

Strategic Objective Close-Out Report USAID/Russia

Name: "Strengthened Rule of Law and Respect for Human Rights"
Number: 118-0220
SO Approval date: 1999
SO Period: FY1999 – FY2001
Geographic Area: Russian Federation
Total Cost: Freedom Support Act – \$11,696,000

1. Principal Implementing Partners:

- Chemonics International
- ABA/CEELI (American Bar Association)
- Council of Judges of the Russian Federation
- National Judicial College (Reno, Nev.)
- American Center for International Labor Solidarity
- Institutional Reform and the Informal Sector (IRIS, Univ. of MD.)
- Moscow Helsinki Group
- Sakharov Center
- Judicial Department of the Supreme Court of the Russian Federation
- Academy of Justice of the Russian Federation
- Russian-American Rule of Law Consortium (U.S. NGO)
- Management Systems International
- Eurasia Foundation

2. Summary of Overall Impact at SO and IR level

SO 2.2 – Strengthened Rule of Law and Respect for Human Rights.

Throughout the life of SO 2.2, USAID/Russia achieved a positive overall impact on the Russian judiciary, strengthening the rule of law and improving respect for human rights. This is expressed in the continued improvement in Intermediate Result indicators seen below.

IR 2.2.2 – Judicial Decisions are Uniform, Predictable and Made without Delay.

Data supporting the performance of this IR was as a result of a survey of uniformity, predictability and fairness of commercial court decisions conducted by ABA/CEELI. The survey was conducted with more than two hundred Russian lawyers in several Russian cities. The survey concluded that from 1999 to 2002, the measure of uniformity, predictability and fairness of commercial court decisions increased.

IR 2.2.4 – Presence of Enforcement Services Induces Better Execution of Civil Judgments.

This indicator was a percentage of overall value of Bailiffs Service civil judgments caseload that was executed, and it was obtained from the official statistics of the Ministry of Justice. From 1999 to 2002, the percentage of overall value of assets seized compared to those authorized to be seized increased from 60 percent to 70 percent. This measure indicates that due to the increasing professionalization of the Russian bailiffs, the quality of enforcement of judgments has increased.

IR 2.2.5 – Effective Advocacy for Adherence to International Human Rights Commitments Increased.

This is a measure of the number of regions with trained human rights monitors in Russia. From 1999 to 2002, the number of regions with human rights monitors increased from 60 to every region in Russia (89).

3. Summary of Activities and Success Stories

In 1999, USAID conducted a number of practical and effective projects to strengthen rule of law and respect for human rights in Russia. Through two implementing partners, the National Judicial College and Chemonics, USAID instituted training programs focused on international law, best practices related to judicial selection, ethics and discipline, as well as modern court administration and case management techniques. These training courses were followed-up by a U.S.-based study tour in order to facilitate cooperation and develop relationships between Russian judicial entities and the National Judicial College.

Another implementing partner, ABA/CEELI, trained lawyers in various continuing legal education courses. They also assisted in the support for nine legal clinics at Russian law schools, making the legal education of students more relevant and affording legal representation to clients. During the year, ABA/CEELI published a clinical legal education textbook for law schools, which was utilized by students in the rapidly growing legal clinic movement (growing from 1 legal clinic in 1995 to approximately 50 by 2002).

An ABA/CEELI sub-grantee, the Russian-American Rule of Law Consortium (RAROLC) continued to promote partnership activities between the legal communities of several US states and Russian regions on the model of the long-standing Vermont-Karelia legal partnership. In 1999, RAROLC worked on promoting law school reform (including clinics), judicial partnership relations, continuing legal education for practicing lawyers, and specialized training.

In 1999, USAID implementing partner, Institutional Reform and the Informal Sector (IRIS), introduced a group of ten senior Russian bailiffs to the system in the U.S. in order to familiarize themselves with the operations of U.S. Marshals Service and with other actors involved in the enforcement of judgments in the American system.

In 2000, USAID continued with targeted legal training programs within Russia to complement work with court systems and bailiffs, which were focused on strengthening their capacity to train judges in Russian law, develop reference materials and improve information technology. With USAID support, leading Russian judges and legal scholars published the Judge's Desk Book, which is a resource that was distributed to nearly every one of the approximately 20,000 sitting judges in Russia. USAID also helped to bring together legal educators from around the country, as well as to organize conferences on commercial law and law firm management for young legal professionals in eight Russian cities.

Of special note, USAID reached more than 2,000 Russians officials with a series of seminars across the Russian Federation on legal issues affecting women. Participants included prosecutors, judges, police and lawyers. In addition, roundtables were organized for NGOs, lawyers, and activists to focus on finding legal solutions for domestic violence and combating trafficking of Russian women.

