The Role of Russian Internal Affairs Agencies
Countering Corporate Raiding

Summary of the Report by A.D. Astafiev,
Chief of the State Protection Center
Directorate of Military Affairs
Primorskiy Krai

A.D. Astafiev’s report examines the factors that influence law enforcement approaches to investigating corporate raiding. In chapter one, “Factors that determine law enforcement agency’s action during raids,” he draws on a broad range of literature, statistical data, and open publications and links raiding and bankruptcies to the general criminalization of the Russian economy. Bankruptcy, in Astafiev’s view, is an instrument of the free market economy. Under the conditions of criminalized economic relations, bankruptcy becomes a means of unfair enrichment as property is seized and redistributed. A relatively independent sphere of criminal business exists and expresses the interests of oligarchic groups. This independent sphere is also known to lobby for beneficial draft legislation as well as to buy and sell court decisions. Illustrating new developments in organized economic crime, the criminal policy of purposeful bankruptcies has penetrated deeply into the country’s economic relations. The decriminalization of economic relations is a difficult task, requiring vigilance and responsibility beginning with the drafting of legislation and ending with the monitoring of law enforcement.

Mergers and acquisitions have come to the attention of highly placed political officials. In February 2008, President of the Russian Federation D.A. Medvedev, spoke in Krasnoyarsk and stressed the need to pass anti-raiding legislation as soon as possible. In his view, developing a powerful legal instrument would effectively prevent corporate raiding. Raiding is often used by prominent state officials to generate an informal income. Rather than restricting the forms and methods of raiding, its causes must be eliminated, the most important being corruption of the state apparatus. The author states, “Raiding is committed only by organized criminal formations.” Intentional business conflict is used to induce the hostile and illegal seizure of businesses. Raiding is a method of criminal activity ranging from economic crimes to white-collar crimes. Groups specializing in seizing property have close and corrupt relations with government agencies and criminal groups.

In chapter two, “The consequences of interference of law enforcement agencies in corporate conflicts: positive and negative results,” the types of damages and risks for socio-economic development in Russia as a result of raiding are discussed. Raiding is a form of organized crime and statistical data about the increase of organized crime in Russia is reviewed. V. Ovchinsky, advisor to the chairman of Russia’s Constitutional Court, states that “raiders” organizations are the most powerful form of organized crime. Raiders are either a specialized group in the criminal community or autonomous groups of business-killers who deal with certain contracts. “Raiders” groups are legalized criminal organizations, presenting an oligarchic model of organized crime.

Criminological investigations conducted by Russian scholars illustrate that the fight against organized crime, including raiding, is being actively pursued, yet no dramatic diminution of the problem has occurred. Raiding is a forceful and corrupt redistribution of property connected to activity of law-enforcement agencies and courts within a corrupt state system. Raiding can be considered a legalization of criminal circles. The most dangerous method of seizing of property illegally occurs when law enforcement agencies and state officials conspire together. Russia has

1 http://www.pravda.ru.
serious problems forming an evidentiary database for raiding investigations because these particular criminal cases are very complicated. The qualifications and capabilities of law enforcement agencies are often low. Taking into the account the latency of crimes tied to raiding and their number in the overall statistic for the number of registered crimes between 2003-2009, annually in Russia, on average, out of approximately 0.5 million economic crimes, raiding makes up about 2 percent of all plundering but the share of damage to the owners, including the state, is above 90 percent. The author also writes that law enforcement officials may be involved in such crimes but he does not provide evidence or sources to support his claim. Though law enforcement agencies may be involved in raiding, as long as we have keen competition between different agencies and within each agency, one law enforcement agency will try to seize property and another will fight against the seizure. This is competition motivated by the desire to obtain a trophy, not for the sake of upholding the law.

Law enforcement agencies may often act on the raiders’ side. A well organized raiding group is “embedded” in multiple layers throughout different government organizations. It has its own people in the prosecutor’s office, the court, the interior ministry, and FSB. Some sections of law enforcement agencies are complicit in raiding schemes, but, on the other hand, when they begin to interfere and to investigate raiding they may be threatened because highly placed and powerful officials are often behind big takeovers. This is why law enforcement agencies often take the position of “observer,” or become a participant in raiding; yet seldom take the position they should assume as law enforcers.

The author reveals that there have been some positive outcomes with respect to court cases, however, only a small number of the cases go to trial. In 2005 the investigative committee of the Russian Interior Ministry initiated 350 criminal cases of corporate raiding. The MVD denied the initiation of 63 cases, and 53 cases went to court. Out of the cases that reached the court, a guilty verdict was rendered in only eleven cases. This low number is not surprising because raiders are often closely tied to law enforcement agencies and they locate people willing to “extinguish” the case before its proceeds to the trial stage. The investigators justify these statistics with the fact there is weak evidence, few investigative materials, few arguments, and the need to improve legislation. There are proactive “ordered” and “initiated” expertise investigations with the purpose of getting business documents to identify the timeliness for launching a raid and to pressure the business owner, and ultimately to initiate a criminal cases against the top management, who, as a rule, is a key shareholder.

With respect to the Far East, in the third chapter, “features of protecting businesses from raiding in the Far East region,” the problems of raiding are common, particularly in its most populated and economically developed region – Primorskii Krai. Businessman Vladimir Petrakov’s case is examined in detail as are several other cases handled by the Investigative Committee of the Interior Ministry of Russia, including the case of Limited Liability Company, Dal’moreprodukt. The author emphasizes the shortcomings of the laws which make it difficult to prosecute raiding crimes. He also mentions the negative roles played by corruption and administrative pressures in aiding and abetting raiding crimes.

At the same time, the territorial courts and interior ministry’s positive role in enforcing the law should be noted. Due to successful law enforcement operations, it was possible to terminate criminal raiding on companies by the Petrakov V.M. group. Petrakov also had ties to law enforcement agencies that allowed him for a long time to get direct support and stay in the shadows while escaping deserved punishment.

The author also describes a raiding attempt by one of the most diligent cooperatives in the Bury region of Amurskaya Oblast, and the raiding of the oldest auto transport companies in

---

Primorskii Krai – LLD “OGAT.” In this particular corporate takeover, as a result of numerous months of “anti-raiding” measures organized by incompetent officials from the law enforcement agencies, five people received traumatic brain injuries. One of them died and the commercial director of the company was killed by gunfire in May of 2009. The persons attacked in 2008-2009 included the director of the company, state registrar, arbitration judge, military prosecutor, and chief of the investigative department and their lives established the criminal case for raiding. These examples illustrate the barbarity of the organized gangs and the participation of corrupt officials and law enforcement officials in raiding crimes. The activity of this gang of raiders was terminated only in May-June 2009 by the staff of the criminal investigation department and the prosecutor’s office of Primorskii Krai when the operative-investigative group was established.

The author describes an example of raiding supported by law enforcement agencies: “the actions of the director of the economic unit of the directorate of internal affairs in Primorskii krai, A. Vasilchenko, denied practical assistance to I. Babinin, head of funeral services.”

In order to address raiding effectively, the author concludes that corruption must be eliminated beginning with the political will of high state officials, legislation must be improved by tightening the criminal code’s norms on fraud as well as raiding, and democratic institutions of power: free, independent media and independent branches of power must be strengthened.