



WORLD LAW BULLETIN

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Respectfully submitted,



WALTER GARY SHARP, SR.
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DIRECTORATE OF LEGAL RESEARCH

International, Comparative, and Foreign Law

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AFRICA

TANZANIA – Real Estate and Land Laws

On April 14, 2004, the Land Act 1999 was substantially amended (Land (Amendment) Act, No. 5 of 2004, SUPP. TO THE UNITED REPUBLIC OF TANZANIA GOVT. GAZETTE (ACTS), Apr. 14, 2004, at 519-548). The 2004 Amendment inserts new provisions on sale of land, rights of occupancy, and mortgages. Under section 2 of the amendment, the term “sale with respect to the right of occupancy” denotes transfer of an interest in land on conditions attached to a granted right of occupancy. To the extent that matters of rights of occupancy are also subject to the provisions of the Companies Act and the Investment Act of 1997, these two instruments have also been amended by Act No. 5 of 2004. Section 20(3) of the Land Act has been replaced by the following provision for purposes of acquisition of land by non-citizens in Tanzania:

For purposes of compensation made pursuant to this Act or any other written law, all lands acquired by non-citizens prior to the enactment of this Act shall be deemed to have no value, except for unexhausted improvements for which compensation may be paid under this Act or any other law.

In addition, the entire section on mortgages of the Land Act has been replaced with new provisions. (Charles Mwalimu, 7-0637, cmwa@loc.gov)

TANZANIA – Anti-Dumping and Countervailing Measures

On April 14, 2004, Tanzania enacted the Anti-Dumping and Countervailing Measures Act (SUPP. TO THE UNITED REPUBLIC OF TANZANIA GOVT. GAZETTE (ACTS), Apr. 14, 2004, at 483-518). Anti-dumping under this Act relates to any measures the imposition of which leads to the equalization of export price and normal value. Conversely, dumping with respect to goods is defined as a situation where the export price of goods imported or intended for import into mainland Tanzania is less than the normal value of such goods in the market (country) of origin, as determined in accordance with the provisions of the Act.

The national Anti-Dumping and Countervailing Measures Advisory Committee, better known as ACMAC, is the body responsible for any activity governed by the Act. For example, it will ensure that countervailing measures are imposed as remedies to offset the impact of injurious subsidies on the economy. The Committee will also impose countervailing duties in order to offset subsidies granted directly or indirectly on any investigated product. (Charles Mwalimu, 7-0637, cmwa@loc.gov)

EAST ASIA & PACIFIC

AUSTRALIA – Call for Reform of Consumer Protection Laws

The Australian Government’s Productivity Commission, which advises the federal government on microeconomic policy and reform, has issued a report on Australian and New Zealand Consumer Protection Regimes. It describes the Australian system, especially those parts intended to protect consumers from dangerous goods, property scams, and complex financial products, as exhibiting confusing overlap between “a plethora” of federal and state agencies that administer twelve distinct



bodies of legislation. An earlier draft report identified systemic shortcomings that resulted in duplication of efforts, inconsistent enforcement, and high compliance costs. Consumer advocates are quoted as worried that the laws have not kept pace with the growing and complicated field of financial services and that property investments are barely regulated at all. The report is being interpreted in the media as an indication that the Productivity Commission will recommend a broad national review of consumer protection policy, which would, in turn, provide information to be used in drafting new legislation. (Australian Government, Productivity Commission, <http://www.pc.gov.au/>; SYDNEY MORNING HERALD, Jan. 13, 2005, <http://www.smh.com.au/>.) (Donald R. DeGlopper, 7-9831, ddeg@loc.gov)

AUSTRALIA – Identity Verification Plan Raises Privacy Concerns

Australia's Federal Cabinet will consider a plan for a national online "document verification service," which federal and state governments and some businesses would use to verify the identity of persons by checking the validity of such documents as birth certificates, drivers' licenses, or passports. The Attorney-General, Philip Ruddock, has explained that the plan is intended to help counter money-laundering, terrorism, and welfare fraud. Representatives of such organizations as the Australian Privacy Foundation and the Australian Civil Liberties Council have questioned the need for such a system and expressed doubts that it could be implemented without amending the existing Privacy Act 1988, which limits the ability of federal and state government agencies to collect and exchange personal information on citizens. Attorney-General Ruddock has said that privacy issues had been taken into account in drafting the plan and that governments might permit such businesses as banks and airlines to use the system. (*Identity Plan No Australia Card: Ruddock*, ABC ONLINE NEWS, Jan. 21, 2005, <http://www.abc.net.au/>; THE AUSTRALIAN, Jan. 21, 2005, <http://www.theaustralian.news.com.au/>.) (Donald R. DeGlopper, 7-9831, ddeg@loc.gov)

CHINA – Chinese Democracy Party Members Detained by Police

On December 29, 2004, about a dozen of the core members of the Zhejiang preparatory committee for the China Democracy Party (CDP) were separately detained or summoned for interrogation by public security (police) authorities. The preparatory committee had submitted a draft Political Party Law, in fifty-two articles, to the National People's Congress meeting held in November. Article 24 of the draft stipulates that the ruling party (i.e., the Chinese Communist Party) "shall not write into the Constitution and any laws the name of the party, its founder or its other members"; article 27 states that "political parties shall not set up organizations in government, [the] army, and judicial organs." The law's principal drafter, Wang Rongqing, was among those taken into custody and was not released along with all of the other detained CDP members.

