidential) party (coalition) has a majority or neither party has a majority. In either of these situations, it is assumed that presidential regimes (compared to parliamentary regimes) increase the number of veto players whose consent is needed for legislation and other policy decisions. Researchers on presidential regimes generally agree that divided governments are almost always associated with confrontation, unconstitutional and unilateral actions, and conflicts between branches of government.

Since the likelihood that the president's party will win a majority of seats in parliament decreases as the number of independent parliamentary parties increases, the number of politically independent factions in parliament becomes critical to the functioning of a presidential regime. Presidential regimes are said to be "intolerant" of real multipartyism. The potential for conflict between the president and the parliament is reduced if the president belongs to a party that controls the parliament. This has been the situation in Russia since 2000.

What can be expected with the beginning of democratization of political life in the country? Unfortunately, with political competition and, consequently, increasing uncertainty about the chances of re-election to the Duma, a conflict between the president and the parliament is possible even if the political party to which the president belongs controls the parliament.

Given the peculiarities of the Russian political system, the provisions of institutional theories on the role of strong democratic political parties may not be fully applicable. Therefore, we believe that constitutional norms and other institutional mechanisms of power sharing among the elite are key. Changing constitutional limits on term lengths, emergency powers, or executive appointments could help create a more sustainable structure to limit presidential powers. But this would require the political consent of the State Duma as well as broad public support, which can be a daunting task.

There are informal constraints as well: the president's relations with law enforcers and heads of major state-owned enterprises, business elites, and

regional leaders. If the president deviates too far from the interests of these influential groups, it can lead to a weakening of his support, both financial and political. The president must also take into account the interests of regional governors, whose support or opposition can have significant consequences.

For any restriction to work, which would prevent the new president from reviving a personalist regime, the actual distribution of power must change. In a moment of political crisis (and such a crisis is likely to be the backdrop of post-Putin reforms), incumbent politicians will be forced to make compromises. It is necessary that once the political conditions change, the president cannot circumvent or abolish these restrictions. That is, it is **necessary to create a combination of adjusted constitutional norms and a carefully negotiated balance of power with elite groups.**

Federal Relations

Federal relations are an intertwining of interdependencies: regional politicians in some spheres are authorized to act independently, in other spheres they act as agents of the federal center. On the other hand, federalism requires reciprocity: in some spheres, federal politicians must be dependent on the regions and their representatives. Regions, in addition, need to find a balance of relations with local authorities, especially mayors of large cities. In each federation, the balance of relations between the center, regions and local authorities is subject to constant revision; in fact, each generation of politicians considers it necessary to reform relations between the center and regions in one way or another in order to solve emerging problems.

For federalization to be successfully implemented, it is not enough, having calculated the balance of benefits and costs, to build an effective scheme of decentralization of state functions; the main difficulty of federalization is political. From the political point of view, the choice of the degree of decentralization in a federal state is significantly complicated by the interaction of several equal levels of power, between which a balance must be maintained.

Russia is formally a constitutional federation, but the relationship between Moscow and the regions (governors) is not essentially federal. Under the existing model, the governors, deprived of their own legitimacy, not only fulfill Moscow's instructions, but also have a personal interest in preserving the stability of the current regime. And since the stability of the entire political system depends on the popularity of the incumbent (the incumbent president), regional politicians are interested in maintaining his rating. In the current system, incentives for

regional governors are structured in such a way that they themselves prefer to “lend a shoulder” to Putin in times when the federal government has to take unpopular measures. Moscow shifts the blame and responsibility to the regional authorities, and they not only accept this, but also actively support it.

Importantly, governors prefer to maintain Putin’s popularity even at the expense of their own popularity among the population. Governors are not interested in expanding regional autonomy because they do not need to go through the procedure of competitive elections. In addition, a condition for the functioning of the current model is the weakness of horizontal ties between governors, at least in terms of political cooperation. Each governor works one-on-one with Moscow, and Moscow carefully makes sure that conditions for horizontal coordination between regional heads do not arise (this, by the way, is a standard technique of authoritarian regimes: to prevent coordination of potentially oppositional groups and politicians). In Russia, such coordination is also hindered by geography itself — huge distances between regional capitals, especially in Siberia and the Far East.

The Russian model is more complex than a simple vertical power structure. Moscow exercises firm control only over strategically important areas: the results of turnout and voting in national elections (for Putin and United Russia) and the fulfillment by governors of Moscow’s social obligations to the population (primarily the May decrees). During the pandemic, this was expanded to include morbidity and mortality figures in the regions (which motivated governors to actively manipulate the information); and after the start of the full-scale invasion, the so-called “military agenda” (implementation of the mobilization plan, support for family members of the warriors, etc.). In these spheres, any deviation of the governor from the “official line” is indeed tantamount to political suicide. However, in other spheres, Moscow is surprisingly indifferent to the results of their activities. Besides, it is impossible from a practical point of view to spiritualize total control over the activities of governors on the scale of a country like Russia.

This impacts the prospects for reform in several ways. First, as the two wars have shown, the current model of authoritarian federalism in Russia is not only stable but also resilient to stress. Second, the governors have an interest in maintaining it, since their political survival depends on the preservation of Putin’s personal regime. Any alternative, be it the arrival of a new authoritarian leader or democratization, is more dangerous and risky for the current governors than maintaining the status quo. Third, the current model is fundamentally unreformable; it can only be broken, but not “repaired” (therefore, the hopes of

many for the transformation of the model into “true federalism” are completely unfounded). It is important that the **destruction of the model implies not the placement of new “correct” politicians in the regions and the center, but a fundamental change in their incentives**, in other words, the emergence of their interest in behaving differently.

At the same time, it is very likely that federalism (at least as a constitutional formality) will be preserved in any version of post-Putin Russia, since it is both too risky and impractical to abolish it by changing the Constitution. However, how exactly the institutions of federalism will work depends directly on the work of institutional constraints.

Federalism and the Dangers of Democratization

Democracy does not emerge overnight; it is impossible without a period of democratization (for some reason this is often forgotten, jumping from Russia’s authoritarian present straight to a wonderful democratic future). One of the most serious problems arising on the path to Russia’s democratic transformation is related to the size of the country and its territorial structure. The fact is that in the case of Russia, democratic reforms will only be at the beginning of the road while the federal structure is already set. In addition, Russia’s vast geographical space and its multinational composition will inevitably limit the speed and nature of reforms, greatly increasing costs and risks.

On the other hand, federalism itself is a complex and “capricious” constitutional form of state, which requires at least a well-functioning democratic political system². Without full-fledged democracy, especially at the regional and local level, it is impossible to ensure the stability and, therefore, the effectiveness of the federation. Moreover, in the absence of a developed democratic process and multiparty system, federalism as a constitutional form leads to the growth of anarchy, which either ends in the dissolution of the federation or provokes the transition to rigid political centralization, i.e. the actual rejection of federalism. This theoretical conclusion is confirmed by both the experience of the last years of the Soviet Union and the political dynamics of the Russian Federation.

It is important that the problem of interdependence of democratization and the construction of federal relations is not reduced to which of the two

2 Bednar J. The Robust Federation: Principles of Design. Cambridge University Press, 2008.

processes should start earlier. More importantly, the period of democratic transformation will inevitably entail political instability in the regions, even threatening the territorial integrity of the country. (This threat gave a serious argument to opponents of democratization when it was discussed during Putin's first and second terms. On this basis, they supported the rejection of democratization because the issue of Russia's territorial integrity was simply excluded from the discussion.)

Any democratic reforms inevitably weaken the center and its ability to control the situation in the regions, at least in the short and medium term. And the loss of the center's political and economic leverage over the regions brings Russia back to the chaotic decentralization of the 1990s. At that time, many democratically oriented experts proceeded from the "zero-sum" principle, i.e. "either a strong center or strong regions," but this opposition turned out to be erroneous. **In stable federations, both the center and the regions are strong.**

An extremely serious problem of democratization is also associated with the "winners", or, more precisely, with the "early winners" as a result of partial reforms. In the process of transformation, they are quite satisfied with the situation of half-hearted reforms, as it allows them to hold their positions and extract various "rents" from both the state and society. Representatives of the group that benefits from half-hearted reforms will strive to maintain the current situation until it ceases to benefit them³. In the case of federalization of Russia, this may mean that some time after the start of democratic reforms, regional leaders may decide that it is profitable for them to freeze the "transitional," unstable nature of federalism.

Critical Political Conditions

The main, and most difficult, task is to create the political conditions for federalism. Federalism is not a self-sustaining process, it needs framework conditions or guarantees to preserve and develop⁴. Thus, an extremely important factor determining the stability of the federal structure is the party system. In stable democratic federations, there are not only parties that actually compete with each other, but also parties organized in an integrated way, where politicians at one level have permanent institutional relations with politicians at

3 Hellman J. Winners. Take All: The Politics of Partial Reform in Postcommunist Transitions // World Politics. Vol. 50. 1998. 2.

4 Bednar J. The Robust Federation: Principles of Design. Cambridge: Cambridge University Press, 2008.

other levels.

Other important conditions supporting federalism are respect for the rule of law, as well as the role of the Constitutional Court⁵ in the political process. The court has an important role in creating a climate of trust between the federal center and the subjects; the latter — if the court adequately fulfills its role — can be confident that their rights will not be infringed and the court will not play on the side of the strongest player, which is usually the federal center. Finally, the very competitive order in the politics and economy of society is the most important supporting force for federalism.

At the same time, lacking a competitive environment and a developed party system, federalism as a constitutional form leads to growing anarchy, which ends either in the dissolution of the federation or provokes a reaction leading to political overcentralization and the transformation of federalism into a constitutional formality. The second scenario has materialized in a post-Soviet Russia.

The Issue of Ethnic Regions

Even in the early Soviet years, the RSFSR, having abandoned the provincial principle of regionalization of the Russian Empire, was built as an ethnic (or semi-ethnic) federation. A part of the regions was allocated on the basis of the ethnic principle (regional borders were to delineate the territories of compact residence of ethnic groups), and another part of them were so-called “Russian” regions. In the Soviet Union, this approach lost political relevance, as all regions were embedded in a vertical structure controlled by the CPSU structures.

Real problems began with the collapse of the Soviet Union and the construction of a new statehood in Russia. With the emergence of public politics, splits in society, especially ethnic ones, took on political significance, so that in ethnic regions, voter mobilization took place under the slogans of sovereignty or even autonomy of the respective republics. The history of the confrontation between Moscow and Tatarstan in the 1990s is well known; the history of the conflict and two wars between Moscow and the Chechen Republic are even more infamous.

Having come to power, Putin managed to strike an agreement with the heads of problematic ethnic regions, and (almost paradoxically) it is these problematic

5 It is usually this court that rules on conflicts between the federal center and the subjects.

regions that have shown the greatest loyalty to Moscow in recent years⁶. A special relationship — a kind of personal union — has developed between Putin and the head of Chechnya, Kadyrov. This relationship is actually insulated from the national legal space (even in its diminished form in which it exists in Russia).

When democratic reforms begin again, a return to the situation of the 1990s with its ethnic mobilization and confrontation with Moscow is very likely. Claims of the elites of ethnic regions for a special status are to be expected. This means that **ethnic federalism for Russia is also inevitable** (if the condition is to preserve the territorial integrity of the country and avoid open conflicts and violence). This forced decision should be taken with the full realization that ethnic federal systems are asymmetric, complex and potentially unstable. The experience of other countries (Ethiopia, Pakistan, South Sudan, Yugoslavia and apartheid South Africa) tells us that the problems inherent in building and maintaining an ethnic federation have led some states to either collapse or resort to authoritarian repression, ethnic segregation and even ethnic cleansing and pogroms.

The ethnic model of federalism is based on the recognition of the special rights of national minorities, and this inevitably leads to the restriction or even infringement of the interests of the majority. However, this can be a reasonable price to pay for minimizing the centrifugal pressure on the state from ethnic regions. Critics of the ethnic model of federalism rightly point to its numerous shortcomings: organizational complexity, decentralization and inevitable chaos, asymmetry with its inherent “injustice” against the majority. Nevertheless, territorially integral Russia has no real alternative to ethnic federalism. The ethnic model of federalism is the price to be paid for preserving the integrity of the country.

Importantly, the choice in favor of the ethnic model should be made permanently, not as a transitional solution. Moreover, the political system should be designed in such a way that ethnic minorities are sure that the choice in favor of the ethnic model of federalism is not empty words, but a bona fide commitment of the national majority. This is the link between federalism and democracy: **only in a fully-fledged democratic political system do ethnic minorities have reason to trust the commitments made by the majority.**

6 It is enough to compare the turnout and results of presidential elections and voting on constitutional amendments (2020) in Tatarstan and Chechnya and in other regions.

Municipalities as Powerful Players in Politics

Before examining specific aspects of local government design in Russia's new attempt at democratic transition, it is important to emphasize again that new and old political institutions do not function in isolation; they are part of an integrated system of formal and informal rules in society. This systemic relationship is particularly critical at the local level, where the institutional context is often determined primarily by historical experience, traditional informal practices, the stability of local elites, and a myriad of practical challenges. In any political regime, local authorities are expected to deliver municipal services and utilities. In other words, local politics is one of the most "conservative" in the political system and difficult to reform; at best it can evolve, especially on the periphery of a large country. This is why it is particularly important when discussing local government reforms to consider how potential innovations will interact with existing institutions and inherited practices.

It is also important to emphasize that, as in the case of federalism, when developing recommendations for local governments in transitional democracies, it is advisable to look to examples from countries that have undergone (or are undergoing) similar transitions, rather than to stable liberal democracies. It is more fruitful to discuss not "ideal schemes" but how to transition to workable alternatives that contribute to the democratization of the country at the national, regional and local levels. It is not very practical to dream that Russia should have local self-government on the model of Germany or the United States. Conditions in liberal Western democracies differ significantly from those in transitional regimes, especially against the backdrop of political and economic crisis. One should also avoid referring to the experience of "successful" development of regional and local self-government in Putin's Russia, such as in the Perm region. It took place against the backdrop of the development of undemocratic practices and was the exception, not the rule. At best, these were so-called "pockets of efficiency" that existed due to non-democratic redistribution of resources in their favor.

For local governance reformers in Russia, the main challenge will be the need to reconcile reforms aimed at creating conditions and guarantees that facilitate the democratization process at the national and local levels, while preserving the effectiveness of state and local governance for the period of reforms. This problem is particularly acute at the local level because of the limited resources available there, from budgetary to human resources.

Democratizing local authorities in Russia will be particularly difficult in the context of the country's political and economic crisis. The end of the war and the reduction of spending on military industry will affect the economy of many regions and cities. At the municipal and local level, citizens will be willing to sacrifice conditions favorable to democracy, and indeed democratic principles and procedures themselves, in the name of economic efficiency and the preservation of governability.

Unfortunately, the experience of democratizing countries does not provide examples of quick and successful devolution attempts that create and sustain democracy at the local level. On the contrary, this experience shows that local elections often turn into a formality and, moreover, stimulate the development of patronage and corruption. For Russia, the most useful experience is the experience of devolution against the background of attempts at democratization in large countries: Indonesia, the Philippines, Nigeria and, of course, Ukraine. Note that in these countries devolution was used by national governments primarily to limit the influence of regional elites on national policy.

In Russian practice, attempts to strengthen city and local self-governance have led to the weakening of regional leaders, and vice versa. Studies of local politics in Russia in the 1990s and early 2000s have shown that key local government reforms and the struggle to create and sustain democratic practices at the local level were inextricably linked to the broader struggle for power and authority between the regions and the Kremlin, as well as to Russia's asymmetrical practice of federalism. Relying on the rights and powers granted to them by special bilateral treaties, regional leaders, especially in Russia's ethnic republics, were able by 2000 to establish regional authoritarian regimes and block attempts to democratize municipal and local governance. In turn, Moscow has often tried to use conflicts between regional and municipal to weaken regional leaders.

To the extent that future democratic reforms limit the powers and opportunities of governors through the creation of strong regional parliaments and the development of local self-governance, governors will find themselves in a weakened position to "bargain" with the center for decisions favorable to the region (if only because they will no longer be able to guarantee political support for national politicians in elections). This means that those regions where the development of local democracy will be blocked are likely to be more able to "squeeze" resources from the center. This situation will threaten the demand from the population of all regions for "strong" leaders, whose opinion is listened to in Moscow.

In general, in the Russian context, it would be overly optimistic to assume that local politics and local voters will be able to drive positive changes in the national political system. It should also be remembered that in Putin's Russia, local governance structures and elites are embedded in an undemocratic national political and institutional landscape that has had a determining influence on the behavior and priorities of local political actors for many years. While regional and local governments can serve as testing grounds for innovative policy solutions or governance models, their ability to exert transformative influence at the national level is limited even in liberal democracies. **In transitional regimes, democratic reforms are initiated “top-down,” at the national level, rather than evolving from local “bottom-up” initiatives.**

Moreover, future reforms related to democratic transformation at the local level will require significant financial resources, which (at best) will be available only to the national government. Therefore, a model that envisages limited forms of devolution at the initial stage of democratic reforms at the center seems reasonable. Such a cautious approach seems justified in the Russian context, where local authorities are under the control of elites loyal to the authoritarian regime and are interested in maintaining the existing undemocratic practices. All the more so, since no mechanism has yet been created to redistribute resources sufficient to ensure the financial conditions of devolution in favor of local authorities.

At the same time, local democracy and self-governance are the most important prerequisites for successful devolution of federations. The role of municipal and local levels of government is one of the least studied but most relevant aspects of federalism research. This is due to the profound transformations that modern federal and large states are currently undergoing. The classical model of federalism assumes a two-tier system of state governance: the federal government and its constituent regional subjects of power. In this model, local self-government is seen as falling under the exclusive competence of the federating entities. Constitutional recognition of local governance as an autonomous level of government is a relatively new phenomenon in federal states. The oldest federal constitution in the world, the US Constitution, does not mention local self-government at all. This approach is becoming obsolete, primarily because of the practical significance of local governance in a multi-level and multi-actor system of governance.

The growing role of local governance strongly influences federal systems. Local structures are usually vested with competencies related to the daily life of citizens — such as public services, construction and zoning of cities, villages

and rural areas, social welfare, culture, leisure, local economic development, education and the like. Moreover, this level is open to the application of new management tools because it is closest to citizens and more participatory.

Unfortunately, in most transitional countries, decentralization and devolution have been imposed from the top down, becoming a tool used by the central government to control regions and cities rather than to increase fiscal independence and empower independent local governments. In transitional regimes, effective devolution requires creating incentives and opportunities for politicians to represent the interests of local communities, and this can only be achieved through local democracy. In the absence of local democracy, devolution risks not only failing to achieve its intended goals, but also leading to new forms of local authoritarianism and elite capture of political space.

Roger Myerson, a renowned institutional design researcher, argues that the institutions of decentralization and federalism are necessary for democratic change to occur. Myerson presented this argument in the form of a formal game-theoretic model in which voters rationally assume that while they may be dissatisfied with corrupt incumbent politicians, they can assume that alternative challengers will not be better because they lack a proven track record. Rationally acting voters who take into account the uncertainty and costs of replacing a corrupt incumbent politician with another politician have no incentive to replace him or her — and this leads to the corrupt incumbent politician being repeatedly re-elected.

Competitive elections at the local and regional level can at least mitigate, if not solve, the problem of low confidence in alternative candidates. They give opposition politicians the opportunity to gain practical experience in regional and local governance and thus build reputation and credibility. If subnational (local and regional) politicians prove capable of effectively exercising their political authority, this, as Myerson writes, “can be used to demonstrate their qualifications to lead the country.” In a democratic society, in most cases, a politician progresses from the local level to the regional level and then (sometimes) to the federal level. His success at the lower levels serves as evidence of both his ability to win competitive elections and his overall professionalism. Thus, **in political systems with multi-level elections, voters are more likely to hold incumbent politicians accountable and replace them when they are corrupt and unprofessional.** This may set different incentives for incumbent politicians as well.

To better understand the challenges of state-building, institutional design and political stabilization, more attention needs to be paid to the importance

of local politics and its relationship to national politics. Negotiations and other interactions aimed at establishing a balance of power between national officials and local politicians that is acceptable to all players are a fundamental aspect of democratic state-building.

So, it is impossible to implement the project of vertical devolution and build truly federal relations between the center and the regions in a democratic state, ignoring the local level. In all effective federations, local governance and self-governance are also effective.

In Russia, the key moment for the fate of local self-government (LSG) was the constitutional choice of 1993. According to Article 15, paragraph 5 of the Constitution of the Russian Federation, “Bodies of local self-government are not part of the system of state authorities. The exercise of local self-government by bodies of state power and state officials shall not be permitted.” It would seem that this democratic decision should have averted the danger of the state taking over LSG and making it truly independent. In reality, the opposite happened.

In the 1990s, municipalities, with the exception of mayors of large cities (almost all of them are regional capitals), did not become players in the national political process, they were actually cut off from it⁷. The political bargaining unfolded between Moscow and the regions, ignoring the local level. The level and quality of democracy in the regions were then lower than at the national level, and many regions became a kind of “laboratories of authoritarianism.” The local level was virtually suppressed by the regional executive authorities, which was especially characteristic of ethnic regions. Regional authorities perceived LSG either as insignificant, as eternal beggars and dependents, or as dangerous and undesirable competitors for the governor’s office (in the case of mayors of regional capitals and large cities).

As correctly noted in Chapter 3, the 1993 Constitution only declaratively proclaimed local self-government without providing it with real mechanisms to guarantee its sustainability and influence. The Federation was both disinterested and unable to defend the autonomy of local self-governance, limiting itself to opportunistic ad hoc support for the gubernatorial candidates from cities in order to reduce the electoral chances of the incumbent “undesirable” governor.

In 1995, the federal law “On General Principles of Organizing Local Self-

⁷ It can be assumed that if the constitutional choice had been different and the local level had become part of the state, the result would have been the same. However, the decision made it easier to suppress local politics.

Governance” was adopted⁸. The law took a very important step: it enshrined the variety of organizational forms of LSG, with local communities having to determine for themselves within which territories (village, city, district) local self-government would be established and according to which model municipalities would function. However, the state power in the regions easily suppressed the non-state power on the ground, regional authorities were not going to share their powers and financial resources. This is evidenced by the long reluctance of the constituent entities of the Federation to develop laws on municipal self-government, to hold elections to local authorities, and to divide property into regional and municipal. At the same time, numerous cases of abuse of power were registered at the local level (which is not surprising, given the scale of the country), which later became Moscow’s argument to justify the elimination of the autonomy of local self-government.

In a number of large cities there was a competitive environment, and a certain level of freedoms was maintained. However, this also depended on the general environment of a particular region, where political regimes varied in their degree of competitiveness until the early to mid-2000s. Such examples, however, did not guarantee the survival, let alone the development of local politics on a national scale.

Three years after Putin came to power, a new law “On General Principles of Organization of Local Self-Governance in the Russian Federation” was adopted. The law abolished the diversity of forms of local government, unifying them, and introduced a two-tier LSG system. In the 2000s, direct elections of mayors and district heads were abolished, and the local authorities’ own tax revenues remained negligible.

In 2022, after the start of the war, the federal law “On General Principles of Organization of Local Self-Government in the Unified System of Public Power” was adopted in the first reading to replace the law of 2003. The draft law envisages the abolition of power at the level of rural settlements, the creation of municipal districts and regions (which implies a sharp reduction in the number of municipal deputies), and the possibility for governors to dismiss local heads. However, the promotion of the new law was suspended for an indefinite period in order not to create a new destabilizing factor in the political system.

It is important to realize that devolution works only in a system, so building

⁸ The adoption of this law was one of the conditions for Russia’s membership in the Council of Europe, which Russia joined in 1996.

federal relations in post-Putin Russia is impossible without democracy at the grassroots level and its real autonomy. National, regional and local levels are closely linked, it is impossible to build neither a democratic nor a federative system starting from the regions and upwards.

It is important that in case of power crises at the regional level, it is the local level that prevents political chaos and allows the political system to maintain its capacity. In addition, as mentioned above, the local level is, in fact, a permanent reserve for rotation of regional power and a place where politicians gain political experience and reputation.

In order for such a system to be built and work, we assume the following conditions must be present:

- Regular competitive elections at all levels of government, including local levels. Political parties should work also on the local level, trying to win local elections. Local-level politicians should be real competitors to regional-level politicians.
- The federation (national level) must guarantee the existence, rights and autonomy of local self-government (as is the case, for example, in Germany. The federation (during LSG reforms, such as the consolidation of municipalities) does not guarantee the existence of a particular municipality, but it does guarantee the rights of LSG as provided for by law. In other words, it actually restrains regional authorities from encroaching on LSG (in particular, the regions do not have the right to grant “unfunded mandates” to LSG).
- It is necessary to restore and support the principle of diversity of forms of local self-government, as it corresponds both to the territorial scale of the country and the level of its diversity. The realization of this principle of diversity is in itself an additional condition preventing the encroachment of regions on the autonomy of places.

It should be emphasized that **devolution of power from the regional to the local level is not to take away powers from the regions in favor of the local level and thereby weaken the regions, but to create effective restrictions for the regions, just as the regions limit the central power.** At the same time, the federation acts as a guarantor that these restrictions are observed.

Devolution: Concrete Steps

In discussing concrete steps to reform Russia, we propose to proceed from the premise that for successful democratization and devolution of state power in the country it is necessary to create and maintain at least two conditions: guaranteeing fair and free elections and ensuring that broad coalitions supporting democracy and devolution win fair elections at all levels.

The first condition, ensuring the integrity and freedom of elections, will be possible in post-Putin Russia only with external control by the international community and international non-governmental organizations. The consent of the Russian leadership to international control over the election procedure should be one of the key conditions for starting a dialog on lifting sanctions and ending international isolation after the end of the war. Until the country has new influential political parties, free media and a politically independent parliament (both chambers), the elections should be held under international control, not just in the presence of observers. Moreover, a positive assessment of the elections by international organizations and non-governmental organization observers should be a condition for the elections to be recognized as valid. Such control over elections was exercised in post-war Germany, as well as in a number of modern post-conflict countries (e.g., Bosnia). Such a measure may not meet serious resistance inside Russia — if it is presented as “now we have nothing to hide, from now on our elections will always be fair and honest.”

The second key condition for successful democratization and devolution in Russia lies in structural measures to ensure that broad coalitions supporting democratic transit and decentralization of state power win fair and free elections at all levels — we will list these measures at the end of the chapter. **Advocating for democratic transit and decentralization of power must be politically advantageous.** To prevent fragmentation and weakening of state power during the transition period, electoral coalitions of reform supporters should be as broad as possible and unite supporters' efforts both vertically (to support federalism) and horizontally (to promote parliamentarism).

Participation in elections as a member of a broad political coalition (party) that wins elections under the existing general rules should be a key condition for politicians' success in fair elections. On the other hand, such coalitions in support of free elections and devolution should strive to attract all popular national and regional politicians.

At the beginning of reforms in the Russian context, the creation of such broad coalitions will be complicated by the absence of political parties capable of acting as organizers. Existing Duma parties that supported aggression against Ukraine should be dissolved and legislatively banned. Existing parties outside the parliament, including Yabloko, are unlikely to be ready to become the basis for new parliamentarism and decentralization. Thus, new parties will need to be formed that will initially be unpopular with the population. This will lead to fragmentation, as new leaders may not be willing to compromise with other groups. However, a critical task for reformers will be to create conditions that incentivize these fragmented parties and their leaders to form the basis of broad electoral coalitions. (Numerous "new Yavlinskys" will have to agree to compromises as they negotiate new coalitions.)

The first priority measure for the formation of new parties and coalitions in support of reforms is self-dissolution of the current parties in the Duma and voluntary political lustration of all its deputies. Most likely, the measures to lustrate the current Duma parties and their members will be resisted by certain political forces and will be challenged in the Constitutional Court and international courts. Therefore, Duma party leaders and Duma deputies may be incentivized to agree to self-dissolution and voluntary political lustration (say, for 10 years) in exchange for not being prosecuted as Putin's accomplices in the criminal war against Ukraine and the Russian people.

In essence, it is necessary to **freeze the Duma's activity until the new elections**. A temporary ban on incumbent deputies to engage in politics will open career opportunities for young politicians, will promote the emergence of new parties and coalitions in support of reforms. New politicians will realize that their prospects are linked to the success of reforms and not to a return to the previous model.

Let us formulate several practical recommendations for reforming the electoral system in Russia, and these reforms should work for devolution. These first-priority measures should not meet much resistance, as they can be presented as "technical" changes.

- 1. Legislative measures for political party coalitions.** Legislative changes should be introduced to allow political parties to freely join electoral coalitions. This will give parties and their leaders the opportunity to maintain their independence, but at the same time act as a single bloc in elections to overcome the electoral barrier.
- 2. Lowering the electoral barrier** to 2% for all parties and coalitions running in the elections. This will allow small parties and coalitions to gain representation in the parliament.
- 3. Creation of regional and local parties (coalitions).** It is important to ensure the legislative possibility of creating such parties — this will contribute to the decentralization of political power and the representation of regions in the Duma.
- 4. Abolition of single-mandate districts.** Elections in single-mandate districts for the State Duma and regional parliaments should be abandoned, while restrictions on the formation of political parties and blocs should be removed. This will force popular local politicians to participate in the formation of parties and will help to increase voter confidence in them. Elections should become as “party-oriented” as possible at all levels.
- 5. Proportional elections with one national district (450 mandates in one district).** Introduction of a proportional election system with the easiest possible conditions for registration of parties and electoral blocs (coalitions). In a few election cycles it will be possible to start discussing the division of a single national district (450 mandates) into several districts uniting groups of regions, so that each district would have up to 50 mandates, allowing a party with 2 percent of votes to get one seat in the Duma.
- 6. Refusal of a single day of voting:** it is difficult for parties to field candidates in different regions and to participate in election campaigns in the context of a huge and diverse country.
- 7. Limiting the participation of independent candidates.** Only parties and their associations can nominate candidates for elections at all levels; there should be no more “effective managers” outside politics and parties.

These and similar measures should stimulate the creation of numerous new parties — the basis of electoral coalitions in elections at all levels. The multi-level nature of such coalitions will guarantee that they will be interested in fair elections and decentralization of state power.

It may happen that some regional leaders will stand in opposition to the

federal leadership and demand special status for their regions. Such populist demands will resonate with local voters, and new versions of the famous slogan “stop feeding Moscow” will emerge. However, in the conditions of strong national political parties and blocs, regional populism will lose its appeal, as politicians acting within the framework of universally recognized rules in the interests not only of their region, but also of the whole country, will receive additional support and recognition from national parties and blocs. But until political parties gain strength, the threat of regional populism will remain significant.

To prevent excessive fragmentation of the political space, new political parties should be given incentives to form their branches in the regions. This implies the need for close interaction with current and future regional leaders and the creation of conditions that will stimulate their interest in the activity of political parties at the local level.

The key to the successful promotion of reforms in Russia is the interest of key regional players, including regional leaders, city mayors and representatives of local businesses, in participating in these processes. They should see concrete benefits from the changes being introduced, at least in the medium term. This will give them an incentive to join broad coalitions supporting democracy and decentralization.

Declaring a “political amnesty” for all regional politicians and business leaders would allow them to enter the new political arena without fear of reprisals for past actions during the Putin regime. At the same time, it is important to lustrate (perhaps voluntarily) pro-Putin parties, national politicians and the federal bureaucracy. This is necessary not only to cleanse the political system of elements of authoritarianism, but also to create social elevators that will allow regional representatives to take more influential positions in the new political structure. A strategy that combines the stimulation of regional and local leaders and simultaneous reform of the federal level of government can increase the chances for the success of democratization and devolution of power in Russia.

As long as new political parties are not established and successful electoral coalitions uniting regional and local politicians vertically (regions, large cities, municipalities) are not formed, changes in the principles of federalism and local governance organization should be avoided and measures that could provoke regional leaders to oppose reformers in favor of politicians promising to “restore order” should be generally avoided.

In Russian conditions, the development of democracy in the regions can be carried out from below only with the active support of the national government, international organizations and NGOs. In this sense, it is

extremely important not to repeat the mistakes of the reformers of the 1990s, who dreamed that “the market will fix everything itself” and hoped for “initiative from below.” The removal of barriers to political activity in the regions and local self-government is a necessary condition, but clearly insufficient. Democracy in the regions requires support from the center. This means that Moscow must be motivated to continue reforms.



Transition Concept: Decentralization of the Economy

**Sergey
Guriey**



**Vladimir
Milov**



The most important element of building a state focused on the welfare of citizens, rather than on consolidation of power and aggression, should be successful market reforms capable of creating a prosperous, highly competitive economy with limited government intervention, a high degree of competition, flourishing private initiative and investment, favorable conditions for small and medium-sized businesses, without corruption and without conditions for the emergence of state-affiliated monopolies and oligarchy.

This task has become much more difficult with Vladimir Putin's invasion of Ukraine in February 2022 and the unprecedented international isolation and sanctions that followed. The old model of business as usual (where Russia became increasingly authoritarian but continued to trade with the West and gain access to Western technology, services, commodity and capital markets) is no longer possible. Putin's pivot to Asia works only to a limited extent: China and India are interested in Russia mainly as a supplier of cheap material resources and a buyer of consumer goods, but not as a potential global competitor in manufacturing. Asian countries are unable and/or unwilling to act as a donor of capital, skills and technology to Russia, as the West has been since the 1990s. Trade with Asia is also less profitable because of rising logistics costs: most of Russia's economic activity is concentrated in the European part of the country, so that there is lower economic gravity and rationale for trade.

Normalization of relations with the West remains the only option for returning Russia to normal economic development. In the event of Putin's departure, Russian society and the Russian elite are likely to demand normalization of relations with the democratic world, which could be used to influence fundamental shifts in Russian politics and the very foundations of the Russian state that require democratization, institutional checks and balances, payment of war reparations to Ukraine, and prosecution of war criminals.

It is quite possible that Putin's immediate successors will have no interest in either democratization or negotiations with Ukraine and the West. Unlike Germany in 1945, Russia, being a nuclear power, is unlikely to be occupied. But any post-Putin government will have to reckon with very strong economic leverage in the hands of the West and will be interested in the support of its citizens. The easiest way to get that support is to shift the blame for all previous

problems onto Putin and offer Russians a program of economic development. In turn, the most obvious first step of any economic development plan is the lifting of sanctions. **In exchange for the lifting of each category of sanctions, the West would be able to demand appropriate steps in troop withdrawal, reparations (including frozen assets), prosecution of war criminals, release of political prisoners, and democratization.**

Economic reforms will be an important component of the decentralization of power in Russia. The centralized rule of the siloviki and the revival of an aggressive imperialist state under Putin would have been impossible without the prior consolidation of economic forces. Under Putin, the centralization of the economy has gone to the extreme. According to the European Bank for Reconstruction and Development, the share of the private sector in the Russian economy has declined significantly since the takeover of Yukos and other private companies. A few of the largest state-controlled banks (Sberbank, VTB, Gazprombank, Rosselkhozbank, etc.) accumulate up to 75% of the total assets of the Russian banking system. According to the RBC-500 [rating](#), 12 of Russia's 15 largest enterprises are owned, either wholly or indirectly, by the state or by Putin's cronies. Since the beginning of the full-scale war, the Russia state is now actively expropriating private enterprises — with subsequent nationalization or transfer to politically connected businesspeople.

How to decentralize the Russian economy? The Russian democratic opposition has accumulated a huge baggage of experience and forward planning for post-Putin economic reforms over 20 years. Key reform ideas were accumulated in the very famous 2018 presidential [program of](#) oppositionist Alexei Navalny; most of the authors of this report contributed to that work. Sergei Guriev and Vladimir Milov, authors of the Transition Project as well as Navalny's presidential program, regularly discuss the details of future reforms on their [YouTube channels](#); Vladimir Milov has co-authored several major reports on key economic reforms in recent years, including an important [report](#) on the demonopolization of the Russian economy, prepared with Mikhail Khodorkovsky's Institute of Modern Russia.

A number of steps can help reshape the Russian economy from the current highly centralized, corrupt and cronyist model into a powerful, privately driven, competitive and open economic system that is highly integrated into global markets and capable of generating prosperity and growth.

But first, let's outline how Putin's war against Ukraine has affected economic reform plans.

- Russia continues to inflict colossal damage on Ukraine and bears an undeniable moral and legal responsibility to repair it. During the two years of the war, direct damage to Ukraine's infrastructure and buildings, according to World Bank calculations, [reached \\$152 billion; according to the same World Bank estimates](#), rebuilding the Ukrainian economy will cost \$486 billion. With each day of the war, these sums increase.
- The West's rejection of Russian oil and gas has serious short- and medium-term consequences. Although Russia is able to redirect some of its oil and gas export flows to Asia, the Asian market does not guarantee a similar level of profit from hydrocarbon exports due to much higher costs and more stringent pricing conditions.
- For 30 years, the West has been the main donor of Russia's development in terms of technology, skills, capital, etc. **Western countries believed and continue to believe that democratization and economic development of neighboring countries contributes to their own prosperity and security. Asian countries, on the other hand, are not interested, and often not capable of acting as a comparable major donor:** their interest in Russia is pragmatic, and they are definitely not interested in Russia becoming their competitor in the technological and production spheres.
- The war has serious negative domestic consequences for demographics, labor market, education system, and infrastructure that will take years to correct.

Many rightly point to the experience of Germany after World War I, where overly burdensome reparations contributed to the rise of revisionist sentiments that eventually brought the Nazis to power in the 1930s. It is important to find a solution to the reparations problem that does not create additional incentives for ultraconservative forces that exploit the issue to stir up resentment and imperial revanchism.

There are two possible solutions to the problem of reparations to Ukraine, both of which can help avoid shifting the excessive burden of reparations onto the shoulders of ordinary people (who are already bearing the burden of sanctions, inflation and other consequences of the war; 20 million Russians [live](#) below the poverty line – and that's just the official figures). These solutions are not mutually exclusive.

First, as proposed by Russian opposition leader Alexei Navalny, Russia could automatically redirect an agreed percentage of revenues from energy exports to Ukraine. The country would lose some export revenues, but would

not impose an additional tax on ordinary citizens.

Second, there are hundreds of billions of dollars of frozen assets owned by the Russian state or Russian oligarchs in the West over the past decades. Using these assets to finance Ukraine's reconstruction [would help](#) avoid placing additional burdens on the Russian population, but it would also serve as a symbol of justice for the corrupt oligarchy that has long plundered Russia.

Declining oil and gas revenues are not only a problem for Russia, but also an opportunity. **The excessive concentration of oil and gas rents has led to a disproportionately strong central government, excessive corruption, social inequality, and oligarchy.** Getting rid of oil and gas dependence may finally force the Russian economy to diversify, not in words but in deeds. Russia has every reason to expect to enter the world market of green energy technologies. According to the International Energy Agency, the market for clean energy technologies in a zero-emissions scenario could reach \$900 billion by 2030 and \$1.2 trillion by 2050. This is approximately the same amount as the global oil market is now. Russia has the qualified labor force, technological capacities and raw materials necessary for the transition to green energy: [according to](#) the Ministry of Natural Resources and Environment, the country has 15.6% of the world's reserves of rare earth metals, 7% of nickel reserves, 32% of platinum and palladium reserves, and 3.5% of cobalt reserves.

Prioritizing the development of green energy technologies over oil and gas technologies also implies a way to reduce inequality in society and build an economic model with equal opportunities, as discussed below.

Of course, the transition to a green economy will require serious investment from international financial organizations, Western states and the private sector. **But we can hope that Russia's admission of guilt in the war and reconciliation with Ukraine will eventually open the country to international investment.** The World Economic Forum's Global Competitiveness Reports have consistently ranked Russia among the top ten economies in terms of market size. This is the reason why many Western companies are so [reluctant to leave Russia](#), even after promising to do so after the aggressive phase of Putin's war against Ukraine began. International financial institutions and development banks, which are rapidly prioritizing green investments in their portfolios, will also play an important role. While Putin's Russia is one of the world's biggest polluters, a post-Putin Russia will provide an unprecedented opportunity for international organizations to contribute to reducing global emissions.

Reconciliation with Ukraine and the West would encourage hundreds of

thousands of skilled and talented Russians who [left](#) the country during the decades of Putinism, but especially after Putin's aggression against Ukraine in 2022, to return and actively participate in the country's development. Competitive, educated and skilled Russians left; many of them are eager to return to a normal, democratic Russia when their basic rights are guaranteed. It is important that these people return or at least stay in touch and contribute to Russia's future development.

What Economic Reforms are Most Needed

The new Russian government must clearly demonstrate a determination to quickly implement the basic reforms needed to convince investors, entrepreneurs, and skilled professionals of Russia's future and prospects. We have a comprehensive plan for these reforms. The creeping increase in state dominance of the economy under Putin, the high level of political risk, and the all-powerfulness of the FSB and other security and regulatory agencies are the main factors that have deterred investment in Russia over the years. **Most of the priority reforms will be political and institutional rather than economic.** These will be briefly summarized and discussed in more detail in the respective chapters.

One of the key institutional weaknesses of the Russian system since the 1990s has been the lack of an independent judiciary (we discussed this in detail in [Chapter 3](#)), which makes the rule of law impossible. This is a very painful issue for investors: in such a situation, property rights and dispute resolution are not guaranteed. According to the World Economic Forum's Global Competitiveness Report, Russia ranks 90-100th in the world on such criteria as independence of the judiciary, effectiveness of the legislative framework in challenging regulations and resolving disputes, undue influence, favoritism of government officials, property rights, intellectual property protection, and conflict of interest regulation. Much has been written in recent years about the steps necessary for successful judicial reform (see, for example, a detailed [plan](#) by renowned jurist Mikhail Benyash). We also discuss legal and judicial reform in detail in [Chapter 7 of the Transition Project](#).

The security and law enforcement agencies should be placed under civilian oversight, as provided for by law. The FSB, the successor to the Soviet-era KGB, should be completely abolished because of its counterproductive institutional role and its transformation into a shadowy mechanism of control over all state bodies and economic players — just as the Gestapo was liquidated immediately

after the fall of Hitler's regime, on May 8, 1945. The FSB will be replaced by compact security and anti-terrorist agencies with a narrow range of tasks. The Ministry of Internal Affairs (MIA) will be similarly reformed. Emphasis will be placed on the development of effective local police, with the introduction of elections of district police chiefs, either directly or through local councils. Most of the central apparatus of the MIA will be abolished; among the units to be eliminated immediately are the political police units (the "center for combating extremism"), whose officers will also be subject to lustration. Sending entrepreneurs to prison for economic crimes before a court verdict will be legislatively prohibited and replaced by other types of preventive measures (bail, house arrest, etc.).

The economic policy of the new times should be aimed at stimulating private initiative and private investment – something that Russia has failed to achieve under Putin. The share of business income in the total income of the Russian population has fallen from more than 15% in 2000 to about 7% today: the majority of Russians' income comes from salaries or benefits received from the state or related entities. In all the years of Putin's presidency, the Russian government has failed to achieve its 2000 target of 28% of GDP for fixed capital investment: even in the best years, it was just over 20%. Since 2008, according to the Central Bank of Russia, capital outflow has amounted to more than \$1.1 trillion.

The main focus should be on deregulation of the economy. There will be a deregulation commissioner who, at the request of business associations, will require ministries and agencies to provide justification for regulations within 45 days and will cancel these regulations without written justification.

It is necessary to ensure radical transparency of budgets at all levels (federal, regional, local) by introducing independent audit and oversight by NGOs as a statutory requirement (e.g. mandatory pre-publication of the draft budget for discussion by civil society).

Russia already has a national hotline for corruption and undue pressure on business. In the future, it should be separated from government agencies and empowered to receive and consider complaints about corruption, favoritism and undue influence by government officials. The media would be encouraged to conduct anti-corruption investigations and journalists involved in such investigations would be protected by law.

The new Russian government will take serious steps to integrate the Russian economy into the common European market: these include negotiations on the creation of a free trade area between Russia and EU countries, the unilateral abolition of entry visas for EU member states as well as other democracies — the United States, Canada, Australia, Japan and other

OECD members (recall that Russia already has a bilateral visa-free regime with countries such as Argentina, Brazil, Israel, Jordan, Morocco, Tunisia, Turkey and the whole of Central Asia); more on the new government's efforts to integrate the Russian economy into the European market. It is the abolition of most trade barriers; the Russian customs service, which currently employs about 50,000 people and is a serious burden on export-import trade, will be reformed and its powers narrowed.

Small businesses are now under six different special tax regimes (simplified taxation system, unified tax on imputed income, unified agricultural tax, tax on the self-employed, trade levy, and tax on the patent system), which together provide only less than 2% of consolidated budget revenues. The flip side of this system is the overstaffing of the Federal Tax Service (FTS), which employs about 150,000 people; many of them are specifically engaged in tax control of small businesses. This is not normal; the tax system for small businesses should be radically simplified, with a simple and easy system of annual payments replacing all burdensome current taxes.

The state should withdraw from key sectors of the economy and monopolies should be unbundled; the details of these measures have been detailed in [roadmaps](#) prepared by Russian independent experts in recent years. Privatization of state-owned enterprises should be linked to unbundling and introduction of competition to replace existing state monopolies and oligopolies. Privatization should be conducted in an open and competitive manner, with the involvement of international consultants and investment banks, without limiting the access of foreign investors. Privatization proceeds should go directly to the accounts of Russian citizens or to the country's Pension Fund.

The pension fund should be transformed from the current pay-as-you-go instrument into a Norwegian-style investment fund, with capital to be formed from shares in state-owned companies and proceeds from privatization after these shares are sold on the open market. The Russian national pension fund has the potential to become a key investor in vital long-term development projects. The transition from a pay-as-you-go pension system will also reduce taxes on personal income, which in Russia today are among the highest in the world.

The banking sector should also be decentralized, the state should completely withdraw from the capital of commercial banks, and banks should be fully open to international competition. At present, the concentration of assets in the banking system and under the control of the state, as already mentioned, is extremely high.

Demonetization of the banking system will significantly facilitate access to finance for SMEs. According to the World Economic Forum's Global Competitiveness Index, Russia ranked 118th in the latest available ranking for SME financing. The dominance of large banks makes access to finance primarily for large oligarchic businesses linked to the state, while it is much more difficult for SMEs.

Russia's public finances should be significantly decentralized. At present, the federal government and federal funds together accumulate about 65% of all consolidated budget revenues, while regional budgets accumulate only 35%. Own revenues of local budgets account for less than 5% of Russia's consolidated budget (they are accounted for as part of consolidated regional budgets). While it is impossible to determine in advance the "optimal" ratio of resource allocation between the federal center and subnational governments, we believe that it is necessary to leave at least 50% of revenues to regional budgets, including at least 20-25% to local authorities. The federal government should keep less than 50% of budget revenues. These proportions should be enshrined in the new Constitution of the Russian Federation. The new Constitution should also strictly delineate powers between the federal center, regions, and municipalities, eliminating vague interpretations and "joint mandates" (which tend to lead to federal dominance in decision-making). All subnational mandates should be supported by appropriate revenue sources.

How to Build a Society of Equal Opportunities

One of the key negative features of Putin's economic system, which has a strong impact on the social situation and politics, is deep inequality and excessive concentration of wealth. Income differentiation in Russia has grown significantly since the 1990s: according to Rosstat, today the incomes of the top 20% of society [exceed](#) those of the poorest 20% by more than 15 times.

The concentration of wealth in the hands of a few richest people in Russia is extreme by the standards of comparable economies: even after the devaluation of Russian oligarchic assets as a result of international sanctions, 7 Russians [are](#) currently ranked in the top 100 richest people in the world according to Forbes, and 23 in the top 500. South Korea has a GDP size close to Russia's, but there are zero people from there on the list of the world's 100 richest people, and 3 in the top 500. Another comparable economy, Italy, has 1 person on the list of the 100 richest people in the world and 8 in the top 500; Spain has 1 and 2 respectively; Poland, whose economy is smaller than Russia's but still in the top

25 in the world in terms of nominal GDP (plus Poland is comparable to Russia in terms of post-communist transition experience) has zero people on the list of the 100 richest people in the world and only one in the top 500.

The difference is that in these countries there is no such level of economic concentration (especially in the hands of a few corporations closely linked to the state) as in Russia; the level of openness and competition is much higher. Another problem is nepotism and non-transparent government decision-making, which leads to favoritism. As mentioned above, according to the Global Competitiveness Ranking, Russia ranks 90th or lower on such criteria as the prevalence of corruption, undue influence, favoritism of government officials, and conflict of interest regulation.

The models for overcoming these problems are described above: demonopolization of the economy and ensuring radical transparency in decision-making and permanent institutionalized public control.

On the other hand, the level of social capital development in Russia leaves much to be desired: according to the World Economic Forum ratings, the country ranks 100 (or below) in the world on such criteria as social capital, existing environmental treaties, freedom of the press, and healthy life expectancy. There are significant problems with the health care system (highlighted by the COVID-19 pandemic) and the education system, the quality of which has deteriorated in recent decades. Health care and education are seriously underfunded and are clearly on the periphery of Putin's government's attention, which is preoccupied with war and corruption.

The share of expenditures in the consolidated budget of the Russian Government is distributed as follows:

- More than 40% is allocated for military and security purposes, financing economic projects and the state apparatus;
- Just over 20% is for health and education spending.

Military and security spending must be drastically reduced. Of course, as in the early 1990s, this could lead to significant (albeit much smaller) layoffs and the release of labor. Employees of defense enterprises who have lost their jobs should receive social support and access to retraining programs (including those supported by international organizations). Former law enforcement officers could join the professional army.

The state should drastically reduce the financing of economic projects. **All non-infrastructure projects should be handled by private investors. A system built on state-funded grandiose projects only breeds corruption and**

monopoly by Putin's oligarchic cronies, who dominate the Forbes list.

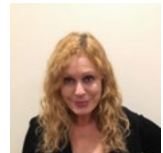
The introduction of competition at all levels of the economy and radical reform of public expenditure policy in favor of the development of social capital (health care, education) will help to reduce inequality in society.

The already mentioned transition to green energy will serve the same purpose: renewable energy is very labor-intensive and, unlike oil and gas, does not generate significant super-profits or rents, which become a source of oligarchy, corruption, and rich central power dictating its will to other players. Value added is much more evenly distributed: profit margins are low and labor costs account for the largest share of value added. Fossil fuel industries do not need many jobs, but generate huge rents. Green energy creates significantly more jobs than fossil fuels: the total number of jobs in the current Russian extractive industries is 1.7 million, while green energy can create 5-7 million jobs.

Mechanisms of oligarchic takeover of society should be destroyed, businesses with interests in other industries should be banned from owning Russian media, strict standards for transparent financing of political campaigns should be introduced, all possible conflicts of interest should be carefully declared and subjected to detailed public scrutiny. Dark money in political campaigns should be banned.



Transition Concept: Establishing the Rule of Law



*It is better for the law to rule than one of the citizens ...
so even the guardians of the laws are obeying the laws.*

*Aristotle. Politics and
the Constitution of Athens*

There is no universally accepted definition of the Rule of Law. Tens of thousands of books and scholarly articles discuss this concept in different ways without offering a generally accepted definition. The International Bar Association Council in its “Rule of Law” Resolution¹ of September 2005 describes the essential characteristics of the Rule of Law, which, as noted by Francis Neate, president of the IBA in 2005-2006, essentially rest upon two pillars: Submission of all to the Law and The Separation of Powers². The 2005 “Rule of Law” IBA Resolution declares that “the International Bar Association (IBA), the global voice of the legal profession, deplores the increasing erosion around the world of the Rule of Law. The IBA welcomes recent decisions of courts in some countries that reiterate the principles underlying the Rule of Law.

These decisions reflect the fundamental role of an independent judiciary and legal profession in upholding these principles. The IBA also welcomes and supports the efforts of its member Bar Associations to draw attention and seek adherence to these principles. An independent, impartial judiciary; the presumption of innocence; the right to a fair and public trial without undue delay; a rational and proportionate approach to punishment, a strong and independent legal profession; strict protection of confidential communications between lawyer and client; equality of all before the law; these are all fundamental principles of the Rule of Law.”

The 2005 “Rule of Law” ABA Resolution describes the phenomena that are totally incompatible with the Rule of Law: arbitrary arrests; secret trials; indefinite

1 Text of the Resolution is available here <http://www.teachinglegalethics.org/commentary-iba-council-%25E2%2580%2598rule-law%25E2%2580%2599-resolution-september-2005>

2 Neate F. The Rule of Law. The World Rule of Law Movement and Russian Legal Reform. Moscow, 2007, PP. 36-37.

detention without trial; cruel or degrading treatment or punishment; intimidation or corruption in the electoral process. Regrettably, all these phenomena are found in today's Russia.

The working definition of the Rule of Law suggested by the World Justice Project includes four universal principles: accountability (the government as well as private actors are accountable under the law), just law (the law is clear, publicized, and stable and is applied evenly. It ensures human rights as well as property, contract, and procedural rights), open government (the processes by which the law is adopted, administered, adjudicated, and enforced are accessible, fair, and efficient), accessible and impartial justice (Justice is delivered in a timely manner by competent, ethical, and independent representatives and neutrals who are accessible, have adequate resources, and reflect the makeup of the communities they serve)³.

The Venice Commission addressed the issue of the Rule of Law in its 2011 report⁴, in which it stated that “The concept of the “Rule of Law”, along with democracy and human rights, makes up the three pillars of the Council of Europe and is endorsed in the Preamble to the European Convention on Human Rights”⁵. After examining the historical origins of the concepts of Rule of Law, Rechtsstaat and Etat de droit, the report looked at these concepts in positive law. The term Rechtsstaat is found in a number of provisions of the Fundamental Law of Germany⁶. The notion of the rule of law (or of Rechtsstaat/Etat de droit) appears as a main feature of the state in a number of constitutions of former socialist countries of Central and Eastern Europe (Albania, Armenia, Belarus, Bosnia and Herzegovina, Croatia, the Czech Republic, Estonia, Georgia, Hungary, Moldova, Montenegro, Romania, Serbia, Slovakia, Slovenia, “the former Yugoslav Republic of Macedonia,” Ukraine). It is more rare in old democracies (Andorra, Finland, Germany, Malta, Norway, Portugal, Spain, Sweden, Switzerland, Turkey). It can be mostly found in preambles or other general provisions⁷.

Importantly, the Venice Commission pointed out that the notion of the Rule of Law is often difficult to apprehend in former socialist countries, which were influenced by the notion of socialist legality⁸. Under socialism, Marxist-Leninist

3 For details see <https://worldjusticeproject.org/about-us/overview/what-rule-law>.

4 Text of the Report on the Rule of Law (March 25-26, 2011) is available here [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2011\)003rev-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2011)003rev-e).

5 European Commission for Democracy Through Law (Venice Commission). Report on the Rule of Law (March 25-26, 2011). Available at [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2011\)003rev-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2011)003rev-e).

6 P. 30 of the Report on the Rule of Law (March 25-26 2011).

7 Op. cit, P. 32.

8 For details see https://www.venice.coe.int/WebForms/pages/?p=02_Rule_of_law&lang=EN.

ideology was the pillar of the new system of law; it penetrated into all areas of law, superseding them with a class approach. Marxism/Leninism viewed law as a tool intended to maintain the dominance of the working class over non-proletarians. Law was needed as a necessary, but temporary instrument used in the best interests of the working people, which would not be needed after creation of a classless society and would inevitably disappear⁹. This was a poor basis for establishing the Rule of Law.

While drafting the report, the Venice Commission reflected on the definition of the Rule of Law and concluded that the Rule of Law was indefinable. However, even in the absence of such definition and despite considerable diversity of opinion as to the meaning of the Rule of Law, the Rule of Law is an existing constitutional principle both in civil law and common law systems¹⁰. As suggested by the Venice Commission, the following definition by Tom Bingham, Lord Chief Justice of England and Wales, probably covers most appropriately the essential elements of the rule of law: **“all persons and authorities within the state, whether public or private, should be bound by and entitled to the benefit of laws publicly made, taking effect (generally) in the future and publicly administered in the courts.”**¹¹ This short definition, which applies to both public and private bodies, is expanded by 8 “ingredients” of the rule of law. These include: (1) Accessibility of the law (that it be intelligible, clear and predictable); (2) Questions of legal right should be normally decided by law and not discretion; (3) Equality before the law; (4) Power must be exercised lawfully, fairly and reasonably; (5) Human rights must be protected; (6) Means must be provided to resolve disputes without undue cost or delay; (7) Trials must be fair, and (8) Compliance by the state with its obligations in international law as well as in national law¹².

The Venice Commission took an operational approach and concentrated on identifying the core elements of the Rule of Law. The Commission then decided to draft an operational tool for assessing the level of Rule of Law compliance in any given state, and this led to the elaboration in 2016 of the [Rule of Law Checklist](#)¹³, based on the five core elements of the Rule of Law, sub-itemized into detailed questions. These core elements are:

9 Mishina E. The Long Shadows of the Soviet Past: A Picture of Judicial Reforms in the Transition Era. Moscow, Liberal Mission Foundation, 2020. ISBN 978-5-903135-74-5. P. 23.

10 See the Report by Professor Paul Craig <https://publications.parliament.uk/pa/ld200607/ldselect/ldconst/151/15115.htm>.

11 See Bingham T. The Rule of Law, Penguin Books, 2011.

12 Bingham. Op.cit., Part II.

13 Text of the Rule of Law Checklist is available here [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2016\)007-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2016)007-e).

- **Legality:** The principle of legality is the basis of every established and functional democracy. It includes supremacy of the law: State action must be in accordance and authorized by the law. The law must define the relationship between international law and national law and provide for the cases in which exceptional measures may be adopted in derogation of the normal regime of human rights protection.
- **Legal certainty:** Legal certainty involves the accessibility of the law. The law must be certain, foreseeable and easy to understand. Basic principles such as *nullum crimen sine lege/nulla poena sine lege*, or the non-retroactivity of the criminal law are bulwarks of the legal certainty.
- **Prevention of abuse/misuse of powers:** Preventing the abuses of powers means having in the legal system safeguards against arbitrariness; providing that the discretionary power of the officials is not unlimited, and it is regulated by law.
- **Equality before the law and non-discrimination:** Equality before the law is probably the principle that most embodies the concept of Rule of Law. It is paramount that the law guarantees the absence of any discrimination on grounds such as race, color, sex, language, religion, political opinion, national or social origin, birth etc. Similar situations must be treated equally and different situations differently. Positive measures could be allowed as long as they are proportionate and necessary.
- **Access to justice:** Access to justice implicates the presence of an independent and impartial judiciary and the right to have a fair trial. The independence and the impartiality of the judiciary are central to the public perception of justice and thus to the achievement of the classical formula: “justice must not only be done, it must also be seen to be done.”¹⁴

I will begin the analysis of the current state of affairs in Russia by discussing the issue of prevention of abuse/misuse of power in Russia with the focus on the principle of separation of powers as a fundamental constitutional principle and a pillar of the Rule of Law. Then I will describe how other core elements of the Rule of Law formulated by the Venice Commission look in today’s Russia and what needs to be done in this realm. Challenges of creating an independent and impartial judiciary as a key problem for Russia’s transition will be discussed separately.

14 https://www.venice.coe.int/WebForms/pages/?p=02_Rule_of_law&lang=EN

The Separation of Powers

As proclaimed in the 1789 Declaration of the Rights of Man and of the Citizen, any society in which no provision is made for guaranteeing rights or for the separation of powers has no Constitution¹⁵. Sadly, Russia is getting closer to being such a society: constitutional guarantees of rights and freedoms have stopped working, the fundamental rights and freedoms are being violated by the Russian public authorities and law enforcement officers. Constitutional provisions on the separation of powers seemingly remain intact, but in today's Russia the system of separation of powers is in danger, and the system of checks and balances is non-existent.

For the first time in the history of the USSR and Russia, separation of powers was proclaimed in the Declaration on the State Sovereignty of the RSFSR on June 12, 1990, but was envisaged on the constitutional level only in April of 1992¹⁶. This new constitutional provision was in sharp contrast with Art. 104 of the RSFSR Constitution of 1978¹⁷, which established that the Congress of People's Deputies was the supreme body of power of the Russian Federation and could handle any issue related to the competence of the RF.

The Russian version of the principle of separation of powers embodied in the Constitution of 1993 was flawed from the very beginning. Art. 10 of the Russian Constitution provides that "State power in the Russian Federation shall be exercised on the basis of its division into legislative, executive and judicial authority. Bodies of legislative, executive, and judicial authority shall be independent." At first sight, and read in isolation, this provision might be taken to suggest that the constitutional system of the Russian Federation is characterized by a classic trias politica division of power. However, the principle enshrined in Art. 10 of the Constitution cannot be interpreted in isolation from the provisions contained in the subsequent chapters and Articles of the Constitution¹⁸. While taken together, these constitutional provisions clearly show that the attribution of powers in the 1993 Constitution is far from a strict trias politica division of power. Rather, the Constitution grants considerable powers to the President,

15 Art. 16 of the Declaration of the Rights of Man and of the Citizen of 1789. Available at <https://www.elysee.fr/en/french-presidency/the-declaration-of-the-rights-of-man-and-of-the-citizen>.

16 Art. 3 of the RSFSR Constitution of 1978 (as amended in April 1992).

17 Text of the RSFSR Constitution of 1978 as amended in 1992 is available here https://constitution.garant.ru/history/ussr-rsfsr/1978/red_1978/183126/.

18 See Zorkin V. (ed.), Commentary to the Constitution (2nd ed., 2011). Available at http://www.consultant.ru/law/podborki/kommentarij_k_konstitucii_rossijskoj_federacii_%2528postatejnyj%2529_%25282-e_izdanie%252C_peresmotrennoe%2529_%2528pod_red._v.d._zorkina%2529/.

who is not a part of the system of separated powers. Professor M. Krasnov and Professor I. Shablinsky point out that “having excluded the Russian President from the triad of branches of power, the Constitution places him above these branches.”¹⁹

Many prominent Russian legal scholars have noted that Russian constitutional entrenchment of separation of powers is obviously unbalanced, as the president is the strongest and the most powerful actor. Professor V.S. Nersesyanz explains that there is a “clear overbalance of the Presidential powers and his prevailing role in handling public affairs and the obvious weakness of other branches of power compared to the Presidential power.”²⁰ Moreover, the President is present in all branches of power: Professor V. Zorkin and Dr. L. Lazarev emphasize that though the Russian President remains outside the traditional triad of branches of power, he “integrates Russian statehood [...] and is “present” in all branches of power both *de jure* and *de facto*.”²¹ Professor Y. Dmitriyev agrees by stating that “Furthermore, the required system of ‘checks and balances’ of the joint activities of the Federal Assembly, the President of the RF and the RF Government is not defined. A significant imbalance in favour of the executive power exists in Russia, which, through the RF President, who is its *de facto* head, dominates the other branches.”²² According to Nersesyanz, “the meaning of a number of other articles [of the Constitution] indicates that presidential power seems to be placed out of the bounds of the classic triad and to be constructed as a separate (initial, basic) power that sits above this standard triad.”²³

This unique position of the Russian President was strengthened by the constitutional provision establishing that the President of the RF determines the guidelines of the state’s domestic and foreign policies (Art. 80 p. 3). This very odd norm, which migrated from the Soviet constitutions into the post-Soviet one, apparently disagrees with the principle of separation of powers. The mandatory nature of these guidelines of the state’s domestic and foreign policies, which was confirmed by the Russian Constitutional Court²⁴, allows the Russian President to dictate his orders to other branches of power and makes the entire constitutional system even more unbalanced.

19 See Krasnov M., Shablinsky I. *Russian System of Power: A Triangle With one Angle*. Moscow, Institute of Law and Public Policy, 2008.

20 See Nersesyanz V. (ed.). *Problems of General Theory of Law and State*. Moscow, 1999, PP. 689-690.

21 Commentary to Art. 80 of the Constitution of the Russian Federation of 1993 (ed. by V. Zorkin and L. Lazarev). Available at <https://kommentarii.org/konstituc/index.html>

22 Y. Dmitriyev. *Commentary on the Constitution of the Russian Federation* (2nd ed., Statute 2013, P. 314).

23 Nersesyanz. *Op.cit*, P. 689.

24 Resolution 28-P from December 11, 1998, Resolution 9-P from November 29, 2006.

Numerous alterations of the Russian Constitution did not improve this imbalance, and the crucial point was reached in 2020. The 2020 constitutional amendments did not just “zero out” Vladimir Putin’s presidential terms (as well as Dmitriy Medvedev’s, although that is rarely mentioned), thereby essentially allowing him to stay in office indefinitely, but also extended his powers. Now the president can do the following:

- govern the executive branch;
- appoint (following consultations with the Federation Council²⁵) several ministers to office, including security ministers (siloviki), the Minister of Justice, the Minister of Foreign Affairs, as well as prosecutors of various levels, including the General Prosecutor;
- remove the aforementioned officials from office without consultation or coordination;
- fire the Prime Minister without dissolving the government;
- dissolve the State Duma not only in the event that a suggested candidate for the Prime Minister position has been rejected three times, but also if more than a third of the suggested cabinet members have been rejected (except for the ministers appointed personally by the president);
- appoint and fire members of the Federation Council — up to 30 members, including [seven lifetime senators](#);
- become a lifetime member of the Federation Council once his term in office is over or if he resigns early, though he has a right to refuse (Article 95, part 2 (b) of the Constitution);
- initiate the procedure to terminate powers of the Chief Justices of the Constitutional and Supreme Courts and their deputies, as well as the chairpersons and judges of cassation and appeal courts²⁶.

In his famous book “The Imperial Presidency”²⁷ Arthur Schlesinger addresses several characteristics of an Imperial Presidency, inter alia, the diminished influence of the Cabinet and the rise of a Presidential court, whereby the President is increasingly reliant on personal advisors in areas where he has Cabinet Departments. In my view, this wording is applicable to Putin’s Russia,

25 The upper house (the Federation Council) and the lower house (the State Duma). That was the only time when the upper house of the Federal Assembly of the RF was elected.

26 For details see E. Mishina. How the US and Russian Constitutions Were Changed. Available at <https://imrussia.org/en/analysis/3312-how-the-u-s-and-russian-constitutions-were-changed/>.

27 [Schlesinger](#) A. The Imperial Presidency. Houghton Mifflin Harcourt, 2004.

where members of the Government oftentimes play a less important role compared to the members of the Presidential court, which is usually called the President's inner circle. This inner circle started to form shortly after Putin's rise to power. Remarkably, in early 2000, Putin declared the principle of "equidistance of oligarchs": "No clan, no oligarch should be close to regional and federal authorities, they must be equidistant from power."²⁸ In so doing, the president sent an unequivocal message that he was changing the rules: wealthy people from the 1990s era should not get involved in politics, and they'd better keep a low profile. Simultaneously, Putin launched the "second wave of oligarchs," replacing the oligarchs of the 1990s with his own old friends. The Forbes list includes several Russian businessmen known as "Putin's friends", who became ultra-rich mostly with the help of governmental contracts. However, the mere fact of being ultra-rich is not sufficient to be an oligarch in Russia. Russian economists Sergey Guriev and Andrey Rachinsky point out that under Putin's rule a Russian oligarch is a businessman who possesses sufficient resources to affect national policy²⁹.

Putin's "inner circle" includes people, who were close to him before his political career on the federal level took off. These are people who know Putin from his time in Saint Petersburg or are his longtime St. Petersburg friends (Yuri Kovalchuk, Gennady Timchenko, Arkady and Boris Rotenberg) or colleagues from his days in the St. Petersburg Mayor's Office or the Dresden KGB rezidentura (station): (Alexey Miller, Sergey Chemezov, etc.). Putin's new elite also includes people from the KGB, who underwent professional training together with him in the 1980s. These people constitute another type of Putin's oligarchs - leaders of Russia's security services, the police, and the military, known as the "siloviki",³⁰ who have also leveraged their networks to amass extreme personal wealth. In most cases, "siloviki" are presidential appointees, who are assigned to these top governmental positions at the President's sole discretion. Under the 1997 Federal Constitutional Law "On the Government of the RF," the President "directs activities of the federal organs of executive power in charge of defense, internal security affairs, justice, foreign affairs, prevention of emergency situations and liquidation of consequences of calamities [...] and appoints heads and deputy

28 <https://www.kommersant.ru/doc/2884721/>.

29 Guriev S., Rachinsky A. The Role of Oligarchs in Russian Capitalism // Journal of Economic Perspectives, Volume 19, 1, Winter 2005, PP. 131–150.

30 See Markus S. Russian Oligarchs are Targets for Economic sanctions to end Putin's Ukraine War. Available at https://www.sc.edu/study/colleges_schools/moore/about/press_room/news_and_announcements/2022/stanislavfolks.php.

heads of these organs upon the recommendation of the Chairman of the RF Government.”³¹ This presidential power existed from the late 1990s and in 2020 was elevated on the constitutional level in a slightly modified version³². Now the aforementioned heads of federal organs of executive power (plus the one in charge of “public safety”) are appointed by the President after consultations with the upper house of the federal parliament; recommendation of the Chairman of the Government is not even mentioned. Similar provision can be found in the new FCL “On the Government of the RF.”³³

Elimination of the presidential power to make appointments to top governmental positions “after consultations with the Federation Council” is one of the most important conditions for establishing the Rule of Law in Russia. Such consultations are purely symbolic: they were supposed to create an impression of the active role of the Federation Council in the procedure of governmental appointments (with little success). These consultations do not address legal consequences and they have zero impact on the presidential decision-making process. The upper house of the Russian federal legislature must be more actively involved in the procedure of appointments to public positions. The President shall seek advice and obtain the consent of the Federation Council before making nominations to public positions (including judicial appointments, in most of which the President currently has a final say³⁴). The RF Law “On the Status of Judges” of 1992 shall be amended accordingly.

The biggest challenge to the initiation of the process of constitutional changes will be selection of the constitutional system for a new democratic Russia. Another big question relates to the destiny of the 1993 Russian Constitution. The idea to repeal the existing Constitution and to start from scratch looks unrealistic. At least for some time Russia must live with the properly amended 1993 Constitution. **Correction of the defects of the 1993 Constitution (both initial and those that came in a form of constitutional amendments) shall be one of the pillars of this stage of the constitution-making process.** Repeal of Putin’s constitutional amendments-2020 and some previous amendments (with the amendment envisaging elimination of the Higher Arbitrage Court of the RF

31 Art. 32 of the FCL “On the Government of the RF” of 1997. Available at <https://dokipedia.ru/document/1720022>.

32 Art. 83 p. e-1 Of the Constitution of Russian Federation. Available at http://www.consultant.ru/document/cons_doc_LAW_28399/8797c0ff5480db98af51382b6d5800fa84d1c875/.

33 Art. 10 of the FCL “On the Government of the RF” of 06 November 2020 4-FKZ. Available at http://www.consultant.ru/document/cons_doc_LAW_366950/dc9c12ac23df68a2e18f2ad867f28a29db19242d/.

34 Art. 6 of the RF Law “On the Status of Judges in the Russian Federation” of 1992. Available at http://www.consultant.ru/document/cons_doc_LAW_648/088c561f85a4c5855516c48adc2774a5f576b0d1/.

in the first instance) will be a *conditio sine qua non*.

