

Corruption in Russia

SUMMARY

Corruption in Russia is deeply entrenched and permeates all levels of Russian society. It causes significant financial loss to the Russian economy in terms of gross domestic product and considerably lowers the country's attractiveness as a foreign direct investment destination. Despite a recent positive trend, as evidenced by various international indicators measuring the perception of corruption, Russia continues to lag far behind its G8 and G20 peers in the rankings.

The Russian leadership's decision to step up its efforts to curb endemic corruption in Russia was prompted by its ambition to facilitate Russia's further integration into the global economy, by obligations under international anti-corruption instruments and by commitments made within the G8 and G20.

In 2008, then-President Dmitri Medvedev signed an anti-corruption framework into law, and this has been repeatedly broadened and tightened. However, the fight against corruption has so far not made much headway. Law enforcement has remained ineffective and selective, allowing for impunity, notably among high-ranking officials, and even for politically motivated trials against anti-corruption whistleblowers such as the prominent lawyers Sergei Magnitsky and Alexei Navalny.

In connection with the trials initiated against the latter, the European Parliament expressed its deepest concern and recommended that the Council urge the Russian authorities to put an end to widespread corruption and to reform the judiciary in line with international standards.



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The scale of corruption and the drive to fight it in a global context

Individual, business and political corruption is deeply ingrained in Russian society.¹ It causes significant financial loss to the Russian economy in terms of gross domestic product (GDP)² and forces foreign investors to make difficult choices between the need to operate in this environment and to comply with the law (both in Russia and at home).³

Since 2008 the Russian Government has adopted a wide range of anti-corruption measures. These measures have primarily been aimed at aligning Russian legislation with international anti-corruption standards.

They have also reflected the anti-corruption momentum generated within the G8 ([2003 Action Plan](#), 2006 Action Plan, [Fighting High-level Corruption](#) and, most recently, the 2013 commitment to [raise global transparency standards](#) notably in extractive industries in the fight against corruption) and the G20 (2010 [Anti-Corruption Action Plan/ G20 Anti-corruption Working Group Progress Report 2013](#)).

Finally, they reveal the Russian Government's interest in [reputational change](#), as it has concerns about declining international competitiveness and the attractiveness of the Russian economy for foreign investors, due to rampant corruption adversely affecting the business climate in Russia.⁴

At stake are Russia's economic growth prospects and its further integration into the global economy, as well as other key aspects of a modern society such as the rule of law and human rights. Systemic corruption in Russia also has wider implications for Russia's trading partners such as the European Union, as corrupt business practices along with their distorting effects on competition are exported by Russian companies operating on global markets.⁵ Furthermore, a significant share of the financial resources obtained through corrupt practices is known to be exported and introduced into international capital flows.⁶

The international anti-corruption framework

International legal instruments against corruption have been developed by international and regional organisations such as the United Nations, the Organisation for Economic Cooperation and Development (OECD) and the Council of Europe.

United Nations

The [United Nations Convention Against Corruption](#) (UNCAC), adopted through UNGA resolution 58/4 of 31 October 2003, is the only legally binding universal anti-corruption instrument. It entered into force in 2005. The Convention's far-reaching scope is considered a [unique tool](#) to tackle a global problem. The UNCAC regulates five main

The scale of Russian corruption in the international context becomes obvious when comparing Russia's ranking in the Transparency International [Corruption Perception Index](#) (CPI) with those of the seven other G8 countries.

Despite a notable upward move from its 2010 CPI ranking of 154 (out of 178 countries) to 127 in 2013 (out of 175 countries), this score nonetheless contrasts sharply with the ranking of Russia's G8 peers, Canada: 6, Germany: 12, UK: 14, Japan: 18, US: 19, France: 22, and Italy: 69.

Russia also scores the worst 2013 CPI ranking among the G20 which includes the BRICS (Brazil: 72, India: 94, China: 80, and South Africa: 72). It is on a par with Azerbaijan, Comoros, Lebanon, Madagascar, Mali, Nicaragua and Pakistan.

areas: prevention, criminalisation and law-enforcement measures, international cooperation, asset recovery, and technical assistance and information exchange. It also covers many different forms of corruption, such as trading in influence, abuse of power, as well as several acts of corruption in the private sector.

