

RUSSIA

Little or no enforcement

1.9% of global exports

Investigations and cases

In the period 2016-2019, Russia opened one investigation into foreign bribery, commenced no cases and concluded no cases.

The single investigation was reported by the Ministry of Justice to the OECD WGB, but no details were provided and the Investigative Committee has declined to provide further details to Transparency International Russia.¹ When asked to comment on a draft of this country report, Russian authorities declined.

According to a 2017 report by the Organized Crime and Corruption Reporting Project (OCCRP), Russian authorities investigated the Russian Laundromat after it was first exposed in 2014. However, OCCRP claims that efforts to bring those responsible to justice and recover the money were hampered in part by the reluctance of Russian officials to cooperate.² In its exposé of the Laundromat, OCCRP claimed that around US\$20 billion was moved from Russia into and through 112 bank accounts in eastern Europe (including Danske Bank's Estonian branch) and then into banks around the world.³ The OCCRP also issued a report in 2019 claiming that **Troika Dialog**, once Russia's largest

private investment bank, channelled billions of dollars out of Russia from 2004 onwards via a network of 70 offshore companies with accounts in Lithuania.⁴ The two Lithuanian banks involved were closed down in 2011 and 2013.

In other jurisdictions, two Russia-connected telecommunications companies reached settlements to resolve charges of bribery to win business in Uzbekistan. In the United States in 2019, Russian mobile phone operator **Mobile Telesystems PJSC (MTS)** and its Uzbek subsidiary entered into resolutions based on the Foreign Corrupt Practices Act with the US Department of Justice (DoJ) and the Securities and Exchange Commission, agreeing to pay a total penalty of US\$850 million, including fines and forfeiture, and to retain an independent compliance monitor.⁵

In a second case, the Dutch company **VimpelCom Ltd** and its Uzbek subsidiary admitted in 2016 to a conspiracy to pay over US\$114 million in bribes during the period 2006-2012 to win business in Uzbekistan, and agreed to pay US\$835 million to settle US and Dutch charges.⁶ VimpelCom Ltd, now called **VEON**, was established in the Netherlands in 2009, but has Russian origins and a continuing Russian connection, with Israeli-Russian billionaire Mikhail Fridman's investment vehicle **LetterOne** owning about 48 per cent of VEON's shares.⁷ In a related case in the Netherlands, the Dutch financial crimes prosecutor was quoted in 2017 as saying that **Amsterdam Trade Bank (ATB)**, the Dutch subsidiary of Russia's **Alfa Bank**, owned by billionaire Mikhail Fridman, was searched as part of an investigation into possible money laundering.⁸

¹ <https://www.oecd.org/russia/russia-is-ready-for-its-phase-3-evaluation-once-it-fulfills-high-priority-recommendation.htm>

² <https://www.occrp.org/en/laundromat/the-russian-laundromat-exposed/>

³ <https://www.occrp.org/en/laundromat/the-russian-laundromat-exposed/>; <https://www.occrp.org/en/investigations/7698-report-russia-laundromat-billions-via-danske-bank-estonia>

⁴ <https://www.occrp.org/en/troikalaundromat/vast-offshore-network-moved-billions-with-help-from-major-russian-bank>

⁵ <https://www.justice.gov/opa/pr/mobile-telesystems-pjsc-and-its-uzbek-subsiary-enter-resolutions-850-million-department>; <https://www.sec.gov/news/press-release/2019-27> <https://www.reuters.com/article/us-mts-uzbekistan/russias-mts-to-pay-850-million-to-end-u-s-probe-into-uzbek-business-idUSKCN1QOOTO>

⁶ <https://www.justice.gov/opa/pr/vimpelcom-limited-and-unitel-llc-enter-global-foreign-bribery-resolution-more-795-million>; <https://www.theguardian.com/world/2016/feb/19/vimpelcom-pays-835m-to-us-and-dutch-over-uzbekistan-telecoms-bribes>

⁷ <https://uk.reuters.com/article/uk-netherlands-russia-bank/dutch-subsiary-of-russias-alfa-bank-raided-in-money-laundering-inquiry-idUKKBN1E7105?il=0>; VimpelCom Ltd was created out of two companies, including the Russian OJSC Vimpelcom by agreement of the Norwegian company Telenor and Altimo Holdings, a member of the Russian Alfa Group consortium founded by Israeli-Russian magnate Mikhail Fridman, <https://www.sec.gov/Archives/edgar/data/1468091/000119312513122015/d505862d20f.htm>

⁸ <https://www.reuters.com/article/netherlands-russia-bank/dutch-subsiary-of-russias-alfa-bank-raided-in-money-laundering-investigation-idUSL8N1OC4SM>

According to the US DoJ, bank accounts at ATB, among others, were used to pay Vimpelcom bribes.⁹