In the longer term, Russia must base its constitution-making process on the lessons learned from its past, and here the post-World War II experience of West Germany would be one of the best foreign models to use. However, irrespective of what the final choice might be, it would be feasible to follow the pattern of post-WWII Germany, which did its best to learn the lessons of the Nazi regime. Design of the 1949 Basic Law of Germany demonstrates that its drafters avoided the flaws of the 1919 Weimar Constitution. The 1949 Basic Law strengthened the status and powers of the Parliament and the Federal Government in order to ensure proper functioning of the parliamentary system. The powers of the federal president were accordingly narrowed. It was also decided to eliminate all elements of direct democracy, which in the light of the Weimar Republic's experience were perceived to be a potential or direct threat to the normal operation of the parliamentary constitutional system³⁵. The direct response to Putin's undemocratic regime must come, *inter alia*, in a form of constitutional provisions guaranteeing protection to human rights and human dignity and making these fundamental rights binding for all organs of the state as directly applicable law (exactly as it was done in the German Basic Law of 1949)³⁶.

A well-balanced system of separated powers with downsized presidential powers from the outset will be another essential part of establishing the Rule of Law. Certain constitutional provisions that infringe upon the principle of separation of powers (such as Art. 80 p. 3 discussed above) or the provision empowering the President to appoint up to 30 "senators"³⁷ to the upper house of the federal legislature³⁸) shall be repealed. Constitutional provisions envisaging the powers and competence of branches of power shall include a more clearly established system of checks and balances. It would be incorrect to state that Russian constitutional design initially had no place for checks and balances. Ilya Shablinsky notes that checks and balances were activated many times. He points out that norms aimed at restraining the presidential powers in relations with both houses of the federal parliament were actively applied in 1994-1999

35 See Introductory note to the Basic Law of Germany of 1949. Edited by Max Plank Institute. Oxford University Press, 2007.

36 Op.cit.

37 That's how the amended Constitution of the Russian Federation refers to members of the Federation Council (the upper house of the Russian federal Parliament).

38 Art. 95 p. 2(c) of the Constitution of the Russian Federation of 1993. Available at http://www.consultant.ru/document/cons_doc_LAW_28399/a966cb7bf74cfc516528e2d2b8b56ae756147013/.

and were never in use after 2000³⁹.

The 2020 amendments further deepened this imbalance of power and strengthened the role of the President, while the other branches of government were virtually deprived of the opportunity to influence him. The State Duma may charge the president with high treason or another serious crime, but the offense must be confirmed by: (1) the conclusion of the Supreme Court on the presence of all criminal elements in the President's activities; (2) the conclusion of the Constitutional Court⁴⁰ on the compliance with the established procedure for the pressing of charges. The chances of the charge making it through such a complicated procedure are almost next to zero. First, the decision of the Duma to press charges should be upheld by two-thirds of the votes of the total number of deputies in the Duma. In the history of Russia there have been three attempts of impeachment (two in 1993 under the 1978 Constitution of the RSFSR and one in 1999), and the required number of votes has never been collected. Secondly, if one is to take into account the President's new authority to initiate the termination of the powers of Supreme and Constitutional Court judges, as well as of chairpersons and their deputies, the judges of the Russian Federation's high courts will think ten times before giving unfavorable conclusions – for they can pay for this with their posts⁴¹. Grounds for impeachment as established in the Russian Constitution must be essentially re-worked and more focused on the President's incompatibility with his high office. The following wording can be used as a possible model: "The President of the Republic shall not be removed from office during the term thereof on any grounds other than a breach of his duties patently incompatible with his continuing in office"⁴² or "the President can be removed from office on the following grounds: (1) for violation of the Constitution and laws, (2) for illegal interference into powers of Zhogorku Kenesh⁴³, activities of the organs of judicial power."⁴⁴

With a functioning (as opposed to fictional) system of separated powers in place, other issues and problems related to establishing the Rule of Law in Russia would be addressed with greater success.

39 Shablinsky I. The Switched-off Mechanism: Checks and Balances in Russian constitutional practice. *Comparative Constitutional Review*, 2010, 2 (75), P.111. Available at <https://cyberleninka.ru/article/n/vyklyuchenny-mehanizm-sderzhki-i-protivovesy-v-rossiyskoy-konstitutsionnoy-praktike/viewer>.

40 Art. 93 of the Constitution of the Russian Federation (as amended in 2020).

41 <https://khodorkovsky.com/everything-about-the-plebiscite-vote-is-a-scam/>

42 Art. 68 of the Constitution of France 1958. Available at <https://www.elysee.fr/en/french-presidency/constitution-of-4-october-1958>.

43 Zhogorku Kenesh is the official name of the Parliament of Kyrgyzstan.

44 Art. 73 (2) of the Constitution of Kyrgyzstan of 2021 <http://cbd.minjust.gov.kg/act/view/ru-ru/112213?cl=ru-ru>.

Legality

The principle of legality sounds somewhat questionable in Putin's Russia due to the increasing number of unlawful laws adopted by the Russian Parliament (the Federal Assembly of the Russian Federation) under Putin's rule. Nevertheless, from his first days in office, Putin has usually been referred to as a "legalist": "Putin is a legalist, i.e. a public official, who reaches his goals by legal means within the framework of the existing legal order."⁴⁵ On January 31, 2000, one month exactly after becoming acting President of the Russian Federation, while speaking at a meeting in the Russian Ministry of Justice, he offered language, which immediately turned into a mantra: "Whatever we are up to today [...], we must remember about the long-standing Russian traditions of fairness and legitimacy, remember that the dictatorship of laws is the only type of dictatorship we must succumb to." The dogma "dictatorship of laws" became one of the keynote ideas of the first two presidential terms of Vladimir Putin⁴⁶.

Putin's love for laws drafted in accordance with his preferences should not be mistaken for a love for the Law. Putin and his obedient law-makers repeatedly ignore and violate fundamental legal principles. Numerous unlawful laws adopted under Putin's rule leave no doubt that in contemporary Russia the word "legalist" has assumed a different meaning: love for Putin's laws, some of which not only disagree with fundamental legal principles — they are totally unlawful. If a country adopts illegitimate laws that violate generally accepted legal principles and legitimize arbitrariness at the legislative level, the consequences may be terrifying: it is well-known that the law can be used in order to legitimize the worst lawlessness. The most glaring example of such a misuse is the infamous Nuremberg Laws, including the "Reich Citizenship Law" and the "Law for the Protection of German Blood and German Honor," which deprived Jews of German citizenship, dictated that they wear clothes in "Jewish" colors, and forbade marriage and sexual relations between Jews and members of the "Aryan" race. As noted by Dr. Rainer Grote, "the experience of the National Socialist regime, which used the legislative and administrative bodies at its sole discretion to cloak even the most outrageous and egregious policies in the garb of formal legality, dealt a fatal blow to the positivist concept

45 For details see Ivanov V. Putin's Federalism. Centralizing reforms in Russia in 2000-2008. Chapter 2. Territoriya Buduschego, 2008.

46 For details see Ovchinsky V. *The Dictatorship of Laws: Interim results*. Russia In Global Politics. 2, 2008. Available at <https://globalaffairs.ru/articles/diktatura-zakona-promezhutochnye-itogi/>.

of Rechtsstaat.”⁴⁷

The most telling examples of Russian unlawful laws are the infamous “Dadin’s⁴⁸ Article” of the Russian Criminal Code and the legislation on “undesirable organizations.” In 2014, Article 212.1 of the Criminal Code criminalized “repeated violations of the established rules of organizing or holding public gatherings, meetings, rallies, marches, and pickets.”⁴⁹ Many prominent Russian lawyers including famous defense attorney Henri Reznik pointed out the anti-constitutional nature of this article and emphasized that multiple and repetitive administrative offenses do not constitute a crime, as criminal acts are associated with a higher level of danger to the public⁵⁰. The introduction of this article to the Russian Criminal Code was motivated solely by political expediency and the urge to fight the opponents of the regime. As for punishment, just like in feudal times, it serves as intimidation to teach others not to dissent⁵¹: Article 212.1 stipulates a maximum penalty of five years, which qualifies such offenses as medium-gravity crimes.

The notion of an “undesirable organization” was specifically designed for labeling and blocking activities of foreign and international NGOs which the Russian government doesn’t like for various reasons. Legislation on “undesirable organizations” was adopted in 2015, when the Federal Law “On Enforcement Actions for Individuals Involved in Violation of Fundamental Human and Civil Rights and Freedoms” of 2012 was amended. New Art 3.1. envisaged that “Activities of a foreign or international NGO endangering fundamentals of the constitutional system of the Russian Federation, defensive capacity or safety of the state, which, inter alia, help or interfere with nomination of candidates, election of registered candidates, proposing and conducting of referenda, securing of certain results on elections or referenda... can be designated as undesirable on the territory of the Russian Federation.”⁵² Decisions on

47 Grote R. German Rechtsstaat in comparative prospect. *Doctrines of Legal State and Rule of Law in Contemporary World*. Ed. by Zorkin V., Barenboim P. LOOM and Justitsinform. Moscow, 2013, P.242.

48 In December 2015, Russian political activist Ildar Dadin became the first person prosecuted and convicted under this article.

49 Text of Art. 212.1 of the Russian Criminal Code is available here http://www.consultant.ru/document/cons_doc_LAW_10699/3c21fcb0be9a995abb345c4d386166206558102d/.

50 Reznik on Ildar Dadin’s conviction: it’s an insult of law. *Novaya gazeta*, April 01, 2016. Translated. Retrieved from <https://www.novayagazeta.ru/articles/2016/04/01/68036-genri-reznik-8212-o-prigovore-ildaru-dadinu-171-eto-oskorblenie-prava-187>.

51 See Mishina E. The Re-birth of Soviet Criminal Law in Post-Soviet Russia. *Russian Law Journal*. 2017, 5(1), PP. 57-78.

52 Art. 3.1. of the Federal Law of 28. 12. 2012 272 -FZ “On Enforcement Actions Against Individuals Involved in Violation of Fundamental human rights and freedoms, rights and freedoms

“undesirability” of a foreign or international NGO are made by the General Prosecutor of the RF or her deputies upon coordination with the RF Ministry of Foreign Affairs. Notably, Russian legislation lacks precise criteria for identifying “undesirability” of operations of a foreign or international NGO in the territory of Russia, so the decisions are made at the sole discretion of the Russian authorities. Labeling of such NGOs as “undesirable organizations” is politically motivated, so discussing the issue of the danger or threat posed by undesirable organizations”, which is kept by the Russian Ministry of Justice, confirms that declaring a foreign\international NGO an “undesirable organization” is always politically motivated. The list starts from The National Endowment for Democracy; Open Society Foundation, Atlantic Council, Oxford Russia Fund, Bard College, Journalism Development Network INC, Chatham House and other reputable NGOs designated shortly thereafter. The Woodrow Wilson International Center for Scholars was put on the list in November 2022. The Andrei Sakharov Foundation was declared an “undesirable organization”⁵³ on January 23, 2023. Declaring Transparency International an “undesirable organization” on March 6, 2023, confirmed that an old joke “Anti-corruption efforts must be criminalized because they undermine the fundamentals of Russian statehood” was not a joke.

The designated status of “undesirable organization” entails a number of consequences including a ban on opening new subdivisions and closing of already existing ones, a ban on disseminating information materials (including via media and Internet), a ban on carrying out programs and projects on the territory of Russia. Legislative provisions on “undesirable organizations” prohibit Russian citizens, stateless persons permanently residing in Russia and Russian legal entities from taking part in the activities of an “undesirable organization” outside Russia⁵⁴. Participation in activities of an “undesirable organization” constitutes an administrative offence⁵⁵. Art. 284.1 “Carrying out activities of an “undesirable organization”⁵⁶ established criminal liability for (1) participation in activities of an “undesirable organization” committed by an individual already held liable for a similar offence or convicted under this Article, (2) providing

of Russian citizens”. Available at http://www.consultant.ru/document/cons_doc_LAW_139994/a2a2c3de18de17987c273111214cd45393805c36/.

53 See <https://sakharovfoundation.org/news/>.

54 Op.cit., Art. 3.1, P.3(6).

55 Art. 20.33 of the RF Code of Administrative Offences. Available at http://www.consultant.ru/document/cons_doc_LAW_34661/4b08575893a0a390203138248547c5e59e7f52b3/.

56 Available at http://www.consultant.ru/document/cons_doc_LAW_10699/404c474f3c17deb20e621667ad03c05b16370bfc/.

or collecting money or rendering financial services intended for maintenance of activities of an “undesirable organization,” (3) management of operations of an “undesirable organization.” With the maximum punishment specified as deprivation of freedom for up to 6 years, this crime constitutes a felony under Russian law⁵⁷.

Another example of Putin’s unlawful legislation is the “falsification of history” provision. In May 2014, a new Article 354.1 “Rehabilitation of Nazism” was added to the Russian Criminal Code. The new article criminalized “Denial of facts established by the verdict of the International Military Tribunal in order to bring to justice and punish key military criminals of the European Axis powers, approving of crimes established by this verdict as well as public dissemination of knowingly false information regarding activity of the USSR during World War II”⁵⁸. Russian case law proves that the provision on “public dissemination of knowingly false information regarding activity of the USSR during World War II” is the most important and the most utilized provision of this article. In most criminal proceedings instituted under Article 354.1, suspects faced charges of dissemination of such information. Such cases are usually referred to as cases of “falsification of history,” and the number of cases is on the rise⁵⁹. 2020 brought additional risks for those who were brave enough to criticize certain events from Russia’s history: protection of “historical truth” was elevated to the constitutional level. One of the amendments to the Russian Constitution established that “The Russian Federation venerates the memory of the defenders of the Motherland and ensures protection of historical truth.”⁶⁰ Shortly after the constitutional amendments came into effect on July 04, 2020, the RF Investigatory Committee created a new subdivision in charge of investigating crimes connected with “falsification of history.” In April of 2021, the definition of “Rehabilitation of Nazism” was expanded⁶¹ and now includes (a) committing a crime by a group of persons, by the group of persons with a prior record of conspiracy or by an organized group, (b) with the use of the Internet or other information/communication networks, (c) public humiliation of the honor and

57 Art. 15 of the RF Criminal Code of 1996. Available at http://www.consultant.ru/document/cons_doc_LAW_10699/a0182fc43a8bbf8974658cda72c860ddfb210c52/.

58 Text of the initial wording of Art. 354.1 is available here http://www.consultant.ru/document/cons_doc_LAW_162575/3d0cac60971a511280cbba229d9b6329c07731f7/#dst100009.

59 For details see Mishina E. Some Details of the Portrait of An Enemy in Russian rule-making of 2010-2020s. *Soviet Roots. Palladium* 6, 2023. <https://doi.org/10.55167/d3d7aa09677e>.

60 P.3 Art. 67.1 of the Constitution of the Russian Federation (as amended in 2020) http://www.consultant.ru/document/cons_doc_LAW_28399/95c44edbe33a9a2c1d5b4030c70b6e046060b0e8/.

61 Art. 354.1 of the RF Criminal Code with amendments of 05 April 2021 is available here http://www.consultant.ru/document/cons_doc_LAW_10699/be763c1b6a1402144cabfe17a0e2d602d4bb7598/.

dignity of a veteran of the Great Patriotic War.

Step by step, apologetics of the Soviet past, sacralization of the Soviet Union's Victory in the Great Patriotic War, "historic memory" and "historic truth" are shaping up as a state ideology despite the explicit constitutional ban⁶². One of the foundations of the Russian constitutional system clearly states that "no ideology shall be established as state or mandatory." However, **this is not the first time (and certainly not the last time) when organs of state power of the Russian Federation infringe upon the foundations of the Russian constitutional system, which they are vigorously protecting from multiple domestic and external enemies with "undesirable organizations."** Moreover, in November of 2022 a new regulation under the title "Foundations of the State Policy for Protection and Strengthening of Traditional Russian Spiritual Moral Values" (approved by presidential decree 809 of 09 November 2022)⁶³ de facto established a new Russian state ideology in breach of the Russian Constitution. "Protection of traditional Russian spiritual and moral values, culture and historic memory" was proclaimed a strategic national priority. Key goals and tasks of this new ideology include preservation of historic memory, counteractions to attempts of falsification of history, preservation of historic experience of formation of traditional values.

Another foundation of the Russian constitutional system, which is currently in danger, is the principle of supremacy of international law envisaged in Art. 15 (4) of the Russian Constitution: "Universally recognized principles and norms of international law and international treaties of the Russian Federation form a component part of the Russian legal system. If an international treaty of the Russian Federation fixes other rules than those envisaged by law, the rules of the international treaty shall be applied." The role of international law in the new democratic Russia was heatedly debated by the Constitutional Assembly of 1993⁶⁴, and even after the 1993 Constitution came into effect, many hard-liners did not welcome the idea of direct penetration of international law into the Russian legal system. The Plenum of the Russian Supreme Court issued two Resolutions⁶⁵ (8 of 31 October 1995 and 5 of 10 October 2003), where it offered the interpretation of Art. 15 (4), which narrowed down the meaning of

62 P.2 Art. 13 of the Constitution of Russian Federation.

63 <http://www.kremlin.ru/acts/bank/48502>.

64 For details see <http://rusconstitution.ru/term/69/>.

65 Russian Supreme Court provides explanations to lower courts on how laws should be applied in order to promote their uniform application. Such explanations come in a form of Resolutions of the Plenum of the Supreme Court.

this constitutional provision and instructed the courts that “only the rules of international treaties of the RF that have entered into force and consent to be bound by which was given in the form of a federal law shall be applied with priority over the laws of the Russian Federation.”⁶⁶ In my view, these Resolutions appear to be an attempt of the Russian Supreme Court both to limit the meaning of provisions of Art 15 (4) only to ratified international treaties of the RF and to restore the elements of the Soviet doctrine of transformation, under which the international obligations of the state would be applicable internally only if they were transformed by the legislature into a separate statute or administrative regulation. By relying on the doctrine of transformation, the Soviet Union was able to sign numerous international treaties, including treaties on human rights, and still avoid implementing some or all of their provisions in the domestic legal order⁶⁷.

In the early 2010s Valery Zorkin, the Chief Justice of the Russian Constitutional Court pioneered the crusade against the European Court of Human Rights. As a result, in 2015, the Constitutional Court was vested with the power to resolve matters concerning the possibility of enforcing judgements of the ECtHR⁶⁸. When the constitutional amendments came into effect in 2020, this power was elevated to the constitutional level⁶⁹. Simultaneously, the Constitutional Court was empowered to decide on the possibility of enforcing judgments of foreign or international (interstate) courts, foreign or international arbitrations, which impose obligations on Russia, if such judgments contradict the fundamentals of the public legal order of the RF. Compliance with the fundamentals of the public legal order of Russia as a criterion of enforceability is highly problematic for the following reasons: (1) the notion of “public legal order” does not belong to the area of Russian constitutional law, (2) its ambiguity constitutes grounds for arbitrary interpretation, and (3) this vague criterion will make avoiding international obligations of Russia both legal and constitutional⁷⁰.

The current situation in Russia leaves no doubt that Russia has departed from the Western democratic tradition and replaced it with “traditional Russian values.” The situation with regard to the supremacy of

66 P.8 of the Resolution 5 of 10 October 2003 http://www.consultant.ru/document/cons_doc_LAW_44722/.

67 Danilenko G. The New Russian Constitution and International Law. The American Journal of International Law, Vol. 88, 3, Jul. 1994, P. 458.

68 Text of the amendments to the FCL on CC RF of 14 December 2015 is available here http://www.consultant.ru/document/cons_doc_LAW_190427/3d0cac60971a511280cbba229d9b6329c07731f7/.

69 New p. 5.1 (b) of Art. 125 of the Constitution of Russian Federation.

70 Mishina E. The Long Shadows of the Soviet Past: A Picture of Judicial Reforms in the Transition Era. P. 97.

international law doesn't look better. In February of 2023, Russia withdrew from a number of international treaties including the European Convention on Human Rights of 1950 with Protocols 1, 2, 3, 4, 5, 7, 8, 11, 14, 15, the European Convention on Suppression of Terrorism of 1977, and the European Charter of Local Self-Government of 1985⁷¹. Generally speaking, the supremacy of law in Putin's Russia is highly questionable; this statement can be confirmed by the following words of Andrey Klishas, Head of the Committee on Constitutional Legislation of the upper house of the Russian Parliament: "from the political point of view, from the viewpoint of legitimacy, in our country there is no greater authority than the President's words."⁷²

Russia's initial post-Soviet constitutional design reflected the desire of democratic Russia to become an open and law-abiding member of the international community. These constitutional provisions, as well as political-legal developments leading to their adoption, demonstrated the expanding role of international law in the building of modern states based on the rule of law⁷³. The enactment of the Federal Law "On International Treaties of the RF" in 1995 was a logical continuation of the constitutionally established principle of the supremacy of international law.

In order to re-establish the supremacy of international law in Russia, we need to return to the starting point and to repeal a number of constitutional and legislative amendments that undermine or distort the principle of supremacy of international law. A much bigger task will be to change the attitude of law enforcers, and here we should start from repeal of the aforementioned Resolutions of the Plenum of the Supreme Court. **Russian judges will need new guidance, and this guidance should clearly reflect the role of the universally accepted principles and norms of international law.**

71 The exhaustive list of international treaties of the Council of Europe, which legal force for Russia has been discontinued, is available here <http://publication.pravo.gov.ru/Document/View/0001202302280017?index=0&rangeSize=1>.

72 <https://www.vedomosti.ru/politics/characters/2022/12/08/954257-slova-prezidenta-silnee-ukaza>.

73 Danilenko. Op.cit., P. 452.

Equality Before the Law and Non-Discrimination

Equality before the law is a universally recognized fundamental legal principle, which has been established in the Russian Constitution and a number of other legislative acts including the Federal Constitutional Law “On the Judicial System of the RF” of 1996 and the Russian Criminal Code of 1996. Art. 19 (2) in its first part establishes that “the state shall guarantee the equality of human and civil rights and freedoms regardless of sex, race, nationality, language, origin, property and official status, place of residence, attitude to religion, convictions, membership of public associations, or of other circumstances.” Remarkably, the second part of Art. 19 (2), which is the key non-discrimination clause, is rather narrow: “All forms of limitations of human rights on social, racial, national, language or religious grounds shall be prohibited.”⁷⁴ Such types of discrimination as discrimination on the grounds of political beliefs and sexual orientation have been left behind, and exactly these grounds for discrimination have a strong presence in contemporary Russia.

After numerous unsuccessful attempts to re-criminalize male same sex relations in post- Soviet Russia⁷⁵, discrimination on the grounds of sexual orientation obtained legislative entrenchment in 2013, when the new Art. 6.21 of the RF Code of Administrative Offences made “Propaganda of non-traditional sexual relations among minors” an administrative offence. The new statutory provision became known as “the gay propaganda law”; in 2014, its constitutionality was affirmed by the Russian Constitutional Court in its Resolution 24-P⁷⁶. Notably, in this resolution the Court stated “as such, adherence to non-traditional sexual relations may look insulting for many people from the viewpoint of moral norms accepted in the Russian society or otherwise encroaching on public morals and related rights, freedoms and legitimate interests of other persons.”⁷⁷ In 2020, one of Putin’s constitutional amendments envisaged “protection of marriage as a union of a man and a woman.”⁷⁸ This constitutional wording leaves no hope that Russian authorities will form some sort of positive attitude towards same

74 Art. 19 of the Constitution of the Russian Federation.

75 For more information see Mishina E. Who is Troubled by Gay Propaganda. Available at <https://imrussia.org/en/law/2082-who-is-troubled-by-gay-propaganda>.

76 Resolution of the Russian Constitutional Court 24-P of 23 September 2014. Text of the resolution is available here. <https://www.garant.ru/products/ipo/prime/doc/70647124/>.

77 P. 2.2. of the Resolution 24-П of 2014.

78 Art. 72 of the Constitution of the Russian Federation of 1993 (as amended in 2020). http://www.consultant.ru/document/cons_doc_LAW_28399/c6e42f15d1b028b04b556f3f9ca32433ae2cc969/.

sex marriages⁷⁹. From this viewpoint, further legislative changes look like a logical continuation. In December of 2022, a set of amendments to the Federal law “On information, informational technologies and protection of information” and other laws addressing the issue of “propaganda of non-traditional sexual relations/preferences pedophilia and gender reassignment” (which became known as “the LGBT-propaganda law”) came into effect⁸⁰. Protection from LGBT-propaganda was extended to all age categories of the population; Art.6.21 of the Code of Administrative Offences was amended accordingly⁸¹. Remarkably, the LGBT-propaganda law treats equally same sex relations and gender reassignment (the activities that may be frowned at by a part of Russian society, but are still legal) and pedophilia (provided that the law doesn’t specify the meaning of this term, so it’s unclear whether it means a psychiatric disorder or sexual relations with minors that constitute a criminal offence.”⁸² The law bans information “that may make children want to get a gender reassignment.”⁸³ Owners of websites and web pages are obliged to closely monitor the web in order to spot propaganda of non-traditional sexual relations/preferences, pedophilia and gender assignment. Similarly, such information shall be banned from mass media, commercials, movies, printed products etc.

Provisions of Russian legislation regulating the status and activities of so-called “foreign agents” (which became known as “the foreign agents law”) offer another example of discriminatory legislation of Putin’s era. The “foreign agents law” was initially advertised by Russian authorities and state-controlled media as a Russian version of the U.S. Foreign Agents Registration Act (FARA) of 1938 despite the striking differences between these two acts⁸⁴. The Russian Constitutional Court, which found the “foreign agents law” to be in line with the Russian Constitution, explained in its Resolution 10-P of 08 April 2014⁸⁵ that the notion of a “foreign agent” doesn’t imply “any negative assessment from the part of the state, is not intended to form a negative attitude towards political

79 <https://www.4freerussia.org/ru/normotvorchestvo-gosudarstva-kontramota/>.

80 Text of the Federal Law 478-FZ of 05 December 2022 is available here http://www.consultant.ru/document/cons_doc_LAW_433218/.

81 Text of the amended Art. 6.21 is available here http://www.consultant.ru/document/cons_doc_LAW_34661/d4344568bd586d541d39273855ba64ba9d18e84a/.

82 Text of Art. 134 of the RF Criminal Code is available here http://www.consultant.ru/document/cons_doc_LAW_10699/4007b95becb2a24b80106ceaf11863216fd67f63/.

83 Art. 5 of the Federal Law 478-FZ of 05 December 2022.

84 For details see Ekaterina Mishina E. Some Details of the Portrait of An Enemy in Russian rule-making of 2010-2020s. Soviet Roots. Palladium 6, 2023. Available here <https://doi.org/10.55167/d3d7aa09677e>.

85 Text of the Resolution is available here http://www.consultant.ru/document/cons_doc_LAW_161690/92d969e26a4326c5d02fa79b8f9cf4994ee5633b/.

activities performed by [a Russian NGO designated a foreign agent] and cannot be perceived as a sign of distrust or a desire to discredit such NGO and (or) the goals of its activity.”⁸⁶ However, these statements did not look convincing from the very beginning, and further legislative developments aimed at the “regulation of status of a foreign agent” were openly discriminatory. The Federal Law “On Control Over Activities of Persons Under Foreign Influence” of 14 July 2022 envisages a long list of constraints connected with the status of a foreign agent⁸⁷, including ban on access to public and municipal services, prohibition against serving as a member of an electoral commission, banning educational activities in relation to minors, a ban against teaching in state and municipal educational institutions etc. More restrictions followed in December of 2022 “in order to improve the regulation of the status of a foreign agent,”⁸⁸ i.e. declaring a status of a “foreign agent” to constitute grounds for dismissal from a number of state organs. All these new provisions are both discriminatory and unconstitutional. The Constitution explicitly provides that human and civil rights and freedoms can be limited by federal law only to the extent necessary for protection of the constitutional system, morality, health, rights, and legitimate interests of other individuals, ensuring defense of the country and safety of the state⁸⁹.

More discriminatory legislative provisions followed in 2022 after Russia’s invasion of Ukraine. The notorious “anti-fake legislation” is amazingly multi-purpose; it reinstated censorship prohibited by Art. 29 of the Constitution, created a mechanism for aggressive protection of the official version of events in Ukraine, openly violated freedom of speech and freedom of thought protected by the same Art. 29, constituted additional grounds for discrimination on the grounds of political beliefs and prosecution of dissent. Disproportionally severe punishments envisaged in new pieces of the “Special Military Operation” legislation were intended to deter both the opponents of the regime and those who are still undecided. The severe sentences imposed on Ilya Yashin and Alexey Gorinov, the pending case of Vladimir Kara-Murza and many others are supposed both to punish opposition politicians and critics and to instruct the general public to refrain from criticism and nonsupportive comments regarding

86 P. 3.1 of the Resolution 10-P of 08 April 2014.

87 Article 11 of the Federal Law of 14 July 2022. Available here http://www.consultant.ru/document/cons_doc_LAW_421788/b5999463f66d15b2deb5c1203d23e86f3d994bf9/.

88 For details see <http://www.council.gov.ru/events/news/140337/>.

89 Art. 55 p. of the Constitution of the Russian Federation of 1993 http://www.consultant.ru/document/cons_doc_LAW_28399/1a17ce42ccf66a8cdc73524a84798f90e9f7b63a/.

the situation in Ukraine and Russian foreign and domestic policy in general.

Truth be told, such disproportionately severe punishments have become a recognizable feature of the Russian system of criminal justice. **It would be no exaggeration to say that a rational and proportionate approach to punishment has almost disappeared in today's Russia.** Numerous law enforcement decisions, including those made in the so-called “Moscow Case” of 2019, display the worst attitudes of Soviet criminal law, namely, the disproportionate severity of sentences and the obvious pro-prosecution bias on the part of judges. On September 16, 2019, the actor Pavel Ustinov was sentenced to three and a half years in prison for allegedly dislocating the shoulder of a police officer during a demonstration that happened on August 3rd. In response to the allegations, Ustinov said that he was not participating in the rally and that he did nothing to resist the police officer. Judge Alexey Krivoruchko from the Tverskoy district court of Moscow refused to consider [videos of Ustinov's detention](#) (that seem to support his story and show that the police officer was not injured) as an item of evidence⁹⁰. The case of financial manager Vladislav Sinitza provides us with another example of the disproportionate severity of punishment. On September 3rd, 2019, he was sentenced to five years in a standard regime penal colony for a Tweet. In the Tweet, Sinitza expressed his doubts as to whether the kids of force structure officers would get home safely after the brutal suppression of the non-coordinated protest rally of July 27, 2019. The court aligned with the prosecution and ruled that Sinitza's Tweet contained an incitement to violence against the children of policemen⁹¹ and members of Rosgvardiya⁹². In September 2022, the Russian journalist Ivan Safronov was sentenced to 22 years in a strict regime prison colony for committing high treason. The internationally established purposes of criminal punishment⁹³ are to: a) restore social justice; b) to punish the convict; and c) to deter other crimes. The Russian criminal justice system has so far largely focused on the third part, whereas the first two elements are apparently ignored. Disproportionately severe punishments (as in the cases

90 <https://www.rferl.org/a/moscow-case-ustinovprominent-russians-protest-repression/30171770.html>.

91 https://www.novayagazeta.ru/articles/2019/10/03/82215-pyat-let-za-tvit-srednevekovoe-nakazanie-lisat-svobody-za-mnenie-nelzya?fbclid=IwAR2qfrg6oKKIpi0W5TgFsgGdOKA0RPXq47mcYTQzEnnMbf_Ecf2opWiWDJc.

92 Rosguardiya (Federal Service of the Troops of the National Guard of the Russian Federation) is an internal military force of the Russian Government, which is not a part of the RF Armed Forces. Rosguardia became infamous, inter alia, due to the numerous cases of cruel oppression of protest rallies and violent treatment of peaceful protesters.

93 Art. 43 (2) of the Criminal Code of the RF.

of Konstantin Kotov (who was convicted under Art. 212.1 of the Criminal Code, Vladislav Sinitza and many others) are intended to terrify the “offenders” and to scare away their potential followers.

Access to Justice

Today Russia needs judicial reform even more than in 1991, when the Concept of Judicial Reform of October 24, 1991 was approved. This Concept was a fundamental document symbolizing the start of considerable modifications in the judiciary, especially targeting the transformation of Soviet courts into an independent branch of power. **The mission of the reformers was to create conditions for implementation of the principle of decisional independence, which had been envisaged on a constitutional level since 1936⁹⁴ but had no chance to be enforced under the totalitarian regime.**

Judicial independence is a central component of any democracy and is crucial to the separation of powers, the rule of law, and human rights⁹⁵. The institutional independence of courts and the individual independence of judges during the process of reviewing the facts of the case, conducting legal analysis, and deciding in a case are deeply interconnected. As a practical matter, it is nearly impossible to separate the conditions that threaten the institutional independence of the judiciary and the independence of individual judges in their official capacity⁹⁶. According to Judge Birtles, judicial independence is composed of two foundations. Only together do the two guarantee the independence of the judiciary. **These two foundations are the independence of the individual judge and the independence of the judicial branch⁹⁷.** As Elena Abrosimova puts it, both drafters of international acts and Russian lawmakers highlight the togetherness of the institutional independence of courts and the decisional independence of judges⁹⁸.

Normative entrenchment of institutional independence of courts was a

94 Art. 112 of the 1936 Constitution of the USSR. Retrieved from http://constitution.garant.ru/history/ussr-rsfsr/1936/red_1936/3958676/.

95 Judge William Birtles. The Independence of the Judiciary // The World Rule of Law Movement and Russian legal reform. Moscow, Justitsinform, 2007. PP. 101-106, 101.

96 Mishina E, Peyser M. From Institutional Independence to Independent Judicial Decision-making: Opportunities for Strengthening Judicial Independence in Russia // The World Rule of Law Movement and Russian Legal Reform. Moscow, Justitsinform, 2007. PP. 106-133, 109.

97 Birtles. Op.cit., 102.

98 Abrosimova E. Judicial power in the Russian federation: system and principles. Moscow, Institute of Law and Public Policy, 2002, P. 54.

much easier task. The 1993 Constitution of Russia proclaimed the independence of the Russian judiciary (arts. 10, 118, etc.), basic principles of organization and operation of courts including judicial independence, administration of justice only by courts, prohibition of extraordinary courts, adversarial procedure and publicity of court proceedings, financing of courts from the federal budget, fundamentals of legal status of judges – independence, irrevocability, inviolability (art. 118-123) and established the RF Constitutional Court, the RF Supreme Court, the Higher Arbitrazh Court, federal and other courts (art. 125-128).”⁹⁹ The Laws on Arbitrazh Courts and the Constitutional Court were adopted in July of 1991, the Law on the Status of Judges in 1992, and the Federal Constitutional Law “On the Judicial System of the RF” followed in 1996. By that time, the institutional design of the Russian judiciary looked very impressive, and numerous constitutional and legislative provisions addressed the issue of independence of the judicial branch. Ensuring the due level of decisional independence of judges turned out to be a real challenge, since this task needed to be completed while taking into account the strong influence of the Soviet past.

Russian lawyers have only very recently begun to recognize the tremendous importance of path dependence. Factors from the Soviet past that still affect Russian courts today due to path dependence can be divided into three groups. External Factors (group 1) include, in the first place, the fact that under Soviet rule courts did not constitute an independent branch of power. This is not surprising, since the principle of the separation of powers was not compatible with the totalitarian regime that existed in the USSR. Strong dependence upon the Communist Party constituted another external factor. For judges-to-be, membership in the Communist Party of the Soviet Union (CPSU) was a condition sine qua non. Directives of the CPSU bodies were fully mandatory for judges and had to be executed immediately. Dependence upon administrative agencies was factor 3, which primarily related to financial and social issues. In the USSR, judges were one of the most poorly paid positions in the legal profession, so material support, social services, and social benefits for judges had great importance. Also, in certain periods under Soviet rule (especially under Joseph Stalin), the courts were nothing but an element of an enormous repressive machine used for the destruction of life and altering the destinies of millions of people. The courts, both *de jure* and *de facto*, were a part of a unified law enforcement system, which ensured that judges depended upon the CPSU bodies, administrative agencies, the USSR Ministry

99 Op.cit., PP. 68-69.

of Justice (to which the courts were subordinated), and the prosecutors. Internal Factors (group 2) embraced dependence upon chairpersons of the courts, who played and still play the main role in exercising influence on judges, since court chairpersons enjoy a remarkably wide scope of powers. Factor 2 was the existing system of the administration of courts and the judicial community (i.e. Judicial Councils, Qualification Commissions and Self-Governing Bodies), which is used to exercise influence on the content of judgments and the procedures for decision-making. Dependence upon higher courts, especially the Russian Supreme Court, constituted the internal factor 3¹⁰⁰. This problem is especially important due to a great number of resolutions or instructions issued by the Supreme Court. These acts are usually intended to instruct the lower courts how to apply norms of a certain legislative act, and which circumstances must be taken into consideration when handling criminal or civil cases. Another purpose of these acts is to ensure the so-called “uniformity of court practice”. In reality, maintenance of uniformity of court practice translated into imposition of considerable limitations on judicial discretion and decisional independence of judges¹⁰¹.

The specific mentality of the Soviet judges, which is usually referred to as the “Soviet judicial mentality,” constitutes the third group. The Soviet judicial mentality turned out to be amazingly sustainable: three decades after the collapse of the Soviet Union, the Soviet judicial mentality is still persistent. It became slightly different, and acquired several new qualities, but, by and large, preserved its Soviet nature. The first important feature of the Soviet judicial mentality is the specific self-identification of Soviet judges, who never felt like independent arbitrators vested with the power of administration of justice. On the contrary, they self-identified themselves as governmental officials and acted like governmental officials. They were sure that their main goal was to protect the interests of the Soviet state. The impact of their previous career comes next; most Soviet judges were former prosecutors, law enforcement officers, or secretaries of judges, who themselves had been on the bench since the Soviet period¹⁰². No wonder that these former prosecutors, investigators and other law enforcers applied old familiar behavioral patterns to the administration of justice.

100 Mishina E. The Long Shadows of the Soviet Past: A Picture of Judicial Reforms in the Transition Era. PP. 74-75.

101 Op.cit., P. 59.

102 Mishina E., Peyser M. From Judicial Independence to Independent Judicial Decision-making: Opportunities for Strengthening Judicial Independence in Russia // The World Rule of Law Movement and Russian legal reform. Justiseinform, Moscow, 2007, P. 111.

Defense attorneys almost never had a chance to become judges. They were more autonomous than the representatives of other branches of the legal profession, so the system considered them unreliable and somewhat suspicious. This type of selection of prospective judges actively contributed to shaping another salient feature of the Soviet judicial mentality: an accusatory or prosecutorial bias. Most Soviet judges felt obliged to issue guilty verdicts. Usually, the text of the indictment served as a rough draft of the verdict. If a judge took the risk of delivering an acquittal, s(he) usually had to present two explanatory notes: one to the court chairperson and the other to the local organization of the Communist party. Professional deformation of judges constitutes another essential feature of the Soviet judicial mentality. After becoming members of the judicial corporation, the new Soviet judges had to promptly adjust to the rules of the game. These rules included unconditional subordination to the chairpersons of their courts, and following the instructions of the upper courts, Communist Party bodies, officials of administrative agencies, and other outside actors. Quite soon, the new Soviet judges started to feel that they also were governmental officials. While handing down verdicts, they were guided not only by the provisions of the legislation in force, but even more by the acts of administrative agencies, not to mention the phenomenon of “telephone justice.” **There was no need for independent and impartial judges. On the contrary, good Soviet judges had to be obedient and easily manipulated**¹⁰³. Presumption of innocence was treated as a foreign concept under the Soviet rule; only in 1977 was it partially envisaged on the constitutional level¹⁰⁴ and then it was replicated in the 1960 Criminal Procedural Code of RSFSR¹⁰⁵. However, the language in both lacked the key component of presumption of innocence: innocent until proven guilty. The full-fledged definition of presumption of innocence was established on the constitutional level in post-Soviet Russia in December of 1993¹⁰⁶.

103 Mishina E. The Long Shadows of the Soviet Past. PP. 59-60.

104 Art. 160 of the USSR Constitution of 1977. Available at <https://www.hist.msu.ru/ER/Text/cnst1977.htm#vii>.

105 Art. 13 of the 1960 Criminal Procedural Code of RSFSR Available at <http://ips.pravo.gov.ru/?docbody=&prevDoc=102057468&backlink=1&nd=102010093>.

106 Art. 49 of the Constitution of the Russian Federation.

Judicial Appointments

“It is fundamental to the Rule of Law that the system of appointment of the Judiciary should guarantee the Judiciary’s independence from influence by the Executive or the Legislature. Even more important is the requirement that the Judiciary, once appointed, should be free from any threat of removal or other form of intimidation from the other arms of government. Respect for the Rule of Law requires that there be independent, transparent mechanisms for the removal of judicial officers found guilty of misconduct, but it is essential that such mechanisms are beyond manipulation by other arms of government and do not undermine the independence of the judiciary.”¹⁰⁷ Sadly, the current situation with judicial appointments and removals in Russia is profoundly at odds with this statement.

For a number of years, the President has had the final say in all judicial appointments in Russia. The Modus Operandi of numerous Russian judges demonstrated in the span of the last two decades sends a warning signal that in the current system of judicial appointments loyalty is valued above professionalism. Many recent judgments and examples of judicial behavior displayed in a number of high-profile cases raise reasonable concerns that numerous Russian judges are wholly unsuited to the office due to presence (or absence) of certain salient features that are necessary for a good judge.

A merit-based system of judicial appointments must be introduced in the first place. Procedures for psychological and personality testing for candidates for judicial positions in the current regulatory framework must be significantly improved. The Modus Operandi of Russian judges proves that the Methodological Recommendations for Organization of Psychological Support of Selection of Judicial Candidates approved by the Judicial Department of the Russian Supreme Court¹⁰⁸ are obviously insufficient. Under these Methodological Recommendations, the purpose of psychological and personality testing of candidates for judicial positions is to get a comprehensive and reliable description of individual psychological characteristics of a candidate. Results of such testing shall be directed to the Qualification Collegium of Judges; after that the candidate will be entitled to get acquainted with these results as well as with other materials from her personal file. The package of qualities of judges-to-be includes both the professional level of a candidate and a number of psychological characteristics and personality features. In the absence of

107 Neate F. Op.cit., PP. 38 – 39.

108 Available here <http://docs.cntd.ru/document/902176080>.

any assessment of such characteristics and features, it is impossible to predict how successful the candidates will be in their future professional activities and whether they'll make good judges. The necessity of a psychological evaluation of candidates for judicial positions is warranted by:

- heightened requirements for the personality of a judge, whose professional duties include, inter alia, participation in the most complicated social/legal relations arising in the course of the administration of justice;
- High responsibility and severity of consequences of judicial errors that undermine the reputation of the judicial branch;
- Essential material costs connected with appointment and removal of judges, that failed to adjust to their work;
- The fact that judges are vested with the power to possess and carry firearms¹⁰⁹.

Moreover, for certain professions, including the judicial profession, successful performance of an employee directly depends upon certain psychological features of such employee¹¹⁰. Psychological and personality testing is a sine qua non for judges-to-be — especially in Russia and other post-Soviet states, which are still strongly affected by the Soviet legacy, and where the phenomenon of the Soviet judicial mentality is still present.

In my view, Russia has reached the point where the possibility of lustration of judges should be considered. For most judges from arbitrazh courts, psychological evaluation may be enough. Judges who adjudicate politically motivated cases are mostly judges from general courts. Drafting of a comprehensive lustration law shall be a separate and challenging task. The negative experience of two Ukrainian lustration laws should be taken into account. Also, recommendations of the Venice Commission issued in its Interim opinion on the Lustration law of Ukraine of 12-13 December 2014 should be analyzed, and the following four key criteria that summarize the essence of the international standards pertaining to lustration procedures should be used in the course of drafting of a Russian lustration law:

109 See the Methodological Recommendations for Organization of Psychological Support of Selection of Judicial Candidates.

110 For details see Zaytseva T., Mishina E. On the Possibility to Apply Psychological Testing in Personnel Management in Public Service. Available at <https://cyberleninka.ru/article/n/o-vozmozhnosti-primeneniya-psihologicheskogo-testirovaniya-v-upravlenii-kadrami-gosudarstvennoy-sluzhby/viewer>.

1. Guilt must be proven in each individual case.
2. The right of defense, the presumption of innocence, and the right to appeal to a court must be guaranteed.
3. The different functions and aims of lustrations on the one hand (namely, the protection of the newly emerging democracy) and those of criminal law on the other hand (i.e., punishing people proved guilty) have to be observed.
4. Lustrations must be carried out within strict time limits in both the period of their enforcement and verification of their political reliability¹¹¹.

Judicial reform cannot be successful if it is performed in isolation; it must come as a part of a comprehensive reform program. Transformation of the institutions connected with the judiciary (such as investigation, procuracy, police etc) must be performed simultaneously with judicial reform. In emerging democracies trying to depart from their authoritarian past, it is vital for the legitimacy of the state that police-citizen interactions are compatible with the values of a democratic society¹¹². **In the transitional period, the militia (which is usually renamed and is referred to as “police”) acquires a crucial role.** First, the actions of the police will have a bearing on the success or failure of nascent democratic institutions. Police can either help or dramatically hinder processes critical to democracy, including voting, speaking in public, publishing, assembling, voicing opposition, and participating freely in the politics of the state¹¹³. The actions of the police can strongly influence the success of emerging democratic institutions¹¹⁴. A duly trained police service can maintain stability during the turbulent time of transition and “play an important role during those periods of uncertainty that are notorious for the accompanying problems of public and political disorder, crime and violence, and poverty and disorientation of the population.” Being the most visible arm of state authority, police can provide a valuable demonstration of the character of the new society. If citizens have repeated interactions with courteous, professional police, they may gain increased confidence in and lend support to their new government¹¹⁵.

111 Venice Commission. Interim opinion on the Lustration law of Ukraine of 12-13 December 2014.

Retrieved from [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2014\)044-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)044-e).

112 Bayley D. Changing the Guard: Developing Democratic Police Abroad. Oxford University Press, US, 2005, P. 18.

113 Ibid., P. 18.

114 Uildriks N. Policing post-communist societies: police-public violence, democratic policing and human rights. Open Society Institute, New York, 2003, P. 8.

115 Bayley hints at this point when he notes that one cannot have an authoritarian police force in a democratic state. See Bayley, *supra* note 5, 18.

When reforming a repressive militia force structure in the context of a new democracy, the end-goal is the creation of a civilian democratic police service¹¹⁶. There are various definitions of what constitutes a civilian democratic police, but two common ideas are that a democratic service is one that is both “downwardly responsive” and accountable¹¹⁷. The fundamental difference is the following: a downwardly responsive service is one that responds “down” to the needs of citizens, rather than “up” to the demands of the state¹¹⁸. A “downwardly responsive” service must be accountable to elected, civilian authorities, rather than a shadowy security structure. Further, civilian democratic police must also be accountable to the public, through media, civilian groups, NGO’s, complaints boards, and the like¹¹⁹. That is the only way to transform a repressive police force, which protects the state from its citizens, into a police service that works for the people¹²⁰. Like any other reform, the police reform cannot be conducted outside of other reforms of the criminal justice sector, and the success of police reform strongly depends on the efficiency of transformation of other institutions connected or interacting with police. Nevertheless, the centrality of police reform cannot be over-emphasized¹²¹. An undemocratic state can have a civilian democratic police force; but a legitimate democracy cannot exist with a non-responsive, unaccountable, authoritarian police force, which works against the people and not for the people¹²².

Legislative changes

Under Putin’s rule, numerous legislative changes came to life as a part of the trend of escalation of authoritarianism, witch-hunts and prosecution of dissent. Most of these new norms undermine, infringe upon, or repeal the democratic achievements of the 1990s, when judicial reform and legal reform were going at full steam.

116 United States Institute of Peace. Criminal justice reform in post-conflict States: A guide for practitioners. USIP, New York, 2011, P. 81.

117 Bayley D. The Contemporary Practices of Policing: A Comparative View // US Dept. of Justice, Civilian Police and Multinational Peacekeeping: A Role for Democratic Policing. National Institute of Justice, 1999, P. 4.

118 Ibid.

119 Ibid.

120 Robertson A. Criminal Justice Policy Transfer to Post-Soviet States: Two Case Studies of Police Reform in Russia and Ukraine // European Journal on Criminal Policy and Research. 2005, 1-28. Robertson, A. Eur J Crim Policy Res (2005) 11:1. doi:10.1007/s10610-005-2290-5.

121 Gerber T., Mendelson S. Public Experiences of Police Violence and Corruption in Contemporary Russia: A Case of Predatory Policing? // Law & Society Review, 42(1), 2008, PP. 1-44, 9.

122 See Mishina E. The Long Shadows of the Soviet Past: A Picture of Judicial Reforms in the Transition Era.

This section provides the list of the most important changes in the Russia regulatory framework that must be made ASAP in order to ensure the solid establishment of the Rule of Law. This list is not exhaustive; it includes the most urgent alterations that are vitally important for re-establishing democracy in Russia.

The following legislative provisions must be repealed as totally incompatible with the goal of establishing the Rule of Law in Russia.

“Foreign agents legislation” (amendments to Federal Laws “On NGOs” and “On Public Associations”, “On Information, Information Technologies and Protection of Information”, “On Mass Media”, “On Enforcement Actions Against Persons Involved in Violations of Fundamental Human Rights and Freedoms, Rights and Freedoms of citizens of the Russian Federation”. Federal Law “On Control Over Activities of Persons Under Foreign Influence” of 14 July 2022. Federal Law of 05 December 2022 N 498- FZ¹²³ (the most recent amendments to Federal Laws “On Banks and Banking Activities”, “On Mass Media”, “On the Procuracy of the RF”, “On State Secrets”, “On Federal Security Service”, “On Public Associations”, “On State Support Of Youth and Children’s Public Associations”, “On NGOs”, “On Foreign Intelligence Service”, “On Service in the Customs Service of the RF”, “On Vital Records”, “On Status of Military Servants”, “On Political Parties”, “On Counter-Actions to Legalization (Laundering) of Illegally Received Income and Financing of Terrorism”, “On Main Guarantees of Electoral Rights and Rights to Participate in Referendum of Citizens of the RF”, “On Elections of the President of the RF”, “On the System of Public Service of the RF”, “On Insurance of Deposits in Banks of the RF”, “On Assemblies, Rallies, Demonstrations, Processions and Pickets”, “On Public Civil Service of the RF”, “On Information, Information Technologies and Protection of Information”, “On Municipal Service in the RF”, “On the Order of Making Foreign Investments into Economic Entities Possessing Strategical Importance for Ensuring Defense of the Country and Safety of the State”, “On Public Control Over Protection of Human Rights in Detention Facilities and Assistance to Persons Kept in Detention Facilities”, “On Anti-Corruption Expertise of Normative Legal Acts and Drafts of Normative Legal Acts”, “On Protection of Children From Information Detrimental for their Health and Development”, “On Purchase of Goods, Works, Services by Certain Types of Legal Entities”, “On Service in Internal Affairs Bodies of the RF and Making Changes to Certain Legislative Acts of the RF”, “On Accounting”, “On Education in the RF”, “On the Contract System in the Sphere of Procurement of

123 Available here http://www.consultant.ru/document/cons_doc_LAW_433276/.

Goods, Works, Services for Provisioning Governmental and Municipal Needs”, “On Election of Members of the State Duma of the Federal Assembly of the RF”, “On Service in the Correctional System of the RF...”, “On Service in the Enforcement Agencies of the RF...”, “On State (Municipal) Social Procurement for rendering State (Municipal) Services in Social Sphere”, “On State Control (Supervision) and Municipal Control in the RF”, “On Control over Activities of Persons Under Foreign Influence”.

Legislative provisions on “undesirable organizations” including Art. 3.1. of Federal Law “On Enforcement Actions for Individuals Involved in Violation of Fundamental Human and Civil Rights and Freedoms” of 2012, Art. 284.1 “Performing activities of a foreign or international NGO, which activities of the territory of the Russian Federation have been recognized as “Undesirable”, Art. 20.33 of the RF Code of Administrative Offences.

“LGBT propaganda legislation” (relevant legislative provisions listed in Federal Law 478-FZ of 05 December 2022).

A number of activities, which were criminalized or made administrative offences as a part of Putin’s witch-hunts, should be removed from the Russian Criminal Code and the Russian Code of Administrative Offences. The following articles of the Criminal Code must be repealed as the first order of business: Art. 212.1 “Repeated violations of the established rules of organizing or holding public gatherings, meetings, rallies, marches, and pickets”, Art. 330.1 “Avoiding fulfillment of responsibilities envisaged by the RF legislation on foreign agents”, Art. 354.1 “Rehabilitation of Nazism”, Art. 280.1 “Public calls for conducting activities aimed at violation of territorial integrity of the RF”. Art. 275 “High treason” must be restored in its initial wording. The “Special Military Operation” legislation shall be repealed in full as totally incompatible with the goal of establishing the Rule of Law.

“Foundations of state policy on the preservation and strengthening of Russia’s traditional spiritual and moral values”¹²⁴ of 09 November 2022 — must be repealed as establishing the state ideology of Russia in breach of explicit constitutional prohibition envisaged in Art. 13 of Chapter 1 “Fundamentals of the constitutional system of the Russian Federation” of the Russian Constitution.

Legislative changes that were announced as an effort to bring the existing legislative framework in line with the amended Constitution. Some of these changes stepped far beyond the new constitutional design and had nothing

124 Available here <http://www.kremlin.ru/acts/bank/48502>.

to do with the amendment of a number Russian laws in order to bring them into conformity with the constitutional amendments-2020. The negative effect of such legislative changes can be compared to that of the constitutional amendments-2020. Changes made¹²⁵ to the Federal Constitutional Law on the Constitutional Court of the RF can serve as a perfect example and must be discussed in greater detail. New provisions of this FCL modified the procedure of the official explanation by the Constitutional Court of its previous resolutions and opinions. The initial version of Art. 83 provided that the question concerning the explanation of the resolution of the CC RF shall be considered in the session of the CC RF under the procedure in which this resolution was adopted. Pursuant to the amended version, the open procedure is no longer available, and the question of explanation of a resolution/opinion of the CC RF shall be handled in camera. Only Justices and court employees in charge of minutes-keeping and maintenance of deliberations running normally can be present in the chambers. The minutes shall be signed by all Justices, who were in attendance. The minutes are not subject to disclosure; justices and other persons who were in attendance cannot divulge the nature of discussion and the results of voting. Parties to the case are no longer eligible to participate in such proceedings. Under the new wording of Art. 83, the copy of the request must be sent to the parties with the invitation to comment in writing within a fixed period of time on the question raised in the request for official explanation. Exceptions can be made for the cases when an official explanation is urgent and cannot wait. Clearly, **this new procedure allows the revisiting and secretly changing most previous judgments of the Russian Constitutional Court in the absence of open procedures and without participation of the parties to a case.** In so doing, important and universally binding legal positions of the Constitutional Court can be easily repealed for political reasons – exactly like it happened on December 24, 2020. On that day the Constitutional Court delivered the official explanation¹²⁶ of its landmark Resolution 8-P of 27 March 2012¹²⁷, where it (without expressly saying so) effectively overruled the Constitutional Court’s prior legal positions regarding the Russian Constitution and the 1995 Federal Law on the International Treaties of the RF, which were stated in previous cases including Resolution 8-P. It deserves mention that the Resolution 8-P was one of

125 Text of the Federal Constitutional Law “On Making Changes to the FCL “On the Constitutional Court of the RF” of 09 November 2020 5 – FKZ is available here http://www.consultant.ru/document/cons_doc_LAW_367159/3d0cac60971a511280cbba229d9b6329c07731f7/#dst100273.

126 Text of the Decision of the CC RF of 24 December 2020 2867 O-R is available here http://www.consultant.ru/document/cons_doc_LAW_372270/.

127 Text of the Resolution 8-P of 27 March 2012 is available here http://www.consultant.ru/document/cons_doc_LAW_127872/92d969e26a4326c5d02fa79b8f9cf4994ee5633b/.

the key legal sources in the appellate proceedings on YUKOS shareholders vs Russia in the Hague Court of Appeal.

The amended Art. 76¹²⁸ the FCL on the CC RF places a ban on publication of dissenting opinions by Justices of the Constitutional Court. Now written dissenting opinions of Justices shall be attached to the minutes of the session of the Court and kept together with it. Justices cannot publish any opinion in any form or publicly refer to it. Other amendments impose additional constraints on Justices of the CC RF, who cannot express their opinion on the matter which may be subject to consideration by the CC RF, as well as the one which is currently under consideration or has been admitted for consideration by the CC RF until the decision on the matter has been handed down in the following forms:

- in the texts distributed by the Justices themselves,
- via the Internet,
- in the correspondence with public authorities, organizations and citizens, who can make this information public.

Justices of the CC RF are also strictly prohibited from criticizing judgments of the CC RF in any form¹²⁹.

As we see, none of these new rules were mentioned in the constitutional amendments-2020. However, they appeared as a part of the process of bringing the Russian legislative framework in line with the amended Constitution and significantly affected the constitutional review landscape in the most negative and disruptive way.

In the Absence of Legal Certainty: Language of Russian Normative Acts

Obscure and ambiguous language in numerous Russian laws adopted in the span of the last two decades has become a recognizable hallmark of Russian law-making. One of the best examples can be provided by the amended wording of Art. 275 “High Treason” of the Russian Criminal Code of 1996, which defines high treason as an act “that is committed by a citizen of the Russian Federation,

128 Text is available here http://www.consultant.ru/document/cons_doc_LAW_4172/129121671a8826941a5d85fee61d13ddf4da3970/.

129 Text of the amended Art. 11 of the FCK on the CC RF is available here http://www.consultant.ru/document/cons_doc_LAW_4172/59441b05a19a3d68a43cd017352d3e37c8311d20/.

acts of espionage, disclosure to a foreign state, an international or foreign organization, or their representatives of information constituting a state secret that has been entrusted or has become known to that person through service, work, study or in other cases determined by the legislation of the Russian Federation, or any financial, material and technical, consultative or other assistance to a foreign state, an international or foreign organization, or their representatives in activities against the security of the Russian Federation.”¹³⁰

The following are the most dangerous pitfalls of the new wording of Article 275 of the Criminal Code of Russia. First, the phrase “hostile actions to the detriment of the external security of the Russian Federation” is replaced by the ambiguous phrase “activities against the security of the Russian Federation.” The omission of the word “hostile” essentially makes this concept extremely ambiguous. Second, it is obvious that by the legislation’s design, the new definition covers not only external but also internal security. A clear and detailed definition of both concepts is absent from the Criminal Code. Third, ambiguity of the wording “financial, material and technical, consultative or other assistance to a foreign state, an international or foreign organization, or their representatives in activities against the security of the Russian Federation” makes it applicable to almost any activity. Fourth, international organizations are identified as potential recipients of information constituting state secrets, as well as of the abovementioned types of assistance. Any list of such recipients must necessarily be open-ended and can include any international organization by default. Sixth, the vagueness of this statutory provision makes it impossible for citizens to properly abide by it, a violation of one of the fundamental conditions of the rule of law. This ambiguity creates unlimited possibilities for arbitrary interpretation and selective application. Pursuant to the provisions of Article 275, a criminal case for high treason can be initiated against any citizen of the Russian Federation who provides someone almost any information or commits almost any action. In other words, **under the new wording of Art. 275, providing almost any information and committing almost any act by any Russian citizen may be qualified as high treason.** These flexible provisions suggest parallels with early Soviet criminal law¹³¹.

Apparently, this approach to the language of legislative and regulatory acts and judicial decisions was not invented by Putin’s lawmakers — it was borrowed

¹³⁰ Text of Art. 275 of the Criminal Code of the Russian Federation of 1996 is available here http://www.consultant.ru/document/cons_doc_LAW_10699/2ca391674eeaa02069722fa3f13cbb41cce0a95d/.

¹³¹ For details see Mishina E. The Long Shadows of the Soviet Past: A Picture of Judicial Reforms in the Transition Era.

from the early Bolshevik acts. That's how the head of Soviet Russia Vladimir Lenin outlined the role of judges in a letter to People's Commissar of Justice D. Kurskiy: "the courts should not do away with terror — to promise that would be to deceive ourselves and others — but should give it foundation and legality, clearly, honestly, without embellishments. Formulations must be as wide as possible"¹³². Language of a number of early Bolshevik acts was remarkably vague. In early Soviet criminal legislation, the juridical categories of crime, punishment, and guilt were replaced by sociological categories. The phrases "socially dangerous act" and "measure of social defense" were substituted for such fundamental categories as "crime" and "punishment"¹³³. This was done in order to give the Soviet judges flexibility in adjudicating criminal cases and convicting those whom the regime wanted to be convicted and punished. Taken together with the infamous Art. 24 from the Decree On People's Courts of the RSFSR of 30 November 1918 ("People's Courts are not bound by any formal evidence, and depending on the circumstances of the case, it is up to the court to allow certain evidence or request such evidence from a third person, for whom such requests are mandatory"¹³⁴), these normative and non-normative wordings created grounds for unlimited judicial discretion and selective application of law, which later became symbolic of Russia and the Soviet Union.

Whereas such vague language of early Bolshevik regulations served its clearly intended goal, presence of such "rubber norms" in the legislative framework of the country, which made the Rule of Law one of the fundamentals of its constitutional system¹³⁵, is totally unacceptable. **Legal certainty, i.e. accessibility and clarity of legislative acts, is one of the essential elements of the Rule of Law.** Precise and explicit language constitutes the key feature of such legislative acts and makes the content of these acts accessible for everyone. That is the only way to ensure that people will duly obey the requirements of the law. Addressees of legal norms can obey the laws only if the content of the norms is sufficiently clear and understandable. In order to make the laws clear, the lawmakers must use precise definitions and avoid loose phraseology. Availability of explicit language and definitions in legislation constitutes a guarantee that juridical facts, which implicate legal consequences,

132 Lenin V. Additions to the draft introductory act to the Criminal Code of RSFSR and letter to D. Kurskiy, People's Commissar of Justice 15 May 1922. *Collected works*, vol. 27 (1932), 296. Available at <https://leninism.su/works/84-tom-45/478-dopolneniy-k-ugolovnomu-kodeksu-45.html>.

133 Berman H. Principles of Soviet Criminal Law. Yale Law Journal, 1947, P. 804.

134 Art. 24 of The Decree On People's Courts of the RSFSR of 30 November 1918. Available here <http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=ESU&n=18812#TmwEoWT63EWObidV1>.

135 Art. 1 of the Constitution of the Russian Federation.

shall be determined by laws, and not by those who enforce such laws¹³⁶.

Legal Profession

In general, the rule of law implies that the creation of laws, their enforcement, and the relationships among legal rules are themselves legally regulated, so that no one — including the most highly placed official — is above the law. The legal constraint on rulers means that the government is subject to existing laws as much as its citizens are. Thus, the Rule of Law is not part of the political process, rather it underpins and guarantees that process. Democracy cannot exist in a society without the Rule of Law¹³⁷. The key role in establishing the Rule of Law belongs to lawyers — both legal practitioners and representative of academia. One of the basic principles of the role of lawyers states that “lawyers, in protecting the rights of their clients and in promoting the cause of justice, shall seek to uphold human rights and fundamental freedoms recognized by national and international law and shall at all times act freely and diligently in accordance with the law and recognized standards and ethics of the legal profession”¹³⁸. I strongly believe that the same high standards apply to university professors, legal scholars, judges and other members of the legal profession. Feasibility of lustration of judges has been already discussed above. Police reform will necessarily involve some sort of lustration. Lustration measures will be definitely needed for those involved in initiating, investigating and adjudicating politically connected criminal cases. Reform of the Russian penitentiary system is a huge separate problem, and this system needs a complete transformation. It remains to be seen how the lawyers who enthusiastically supported and promoted Putin’s constitutional amendments should be treated. In my opinion, such lawyers should be banned from holding positions in all three branches of power as well as teaching positions.

136 Tidemann P. The principle of Rechtsstaat in Germany // *Doctrines of Legal State and Rule of Law in Contemporary World*, ed. by Zorkin V., Barenboim P. LOOM, Justitsinform. Moscow, 2013, P. 277.

137 Neate F. *Op.cit.*, P. 44.

138 P. 14 of the Basic Principles on the Role of Lawyers. Adopted on 7 September 1990 by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba/
Available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-role-lawyers>.

Chapter VIII



Transition Concept: Russia at Peace with the World



Russia's position on the world map is such that it cannot but play a key role in international politics. It is all the worse for it that this role in recent years has been exclusively negative and harmful to the existing world order.

By seizing Crimea in March 2014 and further annexing four regions of Ukraine in September 2022, Russia has called its own borders into question. Before the current crisis, no one in the world doubted or attempted to challenge the territorial integrity of the Russian Federation. Its borders were defined following the dissolution of the Soviet Union by bilateral agreements with neighboring countries and recognized by the rest of the international community. When the Russian authorities changed its borders with the seizure of Crimea, they themselves abandoned the status quo that existed and suited all sides. Now it is not obvious where those borders are. A grave crime has been committed against the sovereignty and territorial integrity of Russia, and the president and parliament of the country allowed it. They unilaterally incorporated new territories into the state, and now Russia's borders are not under the protection of international law, but can be held only at the expense of its own military force. What will happen to Russia's borders when its military potential is exhausted?

The liberal or idealistic thesis of this chapter is as follows: **despite the current crisis, Russia has a chance to survive as a significant subject of international relations in the 21st century only if it builds a stable democracy at home, because this will make the foreign policy course of our country predictable, peaceful and relevant to the norms, rules and institutions of the liberal international order.** Otherwise, Russia will face long decades of isolation from the developed world and almost inevitable disintegration into states of different levels of insolvency and backwardness at war against all.

Theoretical Framework

Two main theoretical paradigms are pitted against each other when defining international relations in contemporary science: realism and liberalism, also called idealism. Both traditions assume anarchy as the initial state, in which sovereign states have their own significant share of power and act freely, at their own risk. Realists recognize a balance of power that guarantees unacceptable

damage to one state in the event of an attack on another as the main factor precluding wars. They refuse to consider the influence of a state's internal political structure on its behavior in the international arena and do not believe in the possibility of humanity's evolution to a world without wars. As Richard Ned Lebow rightly wrote, this is a truly "tragic vision"¹ of world politics.

The prism of realism dominates the foreign policy doctrines of modern states. But in terms of projecting the future of foreign policy, a liberal view of international relations seems more relevant. Recognizing the fact of international anarchy and not denying the importance of the balance of power currently, the proponents of liberalism also allow the possibility of evolution of policy between states through their cooperation with each other on the basis of complex and prolonged joint work on the development of jointly adopted norms, rules and institutions of multilateral regulation. At the same time, liberals pay special attention to the development of the political structure of states toward greater democratization and the establishment of the rule of law. The liberal concept of a "democratic world" assumes that modern democracies are less likely to wage war against each other² (as confirmed by the experience after World War II), and therefore assert the need to spread democracy globally.

Liberal position is the most relevant when it comes to projecting the future of international relations. Realists are good at defining the foreign policy objectives of the present on the basis of predominantly negative experiences. If we consider the future of Russia's foreign policy using realism, we are unlikely to find room in it for the successful development of a sustainable democracy, we cannot ignore the enormous influence of the army and special services on Russian politics, and we will end up proposing a policy of containment for a potentially aggressive and revanchist power³. From the perspective of many "realists", Russia will always be like this, including after Putin.

The idealist optic, on the contrary, perceives the democratization of Russia inevitable, and, as a consequence, its transformation into a peace-loving force participating in the formation and strengthening of a liberal international order

1 Dunne T., Kurki M., Smith S. (Eds.) *International Relations Theories*. Oxford; New York: Oxford University Press, 2010. PP. 74-75.

2 Doyle M. Kant, Liberal Legacies, and Foreign Affairs // *Philosophy and Public Affairs*. 1983. Vol. 12. 3. PP. 205-235.

3 As a stark example of such an approach, one can look at the latest report of the American Center for European Policy Analysis with a very telling title *Containing Russia, Securing Europe* by Sam Greene, Elina Beketova, Elena Davlikanova, Olya Korbut, Federico Borsari, Mathieu Boulègue, Lera Burlakova, Ben Dubow, Aura Sabadus, Katia Glod, Olena Pavlenko, Pavel Luzin, Volodymyr Dubovyk, Vitalii Dankevych, SaraJane Rzegocki and Center for European Policy Analysis of January 31, 2024. Text available here: <https://cepa.org/comprehensive-reports/containing-russia-securing-europe/>

on a global scale. This approach allows for the possibility of the evolution of the internal political structure of individual states and the system of international relations as a whole towards more stable forms of international cooperation under conditions of peaceful coexistence. Russia can be envisioned as in peace with the whole world only within the framework of the liberal paradigm of international politics. Realism promises us nothing in the future but an endless war, and, at best, a cold war.

At the same time, both realists and liberals use the concept of international order as a set of patterns (models) of behavior that create the structure of relations between actors on the world stage. The goal of the international order is peacekeeping, but this goal is only very partially achievable. Low-intensity local conflicts are almost inevitable and not so dangerous if they do not disturb the general status quo. However, major and even more so high-intensity global conflicts (such as World Wars I and II) usually signal the failure of the previous international order, which is being replaced by a new one. Norms, rules and institutions are challenged and changed by the outcome of the next major crisis. While realists place the greatest emphasis on the balance of power and hegemony in the maintenance of international order in a given historical period, liberals stress the importance and continuity in the gradual evolution of existing norms, rules and institutions.

The tradition of realism continues to dominate the discourse within international relations. Imagine that you are speeding across a very long bridge over a deep abyss, a bay or the mouth of a wide river. Suddenly, another car cuts you off on the right without warning, violating traffic rules. There is no traffic police station near you, and security cameras will only record the fact of your death in the accident. You need to act at your own risk, assessing in a flash the possible consequences of a collision, braking in your lane or turning sharply to the side.

In international relations, sovereign states are the main participants in the movement. This movement itself is constantly taking place on the very endless bridge where there are no police and cannot be. Yes, the cameras of the world's news agencies can record a violation of the rules, but these rules are quite conditional: everyone understands them in their own way and sees the violation not where others see it. A rational road user in such conditions will keep a close eye on the road and constantly maneuver to avoid a collision with human casualties or a fall into the abyss.

The modern world order is very fragile and teetering on the edge of an abyss; in the scale of the history of human civilization, it has existed for a negligible

amount of time. The first international order in the world history emerged after the conclusion of the Westphalia Peace Accords in 1648, it included neither England nor Russia at that time. We can speak of a global order in international relations no earlier than the end of World War I (given that most of the world in the interwar period remained divided between European colonial empires).

The modern world order began to take shape only after World War II, and its formation was completed only in the early 1990s with the collapse of the USSR and the Soviet bloc. At that time, as Eric Hobsbawm puts it, there were “more than a dozen new territorial states ... without any independent mechanism defining their borders.”⁴ Thanks to the collapse of the world colonial system, the modern palette of the political map of the world was formed, which today includes 193 UN member states.

The norms, rules and institutions of global governance have reached their maximum degree of development since the second half of the 1940s. The liberal internationalism of the UN and its World Declaration of Human Rights, the economic liberalism of the IMF and the WTO, the openness of world markets and the general trend towards democratization of political regimes around the world — even in the context of the Cold War, all of this gave optimism about the future of the world. The rapid end of the Cold War and the democratization of the Soviet bloc countries in the late 1980s allowed Francis Fukuyama to proclaim the “end of history” marked by the final victory of democracy. However, in the same 1989 essay, soon to be published in Russian translation in the Soviet Union, Professor Fukuyama warned that Russia would not necessarily follow the postwar path of Western Europe toward democracy and open society. If, confident in its own uniqueness, it “stagnates,” he wrote, then, given the size of the state, it will “continue to absorb our attention”⁵ and prevent us from realizing the end of history.