According to the terms of reference of the Mechanism for the Review of Implementation of the UNCAC [adopted](#) by the Conference of States Parties to the UNCAC in November 2009, both governmental self-assessment of the convention's implementation and an assessment carried out by an appropriate NGO are required.

A 2013 Transparency International review of the [implementation](#) of selected articles of the UNCAC in Russia concluded that the Russian legal framework is partially compliant with the UNCAC, but that some provisions, such as Article 20 on illicit enrichment, Article 26 on the liability of legal persons and Article 33 on the protection of whistle-blowers, still lack implementation.

At a meeting of the Conference of States Parties to the UNCAC in Panama in November 2013, the Russian Government submitted the [Russian Anti-corruption Charter for Business](#).

The charter reflects recognition of the wide-ranging detrimental economic consequences of corruption in Russia and the willingness of Russian business to comply with international business standards.

Council of Europe

Russia is [party](#) to the 1999 Council of Europe [Criminal Law Convention on Corruption](#), which it signed in 1999 and ratified in 2006. However, the country has [not](#) signed the 1999 Council of Europe [Civil Law Convention on Corruption](#). On 7 March 2009, Russia signed the [Additional Protocol](#) to the Criminal Law Convention on Corruption, but has [not yet](#) ratified it. Russia is also a member of the Council of Europe Group of States against Corruption (GRECO) which monitors compliance of states parties with the convention. In its [2012 Evaluation Report](#), GRECO recommends to Russia, among others, to ensure that bribery of all judges and high-ranking officials of international courts is unambiguously criminalised, to broaden the scope of the bribery provisions in the Criminal Code *inter alia* to cover non-material advantages, to criminalise trading in influence and to exclude misuse of the special defence of effective regret.

Organisation for Economic Cooperation and Development (OECD)

On 17 April 2012, Russia became the [39th Party](#) to the 1997 [Convention](#) on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Anti-Bribery Convention) and must undergo the Working Group on Bribery's peer review monitoring system. In March 2012 the WG adopted its [Phase 1 evaluation](#). The [Phase 2 evaluation](#) of October 2013 followed up on areas for improvement.

World Trade Organisation (WTO)

In the framework of Russia's WTO accession in August 2012, Russia committed itself to becoming a party to the 1994 [WTO Agreement on Government Procurement](#), and as a first step was granted [observer](#) status in May 2013.

Russia's anti-corruption framework

In December 2008, then-President Medvedev signed into law a general anti-corruption framework which entered into force in January 2009. It created the legal basis for a number of amendments to the Russian civil, criminal and administrative laws regulating civil and criminal liability of natural persons and legal entities for different forms of

corruption-related crimes. These changes were partly required to incorporate the provisions of the UNCAC and the Council of Europe's Criminal Law Convention into Russian law.

[Federal Law No 273-FZ on Counteraction to Corruption](#) is the centre-piece of this framework. It sets out in 14 articles the general principles underlying the Government's anti-corruption policy and the different state bodies' action, disclosure obligations of government and municipal employees (Article 8) and their duties to report attempts/incidences of corruption (Article 9) as well as the liability of natural persons (Article 13) and of legal entities (Article 14) for corruption offences.

Article 1 defines corruption as follows:

- a) abuse of public office, giving or receiving bribes, abuse of power, commercial graft or other illegitimate use by an individual of his/her official status against legal interests of society and the State to receive private gain in the form of money, valuables, other property or services of a monetary nature, other proprietary rights for himself/herself or third persons, or unlawful provision of such benefit to such a person or other individuals;
- b) committing acts indicated in paragraph a) on behalf or for the benefit of a legal entity.

Criminal law

The Criminal Code [criminalises](#) amongst other acts commercial bribery in a profit-making legal entity (Article 204), bribe-taking involving an official, a foreign official or an official of a public international organisation (Article 290), bribe-giving (Article 291) and facilitating bribery involving an intermediary (Article 291.1).

Administrative law

Legal entities cannot be held criminally liable under the Criminal Code, but they can be subject to administrative liability. [Article 19.28](#) of the Administrative Offences Code prohibits the provision of an undue advantage to an official for acts or omissions.

