

Regional Non-Governmental Foundation
"Information Science for Democracy"
(INDEM Foundation)

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**Business and Corruption:
How To Combat
Business Participation In Corruption**

Final Report

Moscow
2004

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The present report deals with the problem of corruption in the government-small business relations. It was prepared by INDEM Foundation researchers K.I. Golovshchinskii, S.A. Parkhomenko, V.L. Rimskii and G.A. Satarov in the framework of "Business and Corruption: How To Combat Business Participation In Corruption" project supported by the Center for International Private Enterprise (CIPE). The main goal of the project was to find the most efficient means for opposing corruption by the small business. This was achieved through several series of in-depth interviews with businesspeople in Irkutsk, Moscow and Saratov Oblasts. The interviews provided basis for the present "survival guide" containing anticorruption recommendations to the Russian businesspeople.

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Introduction

The present report sums up some results of the project of the same name supported by CIPE and implemented by INDEM Foundation in 2004.

The project concept had evolved gradually. INDEM initiated its first corruption-related research in 1996 when it had been functioning as Center IMDEM and not yet a foundation. INDEM has been interested in the problem in the following years: several analytical reports on corruption were prepared, new techniques for measuring and assessment of corruption designed, various theoretical and applied approaches to analysis of all aspects of corruption proposed, and general anticorruption strategies formulated. Many results of this INDEM research are unique: the techniques of complex expert assessment of corruption or assessment of the current legislation corruption potential are among the most accurate research tools in this field. The in-depth interview technique is also widely used by INDEM as one of the most flexible and powerful tools for collection of information on corruption.

Despite this quite substantial background in the research of corruption, there has been a certain disparity in this INDEM work until recently: the greater part of the research and anticorruption projects has obviously dealt with combating corruption "from the top down". Such relative concentration on the state as the initiator and key participant of the anticorruption campaigns has seemed quite logical because the administrative corruption is one of the greatest obstacles for Russia's progress.

However, INDEM research staff advocate a comprehensive approach to combating corruption, and it has been more and more clear that an alternative anticorruption strategy should be developed. This urgent need was met with "Business and Corruption: How To Combat Business Participation In Corruption" project.

Its ideology is simple enough and is based on the fact that business in its relations with the state faces the problem of resorting to corruption deals in order to facilitate its operation. Despite the great diversity of such situations, there are certain universal patterns. Accordingly, we can conclude that there are certain universal problems which make the businesspeople especially vulnerable to corruption.

The project goals were: analysis of the government-business relations; exposure of the greatest difficulties faced by the business nowadays; understanding of weaknesses making business unable to resist the corruption threat; development of techniques and tools for resisting corruption by the businesspeople themselves; and evaluation of the anticorruption potential of the small and medium-size business.

The following work was performed in the project:

- 1) building typology of the Russian small and medium-size business and its practices;
- 2) analysis of the corruption potential of the current legislation and other regulatory acts relating to the small and medium-size business in Russia;
- 3) analysis of interaction between the small and medium-size business in Russia with officials of various profile and level (the corruption practices);
- 4) preparation and dissemination of anticorruption recommendations for the small and medium-size business.

The project employed the in-depth interview technique: more than 50 interviews with businesspeople in the small and medium-size sector and in different industries

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were held. Agriculture remained the only field of activity not covered by the project, because the corruption practices there are greatly different and require a special approach. Analysis of the in-depth interviews was complemented by statistical analysis, analysis of the corruption potential of legislation and the results of other INDEM studies.

The project was implemented in Irkutsk, Moscow and Saratov Oblasts. They were selected, first, in view of the previous INDEM research in various regions of the Russian Federation; second, because there was a good prospect to receive support from the local business communities; third, those RF Subjects present three different cases from the point of view of their geographic position, resources, socioeconomic situation and administrative practices.

It would be futile to argue that those three regions are a representative sample of all country. In fact, the researchers did not attempt to give a complete and comprehensive description of the problem. However, the data from three greatly different regions offer good input for serious findings and generalizations.

Development, discussion and approval of an inventory of anticorruption measures was the project's second phase. With the research results in mind, the INDEM experts drafted the anticorruption recommendations for business, discussed the whole set of tools and recommendations with regional businesspeople at special seminars, and optimized them on the basis of the incoming comments and criticisms.

The present final report for the small business consists of four main sections: 1. description of the basic differences between businesses of different size; 2. presentation of the framework of analysis of the legislation corruption potential; 3. summary of information on the government-business relations; proposals and recommendations based on the results of our research; 4. recommendations; Supplement with brief reports on the legislation corruption potential of the project regions.

This report is the final product of the project but, in the general context, it is just one step in bringing corruption under control and reducing it to a socially acceptable level. It can be perfected, expanded and updated in order to keep pace with the ongoing political and administrative reforms in Russia which can radically change the situation.

The authors would like to express their deepest gratitude to all those people who had taken part in the project. There were many of them, and this makes us feel confident about the prospects of our common cause.

We thank all businesspeople who agreed to be interviewed and thus made the project possible. We thank functionaries and staff workers of non-governmental organizations and business associations who had generously shared their experiences. Our special thanks are to leaders and staff workers of the regional chambers of trade and industry and of the business organization "Opora Rossii" [Russia's Mainstay] whose support had saved the project from many difficulties.

1. Comparison of Businesses of Different Size: Quantitative Sociological Data

Sociological research undertaken by INDEM Foundation in 2001-2002¹ makes it possible to compare businesses of different size and understand differences in their strategies and presumptions, and thus help government and business to plan their policies toward one another.

This section is based on the results of a poll conducted in the framework of the "Diagnostics of the Russian Corruption: Sociological Analysis" project (2001) when more than 700 businesspeople were polled. All respondents were broken down into four roughly equal groups, based on the business' monthly turnover, then different corruption attitudes and strategies of those groups were compared. Hereinafter those groups are numbered 1 to 4, from the lowest to the largest turnover.

Our study "Diagnostics of the Russian Corruption: Sociological Analysis" contained a set of questions which, in their aggregate, determine different attitudes of the businesspeople including their estimate of the corruption level in Russia. The figure below shows in-group percentages of those who see the corruption level as high.

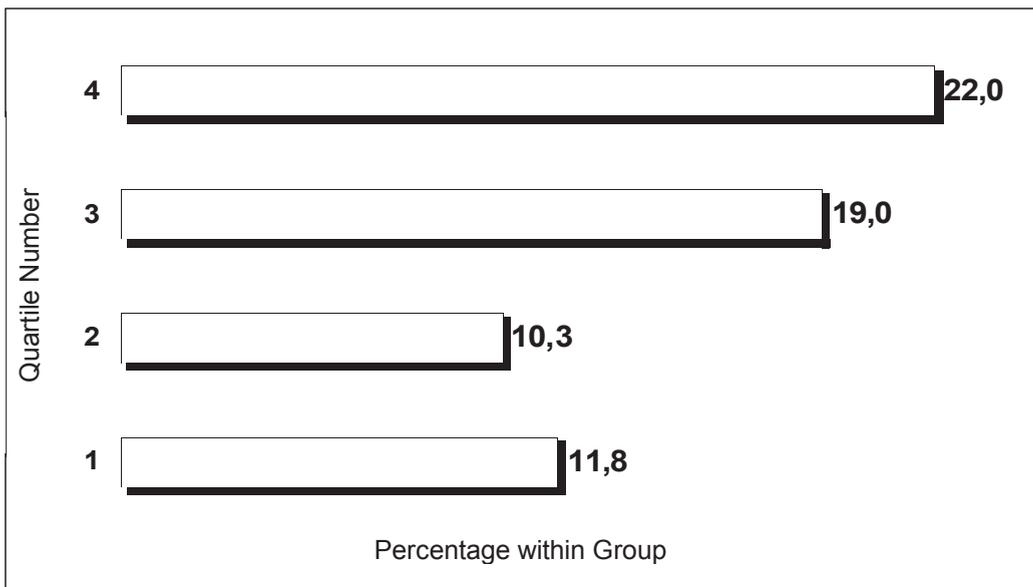


Figure 1. Percentages of "high" corruption level estimates in the four groups of businesses with different monthly turnover. Number 4 is the group with the largest turnover

It can be seen that the small business (Groups 1 and 2) tends to be more pessimistic about the corruption level than the medium-size and large business.

¹ Description of this research can be found in "Diagnostics of the Russian Corruption: Sociological Analysis" and "Regional Corruption Indexes" reports at INDEM Foundation site www.indem.ru.

1. Comparison of businesses of different size

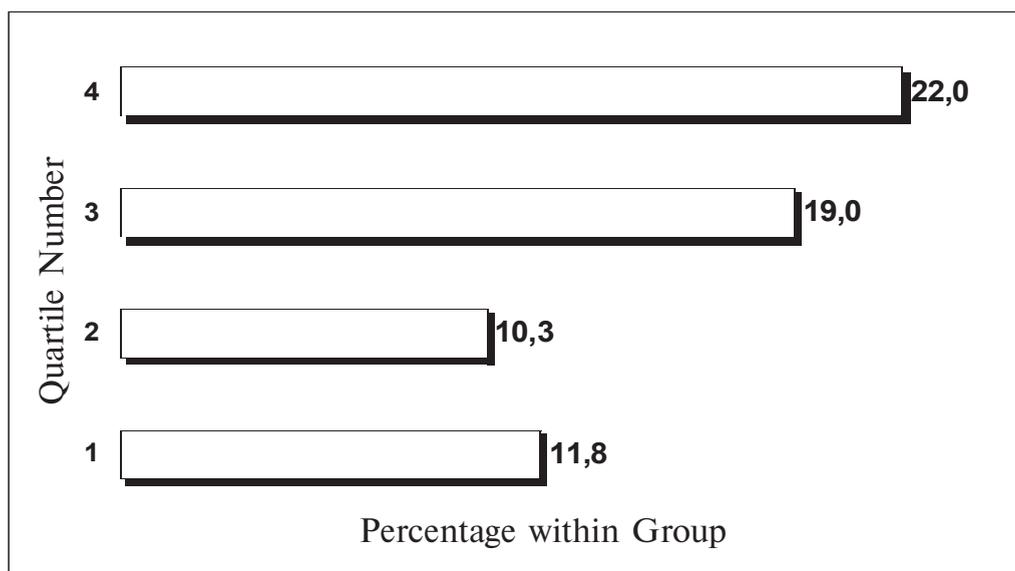


Figure 2. Percentages of "optimists" in the four groups of businesses with different monthly turnover. Number 4 is the group with the largest turnover

The difference between the estimates can be explained not only by different conditions in which the business operates, but also by emotional factors. Accordingly, the next chart (Fig. 2) offers comparison of the different business groups by percentage of "optimists" and shows that the "optimists" are in greater deficit among the small business. The most credible hypothesis derived from those two comparisons, is: the small businesspeople are working in relatively more difficult conditions which leads both to emphasis on the high corruption level and lesser optimism.

Now we shall look into the corruption practices of the businesses of different size. The following chart indicates representation of two patterns of the businesspeople's behavior: "Active involvement in corruption" and "Avoidance of corruption".

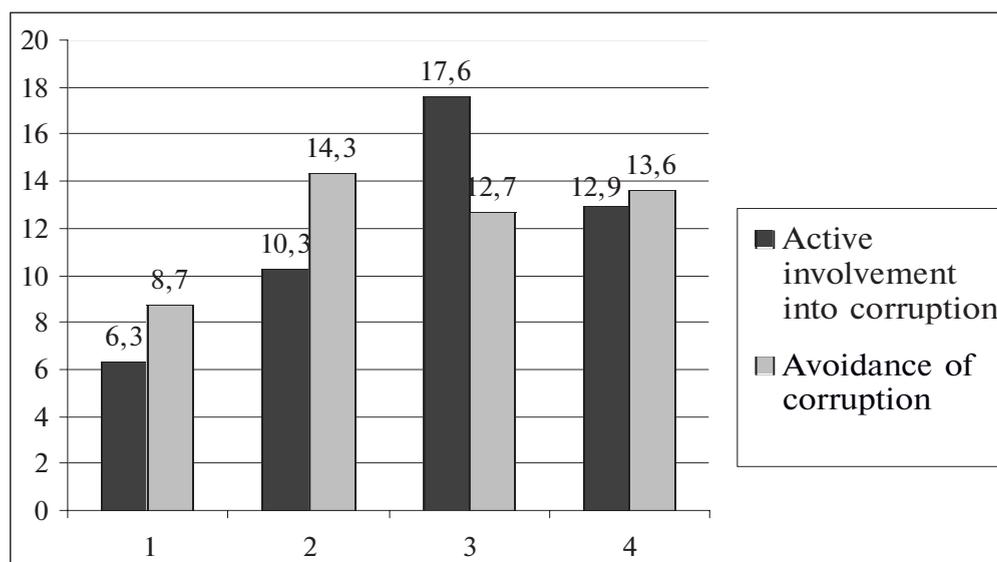


Figure 3. Percentages of businesspeople with two different strategies: "Active involvement in corruption" and "Avoidance of corruption", in the four business groups with different monthly turnover. Number 4 is the group with the largest turnover

1. Comparison of businesses of different size

The chart shows that the small business groups have smaller percentages of both active corruption practitioners and those who try not to resort to bribes under any conditions.

The same INDEM study also included evaluation of the businesses degree of success. A business was classified as successful if it was profitable and promising at the same time. The following chart illustrates representation of successful business in the four groups.

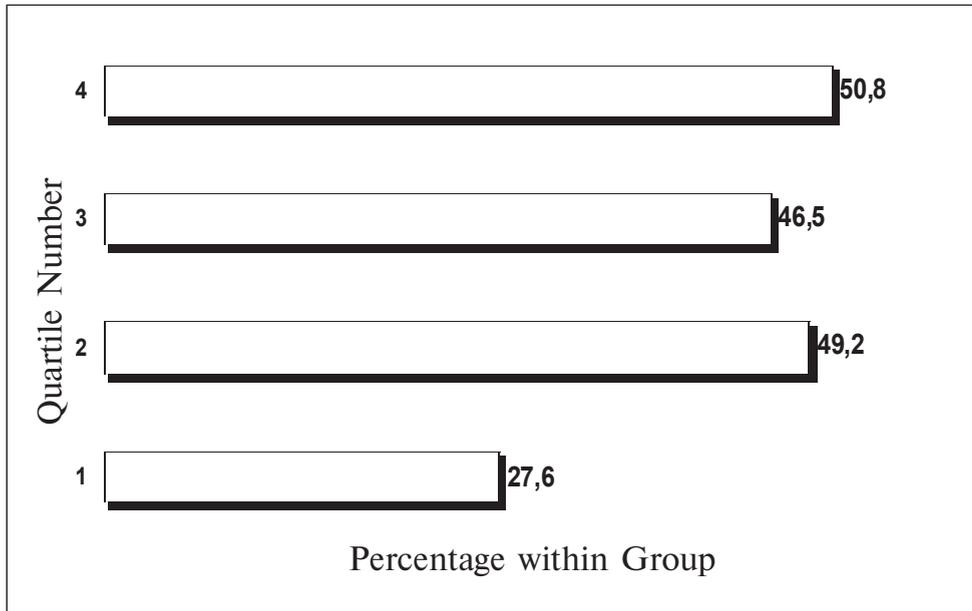


Figure 4. Percentage of successful (profitable and promising) businesses in the four business groups with different monthly turnover. Number 4 is the group with the largest turnover

It can be seen that representation of successful businesses in the small business groups is substantially lower than in the others. One could suppose that this is caused by lower interest of the small business in the active corruption strategies. However, our analysis shows that the business' degree of success is not correlated with its involvement in corruption. There is a more plausible hypothesis: the small businesses are operating in a relatively more aggressive environment and have a narrower inventory of defensive means from the bureaucracy than the medium-size and large businesses.

One can suppose that the relatively harder conditions for business operation influence the businesspeople's evaluation of the prospects of the corruption problem solution. The questionnaire prepared for the "Diagnostics of the Russian Corruption" study contained a question on the businesspeople's attitude toward such a unique development as an anticorruption campaign launched by the authorities. One of the possible answers was "I'll try to take part in combating corruption". Percentages of selection of this answer are given in the chart below.

1. Comparison of businesses of different size

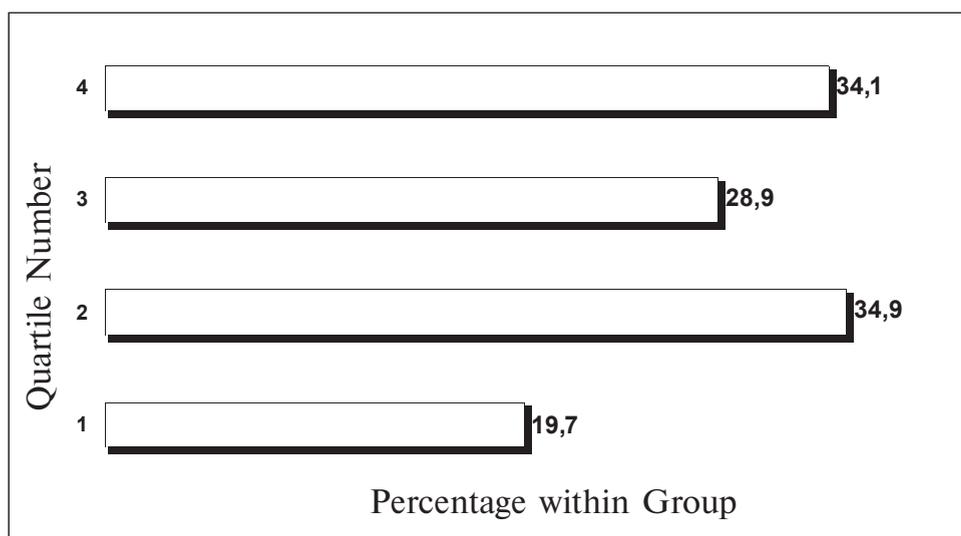


Figure 5. Percentages of selection of the answer "I'll try to take part in combating corruption" (when asked about their attitude toward the anticorruption campaign launched by the authorities), in the four business groups with different monthly turnover. Number 4 is the group with the largest turnover.

We see that the small businesspeople express less readiness to combat corruption than the others although they are obviously operating in the harder conditions and are naturally aware about it. A similar result was obtained when the respondents were asked about their readiness to undertake certain specific steps (Fig. 6), that is, the small business representatives are even less enthusiastic about the effort in which they are seemingly most interested. It appears that general skepticism, disappointment and general distrust of government are manifest in this group. This is also proved by the small business attitudes toward possible anticorruption measures on the part of the state (Fig. 7).

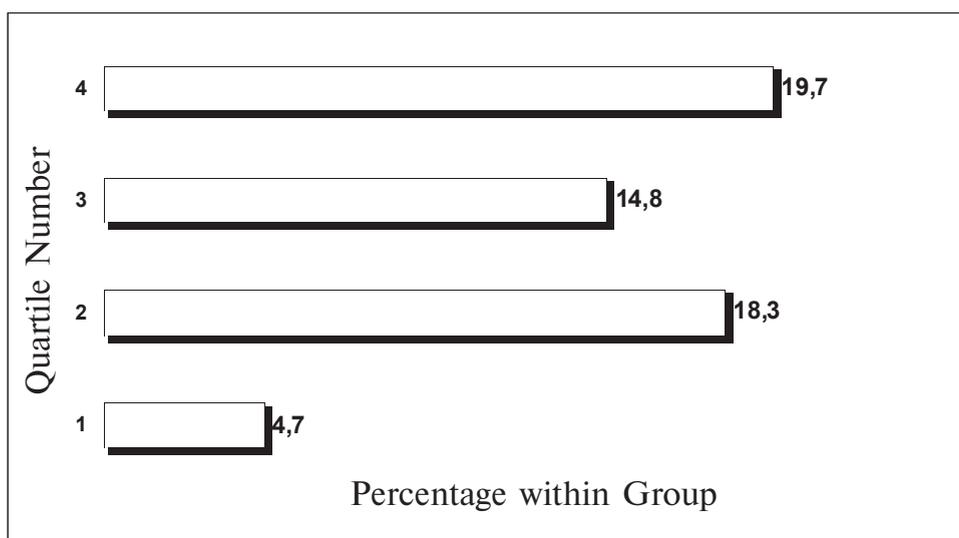


Figure 6. Frequencies of answers indicating readiness to take part in dissemination of an ethical code, in the four business groups with different monthly turnover. Number 4 is the group with the largest turnover

1. Comparison of businesses of different size

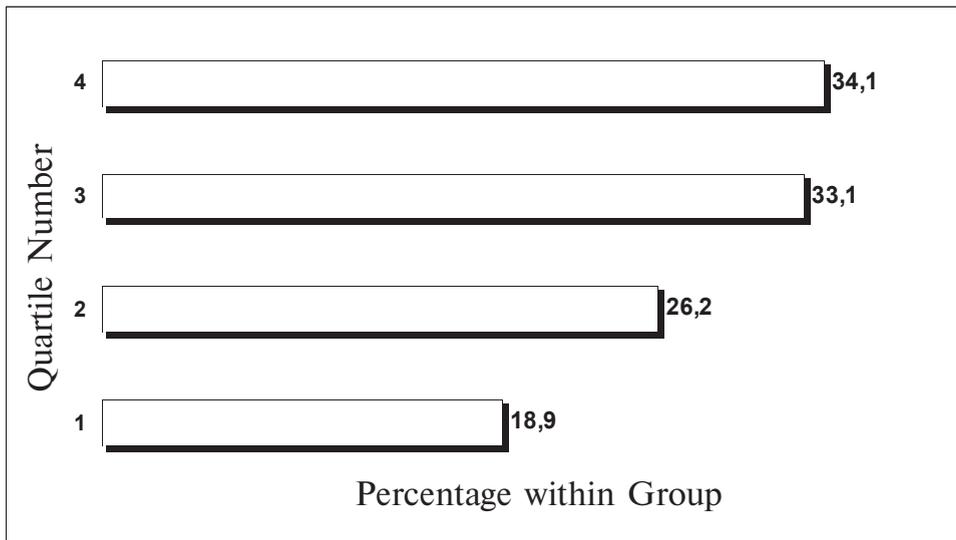


Figure 7. Percentages indicating readiness to support increased state control over all citizens' expenditures, in the four business groups with different monthly turnover. Number 4 is the group with the largest turnover

It would be appropriate to finish this sad narrative with a rather long quotation from one of the businesspeople. Here follows an excerpt (its contents are quite typical although the language is unusually expressive) from one of our interviews:

"I can offer an example: convicts escape from prison and take one more inmate with them as a "cow", in order to butcher him and eat his flesh when in hiding. The bureaucrats raise us just the same way. To be more precise, they don't even raise us, we grow on our own like weed, and they mow us from time to time. You feel like forage for somebody, and you are ashamed more and more about it. Step by step, you have to take part in that game and learn to hand out bribes easily, in order to be sure you have paid and fed that guy enough, and that they won't come to arrest you or put the same tough pressure on you".