The events of the spring of 2022 have once again demonstrated the limitations of international liberal institutions as a mechanism for maintaining world order. The UN Security Council is effectively paralyzed, and the norms of international law prohibiting waging wars of aggression are shattered. The institutions that govern the world economy are faltering (IMF) or in decline (WTO), at risk of being destroyed by new financial crises. Finally, even stable regional groupings such as the European Union and NATO are under severe internal stress and almost threaten to disintegrate under the influence of growing centrifugal forces. International anarchy remains the only constant that

4 Hobsbawm E. Age of Extremes. The Short Twentieth Century. 1914-1991. London: Abacus, 1997. P. 558.

5 Fukuyama F. The End of History // Voprosy filosofii. 1990. N° 3. P. 147.

describes the state of world politics. There is simply no one to maintain global order.

What Makes a State's Foreign Policy Predictable

How can we achieve peace, especially peace forever, eternal peace? There is no more inappropriate time to talk about this subject than now. However, even in 1795, it seemed that only a very distant and naive person could talk about the establishment of sustainable peace. However, it was then, now long ago, that Immanuel Kant wrote his famous classic treatise “Toward Perpetual Peace”. In that year, French troops occupied the Netherlands, the three great powers of Europe — Russia, Austria and Prussia — made the last and final partition of Poland, the troops of the Shah of Iran invaded Transcaucasia and devastated Tiflis, and the British captured Ceylon.

Like all philosophers raised by the Enlightenment, Kant was guided by the principles of reason and book tradition. He was well aware of the existence of the basic natural law formulated in Thomas Hobbes's *Leviathan*: “the precept or general rule of reason” states that “every man ought to pursue peace as he has a hope of attaining it.”⁶ And it is to this end that every man, and especially one endowed with great power, needs to limit his own arbitrariness. Since the Enlightenment, political thinkers have had no choice whether to be on the side of peace or to call for war. Even if common sense, which is equally possessed by the cab driver and the highway robber, sees no logical contradiction in making another “little victorious war,” **those who serve the laws of reason are obliged to seek peace in any situation. Always and everywhere, as long as humanity exists.**

Who in Kant's time would have believed in the possibility of total annihilation of humanity as a result of global war? Today, the threat of nuclear war is part of our everyday life. And the truly great politician will not be the one who will annex new lands to his empire, but the one who will be able to make this deadly threat less, if not completely eliminated.

Kant himself did not use the word “democracy” when describing the internal organization of the state, which would contribute to its more peaceful foreign policy. Much more important is the proposed rational principle, when all political decisions are made collegially, when the executive power is separated from

6 Hobbes T. *Leviathan*. Moscow: RIPOL Classic, 2016. P. 186.

the legislative and is under civilian control, when the first person of the state is only one of equals, temporarily elected to his post. And when decisions are not made at the arbitrary will of a sole ruler, but on the basis of the interests of citizens and the law.

There are different interests. Using unlimited power, one may want world glory and for the sake of it go to war, allow the death of people and destruction. However, usually an adult person, burdened with his business, personal property, family and endowed with at least a modicum of reason, wants the simplest things — a long life and prosperity for himself and his loved ones. Neither of these things can be achieved in a war. Even if this war turns out to be victorious, it will have to be paid for — with the lives and well-being of specific people. Therefore, Kant states the following:

If ... to decide the question: To be war or not to be war? — requires the consent of the citizens, it is only natural that they should think carefully before starting such a nasty game. After all, they will have to bear all the burdens of war — to fight themselves, to pay the war expenses from their own resources, to repair the devastation caused by the war, and on top of all the troubles to bring upon themselves another one, poisoning the peace itself — never (because of always possible new wars) never disappearing burden of debts⁷.

A republican system makes a state more peaceful. This is why republics where citizens are allowed to discuss and make decisions are so reluctant to start wars and seek peaceful solutions to the end, even when dealing with bloody dictators and aggressors like Hitler and his kind.

The path to eternal peace that is possible for humanity is through universal republicanism in all states of the world instead of the principle of “the state is me,” through voluntary self-restraint of ambition and arbitrariness at the level of both individuals and states, through trust instead of fear, through disarmament instead of constant combat readiness. This path requires an incredible effort on the part of humankind, especially those burdened with political power.

This path has an alternative. But the alternative — the death of humanity — is so terrible and unacceptable that the effort to find peace in the lifetime of humanity must continue. Not to make history by any means, but to ensure that our common history continues.

7 Kant I. op. cit. P. 259.

Thus, the idealistic, aka liberal, view of international relations implies the search for conditions of sustainable and long-term peace, the possibility of evolution of social relations from international anarchy to greater cooperation between competing nations. An important condition for peaceful coexistence should be the transition from a monarchical to a republican system in most countries of the world. Even in Europe, where the king in some cases remains the formal head of state, his power is limited by the rule of law and parliamentary control over the government. In essence, this is a republic — unlike regimes where the dictator confirms his powers by popular vote for his virtually non-alternative candidacy and where law and courts are subordinate to the will of the ruler rather than vice versa.

If Russia can finally become a democratic republic in the 21st century, it will make its foreign policy more transparent and predictable to the rest of the world. Moreover, it will allow our country to join that federation of republics that is an alliance of the United States, Europe, and their allied democracies around the world. In 2024, this looks like a naive dream, but what but a dream remains when you see your country falling inexorably to the bottom of the abyss? Political imagination is what today's politicians lack. It is the only thing that can change us and the world around us for the better.

Historical Context

The current situation in relations between Russia and the West can hardly be characterized otherwise than as a deadlock. However, both sides feel themselves in this state quite organically. No one is ready to propose any long-term strategy, acting largely inertially, according to the well-known and repeatedly tested algorithm of mutual confrontation.

Cold War Inertia

The current crisis is commonly associated with the figure of Vladimir Putin. Without attempting to diminish the importance of his personal actions in returning Russia to a neo-imperialist rut and, as a consequence, to a new confrontation with Western partners, it is hardly possible to explain complex political processes through a single person. This has already happened: the end of the Cold War, wrote Kjell Goldmann, a professor at Stockholm University, was attributed solely to the fact that Mikhail Gorbachev found himself at the

head of the Soviet Union⁸. Such constructions are very simple, they give an understandable image for mass media, playing on the emotions of the audience. But from the point of view of rational political analysis, they are valuable, perhaps, only because they can question its very necessity.

Mr. Putin has indeed ruled Russia for a very long time, so many people today have forgotten that his emergence as Russian president 24 years ago generated public enthusiasm not only at home but also abroad. Putin came to power as a pro-Western leader and reformer intent on continuing Russia's transit from its Soviet past to a future based on a market economy, democracy and integration into the global world. His initial program was the fight against separatism and terrorism, the "equidistance of oligarchs" and the "dictatorship of the law," which, along with the restoration of normal functioning of the state apparatus, were perceived as steps of positive development. In this context, the expansion of cooperation with the U.S., EU and NATO was seen as a necessary and realistic prospect of the "German in the Kremlin" policy.

It is worth remembering that the 1990s were not a cloudless period in relations between post-Soviet Russia and its North Atlantic partners. The very emergence of an independent Russia against the backdrop of the unpredictable and rapid disintegration of the USSR was rather against the will of the United States, which was interested in preserving the stability and integrity of the second nuclear superpower. The collapse of the Soviet empire, the accompanying economic hardship and outbreaks of violence created fears of a massive flow of refugees into Europe, forcing prosperous European countries to consider strengthening their eastern borders. The short "honeymoon period," marked more by declarations and promises than by concrete actions, was soon followed by a slow cooling. Already in the mid-1990s, it became clear to outside observers that structural transformations in Russia were not yielding the desired results. The promise of democratization turned into a monarchical constitution with a new decrepit "czar" in the Kremlin, and the chosen model of privatization gave rise to a class of oligarchs. The ongoing failure of social policy and the education system has tragically undermined the already limited human resources, giving rise to the "Weimar syndrome" in a demoralized and impoverished Russian society.

The West and Russia were no longer a threat to each other — this was the

8 Goldmann K. Bargaining, Power, Domestic Politics and Security Dilemmas: Soviet "New Thinking" as Evidence // The End of Cold War. Evaluating Theories of International Relations. Preprint and Postscript / Ed. by Pierre Allan and Kjell Goldmann. Boston; London: The Hague, 1995. P. 82.

common leitmotif of the first decade after the end of the Cold War. The euphoria did not allow us to see the structural grounds for a return to confrontation, much less to change them by making the transition to partnership at the level of alliance relations. Zbigniew Brzezinski dated the missed chance for cooperation to the second half of 1993⁹. At that time, President Yeltsin recognized that Poland's desire to join NATO was not contrary to Russian interests. Washington's response could have been a deal with Moscow establishing a special relationship between Russia and NATO. But the Bill Clinton administration did not seize the moment, and two years later, in late 1995, against the backdrop of the human rights scandals of the First Chechen War and the retaliatory demarches of the Russian leadership, observers spoke openly of a "cold world," if not a new cold war. Soon, against the backdrop of the unfolding total propaganda campaign to elect the unpopular Yeltsin for a second term, Moscow protested quite sharply against NATO's expansion to the East and U.S. plans to develop its own missile defense system.

Another stumbling block was the conflict in the former Yugoslavia: motivated by national romanticism, Russia openly supported the Milosevic regime while the Western allies sought his removal from power and submission to an international tribunal. As a result, the last year of Yeltsin's presidency was marked by two demonstrative moves. The first was the turning around of Prime Minister Primakov's plane over the Atlantic on his way to Washington to protest the U.S. bombing of Belgrade. In June 1999, when Primakov was already retired, a Russian Airborne Troops battalion, part of the peacekeeping force in the Balkans, made a dash to Pristina airport to prevent NATO forces from landing there and launching a ground operation against Milosevic's Yugoslav army. Given the unequal balance of forces, the plans of the Russian military were kept in the strictest secrecy, and their actions were unexpected and lightning-fast, designed primarily for media effect. Thus, perhaps for the first time, the world was shown a new signature style of Russian power politics, a new edition of which in the 2010s the seizure of Crimea and the intervention in Syria took place.

"Great Russia is rising from its knees" — these words, uttered by President Yeltsin during his inauguration in the summer of 1991, were understood in a special way by the new generation of Russian civil servants who replaced Gorbachev's nomenclature. Their cause, as is now clearly evident, was the

9 Brzezinski Z. The Grand Chessboard. American superiority and its geostrategic imperatives. Moscow: International Relations, 2010. P. 124.

revival of the empire in a special, postmodern format. As a result of Ukraine's withdrawal from the negotiations on the union treaty and the collapse of the USSR, the new Russian ruling class found itself in a dual position. On the one hand, they managed to literally wrest the Kremlin from the hands of the union center, gaining the opportunity to have undivided control over power and property in the most resource-rich Soviet republic. On the other hand, a significant part of the territories of the former empire, which in the minds of these people was still associated with historical Russia, formally and actually ended up abroad. Unable to compete on an equal footing with developed external players, from the very beginning the Kremlin was forced to resort to cunning tricks and desperate adventures to maintain at least a semblance of influence within the lost imperial borders. These included supporting unrecognized states in order to weaken and obtain leverage against the Western-oriented sovereign governments of Azerbaijan, Moldova, Georgia, and later Ukraine.

The very notion of "post-Soviet space," which has little relevance outside the Russian Federation, has acquired a truly sacred meaning for the Russian political class. Geopolitics has become an almost mystical tool that justifies not so much Moscow's claims to its former colonies as its stubborn defense of restricting the activities of other, more powerful players on this territory. This primarily concerned the U.S. and the EU, which sincerely did not understand why, in the conditions of the modern world, they could not act in Ukraine and Georgia in the same way as in Kenya or Ecuador.

Against this background, it is not surprising that long before Crimea, Donbass, and even more so the full-scale invasion of Ukraine, both in the West and in Russia itself, there were rather pessimistic forecasts about its European transit. Samuel Huntington was one of the first to recognize the growing civilizational gap between the West and post-communist Russia: while a Western democrat could have an equal intellectual debate with a Soviet Marxist, a dialogue with a Russian Orthodox nationalist was hardly possible for him¹⁰. Huntington predicted that the West's relations with Russia would range "from coldness to violence," balancing between these two extremes¹¹. The most accurate prediction belongs to Russian researcher Nikolai Kosolapov, who wrote back in 1995 that at the beginning of the new century Russia "risks becoming a center of social and political reaction," which could "once again pit it against the West and other regions and cultures."¹²

10 Huntington S. The Clash of Civilizations. Moscow: AST, 2017. P. 234.

11 Ibid. P. 351.

12 Kosolapov N.A. Changing Russia and the strategy of the West // N.A. Kosolapov, M.V. Sterzhneva, Y.F. Oleshchuk et al. Russia and the Future European Structure. Moscow: Nauka, 1995. P. 270.

On the Road to Disaster

Were there any alternatives to today's failure in relations between Russia and the West, more severe than even during the most difficult years of the Cold War? Today we can say with certainty that by refusing to make decisive changes and choosing to go with the flow, the now permanent president of Russia, originally a mediocre special service enforcer, pushed the postmodern feudal-imperial system to its limits. And this was fully reflected in his foreign policy course.

For a long time, Putin, as well as the entire new Russian elite, looked at the West from two conflicting perspectives. They saw the West with its capital and technology as a resource for development and enrichment, but the West's liberal political system was a dangerous temptation that threatened the interests and peace of the Russian bureaucracy and oligarchy. The **view of democratic revolutions in neighboring countries as a rehearsal for a coup in Russia itself, against the backdrop of the rejection of structural reforms and the euphoria of the oil boom, led to fear trumping rational motives for cooperation.** By the early 2020s, Putin's Russia had finally chosen China, which combines modern technology and a successful strategy in global markets with a rigid authoritarian political structure, as its main international reference point. Thus the divorce with the West was predetermined, which finally took place after the launch of a full-scale invasion of Ukraine on February 24, 2022.

In turn, Western public opinion, after briefly expecting change from the then young and European-looking Russian leader, after Nord-Ost, Beslan, the Khodorkovsky case and the Politkovskaya murder, was increasingly alienated from the hope of seeing real renewal and change for the better in Russia. In the 15 years since Putin's Munich speech in 2007, a new Cold War has finally become a reality.

One can only agree with the Australian researcher Bobo Lo that Russian-Western relations have been so far from the state of normality for such a long time that the "norm" here is rather a state of if not open conflict, then constant mutual tension¹³. The effect of inertia in international politics manifests itself more than anywhere else: Russia and the leading European countries have centuries of experience in relations, and Russian-American relations cannot but be influenced by the long period of inter-bloc confrontation after World

¹³ Lo B. Russia and the New World Disorder. London: Chatham House; Washington DC: Brookings Institution Press, 2015. P. 165.

War II, when the United States finally became a global superpower. Balancing on the brink of open confrontation, constant diplomatic outbursts, support for opposing sides in regional conflicts, arms races, sanctions and trade wars, mutual propaganda and spying — all this is a very familiar and understandable pattern of behavior, where every move on both sides has been literally perfected since before the first Crimean War.

“Russia is weak, but war with it would be ruin,” — these words attributed to Lord Palmerston two centuries ago best characterize the current view of the Russian challenge that dominates among Western politicians. Nor do the accusations of European figures of that time about the lack of strategy, cowardice and even venality that allow Mr. Putin to emerge victorious every time from a seemingly doomed game. “This beast is capable of anything,” Marx wrote of the Russian Empire at the beginning of the Crimean War. — “Especially when he knows that the other beasts he has to deal with are capable of nothing.”¹⁴ Then the European coalition led by England managed to carry out a fairly successful punitive operation, without a full-scale war, blockading the continental empire along the main maritime routes, defeating the Black Sea fleet, taking Sevastopol and achieving the withdrawal of the Russians from the Danube. Nikolayev’s Russia, which serves almost as an ideal for today’s Russian guards, ended in disaster, and the Great Reforms that followed opened up another opportunity to modernize the country.

Today’s Russia, unlike a century or more ago, is almost completely free from the risk of direct military action. Possession of the world’s second largest nuclear capability makes interventions similar to the first anti-Iraq coalition impossible. At least in the conditions of modern technical capabilities, until the Western allies solve the problem of retaliatory strike, such a prospect seems extremely unlikely. Meanwhile, the second half of the 20th century gave birth to another method of mutual deterrence and weakening, which was in demand with renewed vigor 35 years after the fall of the Berlin Wall.

The policy of containment is once again, as it was in the days of George Kennan at the dawn of the Cold War, becoming the basis of the long-term strategy of the United States and its allies toward Russia. The main negative effect of the Cold War should not be overlooked: it is not only a constant walking on a razor’s edge, but also the fact that the state bureaucracy and the military, acting in a state of emergency, acquire additional power and further suppress their own

14 New York Daily Tribune. July 14, 1853.

citizens. Thus, for Russia, the extremes of the new Cold War are fraught in the medium term with a partial or full restoration of the practices of war communism, the total denationalization of the economy and its subordination to militaristic objectives. For the West, mobilization in the face of the new Russian threat may not be the best experience, when democratic forces will be forced to yield to their own hawks and right-wing traditionalists.

Brzezinski's Will for Russia

So, the nearest forecast promises nothing but outbreaks of existing and new regional conflicts. Ukraine and the Middle East have already become the scene of a new confrontation. It is not excluded that the Baltic States and the well-known part of the Asia-Pacific region may be added to them.

Still, Mr. Putin has taught Russia and the world one important lesson. If you are the ruler of a great power and if you are doing so well that you can do nothing, surrendering to the will of historical inertia, this inertia will lead you back to your past, mercilessly eating up decades of historical time that has been practically wasted. How far the reverse progressive movement of the Russian structure will go, the coming years will show. But if we have agreed that the explanation of what is happening should hardly be reduced to the role of one person, only structural factors can prevent the existing structural inertia. The main one is that Russia must significantly lose the opportunity to enrich itself through its continued presence on world markets despite the war.

But to rely solely on economic determinism would be too superficial and dangerous, even though the failures of the Russian economy have obvious political causes. In recent years, Russia's political structure has not evolved, but degenerated, calling into question the fundamental foundations of the modern world: the inviolability of private property, personal freedoms and rights of citizens, and peaceful coexistence in the international arena. The transit that took place after the collapse of the USSR turned out to be the archaization of the political sphere, degradation of social life and human capital. This is the toxic soil on which the modern Russian challenge to the rest of the world is growing, that, in the words of Hans Morgenthau, "untamed barbarian force that builds its laws out of nothing, but believes in its own strength as the only justification for its expansion."¹⁵ I want to believe that our world will survive this too.

¹⁵ Morgenthau H. *Politics Among Nations. The Struggle for Power and Peace*. NY: McGraw-Hill, 1993. P. 104.

However, the first thing that will have to be done then, when the imminent catastrophe of the postmodern empire does happen, is to radically and inexorably change its “eternal” political structure, based on autocracy, hypercentralization, regulation and the absence of any control by civil society. The way to peace on the foreign policy front lies through radical transformations from within, aimed at real democratization and federalization, implying an uncompromising dismantling of the dominant archaic military-imperial structure.

To get out of the vicious spiral, it is necessary to internalize almost the most important European value of treating the state “not as a shrine, but as a more or less workable organization of officials and elected persons employed to serve society and every citizen.”¹⁶ And what is more — to stop or at least contain the ongoing and seemingly perpetual negative scenario in foreign policy, it may take a big shock or a series of shocks related, for example, to the extraordinary circumstances on the Russian-Chinese border or to an even bigger outbreak of violence in the Middle East covering the whole region¹⁷.

Brzezinski called the task of paramount importance for Russia and its relations with “transatlantic Europe” in alliance with the United States the modernization of its own society instead of vain attempts to regain its former status as a world power. The path to this lies through persistent internal development and rethinking by the Russian intellectual class of its country’s place on the world map based on the values and ideas of modernity, rather than the heroics of the past. “The national redefinition of Russia is not an act of capitulation, but an act of liberation,”¹⁸ — these words of the founding father of all the latest Russian geopolitics can perhaps serve as his best testament for all of us.

Perhaps the most difficult task for Russia of the future is to free itself from its imperial status. Speaking at the opening of the Russian Academy of Public Service in 1994, President Yeltsin said: “Russia is doomed to be a great power.” The Russian Federation has land borders with 14 internationally recognized states from Norway to North Korea and two more — the United States and Japan — through sea straits. Only China has such a number of land border

¹⁶ Arbatov A. Russia’s Special Imperial Way // 20 years without the Berlin Wall: a breakthrough to freedom / Edited by N. Bubnova. Moscow: Carnegie Moscow Center; ROSPEN, 2011. P. 49.

¹⁷ Lo B. Op. cit. P. 200.

¹⁸ Brzezinski Z. op. cit. P. 145.

countries. However, while China borders countries of the same continent in South and Southeast Asia, Russia's border stretches from Northern Europe along virtually all of Asia and across the Arctic to North America. The sparsely populated and lightly colonized Russia lies exactly in the middle between the three most populous parts of the world.

Such a unique geographical location could have made our country a major center and the most important corridor of international communication. Instead, the international terminals of Moscow's airports are virtually empty for the third year in a row. A country capable of providing peaceful economic and political communication between leading countries has turned into an international pariah and threatens the world with nuclear apocalypse.

Indeed, getting rid of the imperial burden is the main task of Russia's reset in the 21st century. Only a decolonized country that has become a full-fledged federation is able to return as a full-fledged participant in international communication, no longer perceived by its neighbors as a constant threat and acting as a reliable partner of advanced democratic nations. Otherwise, we will face a senseless and harmful confrontation with world leaders with constant balancing on the brink of a general war of extermination.

Tasks of Russia's Foreign Policy of the Future

Any peace declarations by the new Russian leadership will not inspire confidence, especially in the West, long after the change of Putin's regime and possible democratization. The Gorbachev phenomenon is unlikely to be repeated in the 21st century, and no one will take Russia at its word. Rather, Washington and Brussels will be guided tenfold by the old adage "trust but verify," which was recommended to Ronald Reagan by his Russian advisor Suzanne Massey.

To regain the trust and favor of world leaders, it will not be enough to announce democratization and federalization. It will be necessary to follow through and prove to the world the sustainable and irreversible results of the reforms. Initially, Russian democracy, even if it emerges, will be perceived as weak and susceptible to the revenge of imperialism and authoritarianism. This suspicion will not disappear for at least the one or two terms that the new Russian president will serve in office — until he hands over his post in free and competitive elections, preferably to a representative of another political force. And a real consolidated democracy in Russia will emerge only after a second change of power through elections, which will take at least 16 years in the case

of a return to four-year presidential terms.

That is, it may take at least two decades to regain trust in Russia. **If Putin's fall from power happens during the next vote in 2030, Russia's final socialization in the international society of democratic countries can be expected only around 2050.** It is virtually impossible to accelerate this process; it depends on a major structural change in Russian politics. One thing is certain: the earlier we start doing it, the earlier and more successfully it will be completed. Russia has a very long way to go and a lot of work to do to regain the trust and favor of its European and North American partners.

Metrics of the Foreign Policy of a Democratic State

The concept of national interests must be fundamentally revised in the Russia of the future. Until now, this widely used concept has been understood as something extremely vague and dependent on the will of the bosses.

The concept of *raison d'état* first appeared in absolutist France in the 17th century thanks to Maximilien Sully and his successors at the court of French kings. Translated as “national interest,” it implied defense against external enemies in the international arena, which was served by the nobility of the sword. The word “national” would appear in France only at the end of the next century, but in relation to foreign policy, national interest would be understood as state interest for a long time to come. The situation will begin to change only after the First World War, when the masses of many millions of people involved in the fighting will demand a rethinking of the old concept taking into account their own needs. It was only after World War II, with the adoption of the Universal Declaration of Human Rights, that UN member states formally recognized the priority of the interests of the citizen over the state. Of course, authoritarian regimes recognized this only on paper.

But if we look at national interests through the prism of the rights and needs of citizens, a simple objective of any foreign policy becomes obvious: it should contribute to peaceful existence, economic prosperity and mental well-being of citizens. The effectiveness of such a course must be judged by the concrete results manifested in people's lives.

Key performance indicators (the proverbial KPI) are what civil society has the right to demand from its government in a democratic country. In the case of foreign policy, this KPI can be measured by several quite specific and understandable indicators.

The prosperity of citizens of any country depends on foreign exchange earnings from foreign trade and international investors. Therefore, **one of the key Performance Metrics of the country's foreign policy course should be the indicators of foreign trade revenues and the volume of attracted foreign investments. If the corresponding indicators are growing, it means that the foreign policy is effective.**

Not only the economic development of a country, but also its security is promoted by foreign policy alliances. The more allies a country has among developed and strong countries, the more guarantees of its military security and economic sustainability. Over the past 30 years, Russia has missed a historic chance to become a full-fledged member of the G8, the most developed countries in the world. If the current trends are not stopped, our membership in the G20 of medium-developed countries may soon become a question. Russia of the future needs allied relations with the most successful and wealthy nations of the world. Building relations with them will take decades, but it is the only way to national success in the modern world. The **long-term KPI of Russia's foreign policy until the middle of this century should be the establishment of allied relations with the United States, its NATO partners and allies outside the North Atlantic Alliance.** Today, Russia maintains more or less tolerable relations only with Turkey and Israel, not the strongest allies of the United States. Moreover, these relations are far from allied and are rather on the constant verge of descending into confrontation. In the future, Russia will have to do the long and difficult work of restoring good-neighborly relations and reaching possible alliance agreements with all the world's leading democracies, from the United States and Britain to Japan.

Finally, another foreign policy KPI important from the point of view of citizens' needs may be Russia's position in the international passport ranking. According to the rating of passport strength in 2024, our country ranks 36th together with Turkey and Montenegro. Russian citizens have visa-free entry to 84 countries, 43 countries require a visa upon arrival, and to enter 71 countries it must be obtained in advance at the consulate. It is known that the US and most EU countries have actually stopped issuing visas to Russians since 2022.

In terms of passport strength, Russia is 16 points behind Ukraine (20th place) and the same number ahead of Belarus (52nd place). The ideal prospect for Russia in 2050 would be Argentina, which today ranks 12th in the passport ranking.

Russia's performance in the international passport index is not so bad, but the **foreign policy objective of the future should be to lift visa restrictions for**

Russian citizens primarily to neighboring countries of the European Union and Japan. To begin with, it is worth at least pushing for the return of the former practice of issuing tourist visas (this will take years), but the strategic goal should be set clearly as an indicator of the effectiveness of Russia's foreign policy course for decades to come.

All of the above KPIs are quite easy to calculate and can serve as goals for the long-term foreign policy course of the new democratic Russia. Specific packages of measures should be developed for their realization. Below we will focus on the most important ones.

Basic Measures of Foreign Policy Reset

After the end of the current crisis, Russia will have to overcome at least two decades of distrust and alienation on the part of its foreign policy partners. First of all, this will concern relations with the most developed, rich and strong countries of the world, led by the United States and its allies.

This part proposes a package of basic measures that will gradually restore trust in Russia and make it a full-fledged participant in the international community of countries with stable democratic regimes. The first requirement here has to do with constant work to improve Russia's position in the Freedom House freedom rating. If one day our country's territory on the famous freedom map first turns yellow and then green, it will be the best news for its foreign policy. More than half of the success lies in this rating.

Specific foreign policy packages should include:

- Making peace and establishing borders with neighboring countries;
- Return to the rule of law and respect for human rights;
- Demilitarization of the country;
- A return to dialog;
- Open Door Policy.

The first package of measures involves, first and foremost, ending the war with Ukraine and fully restoring the sovereignty and territorial integrity of that country in accordance with previously concluded international treaties. As far as the issue of borders is concerned, it seems reasonable to follow the spirit and letter of the Treaty of Friendship, Cooperation and Partnership between the Russian Federation and Ukraine of May 31, 1997, ratified in 1999.

In addition to this foundational treaty with Ukraine, the Russian leadership's

decisions to violate the territorial integrity of Georgia and Moldova must be reversed. The Russian Federation should return to recognizing the territorial integrity of both neighboring states within their internationally established borders. The unrecognized states of Abkhazia, South Ossetia and Transnistria should stop receiving military and financial aid from Russia, which will undertake not to prevent the reintegration of these territories into the independent states of Georgia and Moldova.

It is equally important to conclude a peace treaty with Japan, settling the territorial dispute over the Kuril Islands. The peace treaty should build on the norms laid down by the Moscow Declaration of 1956 on the formal cessation of hostilities between the USSR and Japan after World War II. In fact, that great war cannot be considered completely over until this peace treaty is signed. Despite the fact that since the early 1990s the analytical services of the Russian Foreign Ministry knew perfectly well the only possible solution to this issue, President Yeltsin was forced to give in to the militaristic and chauvinistic sentiments of his own military-bureaucratic apparatus and didn't muster the courage to seek the much-needed agreement.

The second package of measures to restore the rule of law and respect for human rights means not only repealing all the unlawful laws of the last decade, but also bringing Russia back under the jurisdiction of the European Court of Human Rights. These measures should be taken without delay in the first months after regime change.

In the future, Russia's legislation should be brought into maximum compliance with the standards of the most advanced democratic countries within a few years. This should also touch upon such a painful topic in today's Russia as the protection of the rights of the LGBT community. It would be very right if a law on the legalization of same-sex marriage were adopted in democratic Russia. Similar laws have already been adopted in many countries that have taken the path of democratization after the fall of their authoritarian regimes. Such a measure could improve trust and bring Russia closer to those advanced countries of the world that share a policy of tolerance towards sexual minorities.

The fourth package of measures concerns the demilitarization of the country. First of all, it implies Russia's refusal to use its armed forces abroad¹⁹ and

¹⁹ The experience of the USSR and the Russian Federation for decades shows that the use of armed forces abroad results in an excessively high degree of militarization of Russian society. Numerous generations of «veterans of local conflicts» form the base of support for “tightening the screws” inside the country and its

recognizes war as a categorically unacceptable form of resolving international contradictions. Russia must once and for all refuse to wage wars of aggression and conquest. The new military doctrine should declare purely defensive goals for the formation of the Russian armed forces.

Since the stable and consolidated democracies of the developed world, with which Russia borders, as all the experience of the recent history of international relations since 1945 shows, do not unleash wars with each other, a republican Russia would have no need to keep troops on the borders of democratic states. As a gesture of goodwill, our country could relieve much of its territory of heavy weapons and offensive military forces. The borders with the European Union and NATO do not need any special protection other than border guards and anti-terrorist response teams in case of infiltration and action by international gangs like the IS and Taliban.

The Arctic zone bordering the United States and Canada, as well as most of the country's western regions, may well be subject to demilitarization. At the same time, Russia needs to increase its defense forces on its borders with authoritarian states in South Asia and the Far East. Without claiming the territories of Northern Kazakhstan, the Russian-Kazakh border should be clearly demarcated and protected to prevent the threat of invasion by aggressive Islamist regimes that might emerge in the region.

Having embarked on a democratic path of development, Russia will have to break friendly ties with authoritarian regimes at its borders and switch to a policy of containment in order to facilitate their gradual democratization. In this regard, the CIS, which has become a club of Eurasian dictators, will have to be dissolved. The CIS, which has become a club of Eurasian dictators, and the CSTO, which serves the military and police purpose of protecting authoritarian regimes in Belarus and Central Asia, should be dissolved. Russia should also give up all military bases outside its territory.

The fourth package of measures is related to a return to dialog with the

aggressive actions in the international arena. At the same time, the human losses in these conflicts — from Afghanistan to Ukraine — cause significant damage to Russian demographics. Leo Tolstoy wrote that the Russian man should not become a bargaining chip in the games of foreign policy ambitions of great powers, he wants to work in his own land and live in peace with his neighbors. If we want Russia to stop being an empire and stop being perceived as a permanent threat, we must once and for all prohibit the participation of Russian soldiers in any military actions outside their country. Such a norm should be enshrined at the level of the new Constitution, and its violation by the head of state should lead to his automatic impeachment. Russian military boots should not cross the borders of the country — this rule should be written in the tablets of the future democratic Russia. At the same time, the military should be maintained in exactly the size and composition necessary to protect the inviolability of the borders and citizens of Russia.

European Union and NATO. First of all, it is necessary to restore Russia's full membership in the Council of Europe. Then we can move on to the gradual restoration of the Russia-NATO Council and the re-establishment of negotiating platforms with the EU. Special attention should be paid to the European countries directly bordering the Russian Federation. Symbolic gestures of reconciliation, open and honest discussion of painful moments of historical memory, combined with a complete refusal to interfere in the internal affairs of these countries should open up the possibility of overcoming the current wall of mistrust and establishing good-neighborly relations.

We need to be realistic: the huge Russian Federation can never become a member of the European Union. This should not cause resentment and rejection: the United States and Canada do not aspire to EU membership either, remaining part of a larger transatlantic Europe. In the perspective of two decades after the fall of Putin's regime, an Association between Russia and a unified Europe is possible, similar to that of Canada and a number of other countries outside the European continent.

An important step towards the normalization of relations could be the adoption of a new fundamental document on security and cooperation in Europe in confirmation and development of the norms and rules laid down by the Helsinki Final Act of 1975 and the Charter of Paris of 1990. **Russia's main task in the format of the new European partnership is to contribute to the maintenance of the rule of law, democratic freedoms and human rights on its sovereign territory.**

Finally, the fifth package of measures envisions an open-door policy. Since Russia will arouse suspicion and wariness among its Western partners for a long time after the end of the war, the Russians will initially have to unilaterally show miracles of friendliness and hospitality, and work doubly hard to organize a long-term and sustainable hospitality industry in our country. Russian border guards must become the most welcoming to well-to-do visitors from developed countries and the toughest to potential terrorists trying to enter our territory from failed states or rigid autocracies.

An open-door policy could include the practice of providing electronic visas and unilateral abolition of the visa regime for certain categories of citizens of the United States, Canada, the United Kingdom, European Union countries, Australia, New Zealand and Japan. For representatives of business circles, academics, journalists, cultural figures and digital nomads from these countries, it is also necessary to create streamlined procedures for obtaining residence permits and opening a business in Russia. The Russian market should open

up to large international banks, construction and automobile companies, the IT industry and other businesses that can bring new jobs, modern technology and norms of customer and employee relations to the country. Notoriously Russian businesses are too loyal to Putin's dictatorship, so they do not deserve excessive protectionist measures in the future. The Russian worker and the middle-class citizen will find themselves in modern companies with more opportunities to protect and respect their labor and consumer rights.

These are the main packages of measures that are of paramount importance in terms of the realization of the main task — the gradual return of Russia from the position of a pariah country first to dialogue and then to the restoration and expansion of partnership with the leading democratic nations of the modern world. The foreign policy of the democratic Russia of the future should serve this task.

Foreign Policy as a Subject of Public Debate

Foreign policy issues in Russia have traditionally remained the business of a narrow circle of high-ranking diplomats and military officers. Professionals know better how to rearrange the pieces on the great chessboard. Before the First World War, this was also the case in democratic countries: political parties did not debate international relations, leaving it to their notional MGIMO graduates to decide. However, when these “professionals” brought about a monstrous war that took millions of lives across Europe, politicians and public figures in Britain and the United States of necessity became concerned about international relations and made them the subject of their active involvement. People with war-scarred faces discovered a new field of knowledge. International relations became the subject of independent academic research and public political debate.

In Russia, this practice has not yet taken root; graduates of MGIMO and intelligence schools still retain a monopoly on “professionalism” in international relations. **One of the tasks of genuine democratization of our country is to make foreign policy a subject of public debate and put it at the service of citizens, not a privileged group of bureaucrats and powerbrokers.** This text represents the first attempt to talk about Russian foreign policy from the perspective of civil society and humanitarian knowledge rather than state interest.



Transition Phasing: The Importance of Timing



When, sooner or later, events occur that could restart the process of democratic transit in Russia, potential future reformers will inevitably be faced with the question “where to start?” and one can only hope that it will be accompanied by the question “how to avoid making new mistakes?”. The lessons of the first transit are analyzed in Chapters 1 and 3, and this analysis will probably help the next generation of politicians to avoid repeating the mistakes already made; however, it is also necessary to anticipate new problems, and to have ideas and tools ready to solve them.

Putin’s death or any other “exclusion” does not mean that the new Kremlin authorities will decide the morning after to repeal all his laws, release political prisoners, welcome back those in exile, and call free elections. On the contrary, it is much more likely that immediately after Putin’s “expulsion,” the regime will need a forceful reinforcement and tightening of domestic politics, since Putin’s successor needs — even with the best future intentions — to first consolidate his own power and ensure its retention and stability. We proceed from the assumption that Putin’s “sudden” successor will not be interested in continuing the war in Ukraine — but we do not rule out the possibility that the continuation of the war is the only tool to achieve consensus in the ruling elite. Also, the current economic situation in Russia is not acutely crisis-ridden, but the possibility of a sharp escalation of socio-economic tensions cannot be ruled out, which will certainly affect the available policy options.

The long “fall of the patriarch”, continuing as another presidential term of Vladimir Putin (who will turn 78 at the end of this period, exactly as Stalin did in 1953), will no doubt complicate any attempt to return the Russian Federation as a whole to the path of democratic transit.

Therefore, while in the rapid (within a year) change of power option it makes sense to talk about the sequence of actions within the framework of a unified Russian state, in which, among other things, it is necessary to restore normal federal relations, in the second case the central issue becomes the problem of moderating the disintegrating imperial state, parts of which seek to separate from it at all costs, while chauvinistic and xenophobic sentiments are growing in the state-forming nation.

As it seems to us, any periodization and definition of the sequence of

actions in case Russia starts moving towards a new period of democratic transit must proceed from the fact that such a movement has 4 (5 at best) stages:

The stage of long-term preparation, which has been underway for several years, including through the efforts of such projects as [Reforum](#), [Re:Russia](#) and some others. At the same time, it is necessary to conduct political work, both in exile and inside Russia, to build consensus around the general direction of reforms, to create potential framework coalitions and alliances that can be activated as soon as the situation allows.

The stage of detailing and correcting and pitching in a moment of crisis; no matter how Vladimir Putin's personal regime ends, it is unlikely that his potential successors have (or will have) elaborate plans for what should be done after his departure. The readiness of the successor regime to dismantle Putin's repressive legacy opens up limited opportunities to offer him reasonable plans and roadmaps thought out in the previous period. The existence of proto-unions of political forces that, on the one hand, represent significant groups of the population and, on the other hand, have a more ready and perfect agenda for future changes, allows the liberal group to increase its weight in the future inevitable roundtable.

The stage of the “round table”¹ occurs when various political forces negotiate the rules for a return to a civil, electoral, representative democratic regime. The reasons why an authoritarian power agrees to the “round table” format are usually related to mass discontent and economic and social crises, which cannot be suppressed with brute force. The experience of Spain and Poland in the 1980s is particularly relevant for a future Russia, since in both cases the democratization of fairly rigid authoritarian regimes took place (in the case of Poland, with the presence of Soviet troops). This format, especially in a situation where a weakening authoritarian power agrees to negotiations under pressure, is characterized by the gradual “migration” of legitimacy and actual power from the dictator (or party) into the hands of institutions, the creation of which is agreed upon within the framework of the “round table.” It is likely (albeit not necessary) that during this period, the final dismantling of the quasi-institutions created by the Putin regime will take place, along with the formation

1 The political format of the “round table” has been deployed several times in the process of restructuring states as a method of reaching agreements on future reforms. The most notable example of the “round table” was Poland at the end of the communist regime (if interested, refer to detailed analyses by Alexei Makarkin or Brian Porter). The Moncloa Pact, which put an end to Franco's dictatorship in Spain, contained elements of the “round table,” although it was not called that. The “round table” format has also been repeatedly deployed to discuss decolonization issues (British Empire and India, 1930–1932; Netherlands and Indonesia, 1949; Belgium and Congo, 1960). The future democratization of Russia should contain a significant element of “decolonization,” although not from an external suzerain but from an internal usurper.

of new ones, possibly based on the principles proposed by liberals. It is important to note that the “round table” format typically emerges as a gesture of goodwill from the hegemon (or the authorities), whether compelled or voluntary. Generally, this approach serves as a means to avoid revolutionary violence as a method of regime change and to offer specific guarantees to representatives of authoritarian or totalitarian power after free elections.

The “new parliament” stage, when all or part of the worked-out proposals are carried through the legislature and become law, with liberal factions able to push for the interests of their constituents and the democratic order of the country as a whole.

The stage of a government of national confidence, when, as a result of elections, all or a majority of political forces agree to a broad coalition government, cooperation in parliament and local governments for a certain period, to “heal” society and the country from the wounds and diseases inflicted by the Putin regime. Such an agreement would be an ideal format for putting Russia back on the path of democratic transit.

Despite the significant differences between the circumstances that will accompany the new launch of the democratic transition “earlier” and “much later,” there are common fundamental problems in both cases. For example, in the first scenario, it is quite likely that, in order to consolidate power and eliminate political unrest, the potential successor to Putin will have to impose martial law, completely abolishing civil liberties. Despite the radical anti-democratic nature of such measures, they may be beneficial for getting rid of some individuals and institutions (quasi-institutions) that emerged under Putin. However, the range of political forces that the interim regime deems acceptable to discuss the future with may also be reduced. On the contrary, in the second scenario, when the regime’s end turns into a large-scale civil-military conflict over a vast territory, future reformers may face radical regionalism, whose leaders, while agreeing to preserve the federation, will insist on the priority of local legislation and local, including religious, interpretation of rights. In both cases, potential liberal-democratic reforms will have to take the prevailing circumstances into account and adapt to them.

Let us try to describe the general tasks below. Naturally, the zero-level task is to stop military actions in Ukraine and start the negotiation process. The second “zero” task is to establish control — at least some control — over the Russian Armed Forces and Rosgvardia in order to control the use of military force inside Russia.

Demonstration of Repressive Law (Before the Round Table)

Regardless of when Putin is “subtracted” and his regime change begins, a key condition for moving toward a more open, and as a result, potentially democratic state in Russia is the decision to abolish all repressive legislation passed in the Russian Federation after at least 2011 (the end of the term of the last relatively legitimate State Duma). Without fulfillment of this condition, such crucial actions for the future of the country as release and rehabilitation of all political prisoners convicted under the laws passed by the illegitimate State Duma and investigation of law enforcement officials (FSB, MVD, IC and others) who used the repealed legislation for political persecution are impossible.

The dismantling of repressive legislation also implies the abolition of the status of “undesirable organizations” and “foreign agents”, thus opening the way for the participation in the political life of Russia of organizations and persons previously marked with these “stigmas,” removes the problems of financing political activities from outside (perhaps for a certain period of time).

Formation of Politically Neutral Temporary/Transitional Organizations of Executive Government and Personal Civil Control of the Armed Forces, Rosgvardia and Other Military Structures (in the Process of the Round Table)

In itself, the formation of the Round Table structure will mean the return to the socio-political process of forces whose supporters and leaders were victims of unlawful repression. At the same time, however partially, a leader or group of leaders who change the course of the post-Putin state in the direction of liberalization will be at least complicit in the illegal and criminal actions of the regime BEFORE the process of national reconciliation and harmony begins. With that in mind, opposition leaders must agree to a certain level of cooperation with post-Putin officials participating in the transition process in advance. Arguably, long before the actual onset of the relevant stage, the leaders of these political groups and organizations must agree to some level of cooperation with post-Putin officials involved in the transition. While the demands for lustration and prosecution of broad groups in Putin’s entourage are justified, it should be understood that their decision to agree to democratize the country is a manifestation of goodwill, and they are doing so not so much out of altruism as for selfish reasons (preservation of capital gained during Putin’s time, the possibility of avoiding lustration and even more so criminal prosecution, etc.).

If possible, in the process of coordinating the agenda of the Round Table, agreements should be reached on the formation of a temporary non-party government with sufficient powers to manage the economy of the Russian Federation, along with the mandatory creation — most likely on a parity basis with the participation of the widest possible range of political forces — of temporary bodies of civilian control over the Armed Forces, Rosgvardia and other paramilitary state organizations, primarily the Ministry of Internal Affairs and the Federal Penitentiary Service of the Russian Federation.

Ensuring Transitional Justice (Primary Reform of the Courts) (in the Process of the Round Table)

One of the primary tasks of the Round Table will be the primary reform of the judiciary. The court system established in 2003-2023 and especially the selection of judges should be abolished and replaced by an interim structure that, in the meantime, is able to provide primary justice in most criminal, civil and family cases. It is likely that transitional justice should be limited in both duration and competence, with any complex cases (including those with potential jury trials) deferred until full courts of all instances have been established.

In the period of transitional justice, the key role is played by courts of first and cassation instances, which should be formed from citizens with legal education, but not involved in any way (through checks, including polygraph tests) in repressive acts of the previous period.

Construction of the Legal Basis for a New Federative Contract and Procedure (in the Process of the Round Table)

This point, in case of realization of the second transit option (“long autumn of the patriarch”), will most likely become first. The existence of the state “Russian Federation” (in approximately modern borders) will be possible only if the conditions favorable to the national regions are defined and fixed in the new Federal Treaty, which should be a precursor to the Constitution, not a part or a consequence of it. Accordingly, the problem of the structure of the federation, the division and balance of powers between the constituent entities and the federal government, the issues of admission, withdrawal and exclusion of the constituent entities from the Federation should be thought over and comprehended long before this problem comes to the center of attention. The draft Federal Treaty should be prepared and initially agreed upon in the course

of the Round Table's activities, since only a multilateral act of re-establishing the Federation can define legal formulas in terms of federal, regional and local powers, issues of joint jurisdiction and guarantees of regional representation in the federal legislature, which require reflection both in the future Constitution and in other constitutional laws.

Construction of the Legal Basis of a New Constitutional Process (in the Process of the Round Table)

Most likely, the Round Table will come to a consensus that the new Russia (Russian Federation) will need a completely new version of the Basic Law. The most likely solution would be to form one or more working groups consisting of legal scholars and politicians who would propose basic versions of a new Constitution-Main Law (based on the basic agreements agreed upon at the Round Table, e.g., on parliamentary or presidential-parliamentary forms of government). At the same time, the Round Table should determine the terms, parameters and rules for the formation of a Constitutional Council authorized to adopt (and in the future, to amend and modify) the Basic Law. The decisions of the Round Table should be as close as possible to the future laws (sections of the Constitution) determining its adoption, amendments and additions.

Formation of New Bodies for Elections, Referendums and Local Control Elections (Round Table Result)

In addition to issues of constitutional construction, the Round Table should agree on a whole group of issues related to the will of the citizens (other than approval of the Constitution, if it is decided to approve the Basic Law by direct vote of citizens). Depending on the decisions made, for example, it will be possible (or not) to combine referendums with voting on federal, regional and local elections. Among other things, initial decisions on whether or not the formation of electoral blocs is permissible, the powers of election commissions in the first elections (they should be significantly expanded compared to previous versions), and the procedures for resolving disputes and conflicts should be elaborated and adopted.

Constitutional Additional Legislative Establishment of Freedom of Speech, Assembly, Protest, Parties and Other Public Associations

Given the peculiarities of Russian political history, one of the most important tasks of the pre-election work of liberal forces is the additional, explicit constitution of civil rights and freedoms necessary to resist usurpation of power, political domination and autocracy. Additional regulation will be needed, incorporated into the Basic Law as directly applicable legislation prohibiting any restrictions on freedom of speech, assembly, protest, parties and other public associations. In fact, future Russia needs an analog of the Bill of Rights, inseparable from the Constitution, but specifically designed to make judicial revision of its provisions impossible.

Free, Open, Concurrent Elections Recognized by Other Countries (Round Table Result)

Liberal forces will represent an insignificant (at first) group of Russian voters, but it is crucial that this faction has a program of action — in terms of legislation, social state, human rights, international relations, etc. — to expand its electoral base. Counting on anything more than a minority faction in the first iterations of the new Russian parliament is certainly no better than believing in a world of pink ponies and unicorns. However, the key task of the liberal minority is to uphold the principles of the institutional structure of the state, meritocracy, the triumph and prevalence of laws, and the political neutrality of the law enforcement system.

As noted above, the order of tasks to restructure the political and legal system will differ if the changes begin earlier (within the 12-month horizon) and later, at the end of or beyond the next term of Vladimir Putin's presidency (beyond the 6-year horizon).

Accordingly, additional specific tasks for the “close” option should be based on the circumstances that are currently affecting Russia's domestic and foreign policy, with the need for a substantial course correction as soon as possible.

In addition to constitutional reform and the transition to a balanced institutional system of government, the liberal and democratic forces' tasks include, with high priority, **the task of restoring international relations**, especially with regard to those countries that Putin's regime calls “unfriendly,”

while at the same time clearly controlling the “eastern direction” of Russian foreign policy in order to prevent (at the very least) Chinese discontent with Russia’s possible return to the West’s sphere of influence. Most likely, Putin’s potential successor will also — after consolidation of power — be interested in at least moving relations with the West in a constructive direction. This will require not only replacing diplomatic representatives in the respective countries, but also restructuring the Foreign Ministry and its relations with intelligence and security agencies. And this task is important precisely for the early transition period because, among other goals, post-Putin Russia must convince the key opponents of its policy in Putin’s last years that the turnaround is being carried out, in Lenin’s words, “seriously and for a long time.”

An important goal of the constructive forces in the “close” version, comparable to the main legislative and institutional tasks, will be to **restore public confidence in the values of democracy, competitive politics, and respect for human rights**. A decade of Putin’s propaganda will not go in vain: significant groups of the population are immersed in a state of anti-democratic resentment, the word “liberal” is now a swear word for many Russians, and human rights exist only in relation to oneself. The issues of restoring confidence in democracy and liberal values, as well as the complexity of such activities, are separately addressed in Chapter 9, and the problems of restoring individual and citizen rights, as well as respect for them, are addressed in Chapter 4. However, speaking precisely about the place of this work in the priorities of Russia’s future return to the path of democratic transit, political forces need to exercise restraint, not use propaganda techniques, and strive to develop citizens’ interest in participating in political activity, rather than “reprogramming” them with the same means by which Putin and his media machine have brought Russians to such a life.

It is hoped that Vladimir Putin’s potential successor will be interested **in ending the war in Ukraine and achieving a consensual peace settlement**. It is quite likely that the initial resolution of the military phase will take place even before the involvement of democratic forces; for obvious reasons, under the interim military dictatorship that the successor will need to consolidate power, it will be easier (if at all) to explain the reasons for an outcome of the war unfavorable to Russia and to suppress possible resistance and inevitable conflicts.

In any case, in the “close” variant, it will require complex and serious political work to moderate the consequences of the war, both in terms of compensating Ukraine for the material damage caused, and in terms of treating Russian society

for the traumas suffered during the war. We cannot predict the exact moment at which hostilities will stop, the state of the Armed Forces, much less whether radical pro-militarist forces will resist the policy of ending the war. On the other hand, no matter how great and obvious the guilt of the Russian authorities in unleashing and waging a war of aggression, the excessive desire to “at any cost” to make amends and punish those responsible will clearly not contribute to a positive public opinion, which, alas, will have to be prepared and persuaded for a long time to accept the relevant decisions as a given.

Special Challenges of the “Long Version”

What will Russia be like if Vladimir Putin rules the country for another 6 years or more? In what state will society approach the biologically inevitable end of the regime? Will the war in Ukraine end in the lifetime of its initiator? How far can Russia’s isolation and self-isolation go? How will this isolation affect the economy, science, education and culture? In many respects, the tasks of the “long variant” will be determined by the answers to these questions, but we can, using extrapolation, assume that:

- The regime will increasingly rely on ad hoc institutions of governance and control (various committees, commissions, special agencies) to carry out operational management; in fact, the country will continue to sink further into the “legal Middle Ages;”
- The policy of isolation and self-isolation will continue at least as long as the war in Ukraine; at the same time, there will be no real “turn to the East” (or to Africa), for various reasons — from Putin’s total suspicion, who will sooner or later decide that China is also interfering in Russia’s internal affairs, and there is not enough money or resources for African adventures, eaten up by the war in Ukraine;
- Prohibitionist legislation will become so extensive over the years that the executive branch will become confused about what is allowed;
- As Putin physically weakens, at least part of his powers, primarily in operational decisions, will be — semi-officially — transferred to some collective body (a veritable new Politburo) in which the actual stakeholders of the regime, i.e. those who will determine the course of the country after Putin, will be represented.

Clearly, these are more than general, broad images, and the specific details of the “long fall of the patriarch” will depend on many factors, including those

unknown to us today. In any case, it seems to us that by the end of Putin's next term, the Russian Federation will be a weakened but militarized state, with a pile of internal conflicts, including suppressed ones, and in a high degree of isolation from the rest of the world. Internal problems in the economy, in the psychological state of significant groups of the population traumatized to a greater or lesser extent by the war in Ukraine (God willing, only in Ukraine), degrading education, medicine, science and culture — while Putin and the population are told by the same propaganda about the unprecedented prosperity of everything, first of all, the Armed Forces of the Russian Federation.

As bleak as this picture may seem, it describes a highly unstable state that could be undermined by any acute crisis at the center of power — which is likely to happen when, amid the physical end of Vladimir Putin's life, factions within his entourage begin to divide the falling wreckage of power. The escalating contradictions will, unfortunately, lead to almost inevitable violence, localized conflicts and, almost inevitably, the growth of separatist sentiments in the regions.

In the “long variant” the way to launch the transit is most likely through the growth of political tension in the largest cities of the country — and the open use of violence, especially factional violence (we pointed out above that factions from Putin's entourage are fighting for power), provokes the growth of unrest, large unorganized and then, possibly, organized demonstrations. The likelihood of localized unification of opponents of the authorities across the broad political spectrum becomes higher, and the ability to use suppression by the authorities becomes less, and a local transition of power is likely to occur, with the largest cities coming under the control of the protesters and their political leaders. At the same time, the events in Moscow, St. Petersburg or Novosibirsk are not synchronized and have different slogans, except for the main one — the desire for greater independence and autonomy of the regional authorities. In addition to the crisis of “factions” in Putin's power-sharing entourage, the country is plunged into a specific “parade of sovereignties,” in which the federal center is rapidly losing resources, primarily military and power resources. The army is actually leaving the front, seeking to participate in the division of Putin's inheritance and power — in formations and individually (but with weapons).

We do not know exactly what kind of tortuous path Russia might then take to begin transit again, but the conditions under which reforms will be needed are fairly predictable. The process, which in this case can really be called “saving Russia,” can only be led by a decisive leader capable of negotiation and alliance-building, interested in stopping the chaos, in turning

the “war of all against all.” He may be a democratic idealist, but initially he will have to implement the agenda of consolidating power at least to the extent that will allow him to move from authoritarian politics to the re-formalization of the Federation and the re-establishment of the state.

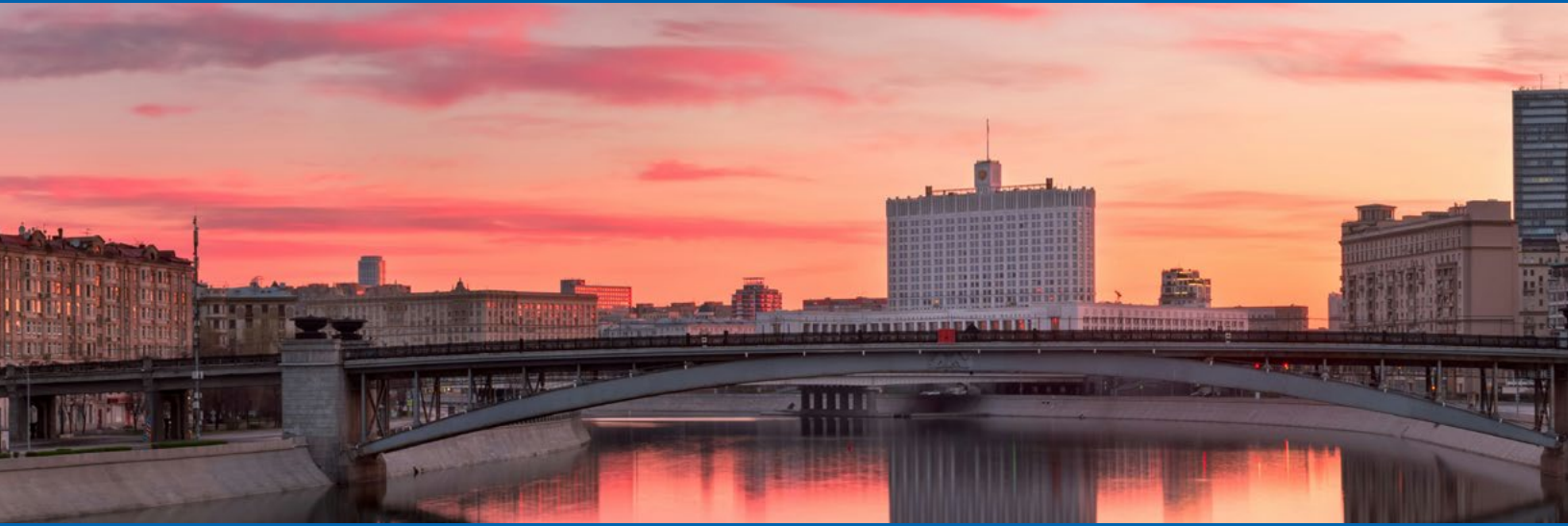
In a certain sense, it is less problematic than, as in the “close” version, sawing out a new Russia from the array of layers, from the empire to Putin — many laws and rules will simply be abolished without much bowing to the remnants of the previous regime (or regimes), the reconstitution of the Federation can be launched immediately, dissolving the previous version and declaring a new one — voluntary for all regions, with their own vision of autonomy and regional organization.

In contrast to the “close” variant, in which the need to cooperate with the past is obvious, the military-revolutionary development of the situation requires only the presence of a clear idea, political will and the force that realizes it — apparently, as in 1918, some kind of “revolutionary guard” protecting the new regime, but limited in existence in time, until the restoration of law and order.

In fact, the consequences of the “long option” will require the creation of the state “from below” — through local self-government (which will inevitably be strengthened in the process of crisis), to the regional level (which must be reconstituted to resolve the question of membership in the Federation), and only then to the formulation of the idea of a federal-level organization.

Only after the federal relationship is built anew can we move from temporary solutions for organizing the country to permanent ones — with the same general components.

Chapter X



Power Coalitions: Approaches and Likely Composition



This chapter considers the likely (and desirable) actors of political change in Russia after Putin and their possible alliances for greater democratization of the country's life. The task at hand is extremely difficult, but we will try to offer a vision of the possible contours of the future based on our own observations of the dynamics of the situation in Russian society and the current elites.

The personalistic regime in Russia that has developed over the last 20+ years can be described as classic plebiscitary dictatorship, where the election procedure is reduced to a mere acclamation (a show of unconditional support) of the ruling leader and his party by universal suffrage. Such a mode of government is also referred to in the literature as Bonapartism — after Emperor Louis-Napoleon Bonaparte III, whose “people's monarchy” in France from 1852-1871 is considered the first example of such a plebiscitary regime¹. Napoleon III's empire ended with a failed foreign policy adventure and an ignominious defeat in the Franco-Prussian War, after which France was declared a republic for the third time in its history.

At first, few believed in the success of this endeavor. The first president of the new French Republic before the adoption of a new constitution was Adolphe Thiers, a historian and politician with the views of a very moderate and secretive liberal. Thiers's career began with corruption scandals related to his participation in the government of the time of Louis-Philippe, continued in the role of a pocket opposition to his majesty Napoleon III and closer to the end marked the brutal suppression of the uprising of the Communards in Paris in 1871. Contemporaries vilified him for coming into government as a penniless church mouse and leaving as a millionaire. Karl Marx called him a “bloody dwarf,” noting, among other things, his extreme arrogance and hubris. Other authors have said that for most of his life Thiers skillfully disguised his liberal views with statesmanlike rhetoric.

Nevertheless, it was that utterly unpleasant man who ensured the transition to the Third Republic, which lasted for 70 years, until the capture of Paris by Hitler's forces in 1940. To this day, the Third Republic remains the longest period

1 Yudin, G. Russia as a plebiscitary democracy // Sociological Review, 2021. T. 20. № 2. PP. 29—34.

of relatively stable, free and competitive political rule in France.

According to the logic of history, a defeat in the war against Ukraine should break the back of Putin's regime, just as the failure of previous military adventures drew a line under the existence of similar plebiscitary regimes in Europe. In this tragedy, however, nothing is predetermined, according to British sociologist Theodore Chanin's famous statement, "Other things are always a given."² As the military conflict drags on against the backdrop of relative stability of the Russian economy, Russia's political stagnation and archaization may continue for quite some time. In this regard, one can only [agree](#) with Professor Vladimir Gelman of the University of Helsinki: when evaluating the chances of success of the post-Putin transition, "the time factor is much more important than the depth of the fall." After a decade, there may come a moment of "irretrievable decline," when it will be extremely difficult to find social forces and leaders capable of leading a successful democratic transition.

Whether Russia has a future as a democratic country and as part of the modern world is being determined right now. In formulating an answer to the question about the possible composition of the participants in the post-Putin political transition, it is necessary to agree with the thesis about the "subtraction" of Putin himself as the first necessary condition for the start of any of the scenarios of changes in the country and its relations with the outside world. The war in Ukraine serves as the main source of Putin's power, and this power itself has become virtually the only guarantee for preserving his personal freedom and even his life. Therefore, military action will continue for as long as Putin remains in power. At the same time, his power has long ago acquired a lifelong character.

Thus, the political order in today's Russia rests on the following triad:

- Putin's war that secures his power;
- Putin's power to guarantee his life;
- Putin's life that feeds on his power and war.

The armed forces of Ukraine, with the active support of a Western alliance led by the United States, are trying to break this triad by organizing a counteroffensive on the front. However, events on the battlefield during 2023 have shown significant limitations in countering Putin's aggression and

2 According to the oral recollections of contemporaries, this was T. Shanin's response to his colleague T. Zaslavskaya and other authors of the 1988 collection of journalistic articles in support of Gorbachev's perestroika "No Other Way".

put the prospects of a quick and convincing victory over the Russian army in serious question. So far, it looks like as long as Putin is alive, he will be able to maintain his power and continue the war. Is it possible to solve this problem if we approach it from the other end of the indicated triad? The answer to this question lies with the dictator's inner circle and those who have access to his bedroom. The thoughts, feelings and intentions of these people are outside our observable field. They are unlikely to be guided by the same motives that could be followed by the representatives of the Russian opposition in exile.

It is impossible to predict the exact set of agents of change, even if the transition starts tomorrow. It is all the more impossible to speak about it over a distance of five or more years. Nevertheless, we will try to do the impossible and look into the future we wish for ourselves and our country.

The further the horizon of possible changes moves away from the present day, the lower the probability of accurately predicting specific situations and outcomes. Speaking about the future, we proceed from the current analysis of the situation on the basis of relevant data on political moods and expectations in Russia accumulated over the past few years. These data are presented in opinion polling, in-depth interviews and analytical materials based on them, published in the last few years. Of course, emphasis will be placed on studies and publications that have appeared since the active phase of the war began in February 2022³.

The key trigger for change may be a change in the position of a part of the ruling class in the context of an aggravated struggle for survival and dwindling resources. Hence the natural priority interest in the current disposition within the elites and its possible changes in the foreseeable future.

But true democratization of Russia is impossible without the participation of its people. Its inclusion in the process of political change is necessary not only because, according to the Constitution, it is the multinational Russian people who are the source of power in the country. Democratization is nowhere possible without taking into account the interests and aspirations of broad social strata. As Grigory Golosov, dean of the political science faculty at the European University in St. Petersburg, rightly [noted](#) in connection with the possible first elections after Putin, “if the preferences of the people are not taken into account, they will develop a feeling of deep disappointment” from the results of the elections and the procedures of democracy as such.

3 Since the preparation of academic publications takes longer than the time that has passed since the beginning of the active phase of the war, the focus of the analysis of relevant research positions is aimed at actual analytical commentaries and expert interviews of leading academics to quality media.

The Russian liberal opposition has long been influenced by the myth of the terrible Russian people, who are by nature conservative, monarchists and pogromists. Out of this demophobia in the late 1990s, the authoritarian regime of today was born. The future democratic transition must learn from this mistake, turning elections from a “political technology” into a moment of common cause for all active citizens. However, the key to this task is today rather in the hands of the elites. Therefore, we will begin our construction of probable power coalitions by analyzing the possibilities of regrouping in the coalition of elites. Next, we will focus on political preferences in Russian society and the possible outcome of the first elections after Putin’s departure. Finally, the third part of the chapter will be devoted to the opposition’s recommendations for interacting with potential agents of change within today’s Russia.

Regrouping in the Ruling Coalition of Elites

In order to answer the question about the possible contours of the future agreement of the elites, it is necessary to deal with the current features and contradictions within their ruling coalition. Going from a general assessment through the analysis of relevant approaches to describing the structure and composition of the ruling class in Russia, we will try to answer the main question about the possibilities of dialog with the existing groups of elites.

General Assessment of the Russian Elite, Ethics and Pragmatics

The moral and ethical approach dominates in the expert assessments of the Russian elite in the literature. This is typical not only for authors from the conventional camp of the liberal opposition, but also for numerous critics of the existing order on the part of opponents of liberalism. On the one hand, and on the pages of this monograph, most representatives of the elite are called “pure opportunists”⁴. On the other hand, representatives of the left-patriotic flank in relatively recent academic publications in Russia make a disappointing diagnosis of the Russian elite. Among its inherent traits are a high degree of corruption, unprincipledness bordering on “villeinage” and “pharisaism” expressed in adherence to double ethical standards⁵. This moral diagnosis, expressed with varying degrees of sharpness, can be considered a generally accepted point

4 For more details, see. Chapter 1.

5 Kochetkov, A., Moiseev, V. Russian political elite as a subject of socio-economic policy // Bulletin of Tomsk State University. Philosophy. Sociology. Political science, 2020. N° 57. PP. 246—248.

of view among experts, opposition politicians, and even representatives of the Russian elite themselves. Hardly anyone today would dare to speak of the ruling class in today's Russia as a collection of the best representatives of society.

Kirill Rogov, director of the Re: Russia project, [notes](#) that Russian elites do not demonstrate “the will to contain Putin”. Therefore, the very need to dialog with them or rely on them in search of opportunities for a post-Putin transit is highly questionable. The Russian elite is ineffectual in political terms and is of no significant interest as a spawning ground for likely agents of change. This point of view is quite popular among Russian political emigrants. It is true that at the same time [there may be assumptions](#) that in conditions of military and economic collapse “the Russian elite can remove Putin from power and start negotiations with the West.”

At the same time, researchers note that the Russian elite is depoliticized no less than society as a whole. Apoliticality has been [the main precondition](#) for “access” to Putin’s elite for decades. Politicization of technocratic elites in today’s Russia seems to be no less of a task than politicization of the people⁶. So far, instead of political views based on a conscious value base, representatives of the Russian elite demonstrate the aforementioned “villeinage”. In the opinion of even those researchers who are quite loyal to the regime, it is expressed in unconditional loyalty to the president and priority adherence to clan and their own vested interests⁷. Thus, the way of thinking and actions of the Russian elite are influenced by three main factors:

- Motivation is dominated by pursuing one’s own or narrow group mercantile interests in complete isolation from an understanding of the public good and related political values;
- Advancement up the career ladder and obtaining new status opportunities for personal enrichment is solely at the expense of the will of the superiors and, first and foremost, of the supreme suzerain — President Putin;
- There is an almost total absence of public control with regard to state power — the current Russian elite is very close to the people culturally and immensely detached from them in terms of the need for common rules and political accountability.

The first consequence of such characteristics of the elite was the extreme

6 The need to repoliticize society as a whole will be discussed further in the relevant section of the chapter.

7 Kochetkov, A., Moiseev, V. Op. cit. P. 247.

degree of inequality in Russia in the 2010s. Back in 2016, Harvard Visiting Professor Thomas Remington stated that material inequality in Russia was the highest in the world⁸. The growth of this inequality is explained by the fact that disproportionately high incomes went to those at the top of the income distribution who were members of the managerial elite. Such trends are due to the resource-based nature of the Russian economy and the corresponding institutional structure of the country.

Recent pre-war studies of the Russian elite show that by the end of the 2010s, the richest 10% of Russian citizens held 83% of all personal wealth in the country⁹ (for comparison, in the US this figure at the same time amounted to 76%). At the same time, according to pre-war statistics, the number of poor people in the country exceeded 19 million people, and 80% of Russian families had difficulties in purchasing the necessary minimum of goods within the amount of regularly received income¹⁰. In the long term, this level of economic inequality, according to Professor Remington, could play a destabilizing role¹¹. However, so far, the elite in Russia have demonstrated marvels of resilience and survivability.

A whole set of paradoxes can be found in the characterization of the Russian elite. The statement that the ruling class is apolitical and lacks subjective influence is dissonant with the expectations of Putin's removal from power and the start of negotiations with Ukraine and the West. The low personal qualities of the collective image of the representatives of the Russian upper classes do not prevent them from holding a colossal share of the country's wealth in their hands. Finally, researchers have [noted](#) an excessive degree of distrust and atomization among the elite while at the same time [observing](#) the enormous role of personal ties and building networks of trust to achieve managerial objectives.

All these paradoxes are explained by the extreme difficulty encountered by researchers in assessing the sealed-off Russian political elite. Since the outbreak of full-scale hostilities in February 2022, this impenetrability has become almost total, with officials and management representatives of large companies refusing to talk to journalists and researchers. **The ruling class in Russia resembles a hermetically sealed black box. We can judge what is going on inside this box only by the few signals that are ambiguous in their interpretation.** Perhaps

8 Remington, T. Economic Inequality in Russia: Sources and Consequences // Russian Analytical Digest, 2016. N° 187. PP. 4—9.

9 Kochetkov, A., Moiseev, V. Op. cit. P. 248.

10 Ibid. PP. 249—250.

11 Remington, T. Ibid. P. 4.

the moment of opening this black box will be the beginning of the end of Putin's system.

Among the rare sources that allow us to judge the state of affairs within the Russian elite is a survey of Russian elites conducted from 1993 to 2020 under the direction of University of Michigan professor William Zimmerman. Between 180 and 320 people participated in several tranches of this large-scale survey. A total of 1,909 representatives of the highest echelons of legislative and executive power, security agencies, state corporations, private business, media, and scientific and educational institutions in Russia were interviewed over 27 years. The [last tranche](#) of the survey, covering 245 respondents, took place in February-March 2020. The huge array of collected data allows researchers to consider it as a relevant research base even after the outbreak of hostilities in Ukraine.

Interpretation of this survey data allows us to speak about a rather high, but far from total indoctrination of representatives of the Russian elite with militaristic and great-power ideas. Thus, in 2020, only 46% of high-ranking respondents in Russia verbally agreed with the admissibility of using the army to protect “the interests of Russian citizens in other countries” (for comparison, in 2012 this figure was 42%, and in 2016 it fell to 19%). On the eve of the coronavirus pandemic, 52% of the surveyed Russian elites spoke in favor of the possibility of using the armed forces to protect “the interests of Russians living in the former Soviet republics” (this figure reached its highest value in all years of the survey — 65% — in 2012). It turns out that only half of the Russian ruling class on the eve of the war was morally ready to accept it at the level of general reasoning.