Civil law

[Article 575](#) of the Civil Code contains limitations on "permissible" donations/gifts to a public official, which may not exceed what is considered a "common gift".

Recent legal measures adopted or proposed

These measures are designed to enhance financial transparency in the public sector with a view to limiting the scope for corruption, to broaden the legal basis for asset recovery and to involve legal entities in preventive anti-corruption schemes:

- legal acts aimed at increasing the transparency of national public officials' finances in Russia ([Federal Law No 230-FZ](#)) and banning **high-ranking public officials** from holding property – bank accounts, bonds and shares, except real estate – outside Russia ([Federal Law No 79-FZ](#)), as well as at limiting their opportunities to give/take bribes in Russia by introducing a [rotation scheme](#) in the civil service;
- [proposal](#) by Alexander Bastrykin, the head of Russia's Investigative Committee, to create a legal basis for **confiscating** from relatives of a person convicted of corruption of property that was acquired illegally and handed over to them, regardless of whether the recipient was aware or not of the criminal origin of such property. Under [Article 104.1](#) of the Criminal Code, such property can only be confiscated if its recipient was aware or should logically have been aware of its illegal acquisition;
- legal acts designed to oblige **legal entities** to engage more actively in preventive anti-corruption measures ([Art. 13.3 amending Federal Law No 273-FZ](#)), and more broadly

to enhance transparency in **public procurement** procedures ([Federal Law No 44-FZ](#));

Anti-corruption law enforcement in Russia

Anti-corruption law enforcement has been widely criticised by the [Russian Government](#) as well as [other stakeholders](#) for its ineffectiveness. It has also been questioned for its selectiveness, allowing for [impunity](#) and for [politically motivated](#) court decisions against the regime's opponents, notably anti-corruption whistle-blowers such as the late Sergei Magnitsky and Alexei [Navalny](#).

Legal gaps and broad leeway for judges

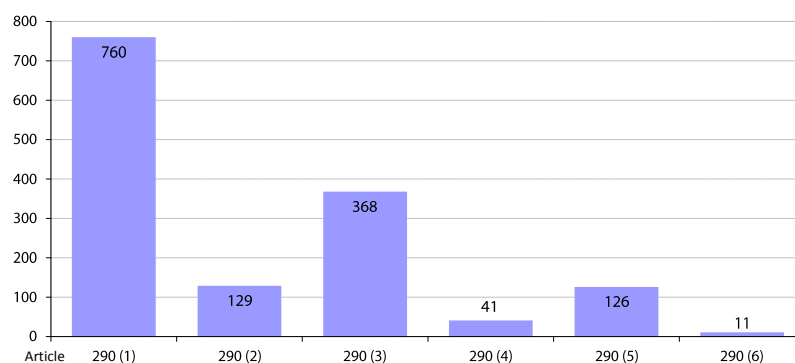
A 2013 Transparency International [review](#) claims that impunity is partly linked to the considerable number of public officials protected by immunity under [Article 447](#) of the Code of Criminal Procedure. The report asserts that the enforcement of [Articles 290 and 291 Criminal Code](#) on passive and active bribery has been ineffective, as the penalties scaled according to the value of the bribe do not act as a deterrent. They allow the judge to choose from several alternative punishments, and to opt for a fine coupled with disqualification to hold certain positions for several years instead of imposing a prison sentence and a lower fine. In addition, lack of enforcement of payment, particularly of [large fines](#) is a serious issue. Confiscation of assets is fairly rare.

Selected data on law enforcement in practice

In 2012, the Russian police [investigated](#) 45 000 corruption crimes. [Statistics](#) provided by Rosstat show that 9 800 bribery crimes were registered in 2012. This compares with 12 000 in 2010 and 11 000 in 2011. Supreme Court data on court proceedings initiated on corruption charges in [2012](#) reveal that a total of 6 014 individuals were convicted of corruption, 87 individuals were acquitted and 298 legal proceedings were dismissed. The total includes among others 1 358 cases of bribe-taking (Art. 290 CC), 2 087 cases of bribe-giving (Art. 291 CC), 63 cases of mediation in bribery (Art. 291(1) CC) and only six cases of private commercial bribery (Art. 204 CC).