These words very adequately reflect that poisoned atmosphere in which the Russian business is presently striving to survive. The business is adapting itself to the situation, the bureaucrats are getting more and more ferocious, and the economy is degrading. The in-depth interviews results as presented below show as it all happens in the real life.

2. Analysis of the Corruption Potential of Legislative and Other Regulatory Acts

Russian corruption is a systemic phenomenon and, as a rule, the corruption possibilities are rooted in the current legislation. Consequently, opposition to corruption should inevitably include removal of the corruption-generating legal provisions which create favorable conditions for corruption deals. However, as the history of anticorruption struggles shows, even the most well-designed system of the preventive measures is not sufficient. Reform of the services sector, discouragement of the officials' corruption behavior, and increased accountability of government are the most obvious goals of an anticorruption policy. Corruption caused by low salaries of the officials and insufficient transparency (or even secrecy) of state financing is the least dangerous. Corruption becomes much more dangerous when it is based on the law and when the law itself generates conditions for its appearance.

Bureaucratic arbitrary actions and corruption made possible and sometimes pre-conditioned by the legislation, are so widespread in the Russian Federation that even the Constitutional Court had several times requested more responsible law-making.

The proposed technique of the corruption potential analysis was used for detection of the corruption-generating provisions in the Irkutsk, Moscow and Saratov Oblasts legislation and other regulatory acts.

Glossary of terms used in the technique

| | |
|-------------------------------------|--|
| Corruption | Abuse of office in any forms for selfish purposes |
| Blanket (reference) provision | A provision that in a general form mentions the rules which should be observed but are specified in other legal acts |
| Discretionary powers | Powers which the official can exercise at his own discretion. In fact, this means a certain degree of freedom for the official so empowered, so application of the specific provision is not possible without such discretion |
| Corruption potential of legislation | The aggregate of deficiencies of law which open way for corruption deals |
| Procedural legal provision | Defines the procedure for application of a material legal provision |
| Material legal provision | Establishes what should be done for compliance with the law |
| Dispositiveness | In the Russian legal science, the principle according to which any relations should be regulated by mutual agreement of the parties, and a rule is invoked only when such mutual agreement is not reached |
| Legal provision | A mandatory rule of social behavior established, sanctioned, publicly expressed through formal prescriptions and protected by the state |
| Error of law | The legislator erroneously treats certain public relations as not subject to legal regulation; erroneously expects that a legal provision would be specified in the course of its practical application; erroneously transfers the matter to the discretion of law-enforcing authorities; formulates the provision contrary to the established legislative practices |

2. Analysis of the corruption potential of legislative and other regulatory acts

| | |
|-------------------|---|
| Omission of law | Absence of regulation of certain matters or realities |
| Deficiency of law | Combines both error of law and omission of law |
| State paternalism | Theories and approaches centered on the state's decisive role in regulation of social processes |

The basic features of the corruption-potential analysis technique are:

1. It defines three principal cases when a legal provision possesses corruption potential.
2. Contains tools for detection of such provisions in the legal acts.
3. Breaks down the analysis into several stages and offers a step-by-step procedure for detection of corruption-generating legal provisions.
4. Offers possible forms of analysis and format of a final summary of the analysis results.
5. Defines basic qualification requirements to the expert who will undertake the corruption-potential expertise of the legislation.

LEGAL PROVISIONS POSSESSING CORRUPTION POTENTIAL

1. Excessive legal requirements. Compliance with such requirements needs too much resources from the party for whom it is written, and he naturally prefers to "pay off". Such provisions include both material legal provisions requiring too large expenses (for example, enormous fines) and procedural legal provisions which are too complicated and take too much time and effort to comply with.

2. Discretionary powers of the officials. Such provisions do not prescribe a certain variant of behavior and leave the choice to the discretion of the official (for example, under the pretext that the official should have possibility to take into account all aspects of the specific case). For example, the Code on Administrative Delinquencies authorizes the traffic police officer to impose a fine or file a court application for 15-days imprisonment for one and the same traffic rules violation.

3. Blanket provisions. These provisions authorize the official or the body of state power to issue regulatory acts or refer them to other legal acts for solution of certain matters. The corruption risks here lays in the possibility that the corruption-engaged officials can intentionally issue or lobby such sub-legal regulatory acts which would maximize the officials' corruption capacity.

The corruption potential can be generated either by the legislative technique deficiencies, or by the social reality which is regulated or created by the specific legal provision. We should distinguish between corruption as generated by legislative provisions and corruption which has its origin in deficiencies of law (errors of law, omissions of law² etc.). In the first case, corruption is caused not so much by the law itself but by the actual social relations, and here the researcher should use economic and sociological techniques and not strictly legal analysis.

An important conclusion follows: **if the corruption potential is preconditioned by the concept of the legal act itself, its concept must be modified. However, if the cor-**

² If there are no legal provisions regulating the official's behavior. Thus all matters are left for his discretion.

2. Analysis of the corruption potential of legislative and other regulatory acts

ruption potential is generated by an error of law (legislative technique error), it can be reduced much easier, just through amending ("fine tuning") the respective legal act.

Selection of regulatory acts for the corruption-potential analysis

The corruption-potential expertise takes sufficient time and effort. It would be erroneous to look for corruption-generating provisions in all branches of legislation and in any regulatory act. Consequently, the proposed technique offers criteria for selection of the regulatory acts which would most probably contain corruption-generating provisions.

Three branches of legislation deserve special attention from the corruption-generation point of view:

1. Provisions of constitutional nature relating to the human rights and liberties.
2. Provisions of administrative, financial, commercial etc. law regulating the relations between the state and the citizens. The purpose of such legislation is mutual adjustment of the individual's interest and a certain public interest (for example, in regulation of security matters).
3. Provisions aimed at mutual adjustment of interests of several individuals (private persons). Such legislation is based on the dispositiveness principle.

However, the provisions of the first group, in fact, have an anticorruption nature because they describe first of all duties of the citizens and not of the officials. As to the third group, its analysis would not bring substantial results, just because they do not regulate the activities of the state official without whom corruption is impossible. In the other words, it would be meaningless to analyze corruption potential of either the Constitution (the first group) or the Civil Code (the third group).

Consequently, it is the second group of laws which is especially "promising" when we speak about the corruption potential. Here the official appears as a participant of the social relations regulated by the public law. Again, several sub-groups of legislation of the second group can be the greatest sources of corruption:

- Antimonopoly legislation (wide powers of the Federal Antimonopoly Service with regard to certain economic entities).
- Tax legislation (excessive tax burden, imperfect procedures of control over the tax payers and bringing them to responsibility, contradictory legal provisions and their "fluidity" as the result of constant modification).
- Legislation on bankruptcy (too wide powers and, at the same time, conflicting functions of the state agencies handling the bankruptcy cases; general imperfection of the bankruptcy procedure).
- Legislation on advertising (excessive restrictions on the advertiser's activities cause him to overcome them through corruption deals).
- Import-export legislation (excessive requirements of the regulatory acts cause desire to overcome them through corruption deals).
- Customs legislation (imperfection of the customs procedures and of bringing the violator to responsibility, excessive customs tariffs).
- Legislation on hard-currency control (excessive requirements of the regulatory acts cause desire to overcome them through corruption deals).

2. Analysis of the corruption potential of legislative and other regulatory acts

What additional information sources can be used in selection of the regulatory acts for the corruption-potential analysis?

1. Rulings of the Constitutional Court of the Russian Federation.

A corruption-generating legal provision either imposes excessive restrictions on the individual or authorizes the state official to act at his discretion. Consequently, it violates the citizens' rights formulated in the Constitution of the Russian Federation. In view of the fact that "corruption-generating" and "non-constitutional" often are synonymous, the Constitutional Court rulings can serve as an important source of information about the corruption-generating legal provisions.

2. Mass media news reports.

Monitoring of the Constitutional Court rulings should be accompanied by monitoring of the mass-media coverage of the draft laws being considered by the Federal Assembly of the Russian Federation and other new regulatory acts. Such reports often contain analysis of these acts as well as description of their deficiencies including possible corruption-generating provisions.

3. Monitoring of the articles and other materials in scholarly periodicals.

EXCESSIVE REQUIREMENTS OF LAW AS A CORRUPTION-GENERATING FACTOR

The main goal of the excessive requirements analysis, or why comparison of several legislative acts is necessary?

Such analysis makes sense only when it is based on comparison at least of two legislative acts relating to the same sphere of life. These may be texts of Russian or foreign laws which entered into force or draft laws. The following legal acts of the same profile can be compared with each other in any combination:

- draft laws (draft regulatory acts);
- draft laws at various phases of the legislative process (the first, second or third reading);
- currently valid laws (other regulatory acts);
- laws and other regulatory acts of the foreign states.

The main factor to be taken into account in our corruption-potential analysis is strict dependence of the legislative process on the deputies' ideological positioning. Their support of more or less corruption-generating regulatory norms is based on their ideological motivations which, in their turn, can be understood in the terms of the dichotomy "strong state control and regulation - weak state control, primarily economic means of law enforcement, self-regulation". Comparison of the specific legal provisions will make it possible to understand which type of regulation involves the greatest or the smallest potential for corruption deals.

Excessive requirements can be preconditioned not only by the law's ideology but by the law-making technique errors. **Collision between legal provisions**, be it provisions of one and the same law or provisions of different laws, is one of the typical errors. For example, there can be two different penalties for one and the same violation of law, and in such cases the perpetrator can be brought to double responsibility which significantly increases the damage to him.

2. Analysis of the corruption potential of legislative and other regulatory acts

The excessive legal restrictions have their origins in:

1. Paternalistic ideology of certain legislation.
2. Law-making technique errors leading to excessive state control.
3. Collision of legal provisions.

Evaluation of corruption potential of the excessive requirements of law

Evaluation of corruption potential is based on the degree of the legal provision's "strictness" with regard to physical and legal persons: the greater the restriction imposed on them by the provision, the greater corruption potential this provision generates. Consequently, evaluation of the corruption potential should be based on comparison of the restrictions imposed by the different regulatory acts or draft regulatory acts.

Analytical Tool 1 for assessment of the corruption potential of legal restrictions.

Analytical Tool 1

1. Determine if the law (draft law) regulates relations between a body of state power and physical or legal persons.
2. Write down all norms specifying the state body's powers with regard to legal or physical persons and involving certain requirements and restrictions (check-up procedures, information requests etc.).
3. Do the same with other regulatory acts (draft regulatory acts) regulating the same field of activity.
4. Compare the extent of legal restrictions in different regulatory acts (draft regulatory acts).
5. Understand the corruption potential origin: is it rooted in the law's concept or in a certain deficiency of law, and if the latter, what is the specific deficiency.
6. Fill in the following table No. 1 where each row is assigned to a function involving imposition of restrictions and requirements on physical and legal persons.

Analytical Table 1. Excessive restrictions

| Source | Restrictions, bans and requirements in the field of... (indicate the specific power) | Specify corruption-generating aspects | Extent of the legal restriction | Why it encourages corruption deals | Corruption potential (on a "high, medium, low" or similar scale) |
|--------|--|---------------------------------------|---------------------------------|------------------------------------|--|
| 1. | | | | | |
| 2. | | | | | |
| ... | | | | | |
| n | | | | | |

2. Analysis of the corruption potential of legislative and other regulatory acts

DISCRETIONARY POWERS OF THE OFFICIAL AS A CORRUPTION-GENERATING FACTOR

Why the discretionary powers generate corruption

Legal provisions often have general character, that is, they describe not a specific case or circumstance but a certain class of cases and circumstances. Speaking about the officials' mode of action in such situations, the jurists call it "discretionary powers" or administrative discretion.

Too great discretionary powers (especially with regard to distribution of resources) granted to the official encourage him to undertake intimidation and coercion to corruption deals. **The legal provisions granting unwarranted discretionary provisions to the officials comprise the bulk of the corruption-generating legislative norms.**

The excessive legal requirements directly encourage corruption deals while the discretionary powers create favorable environment for this. They are corruption-generating only when they authorize the official to make his own choice between application and non-application of the excessive legal requirements, or between application of sanctions of varying gravity. In the situation when no clear-cut criteria for any sanction are provided, the perpetrator is left free to "buy" not so strict a penalty while the law-enforcing official can intimidate him with possible imposition of a stricter one.

Such cases are especially problematic for the corruption-potential detection. Indeed, here the perpetrator pays bribe for getting a genuinely legitimate decision, that is, a decision which could have been made by an honest official. Meanwhile, when the law clearly stipulates unconditional imposition of excessive sanctions, the bribe is paid for the official's clearly unlawful actions. Consequently, the different corruption-potential factors generate different types of corruption.

Just as the excessive legal requirements, **the discretionary powers can be conditioned both by a collision between the provisions of one and the same law and the provisions of several laws.** In both cases the collision leaves us without criteria for deciding which of the conflicting provisions should be complied with.

The corruption potential of the discretionary norms can be based on:

- Omission that leaves certain matter without any regulation thus giving the official free hand to act as he pleases.
- Paternalistic ideology of the legislation which stipulates the state bodies and agencies' contradictory functions and the conflict of interests.
- Excessive extent of the discretionary powers granted to the law-enforcing official (probably this could be sincerely motivated by good intentions).
- Errors of law because of which corruption-generating discretionary powers are granted to the official.
- Mutually exclusive legal provisions.

Analytical Tool 2 should be used for assessment of the discretionary powers corruption potential:

1. Determine if the law (draft law) regulates relations between a body of state power and physical or legal persons.
2. Write down all norms specifying the state body's powers with regard to physical or legal persons.

2. Analysis of the corruption potential of legislative and other regulatory acts

3. Determine which provisions prescribe the **only** possible procedure for the state official and which empower him to choose between **different** procedures.

4. With regard to provisions making the alternative procedures possible, determine if there are clear-cut criteria for selection of one of the procedures.

5. Fill in the following table listing all discretionary powers of the state official involving imposition of restrictions or penalties on physical and legal persons:

Analytical Table 2. Discretionary powers

| Source | Legally stipulated possibility of choice | Are there criteria for the choice? | Origin of the discretionary powers | Possible forms of corruption | Extent of corruption potential |
|--------|--|------------------------------------|------------------------------------|------------------------------|--------------------------------|
| 1. | | | | | |
| 2. | | | | | |
| ... | | | | | |
| n | | | | | |

Fill in the Analytical Table 2 with the following considerations in mind

| | |
|--|---|
| Legally stipulated possibility of choice | What are alternative procedures between which the official can choose |
| Are there criteria for the choice? | Are there officially set criteria for the choice of behavior variants? |
| Origin of the discretionary powers | Are the discretionary powers caused by the very concept of this legislative act or by a deficiency of law |
| Possible forms of corruption | What corruption behavior can be caused by the present provision |
| Extent of the corruption potential | Evaluation of the corruption potential amplitude |

REFERENCE PROVISIONS AS A CORRUPTION-GENERATING FACTOR

Two reasons why the reference provisions generate corruption

1. The reference provision presumes a time span during which a certain matter remains unregulated until adoption of a directly applied legal provision. Such time span is a period with especially great discretionary powers of the officials, and those powers are assumed on the entirely legitimate basis.

One of the brightest examples is Article 11, Point 2 of the Federal Law "On the Fundamentals of the State Service of the Russian Federation" of July 31, 1995: "the state official must transfer all stocks (packages of shares) owned by him, to trust management for the term of his office and under the state guarantee, the procedure to be established by federal law". Were it not a blanket provision, it surely could have played a positive part in prevention of the conflict of interests. However, the procedure to which this provision refers has not been enacted yet.

2. The reference provision opens the way to the "departmental law-making" (adoption of so-called sub-legal acts by the bodies of state power and state agencies). The main problem presented by such norm-making is lack of transparency: first, such norms are prepared and enacted behind the scenes, second, in many cases the phys-

2. Analysis of the corruption potential of legislative and other regulatory acts

ical and legal persons whose activities these acts are supposed to regulate, are not familiar with them because of the insufficient openness of the state machinery. The "departmental law-making" is often the source of the conflict of interests: the officials are striving to grant as many as possible discretionary powers to themselves (or their bureaucratic counterparts) and impose excessive restrictions on the business in order to exact the administrative rent.

Analytical Table 3. Blanket provisions

| Source | Contents of the blanket provision | What are the corruption prospects | Extent of corruption potential |
|--------|-----------------------------------|-----------------------------------|--------------------------------|
| 1. | | | |
| 2. | | | |
| ... | | | |
| n | | | |

3. Analysis of the Government-Business Relations

3.1. Research goals and techniques

The present research was undertaken in the framework of the INDEM Foundation project supported by the Center for International Private Enterprise. The project's goal was to study the problems of the small and medium-size business through a series of in-depth interviews as well as through previous sociological research by INDEM Foundation. It was expected to draft recommendations on interaction between government and business - for the small and medium-size business and their associations. Such interaction should increase efficiency of administration, decrease corruption and the business' corruption overhead, generate "most favored" climate for business operation and growth.

The series of informalized interviews embraced representatives of small and medium-size business and business associations' activists in Moscow and in Moscow, Saratov and Irkutsk Oblasts. The All-Russian Non-Governmental Organization of Small and Medium-size Business "Mainstay of Russia" and the Chambers of Trade and Industry of Irkutsk and Saratov Irkutsk Oblasts had helped INDEM Foundation in selection of the respondents.

In all, 56 interviews were taken from April to June, 2004: 9 in Moscow and Moscow Oblast; 23 in Irkutsk Oblast, and 24 in Saratov Oblast. The interviews were tape-recorded and later transcribed. The present report contains generalized findings from the interviews.

The business size (small or medium-size) was defined by the respondents themselves. A "small business" was usually one with a small workforce, managed by the owner himself and raising income insufficient for the owner to consider himself a well-to-do person. A "medium-size business" would normally be one with profile subdivisions like accounting, legal, management and security, while their owners were able to meet all everyday-life needs and thus considered themselves prosperous persons.

The interviews were strictly sociological, with no resemblance to a legal investigation, so the actual names, company names and corruption deals dates were not recorded. In any case, all the information provided by the respondents was strictly confidential, so that not to offer pretext for legal prosecution of the respondents. Consequently, the report contains only excerpts and specific examples from the interviews, and all quotations are impersonal, i.e. no specific respondents are mentioned.

The in-depth interview series made it possible to sufficiently adequately and comprehensively describe the real relations between government and business, conditions for business operation, and techniques now available for solution of the business' problems.

Practically all respondents were persons running their businesses in cities or large townships. That is why peculiar problems of the agricultural economy and farming were not analyzed in this research.

Many of the respondents took to the business involuntarily, just in order to support themselves and their families. A lot of them have higher education, and some had occupied sufficiently high positions in the Soviet economy management.

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Several respondents had conscientiously selected business as a way of self-realization. In certain cases, they had received special business education and training in order to run their businesses according to the world standards.

Sometimes the respondents were too reserved and avoided frank conversation, however, the interviewers were often able to overcome the negative trend. At the same time, in the majority of cases the respondents were ready to speak frankly about all painful matters.

There were certain differences between the businesspeople depending on their sex, age and education. However, these factors influence their attitude much less than the real relations between their businesses and the authorities.

3.2. Understanding of corruption

Understanding of corruption possesses an extremely important anticorruption function. Successful struggle against corruption to a great extent depends on full understanding of this phenomenon while superficial and fragmentary perceptions, as the world experience shows, can bring the anticorruption activities to a deadlock, and often they can mislead developers of state anticorruption policy for many decades. China can serve as an example: here simplified understanding of corruption had led to simplified approach to anticorruption struggle which was reduced to liquidation of the uncovered corruptioners.

As a rule, there are the following types of understanding of corruption:

Type 1 "Systemic understanding": active interest in the problem along with systemic understanding of corruption as a complex socioeconomic phenomenon.

Type 2 "Plain understanding": passive interest, corruption is seen as a set of individual unethical and criminal actions.

Type 3 "Lack of understanding": no interest in the problem, little understanding of corruption.

Such classification of understanding of corruption depends on two variables: interest in the problem and systemic/non-systemic analysis of it. As a rule, systemic understanding is related to, and in many cases dictated, by the interest in the problem, and on the contrary, non-systemic understanding is related to insufficient or passive interest. This is why we select only three types of understanding of corruption.

Widespread systemic understanding would to the great extent ensure success of an anticorruption program. Such understanding is supported by sober analysis concentrated first of all on:

- causes of corruption and not its practical aspects;
- attempt to view all manifestations of corruption, from bribery and corruption in business to quality of the regional government;
- avoidance of moral and ethical appraisals of corruption;
- intolerant attitude toward this phenomenon.

3.2. Understanding of corruption

Analysis of our in-depth interviews makes it possible to specify and expand this typology, selecting the following types of understanding of corruption:

Moral appraisals of corruption. Here we face understanding resembling plain understanding of corruption. It is associated with lies and dishonesty of officials. As a rule, predominant are opinions about corruption as a source of income for individual corruptioners: *"Corruption is personified by those who live dishonestly. You, with your honesty, with your Communist inclinations, you can't do this. And corruption is for those, who drive luxury cars and have villas. Where did they get money to buy all this?"*³

Identification of corruption with bribery. Such understanding of corruption is something intermediary between systemic and plain understandings. On the one hand, there is no identification of corruption with unethical behavior, on the other hand, the aggregate of corruption manifestations in Russia is reduced only to bribery. One of the respondents says: *"First of all, I'd suppose that this is bribes. For obtaining state orders. This is number one. Number two is bribes for getting credits"*. Another answer to the question, what is corruption: *"Well, I think, it happens not only in Russia but everywhere. I'd call it a simple Russian adequate word "bribe", I better understand it"*.

Corruption as excessively aggressive bribery. In this case, understanding of corruption is closely related to tolerance/intolerance toward corruption deals. Such understanding is determined not by the interest in the problem or social intellect level, but first of all by tolerant attitude toward corruption. It is thought that corruption begins when the authorities extort money in excess of "proper" amounts. *"I just think that one shouldn't fatten too much, that one shouldn't extort beyond certain level"*. At the same time, attempts to conceal incomes and evade taxes are seen as normal behavior, because nobody ever wants to pay money voluntarily. Consequently, there is "we helped them, they helped us" logic. *"Corruption and bribe are not full synonyms. Bribery existed both in the ancient Rome and in the Soviet Union. All that matters is the bribery scale"*. This understanding of corruption combines sober analysis (which recognizes impossibility to totally eradicate corruption) and perception of corruption as something natural (with eventual conclusion that it is normal and acceptable).

Corruption as fusion of crime and government. This understanding is one more variety of the plain understanding of corruption. There is another aspect when corruption is understood as a violation of law and criminal act: *"In short: when an official, in the course of performing his public duties, violates law for the sake of his own enrichment"*.