From the point of view of a possible attitude to the current war, another indicator may be interesting: in 25 years, from 1995 to 2020, the number of supporters of the idea of Ukraine joining Russia among the elite survey participants has decreased from 65% to 5%. In fact, this means that during the years of post-Soviet transition, the Russian elite has assimilated the mature idea of Ukraine as an independent and separate country from the Russian Federation. Of course, these members of the elite were surveyed prior to any inkling that a “special military operation” would begin on February 24, 2022. Like the rest of the country's citizens, they are for the time being forced to come to terms with the new reality of war with the neighboring country and the entire Western world.

Toward the end of this section, I would like to briefly touch upon another characteristic of the Russian elite related to its age and generational dynamics. Right before the war in January 2022, the online publication Important Stories

published a study of the average age of Putin's inner circle. The most "aged" government body in Russia turned out to be the Security Council, which met less than a month after the publication for its memorable meeting to approve the start of the war. Journalists managed to calculate that the median age of the members of the Security Council at that time was 65. At the beginning of 2022, the share of retirees in this power body turned out to be 57%. Similar, albeit slightly lower age limits were demonstrated by all bodies of the highest federal authorities. The authors of the [study](#) stated the obvious: "The closer one gets to the president, the more noticeable is aging and the low incidence of the turnover of power". Ekaterina Shulmann, a well-known Russian public political scientist now in exile, characterized Putin's entourage running the country as "pensioners from garages."

Now these pensioners are dragging the country with them to the other side of the world. It is no coincidence that Prof. Gelman [insists](#) on serious structural changes in the Russian political class, as a result of which the current leaders of the country "at a more than mature age" will have to permanently give way to more modern and educated people. This is a necessary, though not sufficient, condition for real change.

During the decade preceding the war, young technocrats with the knowledge and skills of a modern world-class manager managed to join the managerial elite. Many middle-level representatives of the Russian bureaucracy, and even more so in the management of state corporations, have high-quality Western diplomas in their pockets, as well as mastery of modern technologies. These people have possible skeletons in their closets, but they could be part of a future power coalition for change in Russia.

[Current Approaches to Describing Elite Structure](#)

In the journalistic approach, the Russian elite is usually divided into two basic groups — technocrats (formerly systemic liberals) and siloviki. The latter belong to the "party of forceful redistribution of wealth". This "party of force" has been steadily increasing its positions throughout Putin's rule. In the third decade of Putin's regime, the hegemony of the siloviki [led](#) not only to open aggression against Ukraine and an indirect clash with the West, but also to a "simultaneous attack on the domestic West." This attack has called into question all the results and achievements of Russia's internal modernization of the last 30 years, created also with the direct participation of other elite cohorts.

Here it is time to complicate the described picture by adding an academic view of it. Based on Douglass North's concept, Andrei Yakovlev, a visiting

scholar at the Davis Center at Harvard University, identifies three groups in the ruling coalition of elites formed in Russia in the context of the 1996 presidential election. These [three key groups](#) are the top federal bureaucracy, the politically connected big business executives (oligarchs) and the heads of the security services (siloviki). Initially, the triple alliance that governed post-Soviet Russia was dominated by oligarchs against the backdrop of budget starvation of the civil bureaucracy and the failure of the siloviki during the first Chechen war, but after the worst financial crisis of 1998, big business lost ground. The slow concentration of power in the hands of the siloviki began with the second Chechen war, continued with the Yukos case in 2003, and reached its climax with Putin's return to the presidency in 2012. In the second half of the 2010s, after Sergei Kiriyenko joined the Presidential Administration, the technocrats began to gain ground in the intra-elite coalition. At that time, the ruling coalition was unable to agree on a new distribution of rents and expand access to economic opportunities and political participation for new social groups. As Andrei Yakovlev [wrote back in 2021](#), the elite "missed an opportunity to avoid a deep shock," which could destroy the existing political order.

Such a shock for the system and the elites was the beginning of the "special military operation." How does each of the three groups of the ruling coalition of elites react to the current events? The worst case should be with the law enforcers. They failed the blitzkrieg at the beginning of the war, failing to fulfill their promise to the supreme commander-in-chief to take Kiev in three days. Later they were forced to retreat from Kiev, Kharkiv and Kherson. In 2023 they missed the rebellion of Evgeny Prigozhin, which they managed to stop through negotiations. Their only relative success is that they have managed to hold the front line against the counter-offensive of the AFU and continue to mercilessly bomb Ukrainian cities without serious hopes of claiming anything more. Meanwhile, big business is busy making money on military supplies and transferring the property of Western investors who left Russia under their control. As long as there is money left in the state budget, the oligarchs are doing well. Finally, the civil bureaucracy boasts of keeping the country's economy afloat (the government's economic bloc) and is busy absorbing funds for the "restoration of new territories." Each of the three groups has its own business and its own rent. As a result, in the first half of 2023 alone, according to Bloomberg, Russian oligarchs [managed to get richer](#) by \$16.5 billion. At such margins, the motivation for anti-war speeches and actions disappears by itself. Only a sharp reduction in rents can remedy the situation, but the government's economic bloc is coping so far.

At the same time, the continuation of the war and the inevitable growth of its

costs in the future may cost the elites quite dearly. Tatyana Stanovaya, a senior fellow at the Carnegie Center for Russian and Eurasian Studies in Berlin, believes that despite the absence of a split in Russia's elites, two approaches to defining current managerial tasks and ways of solving them are becoming increasingly evident. Supporters of the first approach can be labeled "administrators," which includes ministers, governors, and top military officers. Representatives of this group have huge administrative and material resources and are afraid of losing them, so in the current situation of war they are aimed at solving current management tasks with minimal costs for themselves and their industry. Elvira Nabiullina, chairwoman of the Central Bank of the Russian Federation, who is busy ensuring a stable ruble exchange rate, and Valery Gerasimov, chief of the General Staff, who is ensuring the containment of the Ukrainian counteroffensive on the front lines, both belong to this category. Their approach is to mobilize available resources as much as possible without making significant structural changes in the management of their industry.

In the struggle for the president's attention and decisions, the "administrators" are increasingly opposed by those whom Tatiana Stanovaya calls "revisionists". Representatives of this category of the ruling class are not endowed with such significant resources that they are afraid of losing them. At the same time, they insist on a serious restructuring of the entire structure of Russian society, which must be reoriented to meet the needs of the war. In the course of this restructuring, they expect to seize control of resources from the first group, which they suspect of having a "comprador position" and a hidden anti-war agenda. Tension and division in approaches between the "administrators" and the "revisionists" will grow. According to the [expert](#), "the longer the period of uncertainty — neither victory nor defeat — lasts, the louder the voice of the revisionists will be heard." In the medium term, this may create considerable additional risks for the "administrators," who risk losing their positions if the war drags on.

Characteristically, in Tatyana Stanova's descriptive model, there is no place for big business in the ruling coalition of elites. It has been crushed and displaced by the security forces and the top civilian bureaucracy. However, the anticipated clash is not between these two groups, but between the conventional "old boyarchy" of civilians and law enforcers and a certain "new oprichnina."

Right now, the ruling elites find themselves in a challenging situation:

- further sliding of the system down the curve of simplification and archaization, which may cost them their status and even their lives;
- elimination of the source of the shock experienced (Putin and his war) with

subsequent reformatting of the system on the terms of broader access of wider social strata to economic and political opportunities, as Andrei Yakovlev writes.

Thus, possible participants in the coalition of the post-Putin democratic transition should be sought among those representatives of the civil bureaucracy and security forces whom Tatyana Stanovaya refers to as “administrators. Among them, the most promising group are young technocrats, members of the government’s economic bloc, and law enforcers who realize the very limited limits of Russia’s military power. This party of the “supporting model”¹² is more inclined to opportunism in the darkness of the patriotic clouds gathering over them. This approach is partly confirmed by an interview with Ilya Grashchenkov, the president of the Center for Regional Policy Development Foundation associated with the Presidential Administration, who [argues](#) about the need to “complete the state” under conditions of relatively greater democratization and desecuritization of the existing political system. The question is how to build relations with the opportunistic part of the coalition of ruling elites in Russia.

Opportunities for Dialog With Elites in Russia

Is it possible to break through the wall behind which the Russian managerial class is entrenched today? Not so long ago, they were free to travel to the West, buy real estate there, and take care of their children. Under the sanctions, these opportunities have sharply decreased, although they have not disappeared altogether. In addition to this sanctions wall, erected by the West with the approval of the emigrated part of the Russian opposition, the Russian elite is dominated by banal fear. As Alexandra Prokopenko, a visiting fellow at the Carnegie Center for Russian and Eurasian Studies in Berlin, [notes](#), disloyalty to Putin and his foreign policy is met by deprivation of all assets, freedom and even life for representatives of the highest echelons of power and business. The latter is evidenced by a series of sudden and mysterious deaths of top managers of large state corporations in the first months after the war began. Fear has so far triumphed over the will to act; the elites have neither the time nor the intellectual resources to unite, develop common values and formulate a desired image of the future.

Therefore, the elite chooses the path of inertia. It may be a path to the abyss, but it looks familiar and understandable. This is [proved](#) by the words of

¹² The term is borrowed from authors who criticize the Russian elite for defeatist sentiments. See Kochetkov, Moiseyev. Op. cit. P. 252.

an anonymous interlocutor from among high-ranking federal officials:

At least for 20 years they have learned to understand at least roughly what to expect from the Boss (one of Putin's nicknames) and his camarilla. And where will I go under sanctions? Neither regulators nor lawyers tell me how to remove them. At least it is clearer here.

An impasse is developing in Russia, says Andrey Yakovlev, a visiting researcher at the Davis Center at Harvard University. On the one hand, Putin's support base is narrowing — both in society and the elites. On the other hand, there is still no alternative to the existing order. By and large, no one, including in the West, is offering a clear exit strategy for the members of the Russian elite that may catalyze changes within the country. As a result, the civil bureaucracy and business do not see a future for themselves either within the existing system, nor in the event of its collapse. Russian elites choose the status quo, remaining loyal to the existing political regime because they don't see alternatives. In search of a way out of this conundrum, Professor Yakovlev suggests developing a consensus “between the thinking part of society and adequate groups in the elites,” which could launch the process of real political changes in Russia.

Given the interests of a part of the elite involved in this possible conversation, the upcoming changes should not imperil the foundations of their position and well-being. At the same time, their understanding of the vision of the future¹³ may turn out to be much closer to the general democratic agenda shared by exiled experts than one might expect. It is no coincidence that billionaire Oleg Deripaska, who made a fortune under Putin, [said](#) at the Krasnoyarsk Economic Forum in March 2023 that the rule of law and predictability are critical to attracting foreign investors necessary for the future of the country's economy. That statement postulates a very important demand of a large Russian business. This request includes clear and understandable rules of the game, based on the continuity of established norms and making people's lives predictable. In general, this corresponds to the ideas of the rule of law existing in modern political science¹⁴.

Given the short timeframe, the image of the future should be simple and understandable to all in the target audience. It does not necessarily correspond exactly to the result obtained as a result, but it should resonate with the reasoning

¹³ In particular, a considerable amount of proposals regarding the upcoming reforms are presented by the [Reforum](#) project and [Free Russia Foundation](#).

¹⁴ See Maravall, J., Przeworski, A. *Democracy and the Rule of Law*. Cambridge: Cambridge University Press, 2003.

and emotions of the group of actors who choose it. For simplicity, it can be described in terms of the past, which is associated with the positive personal experience of a representative of the target group. “The Russian Tsar Alexander I began his reign with these words addressed to the nobles of St. Petersburg after his father was murdered by court conspirators. The idea of returning to one’s own recent past as a lost norm may well become a working version of an image of the future that will prompt some elites to oust the incumbent president. At the same time, Putin, thanks to his considerable length of time in power, risks turning out to be both Paul I and that “grandmother” in one person.

Nikita Savin, a lecturer at the Moscow Higher School of Social and Economic Sciences (Shaninka), [agrees](#) that the radicalism of the opposition in exile forces Russian elites inside the country to rally around Putin. But at the same time, in his opinion, a public mood that could be called “Putinism without Putin” is emerging inside Russia. In case of possible growing fatigue from the “special military operation” and strengthening of anti-war sentiments as the conflict in Ukraine drags on, the desire to normalize the regime from within by returning to the state of affairs before February 24, 2022 will grow in Russian elites.

The blame for the outbreak of the war in this case will be entirely on Vladimir Putin personally, because the war is his brainchild. However, since the basic principles of his rule are of obvious value to Putin’s elites, they may well persist after his departure. These include a market economy and low taxes, authoritarianism combined with natural rents, and conservative values.

Such “neo-putinism,” similar to neo-peronism in Argentina, may prove to be an important factor in Russian political life in the coming years, becoming one of the promising alternatives to Putin’s current personalist regime. In order to overcome the current catastrophic situation, Nikita Savin believes that the radical opposition needs to expand its base inside the country, including by establishing a dialog with the elites and broader layers of society, who are quite satisfied with the option of maintaining the status quo in the economy, politics, and social sphere after Putin’s departure and the end of the war he started. The exchange of the incumbent head of state for the preservation of the social and economic policy priorities established under him may allow the war to be ended and open up opportunities for a softening of the regime inside the country.

A similar platform is the position of Ilya Grashchenkov, who [considers](#) the current situation to be a deviation from the path of building a state in Russia. To “complete” this state means to abandon emergency and forceful methods of governance and to share responsibility for decisions with society. Roughly speaking, an advanced system of electronic public services is quite compatible

with a model of democratic self-government and broader political participation. Existing elites would largely retain their positions, while expanding access to economic and political opportunities for the wider public.

At the same time, “neoputinism” can only serve as a temporary companion on the road to change. As a variant of right-wing populism, this movement, if successful, poses a threat of preserving and re-enforcing authoritarianism in Russia in the long term. This, according to Nikita Savin, is [the main danger](#) of the “Putinism without Putin” agenda. **The political ambitions of elite representatives, if they appear, must necessarily be counterbalanced by the democratic institutions.**

Without the active political participation of the people and their leaders, democratization of the country is impossible in principle. Actually, it is time to move from the situation in the elites to the Russian society as a whole. And here the main thing that the leaders of public opinion, including those in the Russian opposition, have to do is to overcome their fear of the Russian people.

Political Preferences of the Russian Society

The problem of ideological preferences of Russians seems to be insufficiently studied. As a result, political strategies are built on the basis of myths about Russian society, supported by traumatic memories of past events. One of the key such myths — about the conservatism of the Russian people — needs to be addressed and criticized first of all. Next, it is necessary to answer the questions of what is really the main obstacle to mobilizing protest sentiments in society and what mass demand should be met by those political forces that will one day be able to gain broad popular support. Let us continue to deal with all these questions in order.

The Myth of Conservatism

Russia’s current authoritarian regime is largely rooted in the trauma of liberal reformers in the 1990s. The liberal intelligentsia at that time almost unanimously, and even with some ecstasy, supported the Kremlin in its brutal suppression of the mass street protests held under red flags. The issue of the threat of fascism in Russia became one of the key issues on the agenda of liberal columnists. As a result, fascism came not from below, but from above — from the bowels of Russian power.

Since Yeltsin’s time, demophobia has been one of the most powerful

emotions of the ruling elite in Russia and, at the same time, a method of controlling public sentiment. Around the events of 1996, elections finally turned into a sum of technologies for the ruling elite to retain power. After the 2004 presidential elections, the function of voters in Russia was completely reduced to acclamation of the ruling regime. The Kremlin authorities' need for an alliance with the liberal intelligentsia had also disappeared by that time. Thus, the processes set in motion in the early 1990s led to the depoliticization of society, the ousting of liberals from power, and Russian authoritarianism, which is constantly hardening in its ironclad indestructibility.

What about the people, are they really so conservative? Surprisingly, the very concept of “conservatism” is not popular even among traditionalist-minded Russians. As research by the Institute of Sociology of the Russian Academy of Sciences shows, in 2018 only 11% of respondents expressed their positive attitude to this value concept. Exactly twice as many survey participants (22%) said that conservatism evokes in them a rather negative attitude. More than half (51%) of those surveyed have a negative view of nationalism with 8% supporting it. Looking at the data in Table 1, it is easy to find that the arrangement of the first ten value priorities of Russians is far from being in favor of conservatism. Only faith (63%), spirituality (63%) and partly Soviet man (56%) look more or less conservative in this list. At the same time, such quite liberal concepts as justice (84%), freedom (78%) and human rights (73%) occupy the top of the list along with Russia (79%).

Table 1. Associations arising among respondents in relation to a number of concepts that make up the ideological and political palette of modern Russian society, %, 2018¹⁵

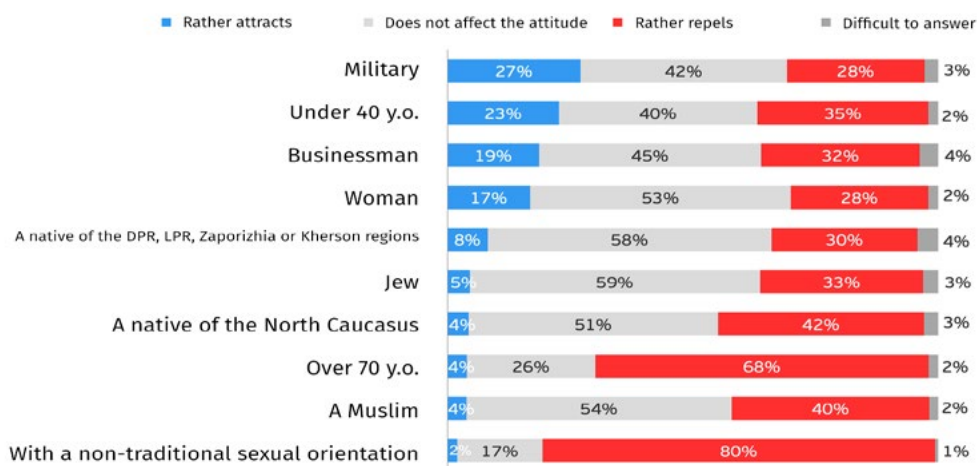
| Concepts | Rather positive | Neutral | More of a negative | I don't understand the meaning of the word |
|--------------|-----------------|---------|--------------------|--|
| Justice | 84 | 13 | 2 | 1 |
| Russia | 79 | 18 | 2 | 1 |
| Freedom | 76 | 21 | 2 | 1 |
| Human rights | 73 | 24 | 2 | 1 |
| Property | 68 | 29 | 3 | 1 |
| Equality | 65 | 30 | 4 | 1 |

¹⁵ For the full table see: Petukhov, V. Ideological and political preferences of Russians: change of discourse // Sociological science and social practice, 2020. Vol. 8. № 4. P. 29.

| | | | | |
|--------------|----|----|---|---|
| Faith | 63 | 33 | 3 | 1 |
| Spirituality | 63 | 32 | 4 | 1 |
| Soviet man | 56 | 36 | 7 | 1 |
| Wealth | 53 | 40 | 7 | 1 |

A more recent 2023 poll by the independent research group Russian Field, [“180 Days to the Presidential Election,”](#) also shows respondents’ uneven attitudes toward traditionalism and nationalist attitudes. More than half of respondents would be neutral toward a female candidate, a Jew, a Muslim or a native of the North Caucasus. Negative attitudes towards these positions range from 29% (women) to 33% (Caucasians). A possible candidate with non-traditional sexual orientation repels 80% of respondents and evokes a neutral attitude of only 17%. The second place of the negative rating is occupied by a candidate over 70 years old, repulsed by 68% of the survey participants.

Graph 1. Which of the following characteristics of a candidate for President of Russia will attract you more, which ones will repel you more, and which ones will not affect your attitude?



There is an important nuance here: only 43% of those surveyed by Russian Field were definitely going to vote for Putin, while the same number would be ready to support an alternative candidate. The polling report emphasizes that representatives of the half of respondents who would prefer an alternative candidate more often express neutral or positive attitudes toward a female candidate, a candidate under 40, a businessman, or a Jew. At the same time, unambiguous conservatism is demonstrated by only half of Putin’s ironclad supporters. Among those who are ready to vote for the incumbent Kremlin

boss, 49% would do so even if abortion were banned in Russia. Half of the 40-plus percent of supporters of the current regime — this is the approximate size of the conservative tendency in Russia.

Thus, there are traditionalists in Russia, but they do not constitute the majority and absolutely do not determine the entire political agenda. Stable traditionalist views are held by about one fifth of all those who agreed to take part in sociological surveys. The comments to the pollsters show that conservative views are more common among people over 45 years of age, belonging to socially disadvantaged and poorly educated strata of society. Younger, urbanized and educated respondents demonstrate greater tolerance towards minorities and openness to modern lifestyles.

These conclusions are partially confirmed by a study by Lev Gudkov, research director of the Levada Center, devoted to the state of mass anti-Semitism and xenophobia in the context of Russia's military actions in Ukraine¹⁶. In his conclusions, he emphasizes that the situation with ethnic tension and xenophobia in Russia looks "calmer" compared to the data of surveys conducted ten years ago. The war has not yet led to an increase in tensions and conflicts between Russians and other ethnic groups in Russian society. For example, 88% of respondents have a positive attitude toward Jews. This demonstrates a "trend towards improvement," which the author attributes to the arrival of a younger generation that did not survive the times of state anti-Semitism in the USSR and is therefore much less susceptible to ideological and everyday Judophobia¹⁷.

Commitment to traditionalism and xenophobia does not seem to be the key problem of Russian society. All the fears of the liberal reformers of the 1990s, associated with the expectation of Black Hundred pogroms and the victory of "Russian fascism" from below, never fully corresponded to reality, and are now completely outdated. The real problems of Russian society lie not in its alleged inherent conservatism, but in something else entirely.

16 Gudkov, L. The state of mass anti-Semitism and xenophobia in the conditions of Russia's military actions in Ukraine // Bulletin of Public Opinion, 2023. N° 1—2 (134). PP. 94—107.

17 Gudkov, L. Op. cit. P. 106.

Anomie and Learned Helplessness

Poorly structured political space, discordant perceptions of politics, and a state of political apathy — this is how Sergei Medvedev, that time a professor at the Department of Applied Political Science at the Higher School of Economics, described the state of political anomie in Russia in 2012¹⁸. This political anomie emerged in the 1990s against the backdrop of the collapse of values, norms and institutions of the collapsed Soviet society. It worsened in the 2000s due to public fatigue from radical change and mass immersion in consumerism during the oil and gas boom of the “noughties.” In 2012, Russia passed another important fork in its history, moving to the bottom of today’s personalist regime. Anomie continued to dominate Russian politics for 30 years and has now become a familiar context and general background of public life in the country.

The defeat of the mass protests in Moscow in the winter/spring of 2011-2012 generated an additional extremely negative effect in the part of society that then spontaneously rushed into political participation. Rallies on Bolotnaya Square and Sakharov Avenue, spring walks with writers on boulevards, and the youth “Occupy Abay” — all of this did not bring the desired results. As a result, hope for changes for the better was killed in the most promising social strata in terms of possible political changes. In psychology, this state is called “learned helplessness,” when a person has no opportunity to influence something (in our case, politics) and refuses to try to change anything. Even before the war, this term began to be frequently used in relation to the political (non)activity of Russian society. This phenomenon [is still talked about](#) now, including trying to find ways to [overcome](#) learned helplessness. However, so far, experts have mostly attempted small fixes for the problem, with little or no suggestion of ways to solve it.

Grigory Yudin, a visiting researcher at Princeton University, characterizes the state of mind in 21st century Russia in terms of depoliticization. Under Putin’s authoritarianism, society and voters fulfill the function of “people on demand. Its destiny is private life, making money and consumption; any collective action looks suspicious in the eyes of the authorities, and therefore is condemned and sooner or later punished. At the same time, at the first request from above, people must go to the polling stations to vote for the government and thus confirm its legitimacy time after time. After that, they can go back to their private lives. The introduction of electronic voting in recent years has perfected this system.

¹⁸ Medvedev, S., Tomashov, I. Political anomie in modern Russia. Moscow: Higher School of Economics, 2012. PP. 275—276.

Citizens may not even see each other at the polling station: it is enough to press a button, [and that's it](#) — your duty is done, you can go on weeding the beds.” In 2018, sociologists noticed the beginning of a trend towards repoliticization from above, but it seems that the authorities have decided to abandon these attempts as unpromising and harmful to themselves.

The negative identity that dominates Russian society (“we are worse than others”) destroys the foundations of civic solidarity, empathy and trust¹⁹. It is this sad circumstance that constitutes the main obstacle to Russia’s democratization and significantly weakens its prospects.

Depoliticization, which is based on anomie and learned helplessness, is well confirmed by empirical data. If we look at a study conducted by the Institute of Sociology of the Russian Academy of Sciences on the dynamics of Russians’ political preferences during Putin’s rule, the picture is impressive. 42% of respondents in 2019 admitted that they do not consider themselves supporters of any ideological trends, another 12% found it difficult to answer, and 17% vaguely spoke in favor of “a combination of different ideas.”²⁰ 71% of Russian respondents either openly admit their apolitical nature or hide it behind vague formulations. It seems that we have found the main problem of the Russian voter.

Table 2. Dynamics of ideological and political preferences of Russians, %, 2001–2019²¹

| Ideological positions | 2001 | 2011 | 2017 | 2019 |
|---|------|------|------|------|
| Identify themselves as liberals, supporters of market economy | 7 | 5 | 5 | 6 |
| To communist supporters | 12 | 12 | 8 | 11 |
| To supporters of a renewed, reformed socialism (e.g., social democrats) | 4 | 6 | 6 | 7 |
| Stand for a mix of different ideas, avoiding extreme and radical ones | 16 | 17 | 14 | 17 |
| Are not supporters of any ideological trends | 39 | 41 | 43 | 42 |
| Difficult to answer | 16 | 13 | 20 | 12 |

19 Gudkov, L. Negative Identity. Sentiments of the Russian population in the situation of crises and war // Bulletin of Public Opinion, 2023. N° 1—2 (134). PP. 169—170.

20 Petukhov, V. Op. cit. P. 27.

21 Ibid.

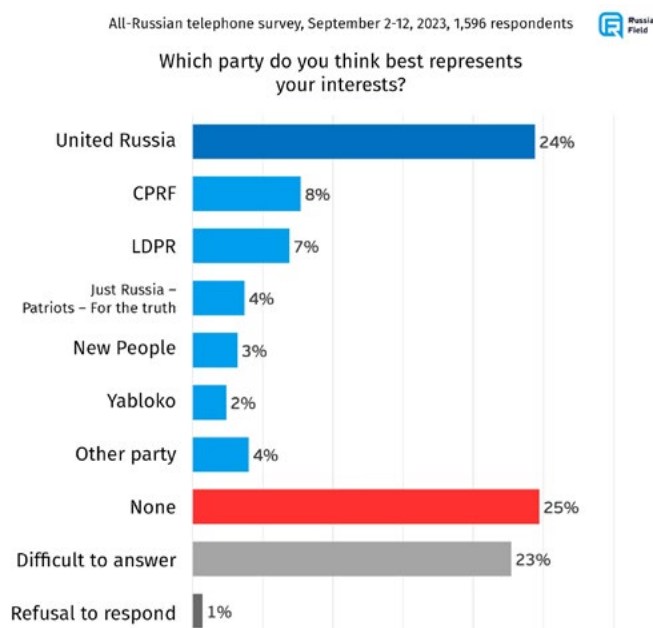
If we look at Table 2, it will become clear that the problem of the apolitical character of Russian citizens is not new at all. At the same time, the number of supporters of liberal, social-democratic and communist views is equally insignificant and represents a marginal group of politically active citizens. The authors of the study believe that “the overall ratio of conditionally ideologized and ideologically indifferent Russians” is 60% versus 40%²². However, the arithmetic mean of the sum of the three “ideology-free” answers for the first two decades of the XXI century is 72.5%. In total, almost **three quarters of Russians have no political position or express it very vaguely**. Indeed, this figure sheds light on the true nature and scale of the catastrophe Russian society has experienced throughout Putin’s regime.

The above data generally correlate with the results of a survey of political attitudes and expectations among young people conducted by the Levada Center in 2020. At that time, only 19% of the surveyed Russians aged 14 to 29 answered that they were interested in politics. 57% admitted that they were not interested in politics. Only 7% of young respondents [said](#) they were ready to take part in political activity, and 66% would not want to do so. It turns out that in the youth environment the rate of enthusiasm for politics is even slightly lower than in the country as a whole. The presence of political views in one way or another is demonstrated by 20—25% of Russians, while less than 10% are ready for political participation.

The picture looks no less sad if we ask the question about representation of interests. The majority of the participants in the last [poll](#) says that their interests are not represented by any of the existing parties (25%), another 23% find it difficult to answer. That is, half of the citizens either openly admit that no one represents their interests or avoid answering the question.

22 Petukhov, V. Op. cit. P. 32.

Graph 2



Thus, at best, only a quarter of Russian citizens are interested in politics and demonstrate any strong political views. At the same time, half of Russian voters believe that their interests are not represented by any of the existing political forces. There is a political vacuum in which Putin’s weak and non-alternative power, which uses simulacra, reigns supreme.

Request for Social Justice

The political vacuum in Russia today is not a result of the neoliberal experiment of the past three decades. Over 30 years have passed since the shelling of the House of Soviets (“White House”) on Krasnopresnenskaya Embankment, when the Russian state put an end to such notions as equality of opportunity for all, social guarantees for the weak, and social responsibility for the strong. If Soviet society turned out to be a pipe dream of equality, the “savage capitalism” that replaced it finally threw justice on the dustbin of history. The state of Yeltsin and Putin openly recognized the impossibility of and lack of need for justice in the public agenda, thus abolishing politics as such.

Aristotle defines politics as “cooperation for the highest good.”²³ He reveals the notion of the highest good as justice, representing some form of equality.

23 Aristotle. *Politics*. London: William Heinemann LTD; Cambridge, MA: Harvard University Press, 1932. P. 3.

By abolishing justice in the early 1990s, the post-Soviet regime destroyed the main purpose of political communication. What followed was a transformation of politics from a common cause of the nation into a set of technologies for the ruling coalition of elites to retain power. Putin has managed to keep this system afloat for 24 years of his rule through manipulation and targeted terror.

But despite 30 years of political vacuum, the possibility of genuine repoliticization remains in Russia. The return of the political is only possible if the justice agenda is rethought and restarted. This is exactly the point at which today's Russian elites will sooner or later have to give in to the demands of society. **The return of justice to the public agenda will become the basis not only for repoliticization, but also for the expansion of democratic freedoms in the country.**

Putting the issue of justice (and, as a consequence, equality) at the center of the political agenda does not mean a return to the Soviet Union. Such a return is neither possible nor necessary, and this is well understood in today's Russia. The fact that sociological surveys constantly appeal to the experience of Stalin and the Soviet way of life does not mean that there is any real nostalgia for the USSR or a desire to return there. Behind this resentment lies something else—an unsatisfied “need for solidarity in social relations, in a society with a minimum of social risks and with a high level of social guarantees.”²⁴ In all likelihood, the “longing for a strong hand” is in fact nothing more than a desire for institutions capable of guaranteeing order and predictability in human relations. “A strong hand” on closer inspection turns from the shadow of the generalissimo to the idea of the rule of law. It's just that in the absence of a relevant political language, people use clichés imposed on them by several unscrupulous Kremlin spoilers like the CPRF, LDPR, and Just Russia at once.

Quality media in Russia wrote about the growing demand for a new left-wing party in Russia back in 2018. At that time, experts close to the Presidential Administration [recognized](#) that “the demand for justice and truth is traditional in Russia.” However, Kremlin political technologists made no secret of the fact that they saw this as a threat and were building manipulative strategies to combat the “dragon of populism.” Kremlin structures continue to closely monitor the demand for social justice even after the outbreak of war. This is evidenced by a VTsIOM poll on Russians' attitudes toward social justice, conducted shortly after Yevgeny Prigozhin's revolt. According to the [officially published data](#), 36% of

24 Petukhov, V. Op. cit. P. 35.

respondents see social justice in the equality of all before the law, 20% call the social order in which “everyone’s position is determined by the results of his or her labor” fair, and another 19% see justice in economic equality, understood as the absence of a strongly pronounced difference in income. All this is generally in line with the general European ideas of social justice.

Putin’s state is doing everything possible to block Russian society’s demand for social justice. Writer and publicist Aleksey Tsvetkov in this connection directly [said](#) that the CPRF serves as a “political plug” on the way to the realization of leftist ideas in Russia. To this we can add the [words](#) of Kremlin political technologist Yevgeny Minchenko about the need for many “little dragons,” capable of atomizing the voices of protest voters and/or discouraging them from political participation. By bringing neo-Stalinist discourse and other archaic themes to the forefront, they purposefully scare away and demotivate a significant portion of potential voters. This technology forces the protest electorate to refuse political participation and stay at home during elections: no one is ready to satisfy their demand for a modern socially responsible state.

A paradoxical situation has emerged: Russia as a whole remains a society with great leftist potential and a demand to change the existing order on the principles of social justice, but this leftist agenda is not properly reflected in the programs of the existing political parties. Neither the Kremlin spoilers nor the extra-systemic opposition offer an adequate social justice agenda. The position of the latter is strongly influenced by the ideological descendants of the liberal reformers of the 1990s, who fear the return of communism and Russian fascism at the same time, while the government and its spoilers simulate leftist ideas under the guise of nostalgia. As a result, the people have retreated into private life, where they are busy surviving separately from the state — in fact, in what Hobbes called the natural state. The fact that human life in this state is “solitary, poor, nasty, brutish, and short,”²⁵ is more or less known to 80% of Russians.

The right answer to the latent demand for social justice formulated in today’s Russia is the way to bring millions of citizens back into politics. This should not be about populism, but about the fulfillment of the social responsibility that a modern democratic state should bear. This is what Russians want most of all, for the sake of the idea of justice they will sooner or later return to politics to defend their own social rights. The task of the opposition is to understand the people’s desire and give an adequate response to it.

25 Hobbes, T. *Leviathan*. M: RIPOL Classic, 2016. P. 182.

Necessary Partnerships for Change

So, the main task of the upcoming transition is to democratize the existing regime. This task can only be accomplished if politics is brought back into the lives of the broader society. Since politics is a partnership for the common good, the most important condition for this common good is the return of the social justice agenda. Its provision implies, first of all, the creation and observance of clear and equal rules of the game for all. This will make the life of elites and society as a whole more predictable and stable. Justice presupposes the rule of law, which should become the “strong hand” that Russia has been dreaming of for the last 30 years. Not the “invisible hand of the market” or the hand of the next “great helmsman,” but the power of law and institutions should govern people’s lives in the interests of their development and prosperity. Without consensus on this issue, no coalition of powers capable of ensuring a successful democratic transition is possible.

Possible Point of Consensus in Elites and Society

The Russian political elite, as was shown in the relevant section of the chapter, would most like to return to the status quo that existed until the end of February 2022. However, the longer the war lasts, the more elusive this possibility looks. In order to preserve its remaining positions, the notional court party of “Putinists without Putin” may decide to lay all the blame on the boss and try to return to the norm that suited them and is rapidly losing ground. This could trigger processes that could cause a coup d’état at the top and the sudden removal of the current head of state.

The opposition, either in exile or deeply hidden inside the country, needs to be prepared for this course of events. **At the moment of the fall of Putin’s power, the winner will be the one who will be able to offer the masses an image of the desired social order and a concrete plan to achieve it.** The elites and society will accept this image of the future only if it does not involve the fundamental destruction of existing norms, rules and institutions, but at the same time contains clear parameters of a just order.

Elites, out of a sense of rationality, must accept the need for a return to social justice, involving greater public access to economic goods and political participation. Power cannot be held without responsibility, political and social. When this responsibility is recognized by the state and the coalition of ruling elites, what some authors call “state building” in Russia will take place.

Potential Composition of Political Actors of Post-Putin Transit

Returning to the figure of the first president of the Third Republic, who stood at the head of France until the adoption of a new constitution, it should be noted that despite his servility to the regime of Napoleon III, a member of the legislature from the pocket opposition Adolphe Thiers allowed himself to condemn the outbreak of the Franco-Prussian War. His public statement labeled him a national traitor for a while, but later Thiers proved to be the man capable of taking over the reins of a suddenly collapsing empire.

Looking at today's political space in Russia, we can find few potential figures capable of playing the role of Thiers after one way or another of removing Putin from political action. It is unlikely that the option of handing over the Kremlin scepter to any successor can be seriously considered today. Most likely, the departure of the incumbent will be sudden, which in itself will cause shock and collapse, first of all, in the ruling elite itself. None of the top officials of today's Putin vertical will want to be responsible for the retired patron; the entire top of the power pyramid could be demolished in a matter of days or even hours. And then will come the main test for the remaining legitimate institutions of power.

What Sequence of Events May Lead to Russia's Transition to Democracy?

The head of state disappears (the reasons are death, serious illness, flight or arrest), the Prime Minister and the head of the Federation Council refuse to perform their duties. The new Speaker of the Federation Council takes office as Acting President and signs three decrees:

- Ending hostilities in Ukraine, withdrawing troops and beginning peace negotiations;
- Releasing all political prisoners;
- Declaring state of emergency in Russia for a period of six months.

A prominent "systemic liberal" operating in the private sector is appointed head of the transitional government. The new Prime Minister is responsible for organizing a round table of the country's political and public stakeholders on the basis of the reanimated All-Russian Civil Society Forum and the Center for Strategic Research.

The new Chairman of the Constitutional Court, a respected public figure and human rights defender, declares the amendments to the Constitution as illegal and strikes them down, along with other unconstitutional laws.

Over about half a year, the temporary authorities are able to shepherd the

transit of power without electing a new president, suppress armed protests of radicals, rebuild the party structure and political system and provide a sense of security to the broad strata of society.

Concurrently, the reformatting of the party system is underway. The surviving major parties are forced to negotiate a coalition with liberal politicians freed from prison and returned from exile. Supporters of the United Russia “party of power” either leave the stage or join such coalitions.

Young politicians from the Communist Party are quite capable of creating a new party of “democratic socialism” on the basis of its preexisting structures. A small segment on the right is dominated by the “patriots of Russia”.

The State Duma welcomes popular video bloggers, political prisoners, and old party functionaries. Once the newly-elected Duma convenes into Session, it immediately launches the procedure for the adoption of a new Constitution, according to which Russia will be declared a parliamentary republic.

Chapter XI



Securing Support and Buy-In from the Russian People



Citing the failed experience of previous democratic reforms, pessimists claim that nothing good will happen in Russia after Putin: we couldn't do it then, so we won't be able to do it now. In fact, democracy does not always come the first time. In political science, there is a view that any democratic experience, even a failed one, increases the chances of successful democratization in the future. Samuel Huntington, for example, distinguished "second attempts" as a special type of democratization. The logic is that democratizing for the first time, countries and governments make mistakes that eventually lead to the fall of democracy and the establishment of authoritarianism. The second attempt, according to the researcher, is more successful in this sense, precisely because the modernizers of the next generation are able to take into account the mistakes of their predecessors and avoid repeating them.

Here is what Huntington wrote in his study of the third democratic wave: "23 of the 29 states that democratized between 1974 and 1990 had prior democratic experience. <...> Most of the countries that were authoritarian in 1974 and did not democratize until 1990 had no such experience. Thus, it can be said that in 1974, an excellent way to predict whether an authoritarian country would democratize in the future was to understand whether it had democratic experience at all."¹

Or here is another one, also from Huntington: "In the 1970s, many authoritarian regimes faced problems with their legitimacy because of previous democratic experience. One could say that the public consciousness in them has been infected with the democratic virus, and even if the previous democratic experience in them cannot be recognized as successful, it has become ingrained in the minds of the people that a truly legitimate government must be democratic. Authoritarian rulers there are thus forced to justify their claims to power with democratic rhetoric and to prove that it is their regimes that are truly democratic."

Why can't the domestic authorities decide to cancel the elections, despite the fact that they would like to do so very much? Simply because it would be an extremely unpopular decision. Despite the apologists of the theory of

¹ Huntington, S. The third wave. Democratization in the late twentieth century. University of Oklahoma press, 1993. P. 44.

“uniqueness of the Russian civilization” love for statements of the opposite kind, our public consciousness is also infected with this very “democratic virus.” People do not always understand how exactly the institutions of democracy and the rule of law should function, but they certainly have the desire to make their voices heard, to enjoy freedom of choice and a set of inalienable rights.

From time to time, the Levada Center conducts surveys to measure which rights are most in demand for citizens. Here is an important pattern: in recent years, the priority has begun to shift clearly from those rights that can be called material, in favor of those that are political in nature. Thus, if in 2017 70% of the population [named the](#) right to medical care among the most important rights, by the end of 2021 this figure fell to 62%. The number of people who prioritized the right to social protection and a decent standard of living fell from 57% to 52%. The right to work, good working conditions and fair pay fell from 56% to 51%, and the right to free education fell from 59% to 49%. At the same time, demand for freedom of speech rose from 34% to 61% over the same time. The number of respondents who prioritized the right to a fair trial increased from 50 to 62%; the right to receive information — from 25 to 39%; the right to freedom from violence, humiliation and arbitrariness — from 38 to 44%; freedom of conscience — from 22 to 36%; the right to participate in public and political life — from 16 to 26%. The number of people who prioritized freedom of peaceful assembly, marches, rallies and associations has exactly doubled — from 13 to 26%. The issues of inviolability of property and home, as well as the right to own private property are not political in the strict sense of the word, but in today’s Russian conditions, the growing demand for them can be safely linked to the growing problem of state arbitrariness. So, the importance of the first problem has increased from 46% to 53%, and the second one has grown from 40% to 46%. In general, the trend is quite telling: in the last years before the war, society was gradually politicized, demonstrating a clear bias towards the values of democracy and the rule of law. As for the simultaneous decline in the Russians’ interest in material rights, it proves that the country’s citizens live “not by bread alone” and are not strangers to a certain political romanticism — a thing absolutely necessary for democratic transit.

It also makes sense to familiarize ourselves with the data of the [CIRCON survey](#) conducted in the spring of 2021. At that time, sociologists specifically checked the attitude of citizens to some “anti-democratic” statements actively used by supporters of the current government, and found out that they are not as popular as is commonly believed. Choosing between the wording “to achieve a higher goal or public good it is sometimes possible to go beyond the law” and the statement that “it is impossible under any circumstances to step over the

existing laws,” 33% of respondents agreed with the first option, and 55% with the second one. Choosing between the statement “the interests of the state are more important than the interests of individual citizens” and the wording “the interests of citizens are more important than the interests of the state,” 26% of respondents spoke in favor of the state, and 59% in favor of citizens. When asked whether elections should always be alternative or in some situations non-alternative elections can be allowed, 87% stated that there should always be an alternative. Only 7% said they were committed to the opposite viewpoint.

I will also refer to my personal experience. In 2015, at the height of the “Crimean consensus,” we conducted a series of focus groups in one Russian region. Among other things, we asked the respondents: should local authorities — and they were quite highly rated — always be guided by people’s opinion, or should they be able to sometimes go against public opinion, especially in situations where they have to make a strategically correct but unpopular decision? All the participants said that the authorities should always follow the wishes of the residents. The moderator began to clarify: “But sometimes there are situations when the decision proposed by people is populist. At first glance it looks good, but in the end it turns out to be wrong.” He gave an example: “A couple of years ago you were building several interchanges, and people were dissatisfied. If you had asked them then, they would have stopped the construction, but now everyone is happy — the traffic jams are less. Does it mean that the authorities, who insisted on their own way at that time against the opinion of the local population, were right?” The majority remained in their opinion: the authorities should not make decisions that ignore people’s opinion under any circumstances.

In general, democracy — at least at the normative level — has already sprouted in Russia. I find Huntington’s comparison with a virus apt. Many viruses work like this: they are invisibly present in the organism and, while the organism is strong, do not manifest themselves in any way. However, when the organism weakens, the virus comes into action. The Russian government is weakening now.

Do Not Mix Political and Economic Reforms

Speaking about the upcoming democratic reforms, it should be remembered that they do not start in a vacuum, but in the conditions of a specific political situation, so the attitude of the population to them will be determined not only by their content, but also by the specifics of the moment. **It is one thing if democratization is undertaken by a retreating regime, which will try to adapt to public demand and preserve itself in this way, and quite another if reforms are proposed by a new, not yet discredited power.** In the first case, the reformers will have no margin for error; in the second case, people are likely to agree to delay the result and give them some latitude for exercise of their judgment.

What matters is who will be part of the ruling coalition: whether it will be moderate politicians in the spirit of Alexander Kerensky, or whether radicals like the Bolsheviks will seize power. Who starts the reforms will also determine who will be among its critics. If the changes are launched by the notional Mikhail Gorbachev, he will be pressured from the right by the notional Boris Yeltsin. He will discredit the reformers' actions as half-hearted, insufficient, and too slow. It will not be easy to consolidate public support for the moderates in this situation — much more difficult than for the new Yeltsin, against whom only “former”² power-holders will be opposed.

It will be crucial how the war with Ukraine ends. If it ends in an obvious and irrefutable defeat for the Russian army, the demoralized supporters of authoritarianism will not be able to raise their heads for a long time. They will literally go to their kitchens and drink bitter liquor, complaining about “what a country they missed.” If the results of the war are not crushing and allow for a double interpretation, there will be no complete demobilization of the z-camp. In this case, the reformers will have a much harder time.

In general, it is impossible to outline the exact scenario, according to which the transformations will take place. However, we can try to outline some general patterns and give some recommendations.

What we can be sure of is that the **organizers of the upcoming transformations will have a much easier time than their predecessors from the 90s.** First, such unpopular steps as mass privatization are not expected now. If

² Of course, moderate supporters of reform will also criticize the radical reformers, but it will be easy to dismiss their criticism by counting the critics among the ranks of the “former”.

redistribution of property does happen, it will not be a transformation of public property into private property. Rather, it will be a movement in the opposite direction - the unjustly acquired property of Putin's oligarchs will be seized from them by means of court decisions either in favor of the state or in favor of those owners from whom they took it away under Putin. The citizens of the country will have no reason to be indignant about this. To defend the Kovalchuk's and Rotenberg's? Please! Moreover, it will not be difficult to add popularity to what is happening. In his book [“How to Slay the Dragon?”](#) Mikhail Khodorkovsky proposes that part of the money confiscated from Putin's entourage be used to fill a special fund to finance social expenditures. There is no doubt that if this step is taken, it will significantly increase the stock of the reformers³.

In general, most of the upcoming reforms will respond to public demand. Creation of an independent judiciary and abandonment of the telephone law? People have been dreaming about this for a long time. Decentralization of the country's governance system in the form of a return to the principles of federalism and filling the institution of local self-government with real content? It is hard to think of anything more popular.

As noted above, at the normative level, the ideals of democracy and the rule of law have been practically internalized by Russians. It will not be necessary to impose values that are incomprehensible and alien to the people. In addition, from the institutional point of view, the situation now is much easier than in the early 90s. The basic structures of democracy — competitive elections, multi-party system, separation of powers — have been formed long ago, there is no need to create them from scratch. All that is needed is to fill them with real content. There are some stumbles to be anticipated here, but it is not at all like in the case of the USSR, when the reformers had no opportunity to rely on the previous institutional environment at all.

One of the most important problems of the 1990s was the overlap between structural economic reforms and political transformations. The former triggered a process known in the literature as initial capital accumulation. The spirit of the era of such accumulation usually turns out to be very mercantile and cynical. The ideals of public service — essential for political reforms — are very difficult,

³ Finding the optimal balance between the theme of democratic reforms and the ideals of redistributive justice will be the greatest test of political skill for a future democratic government. It will have to walk a razor's edge: to give the major groups of the population a sense of restoring justice through redistribution of national wealth from the rich to the poor, without alienating the core of democratic supporters who may perceive such steps as populism.

almost impossible, to germinate in such situations. In a situation when everyone around “makes money,” when billion-dollar fortunes appear overnight, and the nouveau riche become the idols of the youth and the new “masters of life,” it is very difficult for politicians to refuse the temptation to direct their influence not to the realization of the vested interests of the groups of influence besieging them, but to the search for an ideal balance of power, the protection of the principle of freedom of speech, democratization and other abstractions.

Countries such as the US or Great Britain were much luckier in this sense than Russia. Their processes of formation of democratic institutions and capitalist relations were not compressed into a few years. They occurred gradually, over a relatively prolonged period of time. The periods of dominance of the values of wild capitalism alternated there with more “romantic” epochs of democratic reforms, rather than overlapping and blocking them, as was the case with us in the 90s. The latter grew very organically out of the former. The progressive era in the United States, for example, was made possible precisely because of public demand, which was formed as a reaction to outrage over the numerous abuses of the “gilded age.” The same can be said of the democratic reforms of the Victorian era, which grew out of the excesses of the enclosure period and the Industrial Revolution of the late eighteenth century.

The post-Soviet elites were, in fact, children of the democratic revolution, and a certain “romanticism” could be expected from these people. Revolutions always bring a considerable number of romantics to the surface. Actually, this is how societies renew themselves — by bringing to power people who share the lofty ideals of democracy and human rights. In our country, unfortunately, these people have not established themselves in politics, at least not in leading roles. In addition to the lack of lustration vis-à-vis the prior regime, they were hindered by the fact that economic reforms were launched simultaneously with political transformations in the country. State property was becoming private, the smell of fabulous wealth was in the air, and this prevented them from engaging in selfless politics. The temptation of big money was too great, and there was simply no room for idealism to establish itself in its presence. As Vasily Klyuchevsky [said](#) on another occasion, “the clash of political ideas was accompanied by a struggle of economic fortunes.”

I think it makes sense for the new Russian regime to learn a lesson from all this for the future. Of course, it will not be possible to completely separate the topics of democratic reforms and redistribution of accumulated wealth. Both will have to be dealt with. But the authorities will have to demonstrate their intention to distance one from the other as much as possible. A veritable

“Chinese wall” will have to be erected between people and institutions that will be involved in these things, much like the one used in investment banking. Perhaps it would make sense to create a system of specialized tribunals, which would be separate from the courts of general jurisdiction, to hear lawsuits to confiscate the property of Putin’s entourage and return it to its former owners. This idea may seem absurd to the current Russian establishment, but, strictly speaking, going into politics does not necessarily imply personal enrichment as a goal. Political corruption exists in all countries, but in many it is the exception, not the rule.

The public must see that the new government recognizes the problem and is trying to fight it. Given the fact that Putin’s regime has a reputation for being very corrupt, it will be easiest for the new government to gain public support by demonstratively addressing the abuses of its predecessor on this very topic. Various anti-corruption programs, projects, inspections, and the constant demonstrative implementation and use of the world’s best practices in this area should become a constant backdrop for the actions of the post-Putin regime.

Keep a Strong Center Under Democratic Control

Perhaps the most explosive problem that the new authorities will face will be the national question. The Soviet-era reformers once slipped on this very issue. And the Putin phenomenon also largely grew out of it. The fight against regional challenges, which the new president characterized as “stitching Russia together,” became one of the Kremlin’s key projects during Putin’s first term.

There is no doubt that as soon as Russian regions feel the weakening of federal power, they will immediately swing sharply away from it. The pent-up impulse to criticize Moscow is enormous, both in the elites and among the population. Putin’s supercentralization is so annoying to everyone that it will definitely not be possible to keep the situation within the current framework. In the course of the above-mentioned CIRCON poll, pollsters [asked](#) Russians whether most of the taxes collected should go to the center at the federal level or whether they should remain in the regions and be distributed by the regional authorities. Only 14% spoke in favor of the center, while 77% supported the regions.

In national republics, such sentiments inevitably acquire an ethnic coloring. As soon as the ethnic intelligentsia feels that there is a little less metal in Moscow’s voice, they will immediately start “reviving national cultures” and “preserving national identity.” The imperial ideology has discredited itself and

holds on solely through forceful administrative efforts. As soon as the power weakens, it will become clear that the “scruples” are rusty. As in the late 80s, an ideological vacuum will emerge, and ethno-nationalists will fill it in the same way. Their activation will definitely lead to the growth of discontent of a significant part of the Russian population: the latter will oppose such steps as the inclusion of national languages in school curricula as a compulsory subject, and this will certainly lead to the growth of bitterness of the most ethnically concerned groups of the local population. Contradictions as a result of such escalation can quickly escalate into violent inter-ethnic confrontation.

What will the new authorities be able to do in this situation?

The first hypothetical option is maximum concessions to the regions and decentralization. The problem is that the regions will not feel any sense of gratitude towards the reformers. As always happens in such cases, they will decide that they have achieved everything themselves and will demand more and more. At the same time, the “movement toward the collapse of Russia” will lead to growing dissatisfaction in the field of federal public opinion. There will be a very serious risk here: the threat of Russia’s disintegration, having been put on the agenda, is capable of mobilizing the supporters of authoritarianism who have fallen out of politics again⁴. It will be difficult for them to consolidate significant groups of voters by fighting against democratic reforms per se, but a narrative calling for a halt to the country’s disintegration is quite capable of doing so. In addition, it should be borne in mind that new “sultanates” may start to emerge in the regions — undemocratic regimes that rely on local nouveau riche PMCs, which are now being actively created — and this will also work against the reformers. All this will contribute to the strengthening of the demand for “restoring order” and “restoring the rule of law.”

Of course, the new government may try to take a tough stance: economic and cultural decentralization in certain amounts — yes, political — no. The

4 To imagine how this could happen, it is enough to recall the history of Hitler’s entry into politics. As is known, the first step in it for the future Führer was to join the newly formed German Workers’ Party, which he later led and transformed into the NSDAP. He was invited to join after a passionate speech against the idea of secession of Bavaria, which he delivered at a party meeting in a beer hall in Munich. As the future creator of the Third Reich later recalled in “Mein Kampf”: “I had had enough and was about to leave, when suddenly it was announced that there would now be a free discussion. I decided to listen <...> the professor suddenly declared that he was ready to stand “on the ground of facts”, but nevertheless advises the young party most strongly that it should add to its program one important point, namely the separation of Bavaria from Prussia. <...> Here I could not stand it and also signed up among those who wished to speak. I sharply reprimanded the learned professor and as a result, even before I had time to finish my speech, my learned professor ran away like a watered-down dog.” After the speech, the party members invited Hitler to join their ranks, he agreed, and what happened next is well known.

problem is that there will surely be regions that will insist on their own way. What to do with them? Will the new government have the resources to use force against them? Hardly. First of all, the majority of the country's citizens will not approve of such a scenario, and it will be difficult for the new democratic government to ignore public opinion. Even if they try to "pound their fist on the table," the result will be unconvincing — like Yeltsin's during the First Chechen War. You will not gain the votes of supporters of the "united and indivisible," but you will lose the support of a significant part of the liberal camp.

But even if the new authorities ignore public opinion, they will still not be able to motivate the army. Attempts to use force may lead to something like what happened during the Chechen campaign: the military did not understand the logic of what was happening, because from their point of view Chechnya did almost nothing that Tatarstan and Bashkortostan did not do, but the federal authorities not only did not touch those people, but even encouraged them, while ordering them to be killed. In this situation, the army was completely incapable of doing anything convincing. Its actions made sense only in 1999, when terrorists tried to invade Russia. If the new separatists do nothing of the sort, it will be extremely difficult to hold them back by force.

If we take the power scenario out of the picture, the only way to convince the supporters of secession to remain within Russia remains bribery. They would have to give them so many resources and powers that the federal center would retain only one name in its relations with them. At the same time, there is a risk that other regions will follow the pioneers. "If they can do it, why can't we?" — it is hard to argue with this logic. All this will quickly discredit the new government, and at the same time discredit the reforms it is carrying out. Power that does not manage anything is not respected.

This scenario should be avoided at all costs. It is better not to go further than a certain level of reasonable decentralization in their concessions to the regions. If one of them announces its intention to secede from the country, it is not necessary to give permission to do so. It is possible to take a position of non-recognition of such a step (strictly speaking, from the point of view of the law, it cannot be recognized), but refuse attempts to keep the separatists within Russia by force. Negotiations on the fate of the region can be postponed for 5 or 10 years. Faced with the difficulties of independent existence, it may change its mind. The world knows the history of such reversals: for example, Scotland, with its centuries-old tradition of fighting for independence, voted in the 2014 referendum to remain part of the United Kingdom.

When solving the problem of ethno-separatism, it is important not to fall

into pathos and emotions. It is necessary to realize that the national republics demand secession not out of malice, but because they, in fact, judge that they have no choice. The logic is roughly as follows: “We could stay within the united Russia on the terms of real federalism, but we already know that Moscow gives us federalism today and takes it away tomorrow. To stay with it means to depend on its mood, and we do not want that.”

The only thing that can be done in this situation is to try to explain to the representatives of the regions that reasonable decentralization can be preserved only together, through joint efforts. The formula is simple: if you demand too much for yourselves, you will wait until another Putin comes to replace us and nail you. The leaders of the national republics of the 90s made this mistake — they dismantled the country practically into spare parts and provoked a powerful surge of demand for centralization, to which their republics fell victim. Do not repeat their mistakes.

We can try to negotiate with the leaders of the federalist movement something like the Moncloa Pact, through which Spanish politicians were once able to ensure a relatively smooth transition from authoritarianism to democracy. The builders of the new regime must agree to self-restrain their appetites. The problem here is not only that compromise is not honored in Russian politics (it used to be so in Spain, just remember the Civil War), but also that Russian liberals tend to recognize only the individual rights of citizens, considering the collective rights of nations and other social groups to be empty sounds. Liberals will certainly be tempted to ignore the demands of the ethnic intelligentsia, a scenario best avoided because ignoring them will alienate regions and build up the potential for an explosion.

In general, it will be necessary to strengthen those institutions that “centralize” the political process, such as parties, and, where possible, weaken those players working to promote centrifugal forces. One potentially serious problem is the underestimation of the role of political parties by representatives of the Russian opposition movement. In his aforementioned book, Khodorkovsky criticizes parties for being weak, suggesting that they should instead rely on federalism and regions. But if parties remain weak, neither federalism nor regions will save democracy. It is necessary to create conditions for strengthening the institution of parties, not to look for something to replace them with. The first thing that can be done is to abandon single-member districts and switch to a proportional system of electing Duma deputies. Perhaps it would make sense to implement a similar measure with regard to regional legislative assemblies.

At the moment, regional elites are the key instrument for weakening

parties. By controlling the local electoral process and ensuring the election of the necessary single-mandate candidates, they make the latter dependent on themselves and further on the Kremlin. A single-mandate candidate is loyal to the one who ensured his election, and this is an administrative resource. The party is secondary for a single-mandate candidate.

This state of affairs will continue for some time after the fall of the regime. It should be understood that in the Russian provinces, in many parts of the country, local elites have a rather tight control over the electorate. Replacing Putin with a democratic government will not automatically change this situation. If you are the director of a city-forming enterprise, and there is no other work in the district, then regardless of what happens in Moscow, here in the hinterland, you will win any election for a long time to come. Especially if in the conditions of general chaos you have managed to get your own PMC.

We should be prepared for the fact that even after the fall of the current regime, for some period of time the province will send local “masters of life” or their proxies to the parliament. If they join forces, they can create serious problems for the reformers and block many of the necessary changes.

To avoid such developments, it is better to centralize the mechanisms for nominating candidates and forming the electoral agenda. This is why we need to abandon single-mandate constituencies and switch to party list voting. The first post-revolutionary elections should be elections on key issues of big politics, and local barons with their promises to solve all the problems of the district should have no place there. **The parliament that will reform Russia will need lawmakers, not lobbyists for local interests.** After all, the population has governors to take care of the latter.

Yes, nowadays it seems strange to talk about the need to centralize the political process. In conditions of total centralization, it seems relevant to think about exactly the opposite. But the need for decentralization is so obvious and the demand for it so strong that it will happen anyway. Thousands of agents all over the country will demand and organize it. The center will not be able to oppose it. This is when the threat will arise that we will throw the baby out with the bath water.

In keeping with Russia’s long-standing tradition of going from extreme to extreme, the supporters of reforms will rush to break up the hated system, eventually bringing it to collapse. Only fans of abstractions — people unable to feel the dynamics of the political process, unable to realize that this is the moment when the main threat to post-Putin democratic reforms will emerge.

As I have already mentioned, putting the issue of the country's disintegration on the agenda will mobilize conservative groups of the population and give Putin-type politicians a chance to once again tread the path to their hearts ("the fatherland is in danger"). This very activation of conservatives may bury the hope for successful democratization of Russia. To prevent this from happening, the reformers themselves must be concerned about its territorial integrity. The electoral system must also be appropriate. Only in this case will decentralization have a meaningful character and will not turn, as happened with the USSR, into a rampage of destructive elements. Then a new "collector of Russian lands" will not appear in the end.

The dismissive attitude towards the institution of political parties (they are unpopular and outdated), which is so typical of contemporary Russian politics, is completely unacceptable. Obsolete, yes — they have been talking about it in the West for a long time, 30 years at least — but mankind has not yet come up with anything else to replace parties. Certainly, other institutions, such as the media, can perform some of their functions, but in general, there is nothing to replace them.

It should be understood that the democratization of Russia will lead to the growth of political participation of the masses, and parties are the main organizational form of such participation. After all, a party is nothing more than an association of concerned citizens who share certain values and have similar political ideas. Why, for example, did England and America 100 years ago avoid revolution, but Russia did not? Industrialization and the formation of the working class took place there during the 19th century. It too was exploited and sought social and then political rights. There were strikes and armed clashes with the police, but there were no revolutions. Because in these countries, unlike in Russia, strong party systems had already been formed by the time the new groups began to enter politics. The political infrastructure of these countries was able to integrate the new participants in the political process, channeling their energy in a peaceful direction.

The formula for the sustainability of modernizing societies has long been known: the rate of institutionalization of political systems must exceed the rate of politicization of the population. Before granting political rights to the previously deprived subjects, it is necessary to create an infrastructural environment within which their politicization will take place. The most important element of this environment is parties.

It is extremely important to understand that for the reforms to succeed, it will be necessary to maintain the country's governability, not only in terms of relations

between the center and the regions, but also in terms of the distribution of power at the national level. It will be very difficult to do this, because preserving governability will contradict the naturally dominant desire to weaken the political center as much as possible after the fall of authoritarianism.

One should keep in mind that after the regime change, it will not be easy to speak on behalf of the state institutions that discredited themselves under Putin. In any conflict between the federal bureaucracy and representatives of civil society, the media, intellectuals, Russian regions, Ukraine, the international community, and so on, public opinion will always side with the latter. Literally everyone will proceed from the presumption of the state's guilt — even a significant part of the bureaucracy. The latter will literally have complexes.

This moment will be the most dangerous trap that will arise in the path of the Russian government and Russian society. The temptation to cure the headache with the guillotine will be very great. The number of those willing not only to disassemble Putin's shabby establishment, but also to smash the very building in which it sat, will be enormous (remember the peasants' age-old love of pogroms at the baronial estates). It will be very difficult to defend the legitimate interests of the state in such an atmosphere.

The key question to be answered by future Russian reformers is how centralized the country's next political system should be. On the one hand, if the society wants to avoid a revival of authoritarianism, it seems natural to decentralize as much as possible and create numerous counterbalances to the main subject of power. On the other hand, Russians have gotten used to a "strong hand" and if they do not see it for a long time — especially if its absence coincides with a decline in living standards — they may desire it again. Then there will be a risk of the emergence of a new Putin, demanding "order."

In order to avoid such a scenario, there should not be a feeling of "powerlessness" in the country. For this purpose, a strong political center will have to be preserved, while ensuring strict democratic control over it.

In order to understand what we are talking about, it makes sense to compare two states between which we tend to equate, although we should not do so in any case — the US and Great Britain. In their search for an optimal balance between the principles of democratic representativeness and managerial efficiency, they took completely different paths. The Americans preferred to decentralize the system, basing it on the principle of checks and balances; the British put the ideals of governability at the forefront.

At the height of the 2008 financial crisis, British Treasury Chairman Alistair

Darling, who had just approved the issuance of government guarantees to local banks, publicly commented on how pleased he was that “unlike many of my foreign colleagues, I have the power to make such decisions — despite the Bank of England’s opposition — without having to seek parliamentary approval.”⁵ Former American ambassador to Britain Raymond Seitz described it all as follows: “Thinking back to divided, factionalized American politics, a U.S. resident coming to Britain is surprised to see how free the British government feels. When I first started living here, in the 1970s, it took me a long time to realize that the British government, backed by a simple majority in the lower house, was free to do as it saw fit. <...> I looked for constitutional checks and institutional balances that might limit the power of the British government, but I couldn’t find them.”⁶

In the United States, the case is exactly the opposite. For example, Francis Fukuyama wrote about it in his famous article [America in Decay](#): “The institutional priority of the United States, based on a long tradition of distrust of government characteristic of this country, has been the formation and development of institutions that limit the state, such as courts and legislatures. The author elaborates that those governmental functions “which in Europe are realized by the efforts of a bureaucratic apparatus managed by the executive branch, in America are performed by courts and legislators.” Discussing the American state structure, Fukuyama uses the concept of vetocracy. He writes that the U.S. has historically been fixated on forming a system of checks and balances, which eventually led to a marked decline in the efficiency of the state machine, at times resembling paralysis. The researcher contrasts America with Britain: “The complete opposite is the so-called Westminster system, which developed in England in the years following the Glorious Revolution of 1688. It is one of the most determined in the democratic world, and in its purest form contains very few restraints. On a large scale, the people of Britain have only one serious formal tool by which they can limit the omnipotence of their government—the right to elect a parliament from time to time (the tradition of a free media is another serious informal constraint). For everything else, the system does not so much distribute power as concentrate it. A pure Westminster system has only one all-powerful legislative chamber — no separate president, no strong upper house, no written constitution against which the courts can test existing legislation, no federalism, no constitutionally enshrined powers of local government. Plus

5 Wright, T. British politics. Oxford University press, 2013. P. 52.

6 Ibid., PP. 12—13.

a majoritarian electoral system, which, multiplied by strong party discipline, reproduces a two-party system and a strong parliamentary majority.”

Speaking of the powers of the first person in America, one cannot help but quote its former president Harry Truman: “All I do all day long is try to persuade people to do what they really ought to do without me. That’s the only right I have.” Commenting on General Eisenhower’s election as president, Truman said: “Poor Ike, he’ll sit behind a desk and start commanding: do this, do that ... and nothing will happen. This isn’t the Army, after all.”⁷

I have allowed myself such long quotes because I believe it is extremely important to convey to the Russian audience the idea that the problem is much deeper than the choice between democracy and authoritarianism. Democracies also come in many forms, and how convincing it will be in the eyes of the country’s citizens depends on how well Russian reformers choose the appropriate form of democracy.

In conclusion, let me remind you that even in America, with its long tradition of distrust of bureaucracy, the structures least controlled by society — the military, intelligence agencies, and the Federal Reserve — are the most favored by the population. They are respected for their ability to get things done. The House of Representatives, the most democratic structure, enjoys the least support of citizens precisely because it is mired in discussions and is not capable of doing anything.

Fukuyama’s point, quoted above, about the long tradition of distrust in government, which he uses to explain why the American political system is the way it is, is important in one sense. In shaping a system of political institutions, one must take these traditions into account. Yes, they are often outmoded and unnecessary, so sometimes you have to be able to discard them. But even in this case, they should be kept in mind, if only to realize that this is where the problem with public opinion will arise. If a tradition can be not discarded, if it can be taken into account at least in some small part, if it can be built into a new system without a great damage to its quality, then it is better to do it.

Reforms will have to be explained not only through “it’s better this way,” but also through “this is the way things have always been done in Russia.” The builders of post-Putin Russia will need to glorify the Russian democratic tradition. If you look, for example, at how Reagan justified the need for his “right turn” and

7 Cited in: Brown, A. The myth of the strong leader. Political leadership in the modern age. Basic books, 2014. P. 15.

compare it to how Russian liberals of the 1990s explained their reforms, you will see that the former promoted their ideals not so much because they were right, but because they were native American. Reagan said that by a fateful coincidence the US had once veered to the left, but now it was time to return to its roots. Russian liberals appealed not to history, but to logic. It doesn't matter how things used to be, it's important to do it the right way; this social order is right, and this one, on the contrary, is wrong. **The failure of the Russian liberals of the 1990s showed that history has a greater appeal in the eyes of voters than logic.** Russian liberals of the future will have to broaden the range of arguments they use by emphasizing their own history. After all, Russia is not just Ivan the Terrible and Stalin. Our past has seen the very democratic Novgorod Republic, the Zemstvo Sobors, the Boyar Dumas, the Nestiazhatels (Trans-Volga Elders, or "Non-Possessors"), and the reforms of Alexander II. After all, it is about our ancestors that Procopius of Caesarea [wrote](#): "These tribes, Slavs and Ants, are not governed by one person, but from ancient times live in the rule of law, and therefore regarding all happy and unhappy circumstances they make decisions together." There are many such things, and they will have to be brought to the surface, inflating their importance in every way possible. Liberals will have to give conservatives a fight for their own version of Russian history.

In general, it is necessary to keep in mind one important psychological feature of a successful revolution. The majority goes into it not so much for the sake of building a new society as in order to restore the trampled "ancestral order." The narrative of this trampling is an important part of revolutionary discourse. During the English Bourgeois Revolution, its leaders explained to their followers that the royalists were the descendants of the Normans who had destroyed traditional English liberties, while the revolutionaries were the descendants of the Anglo-Saxons whose time for revenge had finally arrived. The leaders of the French Revolution said that the common people in their country were descended from the freedom-loving Gauls and Romans, while the aristocracy was descended from the usurping Franks. These interpretations made the revolutionaries appear to most people not so much as creators of something unprecedented, but as people fighting to restore the "golden age" that had once existed in their countries.

By popularizing this view of history, revolutionaries gain a "moment of strength" because they have the "laws of nature" on their side. This should never be neglected, because the majority of voters, all other things being equal, always favor those whom they consider to be the future winners. It is worth remembering the attention paid to the introduction of the thesis of the "historical predetermination" of the victory of the proletariat over the bourgeoisie by the

Bolsheviks. In general, the creation of a feeling of naturalness of the chosen path is the most important factor of success, so it should not be neglected.

Lustrations Must be Carefully Considered and Implemented

Another important factor that will influence the public's attitude towards the new government will be the issue of restoring justice — that is, the punishment of the former leadership for crimes committed while in power and subsequent lustration. During the previous round of democratic reforms, in the 90s, the issue of punishment was not so acute, because in the years preceding its fall, the Soviet nomenklatura was democratized and eventually gave up power almost without a fight. Why punish those who realized everything themselves and took the path of correction? The opposite is true of the current Kremlin: it is not softening, but is moving toward outright dictatorship. Therefore, the question of responsibility of the current officials for the committed atrocities will come to the very center of the agenda after the democrats come to power.

It is very important to separate the topics of punishment and lustration. They are often confused, and this confusion can cause a lot of problems. The main task of lustration is not to punish criminals. If someone has committed a specific crime, he must be brought to justice. Lustration has nothing to do with it. **The purpose of lustration is to ensure that as few people as possible who share the values of the old regime end up in state bodies.** In order for the measure to work, it is necessary to understand which structures of the former government are filled with above-average carriers of the Kremlin's ideology in order to restrict their rights without restricting the rights of other citizens. In my opinion, membership in United Russia should not serve as such a criterion. People were forced into the party against their will. In some cases, they were signed up in bulk, by entire labor collectives. During the 2011 Duma election campaign, while working as deputy head of the administration of the head of Bashkortostan, I and my colleagues organized an anonymous survey of rank-and-file members of party organizations in two cities of the republic about their electoral preferences. United Russia's rating among party members turned out to be roughly equal to the average for these localities and amounted to just over 30%. That is, out of three party members, only one was going to vote for the United Russia party, and two were in opposition. If we restrict the rights of all unanimous activists, it will turn out that two out of three will suffer innocently.