Figure 1 shows the breakdown of all bribe-taking cases by six levels of seriousness set out in Article 290 CC. Most individuals (760) were convicted of having taken a bribe below 25 000 roubles (about €530) – first column. 368 individuals had accepted a considerable bribe (beyond 25 000 roubles) for carrying out an illegal action – third column. Many fewer individuals (129) were convicted of having accepted a considerable bribe not involving an illegal action – second column, and 41 government post holders/heads of local self-government bodies accepted a considerable bribe to carry out an illegal action – fourth column. Finally, 126 individuals were convicted of either conspiracy or large-scale bribery (more than 150 000 roubles (about €3 180)) – fifth column – and 11 individuals of either conspiracy or especially large-scale bribery (over one million roubles (about €21 200)) – sixth column. Bribe-giving cases (Art. 291 CC) show a very similar breakdown. Statistics for

Figure 1 - Breakdown of bribe-taking convictions in 2012 by levels of seriousness (Article 290 CC, paragraphs 1-6)



Data source: [Russian Supreme Court](#), 2013.

Articles 290, 291 and 291(1) which display the bribe amount involved in the different forms of bribery and the various levels of seriousness suggest that a large majority of court cases concerned petty crimes.

Figure 2 shows that most bribery cases involved bribes ranging from 1 000 to 10 000 roubles (roughly €21 to €212), followed by bribes below 500 roubles and bribes between 500 and 1 000 roubles. The recorded cases involving larger bribes such as one million roubles (about €21 200) and beyond are extremely low. This must be seen against a [notable rise](#) in the average size of individual bribes from 61 000 roubles (about €1 293) in 2010 to 300 000 roubles (about €6 360) in 2011.

Of the 6 014 individuals convicted of corruption-related crimes, only 506 individuals were sentenced to a prison term ranging from less than one year to up to ten years.

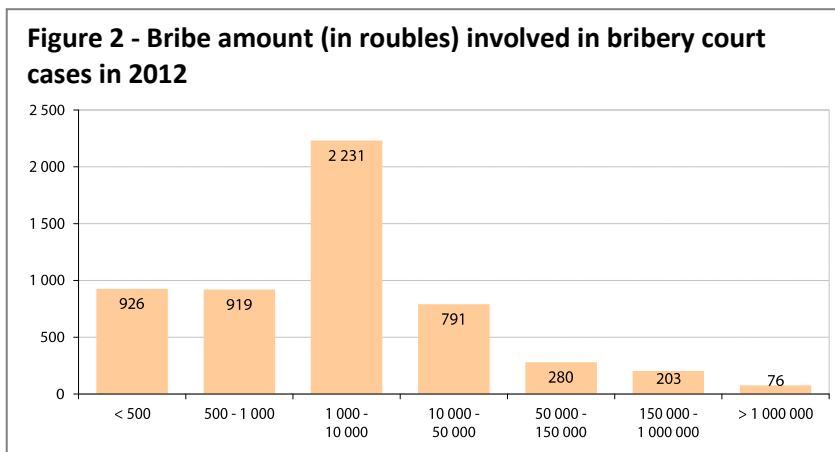
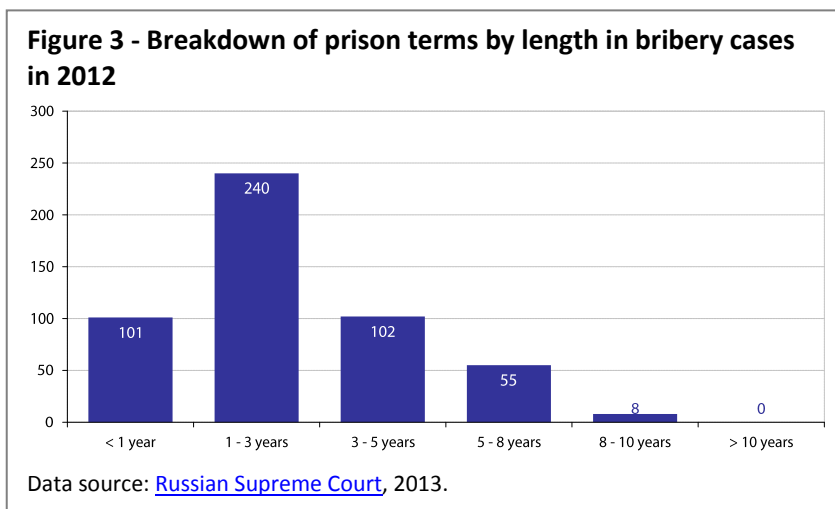