Corruption has its roots in principal-client relations. Such understanding of corruption can be referred to the systemic type, and is common for the majority of the scholarly publications in this field. The basic term for this understanding is "interest". Corruption is understood as substitution of interests, as betrayal of the public interest in favor of the private one, or betrayal of the principal (chief, boss). This is no coincidence that advocates of this understanding use the notion of the pyramid or the bureaucratic hierarchy. *"I'd define corruption as decision-making not in the interests of society but in favor of everybody else, be it someone personally, a group of people or a corporation. Just that. ...Any official when he makes any decision must do it in the interests of his service. What are those interests for him? The official must see them as the public interest. The official is the top of the pyramid, he expresses the public interest, that is, his decisions must be dictated by the public interest"*.

³ Here and below italicized are quotations from the in-depth interviews. In view of their anonymity the respondents' names are not given.

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This understanding of corruption is one of the most adequate for the needs of anti-corruption policy. It combines recognition of inevitability of corruption, thus making it possible to set realistic goals, and the most precise diagnostics of its causes, which would help to design the most efficient instruments for combating corruption.

Corruption as the whole range of relationships. This is a classic example of systemic understanding of corruption as the aggregate of all corruption manifestations: *"Corruption is bribery, sponsorship and obtaining power in order to promote your own interests, or interests of those in your "inner circle".*

Corruption as a system of government (institutional corruption). Characteristic for this sub-type of the systemic perception of corruption is vision of the state as an economic institution. The non-optimal system of incentives has transformed the state into "settled" or "nomadic" bandit while the population has become a tax-paying stratum. "The state acts as one of the main racketeers". People with this understanding of corruption view the state as a pathological thief: *"It is this humiliating slave status which makes one crazy. That is, you're a slave of the officials. Slave, I can't use any other word. That same bondage but in the 21st century. And we have to live according to those laws".*

The "invisible hand" of corruption. In this case, corruption is understood as depersonalized system of relations, mutual cover-up when one invisible hand washes another invisible hand. In the opinion of several respondents, corruption has evolved into a depersonalized institution which performs all functions typical for other public institutions, including the coordinating function. *"This is a kind of collective mind, collective smartness, mutual support when someone is lobbying the interests of somebody other, and their interests overlap. They all take care for each other although they may be not aware of it".*

3.3. The main problems facing the small and medium-size business

The main problems of the small and medium-size business are approximately the same in all the regions where the interviews were taken. The specific problems of the small and medium-size business are determined for the most part by the economic specialization of the regions and personal style of the regional administrators.

ACCESS TO NON-RESIDENTIAL FLOOR SPACE AND ALLOTMENT OF LAND FOR CONSTRUCTION

The problem of access to non-residential floor space and allotment of land for construction of buildings and facilities is the most important problem in all regions.

In Moscow, rental of non-residential floor space is extremely difficult for businesspeople who have no connections in the city administration. As to allotment of land (be it rental or ownership) for buildings or business facilities, this is entirely impossible for such businesspeople. The Moscow authorities maintain high rent rates for office space and distribute the offices not on the contest basis but on the basis of personal connections. In their turn, those insiders lease the offices to other businesspeople not so fortunate in having friends in the city government. In part, the non-residential buildings are owned by the Moscow Committee on Property, and the rent rates for this space are lower. However, all this space is divided between several bureaucratic clans and is leased only to businesses closer to the Moscow authorities. The Moscow officials prefer to "hold back" the city-controlled buildings and not to lease them at lower rates, thus keeping sufficiently high rates (nobody cares about the

3.3. The main problems facing the small and medium-size business

unused buildings rapidly dilapidating in downtown Moscow). Besides, the rates are increased on a regular basis, at least one time each year, and the rates growth is outstripping the inflation rates.

The situation for business is somewhat easier in Irkutsk and Saratov. Theoretically, any business can rent non-residential space but a favorable decision would often require a bribe. A business can obtain a land parcel for construction of buildings or facilities not only on terms of rent but also in property. This is a prolonged procedure which usually takes not less than a year and a half, and often as much as two years and a half. So the businesspeople have to participate in corruption deals at different stages of the process.

In particular, all projects of buildings and facilities must be approved by the cities' architectural inspections which insistently recommend to sign design contracts with one and the same specific organizations which would charge excessive fees for their work. However, it is meaningless to sign contracts with any other company because in this case the resulting project would not be approved by the municipal authority.

In order to obtain rental rights, businesses in all regions have to make a substantial advance payment to the company which had rented floor space or stores from the city authorities. This payment is not included into the rent amount and would not be paid back if the rent contract is canceled. The advance payment does not ensure any rights to the tenant, it is just a barrier to be passed over in order to obtain rental rights.

Those rights usually are not put into proper legal form: the contracts are always signed but they contain a provision about possibility of their cancellation at any moment by each contracting party. Of course, such a provision offers an advantage only to the primary tenant who terminates the contract at any time, leases the office to a new sub-tenant and receives another advance payment. The official (and taxable) rent amounts specified by the contracts are much lower than the actual amounts and, as a rule, the sub-tenants in addition pay substantial amounts in cash in hard currency.

It can be asserted that allotment of land for construction of buildings and facilities and business access to floor space is the greatest single factor impeding development of the small and medium-size business in the Russian regions. The federal government is really trying to introduce positive changes in many aspects of business, including taxation and licensing, but they will not reduce corruption in government-business relations until the said problem gets solved.

BUSINESS CHECK-UPS BY VARIOUS AUTHORITIES

The agencies authorized to inspect businesses are listed in the Ruling No. 987 of the Russian Federation Government of December 21, 2000:

1. the State Sanitary-Epidemiological Inspection;
2. the State Fire-Fighting Service of the Ministry on the Emergencies;
3. the Center for Standardization and Metrology (state control of compliance with obligatory technological standards and regimentation);
4. the Veterinary Service;
5. the State Inspection of Trade, Quality of Goods and Protection of Consumers' Rights (the State Trade Inspection);

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6. the State Grain and Grain Products Inspection;
7. the State Labor Inspection;
8. the State Border Service for Quarantine of Plants.

Control in such fields as hard-currency circulation, customs, licensing, banking, insurance, taxation and compliance with criminal law is beyond the scope of this ruling, so the following agencies should be added to the controlling authorities list:

1. tax services;
2. customs services;
3. the Federal Service for Control of Drugs Circulation;
4. the police;
5. the non-governmental organizations for protection of consumers' rights;
6. the specialized divisions of the regional and local administrations responsible for market regulation, rent of floor space, registration of realty ownership rights etc.

One of the corruption practices on the part of the fire-fighting services, sanitary-epidemiological inspections and probably other agencies, is "training" of small and medium-size business workers as condition for obtaining of business activities permits. The corruption potential of this scheme is obvious because this condition is obligatory and the business has to pay money for such training.

Individual officials of the controlling agencies use their position to the full advantage when they extort money or certain goods in the course the official check-ups. Very often they would drop in for an unofficial check-up on the eve of a holiday, their own birthday, or on any other convenient pretext.

Practically all businesspeople are sure that maintenance of good informal relations with representatives of various controlling authorities is an absolute necessity. The business usually do not expect any preferential treatment resulting from such relations, just because they do not exempt the business from unofficial payments during check-ups. However, the businesses hope for certain leniency toward themselves on behalf of "friendly" officials. As a rule, the businesspeople do not view such friendships as corruption or precondition for corruption. The real corruption, in their opinion, begins when the controlling officials directly demand bribes.

In the majority of medium-size businesses, and sometimes in small businesses as well, the informal connections with the controlling authorities are handled either by special staff workers or accountants, managers or other personnel who because of their position have to deal with the respective officials (for example, the chief accountant would take care of the tax inspection and banks). Friendly relations with the controlling authorities are for the most part maintained through informal visits to those organizations with small gifts on the eve of the holidays or when the accounting documentation is being presented.

The controlling authorities make full use of their legitimate powers not in the interest of the state and local communities but rather for corruption profits. For example, the basic tool for the sanitary-epidemiological inspections is the so-called sanitary minimums. They have their origin in the Soviet times when each store had to offer a certain minimum assortment of goods. Presently this sanitary minimum is actually a list of items which may be sold by the store, and the owner should get each

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change in the assortment approved by the respective sanitary-epidemiological inspection. Usually there are no problems with approval of the new sanitary minimum: the owner just submits it to the sanitary-epidemiological inspection where it is stamped after the appropriate payment. In the predominant majority of cases, the inspection officials do not even care to visit the store and examine the goods. The payments for approval of the sanitary minimums has actually turned into a constant source on non-budgetary funding of the sanitary-epidemiological service.

BUSINESS CHECK-UPS BY THE POLICE

The unofficial check-ups are especially often carried on by various divisions of the police, or militia (*militiia*). It is the police who pose the greatest problems for the small and medium-size business as compared with other supervising authorities. This is made possible first of all by very wide and practically unlimited powers of the police with regard to control over the small and medium-size business which are granted according to the Russian Federation legislation, primarily the Federal Law No. 1026-1 "On the Militia" (of April 18, 1991).

The legal provisions authorize the police to undertake practically any kind of the check-ups of the small and medium-size business. For example, any police officer can stop a loaded truck and demand the proof that the goods are not stolen. A small businessman is not always able to prepare all accompanying documents (certificates, receipts etc.) for the goods received at a warehouse or from a wholesale dealer. Normally some document is always missing but a bribe to the police officer solves the problem. If the bribe is not forthcoming, the police can seize the goods, in order to look into their origins and check their quality. Such investigations can end in return of only part of the goods, especially if this was food, or be so prolonged that the food would rotten. In view of this, the bribe to the police in such cases is a normal procedure for the small business.

NETWORK COMPANIES AND THEIR UNFAIR COMPETITION WITH THE SMALL BUSINESS IN RETAIL TRADE AND SERVICE SECTORS

The municipal authorities find it easier to work with network companies in the field of retail trade and services. Too great number of small businesspeople makes it difficult for the authorities to collect both taxes and the illegal rent while the network companies are much more manageable in this respect. Consequently, they are supported in all cities, especially in Moscow, to the detriment of the small business development. The main fields in which the network companies are displacing the small business are retail trade, services sector, eating and drinking establishments, gambling business and casinos and some others.

This process of dislodging the small business by the medium-size one in those sectors is probably quite natural. However, the businesspeople argue that assistance in this process on the part of the state and municipal authorities has corruption character because it is based not on the basis of fair competition but as the result of the administrative preferences.

The problem of unfair competition of the network companies close to the regional and municipal authorities is inseparable from the problem of floor space and land allotment for construction. Again, the network companies "friendly" to the authorities

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have substantial advantages practically every time. When an ordinary Moscow-based businessman comes to a District Division of the city Department of Property and asks for office space, they would offer him a couple of basements, sometimes half-flooded. At the same time, network companies find sufficient floor space in buildings on the major streets and highways and in downtown Moscow. For example, recently a network company engaged in gambling business managed to build its casino as an annex to the "Children's World" store in downtown Moscow. When friendly network companies cannot find space in the ground floor of the selected building, and have to be content with a basement or semi-basement, they are often permitted to construct an additional exit from their new premises to the street. This is actually impossible to obtain such permission for an outsider business.

The same network companies usually rent the non-residential space on much more favorable terms than the other businesses for which the rent is the basic expenditure. The administrative resource allows such companies to have high level of business capitalization which is a substantial unfair advantage in their competition with other small and medium-size businesses. As a rule, the authorities create very comfortable conditions for development of the "friendly" network companies: they receive bank credits and credit guarantees, they enjoy a very soft check-up regime by the controlling authorities, and they can confidently plan their development for several years in advance. This most favored status offered by the regional and municipal authorities makes it possible for the network companies to construct and put into service their new business facilities without caring about high rent and land allotment payments as well as the necessity of initial investment.

Eventually, it is the network companies which are best fit for survival in the tough business environment in large cities but this "survival of the fittest" is at the expense of the independent businesses. Corruption climate emerges: on the one hand, the regional authorities boldly declare that business is growing in their territories and ignore the necessity to develop conditions for more or less free and fair competition. On the other hand, the network companies close to the regional and municipal authorities are eventually interested, even at some increased cost to themselves, in continuation of the present fierce conditions for business, because these conditions and patronage by the regional and municipal authorities protect them emergence of new competitors.

UNFAIR COMPETITION ON THE PART OF THE BUSINESS CLOSE TO THE AUTHORITIES

Businesses established by the authorities or "intimately close" to them also practically always enjoy the unfair competitive edge. Such businesses are established at all levels of government: at the federal level this is large businesses profits which are channeled to financing of the political campaigns and elections; there are medium-size businesses established by regional authorities for the same purposes; at the municipal level, there are medium-size and small enterprises established for earning additional incomes. Not surprisingly, these businesses win contests for state and municipal contracts, obtain floor space rental rights, land allotments etc.

3.3. The main problems facing the small and medium-size business

BUSINESS ASSOCIATIONS SERVE THEIR OWN INTERESTS AND NOT THOSE OF THE BUSINESS COMMUNITY

The business associations are relatively well-developed in Russia, and many businesspeople are members of various associations both of federal ("Russia's Mainstay" or the RF Chamber of Trade and Industry) and regional (the chambers of trade and industry in RF Subjects) level. However, representatives of the small and medium-size business do not always receive support and protection of their interests from the respective associations. Often enough, the associations' leaders use their positions only as starting ground for their public careers through wide connections among the bureaucracies and distribute public funds and grants but ignore the common problems of the business.

REGISTRATION AND LICENSING

For the most part, the problems related to registration and licensing are of little importance for the small and medium-size business, because these procedures take place rather rarely and are usually handled by intermediaries with whom the businesspeople officially sign contracts and never ask questions how a registration or license is obtained. In fact, the small and medium-size business in all regions had already solved the registration and licensing problems but to a great extent it had been done on a corruption basis. There is a distinctive trend to institutionalize such corruption deals, first of all, in the form of the intermediaries between the authorities and business.

This does not make it possible to view the registration and licensing problems as finally solved. At the same time, the procedures for their solution imposed by the authorities cannot actually decrease the corruption level. For example, the "one-window" procedure for registration of small and medium-size businesses has been introduced in many regions. Under this procedure, the registration documents package is submitted to a single official, usually in the tax inspection, and the same official issues either registration certificate or motivated refusal. In practice, the "one-window" registration system is far cry from the declared good intentions: the single-visit ideal has never materialized, at least four visits are required, along with great effort to collect more and more documents and certificates between the visits. The result is, up to now the "one-window" registration has failed to reduce the corruption level in any region.

RELATIONS BETWEEN THE LAW-ENFORCING AGENCIES AND BUSINESS

The initial criminal "protection" of business ("roofing", as the Russian slang has it) had sunk into oblivion in the majority of the Russian regions, and many businesspeople are proud that their small or medium-size business pays nothing to the organized crime. However, nowadays the criminal "roofing" is substituted by the similar "protection" either by the police or by private security firms (formally known as "private security enterprises") with informal ties with the police. In many cases they really efficiently protect business from possible criminal infringement but this protection is never provided gratis (as the police is supposed to do as a state agency funded from the budget, that is, partially by the money paid by business in the form of taxes). Each business has to bear substantial costs of protection by the specific security firms. In very rare cases even a small businessman can protect his business, for example, a retail store, not physically but first of all by building up his reputation of a tough guy, a dan-

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gerous character whom it would be safer to leave alone.

ROLE OF LEGISLATION IN THE PRACTICES OF GOVERNMENT-BUSINESS RELATIONS

Legal provisions supposedly play a principal part in regulation of the relations between government and business. The business community considers the federal legislation more important because the business decision-making depends for the most part on the tax, customs and criminal law.

However, the informal practices play much more important part in regulation of the government-business relations than the legislation. The state and municipal authorities more often use the legal provisions as tools for domination of business, through changes in taxation and accounting procedures, check-ups, informal takeover of certain percentages of profits etc.

The businesspeople often analyze the same legal provisions in order to circumvent them, and this attitude is entirely justified because in the majority of cases application of the legal norms not solves the business' problems but, on the contrary, creates new difficulties. For example, check-ups of enterprises and offices by fire inspectors or sanitary physicians practically do not contribute to reduction of fire hazards or healthier workplaces, and good relations with the police are not a sure safeguard from theft. The business itself will always strive for solution of all problems for which the controlling authorities are formally responsible. More than that, the latter quite often impose more expensive and less efficient solutions, forcing to purchase fire-fighting or security alarm equipment from specific suppliers.

BUSINESS' POTENTIAL FOR COMBATING CORRUPTION

The business' potential for combating corruption practices in the government-business relations is quite limited.

First. Individual businesses have little chance to defend their rights in the disputes and conflicts with the state or municipal authorities, just because (in view of corruption in courts and administrations of all levels) the most efficient tool against the administrative resource is bribe-giving or other corruption practices. The people who have run a private business (usually a medium-size one) for a long time and built up good relations with many top-level officials in various agencies, have the greatest chances to defend their interests. They can resist the arbitrary rule of some officials by appealing to the others with whom they had established stable informal relations. Quite often federal inspectors in the respective RF Subject pose as such high-position protectors, and sometimes it is enough just to hint that the businessman can appeal for their help at any moment. However, even in such cases the businesspeople who seemingly oppose the corruption practices in fact resort to them themselves.

Second. Practically all businesspeople see unlawful extortion of money by the state or municipal authorities as nothing but additional business overhead, a pre-requisite for running a business and not as a loss. They generally just do not imagine how they could solve their problems without bribes and other corruption practices. They know that when trying to abandon the corruption practices they immediately begin to lag behind their competitors, and that it is next to impossible to solve the problems and defend their interests through the legitimate means only.

Third. In the situation when individual businesspeople can hardly defend their

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rights, their associations are also unable to do this. The regional business associations unite sufficiently many members, and frequently one and the same businessperson is a member of several associations. However, those associations are quite often fail to develop a common mutually acceptable stance with regard to business development, fair competition and interaction with the state or municipal authorities. The latter exploit this weakness and do their best to keep business disunited and uncoordinated as this is a precondition for easy collection of the peculiar "administrative rent".

FINDINGS

The main job of the controlling authorities in all regions is extortion of the administrative rent from the small and medium-size businesses. The regional and municipal administrations see the informal payments by small and medium-size business as their natural source of income while they in no way promote the development of business. Those informal payments should be understood as a kind of administrative rent, the rates of which allow profitable operation of the businesses in the regions, cities and raions but practically prevent substantial investments from being made into the businesses. Consequently, a small business cannot grow to the medium size, a medium-size one would not evolve into a large business.

The businesses closely connected with the administrations as well as network companies close to them seem to be an exclusion. However, even such businesses, despite their unfair competitive advantage, cannot afford substantial investments into their own development.

As to regulation of the government-business relations, the informal relations and procedures are the most important while the legal provisions are used by all parties rather for confirmation of their powers and rights than for solution of the real problems. It remains to be hoped that workable legislative norms based on those well-established practices and procedures can be developed and that they will be observed by both government and business.

As to control of business by the state and municipal authorities, the main focus should be not on the number of check-ups but on their final effect. The check-ups should lead real progress in such fields as taxation, reduction of fire hazards, hygienic conditions, security etc. The controlling authorities should offer advice to business and help it to cope with its problems instead of leaving those problems suspended in order to extort bribes for favorable check-up report on a regular basis, as the numerous inspectors do now.

4. Recommendations

Each specific situation provides a unique set of conditions and circumstances determining the specific mode of interaction between business and government. Similarly, the measures contributing to minimization of the negative aspects in the government-business relations should be developed having in mind solution of specific tasks. In this section, we deal with measures and actions which can be initiated by the business community itself. Consequently, they should be developed by those who would implement them, that is, by the business.

Formulation of the basic principles and vectors of the further activities requires much deeper and more complex development work. The recommendations presented below should serve as a basis for the further activities. They cover the most promising directions for the business community effort to reduce corruption in its relations with the state.

It is proposed to break down the proposed measures set into three interconnected groups:

1. Measures adjusting the practices of the business operation.
2. Measures defining the strategy and contents of the business' joint effort.
3. Macro-level measures (political and administrative) aimed at change of the situation in the country as a whole.

Interconnection of all three groups is obvious: the measures of Group Two should contribute to implementation of the Group One measures while the Group Three measures are intended for greater efficiency and stability of the measures listed in the first two groups.

Another classification of the proposed measures is based on their time of implementation (urgency). Some of them are top-priority and must be implemented as soon as possible in expectation that they can bring results in the near future. Others will have effect in longer prospect and will take more time for preparation and realization.

These measures can be grouped according to three urgency levels:

- 1) short-term;
- 2) medium-term; and
- 3) long-term.

Both classifications are not mutually exclusive. Possibility of more or less autonomous implementation of a certain measure can serve as the basic criterion in this case: if the businesspeople are able to do something on their own, the measure can be considered a short-term one. In the majority of cases, their speedy implementation will contribute to the anticorruption strategy - provided that certain principal conditions (which we'll discuss later) are met. In short, the most basic and urgent level of the anticorruption strategy is one which modifies the very practices of running the businesses by their owners. There will be additional discussion of the time sequence of the measures shaping the strategy and contents of the businesspeople's joint effort.

In view of the tasks set before the strategy developers, the third set of measures - the political level measures - inevitably assumes only secondary importance. Of

4.1. Measures for modification of the individual business practices

course, representation of the small and medium-size business interests in government at the municipal, regional or federal levels is paramount for the civilized development both of the business itself and society as a whole. However, the other tasks in this group, such as changing the global rules of the game (first of all, legislation), need much greater and long-term effort. Besides, many of those measures require mutual interest and initiative for changing the current situation on behalf both of the business community and the state. This presumes not only readiness of the both sides for full cooperation but also substantial effort in maintaining dialog and reaching agreement. Presently, this remains an important but a more remote element of the anticorruption strategy.

The list of the tasks and tools presented below is determined exclusively by the present status of the government-business interaction, and they can be modified as the character and forms of this interaction are changing.

4.1. Measures for modification of the individual business practices

This set of measures is aimed at changing the everyday practices of interaction between individual businesspeople and representatives of various state and municipal bodies of power. This is a significant element of the anticorruption strategy which has both practical and symbolic importance.

The main tasks are:

- 1) maximum reduction of damage to the business caused by the administrative barriers;
- 2) reduction of money extortion practiced by representatives of the authorities everywhere and in all cases;
- 3) development of normal stable conditions for business operation and expansion.

Besides, the start of implementation of this set of measures should signal to the officials and managers of the state, municipal and private entities that the participants of the anticorruption initiative begin real organized action and the further interaction would be based on the new principles.