In order to assist Russian NGOs focused on Human Rights, USAID provided technical assistance and institutional development support to the Sakharov Center. This Center helped to improve coordination of the activities of disparate Human Rights NGOs operating within Russia.

In 2001, USAID continued to support judicial institutions, the Bailiff's Service, and NGOs monitoring human rights and addressing corruption at the grassroots level by sponsoring continued bailiffs' training and publishing a comprehensive handbook on enforcement of judgments. With resources scarce, USAID refocused its energy to work more closely with the judiciary. USAID support for more advanced court administration helped the Judicial Department achieve an increased budget for the Judiciary, permitting the hiring of more legal professionals.

During this period, ABA/CEELI also published an important handbook on lawyer skills, filling an unmet need in the existing legal community.

In 2002, with technical assistance and financing provided by USAID, the disciplinary organ of the Russian Judiciary (Supreme Qualifying Collegium) first began to publish digests of its decisions, thereby increasing the transparency of this key body. The professionalization of the judicial administration progressed, with increasing numbers of specialized court administrators, court press secretaries, and other professionals being hired into the system. This process continues.

From 1998 to 2002, USAID supported the growth and development of a nationwide corps of human rights monitors. The primary grantee, Moscow Helsinki Group (MHG), published a series of volumes on the human rights situation in the Russian regions as well as an analysis of human rights nationwide. When USAID funding of human rights monitoring ceased, MHG continued the project with other sources of funding, and remained a grantee of USAID/Russia implementing other activities.

In 2002, USAID leveraged the resources of the Open World Program of the Library of Congress for purposes of sending representatives of its Russian partners to the U.S. to meet with partners. Additionally, USAID also benefited from pro bono contributions of many U.S. federal and state court judges, other court personnel, and other legal representatives, by involving the U.S. federal judiciary in our judicial reform work, and through RAROLC. All U.S. participants of RAROLC contributed their time free of charge. Leveraging these resources permitted USAID budget dollars to achieve greater impact than would otherwise have been the case.

Overall, during the period 1999-2002, due to USAID activities in Russia stressing judicial ethics, the Russian judiciary decided it needed an improved code of judicial ethics. This code was devised and drafted during the 1999-2002 period, culminating in an adopted code in 2004. This, coupled with the increased transparency in the work of the judiciary ethics body, helped to improve public trust in judicial decisions within Russia.

4. Prospects for the Future

Rule of Law

During the last decade, there has been considerable progress in Russia towards the development of a framework of laws and the legal institutions necessary to the rule of law. However, challenges continue to exist within the Russian legal system. There has been selective prosecution of individuals and organizations for what may be political motives (e.g., the Khodorkovskiy and Yukos cases)¹. In the fall of 2004, there were proposals that, if enacted, would consolidate more power in the executive branch to the detriment of such judicial organs as the Supreme Qualifying Collegium of Judges of the Russian Federation and the Judicial Department of the Supreme Court—organs that had been building up their competency and authority for a number of years in an effort to make the judiciary stronger. (The threat to the Judicial Department seems to have receded based upon statements made by President Putin at the Congress of Judges on Nov. 30, 2004; the situation concerning the qualifying collegia is still unclear.) Effective access to the legal system exists in theory, but many organizations and citizens are wary of the legal system or are uninformed about how to access it.

One of the key rule of law challenges at the moment, is how to deal with an increasingly restricted climate. In such a climate, there is a need to support the forces that can serve to limit backsliding on democratic principles and rule of law, or at least to stimulate critical public debate concerning the important issues. It is worthwhile to continue to support the judiciary and its reform because there remain within it active constituencies for reform (at the national as well as regional levels). Continuing to strengthen the management and independence of the judiciary (through support and encouragement from the U.S. federal judiciary and from members of state judiciaries who have relationships and conduct programs at the regional level) is important to resisting the authoritarian trends and keeping competing visions and forces alive.

Respect for Human Rights

Assistance for human rights groups in Russia has, over time, moved from a focus primarily on the monitoring and publicizing of human rights violations to an increasingly activist role for the organizations. The Russian human rights movement is in the process of increasingly shifting its emphasis to concerted and constructive advocacy in legislative, executive and judicial forums at all levels and directed at the public at large. These efforts are having varying degrees of success but are of limited impact at present due to inadequate legal resources and expertise. There are substantial needs for capacity-building in the

¹ Although the SO ended in FY 2001, expenditures carried through FY 2004, so some recent events have been included in the narrative.

key areas of strategic litigation in the courts, legislative drafting and advocacy in executive and legislative bodies, challenging and responding to administrative agency actions, and in building broader constituencies within civil society for more powerful and effective advocacy on behalf of increased rule of law and human rights.