Figure 3 shows the breakdown of their prison terms by length. The majority of those convicted, 3 990 individuals, received a fine, 155 of them as an additional punishment; 1 759 individuals had their prison sentence suspended on parole; and 293 individuals were disqualified from holding certain offices or from engaging in certain economic activities, 230 of them as an additional punishment.



A tougher approach towards high-ranking officials?

Recent data for 2013 suggest that the law enforcement agencies' focus on low-level officials has been [broadened](#) to include [high-ranking officials](#) too. 2012 and 2013 saw intensive media coverage of a series of [high-profile](#) corruption cases involving senior officials, among others former Agriculture Minister Yelena [Skrynnik](#); former [Defence Minister](#) Anatoly [Serdyukov](#); Yelena [Kotova](#), a former member of the board of directors of the European Bank for Reconstruction and Development (EBRD); and Akhmed [Bilalov](#), the former deputy president of the Russian Olympic Committee. However, former Defence Minister Serdyukov was only charged with [negligence](#) while allegedly having caused damage to the state worth 56 million roubles (€1 179 920). Former Agriculture Minister Skrynnik was heard as a [witness](#) but was not charged in a case which reportedly cost the Russian state 600 million roubles (€12 642 000). Akhmed Bilalov, for the time being, has escaped charges first by undergoing medical treatment in Germany for alleged [mercury poisoning](#) and then by [settling](#) in the United Kingdom. The trial

against Yelena Kotova for abuse of office is ongoing. She was remanded to a [psychiatric hospital](#), and claims that her case is [politically motivated](#).

Whistle-blowers spearheading the civil society platform against corruption

Anti-corruption whistle-blowers on the other hand run a considerable risk of facing difficulties for their public criticism, as witnessed by labour union leader [Lyudmila Popkova](#) who was exposed to what is [commonly](#) known as "[punitive psychiatry](#)", and [Yevgeny Dushko](#), the late mayor of Sergiev Posad, who publicly accused several local officials and businessmen of [corruption](#) only a few weeks before he was murdered. His murder has remained [unsolved](#). Other prominent [whistle-blowers](#) include the late [Sergei Magnitsky](#), [Alexei Navalny](#) and [William Browder](#). Despite the lack of protection for whistle-blowers under Russian anti-corruption law, there is an emerging civil society anti-corruption [platform](#), which has gained increasing prominence in Russia.

European Parliament position

In its [resolution](#) of 23 October 2012 with recommendations to the Council on establishing common visa restrictions for Russian officials involved in the Sergei Magnitsky case, the European Parliament stated that the case of Sergei Magnitsky was only the most prominent and well-documented case of abuse of powers by Russian law-enforcement authorities in blatant violation of the rule of law. It stressed that a large number of further court cases are known in which the pretext of economic crimes and alleged corruption have been systematically used to eliminate business competitors or political rivals. It therefore recommended to the Council to urge the Russian authorities to put an end to widespread corruption, and to bring the judiciary into line with international standards, by creating an independent, just and transparent system that cannot be misused for political reasons.

In its [resolution](#) of 13 June 2013 on the rule of law in Russia, Parliament expressed its deepest concern at the allegedly politically motivated prosecution in Russia of the anti-corruption campaigner and prominent lawyer Alexei Navalny on charges which he claimed amounted to an attempt to punish him for having exposed large-scale corruption within the highest ranks of the Russian state.