There is a widespread view among American experts that the failure of democratic transition in post-Saddam Iraq was largely due to the hasty and

rather arbitrary implementation of the program of “de-Baathification” of the country (the name is derived from the name of the ruling party of the Saddam era, the Baath Party). The interim coalition administration that took over the country after the overthrow of the Hussein regime fired not only the heads of all government agencies, but also a huge number of mid-level employees, including 40,000 school teachers who had once joined the party simply because there was no other way for them to keep their jobs. The result was a paralysis of the public administration system, because of which many of those fired had to be brought back. This was the worst possible scenario: first, the new authorities demonstrated “injustice” and unseemly “haste,” and then “weakness” — backsliding. According to the expert community, decree number two was an even bigger mistake. With it, the interim government dissolved the Iraqi army. Half a million people who could handle weapons were left without means of subsistence and decided that it was not worth relying on the justice of the new authorities. It was the former military men who made up a significant part of the militants of those groups that plunged the country into years of chaos and civil war.

Many opponents of the current Russian regime believe that the phenomenon of Putinism was possible precisely because no lustration was carried out in Russia. This is a very strong oversimplification, and it is not at all certain that lustration — had it been carried out — would have made a return to authoritarianism impossible. Of the three domestic policy supervisors who worked under Putin, only one — former Komsomol leader Sergei Kiriyenko — would have been subject to lustration. Neither Vladislav Surkov nor Vyacheslav Volodin could be lustrated in any way.

If we look at the post-socialist countries of Eastern Europe, we see that the greatest risk to democracy there is posed by Viktor Orban in Hungary and the Law and Justice party in Poland. Neither Orban nor the Kaczynski brothers, who founded Law and Justice, were subject to the lustration law. They were not representatives of the communist regime. On the contrary, they came from the ranks of the opposition. They were the ones who once overthrew the Communists. “Law and Justice” is still demanding the broadening of the law on lustration from the civil service to the private sector.

Lustration does not necessarily imply a priori restriction of rights. In some Eastern European countries, such as Poland, when applying for a job in the public administration, applicants were for a long time required only to fill out a declaration in which they had to describe their relationship with the former regime. He was disqualified from holding public office only if it turned out that

he had concealed something from his past. After 2015, however, the lustration legislation in Poland was slightly tightened, for which the country was criticized by the European institutions.

At the same time, it is also impossible to say that lustration is not necessary at all. Both the Council of Europe and the European Court of Human Rights have supported the right of states to organize lustration processes. The latter, in its ruling, even gave the following analogy: “The fall of the Weimar Republic was caused, among other things, by the fact that the state, having misinterpreted the principles of liberalism, paid insufficient attention to the political views of civil servants, judges and military officers.”

Cynthia Horn of Western Washington University, who studied lustrations in 12 post-communist countries in Eastern Europe, [concluded](#) that fully organized lustrations increase the chance of building successful democracies by 30% compared to countries that did not have lustrations.

The attempt to shield the spheres of politics and public service from people capable of supporting the destruction of democracy in a country that was recently authoritarian seems quite logical. After all, there are many other occupations in life besides politics, so people who have been stained by the disreputable deeds of the former regime and have fallen under suspicion can look for themselves in something else. But it should be understood that by restricting the passive suffrage of those whom the new authorities suspect of anti-democratic aspirations, it simultaneously restricts the active suffrage of other people who have done nothing wrong before the new authorities. Lustration leads to a restriction of political supply on the electoral market. Will citizens be delighted by this? It is impossible to say now. I think that their final attitude to this issue will be formed at the last moment and will depend on how civilized the outgoing regime will behave. It is one thing if everything goes like in Poland, where the communists first sat down with the opposition at the negotiating table and then allowed it to take part in the elections, and quite another if, like Ceausescu, they give the security forces a command to open fire on the protesters.

In choosing a punishment strategy, it is best to conduct a serious social survey. People should be asked whether they want their right to elect who they consider worthy to be restricted by the new government, which pre-filters candidates, or whether they prefer to have full freedom of choice and the opportunity to vote for supporters of the former regime. If they want the latter, it is dangerous to restrict them in this desire. Overly intensive restrictions on the rights of the former nomenklatura may lead to delegitimization of the new

power and its loss of sustainability.

Reformers will have to decide not only whether the country needs lustration, but also how centralized or decentralized it should be. In East Germany, for example, the lustration process was quite decentralized; there was no single body in charge of lustration, so each institution dealt with it on its own. This gave a chance to deal with each story individually — to understand how malicious the violation of norms was on the part of this or that citizen, how severe the consequences were, whether there were mitigating circumstances, and so on.

In general, it should be understood that in addition to ridding the system of dangerous anti-democratic elements, the most important purpose of lustration is to increase confidence in the political system. Since the previous regime was declared criminal, the presence in the structure of the new government of people who served it faithfully and truthfully will reduce trust in it. Democracy is based on trust, and this trust must be achieved.

Prepare the Marshall Plan Now

When talking about how to maximize popular support for reforms, one cannot fail to mention at least in passing the international aspect.

After all the problems Russia has caused the international community in recent years, it is no exaggeration to say that determining the nature of the future post-Putin regime will be one of the most important strategic challenges the West will face. **Putin's departure will give Russia a chance, and it will need to seize it.** Sliding into the abyss of another authoritarianism is not in the interests of the Russians themselves or the rest of the world community. Only by preventing it will the world be able to feel at ease.

I think that what has been written by the Western elites has long been obvious, so they are unlikely to want to let the process go as it happened after the collapse of the USSR. Europe and America will try to supervise the construction of a new Russia as carefully as they did in the case of post-war Germany.

Let me remind you that the idea of the Marshall Plan was not the only one at that time and was not the first to emerge. It was preceded by the so-called Morgenthau Plan. It was supposed to deindustrialize Germany and turn it into the sum of poor agricultural territories. Fortunately for the Germans, and for the rest of the world, pragmatism prevailed over emotion in the ranks of the victorious Allies, and the negative Morgenthau project was replaced by the positive Marshall Plan. It was decided that the Germans could become a

full-fledged democracy only if their standard of living rose in the process of democratization. And so it happened.

I realize that now — at a time when there is war and people are dying in Ukraine — it seems sacrilegious to talk about the need to provide multibillion-dollar aid to an aggressor country. It seems much more logical to demand compensation for the damage caused. The best I can suggest in this situation is to look again at German history. Taxed with reparations at the end of the First World War, the Germans plunged the world into a new massacre. After receiving aid, they transformed themselves into one of the most peace-loving nations on the planet and a reliable bulwark of a democratic world order.

In our case, however, we are not just talking about the distant future. Formulated as a proposal for a new democratic Russia, the draft of a new Marshall Plan could serve as a powerful stimulus for the growth of protest moods in the country right now. For now, Russians see enemies around them and therefore remain loyal to Putin, who “protects” them from those enemies. **If Russians become convinced that the world is not an enemy, they will not need Putin.**

The leak of Morgenthau’s plan to the press in the fall of 1944 hurt the Allies badly. It helped Goebbels in mobilizing the Germans to fight to the end. After seeing what the Americans had in store for them, the people of Germany became convinced that the Nazi propagandists were right: it was really not about the future of the regime, but about the fate of the entire nation. As Republican presidential candidate Thomas Dewey said, “Now they fight with the desperate determination of a mad man.”⁸ President Roosevelt’s son-in-law wrote: according to front-line soldiers, the publication of the plan had the effect of adding 30 divisions to the Germans.

Some Russian voters, who initially opposed aggression, changed their attitude to it after it began. Now they are driven by the feeling that there is no turning back: “Once we have started, we must continue, otherwise we will be destroyed. The realization that no one is going to destroy them can turn these people from loyalists into oppositionists.”

It is clear that Western governments are not yet willing to directly call for Putin’s overthrow. Nor do they have to. The offer can be formulated without that. Suffice it to say that assistance will be provided after the establishment of a democratic regime in Russia and a change of foreign policy course from an aggressive to a peace-loving one.

8 Beschloss, Michael R. *The Conquerors: Roosevelt, Truman and the Destruction of Hitler’s Germany, 1941–1945*. New York: Simon & Schuster, 2002. P. 160.

I think that negotiations on a Marshall Plan for a new democratic Russia with all interested (and even disinterested) Western players — from governments and the public to representatives of the media and expert communities — should be one of the most important tasks for the Russian opposition now abroad. **At the moment of the collapse of the current regime, oppositionists should not return to Russia empty-handed.**

And there is no need to be afraid of accusations of “selling out the homeland.” Firstly, the current government has been making these accusations for many years, so it will not be able to say anything new in this sense, and secondly, the mobilization of foreign aid to alleviate the situation of the country’s inhabitants, who were robbed by the previous government, is definitely not a “selling out of the homeland”.

Conclusion

Let me return to the above-mentioned topic of the tactical skill of the people who will implement reforms. Success will depend on it as much as on the content of the reforms. I mentioned that the political agenda will have to be shaped in such a way that it does not contribute to the consolidation of supporters of the conservative camp. For those who want to understand what exactly the steps directly leading in the above direction look like, I would like to recommend the little-known book by the French historian Augustin Cochin “Small People and Revolution”, in particular its chapter “The 1789 election campaign in Burgundy”⁹.

It describes very scrupulously, in detail, the actions of the representatives of the lawyers’ community, who acted as the main organizer of the campaign of the third estate. Trying to prevent the opponents from consolidating, they acted very soberly and effectively — no worse than professional political technologists. At the initial stage, in order not to stir up the two main enemy camps — the clergy and the nobility — they consciously minimized their demands. Rather than immediately announcing plans to push for serious substantive reforms, the lawyers limited themselves to procedural demands for a doubling of the quota of the third estate and for an all-party, rather than lineal, vote in future General States. They had a clear hierarchy of goals and realized that it would not be possible to achieve everything at once. They had to solve the first-order problems first, and then move on to the rest. That’s what they eventually did.

9 Koshen O. Small People and Revolution. Moscow: Iris Press, 2004. PP. 21—44.

Unable to mobilize in time, the representatives of the upper classes lost the battle in the General Staff to the future revolutionaries. Incidentally, at the initial stage, they were able to take advantage of the tension that had accumulated in the relations between the government and the nobility, making the former their ally against the latter at some point. And then, when the time came, they overthrew the government as well.

Or here's another. A word to the author: "One can see how tactically skillful the party was from its first steps: any unsophisticated person would have asked the mayor to gather representatives of all the city corporations and propose them a draft petition. But the mayor could have refused, the more numerous assembly being fraught with unforeseen turnovers and difficult to manage. The Bar Committee prefers to call the corporations one by one, without too much noise, beginning with those where they have the most friends, the doctors and judges; in this way important minorities can be caught unawares and eliminated until they become acquainted with each other and unite. Then, as the number of recruits increases, the credibility increases: corporations not so close to the judiciary are convened, and in larger numbers; they are presented with a ready-made motion — cut and dried, as the English agitators say — which has already been voted on by powerful bodies; some are in collusion with lawyers; the decision of others is pressed by the weight of the agreements reached, and they vote: this is the snowball tactic."

Cochen is certainly no Tocqueville. He is far from being so authoritative, and many of his approaches raise questions in the political science community. Nevertheless, he did the research part of the work — the study of primary sources — perfectly, so he describes the technological component of the process very well. This is what we are interested in.

A great many supporters of democracy are worried, believing that "the Russian people respect exclusively the 'strong hand'." In fact, this is only half true. And the other half of the truth is that political demand is not something unchangeable. In politics, people's demands change just as their everyday needs change: as some needs are satisfied, others are actualized.

Everyone knows that when a society gets tired of upheavals and scandals, it begins to dream of stability, but if it is overfed with this stability, it will call it stagnation and want change. The same applies to a "strong leader": if he rules people for too long, they gradually develop a desire to see someone "caring" and "understanding the needs of ordinary people" in power. A "strong" leader, who is "strong" because he "doesn't make a fuss" and doesn't "coddle" his subordinates, is unable to satisfy this demand.

It should be understood that every image corresponds to an anti-image, and after a certain period of time, it is the latter that begins to dominate. Yes, for many years, Russians, tired of the “weakness” of first Gorbachev and then Yeltsin, waited for a “strong leader.” In the end, God heard their prayers and sent them Putin. Exactly in accordance with the mandate he received, he began to satisfy the need for security and a sense of belonging to a “great power” that was pressing on society. He did it well, but as people became satiated, other desires began to take root. They wanted sympathy, justice, respect, wanted to be realized in politics (which the Kremlin carefully guarded from interference by outsiders), and so on. At some point, in terms of his ability to meet the new public demands, Putin hit a ceiling: you can’t be everything to everyone. Unmet needs gradually began to dominate, and people began to realize that “power” was not the only quality a politician should possess, and perhaps not even the most important one. People realized that a politician should also be fair, honest, care about ordinary people, etc. The “strong” Putin lacked all this, and given the fact that at times he abused his “strength” too much, it began to be perceived as a negative quality — it was no longer so much “strength” as “insolence,” “insolence,” “rudeness,” and, more recently, “cruelty.”

Yes, of course, those who say that getting an indoctrinated public to change their point of view is difficult, almost impossible. But the fact is that there are not so many truly indoctrinated people — far less than half. That is why experienced political technologists usually do not even try to change their minds during their campaigns. They do not consider it necessary to waste their time and energy on them. Political technologists proceed from the fact that they should work, first, with their own supporters, activating them and preventing them from falling out of the political process, and second, with those who are wavering. Everything depends on the latter. If it is possible to convince a critical mass of these people, multiplied by their mobilized supporters, they will create a sense of dynamics that will demoralize the enemy. He will suddenly feel that his position is turning from mainstream to marginal. In philosophy, this is called a *Zeitgeist*. Those groups that oppose it — however indoctrinated they may be — begin to lose the will to resist anyway. Over time, they sink into apathy, and then they drop out of politics altogether — they don’t go to elections or rallies.

Then — after the opposition wins and comes to power — a significant part of the formerly indoctrinated begins to adapt to the new order and new norms. It should be understood that in general, this is a very conformist public, so if the authorities do not look too “weak,” they, this public, will soon adapt to the new approaches. But if the authorities “mumble”, the formerly indoctrinated can become a base for supporters of the restoration of the old orders, so one should

not “mumble” too much.

The moment when the indoctrinated supporters of the old regime are demoralized is a very important time. It is during this period that all the necessary institutional reforms should be carried out — the political infrastructure of a democratic state should be recreated, the principle of separation of powers should be restored and consolidated, federalism and local self-government should be re-established, the foundations of a normal decentralized economic system should be laid, and so on. This must be done before the Russians’ craving for a “strong hand” once again turns the wheel of history and makes the restoration of authoritarianism possible.

If it succeeds, Russia will have a unique chance to finally get out of the rut into which it has so far regularly slipped.

To conclude the chapter, I will once again list the main ideas and themes:

On the whole, Russian public opinion is ready for democratic reforms and the degree of its “authoritarian aspirations” is greatly exaggerated;

The political configuration as it will be by the time the democratic transit begins (the composition of the players, the degree of their mobilization, discrediting, etc.) will be decisive, so it is not possible to predict the course and logic of the process in advance;

Compared to the 90s, the transition will be much easier, because the scale of the forthcoming transformations is not comparable to what was carried out then; in the 90s there was a transition not only from authoritarianism to democracy, but also from socialism to capitalism;

The main danger that will threaten transition is the issue of redistribution of powers between the center and the regions, multiplied by the problem of interethnic relations;

The solution to the above problem will require special efforts in terms of creating institutions that will “centralize” the political process (political parties, appropriate electoral system, etc.);

The most important task of the reformers is to prevent excessive decentralization not only in relations with the regions, but also within the federal center; checks and balances are very important, but the manageability of the system will also need to be preserved;

The rhetoric of reformers should contain a component of references to the national democratic tradition; it should not look as if democratizers completely abolish the national origin;

Lustrations will be necessary, but they must not be abused; the new government must appear not only to be restoring justice through punitive measures, but also to be committed to national reconciliation;

The most important task of reformers is to ensure the growth of living standards or at least to prevent their sharp decline; democracy should not be associated with mass impoverishment. The position of the international community will be a crucial factor here — the international community must be asked to accept the necessity of formulating a credible new Marshall Plan;

No matter how popular the reforms are, they will still breed some number of dissatisfied people; the most important task of reformers is therefore to organize the process so that opponents of one reform do not ally themselves with opponents of another; the consistency of reforms in this sense is a key factor that will determine the ultimate success of the cause.

Chapter XII



Role of International Organizations

**Vasily
Gatov**



**Vadim
Grishin**



Any country transitioning from dictatorship to democracy faces the challenge of restoring domestic tranquility, including the return to political life of politicians and political forces persecuted by the previous regime and holding accountable those who directed and carried out that persecution.

The most odious component of Putin's regime is its abhorrent treatment of political opponents, opposition-minded citizens, and the dereliction of human rights obligations in general. Therefore, among the critical requirements of Russia's future transition to democracy would be the immediate release and full rehabilitation of political prisoners and the restoration of human rights in accordance with Russia's OSCE commitments (which implies the restoration of Russia's full participation in OSCE activities, including the abandonment of Putin's policy of non-recognition of the ECHR and the return of the rule of international law to the Russian Constitution and legislation). Progress in this direction should be supported by official governmental and public organizations in the United States, the European Union and other countries. This future-orientation should not, however, hinder human rights work today and for the foreseeable future. In addition to the traditional lists of political prisoners and prisoners of conscience, it is also necessary to analyze group and package repression, which will need to be reversed once Russia returns to the path of democratic transit.

A substantial part of the sanctions imposed on Russia, its citizens and organizations are already related to human rights violations. The adoption of the Magnitsky Act in the United States and in other jurisdictions allows the foreign policy and financial authorities of these countries to expand sanctions lists when new facts and circumstances are discovered. The activities of OFAC, the U.S. Treasury Department and similar institutions of the European Union and the United Kingdom are constantly increasing the cost to the Russian elite for acts of corruption and human rights abuses. The list of sanctioned individuals has long passed the thousand mark, and it can be assumed that it will grow even larger by the time the country starts moving toward democratic transit.

When future democratic transit is again in sight the focus should shift to putting **international pressure on the transitional authorities in terms of the release of political prisoners and their rehabilitation**, as well as the removal of illegal restrictions on political participation on the grounds of “foreign agency,” dual citizenship, etc. The matters of transitional justice, lustration and even more so criminal prosecution, however, should be left to the competence of the legally elected authorities of the new Russia. As part of the international agenda, this problem can only be formulated as Russia’s return to its OSCE commitments; the release and rehabilitation of political prisoners fits well within this framework.

An important source of existing tensions (and, one can assume, future difficulties in relations with post-Putin Russia) are Russian assets seized by a number of European countries, the United States, Canada and Japan. Most of these funds are part of the reserves of the Central Bank of the Russian Federation, but also include funds of state corporations and individuals and companies (unrepatriated proceeds, deposits, escrow accounts, clearing deposits, etc.). As of spring 2024, several states have adopted legislative acts partially authorizing the use of seized Russian assets to help Ukraine (including decisions of the European Parliament, a recently passed US law authorizing the President to confiscate frozen Russian assets, and decisions of the European Commission regarding dividends received from seized assets¹). It is safe to assume that the fate of the Central Bank of Russia’s reserves will be negotiated only after regime change — regardless of whether they are used to help Ukraine in the war or post-war reconstruction. The full confiscation of corporate and private funds creates significant risks of property claims by victims (including sanctioned individuals and organizations). The moral justification for the confiscation and subsequent use of Russian assets does not negate the significant diplomatic and legal implications, so political decisions must be thought through and balanced not only by current but also by future interests. For example, since the start of full-scale invasion in Ukraine, many foreign businesses were forced — by sanctions and Russian government too — to abandon or sell for minimal price the assets in the country. Such transactions should be established by courts as unlawful and forced confiscation, and the courts may choose to consider Russian national assets as a compensation source (as opposed to Western companies’ states having to compensate for their losses).

1 See, e.g., <https://apnews.com/article/russia-ukraine-treasury-sanctions-assets-congress-0a3bc97a2d6d77ce3650c767db6ea7ed>.

Western Stakeholders

EU foreign ministries and the leadership of the European Commission, the OSCE, the European Court of Human Rights, the European Parliament, EU parliaments, the Parliamentary Assembly of the Council of Europe, and the International Criminal Court. Global human rights organizations, including Amnesty International, International Memorial, Freedom House, CPJ and others.

Recommendations

- Conduct legal analysis of the laws and regulations of the Russian Federation that either by themselves or indirectly (through the assumption of specific practices) violate international humanitarian law and Russia's OSCE commitments.
- Formulate several successively expanding packages of conditions for the restoration of political and civil rights of Russian citizens to be negotiated in the post-Putin period.
- Ensure coherence between the actions of state bodies, international institutions and public/civil society organizations on the dismantling of sanctions while returning Russia to the framework of pan-European behavior.
- Exercise caution in vetting the list of Russian political and military leaders indicted for war crimes/crimes against humanity; any of the potential defendants could simultaneously be the initiators of Russia's peaceful turnaround after the end of the Putin era.
- At the same time, it may be worth considering the creation of a permanent structure, a network of consultants to prepare for Russia's transition. This could very well be based on MEP Andrius Kubilius' "Friends of European Russia" initiative². Such an institution, which should be anchored to Free Russia Foundation and work in close cooperation with specialists in the European Parliament's Secretariat General as well as its most important Groups, can begin its work now — monitoring changes in Russian legislation, collecting and documenting cases of politically motivated persecution of opposition figures and dissidents (including those who are repressed on religious grounds), and working with Russian activists and exiled politicians in developing ideas for future changes in the Russian Federation. The work of such a dedicated institution would be particularly important when the Russian population becomes seriously disillusioned with the Putin (and post-Putin) regime and looks again to democratic societies for inspiration.

2 <https://russiadayafter.eu/>

Strategic Security Issues

In line with the policy of escalation in relations with the United States and NATO, Vladimir Putin has withdrawn Russia from most of its existing international and bilateral agreements. START-3, the last bilateral strategic arms control agreement, expires in February 2026. Russia has already suspended its participation in it. Not only the post-Soviet achievements of Russian diplomacy, but even those initiated and supported by the Soviet Union, have witnessed severe setbacks. Actual actions in terms of disrupting strategic stability have so far been limited to aggressive nuclear rhetoric, lowering the ceiling on the use of nuclear weapons (NWs) and moving a small number of tactical nuclear warheads to Belarus, but trust, particularly on the part of the United States, has been severely damaged.

The issues of strategic stability, nuclear weapons and their means of delivery are the only items on the U.S. foreign policy agenda where Russia still occupies a central place. These are the Kremlin's trump cards in relations with the US (and partly NATO), and they will remain such during transition.

Despite Vladimir Putin's pivot to China, the expansion of Beijing's strategic capabilities is of equal concern to Moscow's negotiators and the military. Normalization in this sphere is inextricably linked to nuclear nonproliferation issues: another round of tensions in the world (from the war in Ukraine to Hamas's terrorist war with Israel) and the growth of conflict potential in many regions will almost certainly make many countries consider their own nuclear weapons. Without Russia's active support of a nonproliferation agenda, the efforts of the US, France, and the UK are unlikely to suffice. This also applies to the challenges of controlling today's conventional weapons, which are becoming increasingly destructive. **Sooner or later, the issue of concluding new arms control agreements, both nuclear and conventional, will arise.** Historically, international (bi- and multilateral conventions) on limitation, reduction, and prohibition of certain weapons are part of the UN infrastructure (first of all, the Geneva office of the organization), and, in the narrow "nuclear part," the IAEA (IAEA) as well — also the IAEA (IAEI). The Treaty on Conventional Armed Forces in Europe (CFE Treaty) was partly within the OSCE's competence due to its pan-continental status. Since the Russian Federation effectively ended its membership in most of the conventions under Putin, negotiations on the creation of new restrictive treaties should include elaborate instruments for monitoring compliance and sanctions against countries that ignore agreed requirements. It may make sense to discuss some conventional arrangements in advance within the European security community, taking into account U.S.

views.

The accumulated problems of sustainability and strengthening regional stability will require a complete overhaul of relations with Russia's immediate neighbors. If progress is made in reconciling Russia and Ukraine, there is likely to be a window of opportunity to discuss the territorial conflicts in Georgia and Moldova, which are sustained purely by Moscow's diplomatic and military posture. This prospect is particularly important for European diplomacy, but it should be seriously prepared for, including by building ties with the leaders of the separatist regimes and discussing options for a possible diplomatic solution under the auspices of the OSCE and/or the UN. It can be assumed that the transitional authorities in post-Putin Russia will not have time and incentives to deal with Abkhazia, South Ossetia and Transnistria; the separatist leaders probably realize this as well. No one but the European Commission can effectively influence the governments of Georgia and Moldova (which aspire to membership in the EU); the task is to exclude force and military excesses, if the process of diplomatic de-escalation in the breakaway regions can be launched with Russia's consent.

U.S. and European diplomats can become moderators in future Russia's relations with other neighbors, primarily the Baltic states. Negotiations on mutual security guarantees along the lines of contact between Russia and NATO will be necessary (given the accession of Finland and Sweden to the alliance, this task becomes crucial from the point of view of the security of the Baltic Sea; it is also important from the economic and territorial point of view — because of the exclave of the Kaliningrad region).

It is clear that the responsible authorities in Moscow have no right to leave the issue of Kaliningrad transit unresolved. For their part, the European Union and especially the Baltic States may have a particular opinion about the level of militarization of the coast and expect Russia to take counter steps. In practical terms, this means the possibility of concluding a new adapted version of the CFE Treaty, taking into account new conventional weapons and changed geopolitical realities, as well as the sharply increased line of contact between Russia and NATO. In a more general dimension, it could also mean the resumption of consultations between Russia and NATO on a wide range of issues aimed at preventing crisis situations.

Multipolarity

The task of foreign policy agencies and various institutions of the United States, the EU, and other allies in the post-Putin period is to help Russia overcome or at least balance China's attraction and move beyond "bad marriage. By maintaining constructive but competitive relations with China in the interests of the national economy and supporting the transportation infrastructure of global trade, it will be necessary to keep Russia from slipping into vassal dependence on Beijing — which, according to most analysts, will be a threat to strategic stability.

This is a task of the highest complexity — not only because all participants would like to maintain normal commercial relations with China while resisting its desire to take a leading, hegemonic position in the world, but also because the process of global economic fragmentation continues to accelerate. This implies further decoupling of Washington's and Beijing's positions, including in the technological sphere. We cannot rule out an aggravation of the conflict over Taiwan, which could lead the system of international relations to a strict US-China bipolarity.

Supporters of the influential U.S. foreign policy school of thought, the realists, have long advocated the need to repeat the Kissinger-Nixon maneuver (which was fateful for the outcome of the first Cold War) within the Washington-Beijing-Moscow geopolitical triangle, this time choosing Moscow instead of Beijing. It cannot be ruled out that the new Russian government might be receptive to such an approach in order to accelerate the easing of sanctions pressure and make it easier to obtain the Western resources and technologies needed for modernization.

Western Stakeholders

US and EU foreign policy think tanks (CFR, Atlantic Council, Brookings, Carnegie Endowment for Peace, Chatham House, ECFR, etc.).

Recommendations

Given the complexity and sensitivity of the problem, including a possible ambiguous reaction from China, continue in-depth monitoring of the situation in Russo-Chinese relations at all possible levels — political and economic ties, military and military-technical contacts, etc. Prepare various scenarios when and under what conditions rapprochement with Moscow (taking into account the possible prevalence of interests of different groups in the Chinese and

Russian leadership) becomes possible and expedient in the context of relations in the West-China-Russia geopolitical triangle.

International Organizations

Russia, as the successor of the USSR, is a founding country of the UN, a permanent member of the UN Security Council with the right of veto and an active participant in all UN agencies and initiatives. It is a member of most global economic associations — the World Bank, IMF, WTO. Russia is a member of a large number of international organizations that develop, for example, global rules for industries and technologies; these include such diverse structures as OPEC and the International Telecommunication Union (ICU) among others. Russia has created (and predominantly controls) several Eurasian regional entities linking former parts of the USSR: EurAsEC, CSTO, the Union State of Russia and Belarus. At best, they are a manifestation of the Kremlin's regional ambitions and embody its desire to “keep its finger on the pulse” of the former Soviet republics.

Except for the bleakest options for the future in all other cases the Russian Federation is likely to retain its main diplomatic positions in both the UN and other international organizations. Of all Ukraine's demands under the terms of peace with Russia, the least realistic is the denial (or deprivation) of a permanent seat on the UN Security Council: Moscow will insist upon both its right to vote and its right to veto, and likely other permanent members of UNSC will hold the same position. Altering Russia's predisposition toward aggressiveness in its foreign policy will presuppose both the appointment of a new permanent representative to the UN and the replacement of the entire senior staff of the Foreign Ministry's Department of International Organizations and the Foreign Ministry leadership as a whole. It would be right for Russia to raise the internal political status of the Permanent Representative to the UN, making him a political appointee approved by the parliament on a par with other members of the Cabinet of Ministers — and the likely negotiating activity in the process and after peace is achieved in Ukraine will require not only a team of professional diplomats in New York, but also a trusted political representative of the country's leader(s). The need for political appointees will also arise at the ambassadorial level in key capitals — Washington, Kyiv (after the restoration of diplomatic relations), Brussels, Berlin, Paris, London, New Delhi and Beijing.

If we look at the history of Russia's and the USSR's behavior in the UN, we can notice that major crises in Moscow lead to softening and even revision of the country's rigid positions on important international issues. It is possible that we would observe such a dynamic again — and the Russian representative at the UN should be prepared not so much to make unilateral concessions as to offer constructive cooperation on a wide range of current problems in UN activities that have accumulated over the years of confrontation.

UN agencies, including the organization's peacekeeping forces, can and should play an important role in the post-war settlement and reconstruction of Ukraine. Perhaps the UN is best able to offer a non-humiliating option for Russia to financially compensate the affected neighbor through UN agency funds. Such models should be analyzed and prepared in advance, and interested countries could join initiatives that could not only help in the settlement, but also enhance the credibility of the international organization.

United Nations Organizations Potentially Involved in Post-War Settlement in Ukraine

UN Security Council
UN Peacekeeping Force
International Court of Justice
UN Secretariat
International Atomic Energy Agency
United Nations Development Programme
United Nations High Commissioner for Refugees
International Civil Aviation Organization
Food and Agriculture Organization
World Bank
International Monetary Fund

Countries Expressing Interest in Post-War Reconstruction of Ukraine

U.S.
EU as a whole
Italy
Spain
Austria
Latvia
Lithuania

Estonia
Greece
Denmark
China
Turkey³

A transitional Russia could prove to be a convenient partner for the preparation and implementation of UN reform, which is long overdue. As a permanent member of the UN Security Council, **Russia in a sense holds the keys to decisions that could be acceptable to both China and Western partners under certain conditions** (e.g., expanding the number of permanent members of the Security Council, including by including India, with which China has difficult relations). This also applies to the issues of gradual mitigation of the veto right and transition to decision-making by a qualified majority of the UN Security Council on certain consensual topics.

All these points — working out ideas, solutions and options — are also fully within the purview of the key diplomatic departments of all permanent members of the UN Security Council - from the US State Department and the UK Foreign Office to France's Quai d'Orsay and China's Foreign Ministry.

The Bretton Woods organizations — the IMF and the World Bank — are unlikely to play as important a role in relations with the future Russia as they did in the early 1990s. There are no grounds for special assistance programs for the country, and the economic information and reporting systems created in Russia with the participation of the IMF and the World Bank (which are now failing) are much easier to restore than to rebuild from scratch, as they were 30 years ago. Finally, it is hoped that the authorities of the future Russia — whether transitional or permanent — will not need to be tweaked and tampered with to cover up corruption or failed government projects. Hopefully, the world's financial institutions (World Bank, International Monetary Fund, European Investment Bank/EBRD, IFC) will learn from the mistakes of the paternalistic practices of the 1990s and will not recommend that Russia cut its already meager social spending for the sake of ruble stability. In contrast to the usual practices of these organizations, which are based on exclusively monetarist models, austerity and attributing social expenditures of states “for the future,” in post-Putin Russia more attention will have to be paid to issues of social responsibility of the state, building a fairer system of distribution of national wealth and fighting corruption.

3 The list is based on statements made by country officials to the press between 2022 and 2023.

The actual formulation of these decisions is the sovereign responsibility of the future Russian government, but international economic institutions could offer (without imposing) expertise, criticism, macroeconomic warnings and forecasts. Some components of such expertise could be prepared in advance, such as demilitarization of the economy, effective anti-corruption legislation and organizational solutions that reduce the size and power of the bureaucracy, methods to reduce regional economic imbalances, and transition to renewable energy sources. Moreover, **such work can take place with the participation of Russian civil society in exile**, which includes a significant number of experts in the field of economics, sustainable development, ecology, anti-corruption practices, etc.

As for the international organizations created on Russia's initiative in the former Soviet Union in 1991-2023, their artificiality and parasitic nature will become evident in any crisis of power in the Kremlin — whether it is a normal succession process or something less predictable. Most likely, a future Russia will either initiate the dissolution of these “living diplomatic dead men” itself or agree to the other members' proposal for their radical transformation.

The fate of Moscow's membership in organizations created on Beijing's initiative or with Beijing's participation is more complicated. It will be advisable for Moscow to depart some organizations or at least downgrade its status in them (e.g., the SCO), and in some, perhaps, to maintain its current level of presence (e.g., the Asian Infrastructure Investment Bank and/or the BRICS Development Bank).

NGOs, Civil Diplomacy and Soft Power

In the initial period of the New Cold War (2007-2014), Vladimir Putin designated international civil society programs and initiatives as the main threat to his Russia. It started with George Soros's Open Society Foundation; soon thereafter, a wide variety of foreign NGOs were listed as Russia's enemies. At first, they included American foundations engaged in promoting democracy and a rules-based world order — the National Endowment for Democracy, USAID, USRF, and international institutions of the Democratic and Republican parties of the United States. They were soon joined by a variety of international organizations — WWF, Bellona, Prague Civil Society Center, a group of Protestant churches whose activities are considered dangerous by the patriarch of the Russian Orthodox Church. Soft power institutions of a number of “unfriendly” countries — from the American Council for International Education, the British

Council and the Heinrich Böll Foundation to a long list of American and European think tanks and even several universities whose position does not suit the Russian Federation — were listed [as “undesirable.”](#)

The hatred of NGOs with even a hint at a political agenda has been expressed not only in the designation of “undesirable organization” status, but also in the persecution, including criminal prosecution, of employees and former employees of foreign NGOs and Russian organizations that have been placed on this list as political opponents of the Putin regime. Putin’s regime is cracking down on both human rights organizations and a number of Protestant denominations, primarily Jehovah’s Witnesses. Currently, convicted “witnesses” constitute the [largest](#) group of political prisoners/prisoners of conscience in Russia.

Whatever the scenario of Russia’s return to the path of democratic transit, aversion toward activities of foreign human rights organizations, democracy support foundations and foreign media will persist both in the post-Putin leadership of the Russian Federation and among a significant number of citizens. Decades of anti-American propaganda that frightened citizens with myths about the participation of pro-democracy and human rights organizations in the preparation of the “orange revolution” in the country do not disappear without a trace. All the more so in the last two years, propaganda has used Western support for Ukraine as “proof” of the malicious intent of the United States and its allies against Russia.

For the U.S. and European organizations mentioned above, as well as for Russian opposition groups in exile and independent media, Moscow’s move toward democratic transit will be both an opportunity and a categorical challenge.

Another Work in Progress

When Mikhail Gorbachev’s perestroika opened the door to democratic development, U.S. NGOs and programs had an advantage that they do not (and alas, will not) have now: the opening Soviet Union and then Russia had genuine fondness for yesterday’s adversary. The exuberance of capitalism and the prospect of an open world had not yet stood the test of time, and the Soviets expected that change would result in something like a Marshall Plan for postwar Europe. Unfortunately, hopes were dashed against the pitfalls of reality, the “American dream” did not take hold, and numerous aid, democracy and development programs were quickly discredited, both by

Russian intelligence agencies and, alas, on their own. Since the mid-2010s, it's been an overt policy of the Russian authorities to squeeze out the remaining cultural, academic and educational foreign and joint organizations from Russia; the aforementioned bogeyman of “orange revolutions” was created.

When and if the possibility of democratic transit opens up again in Russia, all organizations without exception that would like to help the democratic development of the country⁴, will need not only to analyze the shortcomings of the previous attempt, but also to build new structures taking into account the experience gained. Even after their activities in the future Russia have been legalized, American and European pro-democracy organizations will have to face “criticism from the right” from Ukrainian and other Eastern European structures, which will demand reparations, apologies, remorse from Russia and Russians, and certainly will not approve any activities of USAID or EED on the Russian side of the border. The following measures seem most important in that regard:

Prepare a rapid and as complete as possible restoration of educational and academic contacts. For almost three decades this direction has shown itself to be not only sustainable but also to have a profound effect; the young people of the future Russia should be given maximum opportunities to study, work & travel, simply to travel. Unfortunately, the war and political persecution of dissenters have done enormous damage to the Russian academy. Large groups of scientists, teachers, and students have found themselves in exile and are trying to restore the educational process. Their experience and expertise should be taken into account when making plans for rebuilding.

Programs to support and develop movements and activism with critical but “Western” agendas (from LGBTQ+ to gender balance) should be **carefully considered**; when making plans, it should be understood that Russian society has been pitted against all manifestations of diversity and identity for the past 15 years.

It is advisable to **raise the priority of the environmental, climate agenda**, nature conservation and biodiversity issues — due to the minimal “allergy” to them in Russian society.

⁴ As mentioned above, we believe that the main American democracy promotion institutions (USAID, USRF, NED, IRI, NDI) are likely to refrain from direct work in Russia, using proxy organizations and traditional partners (Freedom House, IREX). The Open Society Foundation and Internews are likely to reconsider their positions on work in Russia in the new situation. It is almost certain that German political foundations (Konrad Adenauer Foundation, Friedrich Ebert Foundation, Heinrich Böll Foundation), which were active before their activities were effectively banned, will resume their work in Russia at the first opportunity.

Support the media today, but exercise caution at the moment of transit.

Russian media in exile play a major role in informing the country's population about what is happening, but maintaining grant support for media outlets that decide to return to Russia on the "first flight" is extremely dangerous, at least until full rule of law and political diversity are restored. It makes sense to prepare journalists and editors for the fact that they will have to build the media sphere in Russia anew without American and European support, including in order to avoid repeating their own and imposed mistakes.

Support and develop civil society institutions in exile and train new leaders at all levels. The mass emigration of 2022-2023 (as well as earlier years, since 2014) has brought hundreds of thousands of young, energetic citizens abroad, including many activists, journalists, cultural figures, and regional politicians. By assisting their initiatives aimed at Russia or at emigrant communities, Western humanitarian, political and cultural institutions not only enable them to survive in their new social environment, but also facilitate the emergence of new leaders from below — through the organization of local communities, horizontal associations or even political organizations.

One of the key challenges for post-Putin Russia will be the presence (and emergence) of new leaders, as well as the return of those who have been in exile and their inclusion in domestic political processes. As has often happened in the country's history, the period of gloomy isolationism and hostility toward Europe is likely to be replaced by a more open and even interested attitude toward Western experience, allowing new leaders to move and grow faster. The political party foundations in Germany (Konrad Adenauer Foundation, Friedrich Ebert Foundation, Heinrich Böll Foundation) and the United States (IRI, NDI) can play a special role in helping young politicians from Russian emigration to learn, formulate platforms and possible practices for the future.

Support of the Masses, Distrust of the Elites

During the previous transit, Western NGOs paid increased attention to elite programs to the detriment of programs aimed at the general population. This was evident from the very beginning, literally from the first months of the work of the Cultural Initiative Foundation in the USSR and Russia. One of the authors had the opportunity to observe it from the inside: the task was to open the political, academic and cultural elite of the late USSR to Western values, influence and integration into global networks. The alternative approach — working with broader populations, outside the capitals, opening up unremarkable people to

the world and the world to them — was of little interest to U.S. headquarters. The happy exceptions were the Internews and, to some extent, IREX programs, through which thousands of Russian journalists and students passed.

When the opportunity for democratic transit returns to Russia, the focus should shift (primarily for U.S. and European organizations) to programs in which the widest possible participation of Russians is possible. Work & travel, a new version of the FLEX, language courses and student exchange opportunities, sister cities, educational programs for regional and city levels of government — all of these initiatives should be multiplied when the opportunity arises. Again, on a significantly less costly scale, these initiatives could be “tested” with activists in exile; such programs would also help with the identification and development of future local leaders of change that will be sorely needed in the Russia of the future.

On the contrary, current Russian elites, children and family members of Putin’s entourage, oligarchs, even quite distant ones, and even more so law enforcers, should be deprived of the priority and attention of Western organizations. This is that rare case when the son should be held responsible for the father. **The study of the current Russian elite, its connections and penetration into the networks of the West should become a tool for limiting privileged access to the opportunities and joys of European and American civilizations.**

A separate sensitive issue concerns the participation of Western advisors, legal, lobbying and PR companies in the new period of the Russian transit. Numerous investigations by both journalists and law enforcement agencies have shown that the participation of Western “consultants” in the 1990-2020 transit often became a method of cynical enrichment for unscrupulous individuals both in the West and in Russia. Cynical and unscrupulous bankers, political and legal consultants — especially those who continued to cooperate with Putin’s regime even after 2008-2014 — significantly damaged the reputation of the United States first and foremost, but also of European institutions.

However, most of the Western firms and personalities involved in building Putin’s fascizoid criminal state are fairly well known through investigations by journalists, activists, and law enforcement agencies. Perhaps an important action to restore trust should be an acknowledgment and apology by Western states and professional communities for the malpractice of 1990-2000 against Russia. A legislative or judicial restriction of opportunities to work in Russia for individuals and corporations implicated in the oligarchic and corruption schemes of the time (at the level of cease-and-desist type decisions) could be in the same line. This important (though not determinative) topic in the future

relations between Russia and the West should be clarified.

Overcome the Stereotype

Many pro-democracy organizations (as well as Russian liberals) drew from the 1990s and 2020s the notion that Russians were generally “hopeless” in adapting to common values, their Euro-Asian nature, their deep and insurmountable path dependency, and their genetic tendency toward paternalism, chauvinism, and xenophobia. As one famous Russian journalist put it: “One can endlessly watch fire, water and how Russians turn any good idea into shit.”

The result of this “lesson” is the extreme limitation of any Russia-related support programs. Up to 90% of funds and resources go to people and organizations that have been working with NGOs and pro-democracy institutions for decades. Going outside this circle is considered at least dangerous. After the transit is restarted, it will be necessary to significantly upgrade the competencies of organizations that will again extend their activities to the territory of Russia. It will become necessary to expand the circle of experts, strengthen regional knowledge and consciously refuse unconditional support to those who have enjoyed it for decades. This will require decisions to:

- significantly increase the level of regional expertise, primarily in the South of Russia, the Urals, Siberia and the Far East — regions with underdeveloped infrastructure and sidelined civil society; as well as regions where anti-West sentiments are most pronounced;
- create and expand networks of contacts (for additional expertise, activist support and human resources), utilizing the potential of the 2020-2023 emigration among young activists, professionals and people from developed regions;
- actively use the tools of citizen diplomacy between Russian communities in exile and societies in Western (primarily European) countries, overcoming prejudices against Russia and Russians; in fact, it is necessary to create and maintain Track 2 channels — but not only with the extremely limited circle of those who can do so from Russia, but also with the emigrant community;
- **promote the idea that support for the future Russia, “Russia of a new chance,” is also an investment, also the security of Europe and the world.** (By analogy with today’s communication approach to Ukraine, “military and economic aid is an investment in the security of the West.”)

Conclusion. Post-Putin Russia in Search of Revival

Russia of the future will again have to go through a post-authoritarian transit. In the economic sphere, it will be easier: some market mechanisms have already been created in Russia (although they need deep reformatting). But in the field of domestic and foreign policy, the situation will be a lot worse than in the early 1990s. In these spheres, we will have to start from minus marks.

There is reason to believe that a change in the trend of internal development from a rigidly repressive, archaic and militaristic policy to a more open, peace-loving and integrative policy with priorities in the sphere of economic and social development will predetermine a relative turnaround in foreign policy. Without détente and a correspondingly renewed and cooperative approach to international affairs, the new post-Putin system is unlikely to be sustainable.

Despite the heavy legacy of Putinism, which has significantly narrowed the field for diplomatic maneuvering, Moscow will always remain an important international player. However, for a variety of reasons (and not only because of the consequences of the aggressive war in Ukraine), future Russian politicians and diplomats will have to struggle to raise their status in the international system.

Opportunities for rapid integration into the community of advanced countries that opened during perestroika and the early 1990s is unlikely to be available to the future Russia. The reasons are not only Western politicians' and societies' fears about Russia (as a government and Russian society too as they supported the war of aggression, and only few protested) and their desire for evidence of change within the country and in its foreign policy, but also the condition of Russian society as such after years of autocratic rule and propaganda pressure. There are several crucially important lessons stemming from mistakes and failures the first transit for international organizations, Western pro-democracy institutions and even cultural foundations. These lessons are similarly important for future leaders and politicians in Russia.

First, the route to stable democracy is paved with citizen's agency. Neither reformer nor their aides, allies, foreign and domestic should decide what to do, how to proceed. Choices that are freely made in elections, referendums, local polls develop agency and responsibility. Do not accelerate democratic development but help it grow from the roots — local self-governance, first and foremost.

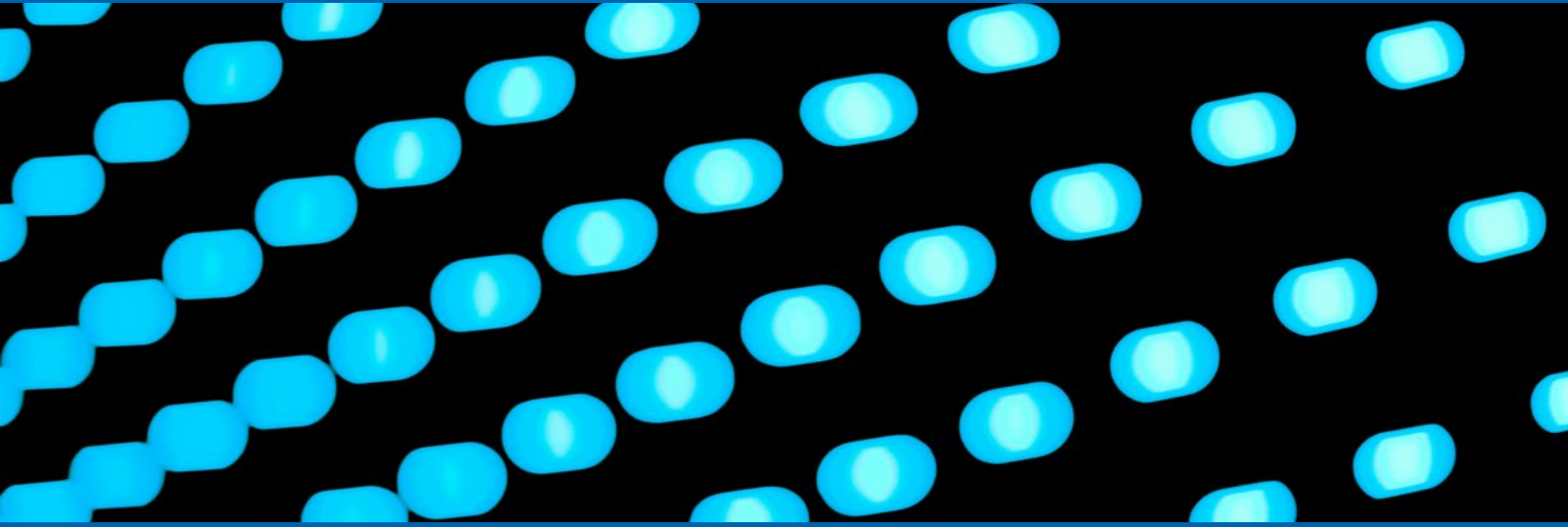
Second, democratic process must be protected by legitimate means. That means at least three basic principles every sympathizer of future Russia should

insist on: FSB should be disbanded and banned as a criminal organization, officers and clerks should be prohibited from politics and state jobs for long period of time; all political parties that are (were) present in The State Duma since 2012 should be dissolved and all ranked members personally prohibited from participating in politics; but all this can only be done with an agreement of one and only legitimate source of power — national referendum.

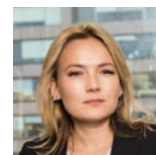
Third, as much as this could be an initial desire after war, Russia and Russians must not be humiliated, collectively sanctioned and excluded (until some distant time in the future). In order to prevent inevitable resentment and further growth of anti-Western sentiment the focus of foreign pro-democratic aid should lie in the field of re-integration of Russians into European civil community. Exchange programs, citizen diplomacy, sister cities, cultural ties — all of this should be expanded and supported.

A second attempt at democratic transit will not be greeted with the enthusiasm and admiration accorded to Mikhail Gorbachev in 1988-1990. Whether or not the recommendations proposed in this chapter are heeded, Western countries will take a much more pragmatic approach to future change than they did during perestroika. Accordingly, the terms of reconciliation will be tougher and more specific than during the previous transit.

European and American policymakers and institutions concerned about Russia's future need to take this account. This is why initiatives to include political and activist projects of Russian emigration in the implementation of current EU policies and in the formulation of future approaches to the expected second transit attempt are so important. Such cooperation would increase the expertise of Western organizations and institutions on the one hand and help manage the expectations (inflated in advance) of the Russian opposition on the other.



Description of Methodological Framework



Free Russia Foundation's Transition Project considers the issue of Russia's political transition post-Putin and the requirements for its successful reorientation toward democratic development.

Key Assumptions. Putin's policies characterized by intensifying international aggression and domestic authoritarianism have proven disastrous for Russia. Much of the economic and social progress achieved since the fall of the Soviet Union has been wiped out in a matter of months following Russia's heinous attack on Ukraine. Absent a complete overhaul, there are no factors that offer reasons for optimism. However, given the advanced age of the Russian autocrat, his ruthless practice of eliminating viable in-system contenders, lack of succession mechanisms, and the growing use of physical violence within his elites, **it is possible that in the near future, Putin's regime will end, creating an opportunity for Russia to change its course.**

Putin's approach to governance politically disenfranchises all but a handful of Putin cronies. Thus, **all Russian citizens, including the elite, become direct beneficiaries (and supporters) of a political transition to a less centralized and less monopolized system.** We observe that this realization is already there in Russia. Across all political groups within the country, there is already a broad and growing consensus on the need to decentralize Russia politically and break up economic monopolies. Even under authoritarianism, it is supported by popular politicians from all parties – of course, we are talking about those who have real popular support and are not appointed by United Russia – including the CPRF and LDPR: among them Nikolai Bondareno (ex-deputy of the Saratov Regional Duma), Elena Shuvalova (deputy of the Moscow City Duma), Sergei Furgal (ex-governor of Khabarovsk Krai), and others. This trend is particularly strong and noticeable at the local level.

The welfare and outlook for the Russian nation, as well as the interests of the global democratic community would be greatly improved if, in the aftermath of this transition, Russia reorients toward becoming a constructive and peaceful actor governed by the rule of law, as opposed to remaining a rogue unhinged pariah.

With this project, Free Russia Foundation has set out to develop a path, a blueprint to help realize this aspiration. The project has organized an in-

depth intellectual effort by civil society leaders to articulate a plan for a political transition toward democracy post-Putin, define key areas of reforms and their objectives, consider what specific contributions could be made toward this transformation by stakeholders and interest groups inside Russia as well as internationally, and engage the broader Russian civil society in refinement of these concepts and recommendations.

To limit uncertainty and make our plan more concrete and actionable, the project assumes the **transition taking place in the near future**, between 2023 and 2030.

The Existing Body of Knowledge. In the past decade, there have been a number of serious intellectual efforts to plan for a post-Putin transition, including:

- [After Putin. Scenarios](#) by Sergei Guriev, 2022;
- [EU's Relations with a Future Democratic Russia: A Strategy](#) by Andrius Kubilius, Vladimir Milov, Roland Freudenstein and Sergei Guriev, 2022;
- [The Reform Project](#) by Free Russia Foundation, a platform for discussing the necessary changes in Russian society;
- [Re:Russia](#) by Kirill Rogov, a project that reviews current expertise, new data and global discussion on the state of Russia and publishes its own analytics and research;
- [The Sanation of Law](#) project, launched by a group of Russian lawyers in 2017 and relaunched in 2023. The goal of the project is to analyze “harmful” Russian legislation and develop legislative initiatives to replace it;
- [Laboratory of the Future](#), a project of Novaya Gazeta that brings together Russian journalists, historians, sociologists and economists;
- **Alexei Navalny Publications**, including his 2017 [election program](#) and an [interview for Time magazine](#) after his arrest, in January 2022;
- [Russia After Putin. First Steps of the New Power](#), by Anders Aslund and Leonid Gozman, 2021;
- [Post-Putin Russia: Plan of Reforms](#) by the Institute of Modern Russia, 2016-2017;
- [Crimes and Reparations](#) by Konstantin Eggert, 2022; and many others.

Our project has evaluated many of the earlier and ongoing efforts considering Russia’s transition and, whenever appropriate, has built on their proposals and insights. We have reviewed how the key assumptions, scenarios and key elements may have changed due to the changes in the domestic

and international political environment introduced by Putin's full scale military aggression on Ukraine.

Key Questions. The project has sought to answer the following questions:

- What are the scenarios under which Russian transition toward democracy becomes possible?
- What can be done now to increase the likelihood of positive scenarios emerging?
- What would be the key components and phases of such a transition?
- How can the experience of post-Soviet transition be incorporated into the new plan?
- How to reach a political consensus on this transition?
- How to shore up the transition progress and prevent political backsliding?
- What contribution from within various groups of Russian society and internationally is critical to execution of such transition? How to secure their buy in and support?
- How to deconflict the agenda of a transition with the demands and expectations of the international community?
- How to reconcile the domestic political agenda of a blueprint with requirements for Russian reintegration into the international economy and political processes?

Sources of Research:

- data and expertise on the post-Soviet transition, dynamics of Russia under Putin, current status of the society and economy have been used for the production of Chapters 1, 2, 3, 4, 6, 10 and 11;
- statistics and data from Russian official sources and international sources have been used for the production of Chapters 1, 4, 6 and 12;
- opinion polling and electoral behavior data have informed Chapters 1, 10 and 11;
- expert discussions on interpretation of available data and ongoing developments are featured in Chapters 2, 3, 5 and 10;
- expert analysis of current environment is central to all of our chapters;
- examination of available materials and data on post-Soviet transitions and international reform efforts features prominently in Chapters 3, 8 and 12;
- iterative joint formulation of concepts and recommendations through

workshops, seminars with Reform experts, accelerator participants, resource center residents, FRF Fellows as well as formal written input from these groups have been incorporated into Chapters 1, 2, 3, 4, 5, 7, 8, and 10;

As part of this project, we have engaged over a hundred Russian historians, human rights activists, geographers, political scientists, conflict analysts, economists, media analysts, sociologists, and legal scholars with experience in research, teaching, and political activity in Russia, and who are currently in exile due to war and repression. Among them are theorists and practitioners with an insider's understanding of the principal elements of the past and current Russian government, as well as those who have been involved in the reforms after them for 30 years. About 20 of them became authors of chapters and legislative drafts; more than 30 appeared in public discussions online and at our Reform Space events, and about 15 of them reviewed chapter drafts and provided helpful critiques for improvement.

Our Unique Contributions. The project has developed 5 transition concepts, including: Return to Basic Freedoms (Chapter 4); Devolution of Power (Chapter 5); Decentralization of the Economy (Chapter 6); Establishing the Rule of Law (Chapter 7); Finding Russia at Peace with the World (Chapter 8). The project has also developed 5 legislation drafts enacting these concepts: The Constitution of the Russian Federation; Federal Law on Normative Legal Acts; The Criminal Code and the Code of Criminal Procedure; Electoral Legislation; Federal Law on Freedom of Information and Expression – all available in Appendix C along with explanatory notes.

The chapters were drafted, socialized and published sequentially from March 2023 through May 2024. All of them are available in the Russian and English languages. The reception and critique that we garnered with the release of each chapter informed formulation of concepts for the following chapters and the legislative drafts. While they were all produced by different experts, we sought to reconcile major contradictions and ensure consistency and a proper fit with the overall vision. In this process, the ideas of various experts and initiatives were systematically examined alongside others with similar focus, and the fruits of this exercise cross-pollinated the follow-on chapters, engaging Russian civil society in the process of co-creation and striking a mutually acceptable compromise. This iterative process in itself is exceptionally valuable – as venues or platforms for substantive discussion are not available in Putin's Russia of today.

In December 2023, FRF began hosting regular online and in-person discussions on the Transition Project concepts. With publications, discussions,

surveys and workshops, we progressively expanded the pool of discussants – from the initial two dozen or so experts, to a larger expert community, to thousands of residents of FRF Reform Space centers in Europe and online audiences inside Russia and globally.

Through dozens of online events, numerous offline events and about 200 publications in Russian and English, the Transition Project has involved over 500,000 individuals (with estimated 70% of them inside Russia) in a joint discussion of the plan to build a better, democratic Russia of the future. The rationale behind this approach was to build consensus among the people who want to change Russia in the right direction, including international stakeholders, and to mobilize them in a sustainable community of co-creators. During this period, we observed a considerable uptick in substantive debate on the issue.

On October 26, 2023, MEP Andrius Kubilius, the European Parliament’s permanent rapporteur on Russia, held a discussion in the European Parliament entitled “Victory Scenario: Ukraine’s Victory and Russia’s Refederalization,” where two authors of our project, Irina Busygina and Vladimir Milov, discussed their concepts of transition.

On November 16 and 17, 2023, the Wilson Center, the Institute of Modern Russia, and the Mikhail Khodorkovsky Foundation hosted a joint discussion on “The Russian Constitution and Democratic Transition.” Participants in the discussion included five authors of from our project – Ekaterina Mishina, Irina Alebastrova, Ilya Shablinsky, Elena Lukyanova, and Vasily Gatov.

Consideration of Russia without Putin resonated in the run-up to the March 2024 presidential elections in Russia and against the backdrop of the “sudden” tragic death of Alexei Navalny in Putin’s prison. In April, the European Parliament adopted a resolution calling on EU member states and the international community not to recognize the results of Russian elections as legitimate.

Public online discussion of “When Elites Unite with the Opposition,” organized just before the elections in Russia, focused on the necessary role of elites in the future democratization of the country. The discussion participants included Vasily Gatov and Vasily Zharkov, as well as sociologist Anna Kuleshova, political scientists Andrei Yakovlev and Boris Grozovsky.

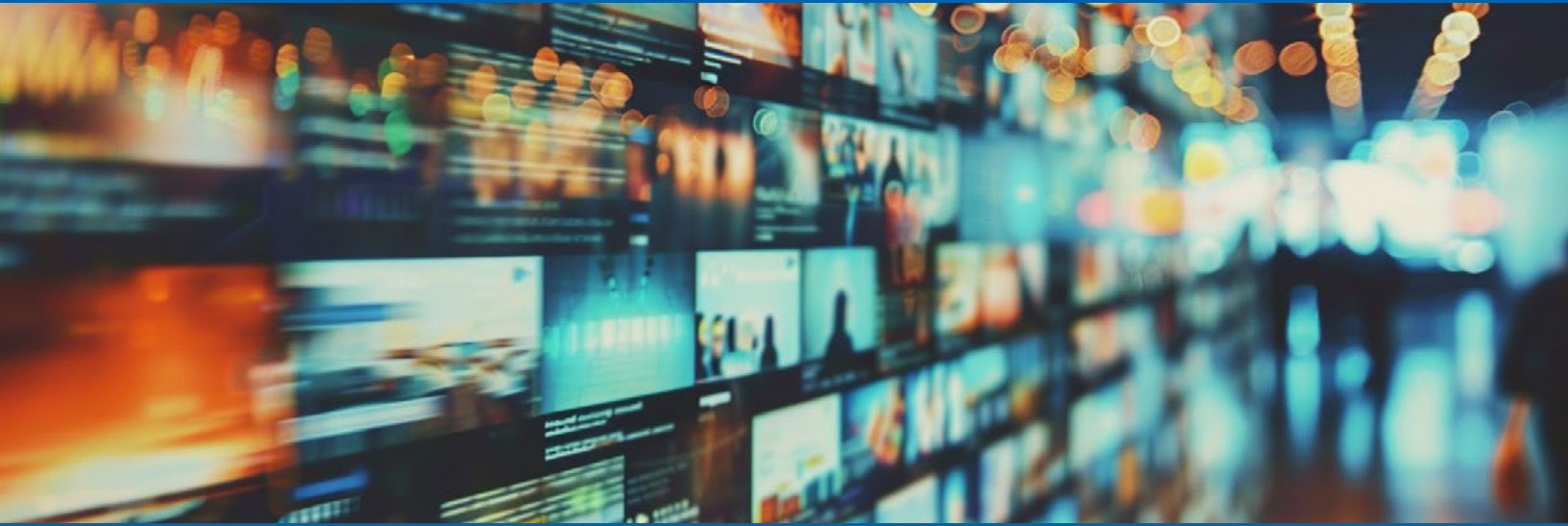
The Discussion “How to Restore and Protect Rights and Freedoms” focused on the chapters on restoring the rule of law, as well as freedom of the media and assembly in Russia. Legal scholars Ekaterina Mishina and Ilya Shablinsky, as well as journalist Dmitry Kolezev and human rights activist Denis Shedov, took part in this discussion.

Our panel on “How to Avoid Dictatorship after Putin” socialized concepts from “Devolution for Russia” – the most complex and comprehensive chapter of the project, which describes an overhaul of the entire system of power vertically and horizontally, approaches to completing the reforms, and ways to create a new system of incentives for the politicians of Russia of the future. The chapter was presented by its authors Irina Busygina and Mikhail Filippov.

Another exceptionally important goal of our effort was to improve the understanding among international institutions and governments of the steps and actions that they might consider to increase the likelihood of Russia reasserting a peaceful and democratic orientation post-Putin. On May 29, 2024, we hosted an online discussion on “Democratization of Russia: The Role of the West” conducted in English. It featured European Parliament member Sergei Lagodinsky, political scientist Sam Greene, USAID official Suren Avanesyan, and Roland Freudenstein, head of the Brussels office of Free Russia Foundation. Another discussion on the same topic is planned for June 5, 2024 at the United States Institute of Peace. The joint USIP-FRF “Russia Hands” session will include participation by US government officials, congressional staff, think tank experts, academics, and NGOs.

Despite all the work that has been done, more remains to do. The transition blueprint produced by Free Russia Foundation is envisioned as a living document and we expect that it will continue to evolve iteratively in response to the changing environment and the increasing knowledge and practical experience of its co-creators. We are certain that experts engaged in this project will be at the center of any real coalition-building during Russia’s transition. We hope that our blueprint will serve as a helpful frame of reference and point of departure in building consensus within a coalition that might well emerge in Russia post-Putin.

Appendix B



Selected Critiques

The objective for this project was not only to produce a Transition Plan, but to engage in that process as many Russian experts and practitioners as possible, and, ultimately, mobilize the broader Russian civil society in this co-creation.

Over 20 experts formulated original concepts and legislative drafts. The circle of contributors gradually expanded throughout the project through workshops, discussions and critiques.

Given such an approach, we had anticipated having to reconcile serious contradictions among the concepts and ideas advanced by various authors in order to incorporate them into one comprehensive plan. To our great surprise, no major contradiction among concepts emerged in the course of this project. In fact, we have observed that a **basic consensus already exists among the leaders of Russian civil society** on changes they would like to see in Russia and ways to realize them. The essence of that consensus is outlined in Chapter 1. This is a remarkable development and a cause for optimism.

Likewise, the legal experts engaged by this project to create legislative drafts (included in Appendix C) found themselves in complete alignment with the concepts and plans articulated in the Chapters. The draft law on media from the Appendix is consistent with *Chapter 4: Transition Concept: Return to Basic Freedoms*. The assumptions and vignettes from the *Scenarios* chapter support the theses of *Chapter 10 on Power Coalitions: Approaches and Likely Composition*; *Chapter 11 discussing Securing Support and Buy-In from the Russian People*; and *Chapter 3: Lessons Learned: Post-Soviet Experience and Russia's Recent Track Record*.

The authors of the Amendments to the Basic Law and the authors of *Chapter 5: Transition Concept: Devolution of Power* generally agreed with the sequence of transformations envisioned by Vasily Gatov in *Chapter 9: Transition Phasing: The Importance of Timing*. They did point out the need for a deeper discussion of “black swans” and discussed the main factors that can obstruct transformation and the methods that can help mitigate such obstacles.

Over the year and a half of the project, Free Russia Foundation held more than 10 online discussions of the chapters and their concept – engaging an audience of at least 500,000 people (with an estimated 70% of them inside Russia). We also invited critiques and comments from the audience and conducted 7 online polls dealing with various aspects of our Transition plan. While our polling sample cannot claim to be statistically representative of the Russian population, given current conditions, some of the polling results are nevertheless illuminating.

The first poll asked whether respondents believe in the possibility of transition in Russia within ten years. 61% of participants said that they believe they do – which is quite consistent with the position of the authors of Chapter 2 on the transit scenarios that give Putin’s system a maximum of 10 years. The 39% who do not harbor faith in change may arguably be interpreted as the manifestation of political apathy discussed in Chapters 10 and 11.

The second survey dealt with the issue of lustration: respondents expressed views much more radical than the project experts, with more than half saying that lustration should affect not just individuals apparently implicated in crimes, but entire institutions. The experts of the Transition Project, on the other hand, were a lot more nuanced. Based on the experience of democratization in other countries, including in the post-Soviet space, they emphasized the necessity of compromises with the current power actors utilizing other incentives as the sine qua non for successful reform of the power system. Moreover, our authors warn that political and social sidelining or even prosecution of millions of law enforcement agents, judges and others would weaken the support for the reform movement and its methods and would further splinter the society already fractured by the war. The prospect of having to find ways and formats for working with Putin’s officials and bureaucrats directly or indirectly implicated in the regime’s crimes is concerning to the Western decision makers as well – this was one of the issues raised during our discussion of the Role of the West in Russia’s Transition.

When asked about the degree to which citizens would aspire to have influence over decision-making, more than two-thirds of respondents expressed the desire to influence the course of the country as a whole and of the development of its legislation. This is encouraging and quite consistent with the theses of Chapters 5, which speaks about the importance of building a system of transfer of powers from the bottom to the top, as well as with ideas from Chapters 10 and 11.

Moreover, 83% of participants in another survey preferred a multi-party system that offers people a real political choice rather than a monolithic government along the lines of Putin’s “power vertical,” no matter how well-meaning and concerned with people’s well-being. We discuss the importance of parties and the development of broad representation for the sustainable democratization of the country in Chapters 1, 2, and 5.

58% of the respondents prioritized judicial and police reform as the most important (with anti-corruption changes following in priority). This confirms the presence of a strong demand for reassertion of rights, freedoms and justice

articulated throughout our chapters.

Finally, asked what is needed more – reforms in the economy, politics, and social sphere or a new president, 71% chose the first option. This underscores a broad understanding that Russia's problems require a systemic overhaul and do not have a magic solution even when there is a change in the government.

FRF online discussions have generated several thousand comments. We would categorize them as sketched below:

The first category, the biggest one, features expressions of gratitude, thanking the experts for raising the topic of the future in a balanced and respectful manner with the citizens of Russia. "It is precisely such written plans, visions, programs and their discussions that give us a chance to rebuild the country!", "A very constructive, mature, serious vision of Russia's future." "Finally someone is thinking deeply and concretely about the future our children need." "I would like to live to better times and not be disappointed in the people on whom we place our hope. May they be out there, alive, healthy, with a desire to spread goodness, common sense, justice and mercy." "You give great hope to people who have lost it. This government will not last long, it is necessary to convince and support the weak in spirit."

The second category embraces the skeptics: "It will take decades before any civilized political process is established in Russia." "The real problem is the 'ordinary voters'. Even the experience of an ordinary HOA shows that people are not ready to think about voting (and most people don't care about any election). In the end, it will be the power-hungry loudmouths or the criminal contingent that will win, as it was in the 90s and later."

The third category boils down to the outright pessimists: "There is a need for decentralization but no prospects." "It is hard to shrug off the idea that in the current realities one may not live to see the day of "D+1"..."

A separate group of comments concerned the lack of specificity in the vision of future transformations – in response to the discussion of the "Normal Russia of the Future" manifesto published by Vladimir Milov and Fyodor Krashenninikov summarizing the ideas from the project's inaugural workshop. We hope that our final published report offers a satisfactory response to this demand for specifics – as a solid base for a sustained and expanding conversation and further refinement of concepts and plans.

An online discussion of *Chapter 12: The Role of International Organizations*, which included a Member of the EU Parliament Sergei Lagodinsky, USAID Advisor Suren Avanesyan, CEPA Director for Democratic Resilience Sam Greene, and

Roland Freudenstein, Head of the Brussels office of Free Russia Foundation – merits a special mention. The chapter delineates the main challenges the West would face after Putin’s departure: the impetus to demand the release of political prisoners and the lifting of illegal restrictions on political participation on the grounds of “foreign agency,” treatment of persons with dual citizenship, and so on.

Dr. Greene suggested creating a list of specific demands for Russia, after the fulfillment of which some of the Western sanctions can be eased, but also stressed the need for the West to make decisions based not on a vision of a radiant future, but in direct response to the specific actions of the future Russian government.

“There are going to be a lot of people out there very loudly telling us exactly how we should understand what’s happening as it’s happening. We need to be very careful about that. One of the biggest mistakes of the 90s and the early 2000s is that we let the conversation about Russia really be dominated by portfolio managers who were selling stories in order to sell stocks. Almost any configuration of a post-Putin and a post-war Russian regime is going to want to open up the flow of capital from the West again. We don’t let the process be dominated by those people who have a stake in the decisions that we make. And we need to be very careful about keeping our eye on the ball, not allowing ourselves to give away the game too early in return for certain kinds of liberalization and certain kinds of normalization without moves that really get to the fundamental nature of how power operates in Russia. I cannot see Russia making genuine progress towards democratization without federalism.”

Simple solutions are not suitable for Russia’s longstanding deep-seated problems; releasing prisoners does not mean democratization, agrees Suren Avanesyan. Russia will need deep structural transformation, and must abandon its imperial bent. This is a collective task for Ukrainian society and Russian society and Moldovan and Belarusian and Armenian and Georgian society working together, and the West can only be there at the right time, with the right level of support.