In Italy, the Milan Public Prosecutor was reported in 2019 to have opened an investigation into international corruption based on allegations in the media that Russian representatives engaged in negotiations with the League Party in 2018 aimed at financing the party. This was allegedly to be carried out through the sale of oil by a major Russian oil company to Italy's Eni at a discount of around US\$65 million, which was to be funnelled to the political party.¹⁰ (In 2015, Eni and Gazprom initiated a joint-venture collaboration for the Blue Stream pipeline leading to the Central Europe Energy Italian Gas Holding scandal in Italy.¹¹) In Greece, in 2018, two Russian diplomats were expelled, reportedly based on the accusation that they were seeking to obtain and distribute sensitive information and to bribe Greek public officials.¹²

There are no known investigations of these cases by the Russian authorities.

Recent developments

In August 2018, new legislation was enacted allowing relief from liability for a legal person for bribery, if it facilitated an investigation or reported to the authorities prior to detection. However, this relief does not apply to foreign bribery in international business transactions, due to a special reservation in the law. Art. 19.28 of the Administrative Liability Code, in force as amended since January 2019, provides for punishing not only a legal entity which offered a bribe, but also its affiliates.

The OECD WGB organised a High-Level Mission to Moscow in April 2019 to convey its serious concerns about non-implementation of some recommendations, especially about the scope of the foreign bribery offence, and to discuss the status of Russia's progress.¹³ A finding in the OECD WGB's 2013 report on Russia that "[t]he overall system of inter-agency cooperation would benefit from the introduction of clearer processes"¹⁴ resulted in the creation of a multi-agency task force led by the Ministry of Justice to strengthen enforcement of the OECD Anti-Bribery Convention. However, there is little public information about the work of this task force.¹⁵ The Financial Action Task Force (FATF) Mutual Evaluation Report on Russia in 2019 stated that the Russian Federation "should enhance its approach to supervision and prioritise the investigation and prosecution of complex money laundering cases, especially concerning money being laundered abroad".¹⁶

Transparency of enforcement data

The Russian Federation publishes criminal enforcement statistics, but there are no published statistics on foreign bribery enforcement. There are no specific statistics on mutual legal assistance (MLA) requests concerning foreign bribery.

All court decisions are published online, except for those that contain national and commercial secrets, involve sexual crimes and crimes against minors, or are decisions in divorce cases.¹⁷ Personal details are usually omitted.¹⁸

Beneficial ownership transparency

⁹ <https://uk.reuters.com/article/uk-netherlands-russia-bank/dutch-subsiary-of-russias-alfa-bank-raided-in-money-laundering-inquiry-idUKKBN1E7105?il=0>

¹⁰ <https://www.buzzfeednews.com/article/albertonardelli/salvini-russia-oil-deal-secret-recording>
<https://www.theguardian.com/world/2019/jul/11/matteo-salvinis-party-under-investigation-for-alleged-russian-oil-deal>

¹¹ <https://www.euractiv.com/section/med-south/news/putin-and-berlusconi-seal-south-stream-pipeline-deal/>

¹² <https://www.ekathimerini.com/230551/article/ekathimerini/news/greece-decides-to-expel-russian-diplomats>; <https://www.dw.com/en/greece-to-expel-two-russian-diplomats-ban-two-others-newspaper/a-44628127>

¹³ <https://www.oecd.org/russia/russia-is-ready-for-its-phase-3-evaluation-once-it-fulfills-high-priority-recommendation.htm>

¹⁴ <https://www.oecd.org/daf/anti-bribery/RussianFederationPhase2ReportEN.pdf>, p.27

¹⁵ <https://minjust.ru/ru/novosti/sostoyalis-vstrechi-s-missiey-vysokogo-urovnya-rabochey-gruppy-po-borbe-s-podkupom>

¹⁶ <https://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-russian-federation-2019.html>

¹⁷ Online court decisions, <https://sudrf.ru/> (general courts) and <https://kad.arbitr.ru/> (commercial courts)

¹⁸ Federal Law N 262-FZ of 22 December 2008 (amended on 28 December 2017), "On providing access to information on the activities of courts in the Russian Federation".