According to CDP member Shan Chengfeng, Wang's aim in drafting the law was "to bring China's political system in line with international practices and to offer clear legal restraints on the powers enjoyed by the ruling Communist Party." Ever since the CDP's establishment in 1998, its members have frequently been detained, and a number have been sentenced to long prison terms on grounds of "subversion," which is vaguely and broadly defined under Chinese law. One such member, Ouyang Yi, received a two-year prison term on grounds of "incitement to subversion" for establishing a pro-democracy Internet site. He was released on December 4, 2004, but placed under police surveillance and prohibited from publishing for two years. The last two weeks of December also saw the detention and release of several other intellectuals and rights activists in China, who were warned against voicing "liberal" views critical of the government. (*HK Report: China Democracy Party's Key*



Members Arrested in Zhejiang, PING KUO JIH PAO, Dec. 31, 2004, as translated in Foreign Broadcast Information Service online subscription database; *Chinese Police Haul in Another 10 Dissidents for Questioning*, AGENCE FRANCE PRESSE, Dec. 31, 2004, and *Report: China Releases Internet Dissident But Keeps Him Under Surveillance*, THE ASSOCIATED PRESS, Dec. 7, 2004, both in NEXIS, News Library, 90days File.)

(Wendy Zeldin, 7-9832, wzeld@loc.gov)

CHINA – Solid Waste Pollution Law Amended

The Standing Committee of the National People's Congress passed amendments to the Law on the Prevention and Control of Solid Waste Environmental Pollution on December 29, 2004. The two main aspects of the amendments are that they encourage circulation of solid waste and clarify the responsibility of polluters. Thus, there are new provisions on responsibility after the sale of and during the disposal of solid waste; definition of the responsibilities of different units if a former waste producer is divided, transferred, or combined with other units; punishments for failure of officials to perform their supervisory duties; and methods for dealing with dangerous waste, excessive packaging, discarded electronic appliances, and domestic animal excretion in rural areas. In particular, the amendments require polluters to rehabilitate the polluted areas to their original state and expand on the "polluter pays" principle by making solid waste producers responsible for clean-up. Approved agencies must handle the waste. According to a Chinese hazardous waste specialist at Tsinghua University, "This is a significant boost because it establishes legal mechanisms to deal with solid waste." (*Xinhua: China Passes Amendment to Law on Preventing Solid Waste Pollution*, XINHUA, Dec. 29, 2004, Foreign Broadcast Information Service (FBIS) online commercial database.)

In addition, for the first time, persons adversely affected by industrial pollution are described as victims under the Law, in theory making it easier for them to sue for damages from polluters, and in suits for damages the burden of proof is now on polluters rather than the victims. However, the Law does not indicate how victims are to be compensated or allow citizens' groups to represent the injured in court. Another criticism of the amended Law is that it fails to include provisions ensuring its enforcement by local authorities. (*SCMP: Recent PRC Law Change Provides Pollution Victims Means To Seek Redress*, SOUTH CHINA MORNING POST, Jan. 7, 2005, FBIS.)

(Wendy Zeldin, 7-9832, wzeld@loc.gov)

JAPAN – Police to Create Sex Offender Database

The recent case of a kidnapping and murder of a first-grade girl in Japan has led public opinion to support Megan's Law-type legislation. The Ministry of Justice decided to notify the National Police Agency of the addresses of sex offenders when they are discharged from prison. Both agencies will discuss the creation of a system to prevent repeated sex offenses by the same person. The Judicial Department of the Liberal Democratic Party, the ruling party, decided to establish a committee in order to discuss legislation, similar to Megan's Law in the United States, that will make available to residents information about discharged sex offenders living in the vicinity. (*Sei hanzaisha joho, jumin kokai shiya ni shoi secchi e* (Committee Established, Considering Disclosure of Sex Offenders' Information to Residents), ASAHI SHINBUN, Jan. 18, 2005, at <http://www.asahi.com/national/update/0118/029.html>.)