The basic problems of individual businesspeople which should be solved by application of the proposed measures are as follows:

1. Tactical convenience of the corruption deals and violations of law which offers to the businesspeople themselves a way of individual self-adaptation along with absolute absence of strategic prospects.
2. The constant pressure in the form of money extortion which forces the businesspeople into the vicious circle of violating law and dodging responsibility, and which deprives the business of the substantial share of its profits and impedes its development.
3. Numerous "legitimate" payments to various controlling authorities and "natural monopolists" like electricity-supplying or water-supplying companies which complicate not only start of a new business but reorganization or development of any existing one.
4. Absence of readily available investment funding, in the majority of cases because of the shadow operation and accounting of businesses.

4. Recommendations

5. Business-unfriendly rental procedures involving enormous extortion and discrimination as well as additionally complicating start of new businesses or growth of the existing ones.

6. Difficult acquisition and legal recognition of the realty ownership rights impeding operation and expansion not only of manufacturing enterprises but of trade and services businesses.

7. Ambiguity and legally under-regulated property rights generating even more favorable climate for bribe extortion and, in fact, for unlawful submission of independent businesses to other parties.

Gradual solution of all these problems is possible only through a whole set of measures, consistent and systematic implementation of which is a precondition for success of the anticorruption strategy. Such a complex multi-level concept of an anticorruption policy will be presented below. Several of the above-mentioned problems can be solved only if the business introduces the following management principles into their everyday practices:

1) maximum compliance with the current legislation as the only way to avoid pretexts for bribe extortion as well as remain independent from the authorities⁴;

2) knowledge of the laws and rulings regulating the specific sphere of business and the administrative powers (very often the officials are not sufficiently informed about both their own rights and obligations and those of the business, and they tend to "forget" about their initial claims when a businessman forwards well-founded and legally substantiated objections;

3) constant tracking of the amendments in the relevant laws and rulings as an efficient way to resist the unjustified claims (the officials often manipulate with legal provisions already invalid);

4) keeping a "check-ups registration book" which would be helpful in tracking frequency of the check-ups and, in the opinion of some businesspeople, can serve as a partial safeguard against illegal and sporadic inspections;

5) joining efforts with other businesspeople (such desire for greater solidarity is already evident but the business community should more vigorously pursue search for common interests through all industries).

These are the general guidelines and their specific substance should be determined by the interested parties themselves. This approach is entirely feasible, and this is confirmed by certain businesspeople' positive experience of rigorous work with strict compliance with legislation. This requires great efforts at the first steps of the new principles implementation but the effort pays off later.

The symbolic component of the strategy is also very important. For example, offices and other facilities or their entrances should be decorated with clearly visible posters:

**We don't pay bribes and don't deceive
the customers!**

⁴ The real life shows that when the business is operating on a purely legal basis, it has much greater chances to defend its legitimate rights without resorting to corruption deals. In the opposite case, corruption remains the only means of self-defense.

4.2. Measures for collective resistance to corruption

These and similar slogans are important for self-discipline and additional advertising as well as create psychological discomfort for selfish inspectors and bribe extortionists. It would be better to develop the slogan in a business association: in this case it will immediately identify the businesspeople who are the association's members and provide additional symbolic protection from illegitimate encroachments.

4.2. Measures for collective resistance to corruption

This set of measures is the most important element of the anticorruption strategy. The combat against corruption is a classic example of a "public commodity" which implies the following problem. An activist businessman who undertakes anticorruption steps is working not only for himself but for all his counterparts who benefit from his crusade for more efficient and honest government but have done nothing for amelioration of the situation. It is the activist businessman who bears the brunt of "punitive" check-ups, court litigation and administrative pressure.

On the other hand, if this person finds supporters and they stand together for the common cause, the costs are shared by them all and therefore are not prohibitive.

Consequently, the business' resistance to corruption in the government-business relations, both on the state and municipal level, can be efficient only if it is a collective effort. The greatest anticorruption effect would be achieved through concerted efforts by the business and administrations. However, interaction with the officials is beyond the scope of the present project, and the proposed measures are designed first of all for the business community organizations and associations.

As of now, there are many such organizations both at the federal and regional level but their potential has been underutilized. In order to achieve certain success in combating corruption, the regional business associations should change the pattern of their activity; first of all, they should be able to arrive to understanding of the business' common interests in the respective RF Subject. This common interest can be generalized as follows: corruption leads to increased costs of operation of any business and prevents its development and full self-realization. In view of this, the business community should, in a relatively short span of time, devote additional efforts, spend some funds and introduce certain new practices and procedures of interaction with state and municipal authorities, that is, effect transition from the corruption practices to non-corruption ones. Such introduction of the non-corruption practices in government-business relations will bring substantial results only if they are more, and not less efficient than the customary corruption deals.

Better government-business interaction in the regions is the most important indicator and at the same time the central goal of the transition to non-corruption practices, and it would be desirable to evaluate each anticorruption proposal by extent to which it contributes to such development. Proposals leading to greater confrontation between business and regional government should be discarded, at least at the first stages of the anticorruption policy implementation, and it is easy to see why. In case of stronger confrontation, the administrative resource will strangle the businesses which try to implement the anticorruption measures, and eventually the attempted anticorruption campaign will have the opposite effect, that is, increased corruption and greater submission of the remaining business to the authorities.

4. Recommendations

Smother interaction and greater mutual understanding between business and regional administration for the sake of regional development can be achieved through realization of their common interests, in particular, on the basis of informal agreements which could gradually take form of official legally binding acts. Government and business could have pursue a more responsible social policy: business would pledge to pay taxes honestly while the authorities would assume the obligation to spend money on health care, education, transportation, housing and utilities through fully transparent procedures, social priorities and welfare needs. Increased legal collection of taxes should be accompanied by decreasing informal payments by the business to the state or municipal authorities. Such government-business cooperation in itself could be helpful in reducing the corruption level in each region because of decreased shadow payments, growth of legal taxes and greater budgetary transparency.

Increased legal tax collection should in no way mean that the businesses are forbidden to provide financial aid to citizens or legal persons. However, the business associations ought better to establish special funds to accumulate contributions from their members and channel them to social purposes. Such funds would be managed by boards of trustees not directly subordinate to the authorities although they should be able to block nominations to the boards. The state and municipal authorities should respond to such initiatives of the business community by full cancellation of the informal payments from the businesses for celebration of holidays, social care, highway maintenance, housing repairs etc. If such problems arise, the state or municipal authorities would submit well-motivated detailed requests for financial support to the funds of this kind. The latter would mobilize the regional business resources for welfare and social policy needs but without direct contacts with the state and municipal authorities which again would help to reduce the corruption levels.

The important goals of the anticorruption strategy collective measures are:

1) the greatest possible reduction of the officials potential to extort the administrative rent;

2) greater possibility for genuine fair competition, i.e. competition for the market and not for access to the administrative resource;

3) real protection of the property rights not only of the individual or all businesspeople but of all citizens;

4) expanded possibilities for development of the small and medium-size business, including transition from the small business to the medium-size one, and from the latter to the large business;

5) representation of the businesses' interests in case of their disputes with the state and municipal authorities as well as with other entities connected with the authorities (in effect, this would substitute the individual responsibility by the collective one, thus softening the administrative pressure brought against the individual businesspeople);

6) support of the business attempts to implement the individual anticorruption measures (in order to augment efficiency of those measures and reduce the costs born by the individual businesspeople in the process);

7) establishment of efficient permanent mechanisms for lobbying of the corporate interests with the regional and municipal authorities;

8) protection of the business independence from the authorities and prevention of

4.2. Measures for collective resistance to corruption

the not so rare practices when a successful business is actually seized by force in order either to exploit its potential or to sell it profitably "piece by piece" (such operations stifle healthy market competition);

9) reduction of the costs of non-corruption business operation: the collective strategies make it possible to compensate the costs incurred by businesses because of the imperfection of the market.

It is expected that the proposed measures will help to solve the following problems:

1) low readiness of the business community for consolidation and common action: the need to join efforts emerges and such efforts are possible only in critical situations, and the unity of actions disappears after the problem has been solved;

2) insufficient protection of private property in present-day Russia: the very right private property idea has been compromised and is often denied on the pretext of minor formal violations which are practically inevitable when the property rights are being legally formalized;

3) insufficient dialog between the business community and the legislative (representative) branch of power;

4) unstable legislation⁵;

5) non-transparent government and governmental procedures when the state is isolated from society.

The collective component of the anticorruption strategy can be realized through a complex series of actions. As their range is sufficiently wide, it would be expedient to divide them into two groups: first, the measures which must be implemented as soon as possible (the shortest-term measures), and second, those to be implemented in the more distant future.

The collective component of the anticorruption strategy can be realized through a complex series of actions. As their range is sufficiently wide, it would be expedient to divide them into two groups: first, the measures which must be implemented as soon as possible (the shortest-term measures), and second, those to be implemented in the more distant future.

The urgent measures of the collective anticorruption strategy are:

1. Convincing the state that it will only benefit from profitable and stable business; building up the state's motivation for cooperation with the business in the field of anticorruption policy. The task is quite complicated but realistic.

2. Development of environment for constant and easy information interchange and communication within the business community.

3. Propaganda of the actual "success stories" of the anticorruption behavior⁶ which will greatly increase the business' power of resistance to the administrative pressure.

⁵ *"What we'll have next? The laws are changed quite often, and nobody knows what will happen in a year. If I were sure that nothing will change, I would have done my best to avoid any questions and reproaches on the part of the authorities, and to comply with all the requirements as they stay now."*

⁶ *If such a mechanism evolves and is really understandable to a simple senior manager, if there is no beautiful words but he sees that he actually can work the whole year, earn money and not pay the bribes, well why not to do so?"*

4. Recommendations

4. Development, implementation and control over practical compliance with business ethics standards as well as application of sanctions to those who violate them. The business associations should initiate such campaigns for observation of the business ethics standards in the respective regions and exercise certain control over their members' compliance with those ethical standards.

5. Establishment of a single service for monitoring of legislative changes and dissemination of this information to the associations' members.

6. Establishment of "legal quick-response" offices providing immediate (by phone or on the spot) legal advice to the businesses in order to defend their rights and interests⁷.

7. Collective defense of individual businesspeople in courts and in the executive branch departments by the business associations (one possibility is to establish organizations for legal defense of the businesspeople, their fees to be paid by the associations or individual businesspeople).

8. Advanced training of small business owners and managers in economics, law, accounting etc.) through a series of seminars, roundtables and training courses. The specialized seminars can be attended by state officials and government experts⁸ in order to provide practical information and recommendations concerning legitimate solutions of certain problems and incoming changes in the authorities' functions and procedures.

9. Socio-psychological training of small business owners and managers for building up their corporate culture and management skills

10. Expanded supply of information by the business associations to their members, for example, on the new markets (many small businesses expect that the associations would provide more consulting services and market analysis).

11. Support by the business associations, foundations and individual businesses of the non-governmental non-profit organizations engaged in the civil-rights defense, including aid to citizens and business in defense of their property rights. Protection of the property rights of all citizens could lead to solution of the business' most important problems and to development of the citizens' more positive attitude toward business. The experience shows that the non-profit organizations are more efficient in this field than the business organizations themselves.

12. Greater influence on the public opinion and the bureaucracy through the mass media. The media and the public opinion are among the basic resources of civil society through which it can influence the state.

As to the measures preparation or implementation of which will take more time, the following can be listed:

1. Resistance to the privileged monopolistic businesses established by the authorities, in particular through: a) collective boycott in order to leave them without prof-

⁷ As certain respondents asserted, the officials very often have weak knowledge of the legislation. Besides, difficult-to-understand language and contradictions in the laws themselves also lead to much confusion, resulting in violations of the laws by the officials themselves. However, the businesspeople generally fail to benefit from such situations although life has shown that the results could be really positive.

⁸ The current legislation authorizes the officials to combine state service with part-time work in the field of research and education, that is, invitation to such a seminar can be official and sometimes a fee can be paid (in this case, however, the official can face a conflict of interests).

4.2. Measures for collective resistance to corruption

its; b) provision of similar services on a competitive basis by the business associations; c) court suits if violations of law are evident.

2. Centralization of social charity at the local level through financing of holiday celebrations, territory upkeep and improvement etc. by centralized funds which were described above.

3. Pressure on the state in order to ensure transparency and easy access to information relating to such matters as: a) municipal and regional realty; b) municipal and regional land property; c) transactions with land; d) conversion of residential housing into non-residential floor space; e) allotment of non-residential floor space.

4. Establishment of specialized business expert boards, under the aegis of the legislative and executive state bodies, for evaluation and expertise of all business-related decisions and legal acts. The influence of such expert boards will depend on the degree of efficiency, professionalism and activism with which the business associations defend the business community interests.

5. Anticorruption expertise of all draft laws and rulings by those expert boards at the preparatory stage. This will lessen the risk that corruption-generating legislative and regulatory acts are passed by the legislatures or issued by the executive branch.

6. Establishment of special financial institutions for granting credits to the small, and maybe to the medium-size, businesses. The credit terms should be liberal enough so that the respective categories of business could afford them, and those institutions should complement the credit resources of the administrations and the banking system. Such projects will not earn money at the initial stage but as soon as this stage is over, they certainly can be operated with profit.

7. Quick and unbiased audit of the businesses applying for such credits, to be undertaken by the business community, will be another anticorruption effect of such projects. Even if the non-banking credit system for the small business fails to develop, the public audit is extremely important because it allows controlling honesty and transparency of the business associations members.

8. Establishment, in cooperation with the authorities, of "business incubators", or business-centers in which the start-up or developing business will receive legal and administrative help (registration, keeping documentation, rent of office space, accounting etc.). It would be important to convince the local authorities to support such work because of its political and economic dividends (more business means more jobs, tax money and resources to solve the social problems).

9. Collection of information and legal prosecution of the officials violating the law and infringing the businesspeople' legitimate interests.

10. Additional training for the regional government officials who supervise and interact with the business, and, as the next step, training of future administrators, especially of the municipal level.

The business associations should implement the anticorruption strategy collective measures using "boot-in-the-door" tactics: first, a framework agreement with the authorities is reached, which would include a declaration on combating corruption and list several directions of work; second, those intentions and plans are publicized through the mass media; third, on the peak of the public interest, the first specific proposal is forwarded and while the authority is thinking it over, another proposal is thrown in. All these steps must be taken with as much publicity as possible, so that

4. Recommendations

the authorities could not hold back on their initial pledges.

The symbolic element is also very important. For example, the offices (facilities) of the business associations' members should have clearly visible notices like:

**Member of the Association
of*******

**This business is protected by
"Legal first-aid service"**

Such notices will serve as identification marks for the association members and as additional psychological protection from illegal encroachments.

Specific proposals on normalization of the relations between the small and medium-size business and the state and municipal authorities should be developed taking into consideration the conditions of the business development in each region.

4.3. Political and managerial macro-level measures

Systemic opposition to corruption in the regions requires adoption and implementation of many federal-level decisions as well as practically political activities on the part of business. However, such activities should not be undertaken at the early stages of the anticorruption campaign in the regions because they can cause government-business confrontation at the federal, regional and municipal levels (and this confrontation, in its turn, will retard the anticorruption work). Consequently, participation in the federal-level decision-making and in the practical politics can be an option at the advanced stages of the anticorruption struggle.

Such activities should have several goals:

- 1) protection and support of the business' efforts for implementation of the anti-corruption strategy collective measures;
- 2) representation of the business associations in local self-government and regional government;
- 3) establishment of efficient interaction with the political parties;
- 4) lobbying of the business interests at the federal level.

The business' political activities can be also related to solution of certain political problems substantially influencing the anticorruption policy efficiency. For example, the following activities can be considered political:

- 1) the business associations campaigns for redistribution of taxes in the region and in the municipalities;
- 2) joint publicity campaigns against top-level corruptioners in private mass media;
- 3) participation of the business associations in the elections with the anticorruption platforms and in support of the anticorruption candidates;
- 4) establishment of coalitions of the grass-roots business organizations and the federal parties in order to take and retain power at the lower level;
- 5) control over state and municipal budgets expenditures on the part of business associations and non-profit organizations.

The medium-size business suffers much more than the small business from such

4.3. Political and managerial measures of macro-level measures

form of corruption pressure as money extortion for the political purposes. INDEM Foundation studies show that this corruption practice had moved from the twelfth place in 2001 to the fifth place in 2002 among the factors of negative impact on business (one can also imagine how this pressure had increased in the course of the electoral campaigns). One can suppose that it is impossible to avoid financial contribution for political purposes, more than that, this is a way of the business' influence on politics. However, in the present-day Russia it would be more technological to introduce corporate mechanisms based on the official agreements between candidates and business associations as their sponsors.

The most important phases of the anticorruption campaign in the regions can be as follows:

1. Work with the regional and municipal administrations in order to convince them that business growth will allow greater tax returns and more resources for solution of the respective territories' socioeconomic problems.

2. Availability of real incomes of the regional and municipal budgets except the realty tax. This would lead to more liberal allotment of office space to businesses and allotment of land for construction of buildings and facilities.

3. Normalization of the regional controlling authorities' operations along with gradual transfer of some controlling functions to the business associations, that is, transition to business self-regulation.

4. Legislative postulation of the state power bodies' responsibility for the consequences of their decisions; responsibility of the controlling authorities for the results of their check-ups. This would contribute to reduction of the corruption level in government because it, and not only the businesspeople, will be responsible for business safety, including fire safety, proper sanitary conditions and epidemic disease control, sale of only certified goods etc. Of course, such responsibility for the controlling authority will be based only on the officially filed check-up reports so the inspectors would report actual satisfactory condition of the business and refuse the present-day practices when they take bribes, do not care about filing the report and leave everything else to the business itself.

How great are the prospects for convincing the regional and municipal administrations that it would be possible to collect more taxes in their regions and direct them to socioeconomic development of their territories? The following studies should be undertaken in order to answer this question:

- Analysis of the Tax Code of the Russian Federation and the amendments to it passed by the State Duma.

- Analysis of the Program of Economic Development of the Russian Federation prepared by the federal Ministry of Economic Development in 2000.

- A series of interviews with experts in economics and finance.

This special study will make it possible to develop:

- A matrix of tax incomes to the federal, regional and municipal budgets based on the actual (and not just declared) financial transactions.

- Analysis of provisions of the Tax Code, federal legislation and other regulatory acts encouraging the regions and municipalities to speed up their development by stimulating business growth, creating favorable investment climate etc.

Conclusion

- Proposals for increasing tax incomes of the regions motivated by their development plans as well as made possible thanks to the anticorruption policies. It is expected that such proposals for government, business and citizens will open the way for the regional budget increases because of greater tax returns, lesser informal "levies" from the business and greater transparency of the budget process.
- A set of positive change indicators describing acceleration of the regional development because of the anticorruption campaigns.
- Proposals for the state and municipal authorities' with regard to buildup of their financial base through creating conditions for growth of legitimate business earning its profits not in the shade. Such proposals would be the best incentive for launching anti-corruption campaigns in the regions and municipalities. Development of such proposals could become the next logical step of the present project.

Conclusion

The proposed set of measures can be seen as an anticorruption "maximum program". Ideally, the maximum efficiency of the anticorruption policy will be achieved after implementation of all measures presented above. As it is inevitable in all complex systems, not all plans will be completely implemented but even partial implementation will result in certain reduction of corruption (although the achievements will be more modest or the work will take more time).

If the business community reaches internal consensus with regard to start of the anticorruption strategy implementation, then there is no special necessity to wait for some unique situation favorable for implementation of 100 percent of the measures envisioned by the anticorruption strategy. On the contrary, the work should be started immediately after the whole range of measures and implementation techniques will be designed. As the strategy is being implemented, the situation in the region can change and the final results can be even better that it could be foreseen at the very beginning.

Supplement

Analysis of the Moscow Oblast legislation corruption potential

M.A. Girka, V.A. Viktorova

The diagnostics of the Moscow Oblast legislation was based on analysis of 48 laws passed by the Moscow Oblast Duma and selected after expertise of their corruption potential.

It was found that the corruption potential of the Moscow Oblast legislation is rooted for the most part in the deficiencies of law (both omissions of law and errors of law). In the other words, the main causes of the corruption potential are:

- 1) the law-maker erroneously views certain matters as remaining beyond the scope, or not requiring, any legal regulation;
- 2) the law-maker erroneously presumes that a legal provision can be construed and self-corrected in the course of its practical application;
- 3) the law-maker erroneously transfers the task of regulation to the law-enforcing authority itself.

This means that the resulting corruption potential can be reduced through technical "cleaning" of the legislation without questioning of the specific laws' ideology.

It was discovered that the factors contributing to the corruption potential of the Moscow Oblast legislation can be broken down as follows:

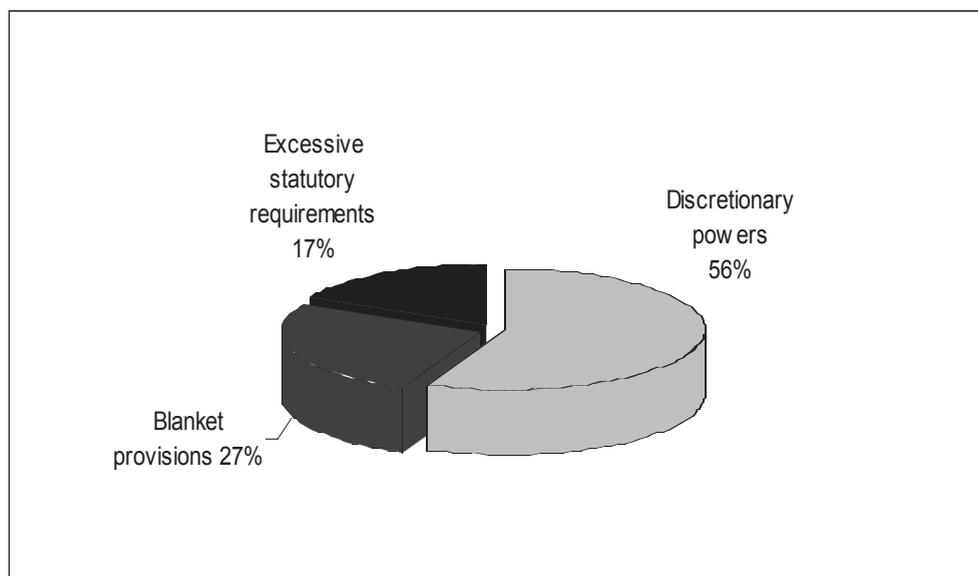


Figure 8. Sources of corruption potential for Moscow Oblast laws.

The most significant corruption-generating provisions of the Moscow Oblast legislation regulating various fields of activities are listed below.

Taxation:

- the authorized bodies of state power can provide tax exemptions to each class of taxpayers on more liberal terms than those stipulated by the law;

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- there are discretionary powers with regard to tax exemptions in the field of investments into the production sector of economy.