Appendix C



Legislative Drafts

The Constitution of the Russian Federation

Explanatory Note 1

To the Draft Amendments to the 1993 Constitution of the Russian Federation in its Original Version

I.G. Shablinsky, Professor of Law

I.A. Alebastrova, Professor of Law

E.A. Mishina, Ph.D in Law, Counselor of Justice, I Class

When the time comes for change in Russia and the abandonment of the legacy of Vladimir Putin's personalist regime, the country should not find itself in a legal and constitutional vacuum. Realizing that the future Russia, which will sooner or later return to the path of democratic transformation, will certainly need a new Constitution, we nevertheless believe that the drafting of a new Basic Law of the country should not be rushed. We believe that at the first stage it will be possible to retain the original version of the Constitution of the Russian Federation of 1993, subject to a number of amendments.

This draft law was designed to improve the original design of the Constitution based on an analysis of its text and constitutional enforcement over the past 30 years. In order to build a new prosperous democratic Russia, it is necessary to lay a proper foundation in accordance with a number of key principles formulated by the experts — authors of a collective monograph dedicated to the specifics of Russia's transition to peace, democracy and prosperity. Optimization of the original text of the Russian Constitution should be carried out taking into account, first of all, such principles as the transfer of some powers from the president to the parliament¹, the creation of a real, not nominal federation, the subjects of which will have real powers, the need to enshrine at the constitutional level guarantees to prevent the possibility of revival of a personalist regime in Russia², the enshrinement at the constitutional level of effective guarantees of the institutional independence of the judiciary

1 A similar constitutional solution has already been used to democratize the form of government in such post-Soviet states as Ukraine, Georgia, Kyrgyzstan, and Moldova.

2 Instead of the term "regime of personal power" we use the term "personalist regime", which is actively used in works on constitutional law of Russia after the publication of M.A. Krasnov's monograph "Personalist regime in Russia: experience of institutional analysis", Moscow, Liberal Mission, 2006.

in Russia and decisional independence of judges.

In drafting this bill, we tried to take into account the flaws in the original constitutional design, which made possible the steady increase of authoritarian tendencies and the establishment of a de facto totalitarian regime in Russia, under which the rights and freedoms of citizens enshrined in the Constitution are openly abused and violated, opposition figures, political parties and public organizations are persecuted and banned, an aggressive foreign policy and repressive domestic policy are pursued, and the foundations of the state and civil society are formed. The shortcomings of the 1993 Constitution have long been pointed out by the most prominent Russian legal scholars. Back in the late 1990s, Corresponding Member of the Russian Academy of Sciences V.S. Nersesyants wrote: *“The system of separation and interaction of powers is asymmetric and unbalanced in general — with a clear bias in favor of the powers of the President and his dominant role in solving state affairs, with obvious weaknesses of other branches of power in their correlation with the presidential power.”*³ Both Nersesyants and later O.E. Kutafin⁴, M.A. Krasnov and I.G. Shablinsky⁵ noted that the 1993 Constitution created a special institution of presidential power, not included in the classical triad (legislative, executive, judicial power) and sitting above all other branches of power. Moreover: as the Chief Justice of the Constitutional Court of the Russian Federation V.D. Zorkin and L.V. Lazarev point out in the Commentary to the Constitution of Russia, the Russian president is de jure and de facto “present” in all powers⁶.

The constitutional amendments proposed in this draft law are intended not only to correct the defects of the original text of the Constitution, but also to prevent as much as possible the risks of a repetition of authoritarian tendencies and accumulation of power in a single pair of hands. The Venice Commission notes that In a country with a presidential (or sometimes semi-presidential) system, power tends to be concentrated on the President, while that of the Legislature or the Judiciary is relatively weaker. Therefore, the regular change of regime through the process of election is the very method to prevent too strong a concentration of powers in the hands of the President.”⁷

3 Problems of the General Theory of State and Law (edited by V.S. Nersesyants). Moscow, Norma, 1999, PP. 688-690.

4 O.E. Kutafin. Russian constitutionalism. Norma, 2008.

5 M.A. Krasnov, I.G. Shablinsky. Russian system of power: a triangle with one corner. Moscow, Institute of Law and Public Policy, 2008.

6 Commentary to Article 80 of the Constitution of the Russian Federation 1993, edited by V.D.Zorkin, L.V.Lazarev, <https://kommentarii.org/konstituc/index.html>.

7 Opinion on the Draft Amendments to the Constitution of the Republic of Azerbaijan (adopted by the

One of the key proposed changes is a change in the form of government, which includes a significant narrowing of the scope of the president's powers and a change in the political significance of this institution, including the exclusion of powers related to appointing the Government and determining the directions of its activities. It is also necessary to remove from the constitutional text the power of the president to determine the guidelines of domestic and foreign policy of the state, which is absolutely Soviet in essence. This power not only contradicts the principle of separation of powers, but also gives the president the right to dictate his will to the other branches of power without control. We also considered it necessary to get rid of the phrase "guarantor of the Constitution," which, in fact, puts the President above the Basic Law of the country.

It is necessary to change the grounds for initiating impeachment proceedings against the President of the Russian Federation. In addition to committing such criminally punishable acts as high treason and other especially grave and grave crimes, violation of the Constitution should be specified as a ground for initiating impeachment proceedings. Actions or failures to act of the President contrary to the provisions of the Basic Law of the country are incompatible with his stay in the highest state position. The relevant provisions of Article 68 of the French Constitution of 1958 and the Organic Law of 2014, as well as the wording of Part 2 of Article 73 of the Constitution of Kyrgyzstan of 2021 can be used as a reference point⁸.

As for the regulation of federal relations, we propose as priority measures the establishment of competing competence on the matters of joint jurisdiction of the Russian Federation and the subjects of the Russian Federation, the introduction of the institution of federal intervention. It seems necessary to establish a moratorium on the admission of new subjects to the Russian Federation for the initial period.

It is proposed to envisage the representative nature of the upper house of parliament (the Federation Council), whose members will be elected by the population of the respective constituent entity of the Russian Federation (two representatives from each constituent entity) on the basis of direct and equal elections. The lower house will be given a key role in selecting candidates for the position of the head of the Russian Government; new important powers will be the introduction of the institution of interpellation, the submission to the upper house of five candidates for the positions of Justices of the Constitutional Court

Venice Commission on March 13-14, 2009).

8 "The President may be removed from office for violating the Constitution and laws, as well as for unlawful interference in the powers of Parliament and the activities of the judiciary."

of the Russian Federation, and presenting of a candidate for the appointment of the State Human Rights Defender of Russia to the president.

One of the greatest achievements of the authors of the 1993 Constitution was the enshrinement in its text of the supremacy of international law — the most important constitutional principle, which has been repeatedly violated by lawmaking and law enforcement in recent years. What has happened has clearly demonstrated an essential defect of the Russian normative-legal design — the absence of an established term for consideration by the lower house of parliament of draft federal laws on ratification of international treaties of the Russian Federation. There is also no mechanism to influence the State Duma in order to accelerate the consideration and adoption of such draft laws. Taking into account the existing negative practice of delaying the procedure of consideration of such draft laws by the lower chamber, we propose to establish in the Rules of Procedure of the State Duma of the Federal Assembly of the Russian Federation the procedure for consideration and adoption of draft federal laws on ratification of international treaties of the Russian Federation, which differs from the procedure established for other draft laws, and to provide for a specific period of consideration and adoption of draft federal laws on ratification of international treaties of the Russian Federation.

We suggest to include the issues of domestic policy in the competence of the Government, the Chairman of which will be appointed by the President on the proposal of the State Duma. The norms that have made relations between the President and the Government take on the format of suzerainty-vassalage relations⁹, will be excluded from the text of the Constitution. The legal requirement for counter-signature by the Chairman of the Government to the President's signature when he signs federal laws and federal constitutional laws will be introduced.

The amendments to the chapter "Judicial Power" will radically change the system of selection of candidates for judicial positions and the procedure for the appointment of judges. A new constitutional body, the Supreme Judicial Council, will be established to ensure the selection and appointment of judges, guarantee the independence of the judiciary and exercise judicial self-governance. The President, the State Duma and the Supreme Judicial Council will each propose five candidates for appointment as Justices of the Constitutional Court of the Russian Federation by the Federation Council. Judges of the Supreme Court

9 This analogy is repeatedly used by M.A.Krasnov and I.G.Shablinsky in the book "Russian system of power: a triangle with one corner", Moscow, 2008.

and the Higher Arbitrazh Court of the Russian Federation will be appointed by the upper chamber upon nomination by the Supreme Judicial Council. Judges of other federal courts will be appointed by the Supreme Judicial Council. It is proposed to increase the minimum age of candidates for judicial positions to 30 years, and the minimum length of service in the legal profession to 7 years. It is also proposed to enshrine at the constitutional level the lifetime tenure of judges. The powers of a judge may be terminated only through impeachment, which shall be initiated by the Supreme Judicial Council, having concluded that there are sufficient grounds for initiating proceedings to terminate the powers of a judge. The list of grounds for initiating this procedure shall be set forth in a federal law.

Explanatory Note 2 (detailed) to the Draft Amendments to the 1993 Constitution of the Russian Federation in its Original Version

I.G. Shablinsky, Professor of Law

I.A. Alebastrova, Professor of Law

E.A. Mishina, Ph.D. in Law, Counselor of Justice, I Class

This note explains the meaning of the amendments to specific norms of the 1993 Constitution of the Russian Federation. It should be emphasized that we suggest to review the original text of the Constitution that was approved by referendum on December 12, 1993.

A special remark is necessary regarding the changes made to the text of the Constitution in 2020. We should proceed from the assumption that all these changes were purely arbitrary and had the sole purpose to serve as a window-dressing for abolition of the restriction on V. Putin to hold the office of the President of the Russian Federation for no more than two consecutive terms.

We must decide as a matter of principle that these decorative changes, which are a manifestation of political whims under the conditions of the emerging authoritarian (neo-totalitarian) regime, should not be taken into account by us. The question (partially hygienic) of their complete exclusion from the constitutional text must ultimately be decided by the parliament elected in free and fair elections.

As for the constitutional amendments of 2008 and 2013, which were also driven by corporate political self-interest and were also introduced through political manipulation (ensuring, in particular, the complete dominance of one political party in the legislative assemblies of 2/3 of all constituent entities of the Russian Federation), it will still be necessary to make a special mention of them. Their exclusion, at least, deserves a brief justification.

Common normative regulatory goals of the recommended amendments to Chapters 4 through 7 should be recognized as follows.

1. Exclusion from the President's competence of the powers related to the appointment of the Government and determination of the directions of its

activity.

In our opinion, only in the event that the State Duma itself fails to agree on a candidate for the position of prime minister within the established period of time, it is possible to give the President the right to propose to the chamber a candidate for the position of head of government.

2. Vesting the State Duma with appropriate powers related to the formation of a government that reflects the positions of the parliamentary majority

3. Exclusion from the competence of the President of general powers (which pave the way to arbitrariness), as well as powers related to the appointment of the Prosecutor General. Limiting the President's competence with regard to the Constitutional Court to the right to nominate five Justices .

4. Establishment of a new state body that selects and appoints judges and ensures self-governance of the judicial community - the Supreme Judicial Council.

5. It is proposed to form the Constitutional Court by submitting to the Federation Council candidates for the positions of Justices by three state bodies — the President, the State Duma and the Supreme Judicial Council — 5 candidates from each body.

Explanation of specific articles.

1. The following amendment to Article 80(2) is proposed: “2. The President of the Russian Federation shall, within the limits of his powers, ensure observance of human and civil rights and freedoms. In accordance with the procedure established by the Constitution of the Russian Federation, he shall take measures to protect the sovereignty of the Russian Federation, its independence and State integrity, and shall ensure the coordinated functioning and interaction of the bodies of State power.”

Rationale. The President cannot have the status of a sole guarantor of the Constitution. Its collective guarantor must be all the highest authorities of the Russian Federation, but above all the highest judicial bodies.

2. Article 80 part 3. It is necessary to exclude the provision stipulating that
3. The President of the Russian Federation in accordance with the Constitution of the Russian Federation and federal laws shall determine the guidelines of domestic and foreign policy of the state.

Rationale. The President cannot single-handedly determine the guidelines

of domestic and foreign policy of the state. The dispute about this arose as early as in October 1993 when the wording of this article was being discussed. T. Morshchakova and B. Topornin convinced S. Filatov that the elaboration of such guidelines could only be the subject of a joint discussion between the Chambers of Parliament and the Head of State. However, their arguments were not heard.

3. Amendments are proposed to Part 1 of Article 81, according to which “the President of the Russian Federation shall be elected for a term of six years by the citizens of the Russian Federation on the basis of universal, equal and direct suffrage by secret ballot”. Taking into account a possible change in the form of government, it is possible to change the procedure for vesting powers in the President. If direct elections of the President will be eliminated, the following option may be proposed:

“The President of the Russian Federation shall be elected by an electoral college formed by deputies of the State Duma, senators¹⁰, as well as representatives of the legislative authorities of the constituent entities of the Russian Federation — two representatives from each legislative authority. The procedure for the election of the President of the Russian Federation by the electoral college shall be determined by federal law.” If this option of vesting powers in the President is adopted, part 4 of Article 81 should be deleted.

4. Part 3 of Article 81 shall be amended as follows: “The same person may not hold the office of President of the Russian Federation for more than two terms.”

Rationale. The current wording of this Article excludes the word “consecutive,” and there are no objections to this wording. Political practice has shown that a person who has held the above-mentioned office twice in a row can later, having missed one term, hold this office again and, using the whole arsenal of administrative, political and power means, can try to make his rule indefinite. In the history of the United States, there was only one case when a person who held the presidential office twice sought to become a presidential candidate again four years later (Theodore Roosevelt, who initially assumed the presidency upon assassination of President McKinley and then was elected to a full term). But this practice is incomparable to the Russian practice for the reason that the person concerned in the Russian Federation has secured for himself

¹⁰ Since 2020, members of the upper house of Russian federal legislature are referred to as “senators” (Art. 95 p. 2 of the Constitution of the Russian federation as amended in 2020).

unconditional administrative, political and financial advantages by seeking to occupy the desired position for the third time.

We believe this limitation should be retained, despite the fact that the scope of presidential powers may be seriously limited compared to the current version of the Constitution.

5. While making up the list of powers of the President of the Russian Federation, it should be taken into account that 1) a number of powers concentrated in the hands of the head of state in the previous period led the country to a de facto full-scale encroachment upon human rights and freedoms, a new form of despotism and 2) the form of government being established implies a leading role of the chambers of Parliament in appointing the Government and controlling its activities.

In this regard, the relevant content of Articles 82, 83, 84, 86 of the Constitution of the Russian Federation is proposed.

6. It is proposed that paragraphs 1 and 2 of article 85 be deleted.

Rationale. The norm on the right of the head of state to carry out conciliation procedures to resolve disagreements between bodies of state power turned out to be stillborn. None of the Russian presidents has ever resolved any disagreements. Such disagreements were usually resolved by the agencies themselves, or these problems were of no importance at all. The power to resolve competence disputes still remains in the competence of the Constitutional Court — there have been two such disputes in 30 years (2).

In our opinion, the right of the President to suspend acts of executive authorities of the subjects of the Russian Federation contradicts the principle of federalism. These issues should be resolved through judicial procedure, which is what this article provides for.

7. The draft amendments imply elimination of Article 88, according to which, “the President of the Russian Federation shall, under appropriate circumstances and in accordance with the procedure provided for by federal constitutional law, declare a state of emergency on the territory of the Russian Federation or in certain of its localities, with immediate notification thereof to the Federation Council and the State Duma”.

Rationale. In view of the change of the form of government, under which the Government and its Chairman should play the main role in the conduct of domestic policy, the function of declaring a state of emergency on the territory of the Russian Federation or in certain parts thereof should be transferred to the Government.

8. It is recommended to eliminate part 2 of Article 90, according to which “decrees and orders of the President of the Russian Federation shall be binding on the entire territory of the Russian Federation.”

Rationale. This norm correlates with the provisions according to which the President determines the guidelines of domestic and foreign policy and is the de facto head of the executive branch. In this situation, decrees may, in fact, substitute for laws. If we change the form of government, transferring the entirety of executive power to the Government formed by the majority of the State Duma, then the situation when the President issues decrees binding on the entire territory of the country is excluded.

9. It is proposed to amend Article 95, paragraph 2, according to which, “The Federation Council shall include two representatives from each constituent entity of the Russian Federation: one each from the representative and executive bodies of state power.”

Instead of this wording, the following is proposed: “The Federation Council shall consist of two representatives (senators) from each constituent entity of the Russian Federation elected by the population of the relevant constituent entity of the Russian Federation on the basis of direct and equal elections by secret ballot.”

Rationale. Various options based on the current norm on formation of the Federation Council have shown that any form of appointment, any means of empowering the members of the chamber that are not direct elections make them dependent, both administratively and politically, on the state bodies that delegate them, but even more precisely, on specific political or lobbying groups. The political subjectivity of the Federation Council and the legitimacy of its members can be ensured only if its members receive their mandates directly from voters and are accountable only to them. We would recommend keeping the term “senators” used in the current version, as historically it is associated with the relations of senates (in various states), which provide examples of political independence and subjectivity. Psychologically, it looks like the representatives of regional elites really like this term.

10. It is proposed to replace the words “decree of the President of the Russian Federation” with the words “resolution of the Government of the Russian Federation.”

Rationale. Due to the change in the form of government, domestic policy issues should fall within the competence of the Government of the Russian Federation. Thus, it is the Government, not the Presidential Administration,

that should decide whether it is appropriate to declare a state of emergency in various localities of the Russian Federation.

11. An amendment is proposed to Article 102, paragraph 1, item “h”, according to which the Federation Council is responsible for “appointing and dismissing the Prosecutor General of the Russian Federation and Deputy Prosecutors General of the Russian Federation.” It is proposed to delete the words “and Deputy Prosecutors General of the Russian Federation.”

Rationale. This wording of the norm appeared after the amendment that came into force on February 6, 2014. Prior to that, the Federation Council appointed the Prosecutor General of the Russian Federation, who himself appointed his deputies. The new wording, which authorized the Federation Council to appoint also the Deputy Prosecutor General — upon the President’s proposal, was due to the President’s desire to further strengthen his personal control over the Prosecutor General’s Office, depriving the Prosecutor General of the opportunity to select his deputies. They were also — judging by the concept of this amendment — supposed to feel obliged to the head of state. All of this was aimed at establishing Putin’s comprehensive personal control over the power bloc. This norm had no other constitutional and legal meaning.

12. A new scheme for the appointment of the Chairman of the Government is proposed. Initially, it is the State Duma that proposes to the President a candidate for this position.

This norm is the most important element of the new form of government. The State Duma should play the main role in selecting candidates for the position of the head of government. The Duma’s parliamentary factions must be in charge of working out an appropriate decision. The leading role here should probably belong to the factions (parties) that control the majority in the chamber.

In our opinion, this process should be reflected in more detail in the norms of the Constitution. It is more feasible to envisage it in the Rules of Procedure of the Chamber.

The President must appoint the proposed person immediately.

But if the State Duma has not been able to reach an opinion on a candidate within two weeks, i.e. no candidate has been able to gain more than half of the votes of deputies, the President gets the right to propose his candidacy for the said position. The possibility of transferring the right to propose such an initiative from the head of state to the chamber (and vice versa) is provided for in the basic laws of some states. The Chamber may accept the President’s proposal or reject it. In case of rejection, the chamber has two more weeks to

make another attempt to nominate a candidate for the position of the Chairman of the Government.

If after that the State Duma does not submit to the President within two weeks a candidate for the post of Chairman of the Government, the President shall dissolve the State Duma and call for new elections.

13. It is proposed to replace the current provision according to which the State Duma is responsible for “appointing and dismissing the Commissioner for Human Rights acting in accordance with federal constitutional law” with the following provision “submits to the President of the Russian Federation a candidate for appointment as State Human Rights Defender of Russia.”

Rationale. The candidacy of the State Human Rights Defender should not be dependent solely on a particular party majority in the State Duma. It should in any case be the result of coordination between different political forces or institutions — in this case, between the majority of the chamber and the President. In practice, even now the candidacy of the Commissioner for Human Rights is agreed upon between the Presidential Administration (which, truth be told, plays a decisive role here, although formally the President has nothing to do with this process) and the State Duma factions. In any case, we believe it would be advisable to make this institution an element of the mechanism of checks and balances.

14. Submission by the President of five candidates for the positions of Justices of the Constitutional Court to the Council of the Federation.

Rationale. It seems that the Constitutional Court should be formed not in the presidential administration (as it is now), where the main criterion in selection of candidates is complete political loyalty to the head of state personally, but by various government institutions, which could be guided primarily by the qualifications and experience of candidates. Justices may have different views to a certain extent, but, in any case, they should not feel obliged to one institution, one “patron”. In this regard, it seems that the President, the State Duma and the Supreme Judicial Council, which will be mentioned below in the section “Judicial Power,” should have the right to nominate Justices of the Constitutional Court.

15. The Chairman of the Government of the Russian Federation may bring before the State Duma the question of confidence in the Government of the Russian Federation. If the State Duma refuses confidence, the Government shall resign. In the event of resignation or relinquish of power, the Government of the Russian Federation shall continue to act on the instructions of the President of the Russian Federation until a new Government of the Russian Federation is

formed.

Rationale: taking into account the change of the form of government and the Government's accountability to the State Duma, the norms implying the President's control over the Government should be excluded.

16. It is proposed to add part 4 to article 118: "The Supreme Judicial Council shall ensure the selection and appointment of judges, guarantee the independence of the judiciary, and exercise judicial self-government."

The Supreme Judicial Council shall be composed of persons with impeccable reputation and significant legal experience in bodies of state power and educational institutions. The procedure of formation of the Supreme Judicial Council shall be established by federal law.

The main purpose of the new institution is to ensure an appropriate level of independence of the judiciary from the executive branch. At present, selection of candidates for federal judgeships is actually done in the Presidential Administration, where candidates are required, first and foremost, to be fully politically loyal, turning a blind eye (if necessary) to their lack of experience or lack of an unblemished reputation. The Supreme Judicial Council should become an independent subject of political relations and select candidates for federal judges and Justices of the Constitutional Court on the basis of their professional qualities and experience.

Law on Amendments to the Constitution of the Russian Federation

I.G. Shablinsky, Professor of Law

I.A. Alebastrova, Professor of Law

E.A. Mishina, Ph.D. in Law, Counselor of Justice, I class

I. Proposed amendments to Chapter 4 of the Constitution of the Russian Federation (“The President of the Russian Federation”)

1. In part 2 of Article 80, the words “is the guarantor of the Constitution of the Russian Federation” shall be replaced by the words “within the limits of his powers ensures compliance with.”

2. Paragraph 3 of the article shall be deleted.

3. In Part 1 of Article 81, the words “The President of the Russian Federation shall be elected for a term of six years by citizens of the Russian Federation on the basis of universal equal and direct suffrage by secret ballot” shall be replaced by the words “The President of the Russian Federation shall be elected by an electoral college formed by deputies of the State Duma, senators, and representatives of the legislative bodies of the constituent entities of the Russian Federation — two representatives from each legislative body. The procedure for the election of the President of the Russian Federation by the electoral college shall be determined by federal law.”

4. Paragraph 4 of Article 81 shall be deleted.

5. Part 3 of Article 81 shall be amended as follows: “The same person may not hold the office of President of the Russian Federation for more than two terms.”

6. In the second paragraph of Part 1 of Article 82, the words “human and civil rights and freedoms” should be supplemented with the words “as the highest constitutional value.”

7. Part 2 of Article 82 shall be amended as follows: “2. The oath shall be taken in a solemn atmosphere in the presence of senators, deputies of the State Duma, Justices of the Constitutional Court of the Russian Federation, members of the Supreme Judicial Council.”

8. In Article 83, after the words “President of the Russian Federation,” insert paragraphs a), b), c) and d) in the following wording:

“a) appoints the Chairman of the Government of the Russian Federation on the proposal of the State Duma;

b) in case the State Duma does not submit a proposal on the candidacy of the Chairman of the Government within the term stipulated in paragraph “a” of part 1 of Article 103 of the Constitution, he may, within 10 days, submit a proposal on the candidacy of the Chairman of the Government in order to obtain the consent of the State Duma;

c) in the event that the State Duma rejects the candidate referred to in paragraph b) of this Article and within 14 days thereafter fails to submit to the President a candidate for the position of the Chairman of the Government, the President shall dissolve the State Duma and call for new elections;

d) on the proposal of the Chairman of the Government, appoints and accepts the resignation of federal ministers;

e) accepts the resignation of the Chairman of the Government.

Amend paragraph f) to read as follows:

“f) submits to the State Duma a candidate for the position of the Chairman of the Central Bank of the Russian Federation; raises before the State Duma the issue of dismissal of the Chairman of the Central Bank of the Russian Federation.”

Amend paragraph g) to read as follows:

“g) submits to the Federation Council candidates for the positions of five Justices of the Constitutional Court of the Russian Federation.”

Amend paragraphs h), i) and k) to read as follows:

“h) appoints and dismisses the State Human Rights Defender of Russia in accordance with the procedure provided for in this Constitution;

i) Forms the apparatus of the President of the Russian Federation;

k) appoints and dismisses plenipotentiary representatives of the President of the Russian Federation.”

9. In Article 84, after the words “President of the Russian Federation,” insert paragraphs a) and c) in the following wording:

a) Schedules the elections of the Federation Council and the State Duma;

c) signs and promulgates laws on amendments to the Constitution of the

Russian Federation; sign, with the counter-signature of the Chairman of the Government, and promulgate federal and federal constitutional laws;

10. Article 85 shall be deleted.

11. In Article 86, after the words “President of the Russian Federation,” insert paragraphs a), b), c) and d) in the following wording:

“a) negotiates and signs international treaties of the Russian Federation; entrusts officials to negotiate and sign international treaties;

b) signs the instruments of ratification;

c) accepts credentials and letters of credence of diplomatic representatives accredited to it;

d) appoints and recalls, after consultation with the relevant committees and commissions of the State Duma, diplomatic representatives of Russia in foreign states and international organizations;”

12. In Article 87, the words “President of the Russian Federation” shall be supplemented with the words “on the proposal of the Chairman of the Government.”

13. Article 88 shall be deleted.

14. In Article 89, after the words “President of the Russian Federation”, paragraphs a), b), c), d), e), f) shall be revised as follows:

“a) resolves questions on admission to citizenship and renunciation of citizenship of the Russian Federation, on granting political asylum;

b) awards state awards of the Russian Federation; confer honorary titles of the Russian Federation;

c) pardons;

d) establishes military and special ranks, appoints and dismisses the supreme command of the Armed Forces of Russia; assigns the highest military and highest special ranks;

e) assigns the highest class ranks and the highest qualification ranks of the public service;

f) Exercises other powers established by this Constitution.”

15. Paragraph 2 of Article 90 shall be deleted.

16. Part 3 of Article 90 shall be amended as follows: “3. Decrees and orders of the President shall be adopted exclusively in connection with the exercise of his powers established by the Constitution of the Russian Federation. They

shall comply with the Constitution of the Russian Federation and federal laws.”

17. In part 3 of Article 92, delete the words “to schedule a referendum, as well as to make proposals for amendments and revision of provisions of the Constitution of the Russian Federation.”

18. In part 1 of Article 93, delete the words “and the Opinion of the Constitutional Court of the Russian Federation on compliance with the established procedure for bringing charges.”

19. Part 1 of Article 93 shall read as follows:

“1. The President of the Russian Federation may be removed from office by the Federation Council only on the basis of an accusation put forward by the State Duma of violating the Constitution of the Russian Federation or committing a grave or especially grave crime.

A violation of the Constitution of the Russian Federation must be established by the Constitutional Court of the Russian Federation.

The commission of a grave or especially grave crime shall be confirmed by the Opinion of the Supreme Court of the Russian Federation on the presence of signs of a crime in the actions of the President of the Russian Federation.”

20. In part 3 of article 93, the word “three months” shall be replaced by the word “six months.”

II. Proposed amendments to Chapter 5 of the Constitution of the Russian Federation (“The Federal Assembly”)

1. Part 2 of Article 95 shall read as follows:

“The Federation Council shall consist of two representatives (senators) from each constituent entity of the Russian Federation, elected by the population of the respective constituent entity of the Russian Federation on the basis of direct and equal elections by secret ballot.”

2. Paragraph 2 of Article 96 shall read as follows:

“The procedure for the election of the Federation Council and the State Duma shall be established by federal laws.”

3. In part 2 of Article 97, the words “member of the Federation Council” shall be replaced by the word “senator.”

4. In the first sentence of Part 3 of Article 97, the words “of the State Duma”

shall be supplemented with the words “and senators.” In the second sentence of Part 3 of Article 97, the words “of the State Duma” shall be supplemented with the words “and senators.”

5. In part 1 of Article 98, the words “members of the Federation Council” shall be replaced by the word “senators.”

6. In part 3 of Article 100, replace the words “addresses of the President of the Russian Federation” with the words “State Human Rights Defender of the Russian Federation.”

7. In Part 3, the words “addresses of the President of the Russian Federation” shall be deleted. The words “of the Constitutional Court of the Russian Federation” shall be supplemented with the words “of the State Human Rights Defender of the Russian Federation.”

8. In paragraph c) of part 1 of Article 102, the words “approval of the decree of the President of the Russian Federation on the declaration of a state of emergency” shall be replaced by the words “decree of the Government of the Russian Federation.”

Paragraph e) of Part 1 of Article 102 shall read as follows:

“dismissal of the President of the Russian Federation, Justices of the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation, the Higher Arbitrazh Court of the Russian Federation, as well as judges of other federal courts.”

In paragraph h) of Part 1 of Article 102, delete the words “and deputy Prosecutors General of the Russian Federation.”

9. Paragraph 1 of Article 103 shall be amended as follows:

State Duma:

a) Within 14 days after the election of deputies to the State Duma, submits a proposal on a candidate for the position of the Chairman of the Government to the President of the Russian Federation;

b) decides on the candidacy for the post of the Chairman of the Government of the Russian Federation submitted by the President of the Russian Federation in the case envisaged by paragraph “b” of Article 83;

c) in case of rejection of a candidate for the position of the Chairman of the Government of the Russian Federation submitted by the President of the Russian Federation, may within 14 days again exercise the right to submit a proposal on a candidate for the position of the Chairman of the Government to the President of the Russian Federation.

10. Paragraphs d), e) and f) of Part 1 of Article 103 shall be amended as follows:

“d) decision on the issue of confidence in the Government of the Russian Federation;

e) appointment and dismissal of the Chairman of the Central Bank of the Russian Federation;

f) appointment and dismissal of the Chairman of the Accounting Chamber and half of its auditors.”

Replace paragraph e) with paragraph f) to read as follows:

“f) submits to the President of the Russian Federation a candidate for appointment as State Human Rights Defender of Russia.”

Replace paragraph f) with paragraph g) to read as follows:

“g) Submission to the Federation Council of five candidates for the positions of Justices of the Constitutional Court.”

Replace paragraph g) with paragraph h), replace paragraph h) with paragraph i).

11. In Article 104, paragraph 1, the words “members of the Federation Council” shall be replaced by the word “senators.”

12. In Section 105(4), replace the words “members of this House” with the words “senators.”

13. In paragraph 2 of Article 108, the words “members of the Federation Council” shall be replaced by the word “senators.”

14. In paragraph 1 of Article 109, the words “in the cases provided for in Articles 111 and 117” shall be replaced by the words “in the case provided for in paragraph “c” of Article 83”.

Paragraph 3 of Article 109 shall be deleted.

III. Proposed amendments to Chapter 6 of the Constitution of the Russian Federation (“Government of the Russian Federation”)

1. The wording of parts 1 to 4 of article 111 is proposed to be deleted. In their place, the following wording of parts 1-6 is proposed.

“1. The Chairman of the Government of the Russian Federation shall be appointed by the President of the Russian Federation on the recommendation of the State Duma.

2. The candidacy of the Chairman of the Government shall be considered submitted if a majority of the total number of deputies of the State Duma votes in favor of it.

3. The State Duma shall submit a candidate for the position of the Chairman of the Government not later than 14 calendar days from the date of the first meeting of the newly elected State Duma.

4. Upon receipt of a resolution of the State Duma on the submission of a candidate for the position of the Chairman of the Government, the President shall immediately issue a decree appointing that person to the position of the Chairman of the Government.

5. If the State Duma fails to submit a candidate for the position of the Chairman of the Government within the term established by paragraph 3 of this Article, the President may submit to the State Duma his proposal for a candidate for the position of the Chairman of the Government. If the State Duma approves the said nominee, the President shall immediately appoint this person as the Chairman of the Government.

6. The State Duma has the right not to approve the candidate proposed by the President. If the State Duma fails to submit a candidate for the position of the Chairman of the Government to the President within three months, the President may dissolve the State Duma and call for new elections.”

2. In Part 1 of Article 112, it is proposed to replace the words “to the President of the Russian Federation” with the words “to the State Duma.” In part 2, replace the word “proposes” with the word “submits.”

In paragraph 2 of Article 112, the word “candidates” shall be supplemented with the words “for appointment.”

Supplement Article 112 with part 3:

“3. The Chairman of the Government of the Russian Federation shall

counter-sign the signature of the President of the Russian Federation when he signs federal laws and federal constitutional laws.”

3. In Article 113, it is proposed to delete the words: “and decrees of the President of the Russian Federation.”

4. In Part 1 of Article 115 it is proposed to delete the words: “normative decrees of the President of the Russian Federation”. Part 3 - to be deleted.

5. In Article 116, the words “by the newly elected President of the Russian Federation” shall be replaced by the words “by the newly elected State Duma”.

6. The following wording of article 117 is proposed.

“1. The Government of the Russian Federation may resign.

2. The State Duma may express no confidence in the Government of the Russian Federation. A resolution of no confidence in the Government of the Russian Federation shall be adopted by a majority of votes of the total number of deputies of the State Duma. After the State Duma has expressed no confidence in the Government of the Russian Federation, the Government of the Russian Federation shall resign.

3. The Chairman of the Government of the Russian Federation may raise before the State Duma the question of confidence in the Government of the Russian Federation. If the State Duma refuses confidence, the Government shall resign.

4. In the event of resignation or relinquish of power , the Government of the Russian Federation shall continue to act on the instructions of the President of the Russian Federation until a new Government of the Russian Federation is formed.”

Rationale: taking into account the change of the form of government and the Government’s accountability to the State Duma, the norms implying the President’s control over the Government should be excluded.

IV. Proposed amendments to Chapter 7 (“Judicial power”)

1. It is proposed to add part 4 to article 118:

“4. The Supreme Judicial Council shall ensure the selection and appointment of judges, guarantee the independence of the judiciary, and exercise judicial self-government.

The Supreme Judicial Council shall be composed of persons with impeccable reputation and significant experience in the legal specialty in bodies of state power and educational institutions. The procedure for the formation of the Supreme Judicial Council shall be established by federal law.”

2. It is proposed that the first sentence of Art. 119. be amended to read as follows:

“Judges may be citizens of the Russian Federation who have reached the age of 30, have a higher legal education and at least seven years of work experience in legal profession.”

3. Art. 121 to read as follows

“1. Judges are irremovable.

2. The tenure of a judge shall not be limited to the term of office.

3. The powers of judges of federal courts may be terminated or suspended by the Federation Council upon the submission of the Supreme Judicial Council. The procedure for terminating or suspending the powers of judges of federal courts from office shall be established by federal law.”

4. Amendments are proposed to Article 125:

In part 1, replace “19” with “15” (members of the Federation Council). Part 7 shall be deleted.

5. The following wording is proposed for parts 1 and 2 of article 128.

“1. Justices of the Constitutional Court of the Russian Federation shall be appointed by the Federation Council on the proposal of the President of the Russian Federation, the State Duma and the Supreme Judicial Council. Each of the said state bodies shall propose 5 candidates.

Judges of the Supreme Court of the Russian Federation and the Higher Arbitrazh Court of the Russian Federation shall be appointed by the Federation Council on the recommendation of the Supreme Judicial Council.

2. Judges of other federal courts shall be appointed by the Superior Council of Magistracy in the manner prescribed by federal law.

3. The powers of Justices of the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation, the Higher Arbitrazh Court of the Russian Federation and other federal courts shall be terminated by the Federation Council on the proposal of the Supreme Judicial Council.”

6. An amendment is proposed to section 129(2):

Instead of the words “President of the Russian Federation,” the words “Supreme Judicial Council.”

The 1993 Constitution.

New Edition. Chapters 4 through 7

I.G. Shablinsky, Professor of Law

I.A. Alebastrova, Professor of Law

E.A. Mishina, Ph.D. in Law, Counselor of Justice, I class

Chapter 4.

President of the Russian Federation

Article 80

1. The President of the Russian Federation shall be the Head of State.
2. The President of the Russian Federation shall, within the limits of his powers, ensure the observance of human and civil rights and freedoms. In accordance with the procedure established by the Constitution of the Russian Federation, he shall take measures to protect the sovereignty of the Russian Federation, its independence and state integrity, and shall ensure the coordinated functioning and interaction of bodies of state power.
3. Deleted.
4. The President of the Russian Federation as Head of State represents the Russian Federation domestically and in international relations.

Article 81

1. The President of the Russian Federation shall be elected by an electoral college formed by deputies of the State Duma, senators, and representatives of the legislative authorities of the constituent entities of the Russian Federation — two representatives from each legislative authority. The procedure for the election of the President of the Russian Federation by the electoral college shall be determined by federal law.
2. A citizen of the Russian Federation not younger than 35 years of age and permanently residing in the Russian Federation for at least 10 years may be elected President of the Russian Federation.
3. The same person may not hold the office of President of the Russian Federation for more than two terms.

4. Deleted.

Article 82

1. Upon assuming office, the President of the Russian Federation shall take the following oath to the people:

“I swear, when exercising the powers of the President of the Russian Federation, to respect and protect the rights and freedoms of man and citizen as the highest constitutional value, to observe and protect the Constitution of the Russian Federation, to protect the sovereignty and independence, security and integrity of the state, to faithfully serve the people.”

2. The oath shall be administered in a solemn atmosphere in the presence of senators, deputies of the State Duma, judges of the Constitutional Court of the Russian Federation, and members of the Supreme Judicial Council.

Article 83

The President of the Russian Federation:

a) appoints the Chairman of the Government of the Russian Federation on the proposal of the State Duma;

b) in case the State Duma does not submit a proposal on the candidacy of the Chairman of the Government within the term stipulated in paragraph “a” of part 1 of Article 103 of the Constitution, it may, within 10 days, submit a proposal on the candidacy of the Chairman of the Government in order to obtain the consent of the State Duma;

c) in the event that the State Duma rejects the candidate referred to in paragraph b) of this Article and within 14 days thereafter fails to submit to the President a candidate for the position of Chairman of the Government, the President shall dissolve the State Duma and call new elections.

d) on the proposal of the Chairman of the Government, appoints and accepts the resignation of federal ministers;

e) accepts the resignation of the Chairman of the Government;

f) submits to the State Duma a candidate for the position of the Chairman of the Central Bank of the Russian Federation; raise before the State Duma the issue of dismissal of the Chairman of the Central Bank of the Russian Federation from his position;

g) submits to the Council of Federation candidates for the positions of five judges of the Constitutional Court of the Russian Federation;

h) appoints and dismisses the State Human Rights Defender of Russia in accordance with the procedure stipulated by this Constitution;

i) forms the Office of the President of the Russian Federation;

j) appoints and dismisses plenipotentiary representatives of the President of the Russian Federation;

Article 84

The President of the Russian Federation:

a) schedules the elections of the Council of Federation and the State Duma;

b) dissolves the State Duma when necessary and in accordance with the procedures provided for by the Constitution of the Russian Federation;

c) signs and promulgates laws on amendments to the Constitution of the Russian Federation; signs with the counter-signature of the Chairman of the Government, and promulgate federal and federal constitutional laws.

Article 85 — deleted

Article 86

The President of the Russian Federation:

a) negotiates and signs international treaties of the Russian Federation; entrusts officials to negotiate and sign international treaties;

b) signs the instruments of ratification;

c) accepts credentials and letters of credence of diplomatic representatives accredited to it;

d) appoints and recalls, after consultation with the relevant committees and commissions of the State Duma, diplomatic representatives of Russia in foreign states and international organizations;

Article 87

1. The President of the Russian Federation shall be the Supreme Commander-in-Chief of the Armed Forces of the Russian Federation.

2. In the event of aggression against the Russian Federation or an immediate threat of aggression, the President of the Russian Federation shall, on the proposal of the Chairman of the Government, declare martial law on the territory of the Russian Federation or in certain areas thereof, with immediate notification

of the Council of Federation and the State Duma.

3. The martial [law](#) regime shall be determined by [federal constitutional law](#).

Article 88 — deleted

Article 89

The President of the Russian Federation:

a) resolves questions on admission to citizenship and withdrawal from citizenship of the Russian Federation, on granting political asylum;

b) awards state awards of the Russian Federation; confer honorary titles of the Russian Federation;

c) pardons;

d) establishes military and special ranks, appoints and dismisses the supreme command of the Armed Forces of Russia; assigns the highest military and highest special ranks;

e) assigns the highest class ranks and the highest qualification ranks of the public service.

Article 90

1. The President of the Russian Federation shall issue decrees and orders.

2. Deleted

3. Decrees and orders of the President shall be adopted solely in connection with the exercise of his powers established by the Constitution of the Russian Federation. They must comply with the Constitution of the Russian Federation and federal laws.

Decrees and orders of the President of the Russian Federation shall not contradict the Constitution of the Russian Federation and federal laws.

Article 91

The President of the Russian Federation shall have immunity.

Article 92

1. The President of the Russian Federation shall begin to exercise his powers from the moment he takes the oath of office and shall cease to exercise them with the expiration of his term of office from the moment the newly elected

President of the Russian Federation takes the oath of office.

2. The President of the Russian Federation shall cease to exercise his powers ahead of schedule in the event of his resignation, persistent inability to exercise the powers vested in him for health reasons or his removal from office. In this case, elections of the President of the Russian Federation shall be held not later than three months from the moment of early termination of the execution of powers.

3. In all cases when the President of the Russian Federation is unable to perform his duties, they shall be temporarily performed by the Chairman of the Government of the Russian Federation. The Acting President of the Russian Federation shall not have the right to dissolve the State Duma.

Article 93

1. The President of the Russian Federation may be removed from office by the Council of the Federation only on the basis of a charge brought by the State Duma of violating the Constitution of the Russian Federation or committing a grave or especially grave crime.

A violation of the Constitution of the Russian Federation must be established by the Constitutional Court of the Russian Federation.

The commission of a grave or especially grave crime shall be confirmed by the conclusion of the Supreme Court of the Russian Federation on the presence of signs of a crime in the actions of the President of the Russian Federation.

2. The decision of the State Duma to bring charges and the decision of the Federation Council to remove the President from office shall be adopted by two-thirds of the total number of votes in each chamber on the initiative of at least one-third of the deputies of the State Duma and in the presence of the conclusion of a special commission formed by the State Duma.

3. A decision of the Council of Federation on the removal of the President of the Russian Federation from office shall be adopted not later than six months after the State Duma has brought an accusation against the President. If a decision of the Council of Federation is not adopted within this period, the accusation against the President shall be deemed to have been rejected.

Chapter 5. Federal Assembly

Article 94

The Federal Assembly, the parliament of the Russian Federation, is the representative and legislative body of the Russian Federation.

Article 95

1. The Federal Assembly consists of two chambers — the Federation Council and the State Duma.

2. The Federation Council shall consist of two representatives (senators) from each constituent entity of the Russian Federation elected by the population of the respective constituent entity of the Russian Federation on the basis of direct and equal elections by secret ballot.

3. The State Duma consists of 450 deputies.

Article 96

1. The State Duma shall be elected for a term of four years.

2. The procedure for the election of the Council of Federation and the State Duma shall be established by federal laws.

Article 97

1. A citizen of the Russian Federation who has reached the age of 21 and has the right to participate in elections may be elected a deputy of the State Duma.

2. The same person may not be a senator and a deputy of the State Duma at the same time. A deputy of the State Duma may not be a deputy of other representative bodies of state power and local self-government bodies.

3. Deputies of the State Duma and senators shall work on a professional permanent basis. Deputies of the State Duma and senators may not concurrently hold positions in public service or engage in other paid activities, except for teaching, scientific and other creative activities.

Article 98

1. Senators and deputies of the State Duma shall have immunity during the entire term of their office. They may not be detained, arrested, searched, except in cases of detention at the scene of a crime, nor subjected to personal search, except as provided by federal law to ensure the safety of others.

2. The question of deprivation of immunity shall be resolved on the proposal of the Prosecutor General of the Russian Federation by the corresponding chamber of the Federal Assembly.

Article 99

1. The Federal Assembly shall be a permanent body.
2. The State Duma shall meet for its first session on the thirtieth day after its election. The President of the Russian Federation may call a meeting of the State Duma earlier than this date.
3. The first session of the State Duma shall be opened by the oldest deputy.
4. The powers of the State Duma of the previous convocation shall be terminated from the moment the State Duma of the new convocation begins its work.

Article 100

1. The Federation Council and the State Duma shall sit separately.
2. Sessions of the Council of Federation and the State Duma shall be open. In cases stipulated by the regulations of the chamber, it shall be entitled to hold closed sessions.
3. The Chambers may meet jointly to hear messages from the Constitutional Court of the Russian Federation, the State Human Rights Defender of the Russian Federation, and speeches by leaders of foreign states.

Article 101

1. The Federation Council shall elect from among its members the Chairman of the Federation Council and his deputies. The State Duma shall elect from among its members the Chairman of the State Duma and his deputies.
2. The Chairman of the Federation Council and his deputies, the Chairman of the State Duma and his deputies shall preside at meetings and manage the internal order of the chamber.
3. The Federation Council and the State Duma shall form committees and commissions and hold parliamentary hearings on issues under their jurisdiction.
4. Each chamber shall adopt its own rules of procedure and decide on the internal order of its activities.
5. In order to exercise control over the execution of the federal budget, the Council of Federation and the State Duma shall form the Accounts Chamber, the composition and the procedure for the activities of which shall be determined by federal law.

Article 102

1. The competence of the Federation Council shall include:

a) approval of changes in the boundaries between constituent entities of the Russian Federation;

b) approval of the decree of the President of the Russian Federation on the declaration of martial law;

c) approval of the decree of the Government of the Russian Federation on the declaration of a state of emergency;

d) resolving the issue of the possibility of using the Armed Forces of the Russian Federation outside the territory of the Russian Federation;

e) appointment of elections of the President of the Russian Federation;

f) Removal from office of the President of the Russian Federation, judges of the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation, the Supreme Arbitration Court of the Russian Federation, and judges of other federal courts;

g) appointment of judges of the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation, the Supreme Arbitration Court of the Russian Federation;

h) appointment and dismissal of the Prosecutor General of the Russian Federation;

and) appointment and dismissal of the Deputy Chairman of the Accounting Chamber and half of its auditors.

2. The Council of the Federation shall adopt resolutions on matters assigned to it by the Constitution of the Russian Federation.

3. Resolutions of the Federation Council shall be adopted by a majority vote of the total number of senators, unless another procedure for adopting decisions is provided for by the Constitution of the Russian Federation.

Article 103

State Duma:

a) within 14 days after the election of deputies to the State Duma, submits a proposal on a candidate for the position of Chairman of the Government to the President of the Russian Federation;

b) decides on the candidacy for the post of Chairman of the Government of the Russian Federation submitted by the President of the Russian Federation in the case envisaged by paragraph “b” of Article 83;

c) in case of rejection of a candidate for the post of Chairman of the Government of the Russian Federation submitted by the President of the Russian Federation, may again exercise the right within 14 days to submit a proposal on a candidate for the post of Chairman of the Government to the President of the Russian Federation;

d) decides on the issue of confidence in the Government of the Russian Federation;

e) appoints and dismisses the Chairman of the Central Bank of the Russian Federation;

f) appoints and dismisses the Chairman of the Accounting Chamber and half of its auditors;

g) submits to the President of the Russian Federation a candidate for appointment as State Human Rights Defender of Russia;

h) submits to the Federation Council five candidates for the positions of judges of the Constitutional Court.

2. A deputy of the State Duma shall have the right to address a request to the Chairman of the Government, ministers, heads of other state bodies. They shall be obliged to give a written or oral answer during a session of the State Duma in accordance with the procedure established by the Rules of Procedure of the State Duma.

At the request of one fifth of the total number of deputies of the State Duma, the issue of confidence in a minister or the head of another state body may be considered. Based on the results of consideration of this issue, the State Duma may, by a majority vote of the total number of deputies of the State Duma, adopt a decision of no confidence in the minister in question or in the head of another state body. After this decision is made, the person in question shall immediately resign. The procedure for making this decision shall be established by the Rules of Procedure of the State Duma.

3. The State Duma shall adopt resolutions on issues assigned to its jurisdiction by the Constitution of the Russian Federation.

4. Resolutions of the State Duma shall be adopted by a majority of votes of the total number of deputies of the State Duma, unless another procedure for adopting decisions is provided for by the Constitution of the Russian Federation.

Article 104

1. The right of legislative initiative shall belong to the President of the Russian Federation, the Council of the Federation, senators, deputies of the State Duma, the Government of the Russian Federation, legislative (representative) bodies of constituent entities of the Russian Federation. The right of legislative initiative shall also belong to the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation and the Supreme Arbitration Court of the Russian Federation on issues under their jurisdiction.

2. Bills shall be submitted to the State Duma.

3. Bills on the introduction or abolition of taxes, exemption from their payment, on the issue of state loans, on changes in the financial obligations of the state, and other bills providing for expenditures covered by the federal budget may be introduced only in the presence of an opinion of the Government of the Russian Federation.

Article 105

1. Federal laws shall be adopted by the State Duma.

2. Federal laws shall be adopted by a majority of votes of the total number of deputies of the State Duma, unless otherwise provided for by the Constitution of the Russian Federation.

3. Federal laws adopted by the State Duma shall be submitted to the Federation Council for consideration within five days.

4. A federal law shall be deemed approved by the Federation Council if more than half of the total number of senators vote in favor of it or if it has not been considered by the Federation Council within fourteen days. In the event that a federal law is rejected by the Council of Federation, the chambers may establish a conciliation commission to overcome the differences that have arisen, after which the federal law shall be subject to reconsideration by the State Duma.

5. In the event that the State Duma disagrees with a decision of the Council

of Federation, a federal law shall be deemed to have been adopted if, in a second vote, at least two thirds of the total number of deputies of the State Duma voted in favor of it.

Article 106

Federal laws adopted by the State Duma on issues shall be subject to mandatory consideration in the Federation Council:

- a) the federal budget;
- b) federal taxes and fees;
- c) financial, currency, credit, customs regulation, money issue;
- d) ratification and denunciation of international treaties of the Russian Federation;
- e) the status and protection of the State border of the Russian Federation;
- f) war and peace.

Article 107

1. An adopted federal law shall within five days be sent to the President of the Russian Federation for signing and promulgation.

2. The President of the Russian Federation shall sign the federal law and promulgate it within fourteen days.

3. If the President of the Russian Federation rejects a federal law within fourteen days of its receipt, the State Duma and the Council of the Federation shall reconsider the law in accordance with the procedure established by the Constitution of the Russian Federation. If at the time of reconsideration the federal law is approved in the previously adopted wording by a majority of at least two-thirds of the votes of the total number of members of the Council of Federation and deputies of the State Duma, it shall be signed by the President of the Russian Federation within seven days and promulgated.

Article 108

1. Federal constitutional laws shall be adopted on issues provided for by the Constitution of the Russian Federation.

2. A federal constitutional law shall be deemed adopted if it is approved by a majority of at least three quarters of votes of the total number of senators and at least two thirds of votes of the total number of deputies of the State Duma.

The adopted federal constitutional law shall be signed by the President of the Russian Federation and promulgated within fourteen days.

Article 109

1. The State Duma may be dissolved by the President of the Russian Federation in the case provided for by paragraph “c” of Article 83 of the Constitution of the Russian Federation.

2. If the State Duma is dissolved, the President of the Russian Federation shall set a date for elections so that the newly elected State Duma meets not later than four months from the date of dissolution.

3. Deleted

4. The State Duma may not be dissolved from the moment it brings an accusation against the President of the Russian Federation until the Council of the Federation adopts a relevant decision.

5. The State Duma may not be dissolved during the period of martial law or state of emergency throughout the territory of the Russian Federation, as well as within six months before the end of the term of office of the President of the Russian Federation.

6. The State Duma may decide to terminate its powers early. In this case, the President shall decide on the early election of the State Duma.

Chapter 6. Government of the Russian Federation

Article 110

1. The executive power of the Russian Federation shall be exercised by the Government of the Russian Federation.

2. The Government of the Russian Federation shall consist of the Chairman of the Government of the Russian Federation, Deputy Chairmen of the Government of the Russian Federation and federal ministers.

Article 111

1. The Chairman of the Government of the Russian Federation shall be appointed by the President of the Russian Federation on the recommendation of the State Duma.

2. The candidacy of the Chairman of the Government shall be considered

submitted if a majority of the total number of deputies of the State Duma votes in favor of it.

3. The State Duma shall submit a candidate for the position of Chairman of the Government not later than 14 days from the date of the first meeting of the newly elected State Duma.

4. Upon receipt of a resolution of the State Duma on the submission of a candidate for the post of Chairman of the Government, the President shall immediately issue a decree appointing that person to the post of Chairman of the Government.

5. If the State Duma fails to submit a candidate for the position of the Chairman of the Government within the term established by paragraph 3 of this Article, the President may within 10 days submit to the State Duma his proposal on a candidate for the position of the Chairman of the Government. If the State Duma approves the said nominee, the President shall immediately appoint this person as Chairman of the Government.

6. The State Duma has the right not to approve the candidate proposed by the President. If the State Duma then submits to the President a candidate for the position of Chairman of the Government within 14 calendar days, the President shall immediately appoint that person as Chairman of the Government.

Article 112

1. The Chairman of the Government of the Russian Federation shall submit to the State Duma proposals on the structure of the federal executive authorities not later than one week after appointment.

2. The Chairman of the Government of the Russian Federation shall submit to the President of the Russian Federation candidates for appointment to the posts of Deputy Chairmen of the Government of the Russian Federation and federal ministers.

3. The Chairman of the Government of the Russian Federation shall counter-sign the signature of the President of the Russian Federation when he signs federal laws and federal constitutional laws.

Article 113

The Chairman of the Government of the Russian Federation shall, in accordance with the Constitution of the Russian Federation and federal laws, determine the main areas of activity of the Government of the Russian Federation

and organize its work.

Article 114

1. Government of the Russian Federation:

a) develops and submits to the State Duma the federal budget and ensures its execution; submits to the State Duma a report on the execution of the federal budget;

b) ensures the implementation of a unified financial, credit and monetary policy in the Russian Federation;

c) ensures the implementation in the Russian Federation of a unified state policy in the field of culture, science, education, health care, social security and ecology;

d) manages federal property;

e) shall take measures to ensure national defense, state security, and the implementation of the foreign policy of the Russian Federation;

f) implements measures to ensure the rule of law, the rights and freedoms of citizens, the protection of property and public order, and the fight against crime;

g) exercise other powers vested in it by the Constitution of the Russian Federation and federal laws.

2. The procedure for the activities of the Government of the Russian Federation shall be determined by [federal constitutional law](#).

Article 115

1. On the basis of and in pursuance of the Constitution of the Russian Federation and federal laws, the Government of the Russian Federation shall issue decrees and orders and ensure their execution.

2. Resolutions and orders of the Government of the Russian Federation shall be binding in the Russian Federation.

3. Deleted.

Article 116

Before the newly elected State Duma, the Government of the Russian Federation resigns its powers.

Article 117

1. The Government of the Russian Federation may resign.
2. The State Duma may express no confidence in the Government of the Russian Federation. A resolution of no confidence in the Government of the Russian Federation shall be adopted by a majority of votes of the total number of deputies of the State Duma. After the State Duma has expressed no confidence in the Government of the Russian Federation, the Government of the Russian Federation shall resign
3. The Chairman of the Government of the Russian Federation may raise before the State Duma the question of confidence in the Government of the Russian Federation. If the State Duma refuses confidence, the Government shall resign.
4. In the event of resignation or resignation, the Government of the Russian Federation shall continue to act on the instructions of the President of the Russian Federation until a new Government of the Russian Federation is formed.

Chapter 7. Judiciary

Article 118

1. Justice in the Russian Federation shall be administered only by a court.
2. Judicial powers shall be exercised through constitutional, civil, administrative and criminal proceedings.
3. The judicial system of the Russian Federation shall be established by the Constitution of the Russian Federation and [federal constitutional law](#). The establishment of extraordinary courts shall not be allowed.
4. The Supreme Judicial Council shall ensure the selection and appointment of judges, guarantee the independence of the judiciary, and exercise judicial self-government.

The Supreme Judicial Council shall be composed of persons with impeccable reputation and significant experience in the legal specialty in public authorities and educational institutions. The procedure for the formation of the Supreme Judicial Council shall be established by federal law.

Article 119

Judges may be citizens of the Russian Federation who have reached the age of 30, have a higher legal education and at least seven years of work experience in the legal profession.

Article 120

1. Judges shall be independent and subject only to the Constitution of the Russian Federation and federal law.

2. The court, having established during consideration of the case the inconsistency of an act of a state or other body with the law, shall make a decision in accordance with the law.

Article 121

1. Judges are irremovable.

2. A judge's tenure of office may not be limited to a term of office.

3. The powers of judges of federal courts may be terminated or suspended by the Council of the Federation upon the submission of the Supreme Judicial Council. The procedure for terminating or suspending the powers of judges of federal courts from office shall be established by federal law.

Article 122

1. Judges have immunity.

2. A judge may not be held criminally liable except in accordance with the procedure determined by federal law.

Article 123

1. The hearing of cases in all courts shall be open unless otherwise specified. The hearing of a case in closed session shall be allowed in cases provided for by federal law.

2. Criminal cases may not be tried in absentia in courts, except in cases provided for by federal law.

3. Judicial proceedings shall be carried out on the basis of adversarial proceedings and equality of parties.

4. In cases provided for by federal law, proceedings shall be conducted with the participation of jurors.

Article 124

The courts shall be financed only from the federal budget and shall ensure the possibility of full and independent administration of justice in accordance with federal law.

Article 125

1. The Constitutional Court of the Russian Federation shall consist of 15 judges.

2. The Constitutional Court of the Russian Federation shall, upon requests of the President of the Russian Federation, the Council of the Federation, the State Duma, one fifth of the total number of senators or deputies of the State Duma, the Government of the Russian Federation, the Supreme Court of the Russian Federation and the Supreme Arbitration Court of the Russian Federation, legislative and executive authorities of constituent entities of the Russian Federation, resolve cases of compliance with the Constitution of the Russian Federation:

a) federal laws, normative acts of the President of the Russian Federation, the Federation Council, the State Duma, and the Government of the Russian Federation;

b) constitutions of republics, charters, as well as laws and other normative acts of constituent entities of the Russian Federation, issued on issues related to the jurisdiction of state authorities of the Russian Federation and joint jurisdiction of state authorities of the Russian Federation and state authorities of constituent entities of the Russian Federation;

c) agreements between governmental authorities of the Russian Federation and governmental authorities of constituent entities of the Russian Federation, agreements between governmental authorities of constituent entities of the Russian Federation;

d) international treaties of the Russian Federation that have not entered into force.

3. The Constitutional Court of the Russian Federation shall resolve competence disputes:

a) between federal bodies of state power;

b) between state authorities of the Russian Federation and state authorities of constituent entities of the Russian Federation;

c) between the supreme state bodies of the constituent entities of the

Russian Federation.

4. The Constitutional Court of the Russian Federation shall, upon complaints of violation of constitutional rights and freedoms of citizens and upon requests of courts, verify the constitutionality of the law applied or to be applied in a particular case in accordance with the procedure established by federal law.

5. The Constitutional Court of the Russian Federation shall interpret the Constitution of the Russian Federation at the request of the President of the Russian Federation, the Federation Council, the State Duma, the Government of the Russian Federation, legislative bodies of the subjects of the Russian Federation.

6. Acts or their separate provisions recognized as unconstitutional shall become null and void; international treaties of the Russian Federation that do not comply with the Constitution of the Russian Federation shall not be enacted and applied.

7. Deleted.

Article 126

The Supreme Court of the Russian Federation is the highest judicial body for civil, criminal, administrative and other cases under the jurisdiction of courts of general jurisdiction, exercises, in the procedural forms provided for by federal law, judicial supervision over their activities and gives explanations on issues of judicial practice.

Article 127

The Supreme Arbitration Court of the Russian Federation is the highest judicial body for resolving economic disputes and other cases considered by arbitration courts, exercises, in the procedural forms provided for by federal law, judicial supervision over their activities and gives explanations on issues of judicial practice.

Article 128

1. Judges of the Constitutional Court of the Russian Federation shall be appointed by the Council of the Federation on the proposal of the President of the Russian Federation, the State Duma and the Supreme Judicial Council. Each of the said state bodies shall propose 5 candidates.

Judges of the Supreme Court of the Russian Federation and the Supreme

Arbitration Court of the Russian Federation shall be appointed by the Federation Council on the recommendation of the Supreme Judicial Council.

2. Judges of other federal courts shall be appointed by the Supreme Judicial Council in accordance with the procedure established by federal law.

3. The powers, the procedure for the formation and activities of the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation, the Supreme Arbitration Court of the Russian Federation and other federal courts shall be established by [federal constitutional law](#).

4. The powers of judges of the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation, the Supreme Arbitration Court of the Russian Federation and other federal courts shall be terminated by the Federation Council on the proposal of the Supreme Judicial Council.

Article 129

1. The Prosecutor's Office of the Russian Federation shall constitute a single centralized system with subordination of lower-ranking prosecutors to higher-ranking ones and to the Prosecutor General of the Russian Federation.

2. The Prosecutor General of the Russian Federation shall be appointed and dismissed by the Federation Council on the recommendation of the Supreme Judicial Council.

3. Prosecutors of constituent entities of the Russian Federation shall be appointed by the Prosecutor General of the Russian Federation in consultation with its constituent entities.

4. Other prosecutors shall be appointed by the Prosecutor General of the Russian Federation.

5. The powers, organization and procedure for the activities of the Prosecutor's Office of the Russian Federation shall be determined by federal law.

Federal Law on Normative Legal Acts

Explanatory Note to the Draft Federal Law of the Russian Federation on Normative Legal Acts in the Russian Federation

E.A. Lukyanova, Professor of Law

“The very fact of issuing a law presupposes the existence of legal norms preceding the law, regulating the order of legislation” — wrote back in 1913 a famous Russian jurist, a deputy of the State Duma of the Russian Empire F.F. Kokoshkin¹. But in the 110 years that have passed since that time, Russia has not adopted the so-called “law on laws,” which would have established a system and hierarchy of normative legal acts in the country, the order of their interpretation and resolution of conflicts, not to mention the legislative technique, legal expertise and many other legal nuances that are necessary for every state, if it claims to be a legal state. In Russia, there is not even a single concept of legislation.

The dream of the “law on laws” passed through the entire Soviet period of Russia. Famous legal scholars A.V. Mitskevich, S.V. Polenina, I.S. Samoshchenko, D.A. Kovachev, Y.A. Tikhomirov, A.S. Pigolkin, I.F. Kazmin wrote about it. This dream was almost realized in the first post-Soviet decade, when in 1996 the Bill 96700088-2 “On Normative Legal Acts of the Russian Federation” was submitted to the Duma. The bill passed two readings, but after Vladimir Putin came to power its consideration was suspended and in 2004 it was rejected. Ten years later in 2014 the Ministry of Justice of the Russian Federation prepared another draft law “On normative legal acts in the Russian Federation” but it was never submitted to the Duma. And it is understandable. After all, when the system and hierarchy of legal acts is not legislatively established, it can be violated, manipulated and arbitrary. This situation is very favorable to dictatorships. As a result, there is a constant war in Russia, and if not a war, then, according to the apt definition of Y.A. Tikhomirov², a “duel” — a battle between federal normative acts, between laws and normative treaties. There is a tendency to substitute laws with bylaws, on the one hand, and to substitute the subject of the law with

1 Kokoshkin F.F. Juridical nature of the manifesto of October 17 // *Juridicheskiy Vestnik*. 1913. Book 1. P. 46

2 Tikhomirov Y.A. Law in the system of normative acts // *Constitution, law, by-laws*. M., 1994. P.14.

the subject of the bylaw, on the other hand.

Meanwhile, there are laws “on laws” in practically all European states (including the city-state of Vatican City), and in all post-Soviet countries — former republics of the USSR without exception³. A significant number of subjects of the Russian Federation also have their laws “on laws.” They are found, for example, in the Republic of Adygea, in the Transbaikal Territory, in the Irkutsk, Vologda, Voronezh and Novgorod regions, in the cities of federal subordination Moscow, St. Petersburg and Sevastopol⁴.

Thus, the need for such a law is obvious and its adoption is long overdue. Ensuring the principles of the rule of law is inseparable from high efficiency of legislative regulation of social relations, the basis of which is the unity and consistency of the legal system, strict subordination and interaction of normative legal acts, the level of their preparation, as well as the availability of mechanisms for the implementation of legal norms.

The proposed draft federal law “On Normative Legal Acts in the Russian Federation” is aimed at eliminating this obvious gap in Russian legislation. It establishes a system, types and hierarchy of normative acts from top to bottom, including normative legal acts of local self-government bodies, rules for resolving conflicts between actions of different levels of hierarchy, introduces the concepts of federal, regional and local legislation, basic principles and procedure of normative activity and legal expertise. Among other things, normative decrees of the President and acts of the CEC are withdrawn from legal circulation, the

3 See, for example, Constitutional Law of the Republic of Azerbaijan 21-IVKQ of December 21, 2010 “On Normative Legal Acts,” Law of the Republic of Armenia ZR-180 of March 28, 2018 “On Normative Legal Acts,” Law of the Republic of Belarus 130-Z of July 17, 2018 “On Normative Legal Acts,” Law of the Republic of Kazakhstan 480-V ZRK of April 6, 2016 “On Legal Acts,” Law of the Kyrgyz Republic 241 of July 20, 2009 “On Normative Legal Acts of the Kyrgyz Republic,” Law of the Republic of Moldova 100 of December 22, 2017 “On Normative Legal Acts,” Law of the Republic of Tajikistan 1414 of May 30, 2017 “On Normative Legal Acts,” Law of Turkmenistan 589-V of August 26, 2017 “On Legal Acts,” Law of the Republic of Uzbekistan 160-II of December 14, 2000 “On Normative Legal Acts.”

4 Law of the Irkutsk Oblast of 12.01.2010 1-OZ “On legal acts of the Irkutsk Oblast and law-making activity in the Irkutsk Oblast,” Law of the Republic of Adygea of 09.10.1998 92 “On normative and other legal acts,” Law of St. Petersburg of 18.06.1997 N° 101-32 “On legal acts adopted by public authorities of St. Petersburg and their structural subdivisions,” the Law of the City of Moscow from 08.07.2009 N° 25 “On legal acts of the city of Moscow,” the Law of the City of Sevastopol from 29.09.2015 N° 185-ZS “On legal acts of the city of Sevastopol,” the Law of the Vologda region from 05.07.2012 N° 2806-OZ “On normative legal acts of the Vologda Oblast,” Law of the Voronezh Oblast from 24.01.2011 N 16-OZ “On monitoring of normative legal acts of the Voronezh Oblast, Regional Law of the Novgorod Oblast from 06.01.1995 N° 9-OZ “On normative legal acts of the legislative (representative) and executive bodies of state power of the Novgorod region,” Law of the Zabaikalsky Krai of 18.12.2009 N° 321-ZK “On normative legal acts of the Zabaikalsky Krai.”

Parliament is vested with the right of official normative interpretation of laws, the stage of legislative initiative is improved and planning of normative activity is introduced.

Undoubtedly, this is a transitional law. In the future, it should be supplemented and strengthened with a mechanism for checking draft normative legal acts for compliance with the Constitution and universally recognized principles and norms of international law, as well as ratified international treaties; a mechanism for determining whether a law is legal or not; a mechanism for determining the proportionality of restrictions on human and civil rights and freedoms, more detailed regulation of the stages of the lawmaking process and rules of legislative technique. Why is this not done immediately? Because legal and normative culture is not formed overnight. Any new legal regulation should be designed to promote the ability of subjects of future legal relations to perceive and master this regulation. The introduction of too many new terms and procedures may lead to confusion and non-enforcement of legal regulations.

In any case, the adoption of the law, even in the proposed wording, will require the repeal or amendment of a significant number of laws and bylaws in the case of overlapping objects of their legal regulation and will be the beginning of a large-scale reform of, at least, the entire array of federal legislation.

Federal Law on Normative Legal Acts in the Russian Federation

E.A. Lukyanova, Professor of Law
I.A. Alebastrova, Professor of Law

Ensuring the principles of the rule of law is inseparable from high efficiency of legislative regulation of social relations, the basis of which is the unity and consistency of the legal system, strict coherence and interaction of normative legal acts, the level of their preparation, as well as the availability of mechanisms for the implementation of legal norms.

Chapter I. General provisions

Article 1. This Federal Law shall, on the basis and in pursuance of the Constitution of the Russian Federation, establish uniform requirements for laws and other normative legal acts in the Russian Federation, their preparation, submission, consideration, adoption, publication, interpretation and systematization, rules of legislative technique, as well as determine the ways of resolving legal conflicts (contradictions between legal acts).

The relations that are the subject of this Federal Law shall also be regulated by the Federal Constitutional Law “On the Referendum of the Russian Federation,” other federal constitutional laws, the Federal Law “On the Procedure for the Publication and Entry into Force of Federal Constitutional Laws, Federal Laws, Acts of the Chambers of the Federal Assembly,” the Rules of Procedure of the Chambers of the Federal Assembly, as well as other normative legal acts in the Russian Federation issued on the basis of this Federal Law. International treaties of the Russian Federation, along with generally recognized principles and norms of international law, shall be an integral part of the legal system of the Russian Federation. The procedure for the conclusion, ratification and fulfillment and termination of international treaties of the Russian Federation shall be established by the federal law “On International Treaties of the Russian Federation.”

Article 2. A normative legal act is a written official document adopted (issued) in a form determined by this Federal Law, aimed at establishing, amending or abolishing legal norms as generally binding regulations of a permanent or temporary nature, designed for repeated application.

A normative legal act is adopted either by referendum, or by a public authority or a local government body, which is vested with the right to adopt (issue) normative legal acts (norm-making body) on the subjects under its jurisdiction.

Special types of normative legal acts are federal and other treaties on the delimitation of subjects of jurisdiction and powers, as well as agreements on the transfer of the exercise of powers between federal executive authorities and executive authorities of constituent entities of the Russian Federation, agreements between constituent entities of the Russian Federation and agreements between constituent entities of the Russian Federation and municipalities on the transfer of powers.

Article 3. Normative legal acts of the Russian Federation (federal normative legal acts) shall constitute federal legislation.

Normative legal acts of the constituent entities of the Russian Federation constitute the legislation of the constituent entities of the Russian Federation (regional legislation).

Normative legal acts of local self-government bodies and normative legal acts adopted by local referendums constitute municipal (local) legislation.

Federal legislation, legislation of constituent entities of the Russian Federation and municipal legislation constitute legislation in the Russian Federation.

Article 4. Laws and other normative legal acts in force on the territory of the Russian Federation prior to the entry into force of the Constitution of the Russian Federation shall be applied on the territory of the Russian Federation to the extent that they do not contradict the Constitution of the Russian Federation, federal constitutional laws, federal laws adopted (issued) after December 25, 1993, other normative legal acts in the Russian Federation, international treaties of the Russian Federation.