(Sayuri Umeda, 7-0075, sume@loc.gov)



KOREA, SOUTH – Revised Rule on Supreme Court Justice Recommendations

The Supreme Court revised the rule on the nomination process for Supreme Court justices on December 30, 2004. Six out of the fourteen Supreme Court Justices will be replaced due to their terms ending in two years. In the last two years, citizen groups and lawyers' groups widely advertised their opinions on Supreme Court Justice candidates. It was feared that such public discussion might improperly influence the justice system. The disclosure of the names of persons private groups recommend has already been prohibited by a June 2004 revision of the rules. The December 2004 revision further authorized the Supreme Court Chief Justice and the Recommendation Committee to exclude a particular person's candidacy when private groups disclose his or her name as the person they recommend. (*Notice on Recommendation for Supreme Court Justice Candidate*, Jan. 4, 2005 (in Korean) at <http://www.scourt.go.kr/main.html>.) (Sayuri Umeda, 7-0075, sume@loc.gov)

TAIWAN – Draft Bill on Spam

On January 19, 2005, the Executive Yuan (Cabinet) approved a draft bill making the sending of commercial spam illegal. The bill provides that if spammers continue to send unwanted e-mail, they will be subject to payment of damages of up to NT\$20 million (about US\$629,000) to organizations or individuals. Receivers of spam would be permitted to ask for a "damage loss" of between NT\$500 and NT\$2,000 per e-mail from the sender, with a ceiling of NT\$20 million for total damages sought by receivers of the same spam message. However, spammers would be required to pay the amount of profit obtained from sending the same span if the total amount requested by the receivers exceeds NT\$20 million.

The draft bill stipulates that those who send out mass electronic commercial letters must provide receivers with the choice of rejecting future letters from that sender, specify in the subject line that the letter is a commercial letter or an advertisement, and provide a correct business or home address and company or individual name. Upon learning that the original receiver does not wish to receive more such e-mail in the future, the sender must stop sending it. The bill designates the Ministry of Transportation and Communications as the supervisory body for spam-related matters until the establishment of the proposed National Communication Commission. (Ko Shu-ling, *Statute Set To Make Spam Illegal*, TAIPEI TIMES, Jan. 19, 2005, at 2, available at <http://www.taipeitimes.com/News/taiwan/archives/2005/01/19/2003220027>; *Taiwan Quick Take*, TAIPEI TIMES, Jan. 20, 2005, at 3, available at <http://www.taipeitimes.com/News/taiwan/archives/2005/01/20/2003220159>.) (Wendy Zeldin, 7-9832, wzel@loc.gov)

TAIWAN – Intelligence Law

The Legislative Yuan passed the National Intelligence Work Law on January 14, 2004. The Law governs Taiwan's intelligence organs, putting the legislature in a supervisory role over the secret intelligence agencies. The chiefs of the designated agencies will be required to submit oral reports to the legislature on the work of their offices each legislative session, in addition to annual written reports. The organizations included are the National Security Bureau, the Military Intelligence and Political Warfare bureaus of the Ministry of National Defense, the Investigation Bureau of the Ministry of Justice, and the National Police Administration, which is under the Ministry of the Interior.



Employees of these intelligence agencies must remain apolitical. The personnel may not work for any political parties, political groups, or candidates for public office, nor may they use their positions to persuade others to join or avoid any political party or to spread the views of any party. (*Bill Governing Intelligence Work Passed*, CENTRAL NEWS AGENCY, Jan. 14, 2005, at <http://www.can.com.tw>, FBIS.)
(Constance A. Johnson, 7-9829, cojo@loc.gov)

TAIWAN – National Assembly Election Law Revision

On January 14, 2005, the Legislative Yuan, Taiwan's national legislature, approved an amendment to the National Assembly Election Law. The Assembly, a separate, non-standing body, has functions limited to voting on constitutional amendments, presidential impeachments, and proposals to alter the national territory. The revised law specifies that the Assembly will have 300 members, to be elected proportionally based on the amount of the vote each political party or electoral alliance receives. Candidates may be proposed by any registered party or by alliances of at least twenty potential Assembly members. Each candidate must be twenty-three or more years of age. An election for the National Assembly should be called within six months of any promulgation of a bill to amend or revise the constitution or to change the boundaries of the nation. One must be held within three months after a Legislative Yuan impeachment motion is approved against the president or the vice-president. The Law specifies that one in four candidates for the National Assembly from each party must be a woman and one in thirty a member of the non-Chinese, aboriginal peoples. (*Legislature Approves Amendment to National Assembly Election Law*, CENTRAL NEWS AGENCY, Jan. 14, 2005, at <http://www.cna.com.tw/eng/>.)
(Constance A. Johnson, 7-9829, cojo@loc.gov)

TAIWAN – Regulation of Currency Outflow in Emergencies

On January 14, 2005, Taiwan lawmakers reached consensus on a bill concerning the handling of foreign currency exchanges in times of “natural disasters, war, military conflict and economic catastrophes at home or abroad that might greatly affect Taiwan's economic stability.” Under the bill, the Executive Yuan (Cabinet) would be authorized to order banks to stop currency exchange services by wholly or partially freezing exchanges or depositing the money in designated banks. Banks that violate that mandate would be fined up to NT\$3 million (about US\$93,800), and the exchanged money would be sequestered. (*Taiwan Draft Law Due To Stem Outflow of Currency in Emergencies*, ASIA PULSE, Jan. 17, 2005, NEXIS, News Library, 90days File.)
(Wendy Zeldin, 7-9832, wzel@loc.gov)