Stakeholders' views

Julia Pettengill, a research fellow of the London-based Henry Jackson Society, argues that anti-corruption reforms in Russia have not truly challenged the "[culture of corruption](#)" and impunity, as they have failed to introduce political competition, to ensure the independence of the judiciary and to break the Government's monopoly on the media. She suggests that corruption in Russia would be best addressed, and pro-democracy movements supported, by legislation similar to the US Sergei Magnitsky Rule of Law Accountability Act. [Ben Judah](#), of the European Council on Foreign Relations, regrets the EU's failure to act on anti-corruption practices and visa bans against Russian officials linked to the death of Sergei Magnitsky. He suggests setting up an EU-Russia anti-corruption dialogue and working harder to prevent proceeds of corruption from being invested in the EU.

Further reading

Recent anti-corruption developments in the Russian Federation/ A. Goel and M.J. Dolan in: [International anti-bribery and corruption trends and developments](#)/ A. Goel, Ropes & Gray LLP, March 2012, pp. 23-36.

[Russian corruption: Domestic and international consequences/](#) J. Pettengill, Henry Jackson Society, 23 April 2013.

[Telephone Justice in Russia/](#) A. Ledeneva, EU-Russia Centre Review, May 2011.

Endnotes

- ¹ Bribes are part of [everyday life](#) and particularly common in the education and health sectors, as well as when dealing with the traffic police. According to the [Global Corruption Barometer 2013](#), the most corruption-prone public institutions on a scale from 1 to 5, with 5 reflecting the highest level of corruption, are public officials/civil servants (4.6), the police (4.5), the judiciary (4.4), Parliament (4.3) and political parties (4.2).
- ² Calculations of the financial loss in terms of GDP caused by corruption differ significantly. They vary from Rosstat's 2011 [estimates](#) of 3.5 to 7% of GDP, up to independent experts' claims that the loss amounted to [25%](#) of Russia's GDP. The National Anti-Corruption Committee, a Russian non-governmental organisation (NGO), [estimates](#) that corruption amounts to US\$300 billion a year. Sectors of the Russian economy particularly vulnerable to large-scale corruption are the [military](#), the utilities sector and construction and infrastructure projects involving [public procurement](#). The construction work for the 2014 Sochi Winter Olympics drastically exposes the extent to which [corruption](#) can drive up [prices](#).
- ³ In the past few years, several subsidiaries of US companies became the target of US anti-corruption law enforcement in Russia under the 1977 [US Foreign Corrupt Practices Act \(FCPA\)](#): in 2010, the US-based [Panalpina](#) and its parent Panalpina World Transport Ltd., and in 2012, the Russian subsidiaries of [Pfizer](#) and [Eli Lilly & Co](#) ("Lilly Russia"). Following two high-profile cases involving international companies working in Russia, Daimler and [Hewlett-Packard](#), which became public not as a result of moves by the Russian authorities, but after US prosecutors intervened, more than 50, mostly German, foreign firms in 2010 [pledged](#) in a voluntary agreement to pay no bribes in Russia.
- ⁴ A 2013 World Economic Forum [report](#) on Russia underlines that corruption considerably limits the Russian economy's growth potential. Corruption lowers Russia's attractiveness as a destination for foreign direct investment (FDI), which can be instrumental in modernising the country and in securing sustainable economic growth. According to an Ernst & Young [2013 attractiveness survey on Russia](#), only 6% of potential foreign investors would consider embarking on an FDI project in Russia, while 74% remain cautious about investing in Russia, as they share "a common perception of pervasive corruption, lack of openness and the inefficient rule of law" which dampens their FDI interest. Some 44% of foreign investors already operating in Russia envisage increasing their investment, while 41% of them do not. In the World Bank's [Doing Business 2013](#) report, Russia ranks at 112 (out of 185 countries) eight places up from its 2012 ranking. In 2012, the Russian Government set the [target](#) of climbing up the World Bank's Doing Business Index to 50 by 2015, and to 20 by 2018.
- ⁵ In the 2011 [Bribe Payers Index](#), which ranks the world's largest economies according to the likelihood of their companies paying bribes abroad, Russia is the worst performer.
- ⁶ According to [estimates](#) published by the Central Bank of Russia, about US\$ 54.6 billion of private capital left Russia in 2012, following US\$ 81.4 billion in 2011 and US\$ 30.8 billion in 2010.

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