Challenges

The central development challenges at this time with regard to rule of law are the lack of funding provided to the sector, and the fact that many actors, including citizens and the fledgling civil society groups, are not yet accustomed to using the law as a means to seek redress of grievances and advance their interests. To ensure, notwithstanding recent authoritarian trends, the continued growth of rule of law and protection of human rights in Russia, USAID must 1) continue to support judicial and legal system reform, including more widespread implementation of reforms already enacted or experiments already conducted (e.g., innovations in pilot courts); 2) change the skills, values, and attitudes of legal system actors (judges, court staff, procurators, and lawyers) to support that process; and 3) strengthen the capacity of individuals and groups within civil society to more effectively use the legal system and legal services to better advance and protect human and civil rights. Ensuring that the Russian legal system is better able to dispense justice in accordance with international standards on a broad, consistent and sustainable basis, and that citizens and civil society have reasonable and effective access to that system, are the principal challenges currently faced in achieving rule of law.

5. Lessons learned for application to other SOs

A follow-on objective, *SO 118-0221 - Legal Systems Strengthened*, was approved in 2002. This follow-on Strategic Objective is oriented toward the continued improvement of the Russian judicial system. It incorporates IR 1 – Public Awareness of Legal Rights Increased; IR 2 – More Lawyers Skilled in Representing Clients; and IR 3 – Judicial System More Transparent, Independent and Efficient. This new SO, as with the old, is designed to improve the framework and operations of the Russian legal system.

6. Summary of indicators and their usefulness for performance management

SO 2.2 – Strengthened Rule of Law and Respect for Human Rights

IR 2.2.2 – Judicial Decisions are Uniform, Predictable and Made without Delay

This indicator, developed and recorded by ABA/CEELI, was useful in understanding the change in judicial decision making throughout the period of the SO. However, a more detailed recorded scale might have allowed for better short-term assessments of improving judicial conditions, thereby proving more useful for management decision makers.

IR 2.2.4 – Presence of Enforcement Services Induces Better Execution of Civil Judgments

Data for this indicator was supplied by the Ministry of Justice. This was the only source on information available. It proved ineffective to properly measure the ongoing changes in the Bailiffs Service. Anecdotal information suggests that, despite uneven performance and reports of corruption, this corps of professionals is having a strong impact on the functioning of the civil court system in Russia, improving the enforcement of judgments.

IR 2.2.5 – Effective Advocacy for Adherence to International Human Rights Commitments Increased.

This indicator proved useful in determining the geographic expansion of human rights monitoring, though it was not useful in determining the quality of data recorded by the monitors. Anecdotal data, matched with this indicator for geographic scope, indicate a growing and maturing human rights monitoring network inside Russia more capable of reporting on human rights abuses within the country. This is underscored by professional and complete reporting documents published by MHG under this SO.

7. Appendix

Reports

1. USAID/Russia Annual Reports, and R4s 1999 – 2002
2. Burnham, William, Anastasia Doroshenko, Olga Schwartz, “New Directions for USAID Rule of Law Programs: Survey and Recommendations,” July 15, 2004.

3. Pepys, Mary Noel, "Assessment of the Sustainability of Russian-American Judicial Partnership II Project Activities", Chemonics International, June 2003.
4. Mihm, Michael, Paul Magnuson, "Response to Mary Noel Pepys Report to USAID Assessment of the Sustainability of Russian-American Judicial Partnership II Project Activities", letter from current and former chairs of the Committee on International Judicial Relations, Judicial Conference of the United States, September 2003.
5. Burnham, William, Peter B. Maggs, Vladimir Luzhin, Elena Shokina, "Assessment of the Current State of Russian Legal Education: Opportunities for Targeted Funding with Maximum Impact", USAID, March 2003.
6. Fuhrmann, William, William Bowring, "Diagnostic Study of the Court System of the Russian Federation", IBRD, April, 2002.
7. Burnham, William, Malcolm Russel-Einhorn, Edwin Rekosh, "Building an Issue-Oriented Legal Representation Capacity Among Law Clinics and Lawyer-staffed Human rights NGOs in Russia", Abt Associates, Washington January 2002.
8. "Human Rights in Russia, Next Phase: Glasnost to Slyshnost", USAID, June 2001.
9. GAO, "Former Soviet Union: U.S. Role of Law Assistance has had Limited Impact", General Accounting Office, Washington, April 2001.

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