EUROPE

AZERBAIJAN – Tax Code Amendments

On January 5, 2005, the Azerbaijan legislature adopted a large number of amendments to the nation's Tax Code. Changes include establishing new taxation procedures in the relationship between the state and private entrepreneurs and simplifying taxation in particular fields of industry. The changes require the registration of a company with the tax authorities and reduce the period during which a taxpayer's identification number can be received and a bank account opened from the current ten days to two. The new Code increases the speed of government investigations and requires the tax authorities to submit the conclusions of a tax audit to an audited taxpayer within five days of the



completion of the audit. New rules determine the withholding pattern when an individual has two or more employers and provide for a separate calculation of taxation by each employer according to a monthly income tax sliding scale at each place of work. Unified tax rates were introduced for mining, where rates were lowered to three percent, and the taxation of lease payments to an individual lesser was established at fourteen percent. (U.S.-AZERBAIJAN CHAMBER OF COMMERCE NEWSLETTER, No. 16, Jan. 18, 2005, at <http://www.usacc.org>.) (Peter Roudik, 7-9861, prou@loc.gov)

BELARUS – Extra Day Off for Parents

On January 13, 2005, President Alexander Lukashenko of Belarus signed into law amendments to the nation's Labor Code that establish a more flexible work schedule for mothers of children under three years of age and prohibit termination of labor contracts with women taking maternity leave during the three-year leave period. A novelty is the Code's provision requiring all employers in Belarus, regardless of their legal status and form of property ownership, to guarantee an extra day off every week to single parents raising two or more children, until one of the children reaches the age of majority. (BELTA NEWS LINE, Jan. 13, 2004, at http://site.securities.com/doc.html?pc=BL&doc_id=67452915&query=law&hlc=ru.) (Peter Roudik, 7-9861, prou@loc.gov)

DENMARK – Taxation of Religious Groups

Danish members of the Lutheran church pay a tax to the Danish state, which in turn distributes the revenue to the church. Denmark's two major political parties, the Liberals and Social Democrats, support a new proposal that would allow for the taxation of other religious groups, such as Danish Muslims, in the same manner. The taxation would generate financing for the building of mosques, cemeteries, and imam programs of study at Danish universities. It is the religious groups themselves that must set the tax level, according to the Liberal party's spokesperson for immigration and church questions. The Danish tax-department will only handle the collection and distribution of the funds. (*Muslims May Tithe Through Taxes*, DENMARK.DK: DENMARK'S OFFICIAL WEBSITE, Jan. 6, 2005, available at <http://www.denmark.dk/>) (Linda Forslund, 7-9856, lifo@loc.gov)

ENGLAND AND WALES – Hunters Loose Constitutional Challenge to Ban On Hunting with Dogs

Hunters lost a High Court challenge to a controversial law passed in November 2004 and due to enter into force in February 2005 that bans hunting with dogs. In passing the Hunting Act 2004, the House of Commons took the highly unusual step of using the Parliament Act 1949 to force the Act through the House of Lords without the upper House's approval. Pro-hunters challenged the validity of the Parliament Act to bypass the wishes of the House of Lords, describing it as "despite its title, it is not an Act of Parliament." The importance of the issue constitutionally for England and Wales was demonstrated by the personal appearance of the Attorney General to defend the law. Despite the already contentious issues, this particular aspect of the case was described as having "little to do with hunting and much to do with the constitutional arrangements in our country and respect for the law." Despite the loss, the hunters received a right of appeal to the Court of Appeal and also intend to apply for judicial review of the Hunting Act on human rights grounds. (John Aston, et. al., *Hunters Lose Court Battle*, INDEPENDENT (London), Jan. 28, 2005, at <http://news.independent.co.uk/uk/legal/story>.)



[jsp?story=605406](#) (last visited Feb. 3, 2005); John Aston & Cathy Gordon, *Pro-Hunt Lobby Launches High Court Challenge*, INDEPENDENT (London), Jan. 25, 2005, at <http://news.independent.co.uk/uk/legal/story.jsp?story=604412> (last visited Feb. 3, 2005).
(Clare Feikert, 7-5262, cfei@loc.gov)

ENGLAND AND WALES – New Offense of Causing Death by Careless Driving Proposed

In the government's continued aim to improve safety on the roads, a consultation paper has been released detailing proposals to introduce a number of new offenses connected with bad or careless driving. A new offense of causing death by careless driving, such as for individuals who cause death while driving as a result of talking on a cellular telephone, would be introduced that could be punished by up to five years of imprisonment. While the current law allows individuals convicted of dangerous driving to be imprisoned for up to fourteen years, it only allows a fine to be imposed on individuals who cause death by careless driving. (Home Office, *Consultation on Road Traffic Offences Involving Bad Driving*, 025/2005, Feb. 3, 2005, at http://www.homeoffice.gov.uk/n_story.asp?item_id=1230 (last visited Feb. 3, 2005); David Barrett, *Law Change Targets Killer Phone Drivers*, INDEPENDENT (London), Feb. 3, 2005, at <http://news.independent.co.uk/uk/legal/story.jsp?story=607315> (last visited Feb. 3, 2005).)
(Clare Feikert, 7-5262, cfei@loc.gov)