Article 5. Normative legal acts constituting legislation in the Russian Federation shall operate on the basis of the principle of hierarchy of normative legal acts (supremacy of acts having higher legal force).

In case of conflict, subjects of law shall be obliged to be guided by the priority of the normative legal act in the hierarchy (having higher legal force. In

case of conflict of legal acts that are at the same level in the hierarchy (having equal legal force), the provisions of the act adopted later shall apply.

If an international treaty of the Russian Federation establishes rules other than those provided for by law, the rules of the international treaty shall apply.

Article 6. State and local government bodies authorized to adopt or issue normative legal acts (normative legal bodies) in the process of preparing, adopting and implementing normative legal acts shall ensure that the interests of the citizens of the Russian Federation are reflected in them

Normative legislative bodies in the Russian Federation support the people's law-making initiative, take into account proposals of citizens, political parties and other public associations, local self-government bodies on the adoption, amendment or abolition of normative legal acts

In order to identify and utilize public opinion, normative bodies may hold popular, public and professional discussions of draft normative legal acts.

Chapter II. Types and hierarchy of normative legal acts of the Russian Federation

Article 7. The Constitution of the Russian Federation enshrines the fundamental principles of legal regulation in the Russian Federation and is the legal basis for legislation in the Russian Federation.

The Constitution of the Russian Federation shall have supreme legal force and shall apply throughout the territory of the Russian Federation. Laws and other normative legal acts in the Russian Federation shall be adopted on the basis of and in fulfillment of the Constitution and may not contradict it.

Article 8. Laws in the Russian Federation shall regulate the most significant, typical and stable social relations and shall be adopted in accordance with the Constitution of the Russian Federation by referendum or by representative and legislative bodies of the Russian Federation and constituent entities of the Russian Federation.

Laws in the Russian Federation may not contradict the Constitution of the Russian Federation and federal constitutional laws.

Article 9. Federal laws may also be adopted in the form of legislative bases and codes.

Fundamentals of Legislation is a federal law containing principles and basic provisions of legislative regulation of a certain sphere of public relationships

subject to development and concretization in normative legal acts of the Russian Federation and constituent entities of the Russian Federation. Fundamentals of legislation are adopted on subjects of joint jurisdiction of the Russian Federation and constituent entities of the Russian Federation.

The Code is a systematized normative legal act adopted on subjects of jurisdiction of the Russian Federation, as well as on subjects of joint jurisdiction of the Russian Federation and constituent entities of the Russian Federation requiring uniform regulation. The Code contains all or the bulk of norms regulating a certain sphere of public relations.

The bases of legislation and codes shall correspond to all other normative legal acts issued in the Russian Federation in the sphere of public relations regulated by the bases of legislation or code.

Article 10. The sphere of exclusive regulation by federal constitutional laws and federal laws of the Russian Federation shall include issues of the exclusive jurisdiction of the Russian Federation established by the Constitution of Russia.

Article 11. The President of the Russian Federation shall not have the right to issue normative legal acts.

The President of the Russian Federation shall issue decrees and orders within his competence.

Decrees and orders of the President of the Russian Federation shall be adopted on the basis of and in fulfillment of the Constitution of the Russian Federation and the laws of the Russian Federation and may not contradict them.

Decrees of the President of the Russian Federation on the introduction of martial law and on the introduction of a state of emergency shall be subject to approval by the Council of the Federation.

Article 12. The Government of the Russian Federation shall, within the limits of its competence, issue decrees and orders,

Resolutions and orders of the Government of the Russian Federation shall be adopted on the basis of and in fulfillment of the Constitution of the Russian Federation and laws of the Russian Federation, and may not contradict them.

Normative legal acts of the Government of the Russian Federation are adopted exclusively in the form of resolutions.

Article 13. Federal executive authorities shall, within the limits of their competence, issue normative legal acts in the form of decrees, rules, orders, instructions, regulations, clarifications, instructions and in other forms provided for by the regulations on the relevant bodies of federal executive power.

Such regulatory legal acts are issued on the basis of and in fulfillment of the Constitution of the Russian Federation, laws of the Russian Federation, and regulatory resolutions of the Government of the Russian Federation.

A normative legal act may be issued jointly by several bodies of the federal executive power or by one of them in coordination with others.

Structural subdivisions of federal executive authorities shall not have the right to adopt normative legal acts.

Chapter III. Planning of standard-setting activities

Article 14. In order to create a unified and consistent system of legislation of the Russian Federation, to ensure transparency in normative legal acts, to improve the process of preparation of normative legal acts, to coordinate the activities of normative legal bodies, to avoid duplication of legal regulation of public relations, current and perspective planning shall be applied in normative legal acts.

Article 15. Current programs of normative works shall be developed and approved by relevant bodies of state power for a certain period of time. Current programs may be adjusted in the course of the rule-making process.

Article 16. The programs of normative legal acts shall specify the names and types of acts, as well as the bodies responsible for the development of normative legal acts and the terms of their preparation.

Article 17. The adoption and approval of normative legal acts programs shall not exclude the preparation and submission of normative legal acts not included in them.

Article 18. Prospective federal programs of legislative work shall be developed by the State Duma on the basis of proposals by those possessing the right of legislative initiative.

Those legally empowered to propose a legislative initiative shall submit to the State Duma programs for the preparation of draft laws, which they intend to submit to the State Duma within the terms established by the State Duma. Prospective programs may define the directions of development of legislation, measures for codification and other streamlining of normative legal acts, preparation of systematized publications.

Prospective programs are taken into account and specified in the current programs of legislative work.

Article 19. Programs of federal legislative work shall be approved by the State Duma and endorsed by the Federation Council. If in the course of the implementation of programs of prospective legislative work the relevant actors having the right of legislative initiative come to the conclusion that it is inexpedient to prepare a relevant draft of a normative legal act, they shall submit a reasoned justification to the State Duma, which shall have the right to decide to exclude the project from the program. Prospective programs of legislative work shall be subject to publication in the Collection of Legislation of the Russian Federation.

Chapter IV. Submission of draft normative legal acts of the Russian Federation

Article 20. In accordance with Article 134 of the Constitution of the Russian Federation, proposals on amendments and revision of the Constitution of the Russian Federation may be made by the President of the Russian Federation, the Council of the Federation, the State Duma, the Government of the Russian Federation, the legislative (representative) bodies of the constituent entities of the Russian Federation, as well as by a group of at least one fifth of the members of the Council of the Federation or deputies of the State Duma.

The right to propose amendments to the Constitution of the Russian Federation shall be exercised through the submission of draft laws of the Russian Federation on amendments to the Constitution of the Russian Federation.

Article 21. In accordance with part 1 of Article 104 of the Constitution of the Russian Federation, the right of legislative initiative shall belong to the President of the Russian Federation, the Council of the Federation, members of the Council of the Federation, deputies of the State Duma, the Government of the Russian Federation, legislative (representative) bodies of constituent entities of the Russian Federation, as well as the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation and the Supreme Arbitration Court of the Russian Federation on matters under their jurisdiction.

The right of legislative initiative is exercised through the submission of draft federal constitutional laws and federal laws.

The procedure for the submission of draft federal laws on the ratification and denunciation of international treaties of the Russian Federation shall be established by the federal law “On International Treaties of the Russian Federation.”

Article 22. In accordance with part 2 of Article 104 of the Constitution of the Russian Federation, draft laws of the Russian Federation on amendments to the Constitution of the Russian Federation, draft federal constitutional laws and draft federal laws shall be submitted to the State Duma.

A prerequisite for the introduction of a draft law is the submission of an explanatory memorandum containing a justification of the need to adopt the draft law, a detailed characterization of its objectives, main provisions, its place in the system of existing legislation, as well as a forecast of socio-economic and other consequences of its adoption.

Article 23. In accordance with part 3 of Article 104 of the Constitution of the Russian Federation, bills on the introduction or abolition of taxes, on exemption from their payment, on the issue of State loans, on changes in the financial obligations of the State and other bills providing for expenditures covered from the federal budget may be introduced in the State Duma only in the presence of an opinion of the Government of the Russian Federation and may not be subject to consideration by the State Duma without such an opinion. Such bills shall be sent by subjects of the right of legislative initiative or subjects of the right to propose amendments to the Constitution of the Russian Federation for conclusion to the Government of the Russian Federation.

The Government of the Russian Federation shall be obliged to send an opinion to the relevant subject of the right of legislative initiative or to the subject of the right to propose amendments to the Constitution of the Russian Federation not later than one month from the date of receipt of the draft law by the Government of the Russian Federation. Failure to submit an opinion within the prescribed period shall be deemed as giving a positive opinion by the Government of the Russian Federation.

Article 24. The State Duma shall be obliged to consider a bill introduced by a subject of the right of legislative initiative or a subject of the right to propose amendments to the Constitution of the Russian Federation and take a decision on it.

Article 25. Deputies of the State Duma shall have the right to exercise legislative initiative in the form of submitting legislative proposals (proposals for the development of draft federal laws). A mandatory condition for making legislative proposals is the submission of a written justification of the need to develop a draft law.

The State Duma shall compulsorily consider a legislative proposal of a deputy and adopt a resolution on it to commission the drafting of a federal

constitutional law or a federal law, or reject the legislative proposal.

A bill prepared on the basis of an adopted legislative proposal shall be submitted by the committee(s) to the State Duma responsible for drafting the bill.

Article 26. The list of subjects of the right to introduce draft resolutions of the State Duma, the requirements for draft resolutions of the State Duma and the procedure for introduction shall be established by the Rules of Procedure of the State Duma.

The list of those empowered to submit draft resolutions of the Council of Federation, requirements to draft resolutions of the Council of Federation and the procedure for submission shall be established by the Rules of Procedure of the Council of Federation.

Article 27. The list of those empowered to introduce draft normative decrees of the President of the Russian Federation, the requirements for draft decrees of the President of the Russian Federation and the procedure for introduction shall be established by the President of the Russian Federation.

Article 28. The lists of those empowered to introduce draft regulatory resolutions of the Government of the Russian Federation and the right to introduce draft regulatory acts of federal executive authorities, the requirements to the said drafts and the procedures for introduction shall be established by the Government of the Russian Federation.

Article 29. Draft laws may be submitted for nationwide discussion.

The procedure for organizing and holding popular consultations shall be established by federal law.

Article 30. In order to assess the quality of a draft normative legal act submitted to a norm-making body, its independent scientific (legal, financial, scientific-technical, ecological, etc.) expertise may be conducted.

The expert opinion shall be attached to the draft normative act when it is introduced.

Article 31. In order to carry out scientific expertise, state authorities and local self-government bodies shall ensure the distribution of a draft normative legal act (draft law — after the first reading) to scientific organizations and educational institutions of higher professional education of the relevant profile.

Scientists and specialists who were not directly involved in the preparation of the relevant project may act as experts.

Representatives of the working group on preparation of a draft normative

legal act on the initiative of the law-making body or the subject of the right of legislative initiative, who introduced the draft normative legal act, may be invited to participate in the consideration of the said draft by the law-making body at any stage of the legislative process.

Law-making bodies as well as interested persons shall have the right to announce a competition for the development of a draft normative legal act.

Chapter V. Procedure for Adoption, Signing, Official Publication and Entry into Force of Normative Legal Acts of the Russian Federation

Article 32. The procedure, rules and procedures for the preparation for consideration by the State Duma of draft laws and resolutions of the State Duma shall be established by the Rules of Procedure of the State Duma.

The requirements of the Rules of Procedure of the State Duma relating to the order, rules and procedures for the preparation and consideration of draft normative legal acts shall be binding on state bodies, officials, public associations and citizens.

The Regulations of the State Duma may not contradict the Constitution of the Russian Federation, federal constitutional laws, this Federal Law and other federal laws.

Article 33. The procedure, rules and procedures for the preparation for consideration and consideration by the Federation Council of draft laws of the Russian Federation on amendments to the Constitution of the Russian Federation and federal constitutional laws approved by the State Duma, federal laws adopted by the State Duma and draft resolutions of the Federation Council shall be established by the Regulations of the Federation Council.

The requirements of the Rules of Procedure of the Council of the Federation relating to the procedure, rules and procedures for the preparation for consideration and review of draft regulatory legal acts and federal laws adopted by the State Duma shall be binding on State bodies, officials, public associations and citizens.

The Regulations of the Federation Council may not contradict the Constitution of the Russian Federation, federal constitutional laws, this Federal Law and other federal laws.

Article 34. The procedure for the adoption, signing, official publication

and entry into force of laws of the Russian Federation on amendments to the Constitution of the Russian Federation shall be established by federal law adopted in accordance with the provisions of Article 136, Part 2 of Article 108 and Part 3 of Article 15 of the Constitution of the Russian Federation.

Article 35. Federal constitutional laws shall be adopted in accordance with the procedure established by part 2 of Article 108 of the Constitution of the Russian Federation.

Federal constitutional laws shall be signed by the President of the Russian Federation in accordance with the procedure established by part 2 of Article 108 of the Constitution of the Russian Federation.

Article 36. Federal laws shall be adopted by the State Duma in accordance with the procedure established by Articles 105 and 107 of the Constitution of the Russian Federation and the Rules of Procedure of the State Duma.

Federal laws shall be approved or rejected by the Federation Council in accordance with the procedure established by Articles 106 and 107 of the Constitution of the Russian Federation and the Regulations of the Federation Council.

The Council of Federations, after its approval of a federal law by voting or without considering it within fourteen days (with the exception of laws provided for in Article 106 of the Constitution of the Russian Federation) is obliged to send the law to the President of the Russian Federation for signing and promulgation. The Council of Federations shall be obliged to send a federal law to the President of the Russian Federation for signing and promulgation also in cases where it has missed the fourteen-day deadline. The disagreement of the Council of Federation with a law adopted by the State Duma, declared after the expiration of this term, shall not be considered a rejection of the law and shall not give rise to the legal consequences provided for in Part 4 of Article 105 of the Constitution of the Russian Federation.

Federal laws shall be signed or rejected by the President of the Russian Federation in accordance with the procedure established by Article 107 of the Constitution of the Russian Federation.

The decision of the President of the Russian Federation to reject a law declared after the expiration of the fourteen-day period shall not give rise to the legal consequences provided for in Part 3 of Article 107 of the Constitution of the Russian Federation.

The President of the Russian Federation shall not have the right to return a federal law adopted by the State Duma and approved by the Council of the

Federation in compliance with the requirements of the Constitution of the Russian Federation other than in accordance with the procedure provided for in part 3 of Article 107 of the Constitution of the Russian Federation, or to leave it without consideration.

If a federal law adopted by the State Duma and approved by the Federation Council is left without consideration by the President of the Russian Federation, it shall be promulgated by the Chairman of the Federation Council.

Article 37. Resolutions of the State Duma shall be adopted in accordance with the procedure established by Part 3 of Article 103 of the Constitution of the Russian Federation with the exception of the Rules of Procedure of the State Duma.

The Rules of Procedure of the State Duma shall be adopted by a resolution of the State Duma by a majority of the total list of deputies.

Article 38. Resolutions of the Federation Council shall be adopted in accordance with the procedure established by Part 3 of Article 102 of the Constitution of the Russian Federation of the Federation Council with the exception of the Federation Council Regulations.

The Rules of Procedure of the Federation Council shall be adopted by a resolution of the Federation Council by a majority of the total list of senators.

Article 39. The procedure for the official publication and entry into force of federal constitutional laws, federal laws, and acts of the chambers of the Federal Assembly shall be established by federal law.

In accordance with part 3 of article 15 of the Constitution of the Russian Federation, federal constitutional laws and federal laws that have not been officially published shall not be applied.

Article 40. The procedures and rules for the preparation for consideration and consideration of draft decrees of the President of the Russian Federation, as well as the procedure for the adoption, official publication and entry into force of decrees of the President of the Russian Federation shall be established by the President of the Russian Federation in accordance with the Constitution of the Russian Federation and this Federal Law.

Article 41. The procedures and rules for the preparation for consideration and consideration of draft resolutions of the Government of the Russian Federation, as well as the procedure for the adoption, official publication and entry into force of resolutions of the Government of the Russian Federation shall be established by the Federal Constitutional Law “On the Government of

the Russian Federation” and the Rules of Procedure of the Government of the Russian Federation.

The Regulations of the Government of the Russian Federation may not contradict the Constitution of the Russian Federation, federal constitutional laws, this Federal Law and other federal laws.

Article 42. The procedure for the adoption, official publication and entry into force of normative legal acts of other federal executive authorities shall be established by the Government of the Russian Federation in accordance with this Federal Law.

Article 43. Normative legal acts of the President of the Russian Federation, the Government of the Russian Federation and other federal bodies of executive power shall be subject to official publication. Such normative legal acts shall not be applied if they are not officially published.

If a normative legal act contains information constituting a state secret, only its title, details, as well as provisions that do not contain information constituting a state secret shall be subject to official publication.

Article 44. If a normative legal act is not officially published before the effective date specified therein, the day of its entry into force shall be the day of its official publication.

Article 45. In accordance with part 3 of article 15 of the Constitution of the Russian Federation, any normative legal acts affecting the rights, freedoms and duties of man and citizen may not be applied unless they have been published officially for general information.

Article 46. A normative legal act that has been amended and supplemented in numerous ways may be officially published again by decision of the normative legal body that adopted the relevant act.

Article 47. Questions on the introduction of amendments and additions, as well as on the invalidation of acts of an abolished or transformed norm-setting body of the federal executive power shall be resolved by its legal successor or by the Government of the Russian Federation.

Chapter VI. Interpretation and Explanation of Normative Legal Acts of the Russian Federation

Article 48. In case of discovery of ambiguities and differences in understanding of provisions, as well as contradictory practice of application of a normative legal act, its official normative interpretation shall be carried out.

Official normative interpretation is the activity of norm-making bodies on obligatory for execution establishment of the content of norms of law.

Interpretation of a normative act should not change its meaning.

Article 49. In accordance with part 5 of Article 125 of the Constitution of the Russian Federation, the Constitutional Court of the Russian Federation shall interpret the Constitution of the Russian Federation.

Article 50. The State Duma shall interpret federal constitutional laws and federal laws. Interpretation of federal constitutional laws and federal laws shall be formalized by a resolution of the State Duma.

A resolution of the State Duma on the interpretation of a federal constitutional law shall enter into force after approval by the Federation Council.

Article 51. The President of the Russian Federation shall interpret the decrees of the President of the Russian Federation.

Article 52. Interpretation of other normative legal acts shall be carried out exclusively by those normative legal bodies by which they are adopted (issued).

Chapter VII. Rules of legislative technique

Article 53. Normative legal acts in the Russian Federation shall be stated in Russian, the State language of the Russian Federation.

Subjects of the Federation have the right to establish additional rules for the presentation and publication of normative legal acts in the languages of the peoples of the Russian Federation.

Article 54. A normative legal act may include a preamble containing an explanation of the motives and purposes of its issuance.

Regulatory prescriptions shall not be included in the preamble.

Article 55. In the Constitution of the Russian Federation and in the laws of the Russian Federation, normative prescriptions shall be set forth in the form of articles having an ordinal number.

Articles of laws of the Russian Federation may be subdivided into paragraphs, referred to as parts. Parts of articles may contain paragraphs and subparagraphs.

In other normative legal acts of the Russian Federation, normative prescriptions are set forth in the form of paragraphs with a serial number. Paragraphs may be subdivided into subparagraphs.

Article 56. Articles (paragraphs) of similar content of normative legal acts of significant volume shall be combined into chapters. Where necessary, chapters may be combined into sections. Sections and chapters shall have headings and shall be numbered.

Article 57. Normative legal acts shall provide definitions of legal, technical and other special terms introduced into legislation.

Normative legal acts shall not allow the use of obsolete words and expressions, figurative comparisons, epithets, metaphors.

Article 58. Where necessary, a normative legal act shall reproduce certain provisions from normative legal acts of higher legal force with reference to such acts.

Normative legal acts do not reproduce repeatedly normative prescriptions contained in existing normative legal acts of the same legal force.

Article 59. References in articles, paragraphs or subparagraphs of a normative legal act to other articles, paragraphs or subparagraphs thereof, as well as to other normative legal acts in force, their separate provisions shall be applied in cases when it is necessary to show the mutual connection of normative prescriptions or to avoid repetitions.

Article 60. Normative legal acts of the Russian Federation shall have the following requisites:

- name (type and title) of the normative legal act;
- dates (date) of adoption, issuance, approval, signing of the normative legal act and its number;
- signatures of persons authorized to sign the relevant normative legal acts.

Article 61. When a federal executive power body issues a normative legal act, it shall indicate in the act in pursuance of which act the act is issued.

Article 62. In connection with the adoption and entry into force of a normative legal act, normative legal acts or parts thereof shall be subject to repeal or recognized as invalid if they contradict the provisions of the adopted

normative legal act.

Article 63. Provisions on the repeal, invalidation, amendments and additions of previously adopted normative legal acts, their separate parts shall be included either directly in the text of a normative legal act or in the text of a normative legal act on its entry into force. Proposals and instructions to cancel amend or supplement previously adopted normative legal acts in connection with the adoption of this normative legal act shall be included either directly in the text of the normative legal act or in the text of the normative legal act on its entry into force.

Chapter VIII. Final provisions

Article 64. This Federal Law shall enter into force on the day of its official publication.

Article 65. To propose to the President of the Russian Federation and to instruct the Government of the Russian Federation to bring its legal acts into compliance with this Federal Law.

The Criminal Code and the Code of Criminal Procedure

Explanatory Note

to the Draft Law on Amendments to the Criminal Code of the Russian Federation and the Code of Criminal Procedure of the Russian Federation for a Transitional Period

The transformation of the legal system, as outlined in Chapters 4 and 7, requires significant reform of the main legislative acts that affect human rights and freedoms. Criminal liability is one of the most severe forms of interference with human rights and therefore requires strict compliance with all necessary procedures.

Criminal legislation, including the Criminal Code (the CC), the Code of Criminal Procedure (the CCP), the Penal Code (the PC) and the Code of Administrative Offences (the CAO)¹ as well as some other legislative acts, provides the legal framework for the implementation of the governmental criminal justice policy that considered as a “part of the governmental policy in the field of combating crime, which is implemented by means and methods of criminal and criminal procedural law.”²

The criminal justice policy includes: 1) principles of criminal justice legislation application to criminal activities, which consist of criminal justice legislation and law enforcement approaches; 2) list of the criminal offences’ and criteria for criminally liable acts and criteria for elimination those acts that do not meet criminal liability criteria; 3) principles of criminal sentencing and its application and legal grounds for criminal liability exemption and penalty exemption; 4) personalized application of criminal liability³. The criminal justice policy is implemented through the provisions of the CC, although the CAO prescribes some offences that are considered as criminally liable according to the ECtHR judgments. The efficiency of the CC and the CAO depends on the

1 The proposed Concept does not include proposals to reform the Penal Code and to the Code of Administrative Offences, but the reform of criminal legislation should include reform of all four codes, since the implementation of the state’s criminal policy is realized through the CC, CCP, PC and CAO, which are applied interconnectedly.

2 Kudryavtsev V.N., Grounds of criminal-legal prohibition. Criminalization and decriminalization. M., 1982.

3 Lopashenko N.A., Criminal Policy. M., 2009.

preciseness and clarity of procedural provisions, including the procedural rights of individuals under criminal investigation and criminal trial. The lawfulness of criminal penalties should be ensured by a separate legislative act — the Penal Code. It is also no secret that law-enforcement undercover operations are regulated by special regulations. Thus, the effectiveness of criminal justice policy is based on the harmonization of all legislative acts on criminal law and justice.

The lack of a clear and consistent criminal policy of the state has led to the fact that criminal and criminal procedure legislation is actively used as 1) an instrument of repression, including political repression, which has been especially evident in the last year and a half, 2) an instrument of redistribution of property, as evidenced by numerous examples, from the Yukos case to the current cases of a number of prominent Russian bloggers, 3) an instrument of defending interests of law enforcement agencies, through ensuring “statistics” standards, increasing budgets of law enforcement agencies, career growth and salaries/benefits for law enforcement officers. The criminal justice system as a whole is not interested in bringing perpetrators to criminal responsibility, it is not interested in correct application of provisions of Criminal Code⁴, and it is not interested in ensuring the protection of victims’ rights. Furthermore, criminal justice system does not enjoy the trust of the public⁵.

Full-fledged criminal justice reform should be based on sociological data, including existing sustainable practices that are directly opposite to the proclaimed goals of criminal law and criminal procedure, on economic analysis of the effectiveness of the criminal law provisions and criminal proceeding, on analysis of the existing judicial practice on various categories of cases. It should be based on careful planning of transitional period, including lustration of those involved in the current repression, on the one hand, and massive and advanced continuing legal education training for all law enforcement officers and judges, that will be aimed to developing the values of the rule of law and the protection of human rights, on the other hand.

Correcting the distortions that have arisen in modern Russian criminal justice system requires not a search for “role models,” but the own design of national model of criminal justice system, which: a) would be internally consistent; b)

4 Paneyakh E., Titaev K., Shklyaruk M. Trajectory of a criminal case. Institutional analysis. SPb. 2018.

5 Serebrennikov D., Titaev K. Dynamics of crime and victimization in Russia 2018-2021. Results of the second victimization survey: an analytical review. Institute for Problems of Law Enforcement at the European University in St. Petersburg, 2022. (Analytical reviews on problems of law enforcement; vol. 2(2022)), https://enforce.spb.ru/images/rcvs_2021_block_online.pdf

would be relevant to the nature of the criminal law, to the principles of criminal proceeding and the core of law enforcement activity; c) would be based on constitutional principles and the rule of law; d) would take into account contemporary international law standards; e) would ensure that criminal proceeding provides guarantees of effective protection of human rights as the highest value through the fair trial⁶. These challenges require a systematic approach.

The CC was adopted in 1996⁷, the CCP was adopted in 2001⁸, the PC was adopted in 1997, the CAO was adopted in 2001. To date, numerous amendments have been made to the texts of the CC and the CCP. Thus, more than 200 laws with amendments to the CC and more than 300 laws with amendments to the CCP have been adopted. Most of the amendments were and are occasional and contradictory in nature, without referring to the criminological situation, social relevance, and social studies validity of the amendments, which led to the destruction of the original logic laid down when adopting both codes.⁹

6 Voskobitova L.A., Functional model of criminal proceedings // Bulletin of O.E. Kutafin University (Moscow State Law Academy), 2, 2018. P. 26

7 The drafting of the new Criminal Code of the Russian Federation began after the collapse of the USSR in 1992. The joint working group was headed by S.G. Kelina, a prominent specialist in criminal law, professor at the Moscow Institute of Law (recently Kutafin Moscow State University of Law) and an researcher at the Institute of State and Law of the Russian Academy of Sciences; it also included representatives of the State Department of the President of the Russian Federation, the Ministry of Justice of the Russian Federation, and a number of law enforcement agencies. The main tasks of reforming the then effective Criminal Code of the RSFSR of 1960 were set in the Concept on Judicial Reform — to protect society from crime through the implementation of modern criminal law, to protect the rights and legitimate interests of citizens caught in the sphere of justice, to develop clear criteria for the criminalization of an act and the imposition of fair punishment. The working group addressed, among other things, to maintaining the necessary balance between the interests of protecting the individual, his or her rights and freedoms, and the interests of protecting the state and public safety. A hierarchy of values to be protected by criminal law means was carefully constructed, with priority given to the protection of the life and freedom of the citizen, and the gradation of punishments depending on the gravity of the crime. However, already at the end of 1995 this slender system was subjected to correction. As a result of the work of the conciliation commission, the Code was adopted during the work of the State Duma of the second convocation in 1996.

8 Behind the adoption of the new Criminal Procedure Code of the Russian Federation on December 18, 2001 there was a long and painstaking work of three working groups formed on the basis of the Ministry of Justice of the Russian Federation, the Main Legal Department (Glavnoe Pravovoe Upravlenie, GPU) of the President Administration and the Research Institute of the General Prosecutor's Office of the Russian Federation, which included both representatives of the scientific community and practitioners of the relevant law enforcement agencies and courts, as well as a significant adjustment of the draft in the Legislation Committee of the State Duma. At the same time, the ideology of the Code, laid down in the Concept of Judicial Reform adopted by the Supreme Soviet of the RSFSR in 1991, remained the same — a fundamental change in the role and status of the court and the judge in criminal proceedings, as well as in the interaction of the court with other participants in criminal proceedings, and the creation of a reliable, fair, and fair system of criminal justice that is consistent with European standards and Russian legal traditions and guarantees the rights of the individual.

9 E.F. Pobegailo. On the serious distortions of the implementation of Russian criminal policy // Modern criminal policy: the search for an optimal model: materials of the VII Russian Congress of Criminal Law. M., 2012.

Thus, experts consider the social irrelevance as the major problem of the CC, which is demonstrated in various gaps in criminal law regulation, in excessive/politicized criminalization of certain acts that do not represent a real social danger, in decriminalization and/or depenalization of acts on a selective basis — in relation to certain groups of the population, under the influence of political interest or various lobbying groups¹⁰.

The text of the current CC of 1996 can be taken as a basis for reforming the new Criminal Code, if following shortcomings would be changed: 1) the low quality and unclarity of a number of provisions and (or) contradictions between different provisions addressed to related legal issues, and those that are heavily critiqued by doctrine and practitioners following the opinions of law academics, judicial practice, and sociological studies; 2) obsolete provisions that are not anymore relevant to the level of development of society and the state, the criminal justice policy to ensure its consistent and sustainable; 3) existing gaps in criminal law legislation, 4) lack of systematic approach to criminal law that appeared due numerous and unsystematic amendments¹¹.

In particular, the following issues need to be resolved:

- to develop a unified and systematic approach to criminal misdemeanors¹² and offences, following the doctrine of its public danger, and determine specific grounds for criminal liability of legal entities,
- to systematize the description of criminal offences in a unified terminological approach following the criminal law doctrine and in its correlation with other legislative acts, so that it would be clear and foreseeable which exact actions are prohibited,
- to include in the system of criminal law legislation those provisions that constitute transnational crime, international crimes under binding international treaties and crimes related to new technologies (description of new criminal offences, methods of counteraction and investigation);
- to streamline the system of criminal penalties following the newly developed system of criminal offences, the system of criminal penalties should be based on sociological data on the destructive consequences of long terms of imprisonment, which lead to the impossibility of resocialization and to

10 G.A. Yesakov, R.O. Dolotov, M.A. Filatova, M.A. Redchits, P.P. Stepanov, K.A. Tsai. Criminal policy: roadmap (2017-2025), <https://www.csr.ru/uploads/2017/04/Report-CP.pdf>

11 Lopashenko N.A., Kobzeva E.V., Khutov K.M., Dolotov R.O. Criminal Code of the Russian Federation. General part. Draft // Library of criminal law and criminology. 2016. № 6 (18)

12 G.A. Yesakov, R.O. Dolotov, M.A. Filatova, M.A. Redchits, P.P. Stepanov, K.A. Tsai. Criminal policy: roadmap (2017-2025) P. 35, <https://www.csr.ru/uploads/2017/04/Report-CP.pdf>

recidivism,

- create a system of alternative penalties that could be applied in addition to existing criminal law measures and could contribute to re-socialization.

The revision of criminal legislation should be coordinated with the reform of criminal procedure legislation, which ensures the implementation of the criminal law legislation.

The CCP has also undergone significant changes aimed at the implementation of narrow interests of law enforcement agencies, including the return of a number of procedures and institutions familiar from Soviet times. This led to a significant distortion of the original concept of the Code and deepened its internal contradictions¹³. In this regard, even the original version of the CCP cannot be used as a basis for reforming criminal procedural legislation.

The main problems of the CCP are 1) the imbalance of powers of the criminal prosecution bodies and the court, 2) the lack of a transparent and smoothly functioning system of mutual control of the investigation/prosecutor's office/court during the preliminary investigation, 3) the lack of real equality of the prosecution and defense in court, 4) the lack of a clear system of grounds for appeal, and the combination of the functions of first instance review of cases and review of decisions in one court.

In reforming the system of criminal investigation and criminal trial proceeding, it is worth preserving the well-established model of the mixed form of process applicable to the most countries of continental Europe, where pre-trial proceeding are fundamentally investigative (non-adversarial) in nature and adversarial proceedings are the basis of the trial¹⁴. The emergence and development of the two types of criminal procedures — Romano-Germanic (continental) and Anglo-Saxon — was variously influenced by geographical and religious factors, as well as by the relationship between the state and the individuals. These factors were so strong that they became part of the mentality of the population of their countries, and therefore the centuries-long coexistence of the Romano-Germanic and Anglo-Saxon criminal processes did not lead to their merger, although recently it is possible to observe some convergence, including under the influence of the practice of the European Court of Human

¹³ Karlov V.P., The concept of modern Russian criminal procedure // Vestnik of V.N. Tatishchev Volga University, 2015 <https://cyberleninka.ru/article/n/kontseptsiya-sovremennogo-rossiyskogo-ugolovnogo-protssesa>

¹⁴ See, Azaryonok N.V., The concept of improvement of the Russian criminal process within the framework of its historical form. Author's thesis. ... doctor of juridical sciences. Omsk, 2021.

Rights¹⁵. As a rule, a historically inherent form of criminal procedure proves to be institutionally stronger and more durable than newly established rules¹⁶.

Reform should aim to establish a “system of checks and balances” to ensure 1) independence and quality of investigation, 2) procedural rights of the parties, including affected human rights, at the pre-trial investigation, 3) full equality of arms at the adversarial trial, 4) guarantees of the independence and impartiality of the judgment, based on factual grounds and legal reasoning, 5) clarity and consistency of the grounds for appeal, 6) limiting the particular level of the judicial system to the particular instance of the court system to avoid the merge of the different capacities at same levels of the court system.

To realize these goals, it seems appropriate to:

- Reform the system of investigative agencies and create a one unified investigative agency that would implement all criminal investigative functions and would consolidate all current investigative agencies into one to avoid competition among agencies that now are entitled to conduct preliminary investigations¹⁷.
- Introduce prosecutorial supervision over the preliminary investigation from the moment a criminal case is initiated, including the authority to (1) terminate criminal investigation, (2) give mandatory instructions to investigators until the case-files of the investigation completed and sent to prosecutor with an indictment act, (3) provide a defendant with the indictment act based on case file collected during the investigation and supervised by the prosecutor, (4) approve the indictment act, and (5) return the case for additional investigation. The prosecutor’s supervision over the preliminary investigation will ensure well-grounded prosecution at trial. The participation of the prosecutor should become “personalized”, i.e. the prosecutor who supervises the investigation of the case should “lead” it up to the court verdict¹⁸.

15 See, for example, O.A. Shvarts, Chapter 6, Section 2, “General approaches to the system of appeal, review and revision of court decisions in criminal proceedings: convergence of continental and Anglo-Saxon legal models under the influence of international instruments for the protection of human rights on the example of recent reforms in some European countries” in Appeal, Cassation, Supervision: Novelties of the Civil Procedural Code of the Russian Federation, Criminal Procedural Code of the Russian Federation. The first results of application: a monograph. In 2 parts. P. 1 / Edited by Kolokolov N.A. M.: Yurlitinform, 2015, PP. 333-381

16 See Development of domestic criminal procedure <https://pravo163.ru/razvitie-otchestvennogo-ugolovnogo-processa/>

17 Aleksandrov A.S., Pozdnyakov M.L. How the Investigative Committee of Russia should not become by 2017, <https://www.iuaj.net/node/1553>

18 Marina Trukhanova, Irina Kondratieva, Evgenia Efimenko, Kudrin’s committee presented a draft of the CPC reform to the committee, <https://pravo.ru/review/view/121612/>

- Introduce the institution of an investigative judge who reviews the rights of the suspect/accused/victim at the preliminary investigation. This will ensure the separation of the function of supervision at the preliminary investigation between the prosecutor and the investigative judge, when the former is the “master” of the investigation, and the latter ensures the lawfulness and reasoning of investigative actions that require judicial supervision¹⁹, as well as restrictions of the personal liberty and security of the suspect/defendant at the preliminary investigation, considers complaints against the actions of the investigator and the prosecutor, ensures evidence that may be lost by the time of trial. This approach would create a system of mutual control between two independent instances — the prosecutor and the investigative judge²⁰. The judge supervising the preliminary investigation should not participate in the consideration of criminal cases on the merits during this period.
- Eliminate the power of the judge to return criminal cases for additional investigation, since the exercise of this power has led to the poor quality investigation of a criminal case and the investigator, the head of the investigative body and the prosecutor are confident that the case file could be easily returned to them by the court to correct the shortcomings committed, and they are not interested in quality investigation of criminal cases²¹.
- Draw a clear distinction between the different types of proceedings for investigating criminal cases in order to ensure the effectiveness of the investigation, on the one hand, and the rights of suspects/defendants and victims, on the other hand, i.e. the CCP should provide for different forms

19 Morshchakova T.G. Slogans and declarations do not work in law // Criminal Procedure. 2015. № 6 (126). P. 15.

20 Concept “Revival of the Institution of Investigative Judges in the Russian Criminal Process” P. 3

21 In the Concept of Judicial Reform among the vestiges of the accusatory role of the court was named the obligation to return criminal cases for additional investigation in case of incomplete investigation, and in the new CCP of the RF, in Article 237, an attempt was made to implement this provision — the institution of additional investigation was abolished as incompatible with the democratic foundations of judicial proceedings. However, the amendments and additions made to Article 237 of the CCP RF over the years of its operation testify to the revival of this institution. As V.A. Lazareva correctly pointed out, the Supreme Court of the Russian Federation and the Constitutional Court of the Russian Federation made their contribution to the revival of the institute of returning a criminal case by the court for additional investigation. Analyzing specific decisions of these courts, she noted that through their efforts the institution of returning the case to the prosecutor, which was conceived as a means of quickly removing obstacles to the consideration of the case by the court, step by step turned into the usual additional investigation, i.e. a means of continuing and strengthening the prosecutorial activity, eliminating the incompleteness of the investigation. See: V.A. Lazareva. The problem of the return by the court of the criminal case for additional investigation in the light of adversarial nature // Criminal Procedural Law. Actual problems of theory and practice: textbook for masters / ed. by V.A. Lazareva, A.A. Tarasov. - Moscow: Yurait Publishing House, 2012. P. 177.

of preliminary investigation depending on the complexity of the factual circumstances, admission of guilt (simplified procedure/transaction), age (juvenile procedure) and possibly other factors. The choice of the type of preliminary investigation may be appealed to the investigative judge. With the consent of the victim, in cases of minor and medium gravity, the victim's complaint may be subject to mediation, except in cases of domestic violence.

- Establish different forms of trial proceedings to ensure the efficiency of the trial on the one hand, and to ensure the procedural rights of the parties and adversarial proceedings on the other. The CCP should establish different trial proceedings, which may be 1) simplified, 2) included the participation of professional judges only, and 3) jury participation. The differentiation of trial proceedings should be accompanied by a detailed description of the procedures for the considering case (depending on the complexity of the case / agreement with the prosecution / reconciliation with the victim / choice of jury), taking into account the provision of the rights of the defense.
- Change the current writing technique of decisions and judgements, since the one of the serious problems of decision writing technique is the almost total lack of description of facts and lack of independent and impartial assessment of the facts, but copy-pasting of the facts' description from the indictment act²². Final decisions/judgments should reflect 1) clear and consistent facts description as basis for the decision, 2) proper legal research and relevant interpretation of legal provisions to be applied to the established facts²³, 3) clear sentencing (the court's resolution on behalf of the State regarding the rights and obligations of the person in question)²⁴. Also, final decisions/judgments should comprehensively reflect the entire process of criminal trial, reveal the logical activity of the court to establish the circumstances of the case and its legal assessment²⁵.
- Reform the system of appeal of judicial decisions/judgments to ensure its effectiveness: 1) to differentiate grounds for appeal to each higher instance, 2) to eliminate the multiplicity of judicial instances in one court²⁶. In this

22 Resolution of the Plenum of the Supreme Court of the Russian Federation of 29.11.2016 55 "On the court sentence" // Bulletin of the Supreme Court of the Russian Federation, 1, January, 2017

23 See L.A. Voskobitova, V.I. Przhilensky, Evolution of the concept of fact: problems of legal cognition and law enforcement practice // All-Russian Journal of Criminology, vol. 10, N° 4, 2016. PP. 779-789

24 Zagainova S.K. Judicial acts in civil and arbitration process: theoretical and applied. The problem of the legal system of the Russian Federation. Dr. of jurisprudence. Ekaterinburg, 2008, P. 50.

25 See Belyaev M.V.; under the scientific ed. of Kachalova O.V., Judicial decisions in the Russian criminal process: theoretical foundations, legislation and practice. Monograph. Moscow: Prospect, 2020.

26 Yarkov V.V., Novels of the Civil Procedural Code of the RF: "new wine in old furs"? // Yurydychnaia gazeta, 2011, N°1-2.

regard, it is proposed to reform the system of courts of general jurisdiction by analogy with the system of arbitration courts, creating a modern court system consisting of three instances — courts of first instance (district courts), which hear cases on the merits; courts of second instance (appellate courts), which review a judicial act that has not come into legal force; and courts of third instance (cassation courts), which review a judicial decisions/judgements that has come into legal force in order to supervise their lawfulness. (pure cassation). At the same time, appeal and cassation courts should be organized according to the district principle, so that their jurisdiction does not coincide with the administrative-territorial division. The supervisory function of the Supreme Court of the Russian Federation, similarly to the arbitration process, should be focused on exceptional legal grounds to ensure the protection of human rights and uniformity of practice.

- Ensure the rights of the defense at preliminary investigation and at trial. One of the main problems of criminal proceedings is the imbalance of the rights of the defense compared to the powers of the prosecution. Keeping the mixed model of criminal procedure, guarantees and rights of the defense at the preliminary investigation should be envisaged and described in detail, including 1) the first moment of the lawyer's access to the defendant, 2) the moment of the first meeting between the lawyer and the defendant, 3) guarantees of free legal aid, which should not depend on the discretion of the investigating authorities, 4) acceptance of evidence submitted by the defense in the case file without any exceptions, 5) equal procedural rights (equality of arms) with the prosecution before the investigative judge and others. Also, for the trial, the court must admit and examine all the evidence presented by the defense and then assess it in the decision/judgment in the collection with the evidence presented by the prosecution.

Reform of criminal, criminal procedure and penal legislation is one of the most difficult tasks, considering the current practice of law enforcement and courts. But the minimization of negative consequences of the current application of the criminal law can be ensured by eliminating and decriminalizing the most odious provisions of the criminal law during the transition period. The draft law on amendments to the Criminal Code of the Russian Federation and related amendments to the Criminal Procedural Code of the Russian Federation serves this purpose.

Federal Law on Introducing Urgent Amendments and Additions to the Criminal Code of the Russian Federation and the Code of Criminal Procedure of the Russian Federation for a transitional period

Article 1

To introduce into the Criminal Code of the Russian Federation (Collection of Legislation of the Russian Federation, 1996, 25, Art. 2954; 1999, 11, Art. 1255; 28, Art. 3489; 2001, 13, Art. 1140; 2003, 15, Art. 1304; 27, Art. 2708; 50, Art. 4848; 2005, 30, Art. 3104; 2007, 16, Art. 1822; 31, Art. 4000; 2008, 52, Art. 6227; 2010, 19, Art. 2289; 41, Art. 5192; 52, Art. 6997; 2011, 11, Art. 1495; 50, Art. 7362; 2012, 29, Art. 3986; 2013, 26, Art. 3209; 52, Art. 6986, 6997; 2017, 31, Art. 4798; 2021, N 27, Art. 5120; 2022, N 29, Art. 5227) the following changes:

1) In part two of Article 20, the words “failure to report a crime (Article 205.6),” shall be deleted;

2) In Article 44, paragraph “n” shall be deleted;

3) In part one of Article 45, the words “death penalty” shall be deleted;

4) In part two.1 of Article 58, the words “281 - 281.2, part one of Article 281.3” shall be replaced by the words “281”;

5) Article 59 shall be deleted;

6) In Article 62:

a) In part three, the words “life imprisonment or the death penalty.” shall be replaced by the words “life imprisonment.”;

b) in part four, the words “or the death penalty” shall be deleted;

7) In part one of Article 65, the words “the death penalty or life imprisonment is provided for, these types of punishments shall not be applied,” shall be replaced by the words “life imprisonment is provided for, this type of punishment shall not be applied.”;

8) In part four of Article 66, the words “Death penalty and life imprisonment” shall be replaced by the words “Life imprisonment”, the word “shall be appointed” shall be replaced by the word “appointed”;

9) In part three.2 of Article 72, the words “convicted persons who have had the death penalty commuted to life imprisonment or imprisonment for a term of twenty-five years by way of pardon;” shall be deleted;

10) In part two of Article 76.1, the words “parts five through seven of Article 159” shall be deleted.

11) In part four of Article 78, the words “death penalty or life imprisonment” shall be replaced by the words “life imprisonment”, the words “death penalty and life imprisonment shall not apply” shall be replaced by the words “life imprisonment shall not apply”;

12) In part three of Article 83, the words “death penalty or” shall be deleted, the words “these types of punishments shall be replaced” shall be replaced by the words “this type of punishment shall be replaced”;

13) In paragraph “a” of part one of Article 104.1, the figures “275.1” shall be deleted, the figures “281 - 281.3” shall be replaced by the figures “281”;

14) In part two of Article 105, replace the words “or by life imprisonment or the death penalty.” shall be replaced by the words “or life imprisonment.”

15) Articles 110.1., 110.2. to be deleted

16) Article 116 shall be amended as follows:

“Inflicting beatings or committing other violent acts causing physical pain, but not resulting in the consequences specified in Article 115 of this Code, against close persons, as well as out of hooligan motives, or on the grounds of political, ideological, racial, national or religious hatred or enmity, or on the grounds of hatred or enmity against any social group is punished by compulsory labor for the term up to three hundred sixty hours, or corrective labor for the term up to one year, or restriction of freedom for the term up to two years, or compulsory labor for the term up to two years, or arrest for the term up to six months, or imprisonment for the term up to two years.

Note. Close persons in this article shall mean close relatives (spouse, spouse, parents, children, adoptive parents, adopted children, siblings, grandparents, grandchildren), guardians, trustees, as well as persons related to the person who committed the act provided for in this article, or persons having a common household with him/her.”;

17) Articles 116.1, 128.1 shall be deleted;

18) In Article 158:

a) From part two, the words “except for part five of article 159,” shall be deleted,

b) from part four, the words “parts six and seven of Article 159,” shall be deleted;

19) In Article 159, parts five, six and seven shall be deleted;

20) In part one of Article 189, replace the words “Articles 226.1, 275 and 275.1” with the words “Articles 226.1 and 275”

21) Articles 205.6, 207.1, 207.2, 207.3 shall be deleted;

22) Article 208 shall be amended as follows:

“1. Creation of an armed formation (association, detachment, druzhina or other group) not provided for by federal law, as well as leadership of such a formation — shall be punished by imprisonment for a term of two to seven years.

2. Participation in an armed formation, not provided by the federal law — is punished by restriction of freedom for the term up to three years, or arrest for the term up to six months, or imprisonment for the term up to five years.

Note. A person who voluntarily ceased participation in an illegal armed formation and surrendered weapons shall be exempted from criminal liability if his actions do not contain other corpus delicti.”

23) In Article 239, parts two and three shall be deleted;

24) Article 243.4 shall be deleted;

25) In part one of Article 244, the words “except for cases provided for in Article 243.4 of this Code,” shall be deleted;

26) Delete sections 275.1, 280, 280.1, 280.2, 280.3, 280.4, 281.1, 281.2, 281.3, 282.4, 284.1, 284.2, 284.3;

27) In Article 277, replace the words “or by life imprisonment or the death penalty.” shall be replaced by the words “or life imprisonment.”;

28) In Article 295, replace the words “or by life imprisonment or the death penalty.” shall be replaced by the words “or life imprisonment.”;

29) Article 298.1 shall be deleted;

30) In Article 317, replace the words “or by life imprisonment or the death penalty.” shall be replaced by the words “or life imprisonment.”;

31) Articles 322.2, 322.3, 329, 330.1, 330.2, 330.3, 352.1, 354.1 shall be deleted;

32) In Article 357, replace the words “or by life imprisonment or the death penalty.” shall be replaced by the words “or life imprisonment.”.

Article 2

To introduce into the Criminal Procedure Code of the Russian Federation (Collection of Legislation of the Russian Federation, 2001, 52, Art. 4921; 2002, 22, Art. 2027; 44, Art. 4298; 2003, 27, Art. 2700, 2706; 50, Art. 4847; 2005, 1, Art. 13; 23, Art. 2200; 2007, 24, Art. 2833; 2009, 1, Art. 29; 52, Art. 6422; 2010, 19, Art. 2284; 30, Art. 3986; 31, Art. 4164; 2011, 1, Art. 45; 15, Art. 2039; 30, Art. 4601; 45, Art. 6322, 6334; 48, Art. 6730; 50, Art. 7362; 2012, 10, Art. 1162, 1166; 24, Art. 3071; 31, Art. 4330, 4331; 49, Art. 6752; 53, Art. 7637; 2013, 9, Art. 875; 26, Art. 3207; 27, Art. 3442, 3478; 30, Art. 4031, 4050, 4078; 44, Art. 5641; 51, Art. 6685, 6696; 2014, 6, Art. 556; 19, Art. 2303, 2310, 2335; 26, Art. 3385; 30, Art. 4278; 48, Art. 6651; 2015, 1, Art. 81, 83; 6, Art. 885; 10, Art. 1417; 29, Art. 4354, 4391; 2016, 1, Art. 61; 18, Art. 2515; 27, Art. 4256, 4257, 4258; 28, Art. 4559; 48, Art. 6732; 2017, 24, Art. 3484; 31, Art. 4752, 4799; 52, Art. 7935; 2018, 1, Art. 51; 18, Art. 2584; 27, Art. 3940; 31, Art. 4818; 47, Art. 7134; 53, Art. 8435; 2019, 14, Art. 1459; 30, Art. 4111; 52, Art. 7818; 2020, 8, Art. 919; 14, Art. 2030; 15, Art. 2235; 42, Art. 6515; 50, Art. 8070; 2021, 24, Art. 4233; 27, Art. 5069, 5109; 2022, 1, Art. 27; 10, Art. 1389; 13, Art. 1952) the following changes:

1) In Article 20:

a) in part two, the words “articles 115 part one, 116.1 part one and 128.1 part one” shall be replaced by the words “article 115,”

b) in part three, the words “159 parts five to seven” shall be deleted;

2) In part three of Article 28.1, the words “159 parts five through seven” shall be deleted;

3) In Article 30:

a) In part two, paragraph 2, the figures “275.1”, “280.2” shall be deleted, the figures “281 - 281.3” shall be replaced by the figures “281”;

b) in paragraph 2.1 of part two, the words “life imprisonment or the death penalty may not be imposed” shall be replaced by the words “life imprisonment may not be imposed”;

(c) In paragraph 3 of part two, delete the figures “275.1”, “280.2, 280.4”, “281.1 - 281.3”.

4) In Article 31:

a) In part one, the words “116.1”, “205.6”, “207.1, 207.2 part one, 207.3 part one”, “243.4 part one”, “280.3 part one”, “284.2”, “298.1” shall be deleted, and the words “328 and 330.3” shall be replaced by the words “and 328”.

b) in paragraph 1 of part three, the words “may not be sentenced to life imprisonment or the death penalty” shall be replaced by the words “may not be sentenced to life imprisonment”, the figures “275.1”, “280.2”, “281.1 - 281.3” shall be deleted;

5) In subparagraph 5 of paragraph 3.1 of part one of Article 51, the words “life imprisonment or the death penalty” shall be replaced by the words “or life imprisonment”;

6) In part one of Article 81.1, the words “159 parts five through seven” shall be deleted;

7) In part three of Article 91, the words “by the death penalty or” shall be deleted;

8) In part three of Article 97, the words “by the death penalty or” shall be deleted;

9) In part one.1 of Article 108, the words “159 parts five through seven” shall be deleted;

10) In paragraph 1 of part three of Article 150, the figures “116.1”, “128.1”, “322.2, 322.3”, “329” shall be deleted;

11) In Article 151:

a) In subparagraph “a” of paragraph 1 of part two, the figures “105 - 110.2” shall be replaced by the figures “105 - 110”, the figures “207.1, 207.2, 207.3”, “243.4”, “280.3, 280.4” shall be deleted, the figures “282 - 282.4” shall be replaced by the figures “282 - 282.3”, figures “284.1, 284.2, 284.3” to be deleted, figures “298.1 - 305” to be replaced by figures “299 - 305”, figures “330.1, 330.2, 330.3” to be deleted, figures “332 - 354.1” to be replaced by figures “332 - 354”,

b) in paragraph 2 of part two, figures “275 - 280.2” shall be replaced by figures “275 - 279”, figures “280.4” shall be deleted, figures “281 - 281.3” shall be replaced by figures “281”,

c) in paragraph 3 of part two, the words “159 parts two through seven” shall be replaced by the words “159 parts two through four”, the figures “280.3” shall be deleted,

d) in part four, the figures “275.1” shall be deleted,

e) in part five, the words “159 parts two through seven” shall be replaced

by the words “159 parts two through four”, the figures “284.1” shall be deleted,

e) In part six, the figures “205.6” shall be deleted;

12) In part four.1 of Article 164, the words “159 parts five through seven,” shall be deleted;

13) In Article 301:

a) Part four shall be deleted,

b) part five shall be deemed to be part four;

14) In Article 310, the third part shall be deleted.

Article 3

This Federal Law shall enter into force on the date of its official publication.

Electoral Legislation

Concept of Changes in Russian Electoral Legislation

*Author P. Evgeniev, PhD student, law school,
Lomonosov Moscow State University
Reviewer E.A. Lukyanova, Professor of Law*

I. General Description

The state of the current Russian electoral legislation, as well as the practice of its application and the electoral system existing on their basis, can be assessed as, at least, deplorable. It is impossible to form an effective elected representative body¹ using the existing legal regulation. This is due to many years of continuous transformation of legislation in order to reduce the competitiveness of elections, create opportunities for falsifications and administrative interference in the electoral process and, as a result, the formation of a certain composition of the parliament. During the same period, the practice of mass falsifications and violations at elections organized through the system of election commissions controlled by the executive power has developed.

It is impossible to “correct” the defects of the electoral system by adopting a single law taking into account the given parameters of its volume, so the authors believe it is advisable to divide the task into at least two stages:

1. Development of a draft law on priority measures to reform the electoral legislation — it is aimed at abolishing the most undemocratic and corrupting provisions introduced into the legislation over the past 20 years. It is important to note that such a draft law will concern only the electoral legislation and will not affect provisions and practices from other areas of law, also used for electoral purposes (e.g., prosecution of opposition candidates on politically motivated charges, etc.).

2. Drafting a transitional election bill — a full-fledged new law on elections to the federal parliament. Proposals on the main parameters of the transitional electoral system will be outlined below.

¹ For the purposes of ease of presentation, the elected collegial representative body will hereinafter be referred to as “parliament” in this concept.

II. Priority measures to reform the election law.

Over the past 20 years, a total of more than 3 thousand amendments have been made to the Russian electoral legislation². Their systematic analysis indicates that, most likely, they were introduced ad hoc — to solve electoral problems in the most recent campaign or as a reaction to certain changes and processes in society. Nevertheless, the result of such ad hoc amendments was the systemic degradation of the elections. Among those that had the most negative impact, the following groups of amendments can be noted:

1) establishment of additional extra-constitutional qualifications of passive suffrage (on the basis of foreign citizenship or residence permit, convictions for crimes of various categories of gravity, administrative responsibility and involvement in extremist and terrorist organizations);

2) complication of the procedure for registration of candidates and candidate lists based on voters' signatures (reduction of the permissible share of "defects", enactment of purely formal grounds for culling);

3) introduction of new methods of voting (remote electronic voting, voting in neighborhoods, voting in extraterritorial polling stations) and expansion of opportunities for homebound and early voting;

4) limitation of opportunities for organizing public observation, including long-term observation (exclusion of members of commissions with the right of deliberative vote, complication of the procedure and narrowing the range of subjects for appointing observers, complication of the procedure for appointing media representatives);

5) exclusion of the possibility of registration through the payment of an electoral deposit;

6) deletion of the "against all" line from the voting bulletin;

7) temporary overestimation of the electoral threshold (from 5% to 7% with a subsequent return to 5% after the elimination of the majority of small parties);

8) Introducing the possibility of multi-day voting.

These amendments should be repealed as a matter of priority. It is important to note that some of the passive suffrage qualifications were

² Federal Law "On Basic Guarantees of Electoral Rights and the Right to Participate in Referendums of Citizens of the Russian Federation," three versions of the Federal Law "On Elections of Deputies to the State Duma of the Federal Assembly of the Russian Federation" and the Federal Law "On Political Parties" (as the main "collective" subjects of the electoral process).

reproduced in Chapters 3-5 of the Constitution as part of the 2020 amendments campaign. — A special act is required to repeal them.

In addition to the repeal of the above-mentioned amendments, several other additions that could act as “patches” to the most problematic elements of the system could be included among the priority amendments. For example, the abolition of a number of grounds for rejecting signatures, the reduction of the role of a handwriting expert and the consolidation of continuous video surveillance with free access to broadcasts and recordings.

Of course, these measures will not bring the electoral system to any ideal state (if such a state is even possible), but they will allow to solve some of its most acute problems, which, in turn, will significantly change the quality of the electoral process.

III. Proposals on the main parameters of the electoral system of the transition period.

The second stage of electoral reform should be the development of a draft law on transitional elections (perhaps with a limited period of validity), on the basis of which elections to the federal parliament could be held.

It is proposed to take the election laws of 1997-1999 as a basis for the new law³. They were sufficiently elaborated and balanced in the conditions of high parliamentary competition in the State Duma of the II convocation, they took into account the experience of elections of the first two electoral cycles, and they were free from defective amendments introduced later.

1. Choice of electoral system

At the moment, the State Duma elections use a mixed unbound electoral system, in which one half of the deputies are elected by proportional representation on closed party lists, and the other half are elected in single-mandate constituencies under a first-past-the-post relative majority electoral system.

Today we can confidently state there is a crisis of the Russian party system, the natural development of which was interrupted first by the ban on regional and interregional parties, and then by the manipulating of the requirements

3 Federal Law 124-FZ of September 19, 1997 “On basic guarantees of electoral rights and the right to participate in referendums of citizens of the Russian Federation”, Federal Law 121—FZ of June 24, 1999 “On the election of deputies to the State Duma of the Federal Assembly of the Russian Federation.”

for the number of federal parties members and the administrative pressure by the Ministry of Justice. In this regard, the transition to all-party elections is at least premature, if at all advisable. Nevertheless, the party component of elections should be retained, provided that the party formation procedure is truly liberalized.

At the same time, the preservation of district elections stimulates political activity at the regional and local levels. However, the majoritarian system with single-mandate districts has significant disadvantages: the advantage of resource candidates (“the winner takes everything”) and a high percentage of “burned” votes.

On this basis, the **transitional electoral system should remain mixed**, but should be modified.

First, in order to avoid repeating the negative experience of the 2003, 2016 and 2021 elections, when the United Russia doubled the number of its mandates due to the separate determination of election results for party lists and constituencies, it is **recommended to switch to a tied mixed system** with the priority of the majoritarian component, following the example of the electoral system of the Federal Republic of Germany (see, for example, the Gudkov-Lubarev project of 2014).

Second, it is recommended that a **single non-transferable vote system with two- or three-member constituencies** rather than a pure majoritarian system be used in **tandem with the** proportional system. In such a system, two or three deputies are elected in each district, but each voter has only one vote, which significantly increases the chances of electing one or two opposition candidates.

2. Electoral Districts

There are two options for the formation of districts for **elections under the proportional electoral system**:

- creation of a single district that includes the territory of the entire country (existing system);
- creation of separate districts in each constituent region subject of the federation or in groups of subjects.

The second option seems to be more preferable, as it stimulates the creation of regional and interregional parties and, in general, party building “from below.”

For district-based elections, it is recommended to change the principles of the districts “slicing.” The existing rules require the formation of approximately

equal in number districts, each of which represents a single territory that does not extend beyond the boundaries of a constituent region, with each region having at least one district. The requirements not to merge regions and to create at least one district in each actually take precedence, which led to the formation of districts with multiple (up to 20 times) differences in the number of voters⁴.

It is necessary to abandon the rule “one region — at least one district” and the prohibition to include the territory of two or more federal subjects into a district. In other words, it will be possible to include territories of several regions in the districts. In this way, it will be possible to form districts with equal representation. The choice between two- and three-member districts is determined by model calculations of the size and number of districts.

It is also recommended to abandon “petal slicing,” which mixes urban and rural voters within one district. For this purpose, the requirement to take into account the existing administrative-territorial division and boundaries of municipalities should be retained in the rules of constituency formation.

Voters abroad. A separate issue in the context of the formation of electoral districts is the fate of voters permanently or temporarily residing abroad. According to the current regulation, such voters are “assigned” to constituencies formed on the territory of Russia. For example, Russians living in Spain vote for a deputy from the Nizhnekamsk district of Tatarstan, and those registered in the consular district of Riga in Latvia vote for a deputy from the Sakhalin region. It seems that the public request of such voters may differ significantly from the request of citizens living in different parts of Russia.

As of July 1, 2023, the number of voters abroad was about 2 million. Obviously, due to the events of 2022-2023, their number could actually have increased significantly, although this requires clarification according to border control data, as not all emigrating citizens are deregistered in Russia. However, even based on official data, the number of voters abroad is sufficient to form several independent electoral districts — this proposal, at least, can be considered when adopting the election law. If approved, several electoral districts could be formed, each of which would include the territories of consular districts bordering each other.

4 The average representation norm is about 495,000 voters, with the only district in Astrakhan Oblast having 746,000 registered voters, in Buryatia — 715,000, in each of the districts in Moscow — an average of 480,000—510,000, while in the Nenets Autonomous District — only 33,000, and in Chukotka — 34,000.

3. Formation of polling stations

The procedure for determining the boundaries of polling stations has changed little since the adoption of the 1999 Law on the Election of Deputies to the present day, so no significant revision of the existing precinct delineation schemes will be required. Nevertheless, certain adjustments may be required due to changes in the constituency layout, although most precincts should simply “change affiliation” from one constituency to another.

It is fundamentally important to abandon the introduction in 2022 of polling stations with more than 3,000 voters in large cities. This is due to the increased complexity of observation at such large polling stations. If they have been formed, they should be divided into several — this can be done by returning to the previous scheme of polling stations on the given territory.

The option to create extraterritorial precincts (outside the territory of residence of voters, including outside the respective region) should also be abandoned.

In addition to polling stations for voting at the place of residence, the possibility of forming polling stations at the place of temporary stay (for example, in hospitals and pre-trial detention centers) should be retained.

4. The system of election commissions and their formation

The existing system of election commissions cannot be used for new elections. It is the commissions formed either directly by the executive authorities or under the direct influence of the “party of power” that act as operators of administrative resources. Lower commissions (precinct and territorial) — as direct falsifiers, higher commissions (district, regional and CEC) — as organizers and “coverers”, as well as commissions that ensure that opposition candidates are not allowed to participate in the elections. At the same time, in terms of the order of formation and relationships, the commissions, in fact, are organized in a relatively rigid vertical, formed “from above.” In this regard, the system of election commissions should be formed anew.

Based on the chosen electoral system and district design, the election commission system could be simplified for the period of the transitional parliamentary elections to three levels: Precinct Election Commissions (PECs) and District Election Commissions (DECs) and a central higher body acting as a co-ordinator and an instance for out-of-court dispute resolution.

The formation of **precinct commissions** with a new composition should be based on public initiative “from below” with the organizational support of local

self-government bodies and control by district commissions. It can be realized through meetings of voters of each election precinct, the participants of which are delegated to the election commissions. The tasks of the municipality are: providing suitable premises, informing citizens about the place and time of the meeting, and providing technical and legal assistance in processing the results of the meeting. The role of the DEC is limited to the overall coordination of the process and monitoring of compliance with the established procedure (verification of meeting protocols). The main tasks of the new composition of Precinct Commissions remain unchanged: organizing voting and the initial vote count, clarifying the voter list, and reviewing complaints on violations.

The bulk of the work on the direct organization of the election campaign should fall on the **district commissions**. In addition to coordinating the work of district commissions, these include: deciding on the registration of candidates, on the allocation of airtime and print space to candidates, on the control of campaign financing by candidates, on the organization of logistics for district commissions, on the consideration of complaints about violations of the law, and on the determination of election results by district. For effective work, DECs should have at least 15-20 members. The formation of district commissions is also proposed to be carried out at the expense of initiatives “from below”: with the delegation of candidates from public associations and other non-profit organizations. At the same time, one member of the commission should be delegated to it from the bar community (bar chambers of the regions whose territories are included in the district) and from the judiciary (from among the judges of the courts located in the territory of the district, with a mandatory check of the reputation of the nominated judge to include confirmation of the absence of information about his or her corrupt or politically motivated decisions).

The tasks of the **central supreme election body** should be to coordinate the work of the district commissions (controlling the uniform application of election legislation), to consider complaints on violations, and to officially announce the final election results received from the district commissions. Unlike precinct and district commissions, it is formed “from above” — by decision of the body that ordered the elections. It should include representatives of the expert and observer communities. An additional requirement: higher legal education or a degree in law. As in the district commissions, the body should include one representative each from the judiciary (from the Supreme Court of the Russian Federation, with similar requirements for reputation checks) and the advocacy community.

All electoral bodies act collegially, each of them electing a chairperson, a deputy chairperson and a secretary by internal vote. These positions do not give those who hold them additional powers to direct the work of the commission: the chairperson and the deputy chairperson organize meetings and represent the commission in relations with other bodies, persons and organizations, the secretary is responsible for keeping minutes of meetings and organizing document flow.

5. Voter lists

In this part, no significant changes are envisaged in comparison with the regulation of this issue in the election laws of 1997-1999. The voter list for each precinct is compiled by the existing local self-government bodies on the basis of data from the registration records of citizens at their place of residence. Once compiled, it is transmitted to precinct commissions no later than one month before election day, during which time voters can check their details and, if necessary, update them. Military servicemen and non-resident students vote on general grounds — at the address of registration at the place of residence or at the address of registration in the military unit.

6. Voting rights qualifications and candidate registration

Chapter 2 of the current Constitution provides for two general restrictions on passive and active suffrage: being in prison under a court sentence and being recognized as incapable by a court decision. The entire array of extra-constitutional electoral qualifications accumulated by Russian legislation since 2006 should be abolished at the previous stage of reform (when implementing priority measures).

The question of the necessity and expediency of excluding from the elections persons involved in the activities of the existing regime, including lustration, is left “outside the brackets”.

The procedure of nomination and registration should be simplified. For this purpose, first, the list of documents and information to be submitted for nomination should be reduced — the scope of requirements of the 1999 Election Law seems to be sufficient. Second, the range of subjects of nomination should be expanded: in addition to self-nomination and nomination from political parties, the right to nominate a candidate is granted to groups of voters. Thirdly, it is necessary to change the grounds and procedure of registration: in addition to the return of registration on the basis of electoral deposit in the 1999 edition, registration on the basis of voters’ signatures should be simplified. The latter

implies:

1. reducing the number of signatures required for registration from 3 to 0.2-0.3% of the number of voters in the district — based on an average of 980,000 voters in each district in federal elections, this should amount to 2-3,000 signatures;
2. renunciation of all benefits and preferences for party candidates based on the results of past elections;
3. increasing the allowable “stock” of signatures to 20%;
4. increasing the allowable amount of “rejects” during verification from 5 to 20%;
5. rejection of purely formal grounds for culling;
6. limited participation of the handwriting expert only to a random check and an explicit reference to the advisory nature of his/her opinion with the possibility to challenge it through oral or written questioning of electors—signatories.

The range of grounds for refusal to register candidates should be narrowed by eliminating the purely formal ones and detailing the most broadly formulated ones (primarily those related to failure to provide information or documents and inaccuracies in the information). The district commission should be obliged to notify the candidate of any deficiencies in his/her documents and the candidate should be exempted from liability if the commission violates this obligation.

7. Financing of election campaigns

In the framework of the elections to the Transitional Parliament, it is proposed to change the state co-financing of candidates' election campaigns. Currently, state co-financing consists of providing registered candidates with free print space and free airtime. Depending on current possibilities, state participation may be expanded by providing each registered candidate with a fixed amount of money from the federal budget. It can either be a part of the total allowable campaign budget or make up the entire budget, in which case candidates' campaigns will be conducted with full state funding. This will, firstly, ensure more equal conditions for candidates from different social groups in conditions of strong property stratification, and secondly, reduce the corruption component of the campaign. If a candidate receives less than 1% of the popular vote, he/she must return the spent funds to the budget under the threat of ineligibility to participate in any next election.

Where private funding of campaigns is retained (fully or partially from the candidate's own funds and donations from individuals and legal entities), the requirements for the formalization of campaign fund contributions and a number of reporting requirements are simplified.

For electoral associations (parties), the existing funding procedure may be retained, subject to a similar simplification of the revenue processing and reporting requirements.

8. Election canvassing

The range of restrictions in conducting election canvassing is formulated in the current electoral legislation rather vaguely. The main prohibitions are extremism, vote-buying, infringement of intellectual property and use of official position. Violation of any of them (in most cases, even a single violation) may result in the de-registration of a candidate. At the same time, the definition of extremist activity is extremely vague and the provisions on the use of intellectual property do not take into account the specifics of electoral legal relations — these prohibitions should be revised.

Thus, calls to extremist activities are a crime and should be investigated in a criminal case. In the framework of electoral legal relations, the prohibition of calls for violent seizure of power, violent change of the constitutional order and violation of territorial integrity and propaganda of war can be preserved. In its turn, the prohibition of intellectual property infringement receives the criterion of repeatedness and a reservation on the possibility of providing the author's consent post factum.

The prohibitions on vote-buying and the use of official position are retained — their repeated violation remains grounds for deregistration of a candidate. However, the criteria for vote-buying should be clarified to limit the possibility of vote-buying through front persons.

The campaign period expands and becomes unified for all candidates: two months before election day. By this time, the candidate registration procedure must be completed. The right to campaign, including those requiring limited financial expenditures, is granted to non-candidates.

9. Procedure for voting and counting of votes.

Over the past three years, the list of voting formats has expanded considerably. Transition elections should abandon those formats that are most difficult for observers to control. This should partially happen in the previous

stage of reform.

Based on this criterion, voting, first of all, again becomes one-day voting. Early voting is possible in inaccessible and remote areas, on ships on voyages, polar stations, etc., as well as for several days at polling stations abroad.

Second, voting should, to the maximum extent possible, take place in the voting room — where it is possible to organize high-quality public observation. In this regard, mobile voting is conducted on a closed list of grounds (health condition, disability). Remote electronic voting is possible in a limited form — as an alternative to early voting in hard-to-reach areas, on ships, etc. Voting at continuous work-cycle enterprises is conducted either in the format of home voting or through the formation of a temporary election commission in case of a large number of voters.