There is no central register of beneficial ownership information. Previous plans submitted by the federal government to develop a centralised register accessible only to law enforcement officials appear to have been dropped.¹⁹ Instead, Russian authorities have chosen a decentralised model, in which all legal entities are obliged to keep records about their beneficial owners and provide them to law enforcement authorities on request.²⁰ Art. 6.1, of Federal Law N 115-FZ on Countering Money Laundering states that a legal entity, with some exceptions, is obliged to provide information about its beneficial ownership on request from financial intelligence authorities (*Rosfinmonitoring*) or tax authorities, notably the Federal Tax Service.²¹ Other investigative authorities may request this information via these bodies according to regular investigative procedures.²²

Inadequacies in legal framework

In its Phase 2 Follow-Up Report on Russia in 2018, the OECD WGB found fault with two aspects of Russia's legal framework, namely the scope of the foreign bribery offence, which does not include "promising" and "offering" of a bribe as offences,²³ and the defences in foreign bribery cases of effective regret²⁴ and economic extortion.²⁵ Another deficiency is that bribery using non-tangible bribes is not criminalised. A bill addressing this issue was presented and later withdrawn.²⁶

There is no special requirement for legal entities to take measures to prevent foreign bribery. There is also no specific liability for failure to implement

compliance and due diligence measures, as required by the Combating Corruption Act.²⁷ Nor are there any incentives for instituting preventive measures, meaning companies do not receive any benefits for having implemented compliance measures in case of enforcement proceedings related to irregularities. Another important issue is the lack of whistleblower protection in Russia. The Whistleblower Protection Act was introduced by the government in October 2017, but in June 2019 it was dismissed by the State Duma, at the same government's request, without justification.²⁸

Tax deduction of bribes is still not explicitly forbidden by law. In 2012 and 2019, the Ministry of Finance issued different justifications as to why it is forbidden, despite there being no changes in domestic legislation.²⁹

Inadequacies in enforcement system

Russian law enforcement agencies are generally perceived to be dependent on the executive branch and politically biased.³⁰ The European Court of Human Rights has found several times that Russia violated Convention Article 18 on political use of restrictions due to political persecution. This perception undermines the willingness of foreign bribery victims and whistleblowers to report irregularities.

There is no special legal unit for foreign bribery investigations. The Investigative Committee's anti-corruption units may investigate these cases, but there is concern about their ability to perform this

¹⁹ https://star.worldbank.org/sites/star/files/accountability_report_questionnaire_2014_russia.pdf, para. 29.

²⁰ Art. 6.1, Federal Law N 115-FZ of 7 August 2001, "On Combating the Legalisation (Laundering) of Criminally Obtained Incomes and the Financing of Terrorism" (115-FZ).

²¹ <https://www.legislationline.org/documents/id/4294>

²² http://www.consultant.ru/document/cons_doc_LAW_7519/7367463b83418fbb4a8e0a259864c246fb9b365a/

²³ [https://one.oecd.org/document/DAF/WGB\(2018\)48/en/pdf](https://one.oecd.org/document/DAF/WGB(2018)48/en/pdf), p.5

²⁴ Note to Art. 291, Criminal Code of Russian Federation

²⁵ <http://www.oecd.org/russia/russia-is-ready-for-its-phase-3-evaluation-once-it-fulfills-high-priority-recommendation.htm>

²⁶ <https://sozd.duma.gov.ru/bill/232807-7>

²⁷ Art. 13.3, Federal Law N 273-FZ of 25 December 2008, "On Combating Corruption".

²⁸ <https://sozd.duma.gov.ru/bill/286313-7>

²⁹ Transparency International Russia sent a letter to the Ministry of Justice in this regard. For 2012 justification, https://www.consultant.ru/document/cons_doc_LAW_134717/; for 2019 justification stated in the letter of the Ministry of Finance to Transparency International Russia

³⁰ <https://meduza.io/en/feature/2018/11/16/european-court-of-human-rights-acknowledges-that-russia-persecuted-alexey-navalny-for-political-reasons-rulings-like-this-one-are-very-rare>; <https://www.bbc.com/russian/news-42327194>

task, due to a lack of training. For example, it is not mandatory for their employees to know any foreign language, including English.

Also of concern are the substantial risks of political interference in international cooperation proceedings. The General Prosecutor's Office has been designated as the only authority with powers to send and receive MLA requests in certain types of corruption-related investigations. This means that all prosecutors and internal control officers must submit requests to this office, which will make the final determination.³¹ The appointment of the General Prosecutor is controlled by the president.

Recommendations

- Create a centralised public register of beneficial ownership information
- Criminalise non-tangible bribery, as well as the promising and offering of a bribe, irrespective of the gravity of the offence
- Propose to the State Duma new whistleblower protection legislation covering both the public and private sectors
- Provide incentives for companies to introduce anti-corruption compliance measures and impose sanctions for non-compliance
- Exclude effective regret relief regarding foreign bribery offences, as has already been done regarding the administrative liability of legal entities
- Provide information on the work done by the Ministry of Justice task force on foreign bribery enforcement
- Create a special task force within the Investigative Committee for the purpose of handling foreign bribery cases
- Improve training and carry out capacity-building exercises for investigators on prosecuting cases of foreign bribery
- Improve anti-money laundering supervision of banks and other relevant entities
- Prioritise the investigation and prosecution of complex money laundering cases.

³¹ https://www.consultant.ru/document/cons_doc_LAW_82959/c4bc9f9100ce9a56419aa09a6531a416dc3f5dc5/