ESTONIA – Immigration Quotas Determined

On January 6, 2005, the Government of Estonia approved the annual quota for foreign immigrants. Six hundred and seventy-seven foreigners will be granted permission to reside and work in the country within the limits of the quota. According to the Law on Aliens, the annual quota for immigrants admitted to Estonia must not exceed 0.05 percent of the total Estonian population, which in 2004 consisted of 1.4 million people. Restrictions on entry do not affect residents of other EU countries, since Estonia is an EU member and applies the principle of free movement within the European Union. Similarly, Estonians living abroad and citizens of the United States and Japan are exempt from immigration restrictions. In 2004, residence permits were issued to 1,543 EU citizens. (BALTIC BUSINESS NEWS, Jan. 7, 2005, at <http://www.securities.com>).
(Peter Roudik, 7-9861, prou@loc.gov)

FRANCE – Anti-Discrimination Authority Created

On December 30, 2004, the French Parliament adopted a law establishing an independent High Authority Against Discrimination and for Equality (*Haute autorité de lutte contre les discriminations et pour l'égalité*). The Authority is designed to fight any form of discrimination, including those regarding sex, ethnic origin, sexual orientation, religion, age, or disability. It has the tasks of receiving and providing advice to victims of discrimination and promoting equality by organizing awareness campaigns and training programs. It will also investigate, mediate, and make recommendations in relation to claims of alleged victims of discrimination.

In addition, the Authority must be consulted for all bills concerning its field of competence. It will make recommendations to the government, conduct independent studies concerning discrimination, and publish an annual report concerning its activities. The authority will be set up during the first half of 2005 and will be composed of eleven members, two of whom are appointed by the President of the Republic, two by the National Assembly, two by the Senate, two by the Prime Minister, and three (one



for each) by the Council of State (highest administrative court), the *Cour de Cassation* (highest judicial court), and the Economic and Social Council. It will have local delegates and a consultation committee consisting of trade union and associations' representatives. Initially, its budget will be about ten million *euros* (about US\$12.9 million).

The law further contains measures for fighting sexism and homophobia, considered to be problems equal in significance to racism. Homosexuals have the opportunity to report people who verbally offend them on the basis of sex and sexual orientation and to sue them for intolerance and aggression towards homosexuals. The law provides for a maximum penalty of one year of imprisonment and a 45,000 *euro* fine (about US\$57,900) for sexist and homophobic insults and defamation. (Law 2004-1486, Dec. 30, 2004, JOURNAL OFFICIEL, Dec. 31, 2004, at 22567.) (Nicole Atwill, 7-2832, natw@loc.gov)

GERMANY – Deportation of Hizbollah Leader

An injunction petitioning the stay of a deportation order was denied by the Administrative Court of Duesseldorf on December 23, 2004 (docket number 24 L 3189/04). The petitioner was a long-term resident of Germany who was the leader of the German branch of the Middle Eastern organization Hizbollah. His deportation was ordered by the German authorities after an extension of his residence permit was denied under application of the then governing section 8 of the Act on Aliens (BUNDESGESETZBLATT 1990 I at 1345, as amended). In this decision, the Court refused to stay the deportation on the grounds that the petitioner's chances of winning the appeal were slim. The Court found it likely that Hizbollah qualified as a terrorist organization within the meaning of the Common Position of the Council of the European Union of December 27, 2001 (OFFICIAL JOURNAL OF THE EUROPEAN COMMUNITIES L 344/93 and the International Convention for the Suppression of the Financing of Terrorism (signed at New York on July 20, 2000, ratified by Germany on Dec. 19, 2003, BGBI II at 1923).)

(Edith Palmer, 7-9860, epal@loc.gov)

GERMANY – Unemployment Compensation

An Act on Employment Compensation that was passed on December 24, 2003 (BUNDESGESETZBLATT I at 2954), became effective on January 1, 2005. The Act brings fundamental changes to the German system of compensating unemployed workers. Under the new Act, an unemployed individual is cut off from unemployment benefits if he or she refuses to take virtually any job offer, even if the terms of the new employment are much less favorable than those of the former employment. The Act also cuts benefits for the long-term unemployed.

