The Law Must Be Advantageous to Foreigners

INTERVIEW WITH OLEG MIRONOV

Demokratizatsiya: Oleg Orestovich, to continue your interview which we published in a previous issue of Demokratizatsiya, I would like to ask you a question about something you’ve been working on—the law relating to foreign investors. What does this law mean to you?

Mironov: Yes, the Duma passed the law on foreign investors. I traveled to the U.S. with a group of deputies to make contact with American politicians and businessmen. We wanted to check our conception of this law by comparing it to the corresponding American laws, in order to make it as useful as possible for Russia. In the first place, its purpose is to benefit Russia by protecting national interests and placing definite barriers for foreign investors in those spheres which touch on questions of national security, the sovereignty of Russia, and her foreign interests. On the other hand, this law must also benefit those who want to put money into Russia. It must be understandable and advantageous to foreign investors. Thus, the law sets forth a special “national” policy for them. Namely, from now on foreign investors will pay the same taxes, enjoy the same opportunities, and be subject to the same restrictions as all Russian entrepreneurs.

At the same time, this law provides marvelous opportunities for foreign investors who act in accordance with Russia’s interests. We understand perfectly that not a single foreigner will invest his money if he is not going to profit from it. This is why the law must be advantageous for him.

Demokratizatsiya: May a foreign entrepreneur turn to the Russian court if something criminal or illegal happens unexpectedly to his investment? Realistically, can the Russian court protect the interests of the foreign businessman? Will it?

Mironov: In this law there is a full procedure of defense for the foreign investor’s interests. That includes the Russian courts—in that order, the supreme court and the higher court of Arbitration—and also the arbitration courts and

Oleg Mironov is co-chairman of the Committee for Legislative and Judicial Reform of the State Duma of the Russian Federation. This interview was conducted in summer 1997 in Moscow by Demokratizatsiya executive editor Nikolai Zlobin.
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international instances. From the standpoint of justice, the system for the protection of interests is of relatively high quality. Nonetheless, American politicians and businessmen have said that even if a court decision is favorable, it is almost impossible to carry it out. This problem is not only one of foreign investors but even all throughout Russia. It is possible to obtain a court decision that money, property, or land is owing to you, but to actually collect this is impossible. You have to press for the execution of judicial decisions. For this reason, the State Duma passed this law. The Federation Council already supported it. Now very strict rules are in place so that every judicial ruling will be carried out. This system will be created by judicial bailiffs with plenary powers and great opportunities. Now, I am sure, business will proceed much more decisively.

I would also like to say here that Western, especially American, mass media—which apparently is paid by those who are against investing money in the Russian economy—deliberately exaggerate our situation. They portray Russia as some kind of mafia country plagued with conflicts and collapse; where all officials are corrupt; a place where you can’t do anything without bribery. It is absolutely necessary to dispel this dark, gloomy picture as soon as possible, a picture that has nothing to do with reality. Our attitude toward foreigners is very benevolent, both those who would like to get profits and those who want to help Russia. Americans need to know about this.

Demokratizatsiya: That is, the federal law?

Mironov: Yes, and it is absolutely for all subjects of the Russian Federation. After my stay in America I was encouraged even more in the idea of the necessity of learning from the experience of other countries, especially those that have a high level of development. But it is impossible to mechanically copy their experience and transfer it to Russian soil. We need to adapt it to our own historical, national, and cultural peculiarities. For this reason, as I said to the Americans, in passing this law on foreign investors we must greatly alter our former national legislation.

However, we have to come to legal understanding, to a unity of terms in Russian and American laws. These processes must be regulated by the norms of international justice, for between Russia and America there are other countries that will take part in the process of investing. And this process will include interstate and intergovernment agreements. That is why the standards of international justice should not contradict either the norms of the constitution or the laws, and these standards should be united in contracting agreements. Otherwise, difficulties will arise in ratifying such agreements.

In that way, foreign investing in Russia will be regulated by several levels of laws. Certain questions, however, will need to be referred to the subjects of the federation. We need to interest them in the competition of investors that goes on between the states in America. We need to arouse their curiosity so that they also will struggle for investment and offer interesting opportunities for both kinds of investors, Russian or foreign. If the federation’s subjects are against the investing policy, then our law is destined to failure, because any part of our
Russian territory is at the same time the property of one or another of the federation’s citizens. Therefore, our plan will be like this: subjects of the federation, federal laws, international laws, agreements between governments, and intergovernmental equality.

Demokratizatsiya: How are guarantees for authors’ rights specified in this law? How are trademarks and company symbols protected? It’s no secret that in Russia, it is easy to buy a forged product without knowing that it is a forgery.

Mironov: In the law it is specifically stated that no kind of nationalization can be carried out. In the event of conflict, a property owner must quickly and without bureaucratic procedures receive everything that was taken away from him. This is in accordance with international law. Concerning forgery of trademarks, that is something that the whole world is fighting with. It is a normal occurrence in the Russian market that trademarks and names of popular companies are secretly appropriated by someone.

Soon we will pass the third part of the civil code, including the hereditary and copyright law. It will protect the rights of authors and will actively fight misappropriation of trademarks. No one is interested in buying counterfeited products. Quality is lowered and the consumer suffers. This problem is pervasive.

Demokratizatsiya: I see that you have Demokratizatsiya on your table. What do you think of our journal?

Mironov: The journal is fantastic, simply wonderful. I think that any Russian parliamentarian would be delighted to be published in this journal. We are for partnership with America!