Investments:

- the Moscow Oblast executive branch and the local self-government bodies possess discretionary powers with regard to allotment of land (on the basis of permanent use or rent) for start-up enterprises or business facilities;

- there are discretionary powers with regard to granting investment tax credits (the law stipulates that the credit can be granted for the term from one to five years but there are no clear-cut criteria for determination of this term in each specific case).

Servicing of the financial resources of the Oblast government:

- "other possible criteria" for selection of the banks authorized to handle the budget money;

- the Oblast administration can refuse to honor the results of the open contest and would only reimburse the direct costs incurred by the winning bank;

- too many agencies of the Moscow Oblast executive branch can exercise control over the authorized banks' activities.

Agricultural leasing:

- possibility of stricter requirements presented to the leasing company (through adoption of additional regulatory acts).

Governmental property:

- possibility to lease the Moscow Oblast property without a public auction.

Highways:

- the "open" (non-exhaustive) list of requirements for use of land occupied by the public highways, hence the possibility to introduce additional requirements.

The realty register:

- possibility to expand the list of state power bodies and organizations exempted from payment for obtaining information from the realty register;

- regional law allows application of additional requirements with regard to information on the entities listed in the realty register. This will provoke the owners to avoid submission of excessive information;

- a fixed 5-day term for submission of all kinds of documents to the Moscow Oblast Committee on Property is established. As certain documents cannot be prepared and submitted within five days, this provision encourages bribery.

Registration of businesses, ownership rights and related non-property rights and transactions:

- the Moscow Oblast Registration Chamber possesses an unlimited scope of powers because of the nebulous definition of its "range of activities".

Payment for land:

- the land tax rates can be established on a preferential basis because of the ambiguous definition of "environmental and economic value of the territory".

Property of Moscow Oblast:

- corruption deals with regard to the property disposition are encouraged, first, by the fact that some provisions authorize the officials to undertake certain steps but do not make them obligatory, second, the definition of "superficial property" is ambiguous.

Conversion of residential housing to non-residential accommodations:

- too great number of documents to be submitted for obtaining the permission, more than that, 12 documents must be dated not more than two months before the application is filed.

Deposits of Moscow Oblast property:

- the authorized state body reviews the documentation submitted by the deposit applicant from the point of view of expediency and efficiency although both terms are not clearly defined;
- absence of provisions regarding alienation and removal of the deposits although such provisions are mentioned in the legislation (omission of law).

Fire safety:

- the authorized bodies of state power and local self-government can introduce their own additional fire safety requirements.

Acquisition of goods, raw materials and food for the state needs:

A. Acquisition of agricultural products:

- discretionary powers with regard to contracting and payments (including advance payments), preferential treatment and benefits, payment of monthly subsidies;
- possibility to place an Oblast government order without an open contest;
- the state customer can lay down an unlimited number of requirements to the contest participants.

B. Acquisition and delivery of goods for the state needs:

- the Oblast state order coordinator can, on his own initiative, interfere with the control of the deliveries;
- the Oblast state order can be placed without an open contest if so agreed by the state customer and the state order coordinator.

Urban construction:

- the respective chief architect has the right of unlimited access and inspection of any land parcel;
- the commissions for selection of land parcels for construction can include representatives of "appropriate services and organizations", with the prospect of having to pay bribes for avoidance of their excessive pressure;
- the architectural and construction inspections can at any date stop any construction project if they report violations of the land legislation.

Manufacturing:

- the term "necessary case" is not clearly defined, so a manufacturing business can partly finance an investment project with budgetary means received for remuneration.

Garbage and industrial waste disposal:

- numerous supervising bodies;
- departmental regulatory acts can be issued changing the time span for processing and disposal of garbage and industrial waste by the respective enterprises.

Mineral resources:

- possibility of allotment of mineral resources deposits without an open contest;
- in such cases there are no clear-cut criteria for selection of prospective developers (a deposit can be leased "in view of other circumstances");
- necessity to keep "other documentation" as requested by the supervising authority;
- "other conditions" not contradicting the federal legislation can be added to the license agreement;
- four state agencies can simultaneously present requirements to a development project, and those requirements can be mutually exclusive;
- there are "appropriate objective circumstances" in view of which the developer can pay a smaller amount for utilization of the deposits;
- absence of clear-cut criteria for evaluation of the deposit profitability;
- depending on the degree of the deposit depletion, three different discounts can be extended to the developer, however, nothing is said about determination of the depletion degree;
- Moscow Oblast legislation can provide "other grounds" for exempting certain categories of developers from the payment for deposit utilization;
- discretionary powers with regard to paying budgetary subsidies to certain categories of mineral resources developers;
- state control on the part of environmental protection and "other controlling authorities".

Small business:

- the term "business entities" covers not only small business but medium-size and large business as well, consequently, the resources of the Small Business Support Fund can be directed to inappropriate businesses.

The results of this analysis show that the Moscow Oblast legislation presents all kinds of the corruption potential. However, several laws can be especially "fruitful" in this respect:

1. The law on mineral resources and utilization of mineral resources in Moscow Oblast.

2. The law on acquisition and supply of agricultural products, raw materials and food for the state needs of Moscow Oblast.

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3. The law on participation of financial institutions in servicing of the Moscow Oblast financial resources.

4. The law on support of the small business.

5. The law on tax exemptions in Moscow Oblast.

In view of the fact that the discretionary powers account for the greatest corruption potential, it would be expedient:

1) to specify and detail powers of various authorities and officials;

2) to adopt provisions clearly regulating their behavior and selection of a certain course of action.

Despite the relatively small number of the excessive requirements, they also create great corruption potential. Such provisions directly regulate relations between the state and physical and legal persons, and they also should receive attention.

Analysis of the Moscow Oblast legislation corruption potential

| CONTENTS OF THE PROVISION | TYPE OF CORRUPTION POTENTIAL | CORRUPTION PROSPECTS | CAUSE OF CORRUPTION POTENTIAL | EXTENT OF CORRUPTION POTENTIAL |
|---|------------------------------|--|--|--------------------------------|
| MOSCOW OBLAST LAW ON TAX EXEMPTIONS IN MOSCOW OBLAST (JULY 9, 1997) | | | | |
| Additional terms for tax exemptions except those listed in the law, can be offered to each class of taxpayers covered by the law | Discretionary powers | The additional terms can be provided on the initiative of the Oblast Duma deputies, taxpayers and their associations, and there is probability of informal deals and granting of economically unfounded exemptions | The additional terms can be independently introduced by the Moscow Oblast administration or the Oblast Duma | Medium |
| If the investments into a production project equivalent to at least \$1 million, are not made or are made in part but the full amount will be invested within three years, tax exemptions can be provided in accordance with a tax agreement between the investor and the Oblast government | Discretionary powers | The tax exemptions can be either provided or not provided | The decisions to provide the exemptions are independently made by the Moscow Oblast administration or the Duma | Low |
| MOSCOW OBLAST LAW ON RENT OF MOSCOW OBLAST PROPERTY (FEBRUARY 5, 2003) | | | | |
| Oblast property can be leased by the authorized governmental department without an auction "in other cases as provided by the legislation of the Russian Federation or laws of Moscow Oblast" | Blanket provision | Possibility to lease the property on a non-competitive basis, that is, through corruption deals and personal connections | The authorized governmental department has the right to lease the Oblast property without an auction | Medium |
| MOSCOW OBLAST LAW ON HIGHWAYS OF MOSCOW OBLAST (SEPTEMBER 24, 2003) | | | | |
| The powers of the Moscow Oblast Duma in the field of highways maintenance includes "other powers enacted in accordance with the legislation of the Russian Federation, the Charter of the Moscow Oblast and laws of Moscow Oblast" | Blanket provision | Expanded powers of the Moscow Oblast Duma in this field will force to "buy" non-compliance with the excessive requirements | The Moscow Oblast Duma reserves the right to expand its own powers to highways maintenance | Low |

| | | | | |
|---|--|--|--|--------|
| Utilization of land under the highways should be in compliance with architectural, environmental, sanitary and other rules established by the regulatory acts of the Russian Federation and Moscow Oblast | Excessive requirement of law and blanket provision | Presence of the numerous requirements causes the desire to "buy" non-compliance | Possibility to enact additional terms (both at the federal and regional levels) for utilization of land under the highways | Medium |
| MOSCOW OBLAST LAW ON GUARANTEES OF INVESTMENT ACTIVITIES IN MOSCOW OBLAST | | | | |
| The investor can rent a land parcel for his project or have it transferred to him for permanent (with-out-term) use | Discretionary powers | The permanent use variant is more attractive to the investor than rent because, as the Civil Code says, the latter always has a fixed expiry date. Those alternative procedures force the investor to look for possibility of a permanent-use contract | The Moscow Oblast executive branch and/or local self-government bodies are authorized to choose between rent and permanent use at their own discretion | Medium |
| An investment tax credit can be granted to a legal person for the term from one to five years | Discretionary powers | Possibility to exact remuneration for granting of the investment tax credit for the maximum term | The law does not specify criteria for making decision on the credit term. In other word, the authorized financial department of the Moscow Oblast executive branch is entirely free to choose any term within one-five year bracket | Medium |
| MOSCOW OBLAST LAW ON THE PROCEDURE OF EXTENTION OF THE UTILIZATION RIGHTS WITH REGARD TO DEPOSITS OF WIDESPREAD MINERAL RESOURCES, OR DEPOSITS OF LOCAL IMPORTANCE (DECEMBER 17, 2003) | | | | |
| The deposits of widespread mineral resources or deposits of local importance (for the purposes of prospecting and extraction of the mineral resources) as well as deposits of local importance (not for extraction purposes) can be provided to developers through a contest, auction or on a non-competitive basis | Discretionary powers | Possibility to exact remuneration for holding the auction instead of the contest | As a rule, the contest means much more preliminary procedures and conditions for selection, so it is the auction is more convenient to the applicants. However, the law does not prescribe when either contest or auction should be held, or the non-competitive procedure should be used. Consequently, the authorized department can make an informal choice of any course of action | Medium |

| MOSCOW OBLAST LAW ON ORGANIZATION AND MAINTENANCE OF THE PROPERTY REGISTER OF MOSCOW OBLAST (JUNE 2, 1999; No. 6/58) | | | |
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| <p>All documents on the basis of which all changes in the property register are made, should be submitted to the Moscow Oblast Committee on Property within 5 work days after they take force if legislation does not establish other term</p> | <p>Excessive requirements of law and blanket provision</p> | <p>The fixed 5-day term for all types of documents forces the applicant to "buy" non-compliance with this requirement, in view of the fact that the required documents greatly differ in their contents (ranging from exact address of the object to statement on its profitability). Besides, the respective state agency can establish another deadline for submission of the documents but there are no indication of the specific cases when it can be done. This opens the door to certain preferential treatment</p> | <p>Single term for submission of all documents is unrealistic for certain types of them. The "departmental law-making" is also possible</p> <p>High</p> |
| <p>The Moscow Oblast Registration Chamber is authorized to "exercise other rights in accordance to its scope of activities"</p> | <p>Discretionary powers</p> | <p>Increased powers of the Moscow Oblast Registration Chamber will force the physical and legal persons to "buy" non-compliance with the excessive requirements</p> | <p>The Moscow Oblast Registration Chamber is authorized to exercise the other relevant rights. At the same time, nothing is said about enactment of such rights by a law, consequently, the new rights can emerge without any control</p> <p>Medium</p> |
| MOSCOW OBLAST LAW ON ACQUISITION AND SUPPLY OF AGRICULTURAL PRODUCTS, RAW MATERIALS AND FOOD FOR THE STATE NEEDS OF MOSCOW OBLAST (APRIL 10, 1996; No. 7/86) | | | |
| <p>"For economic stimulation of acquisition and supply of agricultural products for the Oblast needs, the goods producers (suppliers) can receive the following benefits (financial resources) at the account of the Moscow Oblast budget..."</p> | <p>Discretionary powers</p> | <p>Preferential treatment of "friendly" producers (suppliers) and possibility to exact certain remuneration in exchange for this</p> | <p>The non-mandatory provision opens an absolutely legitimate possibility either to provide the benefits or refuse, depending on the degree of "closeness" to the respective producer (supplier)</p> <p>High</p> |

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| <p>Agricultural producers in the field of plant cultivation can receive advance payments for their goods supplied to the Oblast government while the producers in the field of animal husbandry can receive monthly subsidies</p> | <p>Discretionary powers</p> | <p>Preferential treatment in making decisions on the advance payments or monthly subsidies</p> | <p>The non-mandatory provision allows the official to make choice between granting or not granting the specific benefits (advance payments or monthly subsidies) to the businesses</p> | <p>Medium</p> |
| <p>The Oblast government signs contracts for agricultural products according to procedure specified by legislation of the RF and Moscow Oblast, in particular, through open contests (auctions) or contests (auctions) with the fixed number of contestants</p> | <p>Discretionary powers</p> | <p>Possibility of preferential treatment when the choice is made between those procedures for buying agricultural products by the Oblast government</p> | <p>Possibility to choose between the above-mentioned procedures while the law does not prescribe the criteria for such choice</p> | <p>High</p> |
| <p>In order to win the contest, the winner must fully meet the "other terms of the state customer"</p> | <p>Discretionary powers</p> | <p>Possibility of preferential treatment through application or non-application of the additional terms</p> | <p>The state customer is authorized to forward additional conditions the scope of which is not limited by the law itself</p> | <p>High</p> |
| <p>The contest winners are those businesses which in the greatest degree meet the requirements as well as propose the best terms for meeting "other requirements put forward by the state customer"</p> | <p>Discretionary powers</p> | <p>Advantages to "friendly" businesses through putting forward additional requirements which can be actually an artificial obstacle for other competitors</p> | <p>Possibility of the state customer's additional requirements the scope of which is not limited by law</p> | <p>High</p> |

MOSCOW OBLAST LAW ON THE RULES OF CONSTRUCTION IN CITIES, TOWNSHIPS, VILLAGES, OTHER SETTLEMENTS AND RECREATIONAL RESORTS OF MOSCOW OBLAST (MARCH 13, 1996; No. 7/85)

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| <p>In order to fulfill their functions, the city or raion chief architects are granted the right of unrestricted inspection of any land parcel in the Moscow Oblast territory, without regard to their ownership by any governmental department and other property rights. Such inspections could cover any buildings (existing or under construction; housing, industrial etc. facilities) located on those parcels</p> | <p>Excessive requirements of law</p> | <p>The city (raion) chief architect can at any moment arrive for inspection of the land parcel. Numerous check-ups of that kind are common in many localities, and the owners are free to pay money if they want to conceal violations or some objects of their property</p> | <p>First, this provision provides that the inspection is undertaken not by a commission or another "team" but by a single official which naturally increases corruption prospects. Second, the law does not specify any preliminary criteria for making the decision about the inspection. That is, the architect may not suspect any violations and still be authorized to inspect the land parcel at any time. Such a situation may stimulate the owner's desire to pay bribes in order not to conceal actual violations but just be left alone</p> | |
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| <p>"Permanent commissions for selection of land parcels for construction under the local self-government bodies are responsible for: consideration of the constructors' applications and the results of the preliminary expertise, including an obligatory on-the-spot inspection; comparison of the variants of configuration; preparation of the terms for land parcels allotment on any basis. The said commissions are operating in accordance with their rules approved by the head of the municipality, and consist of: chairman of the commission - assistant head of the municipality; members - the chief architect of the city (raion), chairman of the committee on land resources, chairman of the committee on environmental protection and rational utilization of the natural resources, chairman of the committee on culture and tourism, representative of the state sanitary-epidemiological inspection, representative of the fire-safety service as well as other appropriate services and organizations of the city or raion"</p> | <p>Excessive requirements of law</p> | <p>Too great number of the services and organizations which must approve the construction project, can provoke attempts to pay bribes for sheltering from those excessive requirements</p> | <p>Active participation of the practically unlimited number of various services and organizations in granting the construction permit</p> | <p>Medium</p> |
| <p>The work in violation of the land legislation should be stopped, the detected violations corrected in the time span specified by rulings of the respective architectural and construction departments and the State Architectural and Construction Inspection</p> | <p>Blanket provision</p> | <p>Such powers of the architectural and construction supervising authorities presume possibility of certain preferential treatment on the part of their officials</p> | <p>Possibility of the "departmental law-making</p> | <p>High</p> |
| <p>When the administrative penalties for unauthorized occupation of a land parcel or for unauthorized construction prove insufficient to correct the situation, the architectural and construction departments or the State Architectural and Construction Inspection can submit the case to the law-enforcing bodies, with the prospect of a criminal prosecution of the perpetrator</p> | <p>Discretionary powers</p> | <p>Possible threats of criminal prosecution</p> | <p>The non-mandatory nature of this provision along with absence of clear-cut criteria of when precisely the administrative penalties "prove insufficient" leaves the architectural and construction departments or the State Architectural and Construction Inspection free to choose between continued application of the measures prescribed by the Code of Administrative Delinquencies and "escalation" in the form of instituting a criminal case</p> | <p>High</p> |

MOSCOW OBLAST LAW ON PROPERTY OF MOSCOW OBLAST (SEPTEMBER 14, 1994; No. 10/28)

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| Property transferred to a legal person on the "operational management" basis can be forfeited if it is considered surplus for the present legal person | Discretionary powers | Possibility to exact remuneration for leaving the surplus property at the disposal of the legal person | Non-mandatory nature of the provision along with absence of clear-cut criteria of what comprises "surplus" property | Medium |
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MOSCOW OBLAST LAW ON THE RULES AND TERMS FOR CONVERSION OF RESIDENTIAL HOUSING TO NON-RESIDENTIAL SPACE AREA

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| <p>In order to effect such conversion, the owner of the residential housing should submit the following package of documentation to the profile commission of the respective municipality: 1) application substantiating the necessity for the conversion; 2) for the physical persons: duplicates of the living quarters (building) owners' personal identity documents (the actual documents to be enclosed for verification); 3) for the legal persons: duplicates of their registration documents certified by the notary public; 4) documents confirming the ownership of the present living quarters (building); 5) consent to such conversion on the part of all co-owners of the living quarters (building) and all permanently resident family members, in written form; 6) the "technical passport" of the living quarters (building), or its duplicate, issued by the Technical Inventarization Board, describing technical condition and indicating the actual value of the living quarters (building); 7) for the legal persons: certificate on the balance-sheet value of the living quarters (building); 8) the building's layout draft or the drafts of the respective section of the building (the living quarters to be converted and quarters one floor above and one floor below); 9) if the present living quarters are situated in a building officially recognized as historical, cultural or architectural monument, opinion of the governmental department exercising state control over utilization and protection of the historical and cultural monuments, on permissibility of the conversion (reconstruction);</p> | |
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| <p>10) excerpt from the housing registration book and duplicate of the financial personal account of the living quarters (building) owner; 11) opinion of the state fire safety service on permissibility of the conversion; 12) opinion of the sanitary-epidemiological inspection on permissibility of the conversion; 13) documents confirming that all permanent residents of the living quarters in question will move to equivalent residential area; 14) consent (in written form) of the tutelage and trusteeship services if one of the co-owners as well as permanent residents of the living quarters (building) is an underage person; 15) approval of the proposed conversion on the part of the management board of the respective partnership of housing owners, housing cooperative or housing construction cooperative.</p> <p>The documents listed in Points 1, 5, 6-15 of the present Article should be dated within not more than two months before the application is filed</p> | | | | |
| MOSCOW OBLAST LAW ON ACQUISITION AND SUPPLY OF GOODS FOR THE STATE NEEDS OF MOSCOW OBLAST | | | | |
| <p>The orders for goods for the Oblast state needs are placed according to the procedure determined by legislation of the Russian Federation, the present Law and other regulatory acts of Moscow Oblast, in particular, through open contests (auctions) or contests (auctions) with fixed number of contestants</p> | Blanket provision | Desire to confuse the suppliers and ensure that only "friendly" suppliers win the contracts | No clear definition for selection of Low the kind of contest in each case as well as reference to other regulatory acts | |
| <p>The decision on the procedure for the order placement, other than an open contest, is made by the state customer by the consent of the state orders coordinator</p> | Discretionary powers | Possibility to place orders with the "right" supplier | No clear definition for selection of High the kind of contest in each case | |
| <p>If directed by the Moscow Oblast governor, the Oblast government and the Moscow Oblast Duma as well as on his own initiative, the coordinator undertakes check-ups of the deliveries of goods for the Oblast state needs</p> | Excessive requirements of law | The third party, without actual justification, can interfere with implementation of the order | The coordinator can order a check-up at any time | High |

| MOSCOW OBLAST LAW ON THE SMALL BUSINESS SUPPORT IN MOSCOW OBLAST | | | |
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| Business entities and non-governmental organizations have the right to petition the bodies of state power of Moscow Oblast and local self-government bodies about inclusion of their projects into the regional and municipal programs of small business development and support | Discretionary powers | The bodies of state power can help certain "friendly" businesses to obtain additional financing from the budget | Possibility to allocate budgetary means or grant benefits to businesses which are not small businesses in the strictly legal sense of the word High |
| The Small Business Support Fund of Moscow Oblast is authorized to reimburse financial institutions (partly or in full) for the loss of profit incurred because of granting of preferential credits to small businesses. The reimbursement amount, procedure and terms are established by contracts between the financial institution and the Small Business Support Fund of Moscow Oblast | Discretionary powers | In certain cases, officials of the Small Business Support Fund can come to terms with the "friendly" businesses and receive remuneration for paying the reimbursement which is entirely legitimate in itself | The reimbursements can be paid or not paid Medium |
| When the contest participants compete for the orders, size and complexity of which excess possibility of a single small business, the advantage is on the side of those contestants who make pledge to attract subcontractors from among other small businesses of Moscow Oblast | Excessive requirements of law | The most efficient and promising contestants can be rejected on the grounds that their subcontractors are registered not in Moscow Oblast (in principle, this is a violation of the Constitution) | Possibility to help the "favorite" businesses obtain the order Medium |
| The Moscow Oblast government ensures that a certain share of the general amount of the Oblast annual state order for the goods and services is reserved for the small business. This share cannot be less than 15 percent of the total cost of the Oblast state orders | Discretionary powers | Possibility to exact bribes from businesses striving to obtain the state orders | Possibility to limit the number of businesses taking part in the annual competition for the Oblast state order Medium |
| MOSCOW OBLAST LAW ON MINERAL RESOURCES AND UTILIZATION OF MINERAL RESOURCES IN MOSCOW OBLAST | | | |
| Regulation of other matters in the field of mineral resources utilization and protection, except those reserved for the competence of the Russian Federation | Blanket provision | There is no clear-cut list of the matters referred to the Oblast' competence, consequently, possibility simply to "invent" new powers | Possibility to expand the list of the Oblast powers Medium |