(Edith Palmer, 7-9860, epal@loc.gov)

GREECE – Company Transfers and Taxation

In accordance with Greek company tax law, Greece imposes a capital duty when a company transfers its registered office or place of effective management to Greece (Law No. 1676/1986). Maritime and agricultural companies are exempt from this duty. However, these rules contradict EU Directive 69/335/EEC on indirect taxes on the raising of capital, under which Member States are allowed to subject only the formation of the companies, and not their transfer, to capital duty. Moreover, the Members are not allowed to make exemptions for specific economic sectors. In January 2005, the European Commission sent a reasoned opinion to the Greek government giving it a two-



month deadline to comply with the Directive. The Commission held that Greece violated the Directive in subjecting companies to capital duty upon relocation of business in Greece. It also held that even though under an amendment to the EEC Directive Greece is allowed to exempt certain transactions from capital duty, it does not have the right to completely exempt certain sectors. (Press Release *Taxes on Company Capital; Commission Considers Greek legislation Incompatible with Capital Duty Directive*, IP/05/38, Jan. 13, 2005.)

(Theresa Papademetriou, 7-9857, tpap@loc.gov)

NORWAY – New Law on Citizenship Proposed

On January 7, 2005, the Norwegian Government sent its Report No. 41 (2005-2005) to the Parliament proposing that a new law on citizenship be enacted. The new law would give children automatic Norwegian citizenship at birth if either parent is a Norwegian citizen, regardless of whether the parents are married. Children will be able to apply for citizenship from the age of twelve. For those who move to Norway as children, there is a suggested requirement that they live in Norway for at least five years prior to applying for citizenship. For adults, the required time of residence in Norway will be seven years. The Government suggests that to receive citizenship, the applicant should be required to take Norwegian language lessons or have prior knowledge of Norwegian or Saamii. The proposal is that these new language requirements take effect from September 1, 2008.

The applicant will have to renounce other citizenships to receive Norwegian citizenship. People who are born with Norwegian citizenship but have not lived in Norway for at least two years prior to their twenty-second birthday will lose their Norwegian citizenship if they do not apply to keep it. This suggested rule will apply only to people with dual citizenship. The Norwegian Government also proposes that Norway ratify the 1997 European Convention on nationality. (Ministry of Local Government and Regional Development, *Ny Statsborgerlov* (Press Release No. 1/2005), Jan. 7, 2005, available at <http://www.odin.no/>.)

(Linda Forslund, 7-9856, lifo@loc.gov)

RUSSIAN FEDERATION – Community Service as Criminal Punishment

On December 29, 2004, President Vladimir Putin of Russia signed the Federal Law on Implementation of Criminal Code Provisions on Punishment in the Form of Community Service. The Law gives the courts an alternative to supplement punishments such as fines and compulsory corrective labor (usually for those who do not have permanent employment) with community service instead of short prison sentences. According to this Law and the Russian Criminal Code, the obligatory community service should be performed without remuneration, outside the hours of the person's main occupation or course of study, and at the discretion of local government authorities. The type of community service and its venue are determined by local governments in cooperation with local police departments. The length of the community service may vary from 60 to 240 hours, and it should be performed for no longer than four hours a day. (*ITAR-TASS News Agency*, Dec. 29, 2004, at <http://www.securities.com/>.)

(Peter Roudik, 7-9861, prou@loc.gov)



RUSSIAN FEDERATION – New Entry Rules

On January 11, 2005, the Federal Assembly (legislature) of the Russian Federation adopted amendments to the Federal Law on Exit From and Entry Into the Territory of the Russian Federation. Amendments designed to enter into force on February 1, 2005, allow the Russian Foreign Ministry to request the expulsion from Russia of foreign individuals who are critical of the Russian government. The amendments expand the list of reasons to deny a visa request and prohibit from visiting Russia those foreign individuals whose behavior or statements can be considered disrespectful or unfriendly toward the Russian Federation, federal government bodies, or government officials. Denial of entry may also result from actions that “disrespect spiritual, cultural, or social values,” bring “significant material harm,” and harm or have harmed the “international prestige of the Russian Federation.” The Law does not define these terms. The Law also permits the authorities to deny entry to foreigners who are drug users or suffer from infectious diseases. The Law stipulates that foreigners who do not present proof that they are HIV-negative can be denied long-term visas. (ROSSIISKAIA GAZETA, No. 2, Jan. 13, 2005.)

(Peter Roudik, 7-9861, prou@loc.gov)

SWEDEN – Members of Nazi Cell Tried for Terrorist Crime

On January 5, 2005, four Swedish citizens were indicted on suspicion of plotting a revolution against Sweden. This is the first time that Swedish citizens have been indicted for a terrorist crime in Sweden. A document found by police during the investigation shows that actions were planned against the Swedish Government, the Parliament, and large Swedish energy companies. The Nazi cell members were arrested in September 2004, after smashing over 100 windows and causing damage amounting to over 1.4 million kronor (approximately US\$204,000). These acts are suspected to have been the first phase of an insurgency against the Swedish state planned to take five years. The purpose of the attacks was supposedly to cause large costs to the Swedish state. (*Nazister åtalas för terroristbrott*, DAGENS NYHETER, Jan. 5, 2005, available at <http://www.dn.se/>.)