Voters who are unable to go to their polling station on Election Day can vote in one of three ways:

1. through attachment to another precinct within the same electoral district;
2. in case of absence on the territory of the district — through the use of electronic polling stations. They can be formed in each constituency and consist of a regular voting room equipped with electronic voting complexes (EVCs). With the help of an EVC, a voter from one constituency, having detached from his/her “home” polling station and attached to an electronic polling station, can vote in the election while physically being in another constituency;
3. through the remote electronic voting system, if such a system is in place and has been publicly audited and tested.

The procedures for “ordinary” voting both in the commission premises and at home are regulated in sufficient detail in both the current legislation and the 1997-1999 laws. They can be retained without change. The same applies to the procedure of vote counting at the polling station — it itself does not cause any complaints and is familiar to observers, the existing problems are mainly related to its non-compliance.

Determination of the voting results at DEC. The transfer of vote count results to DEC is done in two complementary ways: through the state automated system (SAS) Vybory and through physical transfer of a protocol copy. Currently, all election commissions except PECs are connected to SAS Vybory. If it is technically possible to connect them, protocol data should be uploaded to the system directly at the polling station, if not — through terminals located in the

current DEC.

Voting results for a constituency are determined only after DEC has received protocols and ballots from all subordinate polling stations.

In cases where the count results uploaded to SAS Vybory are changed (e.g., a repeat protocol is uploaded), if there is a discrepancy between the count data from SAS Vybory and the protocol delivered to the DEC, the district commission must conduct a manual recount of the votes from that polling station. Although such a requirement could significantly delay the determination of election results, it would ensure a high quality of counting and additional protection against fraud.

10. Public observation

Over the past few years, the federal legislature has adopted a number of amendments that have significantly complicated the procedure of public control over voting. At least partially this problem should be solved at the previous stage of reform.

For example, the institution of commission members with the right of consultative vote, appointed by registered candidates to DEC and each PEC, should be returned. Restrictions on the appointment of observers should be removed: the right to appoint observers should be granted not only to candidates but also to public associations, and the requirement to submit lists of observers to a higher commission in advance should be eliminated. The prohibition to remove an observer from a polling station except by court order and the right to take photos and videos are retained.

A useful innovation from the recent years practice will also be the organization of video surveillance at each polling station and in the premises of the district commission. However, access to it should be fully open to any citizen with the possibility of both saving the recording on his/her device and opening and uploading the recording from any polling station. If technical data confirming the authenticity of the recording is available, it should be accepted as evidence both in out-of-court appeals against violations and in court.

In addition, there is a need to revise the provisions on liability for violations. The existing provision on liability is completely blanket. Instead of it, it is necessary to return to the legislation a single list of the main violations of the election legislation — it was also included in the Laws of 1997-1999, but was not included in the subsequent editions of the election laws. Moreover, for more effective law enforcement this list should be supplemented with direct

references to the Criminal Code of the Russian Federation and the Code of the Russian Federation on Administrative Offenses.

11. Challenging the voting results and election results.

The circle of subjects of challenge remains unchanged: candidates in the respective constituency. Voting results at the polling station level can also be challenged by voters who voted there, observers and commission members who were present. However, the deadlines and grounds for challenges should be revised.

Thus, under the current legislation, the results of voting by precinct can be challenged within 10 days after the protocol is signed, which significantly limits the possibilities of appeal. The deadline should be increased to one month from the signing of the protocol, as it was established in the legislation earlier. The deadline for challenging the results of district elections should also be increased from three months to six months.

The grounds for annulment by the court of the voting results and election results, formulated through the evaluative categories of “determination of the actual will of the voters” and “reliable determination of the results of the expression of will,” also require specification. Violations calling into question 20 percent or more of the votes of the voters who participated in the voting at this polling station should be considered grounds for canceling the decision on the voting results for the polling station. In order to cancel the protocol on the voting results for a district, protocols in 20 percent or more of the polling stations in the district must be challenged and canceled.

With regard to violations not directly related to what is happening at the polling station (e.g., vote-buying, use of official position, campaign violations), the court should consider the gravity of the violation — e.g., whether it has the effect of deregistering the candidate, the multiplicity of violations committed, their willful nature — and not only the number of voters directly affected by the violation.

IV. Conclusion

The concept of the legal regulation of elections in the transition period outlined in this text is only one of the options for building an electoral system during regime transition. Depending on the state of institutions at the time of regime transition, a number of provisions of the concept may be revised and adapted to other conditions.

Explanatory Note to the draft Federal Law on Priority Measures to Reform the Electoral Legislation of the Russian Federation

*Author P. Evgeniev, PhD student, law school,
Lomonosov Moscow State University
Reviewer E.A. Lukyanova, Professor of Law*

The state of the current Russian legislation on elections, as well as the practice of its application and the electoral system existing on their basis, can be assessed as at least deplorable. It is not possible to form an effective elected representative body using the existing legal framework. This is due to the transformation of electoral legislation for more than 20 years with the aim of reducing the competitiveness of elections, creating opportunities for falsifications and administrative interference in the electoral process and, as a result, the formation of a certain composition of the parliament. During the same period the practice of mass falsifications and violations at elections organized through the system of election commissions controlled by the executive power has developed. A total of more than 3 thousand amendments were made to the Russian electoral legislation on elections. Their systematic analysis indicates that most likely they were introduced ad hoc — to solve electoral tasks in the most recent campaign or as a reaction to certain changes and processes in society. Nevertheless, the result of such ad hoc amendments was a systemic degradation of the elections.

The present draft law has been prepared and proposed with the aim of repealing and correcting the most undemocratic, defective and corruption-prone provisions introduced in the legislation since 2002. The proposed measures can be characterized as priority measures — the initial stage of a major reform — and include the following:

1. Exclusion from the legislation of additional extra-constitutional qualifications of passive suffrage introduced since 2006: foreign citizenship or residence permit, convictions for crimes of various categories of gravity, administrative responsibility and involvement in extremist and terrorist organizations). It is important to note that some of the qualifications of passive suffrage were reproduced in Chapters 3-5 of the Constitution as part of the 2020

amendments. To abolish them, a special act must be adopted.

2. Reducing the requirements for the procedure and simplifying the registration of candidates and candidate lists based on voters' signatures. First, it is to increase the permissible share of signatures that can be recognized as invalid or unreliable ("rejected") without consequences in the form of denial of registration. Second, it is proposed to enshrine a provision on the inadmissibility of "rejection" of signatures due to unspecified corrections and blots, thus attempting to reduce the formality of signature evaluation.
3. Exclusion of innovations related to voting methods from the legislation. First of all, such formats as remote electronic voting, voting by mail, and voting in household areas are completely excluded. In addition, the possibilities for early and homebound voting are restricted (e.g., the list of reasons for calling a homebound team).
4. Expansion (restoration) of opportunities for public control (observation): the possibility of appointing members of election commissions with the right of consultative vote is restored, the range of subjects authorized to appoint observers is expanded at the expense of non-party public associations, the procedure for appointing observers is simplified, and the procedure for accrediting media representatives is abolished.
5. The line "against all" is returned to the ballot paper in all elections without exception. It was completely absent in the legislation from 2006 to 2014, but was restored with a reservation on the right of the subject of the federation to refuse its use.
6. The provisions on the possibility of voting over several days (multi-day voting) are deleted, while early voting is retained as one of the ways to vote if it is impossible to appear in person at the election commission on election day.
7. Provisions restricting the realization of suffrage due to the status of a foreign agent are excluded — norms related to this status should be excluded from all branches of legislation.
8. The possibility of registration on the basis of electoral deposit is returned. Despite the measures proposed in this draft law regarding the registration procedure based on voters' signatures, it can still be used for administrative pressure and to exclude candidates, although it will be much more difficult to do so. The introduction of an alternative basis for registration — the electoral deposit — would further limit the possibility of using administrative

resources in elections.

Undoubtedly, the adoption of the above measures will not lead to the creation of a fundamentally new electoral system, but they will make it possible to solve some of its most acute problems, which, in turn, will significantly change the quality of the electoral process: it will reduce the possibility of using administrative resources (both at the stage of admission of candidates and directly during the voting) and increase the transparency and controllability of electoral procedures.

Federal Law on Priority Measures for Reforming the Election Legislation of the Russian Federation

*Author P. Evgeniev, PhD student, law school,
Lomonosov Moscow State University
Reviewer E.A. Lukyanova, Professor of Law*

Article 1

To introduce the following amendments to the Federal Law of June 12, 2002, 67—FZ “On Basic Guarantees of Electoral Rights and the Right to Participate in Referendums of Citizens of the Russian Federation” (Collection of Legislation of the Russian Federation, 2002, 24, Art. 2253 <...>):

1. To recognize as invalid: article 2, paragraphs 35.1, 35.2 and 62.1; article 4, paragraphs 3.1-3.6, 11 and 12; article 10.1; article 17, subparagraph 15.2; article 19, paragraphs 2.4 and 5.1; article 27, paragraph 1.2-1; article 29, paragraph 1, subparagraph “o” and article 8, paragraph 8, subparagraph “g”;
2. in Article 30:
 - a) In paragraph 4:

the first sentence after the words “which registered the list of candidates” shall be supplemented with the words “, other public associations”;

the second sentence is deleted;
 - b) paragraphs 7.1, 11.2, 11.3 and 14 of Article 30 shall be recognized as invalid;
3. to recognize as invalid: paragraphs 2.1 and 6.8 of Article 33; paragraph 2 of paragraph 9 of Article 37;
4. In Article 38:
 - a) Add paragraph 6.7 as follows:

“6.7. Corrections and blunders not specifically specified by the voter, participant in the referendum or the person certifying the signature list during the preparation of the signature list, which do not prevent the unambiguous perception of the information about the voter, participant in the referendum

contained in the signature lists, may not serve as grounds for invalidating the signature of the voter, participant in the referendum.”;

b) in subparagraph “d” of paragraph 24, replace the figure “5” with the figure “20”;

c) In subparagraph “d¹ “ of paragraph 24, replace the figure “5” with the figure “20”;

d) in subparagraph “c” of paragraph 25, replace the figure “5” with the figure “20”;

e) in subparagraph “in¹ “ of paragraph 25, replace the figure “5” with the figure “20”;

5. to recognize as invalid: paragraph 5.1 of Article 45; paragraphs 9.4 and 9.5 of Article 48;

6. in Article 63:

a) paragraph 7.1 of article 63 shall be recognized as invalid;

b) in paragraph 8:

the words “At the time of local government elections at the end of the list” shall be replaced by “At the end of the list”;

the third and fourth sentences are deleted;

7. To recognize as invalid: article 63.1; article 64, paragraphs 14, 15 and 17; article 64.1; paragraph 2, paragraph 1, paragraphs 16 and 17 of article 65; paragraphs 18 and 19 of article 66; paragraphs 6.1 and 31.1 of article 68; paragraph 10 of article 69; paragraphs 3-7 of article 81.

Article 2

To recognize as null and void:

1. Article 6 of Federal Law 128-FZ of July 25, 2006 “On Amendments to Certain Legislative Acts of the Russian Federation in Part of Clarifying the Requirements for Filling State and Municipal Positions” (Collection of Legislation of the Russian Federation, 2006, 31 (1 part), Art. 3427);

2. Article 1, paragraph 1 of Federal Law 225-FZ of December 5, 2006 “On Amending the Federal Law ‘On Basic Guarantees of Electoral Rights and the Right to Participate in Referendums of Citizens of the Russian Federation’ and the Code of Civil Procedure of the Russian Federation” (Collected

- Legislation of the Russian Federation, 2006, 50, Art. 5303);
3. Article 7 of Federal Law 211-FZ of July 24, 2007 “On Amending Certain Legislative Acts of the Russian Federation in Connection with Improving State Management in the Field of Countering Extremism” (Collection of Legislation of the Russian Federation, 2007, 31, Art. 4008);
 4. Article 2 of Federal Law 19-FZ dated February 21, 2014 “On Amendments to Certain Legislative Acts of the Russian Federation” (Collection of Legislation of the Russian Federation, 2014, 8, Art. 739);
 5. Articles 1-3 of Federal Law 3-FZ of February 9, 2009 “On Amending Certain Legislative Acts of the Russian Federation in Connection with the Abolition of the Electoral Deposit for Elections” (Collection of Legislation of the Russian Federation, 2009, 7, Art. 771);
 6. subparagraphs “e” and “f” of paragraph 1 of Article 1 of Federal Law 29-FZ of February 15, 2016 “On Amending the Federal Law ‘On Basic Guarantees of Electoral Rights and the Right to Participate in the Referendum of Citizens of the Russian Federation’ and Article 33 of the Federal Law ‘On the Election of Deputies to the State Duma of the Federal Assembly of the Russian Federation’ with regard to the activities of observers” (Collection of Legislation of the Russian Federation, 2016, 7, Art. 917);
 7. Article 4 of Federal Law 98-FZ of April 1, 2020 “On Amendments to Certain Legislative Acts of the Russian Federation on the Prevention and Elimination of Emergency Situations” (Collected Legislation of the Russian Federation, 2020, 14 (Part I), Art. 2028);
 8. Article 1, paragraph 1 of Federal Law 153-FZ of May 23, 2020 “On Amendments to Certain Legislative Acts of the Russian Federation” (Collected Legislation of the Russian Federation, 2020, 21, Art. 3232);
 9. paragraphs 1-3, subparagraph “b” of paragraph 4, subparagraphs “b” and “c” of paragraph 5, paragraphs 6-15 of Article 2 of Federal Law 154-FZ of May 23, 2020 “On Amending Certain Legislative Acts of the Russian Federation” (Collected Legislation of the Russian Federation, 2020, 21, Art. 3233);
 10. paragraphs 1-3, subparagraph “a” of paragraph 5, paragraphs 6-16 of Article 1 of Federal Law 267-FZ “On Amending Certain Legislative Acts of the Russian Federation” dated July 31, 2020 (Collected Legislation of the Russian Federation, 2020, 31 (Part I), Art. 5026);
 11. Article 1 of Federal Law 91-FZ dated April 20, 2021 “On Amendments to

Certain Legislative Acts of the Russian Federation” (Collection of Legislation of the Russian Federation, 2021, 17, Art. 2877);

12. Federal Law 157-FZ of June 4, 2021 “On Amendments to Article 4 of the Federal Law “On Basic Guarantees of Electoral Rights and the Right to Participate in Referendums of Citizens of the Russian Federation” and Article 4 of the Federal Law “On Elections of Deputies to the State Duma of the Federal Assembly of the Russian Federation” (Collection of Legislation of the Russian Federation, 2021, 23, Art. 3916);
13. subparagraphs “a”—“c” of paragraph 2, paragraph 5, subparagraph “d” of paragraph 10, subparagraphs “i”—“p” of paragraph 20, subparagraphs “a” and “b” of paragraph 21, subparagraph “d” of paragraph 24, paragraph 31, 34, 35, subparagraphs “b” and “c” of paragraph 44, subparagraphs “a”, “c” and “d” of paragraph 47, paragraph 2 of subparagraph “c” of paragraph 49 of Article 2 of Federal Law 60-FZ “On Amendments to Certain Legislative Acts of the Russian Federation” dated March 14, 2022 (Collected Legislation of the Russian Federation, 2022, 12, Art. 1787);
14. Article 15 of Federal Law 498-FZ “On Amending Certain Legislative Acts of the Russian Federation” dated December 5, 2022 (Collected Legislation of the Russian Federation, 2022, 50 (Part III), Art. 8792);
15. paragraph 3, subparagraph “e” of paragraph 5, paragraphs 6, 9, 10, subparagraph “e” of paragraph 12, subparagraphs “a” and “e” of paragraph 23, subparagraph “b” of paragraph 24, paragraph 25, subparagraph “d” of paragraph 27, subparagraph “c” of paragraph 28, subparagraph “a” of paragraph 29, paragraph 32 of Article 3 of the Federal Law of May 29, 2023, 184-FZ “On Amending Certain Legislative Acts of the Russian Federation” (Collected Legislation of the Russian Federation, 2023, 23 (Part I), Art. 4004).

Article 3

This Federal Law shall enter into force ten days after the date of its official publication.

Federal Law on Freedom of Information and Expression

Explanatory Note to the Draft of Federal Law on Freedom of Information and Expression

Prof., Dr. A.G. Richter

Freedom of expression and freedom of mass media constitute the foundations for the development of modern society and a democratic state.

Under article 29 of the Constitution of the Russian Federation, everyone has the right to freely seek, receive, transmit, produce and disseminate information by any lawful means. No one may be compelled to express his or her opinions and convictions or to refuse to do so. Everyone is guaranteed freedom of thought and speech and freedom of mass information. Censorship shall be prohibited.

International acts that regulate issues of freedom of speech and mass information and are binding on the Russian Federation by virtue of part 4 of article 15 of the Constitution of the Russian Federation include, inter alia, the International Covenant on Civil and Political Rights and the Final Act of the Conference on Security and Co-operation in Europe.

The current Law of the Russian Federation “On Mass Media” of December 27, 1991, 2124-1, which was developed during the Soviet period, prohibited censorship, ensured the essential rights of journalists and media editors, and facilitated the realization of the right of everyone to establish media outlets independent of the state. Over time, as it was amended and addended, it became a brake on the development of freedom of mass media and, later, a tool for suppressing freedom of thought. In fact, the State has acted, both through the revision of the Mass Media Law and through other laws, to destroy information rights and freedoms and to establish its monopoly on information and the truth.

The draft law is based on the understanding of freedom of mass media as the ability of an individual, with the help of special technical means, to disseminate his or her thoughts and opinions to as many people as would satisfy his or her goals of participating in public dialogue; as the ability to influence, through the exercise of this freedom, policy and decision-making affecting the interests of society; and as the ability of an individual to seek, receive, produce and disseminate information about current events without hindrance.

The proposed draft is designed to liberate and protect not only the rights of journalists and media editors, but also to guarantee in practice the right of everyone to freedom of expression (Article 29 of the Constitution of the Russian

Federation). This right includes freedom of information (freedom to seek, receive and disseminate information), including freedom of mass information.

The proposed draft law is based on the need to create in Russia a free media model common in Europe, consisting of public, commercial (private) and community media¹. State media should be prohibited by law and abolished in practice.

In the area of **freedom of speech**, the draft law strictly follows the country's international obligations to the United Nations, the Organization for Security and Co-operation in Europe, recommendations of the UN Human Rights Committee², as well as the standards generally accepted in the world and, above all, in Europe for ensuring this fundamental human right.

In the area of ensuring freedom of public (mass) information, the draft law follows the best national practices in democratic countries; the arguments expressed earlier during free discussions on this issue³, the recommendations of special rapporteurs of intergovernmental organizations⁴ and the Committee of Ministers of the Council of Europe⁵, and also takes into account the position taken by the Plenum of the Supreme Court of the Russian Federation in its resolution "On the Judicial Practice Related to the Statute of the Russian Federation 'On the Mass Media'."⁶

In the area of **freedom of access to information**, the draft law is guided by

1 See Recommendation [CM/Rec \(2011\) 7](https://rm.coe.int/09000016805cc4d7) Committee of Ministers to Council of Europe member states on a new notion of media, September 21, 2011, para. 81, <https://rm.coe.int/09000016805cc4d7>.

2 See UN Human Rights Committee, General Comment 34, Article 19: Freedom of opinion and expression, Geneva, 2011, <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsrdB0H1I5979OVGGB%2BWPAXiks7ivEzdmLQdosDnCG8FaGzYH6OnzWb2RXT7yJopp6wnueK3xDIZpJtsnQ4NnehKxA27tv6yxSEu56OqU0tVD>.

3 See Обсуждение проектов закона о СМИ (Discussion of draft laws on mass media) - Moscow: Institute of Information Law, 2003. P. 464, Journalism and Law; Issue 33, <https://web.archive.org/web/2011014182003/http://medialaw.ru/publications/books/indep1/index.html>; Elena Sherstoboeva, Recommendations for Bringing Media Understanding in line with International Standards on Freedom of Expression in the Digital Age, Organization for Security and Cooperation in Europe, Office of the Representative on Freedom of the Media, 2017, <https://www.osce.org/fom/358701>.

4 See Joint Declarations of Special Rapporteurs of Intergovernmental Organizations: <https://www.osce.org/fom/66176>.

5 See, for example, Recommendation R(94)13 of the Committee of Ministers to the member states of the Council of Europe on measures to ensure media transparency, November 22, 1994, <https://media-pravo.info/law/28>, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804c1bdf>.

6 See Resolution of the Plenum of the Supreme Court of the Russian Federation "On the Judicial Practice Related to the Statute of the Russian Federation 'On the Mass Media'", 15.06.2010 16, PP. 37-56, <https://rm.coe.int/1680783bbe>.

the Council of Europe Convention on Access to Official Documents⁷, generally accepted measures to achieve the Sustainable Development Goals defined by the UN General Assembly (in particular, Target 16.10 aimed at ensuring public access to information and protection of fundamental freedoms in accordance with national legislation and international agreements)⁸, while developing the provisions of the Federal Law of 09.02.2009 N 8-FZ “On Ensuring Access to Information.” The existing judicial practice in cases involving the provision of information in Russia shows that the courts “in the absolute majority of cases refuse to satisfy the claims of applicants.”⁹ At the same time, international practice suggests that for the system of access to information to be effective it is necessary to establish an independent body to supervise the fulfillment by State bodies of their duty in this regard¹⁰. Therefore, the draft law proposes to establish such an independent institution.

In the field of **public media**, in particular public broadcasting, the draft law implements the principles and values of the European Broadcasting Union¹¹, the relevant recommendations of international institutions, and takes into account the national practices of countries that have made the transition from state to public broadcasting in recent decades¹².

In the field of **audiovisual media**, the norms prescribed by the EU Audiovisual Media Services Directive¹³ served as a distant reference point. At this stage, however, we were guided by the publications of the European Audiovisual Observatory¹⁴, recommendations of the Council of Europe¹⁵ and other European

7 Council of Europe Convention on Access to Official Documents, Tromsø, June 18, 2009, <https://rm.coe.int/16805a937b>.

8 Resolution adopted by the UN General Assembly on September 25, 2015 N70/1 Transforming Our World: The 2030 Agenda for Sustainable Development, https://unctad.org/system/files/official-document/ares70d1_ru.pdf.

9 Maria Proskuryakova, Subjective public right of access to information on the activities of public authorities: problems of judicial protection and possible ways to solve them, 20.06.2019, Zakon.ru.

10 A Steady Path Forward: UNESCO 2022 Report on Public Access to Information (SDG 16.10.2). Paris: UNESCO, 2023, P. 17, <https://unesdoc.unesco.org/ark:/48223/pf0000385479>.

11 See e.g., Governance Principles for Public Service Media, Geneva: EBU, December 2021, https://www.ebu.ch/files/live/sites/ebu/files/Publications/EBU-Legal-Focus-Gov-Prin_EN.pdf.

12 See e.g. Cabrera Blázquez F.J., Cappello M., Talavera Milla J., Valais S., Governance and independence of public service media, IRIS Plus, European Audiovisual Observatory, Strasbourg, February 2022, <https://rm.coe.int/iris-plus-2022en1-governance-and-independence-of-public-service-media/1680a59a76>; Indrajit Banerjee and Kalinga Seneviratne (eds.), Public Service Broadcasting: A Handbook of Best Practices, Paris: UNESCO, 2005, https://unesdoc.unesco.org/ark:/48223/pf0000141584_rus.

13 Directive 2010/13/EC of the European Parliament and of the Council of the European Union of March 10, 2010. On the coordination of certain legislative, regulatory and administrative provisions in force in the EU Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive), <https://eur-lex.europa.eu/eli/dir/2010/13/oj> and <https://base.garant.ru/2570152/> (in Russian).

14 See <https://www.obs.coe.int/en/web/observatoire/home>.

15 See, e.g., Recommendation 748 (1975) of the Parliamentary Assembly of the Council of Europe

institutions¹⁶.

In the field of **community media**, the draft law is guided by the provisions of the Council of Europe documents¹⁷, as well as by the European Parliament resolution “Community Media in Europe.”¹⁸ To restore freedom of information in Russia, it is also necessary to repeal the repressive laws adopted in recent years, abolish the existing supervisory bodies that excessively restrict freedom of speech; adopt federal laws on television and radio broadcasting and on public service media, make the Internet self-regulated; prohibit the state from owning and running the media; promote free competition in the mass media market, including competition with foreign media; and create other legal conditions for a system of free Russian media.

“On the Role of National Broadcasting and its Management” and other documents in the book [Prospects for Licensing of TV and Radio Broadcasting in Russia: Legal Aspect](#), Moscow, Institute of Information Law Problems, 2004, P.480 (Journalism and Law; Issue 37), <https://web.archive.org/web/2011014194414/http://medialaw.ru/publications/books/indep3/index.html>.

16 E.g., Nyman-Metcalf, K., Richter A., Guide to the Digital Broadcasting Transition, Vienna: OSCE Representative on Freedom of the Media, 2010, <https://www.osce.org/files/f/documents/c/6/73721.pdf>.

17 See Community Media, <https://www.coe.int/en/web/freedom-expression/community-media>.

18 Community Media in Europe, European Parliament resolution, 25 September 2008 (2008/2011(INI)), <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52008IP0456&print=true>.

Federal Law on Freedom of Information and Expression

Chapter 1. General Provisions

Article 1: Basic notions used in this Federal Law

For the purposes of this Federal Law, the following basic notions shall be used:

broadcaster — an organization that produces audiovisual and/or audio programs, including their production, editing, broadcasting and/or retransmission using technical means of over-the-air, wire and/or cable television and radio broadcasting, designed to be received directly by the audience in accordance with its own schedule of programs (*broadcasting*), and has a license for broadcasting;

mass media output — activities to organize the process of searching, obtaining and producing information intended for mass distribution, as well as to structure, update and design its content;

editor-in-chief — an individual (regardless of job title) who makes final decisions regarding the production and release of a mass media outlet;

journalist — a natural person regularly and professionally engaged in creative work on creation, collection, preparation, editing and/or dissemination of messages and materials for the editorial office of a registered mass media outlet, connected with it by employment or other contractual relations, or engaged in such activities by its authorization, or engaged in the production of mass media as an individual working activity and being a member of a professional organization of journalists;

mass information — printed, audio, audiovisual and other messages and materials (*mass information products*) intended for distribution in any form to an unlimited number of persons;

community media — a mass media outlet that produces and/or distributes its products intended — by their content — for the audience of one or two neighboring cities or administrative districts;

opinion — a value judgment, point of view, commentary, as well as the expression in any form of a view that reflects an attitude to a person, phenomenon

or object and does not contain a confirmed or refuted fact;

public interest — the need of society to detect and publicly disclose a threat to a democratic state governed by the rule of law and a free civil society, public safety, and the environment;

periodical print publication — media that disseminates information in text or visual form on printed media, uniformly designed, published at regular intervals throughout the year;

media pluralism — a plurality of independent and autonomous media with free access to a variety of information sources, means of production and distribution of mass media products, as well as their reflection of the diversity of political, social, religious and cultural views, while observing editorial independence and respecting those rules of self-regulation that may be adopted by media editorial boards and journalists on a voluntary basis;

call — a statement, the author of which aims at or explicitly allows the occurrence of certain actions or omissions;

public figures — a state politician, a judge, an official or employee of a public authority, the head of a political party and/or other public association, who, by virtue of their position or the nature of their activity, are permanently involved in state or public affairs, or other persons, if they have powers of public administration or administer the provision of public services, or if their permanent activity is relevant to public affairs;

public bodies — state authorities of the Russian Federation, state authorities of constituent entities of the Russian Federation and other state authorities formed in accordance with the legislation of the Russian Federation, legislation of constituent entities of the Russian Federation, local self-government bodies;

editorial board — an organization, institution, enterprise or citizen, public association, journalist collective that produces and publishes mass media products;

network media — an information resource in electronic (digital) form, placed in the information and telecommunication network Internet, supplemented (updated) with certain regularity or as material is accumulated, and registered as a mass media outlet;

owner — an individual or legal entity that has established a mass media outlet (except for public and community media), assumed responsibility for ensuring its operation, and established an editorial office that produces the output of this media outlet, or entered into a contract with an individual or legal

entity for its output;

mass media (media) — a network media, broadcaster, periodical printed publication, news agency, other organization (in any form) engaged in regular dissemination of mass information under a permanent name (title);

founder — an individual or legal entity that has established a community media outlet, assumed responsibility for ensuring its operation, and created an editorial office that produces the output of this community media outlet, or entered into a contract with an individual or legal entity for such output;

censorship — any actions of public authorities or public figures to interfere with the editorial activities of a mass media outlet or its employees, the content, form or methods of creation and presentation of mass media products, including the requirement to pre-approve messages and materials with them (except in cases when this public figure is the author), as well as preventing the dissemination of mass media products.

Article 2: Purposes of this Federal Law

The purpose of this Law is to provide:

- a) the right of everyone to seek, receive and impart information and to contribute to the free formation of opinions;
- b) the rights to freedom of expression and freedom of criticism;
- c) transparency of media ownership and journalist's rights;
- d) editorial independence and media pluralism;
- e) the independence of the audiovisual media regulator;
- f) the independence of the authorized person in the area of access to information of public interest;
- g) the independence of the public media oversight body;
- h) protection of citizens' rights and public interests in the dissemination of information.

Article 3: Legislation on mass information and freedom of speech

1. The legislation of the Russian Federation on mass information and freedom of speech consists of this Federal Law and other federal laws adopted in accordance with it, as well as legislative acts of the constituent entities of the Russian Federation adopted within their competence on issues related to the organization and activities of the mass media.
2. If an interstate treaty concluded by the Russian Federation provides for rules for the organization and activities of the mass media other than those established by this Law, the rules of the interstate treaty shall apply.

Article 4: Basic principles for ensuring the right to freedom of expression and information

1. The right to freedom of expression of information and opinion includes:
 - a) freedom of opinion, including on political, scientific, historical, moral or religious matters, without exception or restriction;
 - b) freedom to seek, receive, store, disseminate and communicate information about facts and ideas in any form the citizen chooses;
 - d) academic freedom in education, research and science;
 - e) freedom of the media, editorial independence and media pluralism;
 - f) freedom of literary, artistic, scientific, technical and other types of creativity;
 - g) the right to speak in any language;
 - h) the right to charity;
 - i) freedom from compulsion to express one's views or to refuse to express one's views on one's faith, religion, conscience, world outlook, national, cultural and social affiliation, origin, family, property and class status, as well as on any circumstances that could be grounds for infringement of one's rights and freedoms.
2. No ideology can be established as a state or compulsory ideology.
3. Everyone shall have the right to reliable and accessible information on the activities of public authorities and the timeliness of its provision.
4. Everyone has the right to reliable information on the state of the environment.
5. Freedom of expression protects both the content and form of expression of information, including information that is offensive, shocking or disturbing.

6. No one can be held liable for humor or satire that permits a great degree of exaggeration and even provocation, provided that the public is not misled as to the facts of the case.
7. The state, public bodies and public figures during the period of their mandates may not act as the owner, editor or founder of a mass media outlet, may not manage, use, dispose of, or control (directly or through affiliated persons) an organization engaged in the production of mass media (including broadcasters), finance or profit from the production of mass media and/or its release. An exception is the property complex of Russian Public Television and Radio (ROTR), which belongs to the state by right of ownership, within the limits established by the Civil Code of the Russian Federation and the Federal Law on Russian Public Television and Radio, but the state public bodies and/or public figures have no right to interfere in the management, editorial policy and journalistic activities of ROTR, in accordance with this Law and the Federal Law on Russian Public Television and Radio.

Article 5: Freedom to criticize the State, public authorities and public figures

1. Any person shall have the right to criticize the State and public authorities.
2. The state, public authorities shall not have the right to sue for protection of reputation.
3. The state, executive and legislative authorities, and other public bodies are not protected by criminal law or the law on administrative offenses from the dissemination of defamatory statements.
4. Public figures may be criticized and their actions scrutinized by media editorial boards and journalists with regard to the manner in which they have performed or are performing their duties, to the extent necessary to ensure the transparent and responsible exercise of their powers.

Article 6: Prohibition of censorship

1. Censorship shall be prohibited in the Russian Federation. The establishment and financing of organizations, institutions, bodies or positions whose tasks or functions include the implementation of censorship shall not be allowed. The discovery of public bodies, organizations, institutions or positions whose tasks or functions include preliminary supervision and control of information to be disseminated in the media shall result in immediate termination of their funding and liquidation.

2. The requirement of mandatory prior approval of materials or messages may be legitimate if it comes from the editor-in-chief as the person responsible for the compliance of the content of the disseminated mass media products with the requirements of the law.
3. The legitimacy of such a demand coming from the owner (founder) who has established a mass media outlet depends on whether the editorial board's charter provides for such a possibility. In the absence of corresponding provisions, any interference by the owner (founder) in the sphere of the editorial board's professional independence and the rights of journalists is illegal.
4. A citizen's request directly addressed to the editorial office or editor-in-chief of a mass media outlet to pre-approve the text (type) of a published article, note, etc. of a work, if the citizen is the author of the material in question, cannot be considered censorship, since such a request is a form of exercising the author's right to inviolability of the work and protection of the work from distortion.
5. The obligation imposed by an enforceable court decision to disseminate or not to disseminate information, as well as the obligation imposed by law to disseminate mandatory communications, shall not constitute censorship.
6. Under conditions of state of emergency or martial law, censorship may be introduced and implemented in accordance with the procedure established by the relevant federal constitutional laws to ensure the security of citizens and the protection of the constitutional order, specifying the limits and duration of its effect.

Article 7: Immunity in cases for the protection of honor, dignity or business reputation

No action for the protection of honor, dignity or business reputation may be brought for an allegation made:

- a) by the President of the Russian Federation and deputies of the Federal Assembly in the exercise of their powers;
- b) by participants in the judicial process, including witnesses, by the prosecuting authority or judicial instance in the course of the criminal prosecution or judicial process;
- c) in applications, letters or complaints submitted to public authorities for consideration on violation of rights and legitimate interests.

Article 8: Presumptions in cases on protection of honor, dignity or business reputation

1. The right to protect honor, dignity or business reputation may not prevail over the right of citizens to receive information of public interest.
2. Any reasonable doubt as to the status of a private person or a public figure shall be construed in favor of the status of a public figure.
3. Any reasonable doubt as to the public interest or curiosity shall be construed in favor of the public interest.
4. Any reasonable doubt as to the interpretation of the information as a value judgment or statement of fact shall be construed in favor of a value judgment.
5. Any reasonable doubt as to the existence of moral harm shall be construed in favor of awarding compensation in the amount of one ruble.
6. Any other doubt that cannot be proved under the rules prescribed by federal law shall not be construed in favor of restricting freedom of expression.

Article 9: Restrictions on freedom of information and expression

1. This Law shall not reject universally recognized human rights, freedoms and guarantees related to freedom of speech and expression and other universally recognized human rights, freedoms and guarantees protected by the Constitution of the Russian Federation.
2. The right to freedom of information and freedom of expression may be restricted by federal law only to the extent necessary to protect the foundations of the constitutional order, morality, health, rights and legitimate interests of others, national defense and security of the state.
3. Restrictions on freedom of information and expression shall be permitted only to protect the rights and legitimate interests provided for in paragraph (2) and only if the restriction is proportionate to the situation giving rise to it, while maintaining a fair balance between the protected interests and freedom of expression, and while respecting the public's right to seek, receive and impart information, where the public interest in disclosure is more substantial than the protected rights and interests.
4. Incitement of hatred or enmity, as well as humiliation of the dignity of a person or a group of persons based on intolerance or discrimination on the grounds of gender, race, citizenship, nationality, language, origin, attitude to religion, disability or sexual orientation, or other forms of hatred based

on intolerance committed in public and capable of leading to violence or discrimination against these persons, shall not be allowed.

5. In accordance with paragraph (2) of this Article, the dissemination and/or public use for political purposes of fascist, racist or xenophobic symbols, symbols of totalitarian communist regime propaganda, as well as propaganda and/or other promotion of totalitarian, racist or xenophobic ideologies and/or public denial of the Holocaust shall be prohibited in the Russian Federation — actions for which sanctions are provided for in accordance with current legislation.
6. The guarantees of freedom of expression do not apply to calls to unleash or wage aggressive war, to incite hatred and hostility. A call shall entail liability established by law only when a person commits an intentional act that creates a clear, direct and substantial danger of an unlawful consequence.
7. Dissemination of information that violates the right to privacy, personal and family secrecy without the consent of the citizen or his/her legal representatives is not allowed.

Chapter 2. Freedom Of Access To Information

Article 10. Legal regulation of access to information

1. Public bodies are obliged to provide access to information related to their activities in accordance with the [Constitution of](#) the Russian Federation, federal constitutional laws, the Federal Law “On Ensuring Access to Information on the Activities of State Bodies and Local Self-Government Bodies”, this Federal Law, other federal laws, other regulatory legal acts of the Russian Federation, as well as international treaties to which the Russian Federation is a party.
2. Information related to the activity of public authorities shall be provided free of charge. The said bodies shall be entitled to charge a reasonable fee exclusively for analytical services and activities related to significant search of the provided information, scanning (copying) of information or documents. The said fee may not exceed the actual costs of preparing the information.
3. The presence of personal data of citizens or other secrets protected by federal law in the requested information is not a sufficient reason to refuse

to provide it after the confidential data has been censored.

Article 11: Independent Inspector of Freedom of Access to Information

1. In order to control and supervise the:
 - a) openness and accessibility of information concerning the activities of public authorities;
 - b) reliability of such information and timeliness of its provision;
 - c) observance of the freedom to seek, receive and disseminate said information by any lawful means;
 - d) observance of the right of citizens to attend the meetings of collegial public bodies, as well as the meetings of collegial bodies of public bodies —
an office of the Independent Inspector of Freedom of Access to Information of Public Interest shall be established.
2. The Independent Inspector of Freedom of Access to Information acts both on his/her own initiative and upon application to ensure freedom of access to information.
3. The Independent Inspector of Freedom of Access to Information shall be elected to office by the State Duma on a competitive basis for a term of six years and shall be accountable to it.
4. The procedure for the election of the Independent Inspector of Freedom of Access to Information and the activities of his/her office shall be determined by federal law.

Chapter 3. Freedom Of The Media

Article 12. The right of citizens to receive mass information

1. Seizure of media products, blocking access to electronic media products or forced closure of mass media outlets may be carried out by a court decision that has entered into legal force only in cases when this is necessary in a democratic society in order to protect the foundations of the constitutional order, morality, health, rights and legitimate interests of other persons, and to ensure national defense and security of the state.
2. Citizens of the Russian Federation are guaranteed unimpeded access to foreign mass media products. No authorization is required for the

retransmission of the products of a foreign broadcaster by a Russian broadcaster, or for the distribution in the Russian Federation of the products of a foreign periodical print publication or online media.

Article 13. Media owner

1. When establishing a mass media outlet, the owner shall determine its program goals and objectives (broadcasting concept), as well as the name, language, form of distribution, territory of distribution, approximate subject matter and specialization, and sources of financing of the mass media outlet it establishes.
2. The owner approves the charter of the editorial office and concludes a contract with the editorial office of the mass media outlet (editor-in-chief).
3. The owner has no right to interfere in editorial activity except in cases stipulated by this Law, the editorial board charter, and the agreement between the owner and the editorial board (editor-in-chief).
4. The owner of a media outlet owns the rights of possession, use and disposal of the media outlet's property, including intellectual rights to media products, unless the editorial charter or the agreement between the owner and the editorial office (editor-in-chief) provides otherwise.
5. The owner retains its rights and obligations with respect to the property and products of the mass media outlet indefinitely. In the event of restructuring of the owner, the legal entity that founded the mass media outlet, or the alienation of its property to other persons, its rights and obligations are transferred to the legal successor. In the event of liquidation of the owner, the legal entity that founded the mass media outlet, its rights and obligations are fully transferred to the editorial office, unless otherwise provided for in the editorial office's charter or the agreement between the owner and the editorial office (editor-in-chief).
6. The owner may act as a media outlet's editorial board or editor-in-chief, as well as a broadcaster.
7. The owner of media may be a person, a public association or a legal entity. In addition to the persons specified in Article 4, paragraph seven of this Law, a public association, enterprise, institution or organization whose activities are prohibited by law may not act as owner.
8. The owner has the right to terminate or suspend the activities of a mass media outlet exclusively in the cases and according to the procedure

provided for in the editorial charter or the agreement between the owner and the editorial office (editor-in-chief).

Article 14. Registration of mass media

1. The registration of mass media is voluntary.
2. Registration of a mass media outlet is of a notification nature. The registering authority shall not have the right to refuse registration as a mass media outlet if its owner (founder) expresses a desire to obtain such registration.
3. Registration of mass media outlets shall be carried out by the justice authorities of the Russian Federation authorized by the Government of the Russian Federation in accordance with the registration procedure determined by the Government of the Russian Federation.
4. Registration shall be carried out by the registration authority in the form of electronic documents within fifteen working days from the date of receipt of the relevant application by the owner or founder of the mass media outlet. A mass media outlet shall be deemed registered from the date on which the registering body adopts a decision on the registration of the mass media outlet. The registering body shall be obliged to ensure that an entry on registration is made in the register of registered mass media outlets on the day of the adoption of the relevant decision.
5. The information contained in the Register of registered mass media is open and available for familiarization by any natural and legal persons.
6. The registration of a mass media outlet may be denied only on the following grounds:
 - a) the application is made on behalf of a person who does not have the right to establish a mass media outlet under this Law;
 - b) the information specified in the application is false;
 - c) the registering body has previously registered a mass media outlet with a literally identical name (title) and distribution area, including mass media outlets that have ceased their activities by court decision.

Article 15. Status of the editorial board

1. Editorial boards may be organized in any form permitted by law.
2. A mass media outlet product may be produced by an individual. In this case, he/she represents the mass media outlet in relations with other persons as its editor-in-chief.
3. Mass media products may be issued by a separate subdivision of a legal entity which is not a mass media outlet. In this case, in relations with other persons, the mass media outlet may be represented by the relevant legal entity.
4. The editorial board carries out its activities on the basis of professional independence, which is recognized and guaranteed by law.
5. The editorial office is led by the editor-in-chief who exercises his/her powers on the basis of this Law, the charter of the editorial office, and the agreement between the owner (founder) and the editorial office (editor-in-chief). The editor-in-chief represents the editorial office in relations with other persons, as well as in court. He/she shall be responsible for the fulfillment of the requirements imposed on the activities of a mass media outlet by this Law and other legislative acts of the Russian Federation. The distribution of the production of a mass media outlet is allowed only after the editor-in-chief has given permission to release it to the public (to broadcast).

Article 16. Charter of the editorial board

1. The charter of the editorial board of a mass media outlet shall be adopted at a general meeting of the editorial board by a majority vote with at least two-thirds of its members present and shall be approved by the owner (founder).
2. The editorial charter shall define:
 - a) mutual rights and obligations of the owner (founder), editorial office, editor-in-chief;
 - b) the authority of the collective of journalists — full-time employees of the editorial office;
 - c) the procedure of appointment (election) of the editor-in-chief and editorial management bodies;
 - d) the grounds and procedure for termination and suspension of the activities of a mass media outlet;

e) transfer and/or retention of the right to name (title), other legal consequences of a change of owner (founder), change in the composition of owners (co-founders), termination of the mass media outlet, liquidation or restructuring of the editorial office, change in its organizational and legal form;

f) compliance to observe the rules of professional ethics of journalists;

g) the procedure for approval and amendment of the editorial board's charter, as well as other provisions stipulated by this Law and other legislative acts.

3. The editorial charter of a community media outlet may provide for a public editorial board that monitors the editorial board's compliance with the public remit of the community media outlet. The public editorial board may not exercise any preliminary control over the content of materials and messages (programs) intended for distribution.

4. Prior to the approval of the editorial board's charter, its relations with the owner (founder), including the issues listed in a) through e) of para. two of this Article, may be determined by an agreement between the owner (founder) and the editorial board (editor-in-chief).

5. A copy of the editorial board's charter shall be sent to the registration authority no later than three months from the date of registration of the mass media outlet in question. At the same time, the editorial board has the right to stipulate which information contained in its charter constitutes a commercial secret.

Article 17. Contract with the editorial office

The contract between the owner (founder) and the editorial office (editor-in-chief) determines the production, property and financial relations between them, including the procedure for allocation and use of funds for the maintenance of the editorial office, distribution of profits, formation of funds and reimbursement of losses, the obligations of the owner (founder) to ensure proper production and social and living conditions for the editorial office staff.

Article 18. Editorial request for information

1. The editorial board and/or journalist have the right to request information about the activities of public bodies, public figures, public associations and their officials. Information can be requested both orally and in writing.

2. The requested information may be provided by the press services of these

bodies and organizations, or in the absence thereof — by the heads of these bodies and organizations or other authorized persons within their competence. The requested information must be provided to the editorial office (journalist) within seven days from the date of receipt of the request.

3. Information contained in interviews of public figures, officials of public associations' bodies, official representatives of their press services constitutes a response to a request for information.

Article 19. Refusal and postponement of providing information to the editorial board

1. Refusal to provide requested information is possible only if it constitutes a state, commercial or other secret specifically protected by law.
2. A notice of refusal shall be sent to the representative of the editorial office (journalist) within three days from the date of receipt of the written request for information. The notice shall specify the reasons why the requested information cannot be separated from information that constitutes a secret specifically protected by law.
3. A postponement of providing the requested information is acceptable if the requested information cannot be provided within seven days. A notice of postponement shall be delivered to a representative of the editorial board within three days of receipt of the written request for information. The notice shall specify:
 - a) the reasons why the requested information cannot be provided in a timely manner;
 - b) the date by which the requested information will be provided, but not more than ten days beyond the time limit for responding to the request established by this Law.

Article 20. Accreditation

1. The editorial board has the right to apply to a public body, organization, institution, body of a public association for accreditation of its journalists with them.
2. Public bodies, organizations, institutions, bodies of public associations are obliged to accredit the declared journalists (correspondents) provided they agree to comply with the accreditation rules established by these bodies, organizations, institutions.

3. In case an accreditation organization establishes a reasonable quota for the number of accredited journalists, the composition of this quota shall be determined by a temporary independent commission established by the journalists' self-regulatory body on the basis of the principles of openness, reasonableness, equality and fairness, ensuring the right of the public to receive publicly important information through the widest possible range of media.
4. Accreditation provides accredited journalists with additional opportunities to seek and receive information, it has no right to restrict other journalists in their right to seek and receive information, in accordance with this Law.
5. A journalist shall be deprived of accreditation in case of liquidation of the mass media outlet at the request of which such journalist was accredited.

Article 21. Transparency of mass media activities

1. Next to the name (title) of a mass media outlet, its mass media products must contain the following information:
 - a) the owner (founder) of a mass media outlet;
 - b) editor-in-chief;
 - c) location, e-mail address and telephone number of the editorial office.
2. The owner/founder of a media outlet publishes the following information on the main website of the media outlet, which is to be updated every year and allows the audience to get a complete and accurate picture of the structure of the media outlet, its affiliates and their financial situation:
 - a) on persons or bodies exercising decisive influence on the management or activities of the mass media outlet and/or taking significant part in the mass media outlet;
 - b) the nature and degree of interest of the above persons and bodies in other media, as well as interest in other sectors of the economy;
 - c) other persons and bodies that are likely to have a significant influence on the editorial policy of the media outlet in question, for example by providing it with certain material and other resources, persons or bodies otherwise related to persons or bodies involved in the media outlet;
 - d) annual financial report.

Article 22. Restrictions on the content of mass information

1. The law may establish rules and restrictions on freedom of information and expression, if it relates to:
 - a) honor, dignity and business reputation;
 - b) calls for the commission of a crime;
 - c) direct threat to a person;
 - d) disclosure of personal data, state, commercial, professional or other secrets protected by law;
 - e) the distribution of advertising, teleshopping or sponsored material;
 - f) freedom of speech and expression of a member of the Armed Forces, a public authority, a public figure.
2. A person shall be exempted from liability for violation of the restrictions specified in Part 1 if his/her statements were aimed at disclosing a threat to a democratic state based on the rule of law and a free civil society, public security, the environment, and the protected good exceeds the harm caused by the statement.

Article 23: Compulsory communications

1. The editorial board is obliged to publish free of charge and within the prescribed period of time an enforceable court decision containing a request to publish such a decision and/or refutation.
2. In the event of a threat or occurrence of natural and man-made emergencies, as well as in the conduct of hostilities or as a consequence of such actions, the editorial offices of mass media outlets, at the request of public authorities sent to specific editorial offices, are obliged to immediately and free of charge, depending on the form of dissemination of mass information, to transmit warning signals and/or emergency information on emerging dangers, on safe rules of behavior of the population and on the need to carry out measures for protection and to publish the indicated emergency information. The procedure for interaction between public authorities and mass media editorial offices, for broadcasting warning signals and/or emergency information about emerging dangers, about safe rules of behavior of the population and the need to carry out protective measures, and for publishing the said emergency information shall be determined by the Government of the Russian Federation.

Article 24. Right of refutation

1. A citizen has the right to demand that the editorial board refute information about him that does not correspond to reality, is inaccurate or biased, if it defames his/her honor, dignity and business reputation.
2. Every legal entity, whose business reputation or other legitimate interests have been harmed by information that is untrue, inaccurate or biased, shall have the right to refute the untrue information or to clarify the published information, or to demand that the editorial office that prepared and/or publicly disseminated the information refute the untrue information.
3. If the editorial board does not have evidence that the information disseminated by it is true, it is obliged to publish a refutation in the same mass media outlet.
4. Within two weeks from the date of receipt of the request for refutation, the editorial board must notify the concerned person or organization in writing of the intended date of its dissemination or of the refusal to disseminate it, specifying the grounds for the refusal.

Article 25. Protection against bad faith claims

1. In the case of a claim for protection of honor, dignity or business reputation against the owner (founder), editorial board of a mass media outlet and/or a journalist, the plaintiff must additionally prove the following:
 - a) the information constitutes a statement of fact and is false in substance;or
 - b) the value judgment does not have a sufficient factual basis.
2. The suspension of the activities of a mass media outlet, as well as the prohibition for a mass media outlet to prepare and disseminate new materials on a certain topic, may not be applied as measures to secure a civil claim.
3. It is not permissible to force a defendant to apologize.

Article 26. Peculiarities of compensation for moral damage under claims against mass media and/or journalists

1. In court decisions on claims against the owner (founder) and editorial board of a mass media outlet, the amount of compensation for moral harm should not lead to a violation of freedom of mass information.

2. In determining the amount of compensation for moral harm awarded to an individual, the court shall take into account the publication of the correction of the misrepresented facts or refutation prior to the filing of the statement of claim.
3. Compensation for moral harm caused to a public figure shall not be awarded.
4. Compensation for moral harm shall be awarded to a legal entity only if the dissemination of information has caused harm to its management activities.
5. Compensation for moral damage caused by the dissemination of information of public interest that turned out to be false or lacking sufficient factual basis shall be awarded only if the editorial office and/or the journalist acted maliciously or in violation of other professional ethical rules.

Article 27. Protection of the presumption of innocence

The media and journalists may not violate the presumption of innocence of a person by expressing their opinion on his/her guilt, provided that:

- a) it is clear from the text of the statement that at the relevant time there is no enforceable conviction against the person concerned;
- b) it is clear from the context of the statement that it is an opinion and not court-approved facts;
- c) the facts on which the judgments about a person's guilt and procedural status are based are stated in good faith.

Article 28. Peculiarities of consideration of a claim for protection of private and family secrets against mass media and journalists

1. When considering a claim for protection of personal and family secrets, the court shall determine whether the public interest in the disclosure of such information prevails over the interest of the person concerned in its non-disclosure.
2. Private and family secrets of public figures may be disclosed if they are of public interest. Dissemination of such information shall not cause harm to third parties.

Article 29: Responsibility for infringement of freedom of mass information

1. The state shall guarantee to the journalist, in connection with the exercise of his/her professional activity, the protection of his/her freedom, safety,

health, life and property as a person performing a public duty.

2. Infringement of freedom of mass information, i.e. obstruction in any form whatsoever of the lawful activities of owners (founders), editorial boards of mass media outlets, and journalists, including through:

a) implementation of censorship;

b) unlawful termination or suspension of the activities of a mass media outlet;

c) unlawful seizure or destruction of the print run or part thereof;

d) forcing the editorial office and/or journalist to disseminate or refrain from disseminating information, including through violence against the journalist, editor, founder, media owner or their relatives, or damage or destruction of their property, as well as threats of such violence;

e) violation of the editorial board's right to accredit, request and receive information;

f) establishing restrictions on contacts with the journalist and the transfer of information to him/her, except for information constituting state, commercial or other secrets specially protected by law;

g) other interference in the activities and violation of the professional independence of the editorial office or violation of other rights of a journalist established by this Law — shall entail [criminal](#), [administrative](#), [disciplinary](#) or other liability in accordance with the legislation of the Russian Federation.

Chapter 4. Public Media

Article 30. The mission of public media

Public media are charged with the mission of putting the following principles into practice:

a) universal audience access to a wide range of mass media products, including through modern information telecommunication systems, to meet the information and educational needs of all population groups;

b) promoting, through editorial policy, social cohesion at regional, national and international levels and encouraging shared audience responsibility for the realization of this principle;

c) reliable, objective, comprehensive and unbiased information of the audience through innovative and diverse audiovisual programs that meet the

standards of professional ethics and journalistic excellence;

d) promoting public debate, respecting the principles of diversity of opinion, mutual respect and encouraging broad democratic participation of citizens;

e) promoting the diversity of national and international cultural heritage;

f) editorial independence and institutional autonomy in relation to public authorities, political parties and interest groups;

g) responsibility to the audience.

Article 31. Activities of public media

1. Public media serve the interests of the audience, operate at the expense of the state budget, own, use and dispose of the property necessary for their activities under the right of economic management, the owner of which is the state, within the limits determined in accordance with the Civil Code of the Russian Federation, and are subject to public control.
2. Russian Public Television and Radio (ROTR) is a non-profit public media outlet operating without registration as a mass media outlet in accordance with this Law and the Federal Law on Russian Public Television and Radio.
3. The activities of ROTR in broadcasting radio and/or television programs are not subject to licensing.
4. ROTR programs are subject to distribution in all mediums without charging consumers (TV viewers, radio listeners) for the right to watch or listen.
5. ROTR has the right to create a service to disseminate information about events in the Russian Federation in foreign languages abroad.
6. The procedure for the establishment, functioning and financing of ROTR shall be established by the Federal Law of the Russian Federation, taking into account the provisions of this Law.

Article 32. Council of the Russian Public Television and Radio

1. The Council of Russian Public Television and Radio is an independent permanent collegial body acting on the basis of this Law and the Federal Law on Russian Public Television and Radio and overseeing compliance with the mission of ROTR.
2. The ROTR Council is accountable to the State Duma.
3. Members of the ROTR Council are elected to office by the State Duma for

a term of six years on a competitive basis, taking into account the need for political pluralism. Candidates for the position of a ROTR Council member meet high requirements for their reputation in civil society and have professional experience in either journalism, law, culture and art, education, science and research, modern information communication technologies, human rights and academic activities. The principle of gender equality is observed in the establishment of the ROTR Council.

Chapter 5. Audiovisual Media

Article 33. Licensing of audiovisual media.

1. Obtaining a broadcasting license is required in case of using technical means of terrestrial, wire or cable television and radio broadcasting for dissemination of audiovisual mass information. Obtaining a broadcasting license by a person distributing audiovisual mass information in other media is not required.
2. The procedure for obtaining a broadcasting license shall be determined by the Independent Television and Radio Council in accordance with this Law, the Federal Law on Television and Radio Broadcasting and the Federal Law on Licensing of Certain Types of Activities.
3. Licensing of broadcasting activities is carried out by the Independent Television and Radio Council.

Article 34. Independent Television and Radio Council

1. The Independent Council for Television and Radio is the guarantor of the public interest in the field of broadcasting, and its mission is to promote the development of audiovisual media pluralism in accordance with the principles stipulated in this Law, as well as with norms, standards and international best practices in this field.
2. The Independent Council on Television and Radio is an autonomous body of public authority, has organizational independence in relation to other subjects and is responsible for implementing the provisions of this Law and the Federal Law on Television and Radio Broadcasting adopted in accordance with it.

Article 35. Powers of the Independent Television and Radio Council

1. In order to exercise its powers, the Independent Television and Radio Council shall develop and exercise supervision and control over the enactment of:
 - a) provisions on the conditions, criteria and procedures for granting, renewal, amendment, suspension and revocation of broadcasting licenses and retransmission permits;
 - b) provisions on access to audiovisual media, accurate information, right to refute, protection of minors and persons with disabilities, gender equality;
 - c) other normative acts ensuring the implementation of the provisions of the legislation on television and radio broadcasting.
2. Independent Television and Radio Council shall:
 - a) exercise control over the manner in which owners, founders, broadcasters, editorial boards of audiovisual media, and distributors of television and radio programs fulfill the obligations undertaken upon obtaining a license. Control over the content of audiovisual media services and audiovisual programs shall be exercised only after their distribution;
 - b) approve the list of all-Russian must-carry television and radio programs of broadcasters in all mediums in order to ensure freedom of mass information and create conditions for the population to receive socially significant information;
 - c) develop and approve the list of events important for the public, the dissemination of information about which (broadcasting) is publicly available to all broadcasters without charging a fee;
 - d) cooperate with similar institutions of other states in order to borrow and implement international best practices and standards in its field of activity;
 - e) prevent the undue dominance of audiovisual media by private owners or the concentration of media in their hands in a way that may adversely affect the diversity of sources of information and views;
 - f) to this end, ensure transparency in the management and financing of audiovisual media under the jurisdiction of the Russian Federation, for which purpose it requests from broadcasters (founders) information on their ownership structure, the end beneficiaries of their activities, specifying the legal basis, the purposes of the request and the deadlines for providing the relevant information, as well as maintain and update the registers of audiovisual media editorial offices, broadcasters (founders) and distributors of TV and radio programs;
 - g) ensure transparency of its own activities;

h) exercise other powers in accordance with the provisions of this Law and the Federal Law on Television and Radio Broadcasting;

i) be accountable to the State Duma.

3. In order to exercise its powers, the Independent Television and Radio Council shall issue normative acts and recommend rules of professional ethics of audiovisual media, including for ROTR.

Article 36. Composition of the Independent Television and Radio Council

1. Members of the Independent Council on Television and Radio shall be elected to office by the State Duma for a term of six years on a competitive basis, taking into account the need for political pluralism.

2. The Independent Council on Television and Radio is composed of nine members who meet high standards of reputation in civil society and have professional experience in the fields of audiovisual media and journalism, law, culture, cinema, science and research, modern information communication technologies, human rights and academic activities. In establishing the Council on Television and Radio, the principle of gender equality shall be respected.

3. The members of the Independent Television and Radio Council include:

a) two members, from among those proposed by the deputies of the State Duma;

b) one member from among those proposed by the President of the Russian Federation;

c) one member from among those proposed by the Government of the Russian Federation;

d) five members, from among those proposed by all-Russian civil society organizations and selected on the basis of a public contest.

Chapter 6. Local Media

Article 37. Social functions of community media

1. Local media are created in the form of non-profit organizations to serve the information needs of the population of one or more settlements or urban (rural) districts or municipalities.

2. Local media are open to the complicity of local residents, students and volunteers in the production of media.
3. Local media promote civic engagement and common interests, freedom of creativity, social inclusiveness of minorities and informal groups, local identity, innovation and diversity of content, cultural and linguistic diversity.
4. Local media are a politically independent source of local news, information and pluralistic opinions, a public voice for residents, they counter stereotyping of certain groups of the local population, and they participate in media literacy programs.
5. Local media operate independently from public bodies and from commercial media.

Article 38. Founder (co-founder) of a community media outlet

1. The founder (co-founder) of a community media outlet may be a self-governing body, another public association, a citizen, or a legal entity.
2. The following shall not act as a founder (co-founder):
 - a) a public authority, a public figure, an employee of such authority during the period of his/her mandate;
 - b) a state-owned enterprise or organization;
 - c) a public association, enterprise, institution, organization, the activities of which are prohibited by law.

Article 39. Status of a founder (co-founder)

1. The founder (co-founder) approves the editorial board's charter and concludes a contract with the community media editorial board (editor-in-chief).
2. When establishing a community media outlet, the founder (co-founder) determines its name, language, form of distribution, territory of distribution, approximate subject matter and specialization, as well as sources of funding for the media outlet he/she is establishing.
3. The founder (co-founder) has no right to interfere in editorial activity except in cases stipulated by this Law, the editorial board's charter, the contract between it and the editorial board (editor-in-chief).
4. The founder (co-founder) has the right to terminate or suspend the activities

of a community media outlet exclusively in cases and according to the procedure stipulated by the editorial board's charter or the agreement between the editorial board and the editorial board (editor-in-chief).

5. In the event of reorganization or liquidation of a legal entity that is the founder of a community media outlet, its rights and obligations are fully transferred to the editorial board, unless otherwise provided for in the editorial board's charter or in an agreement between the founder and the editorial board (editor-in-chief).
6. The founder (co-founder) may act as the community media editorial board or editor-in-chief.

Article 40. State support for community media

1. Taking into account the social role of community media, public authorities provide them with the necessary privileges, subsidies and privileges to ensure the release, production and distribution of products, property and financial base formed at the expense of budgetary funds and property owned by public authorities.
2. The Independent Television and Radio Council gives preferential treatment to community broadcasters in the allocation of local radio spectrum frequencies.

Chapter 7. Rights And Duties Of A Journalist

Article 41. Rights of a journalist

The journalist shall have the right to:

1. seek, request, receive and disseminate information by any lawful means;
2. visit public bodies, bodies of public associations, including their press services;
3. get access to documents and materials, except for fragments thereof, containing information constituting state, commercial or other secrets specially protected by law;
4. copy, publish, publicize or otherwise reproduce documents and materials, subject to copyright requirements;
5. make recordings, including with the use of audio and video equipment,

filming and photographing, except in cases provided for by law;

6. visit specially protected places of natural disasters, accidents and catastrophes, mass disturbances and mass gatherings of citizens, places where human rights violations are allegedly observed, as well as areas where a state of emergency has been declared; to attend meetings and demonstrations;
7. verify the accuracy of the information given to him;
8. express his/her personal judgments and assessments in communications and materials intended for distribution under his/her signature;
9. refuse to prepare, under his/her signature, a report or material contrary to his/her beliefs and ethical rules;
10. disseminate communications and materials prepared by him/her under his/her signature, under a pseudonym or unsigned.

A journalist shall also enjoy other rights granted to him/her by the legislation of the Russian Federation on mass media. It shall not be permitted to use the rights of a journalist established by this Law for the purpose of concealing or falsifying information of public importance, spreading rumors under the guise of reliable reports, or gathering information for the benefit of an outsider or an organization that is not a mass media outlet.

Article 42. Conducting journalistic investigations and covert recording

1. It is allowed to disseminate in mass media products messages and materials prepared with the use of hidden audio and video recording, filming and photography:
 - a) if it does not violate constitutional human and civil rights and freedoms;
 - b) if it is necessary in the public interest and measures are taken against possible identification of unauthorized persons.
2. Any reasonable doubt as to the good faith of the investigative journalist shall be construed in favor of good faith.

Article 43. Self-regulatory bodies in the sphere of mass information

1. The State supports the establishment and functioning of self-regulatory bodies in the sphere of mass information in the form of public associations and involves them in the development of normative legal acts and the work of independent bodies in the field of audiovisual and public media and in

the field of access to information of public interest.

2. Self-regulatory bodies in the sphere of mass information develop rules of professional ethics for journalists. Compliance with the rules of professional ethics is a journalist's moral duty. Disputes and complaints related to violations of the rules of professional ethics are resolved by self-regulatory bodies.

Article 44: Duties of a journalist

When carrying out professional activities, a journalist shall respect the rights and legitimate interests of citizens and organizations.

The journalist is obliged to:

1. to comply with the charter of the editorial office with which he/she has an employment relationship;
2. observe the norms of professional ethics of journalists;
3. verify the accuracy of the information reported to them;
4. satisfy requests of the persons who provided the information to indicate its source, as well as to authorize the quoted statement, if it is disclosed for the first time;
5. when receiving information from citizens, inform them about audio and video recording, filming and photographing, and not use audio and video recording equipment unless the person providing the information wants to do so;
6. inform the editor-in-chief about possible lawsuits and other legal claims in connection with the dissemination of a report or material prepared by him/her;
7. refuse an assignment given to him by the editor-in-chief or the editorial board, if it or its fulfillment involves a violation of the law;
8. present an editorial certificate or other document certifying the identity and status of a journalist when carrying out professional activities at the first request;
9. observe the prohibition of personal election campaigning or campaigning on referendum issues in the course of professional activities.

The journalist shall also bear other obligations established by the legislation of the Russian Federation on mass media.

Article 45. Protection of confidential sources of information

1. The editorial staff of a mass media outlet and a journalist who received information with the condition of non-disclosure of its source shall not be entitled to disclose the name of the source of information or any information that may lead to its identification.
2. The editorial office of a mass media outlet and a journalist may not disclose in the messages and materials disseminated the information provided by a citizen under the condition of keeping it secret.
3. A person who has made public information obtained from confidential sources may not be obliged to disclose the source in a civil or administrative offense case. A person's refusal to disclose the source of information shall not deprive him/her of other guarantees enjoyed by the defendant in the judicial process and shall not be a sufficient ground for satisfaction of the claim.
4. In criminal proceedings, a court may, in accordance with the law, order a person to disclose a source of information if the following conditions are met in combination:
 - a) the criminal case concerns particularly grave or especially grave crimes;
 - b) disclosure of the source of the information is absolutely necessary for criminal prosecution;
 - c) other possibilities of identifying the source of information by other means have been exhausted.
5. Inspection of the journalist's home and/or workplace, search or seizure of the home and/or workplace prescribed for the purpose of identifying a person who is a confidential source of information of the journalist is not allowed.

Article 46. Protection of minors

1. The editorial office (journalist) shall, in accordance with the procedure established by law, ensure the protection of minors from the dissemination of mass information that has a negative impact on their physical, mental or moral development, especially related to the dissemination of information of a pornographic nature and/or violent nature and information encouraging bad habits.
2. Without the consent of the minor and his/her legal representative, the

editorial office (journalist) may not disclose information directly or indirectly indicating the minor's identity in the disseminated mass media products in case of a person:

- a) who has committed a crime or is suspected of having committed a crime, or who has committed an administrative offense or anti-social action, or
- b) who was a victim of unlawful actions (inaction).

Article 47: Responsibility of mass media editorial boards and journalists

1. Violations of the legislation on mass media shall entail administrative, civil or other liability in accordance with the legislation of the Russian Federation.
2. Persons who have committed violations of legislation in the dissemination of mass information that is not registered as mass media shall bear criminal, administrative, civil and other liability in accordance with the legislation of the Russian Federation without taking into account the specifics provided for by this Law for mass media.
3. The responsibility of the editorial board of a mass media outlet and a journalist for the content of information disseminated by them shall be determined taking into account the context of the mass media product (in particular, the purpose, genre and style of the article, program or relevant part thereof). Expression of opinion in the sphere of political discussions and drawing attention to the discussion of socially significant issues is subject to greater protection.

Article 48. Exemption from liability

1. Mass media editors, owners, founders, and journalists are not liable for the bona fide reproduction in mass media products of false statements of fact and/or value judgments that have no sufficient factual basis, if such information:
 - a) contained in documents or official communications of public authorities;
 - b) disclosed during meetings of public bodies by public figures or persons invited to the meeting;
 - c) disclosed during the criminal prosecution or trial by participants in the proceedings, including witnesses, by the prosecuting authority or by the court;
 - d) contained in the response to the request for information or in the materials of press services of public authorities, or in press reports of persons other than

the said authorities;

- e) contained in the speeches of invited guests in a live audiovisual program;
- f) disseminated earlier by other mass media in the Russian Federation and their source is explicitly indicated;
- g) publicized in special electoral products of persons running in elections;
- h) falls under other cases established by federal law.

2. In case of exemption from liability under paragraph (1), media editors may be obliged to provide a right of refutation.

3. In case of unintentional disclosure of state, commercial or other secrets specially protected by law in mass media products, the responsibility shall be imposed on the persons who passed the confidential information to the editor-in-chief or journalist. The editor-in-chief or journalist, who have not been warned about the presence of confidential information in the materials that they have received, are not liable for its subsequent disclosure.

Article 49. Foreign correspondents

1. Representative offices of foreign mass media in the Russian Federation shall be established with the authorization of the Ministry of Foreign Affairs of the Russian Federation, unless otherwise provided for by an interstate treaty concluded by the Russian Federation.
2. Accreditation of foreign correspondents in the Russian Federation shall be carried out by the Ministry of Foreign Affairs of the Russian Federation in accordance with Article 20 of this Law.
3. Foreign correspondents of mass media registered in the Russian Federation, regardless of their citizenship, shall have equal rights with journalists of the Russian Federation to collect and disseminate information as established by this Law.

Chapter 8. Final Provisions

Article 50. On bringing legal acts into compliance with this Federal Law

To propose to the President of the Russian Federation and to instruct the Government of the Russian Federation to bring its legal acts into compliance with this Federal Law within six months from the date of its enactment.

Article 51. On State registration of mass media established before the entry into force of this Federal Law

1. The provisions of this Federal Law on state registration of mass media shall apply to mass media established before the entry into force of this Federal Law.
2. The charters of mass media and contracts created before the entry into force of this Federal Law shall be valid only to the extent that they do not contradict this Law and shall be brought into compliance with the said Federal Law within one year.
3. State re-registration of a mass media outlet with the justice authorities shall be carried out within one year with exemption from the registration fee.
4. State bodies currently in charge of registering mass media shall, within three months from the date of entry into force of this Federal Law, hand over, and bodies registering mass media under this Federal Law shall accept, all registration documents and materials of previously registered mass media.

Article 52. Concerning the invalidation of normative legal acts in connection with the entry into force of this Federal Law

1. To recognize as null and void:

Law of the Russian Federation of 27.12.1991 2124-1 “On Mass Media;”

Federal Law of 13.01.1995 7-FZ “On the order of coverage of the activities of public authorities in the state mass media;”

Federal Law of 25.07.2002 114-FZ “On Counteracting Extremist Activity”;

Federal Law of 27.07.2006 149-FZ “On Information, Information Technologies and Protection of Information;”

Federal Law of 12.05.2009 95—FZ “On Guarantees of Equality of Parliamentary Parties in the Coverage of their Activities by State Public Television Channels and Radio Channels;”

Federal Law of 29.12.2010 43-FZ “On the protection of children from information harmful to their health and development.”

2. From the date of enactment of this Law, all other acts of legislation of the Russian Federation on mass media shall be applied to the extent not contradicting this Law.

Article 53. Other final provisions

1. State-run mass media shall be liquidated, privatized or transferred to ROTR under the right of economic management within one year after the entry into force of this Law.
2. From the moment this Law enters into force, the activities of the Federal executive body exercising control and supervision in the sphere of mass media, mass communications, information technologies and communications (Roskomnadzor) with regard to control and supervision of compliance with the legislation of the Russian Federation on mass media and mass communications shall cease.
3. From the moment this Law enters into force, the activities of the Federal Competitive Commission for Television and Radio Broadcasting (FKK) with regard to the use of a limited public resource — the radio frequency spectrum allocated for the purposes of television and radio broadcasting — shall cease.

Article 54: On the entry into force of this Federal Law

This Federal Law shall enter into force on the date of its official publication.