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| <p>The mineral resources developer should ensure:...3) proper keeping of geological, mining and other documentation in the course of all mineral resources utilization projects</p> | <p>Blanket provision</p> | <p>The controlling officials can demand to present "other documentation"</p> | <p>Possibility to suspend or rescind the license of the mineral resources developer at any moment</p> | <p>High</p> |
| <p>In accordance with the federal legislation and Art. 16 of the present Law, the license for utilization of a mineral resources deposit can be issued through a contest or auction, or on a non-competitive basis if so decided by the authorized governmental department (departments)</p> | <p>Discretionary powers</p> | <p>Possibility to choose the procedure best meeting the needs of the "favorite" contestant</p> | <p>No clear-cut criteria for choice between the specific procedures (the decision is left to discretion of the authorized governmental departments)</p> | <p>High</p> |
| <p>Other requirements not contradicting the federal legislation and the present Law can be included into the license</p> | <p>Discretionary powers</p> | <p>Any number of requirements can be added to the license</p> | <p>The right of the licensing authority to add new requirements not specified by the current legislation</p> | <p>High</p> |
| <p>The permission to utilize mineral resources can be granted to the developer on a non-competitive basis:...4) on other grounds established by the legislation of the Russian Federation</p> | <p>Blanket provision</p> | <p>Possibility of bribes for allotment of mineral deposits to the "friendly" businesses without a contest</p> | <p>"Blind" provisions referring to the Russian Federation legislation</p> | <p>Medium</p> |
| <p>The requirements with regard to deposit development projects as well as the procedure and terms of their implementation are established by the Moscow Oblast government, or the central executive department of Moscow Oblast so empowered by it, or other governmental department of Moscow Oblast recommended by the regional offices of the federal agencies responsible for management of national mineral resources and for mining inspection</p> | <p>Excessive requirements of law</p> | <p>The different requirements to the project can be simultaneously established by the different bodies of power listed in the article</p> | <p>Four state bodies are authorized to submit requirements to the project</p> | <p>High</p> |
| <p>The authorities granting permissions to utilize mineral resources, in view of appropriate objective circumstances substantially preventing economically profitable utilization and development of the deposit, can reduce the payments for mineral resources collected in accordance with the Moscow Oblast legislation, below the minimum rate established for the mineral resource in question; or they can entirely repeal that part of the payments which is collected into the Moscow Oblast budget</p> | <p>Discretionary powers</p> | <p>The deposit developer can strike a deal with the officials and pay less for utilization of the deposit - because of the "appropriate objective circumstances" which prevent economically efficient development</p> | <p>Definition of "appropriate objective circumstances" is absent</p> | <p>High</p> |

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| Depending on the basic mining geological and technological parameters of the whole deposit or of its part and on its profitability level , the exemption from the payment can comprise 25 or 50 percent of the minimum payment rate for the specific mineral resource | Discretionary powers | Possibility of a deal with the officials in order to receive the maximum exemption | Possibility of choice between two alternative exemption rates | High |
| Exemption from the payment in case of exhausted deposits can, depending on the degree of exhaustion of the licensed deposit or its parts can comprise 25, 50 or 75 percent depending on the minimum rate established for the specific mineral resource | Discretionary powers | Possibility of a deal with the officials in order to receive the maximum exemption | Possibility of choice between three alternative exemption rates | High |
| The Moscow Oblast legislation can establish additional grounds for exemption of certain classes of deposit developers from the payments in that part which is collected into the Moscow Oblast budget | Blanket provision | Possibility of a deal with the officials in order to obtain the exemption from the payment for development of mineral resources | The "additional grounds" for granting exemptions are left without specification | High |
| Payments for mineral resources utilization are also collected for activities other than extraction of the mineral resources, that is, from businesses engaged in construction and operation of subterranean facilities and other kinds of earthwork | Discretionary powers | Possibility to exact the payment in cases not specified by the current legislation | The right to exact the payment in the cases not specified by the current legislation is reserved for the authorities | High |
| Minimum and maximum payments for utilization of mineral resources in the course of construction and operation of the subterranean facilities comprise: 0,5 and 1 percent of the taxable base for construction of subterranean facilities; 1 and 3 percent of the taxable base for operation of subterranean facilities | Discretionary powers | Possibility of a deal with the officials in order to pay the minimum rate. The taxable base can be intentionally overrated or underrated in this case | The alternative between the maximum and minimum payment rates | High |
| Part of the payments received by the Oblast budget, if so recommended by the regional office of the federal department responsible for management of national mineral resources, can be transferred to mineral deposits developers who had received a license for extraction of subterranean water, so that they could finance prospecting work undertaken through their own effort | Discretionary powers | Possibility to receive additional financing from the Oblast budget | Absence of clear-cut criteria for transfer of the payments collected into the Oblast budget | Medium |

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| <p>The state control over rational utilization and protection of the mineral resources is exercised by the state geological inspection and the state mining inspection in cooperation with other supervising authorities</p> | <p>Excessive requirements of law</p> | <p>The state control by the great number of authorities</p> | <p>Provision for "other" supervising authorities can result in too great number of them</p> | <p>High</p> |
| <p>The control over observation of the rules and standards of upkeep of the urban and other populated areas is exercised by the bodies of state power of Moscow Oblast and local self-government bodies, in accordance with their competence, as well as by territorial offices of the authorized federal bodies of executive power in accordance with the Russian Federation legislation</p> | <p>Excessive requirements of law</p> | <p>The state control by the great number of authorities</p> | <p>Absence of an exhaustive list of the supervising authorities</p> | <p>High</p> |

Analysis of Corruption Potential of Legislative Acts and Regulations of Saratov Oblast

M.A. Girka, V.A. Viktorova

The diagnostics of the corruption potential of laws and regulations of Saratov Oblast are based on the analysis of 27 laws passed by the Saratov Oblast Duma and 14 regulations. The list of those regulatory acts was formed on the basis on the expertise of their possible relation to corruption.

It was found that for the most part the corruption-generating provisions of the Saratov Oblast legal and other regulatory acts have the nature of deficiencies of law, both omissions of law and errors of law. In the other words, the main causes of the corruption potential are rooted in the fact that:

- the legislator erroneously treats certain public relations as not subject to legal regulation;
- erroneously expects that a legal provision would be specified in the course of its practical application;
- erroneously transfers the matter to the discretion of the respective law-enforcing authorities.

This means that the possible corruption level can be reduced through technical "cleaning" of the legislation which would not question of the specific laws' ideology.

It was discovered that the factors contributing to the corruption potential of the Saratov Oblast legislation can be broken down as follows:

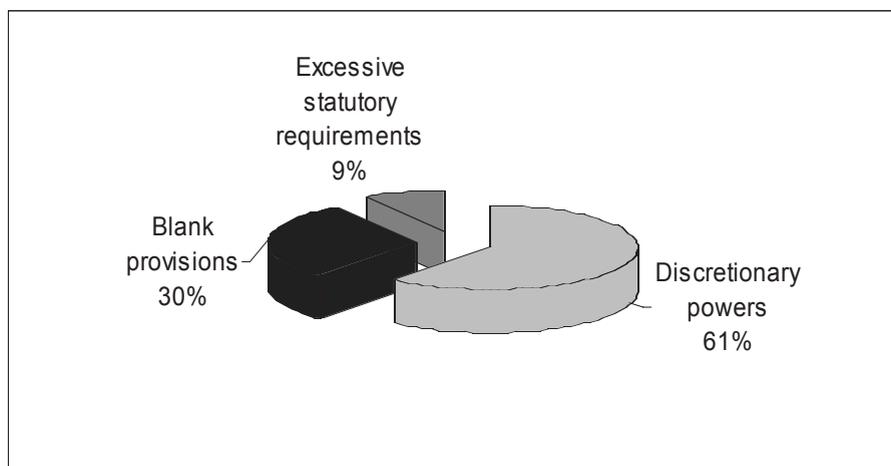


Figure 9. Sources of corruption potential for Saratov Oblast laws.

The most significant corruption-generating provisions of the Saratov Oblast legislation regulating various fields of activities are listed below.

Charity:

- absence of clear-cut criteria for making charity support decisions by the bodies of state power and local self-government;
- possibility of "departmental law-making".

Highways of Saratov Oblast:

- absence of a clear list of taxpayers which can be granted exemptions from the road tax;

Supplement

- possibility to grant permission (in "exceptional cases") to build pipelines, cables etc. into the highway structures.

Privatization of state-owned housing:

- the non-exhaustive list of documents necessary for the state registration of ownership of residential housing;
- relatively short term of validity of the certified list of the residents registered in the given building (apartment) and on the persons who retain the right to use the same housing.

Allotment of housing:

- the non-exhaustive list of the documents to be enclosed with the application about inclusion into the housing waiting lists;
- the non-exhaustive list of the categories of citizens who should receive housing on a priority basis;
- repeated submission of the same documents which had been already filed with the initial application;
- repeated inspection of the applicant's living conditions .

Disposal and utilization of land:

- the non-exhaustive list of cases when land parcels are transferred to physical persons free of charge.

Property of Saratov Oblast:

- absence of a clear list of entities which can receive Saratov Oblast state property free of charge;
- "departmental law-making" with the aim to increase the number of business entities to which Saratov Oblast state property can be transferred free of charge.

Conversion of residential housing into non-residential accommodations:

- unjustifiably long list of the documents necessary for such conversion.

Licensing:

- absence of clear-cut criteria for licensing on a preferential basis;
- nebulous language of the provision itself.

Energy saving:

- the unlimited scope of powers of the Saratov Oblast Duma, the Saratov Oblast government and local self-government bodies in the field of energy-saving regulation;
- wide powers of the Regional Energy Commission in granting of various kinds of privileges.

Acquisition of goods, raw materials and food for the Oblast Food Fund:

- absence of clear-cut criteria for making the decision about rescinding of the tax exemptions granted to the goods producers;
- possibility to place Oblast state orders on a non-competitive basis;
- the state customer can put forward an unlimited number of requirements to the contest participants.

Supplement

State regulation of production and trade in alcohol-containing products:

- the unlimited scope of the Oblast government's in regulation of production and sales of the alcohol-containing products;
- possibility to adopt departmental sub-legal acts in order to expand the list of activities subject to licensing;
- the unlimited scope of powers of the licensing authorities with regard to granting privileges;
- absence of clear-cut criteria for making decisions about reduction of the licensing tax or full exemption from it;
- the unjustifiably long list of documents necessary for obtaining a license;

Health care:

- absence of a comprehensive list of benefits and categories of citizens authorized to receive those benefits;
- the procedure for granting the benefits is not specified;
- the authorities can develop the regional and profile standards of health care in cooperation with certain interested parties.

Urban construction:

- the unlimited list of the authorities exercising the right of control in the field of construction;
- wide discretionary powers of the local self-government bodies with regard to approval or disapproval of the constructor's application;
- the non-exhaustive list of requirements to the building or facilities under construction.

State service:

- discretionary powers in the matter of financial support which can be provided to the state officials;
- absence of clear-cut criteria for selection of the specific extra payment for the "special conditions" of the state service;
- making of the decision on financial encouragement of the state official single-handedly or collectively.

Utilization of mineral resources:

Hydrocarbons:

- wide powers of the bodies of state powers in the field of legislative regulation, adoption of the state standards, norms and regulations as well as procedures for granting mineral resources utilization permits.

Commonly spread mineral resources and soil reserves:

- absence of clear-cut criteria for determination of the license term;
- possibility to grant the license through the contest even if only one application had been filed.

Supplement

The results of this analysis show that the Saratov Oblast legislation presents all kinds of the corruption potential. The corruption-generating provisions are present, in particular, in the following laws:

1. Law on energy-saving in Saratov Oblast.
2. Law on the procedures of management and disposal of the state property.
3. Temporary regulations on licensing of certain kinds of activities in the territory of Saratov Oblast.
4. Law on allotment of housing in Saratov Oblast.
5. Regulations on the procedure of allotment of land parcels for development of commonly spread mineral resources and soil reserves in the territory of Saratov Oblast.
6. Law on salaries and financial encouragement of the persons occupying the state offices of the state service of Saratov Oblast.

In view of the fact that the discretionary powers account for the greatest corruption potential, it would be expedient:

- 1) to specify and detail powers of various authorities and officials;
- 2) to adopt provisions clearly regulating their behavior and selection of a certain course of action.

Despite the relatively small number of the excessive requirements, they also create great corruption potential. Such provisions directly regulate relations between the state and physical and legal persons, and they also should receive attention.

Analysis of corruption potential of legislative acts and regulations of Saratov Oblast

| CONTENTS OF THE PROVISION | TYPE OF CORRUPTION POTENTIAL | CORRUPTION PROSPECTS | CAUSE OF THE CORRUPTION POTENTIAL | EXTENT OF THE CORRUPTION POTENTIAL |
|--|------------------------------|--|--|------------------------------------|
| LAW ON ENERGY SAVING IN SARATOV OBLAST | | | | |
| The competence of the Saratov Oblast Duma in the field of energy saving. The Oblast Duma: ...exercises other powers in accordance with the current legislation | Blanket provision | It is possible to include new powers into the list | Absence of a clear-cut list of powers of the Saratov Oblast Duma | Low |
| The competence of the Saratov Oblast government in the field of energy saving. The Oblast Government: ...exercises other powers in accordance with the current legislation | Blanket provision | It is possible to include new powers into the list | Absence of a clear-cut list of powers of the Saratov Oblast government | Low |
| The competence of the local self-government bodies of Saratov Oblast in the field of energy saving. The local self-government bodies of the Oblast: ...exercise other powers in accordance with the current legislation | Blanket provision | It is possible to include new powers into the list | Absence of a clear-cut list of powers of the self-government bodies | Low |
| The state control and supervision over efficient utilization of the energy resources in the territory of the Oblast, including all kinds of fuel and their derivatives, electric and heat energy and secondary energy resources, are exercised in accordance with the federal legislation | Blanket provision | Possibility of additional check-ups | Absence of a clear-cut list of laws in accordance with which the state control and supervision are exercised | Medium |
| Benefits to consumers and producers of the energy resources: The Regional Energy Commission (REC) can grant a preferential "energy credit" to customers (enterprises and organizations of the non-budgetary sector) or establish, for the period of up to one year, the reduced electric and heat energy tariffs for them if they undertake energy-saving studies; the latter discount can be granted for the period of up to two years for legal persons implementing energy-saving projects. On the basis of economic expediency, the REC can grant the preferential tariff to enterprises and organizations engaged in production of goods for efficient utilization of the energy resources. | Discretionary powers | The benefits can be granted or refused at the discretion of the Regional Energy Commission | Absence of criteria for granting the benefits | High |

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|--|-----------------------------|--|--|---------------|
| <p>Enterprises, institutions and organizations conducting energy-saving studies or implementing energy-saving investment projects can (if recommended by the respective authority and in accordance with the current legislation) receive investment tax credits for the period of up to one year since the date of the beginning of the energy-saving study or project</p> | | | | |
| LAW ON DEVELOPMENT OF DEPOSITS OF HYDROCARBONATES IN THE TERRITORY OF SARATOV OBLAST | | | | |
| <p>The Oblast authorities are authorized, within the scope of their competence, to grant preferential taxation of the oil and gas extracting enterprises in order to: create economically stable conditions for their operation; ensure growth of their output; encourage application of advanced prospecting and extraction technologies; ensure rational utilization of the hydrocarbons resources in the territory of the Oblast; create conditions for fair competition of all businesses in the oil and gas industry</p> | <p>Discretionary powers</p> | <p>The preferential taxation depends on the favorable attitude of the authorities</p> | <p>Absence of the list of powers of the state authorities as well as cases for application of the preferential taxation regime</p> | <p>High</p> |
| <p>Licenses for joint development of deposits of hydrocarbons by several developers at the adjacent territories can be granted according to the results of a contest</p> | <p>Discretionary powers</p> | <p>The contest may be either held or not held</p> | <p>No specific conditions when the contest must be held are stipulated</p> | <p>Medium</p> |
| <p>The Oblast government or the department duly empowered by it are authorized to determine the volume and contents of the accounts on the implementation of the output-sharing agreement or other relevant agreements to be submitted by the respective oil and gas companies (the reporting in question should cover the scale and costs of environmental protection measures, environmental monitoring and socioeconomic development in the area of oil and gas deposits)</p> | <p>Discretionary powers</p> | <p>The government or the duly authorized agency can put forward excessive requirements with regard to the volume and contents of the accounts and implementation of the output-sharing agreements or other agreements relating to oil industry</p> | <p>The volume of the accounts and other necessary documentation should be clearly defined</p> | <p>High</p> |
| <p>Technical and other conditions for safe exploitation of the in-deposit pipelines are established by the state standards, norms and rules approved in accordance with the established procedure</p> | <p>Blanket provision</p> | <p>Possibility to put forward additional technical requirements</p> | <p>Absence of a list of norms and standards along with the nebulous language "approved in accordance with the established procedure"</p> | <p>Medium</p> |

| LAW ON THE CHARITABLE ACTIVITIES IN SARATOV OBLAST | | | |
|---|-----------------------------|---|---|
| <p>The Oblast bodies of state power and local self-government, within the scope of their competence, can provide support to the participants of the charitable activities in the following forms: tax exemptions and other privileges; supply of equipment and subsidies to charitable organizations (including full or partial exemption from payments for services provided by the state and municipal enterprises and for utilization of state and municipal property); financing (on a contest basis) of the charitable programs proposed by the charitable organizations; placement (on a contest basis) of the state and municipal social orders; transfer of state and municipal property subject to privatization to , free of charge or on a preferential basis and in accordance to the procedure established by the current legislation</p> | <p>Discretionary powers</p> | <p>Possibility to provide support to "friendly" participants of the charitable activities</p> | <p>Insufficiently specified situations when the state support is provided</p> |
| <p>Tax exemptions and other benefits to the participants of the charitable activities are provided by the bodies of state power and local self-government in accordance with the procedure established by the current legislation</p> | <p>Blanket provision</p> | <p>The benefits can be granted or not granted depending on the specific situation</p> | <p>Absence of the list of the specific situations and prerequisites for granting of the benefits</p> |
| LAW ON HIGHWAYS OF SARATOV OBLAST | | | |
| <p>The competence of the Saratov Oblast Duma with regard to management of the highways includes: ...establishment of tax rates paid to the Territorial Highway Fund, granting tax exemptions to certain categories of taxpayers</p> | <p>Discretionary powers</p> | <p>The tax exemptions can be granted to the "friendly" taxpayers in exchange for bribes</p> | <p>Absence of the list of the categories of taxpayers who can ask for exemptions</p> |
| <p>Licensing of the highway maintenance and operation, qualification tests of the highway engineers and technicians are conducted in accordance with the current legislation</p> | <p>Blanket provision</p> | <p>Possibility to obtain the license or the qualification certificate for a bribe, in order to avoid submission of the whole package of documentation prescribed by the current legislation</p> | <p>Absence of the list of the regulatory acts in accordance with which the licenses for the highways operation are granted and the qualification tests held</p> |

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|---|-----------------------------|--|--|---------------|
| <p>It is forbidden to lay down pipelines, cables etc. in the highway tunnels, bridges, overpasses and other similar structures at the highways. However, in the exceptional cases the Saratov Oblast government can permit such construction as approved and technically substantiated by the highway supervising authorities</p> | <p>Discretionary powers</p> | <p>Possibility to obtain the construction permit for bribe</p> | <p>Absence of a list of "exceptional cases"</p> | <p>Medium</p> |
| <p>LAW ON INDUSTRIAL POLICY</p> | | | | |
| <p>The state support includes both financial and non-financial support measures. The former include Granting, in accordance with the established procedure, of investment tax credits and exemptions on the taxes paid to the Oblast budget and the non-budgetary funds; Reduction of the rates of the taxes paid to the Oblast budget (both irrevocable and as postponement of payment of the deducted amount). The non-financial measures include lease of state property, including lease on a preferential basis.</p> | <p>Discretionary powers</p> | <p>Possibility of benefits and credits to the "friendly" businesses</p> | <p>The law does not specify in which cases the business has the right to get the benefits, investment tax credit etc.</p> | <p>Medium</p> |
| <p>LAW ON THE PROCEDURES OF MANAGEMENT AND DISPOSAL OF THE STATE PROPERTY</p> | | | | |
| <p>Free-of-charge transfer of the Oblast state property can be effected in the following exceptional cases: ...c) a decision of the Oblast Duma, the governor, the Oblast government is made in order to offer encouragement to certain physical and legal persons; the decision can be made on a contest basis</p> | <p>Discretionary powers</p> | <p>Possibility of free-of-charge transfer of state property to "friendly" physical or legal persons</p> | <p>Nebulous language "certain physical and legal persons" along with absence of the prerequisites for such a transfer</p> | <p>High</p> |
| <p>Oblast state property objects can be transferred for free-of-charge utilization, if that property is transferred to: ...c) non-profit organizations in cases when they implement socially useful functions</p> | <p>Discretionary powers</p> | <p>Possibility of the state property transfer to "friendly" non-profit organizations</p> | <p>No conditions for the property transfer are specified; nebulous language: "implementation of socially useful functions"</p> | <p>High</p> |
| <p>It is forbidden to transfer Oblast state property objects for free-of-charge utilization by non-profit organizations, with the exception of the cases prescribed by regulatory acts of the bodies of state power</p> | <p>Blanket provision</p> | <p>Each body of state power is actually authorized to transfer state property objects for free-of-charge utilization, in accordance with that body's own needs</p> | <p>The list of possible cases for the property transfer should be precisely formulated</p> | |

LAW ON ALLOTMENT OF HOUSING IN SARATOV OBLAST

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| <p>The application for inclusion into the waiting list of the persons in need of housing should be accompanied by other relevant documents, in particular: medical certificate on the health condition presuming first-priority allotment of housing; duplicate of the handicapped-person status certificate; military commissariat certificate on each family member who died when in the military service; certificate on each family member who died in an industrial accident or when performing public duties; standard benefit certificate issued to the handicapped persons and veterans of the military campaigns; certificate of the participant of nuclear tests or certificate of the "great terror" victim; certificate of the honorable discharge from the military service etc. Submission of the above-mentioned documents is the applicant's responsibility</p> | <p>Excessive requirements of law</p> | <p>The housing distribution division of the municipality can request any documents from the applicants</p> | <p>The documents list should be clearly defined and "closed" (made exhaustive)</p> | <p>High</p> |
| <p>The housing is leased free of charge first of all to:....12) other categories of citizens as prescribed by the Russian Federation legislation</p> | <p>Blanket provision</p> | <p>Free-of-charge housing can be provided in exchange for bribes</p> | <p>Absence of a complete list of the citizens who are entitled to first-priority allotment of housing</p> | <p>Medium</p> |
| <p>The citizens, before they took possession of the housing, must for the second time present to the local self-government bodies or to the respective enterprises the documents specified in Art. 21 of the present Law. When the housing is rented, they should also present an obligation (signed by all adult members of the family) to vacate all living area earlier leased to them from the state-owned or municipal-owned housing reserve</p> | <p>Excessive requirements of law</p> | <p>The incentive for paying bribes in order to obtain the necessary documents</p> | <p>Unnecessary second presentation of the documents</p> | <p>High</p> |
| <p>If necessary, the housing commission under the municipality or the housing commission of the enterprise again inspects the living conditions of the applicant before the allotment of housing and submits its opinion on this case</p> | <p>Excessive requirements of law</p> | <p>Bribes in order to avoid the inspection</p> | <p>Unnecessary second inspection</p> | <p>High</p> |