On February 1, 2005, the District Court of Västerås found the four suspects not guilty of preparing to commit a terrorist crime. The Court did find the defendants guilty of theft, inflicting gross damage, doping crimes, and complicity to inflict gross damage. The three men were sentenced to up to two years in prison, and a twenty year-old woman received probation and community service. All four were ordered to pay for the damage caused. (Simone Söderhjelm, *Nazister friade från terrormisstankar*, AFTONBLADET, Feb. 1, 2005.)

(Linda Forslund, 7-9856, lifo@loc.gov)

SWEDEN – Reverse Discrimination

The District Court of Uppsala, Sweden, a court of general jurisdiction whose decisions can be appealed to one of the Courts of Appeal, has rendered an important judgment on reverse discrimination. The court found that the Uppsala University law school was wrong in giving preference to applicants with a minority ethnic background. The law school has been reserving 30 of its 300 seats for applicants whose parents are immigrants and who have a sufficiently high grade-point average and sufficiently good results from the application interview. Two students with a non-minority background who were not accepted to the law school but had better grades than some who were accepted sued the University for discrimination.



Uppsala University was represented by the Chancellor of Justice, an independent civil servant appointed by the government. The Chancellor serves as counselor to the government on legal matters, represents the government in trials and other legal disputes, and serves as the government's ombudsman in supervising the authorities and civil servants. He believes that an analysis of the legislative history shows that reverse discrimination to increase ethnic diversity at Swedish universities should be allowed. The Court did not agree and stated in its decision that reverse discrimination is not acceptable in cases where applicants do not have the same qualifications. Only if the students have the same qualifications can priority be given to an underrepresented group. The two students were awarded 75,000 Swedish kronor each (approximately US\$11,000). The Chancellor of Justice has decided to appeal the decision. (*Kvotering på universitetet underkänns*, DAGENS NYHETER, Jan. 12. 2005, available at <http://www.dn.se/>.)

(Linda Forslund, 7-9856, lifo@loc.gov)

UZBEKISTAN – Individual Retirement Accounts Legalized

On January 1, 2005, the Law on the Accumulative Pension System entered into force. According to the Law, Uzbek citizens and foreigners permanently residing in Uzbekistan are eligible to participate in the pension program set forth therein, which is guaranteed by the government. The Law requires all employers and employees working under labor agreements to open retirement saving accounts, but makes it voluntary for farmers and small business owners.

The government-owned People's Bank of Uzbekistan is designated as the institution to manage the pension system, which will be under the control of the Ministry of Finance. The Bank is obliged to provide participants with annual reports and has the right to receive a margin of investment income established by the government. Tax-deductible funds for obligatory pension accounts are to be transferred by employers in an amount equal to a percentage of individual income tax annually established by the government. A one-percent income tax cut scheduled for 2005 will be diverted to the pension accounts. Additional individual contributions are not restricted and interest is tax exempt. The interest rate will be established by the People's Bank in agreement with the Ministry of Finance and the Central Bank of Uzbekistan and will be higher than the inflation rate. The accumulated funds can be used exclusively for payment of retirement benefits. Those who have reached the retirement age may withdraw their funds as monthly payments during a prescribed period of time or as a lump sum payment. In case of the death of the participant, an heir will collect all accumulated funds at one time. The Law provides for payments regardless of whether an individual emigrated from Uzbekistan or resides in the country. (BVV BUSINESS REPORT, Dec. 24, 2004, at <http://www.uzreport.com/>.) (Peter Roudik, 7-9861, prou@loc.gov)

UZBEKISTAN – Law on Protected Natural Territories

On January 6, 2005, the Law on Protected Natural Territories entered into force. The Law regulates the administration, protection, and use of endangered natural habitats. The Law is aimed at the preservation of typical, unique, or valuable natural habitats and genetic funds of flora and fauna; the prevention of negative effects of human activity on nature; the monitoring of the natural environment; and the development of environmental research and education.

The Law recognizes as protected natural territories defined areas of land and water having environmental, scientific, cultural, aesthetic, recreational, or sanitary importance that are fully or partially, temporarily or permanently, withdrawn from economic usage. In order to preserve,



reproduce, and restore natural habitats, several legal regimes for protected territories are introduced. They include state preserves, natural parks, state nature sites, protected landscapes, and territories designated for the management of certain natural resources.

According to the Law, property rights to the protected territories will belong to the state, but citizens will have free access to them. Specifically commissioned state and local authorities will execute control and implementation of the Law. (BVV BUSINESS REPORT, Jan. 11, 2005, at http://www.uzreport.com/E/index.cfm?login=3&subsec=61&n_ID=15314.) (Peter Roudik, 7-9861, prou@loc.gov)

NEAR EAST

EGYPT – Egyptian Nationality for Children of Egyptian Mothers and Palestinian Fathers

The Egyptian Government expressed its readiness to grant Egyptian nationality to children whose mothers are Egyptian and fathers are Palestinian, provided such an action does not contravene Decision No. 47 of 1959 of the Arab League. The Decision prohibits Arab states from giving their nationality to Palestinians, in order to protect Palestinian nationality. (ASHARQALAWSAT, Internet edition, Jan. 18, 2005, at <http://www.asharalawsat.com/>.) (Issam Michael Saliba, 7-9840, isal@loc.gov)