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| <p>Certain categories of citizens can receive additional living area (a room or additional 10 sq. Meters). Certain categories of citizens can receive an addition of up to 20 sq. meters. The procedure and conditions of allotment of additional living area and the list of categories to whom it can be provided are established by the Russian Federation and Saratov Oblast legislation</p> | <p>Blanket provision</p> | <p>Possibility to obtain additional living space for a bribe</p> | <p>The law does not specify the list of categories of citizens entitled to the additional living area</p> | <p>High</p> |
| <p align="center">REGULATIONS ON ALLOTMENT OF LAND PARCELS FOR DEVELOPMENT OF COMMONLY SPREAD MINERAL RESOURCES AND SOIL RESERVES IN THE TERRITORY OF SARATOV OBLAST</p> | | | | |
| <p>If the territorial limits of the deposit of commonly spread mineral resources exceed the territorial limits of the land parcel allotted in accordance with the license agreement, the deposit developer can file a request and the land parcel can be extended so that to cover all the deposit</p> | <p>Discretionary powers</p> | <p>Possibility of bribes for enlargement of the land parcel; on the contrary, for strict observation of the limits if another developer is interested in it</p> | <p>The law provides for possibility but not obligation to enlarge the land parcel so that it the whole deposit will be included with the territory. However, no preconditions for making the decision about enlargement are specified</p> | <p>Medium</p> |
| <p>The licenses for geological prospecting are granted for the term of up to five years; for extraction of the commonly spread mineral resources are granted for the term of up to 20 years; both for geological prospecting and extraction of mineral resources are granted for the term of up to 25 years</p> | <p>Discretionary powers</p> | <p>Possibility of exaction of rent for granting a license with maximum term</p> | <p>The law prescribes the maximum terms for which the licenses can be granted but nothing is said about the criteria for selection of the specific term. The time range is very great, especially in the second and third cases (20 and 25 years), and it would be logical to provide several shorter time brackets and detail precise conditions for selection of each term in each specific case</p> | <p>High</p> |
| <p>If only one application was filed in the contest, the license for development of the deposit can be granted to this single applicant in accordance with the contest rules</p> | <p>Discretionary powers</p> | <p>Creation of barriers for the competitors of the "friendly" business in order to ensure only its participation in the contest. There is also possibility to exact rent for recognition of the contest validity even if only one application is filed</p> | <p>The only participant of the contest, be it physical or legal person, can be declared or not declared the winner. At the same time, no conditions for making the negative or positive decision are specified</p> | <p>High</p> |

REGULATIONS ON CONVERSION OF RESIDENTIAL BUILDINGS AND ACCOMMODATIONS INTO NON-RESIDENTIAL ONES

The application for permission to convert a residential building or apartment into non-residential accommodation is submitted by the owner or his representative to the regional executive body responsible for housing and utilities. The following documents should be included into the package:

- 1) the application substantiating the grounds for the proposed conversion along with obligation to use the accommodation and equipment in a manner not infringing the rights of other residents of the building (section of the building);
- 2) a document confirming ownership of the building (apartment) and the certificate that it is not under sequester and is not mortgaged;
- 3) a duplicate of the (apartment) technical passport or an excerpt from the latter compiled by the Board of Technical Inventarization and describing the degree of attrition of the basic construction elements;
- 4) opinion of the state sanitary-epidemiological inspection on the possibility to change the functional destination of the building (apartment);
- 5) opinion of the state fire-safety inspection on compliance with the fire-safety standards if the functional destination of the building (apartment) is changed;
- 6) opinion of the respective housing and utilities enterprise servicing the building (apartment) in question;
- 7) opinion of the respective architectural and urban construction department;
- 8) an excerpt from the housing registration book or certificate from the housing and utilities enterprise that the given building (apartment) is vacant;
- 9) on approval of the proposed conversion by the meeting of members of the respective partnership of housing owners or the housing-construction cooperative

Excessive requirements of law

Too great number of documents needed for obtaining the permission (in fact, just for having the matter considered by the authorities) can encourage the applicants to look for "informal" solutions and attempt to "buy" non-compliance with the excessive requirements

The list of documents needed to be submitted along with the application for conversion of residential building (apartment) to non-residential accommodations, includes nine positions. This is a clear case of excessive requirements: the list includes such documents as opinions of the state sanitary-epidemiological inspection, the state fire-safety inspection, architectural and urban construction department and the housing and utilities enterprise servicing the building (apartment) in question

High

LAW ON URBAN CONSTRUCTION (OCTOBER 17, 2001)

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|---|-----------------------------|--|--|---------------|
| <p>The control over construction of realty objects is exercised by the customer (technological supervision), the designer (architectural control), the respective architectural and urban construction inspection and other authorities in accordance with their competence</p> | <p>Discretionary powers</p> | <p>The unnecessary greater number of the controlling authorities will lead to bribery in order to avoid meeting their excessive requirements</p> | <p>The non-exhaustive list of the controlling authorities</p> | <p>High</p> |
| <p>If the customer's intentions contradict the established construction rules and the acts regulating urban construction, the respective local self-government body is authorized to forbid implementation of the customer's plans, propose another course of action or allow the customer to present substantiation of urban construction needs and economic efficiency confirming the necessity of finishing the project in its initial form</p> | <p>Discretionary powers</p> | <p>Possibility to exact rent for the permission to proceed with the initial plans</p> | <p>The local self-government body is authorized to select one of the three possible modes of behavior but the law does not specify the criteria for making the specific decision. Consequently, an interested party can pay bribes for the decision most advantageous to him</p> | <p>High</p> |
| <p>The technological and economic substantiation of the project and the project itself must meet the whole complex of urban construction, social, economic, functional, engineering, technological, fire safety, sanitary-hygienic, ecological, architectural esthetic and other requirements</p> | <p>Discretionary powers</p> | <p>The unlimited number of the requirements will force to pay bribes in order to avoid meeting them</p> | <p>The non-exhaustive list of the requirements to the construction project</p> | <p>Medium</p> |

Analysis of Corruption Potential of Legislative Acts and Regulations of Saratov Oblast

Comments to the Resolution of the Saratov Oblast Duma of January 30, 2001 No. 50-2315 "To Amend the Regulations on Conversion of Residential Buildings and Accommodations into Non-Residential Ones and Conversion of Non-Residential Buildings and Accommodations into Residential Ones in Saratov Oblast".

"The tale of 18 documents and the exceptional cases..."

The new version of the Regulations does not solve the main problem for solution of which it was intended. At the same time, this regulatory act offers the greatest possibilities for the corruption among officials. It is enough to look into the criteria for making the "permit - not to permit" decision. According to paragraph 2 of Point 4, the residential building (apartment) can be converted into non-residential accommodation in the exceptional cases for the sake of:

- better social care and everyday-life services to the population;
- expansion of the taxable base;
- creation of additional jobs.

Neither of those criteria can help to select an applicant who can really justify his request for conversion. Indeed, any business would contribute to the welfare of population and create new jobs. Consequently, the bribe will serve as one of the most important "criteria".

In all, 18 documents are needed for the conversion, and probably one half of them does not just contain information. They are approvals on the part of other authorities but there are no slightest indication as to the criteria and schedule for making those decisions by the housing inspection, sanitary-epidemiological inspection or fire-safety service. The indefinite deadline along with Point 18 of the Regulations (states that the documents should be submitted not less than in six months after they have been compiled) create the actual corruption trap for every applicant. Another corruption trap is the obligation to provide the certified excerpt from the charter of the respective partnership of housing owners (Russian abbreviation: TSZh). Nobody can tell what should be done if the TSZh charter does not authorize such conversions (the only solution would be to amend the charter but it seems hardly possible).

More than that, the greater part of the documents repeats each other because they contain practically the same information. It should be concluded that the requirements of Points 10 to 16 provide the classic administrative hurdles, that is, the rules established in order to exact the administrative rent.

For example, why the rules require consent of the owners of the adjacent accommodations, if the owners of the room(s) planned for conversion must construct or retain a separate exit? The separate exit saves the neighbors from such possible inconveniences as noise, numerous visitors etc. It should be added that the neighbors' consent should be certified by a notary public, and that means additional money, time and effort spent by the applicant.

To sum up, this regulatory act puts the applicant into a strange situation: having made enormous efforts for preparation of all the required documents, he has to wait for a permission which is issued in "exceptional cases" only and in accordance with the extremely nebulous criteria. Consequently, extremely fruitful soil for extortion of

Supplement

bribes is created because the applicant, who had invested so much at the preliminary stage, will do its best to win the final favorable decision.

Why these regulations are needed at all?

A regulatory act restricting the possibility of conversion of the residential housing to non-residential accommodations makes sense in that it alleviates the housing problem. Indeed, increased frequency of such conversions indicates that there is great shortage of office area and free land for construction in the region or city: the businessman would undertake such a desperate (in view of the actually prohibitive nature of the conversion regulations) step only if all other variants have been exhausted. A sound housing and urban construction policy in the region and the realty market self-regulation are the best protective measures against the wave of housing conversions into the offices and other business facilities.

As to the Regulations themselves, we can conclude that their adoption is another proof of the administration's desire to avoid genuine solution of its own problems as well as to earn "some extra money".

Analysis of Corruption Potential of Legislative Acts of Irkutsk Oblast

V.A. Solodov

The research involved 20 legislative acts of Irkutsk Oblast relating to relations between government and the private business in several fields of activities such as environmental protection, industrial safety, state property disposal and placement of state orders etc. The analysis resulted in detection of more than 70 legal provisions which can encourage corruption in government.

According to our diagnostics technique, all corruption-generating provisions were divided into three large groups:

- provisions containing excessive requirements;
- provisions on the officials' discretionary powers ;
- provisions opening the way to the "departmental law-making".

As our analysis shows, the officials' discretionary powers account for the bulk of the corruption-generating provisions (55 provisions) while two other groups are much less significant both as to their number (20 blanket provisions and only 4 provisions with excessive requirements) and significance.

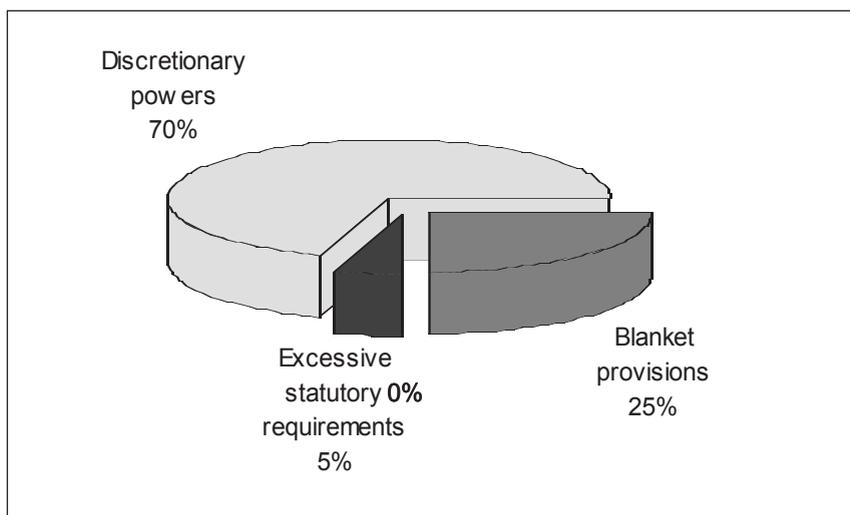


Figure 10. Sources of corruption potential for Irkutsk Oblast laws.

Of course, such a breakdown is caused by the fact that the analysis centered on the legislative acts which for the most part deal with governmental decision-making and prescribe official course of action. However, analysis of sub-legal statutory acts containing various technical requirements and norms (for example, with regard to industrial safety or sanitary conditions) could have shown much greater percentage of the corruption-generating provisions involving officials' discretionary powers.

It should be also noted that legislative technique errors are a very frequent cause of the corruption potential of the laws analyzed. In particular, the typical errors are:

1) incomplete description of the procedures enacted by the specific law (for example, Art. 7, Point 2 of the law on industrial safety states that a workplace can be closed "by decision of the duly authorized body"; however, the administration is left free to decide, which authorities can close the workplaces, on which grounds this can be done and which procedure is to be used);

2) discretionary (non-mandatory) nature of many legal provisions (for example, the state customer **can** put forward additional requirements for contest participants while the contest board **is authorized** to dismiss any contest participant if the latter provides incorrect information etc.).

Several fields of activities seem especially problematic with regard to possible application of the corruption-generating legislative provisions.

1. Acquisition of goods and services for government (the state order).

There is great probability that the situation evolves as follows in the course of placement and implementation of the Oblast state order. The governor, who heads the regional administration and possesses practically unlimited discretionary powers, appoints his representatives to the contest board. The state customers completely control the process of the state orders placement, and they are distributed between a small number of suppliers who are under subservient to the administration and pay "remuneration" to it. The state customers allocate part of the "super-profits" to the governor who ensures statutory support of their activities by approving "comfortable" procedures for the state customer operations. Those gubernatorial rulings create a lot of administrative obstacles sufficient for exclusion of "outsiders" from the profitable state-order business.

2. Privatization of state property.

The law does not regulate such quite important matters as preparation of the prospective plan of privatization, procedure of making specific privatization decisions, contest procedures and the transactions transparency. Consequently, the administration can use "convenient" provisions for creation of additional obstacles and other pre-conditions for exacting the administrative rent. The corruption purposes can be also served by granting or withdrawing the "object of special social and economic importance" status to the state property objects subject to privatization.

3. Investments.

Inclusion of an investment project into the list of especially important projects and subsequent state support of this project is the main tool for possible exaction of the corruption rent in this sphere.

4. Industrial safety.

The insufficiently regulated procedure of the on-the-spot inspections of compliance with the industrial safety standards as well as the right of the unspecified state body to liquidate the workplaces in case of violations actually give the officials free hand in exaction of the corruption incomes.

This short description may convince that, besides radical changes in the government-business relations, there can be immediate "surgical" correction and modification of the legislation in order to decrease the corruption level. Such modifications can include more accurate definition of the procedures and of the officials' powers in several most corruption-generating spheres of life.

Table No. 1. Excessive Requirements in Laws of Irkutsk Oblast

| SOURCE | CONTENTS OF THE NORM | WHAT CAN LEAD TO CORRUPTION? | WHY IT ENCOURAGES CORRUPTION? | CORRUPTION POTENTIAL |
|--|---|---|--|----------------------|
| LAW ON INDUSTRIAL SAFETY IN IRKUTSK OBLAST | | | | |
| Art. 5 | The Oblast executive bodies are authorized to check up knowledge of the industrial safety requirements by the persons responsible for industrial safety as well as initiate the state expertise of the labor conditions and certification of the industrial safety standards at the enterprises | An official can arrive at any enterprise at any moment and begin "knowledge check-up" and inspection of labor conditions | The procedure and schedule of the check-ups remain insufficiently regulated | High |
| LAW ON FIRE SAFETY IN IRKUTSK OBLAST | | | | |
| Art. 23, Point 6 | A special fire-safety regime can be imposed, meaning increased state fire safety control and possible change of the regime of enterprises servicing the everyday needs of the population | The special fire-safety regime provides practically unlimited possibilities to the officials | Nebulously formulated and unlimited powers of the officials under the special fire-safety regime | Low |
| LAW ON REGULATION OF WATER RESOURCES BY THE BODIES OF STATE POWER OF IRKUTSK OBLAST | | | | |
| Art. 4, Point 20; Art. 9 | The administration exercises state control over compliance with the rules of utilization and protection of the natural resources and of other economic activities of the physical and legal persons in the so-called water-protection areas | There are no clearly defined control procedures and their schedules, so the officials can paralyze business operation by repeated check-ups | No clearly prescribed supervisory powers, procedure of check-ups and their schedules | High |
| LAW ON URBAN FORESTS IN IRKUTSK OBLAST | | | | |
| Art. 1 | The law stipulates existence of the two documents of identical contents: so-called lumbering ticket and lumbering permit, both permitting their owner to undertake wood-cutting with sanitary, renovation etc. in the forests in the city territory | More difficult procedure for starting a lumbering project in the urban forests, additional administrative barriers | Unnecessary duplication of the documents | High |

Analytical Table No. 2. Discretionary Powers

| SOURCE | LEGALLY STIPULATED POSSIBILITY OF CHOICE | ARE THERE CRITERIA FOR THE CHOICE? | ORIGIN OF THE DISCRETIONARY POWERS | POSSIBLE FORMS OF CORRUPTION | EXTENT OF CORRUPTION POTENTIAL |
|---|---|------------------------------------|--|--|--------------------------------|
| LAW ON SUPPLY OF GOODS, WORKS AND SERVICES FOR THE STATE NEEDS OF IRKUTSK OBLAST | | | | | |
| Art. 6, Point 4 | The customer sets the deadlines for delivery of goods for the Oblast state needs | No | No criteria according to which the deliveries dates are set | The deadline can be made too close in order to blackmail the supplier; on the other hand, it can be postponed in exchange for a bribe. This is the instrument of manipulation of the suppliers: promotion of "friendly" ones and compromising of "strangers" | High |
| Art. 11, Point 2 | When the contests terms are formulated, the state customer can put forward additional requirements to the contest participants | No | Error of legislative technique | Discretionary (non-mandatory) provision which authorizes the official to choose between two modes of behavior: to put forward additional requirements or refrain from it | High |
| Art. 11, Point 3 | The contest board is authorized to dismiss a contest participant if the latter had provided inaccurate information | No | Error of legislative technique | Discretionary (non-mandatory) provision which authorizes the official to choose between two modes of behavior: to dismiss the perpetrator from the contest or to be lenient | Low |
| Art. 17, Points 1, 2 | The governor is granted wide discretionary powers in appointment of the contest board members and defining the board's powers | No | The concept of the law is based on the idea of the governor's wide powers in the whole process of the state orders placement | No criteria for selection of the contest board members | - |
| Art. 20, Point 1 | The contest board is authorized to make decision about a state-order contest with the fixed number of participants if the specific goods can be obtained only from a limited number of suppliers | No | Error of legislative technique | Discretionary (non-mandatory) provision which authorizes the official to choose between two modes of behavior. Besides, there are no clear definition of "limited number of suppliers" which allows the official to arbitrarily construe this norm and freely select between an open contest and contest with fixed number of participants | - |

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| Art. 21, Point 1 | The contest board has wide powers with regard to placement of the order without a contest | No | | | Discretionary (non-mandatory) provision which authorizes the official to choose between two modes of behavior. The list of goods and services which can be purchased by the Oblast government without a contest has accidental character, so the administration retains comfortable niches for acting at its own discretion, that is, for corruption behavior | High |
| Art. 22, Point 2 | When the state order is placed through the customer's request for bids, the customer's first step is to compile the list of the prospective bidders | No | | No criteria for inclusion of possible suppliers into the prospective bidders list. No indication if ALL or several suppliers should be included | There is great probability that suppliers are included into the preliminary list for a certain remuneration (just as private businesses are listed in phone directories) | - |
| Art. 23 | The governor is authorized to approve a list of goods production of which must be shared in certain proportions by businesses or organizations possessing special privileges (small businesses, workshops employing handicapped persons or workshops at penitentiaries) | No | | The concept of the law is based on the idea of the governor's wide powers in the whole process of the state orders placement | No criteria for inclusion of specific goods into the list of goods production of which requires compliance with the quotas stipulated by the law. The goods can be included into the list for remuneration | High |
| Art. 27, Point 4 | Information from the state orders register is disclosed to any persons by their request, free or for payment | No | | No criteria for free or paid disclosure of information as well as no description of the procedure for determining the amount of payment for such requests | Discretionary (non-mandatory) provision which authorizes the official to choose between two modes of behavior: disclose information free of charge or for payment | High |
| Art. 28, Point 1 | Making advance payments and suspension of the budget financing in case of violations are not obligatory for the administration | No | | Legislative technique error | Discretionary (non-mandatory) provision which authorizes the official to choose between different modes of behavior | Low |
| Art. 30, Point 2 | The Oblast administration guarantees advance payment to the producer - not less than 50 percent of the total contract amount | No | | Legislative technique error | Only the lower bracket of the advance payment is established | Low |

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|---|---|----|--|---|-----|
| Art. 30, Point 4 | The state contract for delivery of plant cultivation products is signed certain time in advance so that the contractor would have enough time for preparations | No | Legislative technique error | No clear definition of "certain time in advance" which would reserve enough time for preparations. Understanding of this norm by the authorities and the suppliers can be quite different | Low |
| Art. 32, Point 2 | The administration can change the deadline for payment of the taxes and dues to the Oblast budget by the suppliers of goods for the state needs | No | Legislative technique error | No clear description of the procedure for changing the deadline. The provision is discretionary and non-mandatory | Low |
| Art. 32, Point 3 | If the supplier fulfills a state order especially important for the socioeconomic development of the Oblast, he can receive an investment tax credit on taxes paid to the Oblast budget. The governor is empowered to decide if the order is especially important | No | Legislative technique error: The concept of the law is based on the idea of the governor's wide powers in the whole process of the state orders placement | No clear definition of "especially important state order". In the absence of criteria for inclusion of the specific orders into the "especially important" list the governor acts at his own discretion | Low |
| Art. 33, Point 1 | The honor title "Supplier of goods for the Oblast state needs" is awarded by the governor | No | The concept of the law is based on the idea of the governor's wide powers in the whole process of the state orders placement | No grounds for award of the title are listed, it can be a means of encouragement for the "loyal" suppliers or a concealed payment to the administration | Low |
| LAW ON REPRESENTATION OF INTERESTS OF IRKUTSK OBLAST IN THE MANAGEMENT BODIES OF ECONOMIC ENTITIES STOCKS (SHARES) OF WHICH COMPRISE THE OBLAST'S STATE PROPERTY | | | | | |
| Art. 4, Point 1 | In certain cases the governor can nominate additional representatives of the Oblast government | No | The concept of the law is based on the governor's wide powers | The governor is able to circumvent the standard procedure (nomination through the Oblast Legislative Assembly) and promote his own nominees | Low |
| LAW ON THE OBLAST STATE INVESTMENT POLICY AND ENCOURAGEMENT OF THE INVESTMENT ACTIVITIES | | | | | |
| Art. 8, Point 2 | The priorities of the Oblast target investment program are determined by the governor | No | The concept of the law is based on the governor's wide powers | Assignment of the priority status to a certain field of activities can contribute to mobilization of investments. This is an obligatory condition for obtaining state support (Art. 10, Point 3) | Low |

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| Art. 10 | The state support is provided by the Oblast government only to those investors whose projects are included into the List of first-priority investment projects | No | Legislative technique error | No definite procedure for inclusion of specific projects into the List. This allows the officials to act on their own | Low |
| Art. 13 | One of the conditions for the state support is budgetary and social efficiency of the given investment project | No | Legislative technique error | No clear definition of the "budgetary and social efficiency" along with the nebulous criteria for making decisions about state support. This opens the way for arbitrary decisions | Low |
| Art. 15, Point 2 | Amount of discounts on the payments for rental of state property is determined by the contract | No | The concept of the law | Unlimited discretionary powers (nominally for the sake of maximum expediency in the given circumstances) create wide possibilities for corruption deals with the officials | High |
| Art. 18, Point 1 | The law prescribes establishment of a consolidated database on the Russian and foreign investors as well as other organizations making up the investment infrastructure | No | Legislative technique error | In the absence of clear-cut criteria for inclusion into the database it can be turned into an advertising medium the entry into which will be simply bought | Low |
| LAW ON QUOTAS OF JOBS FOR HANDICAPPED PERSONS IN IRKUTSK OBLAST | | | | | |
| Art. 1, Point 3 | The members of the quota-setting commission are appointed by the governor, and he approves the commission's rules | No | The concept of the law | The governor's freedom of action in this respect is not limited and he can blackmail the businesses through manipulation of the quotas | Low |
| LAW ON DELEGATION OF THE OBLAST STATE POWERS IN LICENSING OF THE RETAIL SALES OF ALCOHOL-CONTAINING PRODUCTS TO THE LOCAL SELF-GOVERNMENT BODIES | | | | | |
| Art. 6, Point 2 | The licenses for retail trade of alcohol-containing products are registered after presentation of the original license and, if necessary, verification of its parameters and inspection of the work conditions of the respective business and its compliance with the safety standards | | Legislative technique error | No criteria for the verification, so the officials can act at their own discretion | Low |

LAW ON INDUSTRIAL SAFETY IN IRKUTSK OBLAST

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|---------------------|--|----|-----------------------------|---|-----|
| Art. 4, Point 1) | The Legislative Assembly of Irkutsk Oblast is authorized to grant tax exemptions in order to stimulate creation of safe labor conditions, development and introduction of safe equipment and technologies as well as of means of collective and individual protection of the personnel | No | Legislative technique error | No criteria for granting tax exemptions are established | Low |
| Art. 7, Point 2 | A workplace can be closed by decision of a "competent authority" | No | Legislative technique error | It is not specified which body is authorized to close the workplaces: this is probably the administration which carries on the inspections (Art. 5). Procedure and conditions of the liquidation are also not specified | Low |
| Art. 9, Point 3 | The number of the industrial safety commission members is approved by the governor who also nominates the members themselves | No | The concept of the law | The governor has the unlimited influence on the commission's activities and, consequently, can order its inspections when and where he needs them | Low |

LAW ON THE LIST OF STATE PROPERTY OBJECTS WHICH IS NOT SUBJECT TO ALIENATION

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|--------------------|--|----|-----------------------------|---|------|
| Art. 3, Point 3 | The list of state property objects not subject to alienation can include objects of special social or economic importance for the Oblast | No | Legislative technique error | No clear definition of "special social or economic importance". No indication which state body is authorized to assign such status, include the objects into the list or exclude from it, probably under pressure form certain interested parties | High |
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LAW ON FIRE SAFETY IN IRKUTSK OBLAST

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| Art. 7, Point 1 | The list of Oblast-owned state unitary enterprises, at which the command staffs and units of the departmental fire-safety service are established, is approved by the governor | No | The concept of the law | No criteria for establishment of the fire-safety units at the enterprises: the governor makes decisions at his own discretion, having in mind only the formal statutory requirements while the enterprises themselves can be not interested in maintenance of such units | Low |
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| Art. 14, Point 3 | The state contract for supply of goods and services and performance of work in the field of fire safety can be signed without an open contest if there is urgent need in such goods, work and services caused by imposition of the special fire-safety regime as well as in other cases specified by the federal and Oblast legislation | No | The concept of the law | No clear definition of "urgent need" makes it possible for the officials to wait for the beginning of the "special fire hazard period" (imposed each Fall) and then sign contracts with their "favorite" suppliers | High |
| LAW ON THE GENERAL PRINCIPLES OF MANAGEMENT OF THE IRKUTSK OBLAST STATE PROPERTY | | | | | |
| Art. 9, Point 3 | Restrictions on free-of-charge alienation of the state property are not formulated in sufficiently clear language. For example, state property objects can be transferred free of charge to any legal person "for liquidation of the natural disasters consequences" | No | Legislative technique error | Insufficiently clear description of the free-of-charge alienation procedure along with insufficient restrictions of the circle of potential receivers of the state property objects | High |
| Art. 9, Point 5 | The governor is authorized, in accordance with the current legislation, to restrict the right of the departments managing the state property independently to enter into transactions with the Oblast state property, the restrictions to be based on the value of the objects proposed for the transactions | No | The concept of the law | The governor can at his discretion put aside the officially authorized state bodies from management of the most valuable state property objects, thus reserving control over them to himself | Low |
| LAW ON OBLAST STATE SUPPORT OF AGRICULTURAL CROPS INSURANCE | | | | | |
| Art. 3, Point 1 | Agricultural producers can receive subsidies for payment of up to 50 percent of the total amount of the insurance contract | No | Legislative technique error | Only the upper limit of the subsidy is established, thus the officials are left free to get remuneration for selection of a higher rate within the 50-percent bracket | Low |

LAW ON THE STATE REGULATION OF THE AGROINDUSTRIAL PRODUCTION IN IRKUTSK OBLAST

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| Art. 3, Point 4 | Funds from the Oblast budget are allocated for support of investment activities including purchase of new machinery and equipment, elite seeds, pedigree cattle and flock and other components of the advanced technologies, as well as for other kinds of subsidies and reimbursements | No | Legislative technique error | The law does not describe the procedure of the contests for obtaining the budget financing, There are no criteria for distribution of those funds, and a clear definition of "other components of advanced technologies", that is, the budget funds can be spent for support of virtually everything | Low |
| Art. 8, Point 2 | Acquisition interventions at the agricultural market are undertaken when the market prices of the agricultural products, raw materials and food sink below the minimum level, or when the agricultural producers are unable to sell the agricultural products, raw materials and food because of the decreased demand | No | Legislative technique error | No procedure for determination of the minimum level of prices. No clear definition of the second condition for the intervention: the producers can be unable to sell their goods just because of its poor quality or excessive price and not because low demand | Low |
| Art. 8, Point 4 | The sources and procedure of financing, the amount of the acquisition interventions, the level of prices for the agricultural products, raw materials and food are determined by the governor | No | The concept of the law | There is no explicit regulation of this matter; no criteria and requirements to the administration's course of action. Thus it can act entirely at its own discretion | High |
| Art. 9, Point 1 | The administration authorizes legal persons to carry on leasing operations in the agroindustrial sector in cooperation with the state. It also approves the list of property which can be transferred on the leasing basis, rental rates, sources of credits and other terms of the leasing transactions | No | The concept of the law | The administration actually acts at its own discretion in this field, that is, establishes rules for itself and is accountable to nobody. Consequently, the corruption potential in the leasing business is practically unlimited, ranging from monopolization of this business for "friendly" companies only, to establishment of excessive rental rates | High |
| Art. 10, Point 3 | The Oblast administration establishes the procedure for determination of the guaranteed level of prices paid for the agricultural products, raw materials and food supplied for the Oblast state needs | No | The concept of the law | The administration determines its own course of action in the process of the prices determination which is the ideal environment for corruption | Low |

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| Art. 10, Point 4 | The Oblast administration establishes the ratio between the prices of the purchased raw materials and prices of the finished products made of those raw materials | No | The concept of the law | No clear-cut criteria for determination of the prices ratio which can be changed under pressure of certain interested parties | Low |
| LAW ON FREE-OF-CHARGE TRANSFER OF LAND PARCELS TO OWNERSHIP OF CITIZENS | | | | | |
| Art. 2, Point 1 | The land parcels are transferred free of charge to all citizens for a "peasant household" (farm), "personal auxiliary household", a garden or vegetable garden, construction of a summer house ("dacha") and animal husbandry | No | Legislative technique error | No regulation of the procedure of free-of-charge transfer of the land parcels, priority of the transfers and location of the parcels | Low |
| LAW ON RATES OF FOREST TAXES AND RENT PAYMENTS FOR UTILIZATION OF THE FOREST PARCELS IN THE TERRITORY OF IRKUTSK OBLAST | | | | | |
| Art. 1, Point 1 | Distribution of the forests between the forest-tax rate categories is effected by the Oblast administration on recommendations of the regional office of the federal forestry agency | No | Legislative technique error | There are no sufficiently clear criteria for inclusion of forests into a certain forest-tax rate category. Under the pressure from the interested parties the specific parcel can be classed in a lower category | Low |
| Art. 1, Point 2 | There is an ambiguous definition of the situations when the tax rates with "2" multiplier are not applied. In particular, they include allotment of forest parcels to "organizations located in the given territory" and "population resident in the given territory". Loss of taxes because of such non-application cannot exceed limits approved by the governor's ruling | No | Legislative technique error | No clear definition of the organization and population belonging to the given territory, so the official can choose between two modes of behavior. Besides, an additional loophole is rooted in the provision about the maximum-loss limits established by the governor: on the other hand, the interested official can at any moment declare that the limit has been exhausted and no more exemption rates are allowed; on the other hand, the governor can extend the limits as he sees fit | Low |
| Art. 2, Point 1 | The rental rates for the forest parcels allotted for lumbering purposes cannot be lower than the forest-tax rates | No | Legislative technique error | Only the lower tax bracket is established | Low |

| LAW ON REGULATION OF WATER RESOURCES BY THE BODIES OF STATE POWER OF IRKUTSK OBLAST | | | | | |
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| Art. 4, Point 14, 22 | The administration, by consent of the duly authorized state bodies and in exceptional cases, can permit utilization of water resources which are reserved for health care purposes, and of subterranean waters | No | Legislative technique error | No procedures and criteria for permitting utilization of medically important water resources. No "exceptional cases" are explicitly cited | High |
| Art. 4, Point 19 | The administration establishes the rules for utilization of the mineral and other resources extracted in the course of work at the natural water reservoirs | No | The concept of the law | Possibility of "departmental law-making" in this field leaves the way open for imposition of additional bureaucratic barriers | Low |
| Art. 4, Point 25 | The administration approves the list of natural water reservoirs reserved for conservation and reproduction of fish as well as for fishing | No | The concept of the law | Unlimited possibility of corruption pressure on the fishing enterprises | Low |
| Art. 4, Point 26 | The administration, in cooperation with the specially authorized state body, allots natural water reservoirs to physical and legal persons | No | The concept of the law | The administration can reach agreement with the profile executive branch department and then manage the water resources at its own discretion because other specific procedures are not prescribed by the law | Low |
| LAW ON URBAN FORESTS IN IRKUTSK OBLAST | | | | | |
| Art. 7 | The respective representative bodies can, within the scope of their competence, grant tax exemptions and other benefits to the organizations established for the purposes of urban forests cultivation | No | The concept of the law | Unlimited discretionary powers, nominally for the sake of expediency in all possible circumstances | High |
| Art. 9 | The respective local self-government bodies allot parcels of urban forests for free-of-charge and short-term use provided the citizens will continue to enjoy free access to those parcels | No | The concept of the law | The procedure of the parcels allotment is not specified | High |
| Art. 10 | The regional office of the federal forestry agency determines the minimum area of the urban forests requiring forest cultivation as well as the rules and techniques of such forestry work and the list of the accompanying documentation | No | The concept of the law | No criteria for determination of the minimum area, and the organization responsible for the given forest area can solicit for increase of this minimum, in order to avoid the "unnecessary" forestry expenses. | High |

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| Art. 15 | The local self-government bodies determine, in accordance with the established forestry standards, the limits for non-lumbering ("indirect") utilization, recreational usage and other kinds of utilization of the urban forests | No | The concept of the law | The arbitrary determination of the "indirect utilization limits" offers wide range of possibilities for application of discretionary powers | Low |
| Art. 16 | Forests utilization leading to deterioration of the urban forests condition and negative impact on the environment, undermining the recreational functions of the urban forests and violating the rights and legitimate interests of the other persons, is forbidden | No | Legislative technique error | This too general language offers too many possibilities of arbitrary decisions on the part of administrations. Indeed, practically any forest utilization project can be seen as deteriorating the forests conditions, and vice versa | Low |
| Art. 22 | The local self-government bodies and the forestry agencies determine the volume of work for reproduction of the urban forests, its methods and schedule. The criteria for such determination are: the necessity to maintain stable sanitary-recreational condition of the urban forests; observation of the forest cultivation standards; and keeping pace with the changing condition of the urban forests. The procedure for such decision-making is also approved by the local self-government bodies (Art. 23) | No | Legislative technique error | Insufficiently clear criteria for determination of the volume of work and their schedule make it possible to determine them arbitrarily; in particular, they can be influenced by the interested parties' "closeness" to the officials. Another problem is combination of the statutory and law-enforcing powers with one and the same authority (the local self-government body) | Low |
| Art. 23 | Reproduction of the urban forests, storage of forest tree seeds and cultivation of saplings are the responsibility of the agencies managing the urban forests as well as by the forests users | No | Legislative technique error | It is not stipulated when the forest reproduction work should be handled by the agencies managing the urban forests as well as by forest users. Nothing is said about their share of this work. Consequently, application of the "double standards" by the officials is possible | Low |

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| Art. 24 | If forests utilization results in the negative impact on the urban forests, the respective local self-government body or the department managing the urban forests can suspend such utilization until the violations are corrected | No | Legislative technique error | No clear definition of "negative impact" so practically any forest utilization project can be suspended under this pretext | High |
| Art. 10 | Within the scope of its competence, the administration establishes the regional hunting quotas and standards; imposes restrictions and bans with regard to certain wild species for the sake of their protection and reproduction | No | The concept of the law | No criteria for imposition of quotas and restrictions which can serve as an incentive for corruption behavior of the hunting enterprises' managers | Low |

Analytical Table No. 3. Blanket Provisions

| SOURCE | CONTENTS OF THE BLANKET PROVISION | WHAT IS THE CORRUPTION POSSIBILITY? | EXTENT OF THE CORRUPTION POTENTIAL |
|--|---|--|------------------------------------|
| LAW ON SUPPLY OF GOODS, WORKS AND SERVICES FOR THE STATE NEEDS OF IRKUTSK OBLAST | | | |
| Art. 6, Points 1, 2 | The procedure of the Oblast administration's actions as the state customer and of transfer of its respective functions to other organizations are determined by a ruling issued by the governor | Adoption of a sub-legal regulatory act allowing preferential treatment of the "friendly" contractors | Medium |
| Art. 17, Point 2 | Powers of the contest board are determined by the governor | Adoption of a sub-legal regulatory act on the powers of the contest boards which recognize the contest winner | Low |
| Art. 33, Point 9 | Procedure of awarding, confirmation and deprivation of the honor title "Supplier of goods for the Oblast state needs" is approved by the governor | Adoption of a sub-legal regulatory act allowing encouragement of certain suppliers at the administration's own discretion | Low |
| LAW ON REPRESENTATION OF IRKUTSK OBLAST INTERESTS IN THE MANAGEMENT BODIES OF ECONOMIC ENTITIES, STOCKS (SHARES) OF WHICH ARE IN STATE PROPERTY OF IRKUTSK OBLAST | | | |
| Art. 4, п 1 | The list of nominees to the positions of the Oblast representatives in boards of directors and auditing commissions of joint-stock companies is formed by the Oblast administration according to procedure approved by the governor | The administration reserves the right to control the decision-making process in this field thus making it possible to preserve and expand its powers which would eventually lead to appointment of the "right people" in exchange for remuneration | Low |
| Art. 6 | The first-priorities list of the investment activities is not exhaustive | Additional fields of activities can be included into the first-priorities list | Low |
| Art. 8, п.2 | The procedure of development of the target investments program is approved by the governor | The respective sub-legal regulatory act can provide means of influence on the process of the investments program preparation, beneficial for certain interest groups | Low |
| Art. 10, Point 3 | The procedure of compilation and updating the list of the first-priority investment projects is approved by the governor | The respective sub-legal regulatory act can provide the "right" means of influence on the preparation of the investments program, beneficial for certain interest groups | Low |
| Art. 15, Point 2 | The procedure of signing contracts on preferential lease or free-of-charge use of state property is approved by the governor | The respective sub-legal regulatory act can provide the "right" means of influence on the preparation of the investments program, beneficial for certain interest groups | Low |

| LAW ON QUOTAS OF JOBS FOR HANDICAPPED PERSONS IN IRKUTSK OBLAST | | |
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| Art. 4, Point 4 | The procedure of making the obligatory payments and control over their collection is established by a ruling issued by the governor | The respective sub-legal regulatory act can provide the "right" means of influence on the preparation of the investments program, beneficial for certain interest groups |
| LAW ON DELEGATION OF THE OBLAST STATE POWERS IN LICENSING OF THE RETAIL SALES OF ALCOHOL-CONTAINING PRODUCTS TO THE LOCAL SELF-GOVERNMENT BODIES | | |
| Art. 6, Point 2 | The registration can be withheld in accordance and on the grounds prescribed by the regulatory acts of the Russian Federation on licensing in the respective field of activities | Possibility of "departmental law-making" |
| Art. 5, 6 | The bodies of executive power and local self-government can exercise other powers and undertake other actions besides those stipulated by the present law | The officials retain possibility to increase their own powers |
| Art. 9 п.2 | The industrial safety commission is functioning according to the rules approved by the governor | Possibility of "departmental law-making" |
| LAW ON PRIVATIZATION OF THE OBLAST STATE PROPERTY | | |
| Art. 2, Point 2 | The Oblast administration approves the procedure of the most important undertakings such as development of the prospective development plan, privatization decisions and contests, transparency measures. Besides, the administration reserves powers in accordance with the federal legislation, laws and other regulatory acts of the Oblast" | Unlimited possibilities for "departmental law-making" resulting in expansion of the authorities' powers. Eventually, the whole privatization process can be handled on the basis of the maximum profitability to the officials |
| LAW ON THE GENERAL PRINCIPLES OF MANAGEMENT OF THE IRKUTSK OBLAST STATE PROPERTY | | |
| Art. 8 | The powers of the Governor and the administration are nebulous. In particular, it is provided that they exercise powers prescribed by the federal legislation, the Irkutsk Oblast Charter, the present Law and other Oblast laws" | The reference provisions opens the way for expansion of the officials' prerogatives |
| Art. 9, Point 2 | The decisions on alienation (possibility of alienation) of the Oblast state property objects are made by the governor. The procedure of alienation of the Oblast state property objects are established by Oblast legislation and regulatory acts issued by the regional administration in accordance with the federal legislation and the present law | The law does not specify the procedure for making the vital decisions in the field of the state property disposal |

| LAW ON OBLAST STATE SUPPORT OF AGRICULTURAL CROPS INSURANCE | | | |
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| Art. 3, Point 3 | The subsidies to cover part of the insurance payments (according to the crops insurance contracts) are paid to the agricultural producers from the Oblast budget in accordance with the rules approved by the governor | Possibility of "departmental law-making" | Low |
| LAW ON THE STATE REGULATION OF THE AGROINDUSTRIAL PRODUCTION IN IRKUTSK OBLAST | | | |
| Art. 2, Point 1 | Several fields of the state regulation are explicitly mentioned, however, there is a reference to "other fields as defined by the Oblast laws and other regulatory acts" | The officials thus get unlimited possibility to interfere with operation of the agricultural businesses through adoption of additional sub-legal regulatory acts | High |
| Art. 3, Point 4 | The specific fields and respective amounts of financing are determined in the Oblast budget, other Oblast laws and regulatory acts. The rules of budgetary financing of the agroindustrial sector are approved by the governor | The most important procedures and decisions are left without regulation in the law, so that they could be regulated by sub-legal acts | Low |
| Art. 3, Point 8 | Industrial enterprises, banks, insurance and investment companies investing into agriculture can, in accordance with the established procedure, receive tax exemptions covering taxes paid to the regional and municipal budgets | It is not specified where the "established procedure" is prescribed | High |
| Art. 5 | The procedure of preparation, approval and financing of the Oblast target programs of development and support of the agroindustrial sector is established by "laws and other regulatory acts of the Oblast" | Possibility of "departmental law-making" | Low |
| Art. 7 | The specific procedure of placement of mortgages is prescribed in regulations approved by the governor | Possibility of "departmental law-making" | Low |
| Art. 8, Point 1 | The Regulations on the Regional Food Fund are approved by the governor | Possibility of "departmental law-making" | Low |
| LAW ON REGULATION OF WATER RESOURCES BY THE BODIES OF STATE POWER OF IRKUTSK OBLAST | | | |
| Art. 4, Point 27 | The administration exercises other powers in the field of water resources regulation not referred to the competence of the Russian Federation | Any powers except those referred to the federal competence can be seen by the administration as automatically included into its competence, even without formal legalization | Low |
| Art. 10 | The rules of utilization of the natural water reservoirs for motor-boat shipping and yachting and the rules of life protection and rescue at the natural water reservoirs are approved by the governor | Possibility of "departmental law-making" | Low |

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| Art. 7, 8, 9 | The bodies of legislative and executive power and local self-government bodies exercise "other powers granted to them in accordance with the current legislation" | Possibility to expand the scope of competence | - |
| Art. 9 | The local self-government bodies establish the rules of land utilization and construction in the urban territories with forests and the rules of the urban forests utilization for purposes other than lumbering (research work, sports and cultural-recreational purposes) | This regimentation of the matters related to the forests utilization can lead to imposition of additional bureaucratic hurdles | Low |
| Art. 19 | The local self-government bodies establish the rules for allotment of the forest parcels for purposes other than lumbering | Possibility of additional bureaucratic hurdles through enactment of sub-legal regulatory acts | Low |
| LAW ON HUNTING IN IRKUTSK OBLAST | | | |
| Art. 10, Point 2 | The Oblast administration and its duly authorized profile departments establish the hunting rules of the Oblast | | Low |
| Art. 16 | The administration establishes the procedure of contests for distribution of hunting quotas | The administration assumes both statutory and law-enforcing functions | Low |
| Art. 7 | The governor approves the procedure for the Oblast administration's participation in organization and implementation of the state protection of clean air | Possibility of stiffer bureaucratic hurdles through enactment of sub-legal regulatory acts | Low |