EGYPT – Selection of Sheikh Al-Azhar Through Election

The Egyptian Parliament agreed unexpectedly to start committee deliberation on a bill aimed at reorganizing Al-Azhar (the highly respected Islamic University), under which the Grand Imam of the institution, the Sheikh Al-Azhar, is to be elected rather than appointed. The proposed legislation provides for the election of the Sheikh Al-Azhar from among the members of the Academy of Islamic Researchers who have served for at least three years at the Academy and who receive a fifty-one percent majority of the vote. (ASHARQALAWSAT newspaper, Internet edition, Jan. 13, 2005, at <http://www.asharalawsat.com/>.) (Issam Michael Saliba, 7-9840, isal@loc.gov)

IRAN – Privatization of Industries

The government of Iran recently introduced a bill to the Islamic House of Representatives with the purpose of encouraging privatization of industries and economic activities. The bill is based on article 44 of the Constitution of the Islamic Republic of Iran which provides:

The economic structure of the Islamic Republic of Iran is composed of three sectors—public, cooperative and private—which shall be stabilized by systematic and sound planning.

The public sector shall consist of all major industries, foreign trade; large mines; banking; insurance; production of power; dams and large irrigation systems; radio and television; post, telegraph, telephone, aviation, shipping, roads and railways and the like which are owned publicly and operated by the state.

The cooperative sector includes production and distribution cooperatives to be established in rural and urban areas according to the Islamic principles.

The private sector consists of those parts of agriculture, animal husbandry, industry, commerce, and services that complement the economic activities of the state and cooperatives.

The standards and the area of activities of each sector shall be determined by law.



The bill excludes six groups of companies and activities from privatization, including major industries, mines, the National Iranian Oil Company, other oil-producing companies, and defense and security-related industries; the commander-in-chief of the armed forces determines which industries are included in the defense and security categories. The government also proposed privatization of all banks except the Central Bank, the National Bank, the Sepah Bank, the Industries and Mines Bank, the Agricultural Bank, the Housing Bank, and the Exports Promotion Bank.

The bill recommends privatization of the commercial insurance companies, with the exception of Iran Central Insurance, and of energy producing companies, with the exception of major power line companies. In the field of communications, the bill recommends privatization of postal and communications offices with the exception of major communications networks. It further recommends privatization of all state-owned aviation and shipping companies, except the Civil Aviation Organization and the Shipping and Ports Organization. (HAMSHAHRI, Feb. 1, 2005, at 1-2, at <http://www.hamshahri.org/hamnews/1383/831113/news/bourse.htm>.) (Gholam Vafai, 7-9845, gvaf@loc.gov)

ISRAEL – Compensation for Divorcing a Moslem Woman Against Her Will

The Nazareth family court imposed the payment of damages on a Moslem husband who divorced his wife against her will (by declaring *talaq* three times). Although Israeli law recognizes Moslem (*Sharia*) law in determining the validity of a divorce between Moslems in Israel, it imposes a criminal penalty on a husband who divorces his wife without her consent. In recognizing the wife's civil suit, the court held that there was sufficient evidence in this case to prove the husband's violation of the law even in the absence of a criminal conviction. The plaintiff proved that as a consequence of the husband's act she incurred emotional and financial damages and that in addition her chances of remarriage and status in the society to which she belongs have been damaged. (Family File 4790/00 anonymous, Nazareth family court (Jan. 13, 2005), available at Nevo database, <http://www.nevo.co.il/> (last visited Jan. 26, 2005).) (Ruth Levush, 7-9847, rlev@loc.gov)

ISRAEL – Statute of Limitations for Sex Offenses

The Israeli Penal Law 5737-1977, as amended, provides for a statute of limitations of ten years from a crime victim's twenty-eighth birthday, but this provision only applies to sex offenses committed against minors by their relatives or persons in charge of their supervision.

On January 17, 2005, the Knesset (Israel's Parliament) passed an amendment to extend the statute of limitations on sex offenses committed by other offenders fifteen years of age or older for rape, sodomy, and indecent acts on minors. The period was set for ten years from the victim's eighteenth birthday. Previously, the law established that the period ran from the date of the offense. Recognizing that the extension of the statute of limitations imposes an additional burden on the defendant in managing the defense and collecting evidence, the amendment provides that if ten years



have passed since the date of the offense, an indictment can be filed only with the approval of the Attorney General. A conviction in such a case, however, cannot be based on the sole testimony of the victim in the absence of corroborating evidence. (Penal Law (Amendment 84) 5765-2005, the Knesset website, at <http://www.knesset.gov.il/>; See also Nevo legal database, at <http://www.nevo.co.il/> (both sites last visited on Jan. 26, 2005).)
(Ruth Levush, 7-9847, rlev@loc.gov)

SOUTH ASIA

PAKISTAN – Deletion of “Sect” Column on Forms

At the suggestion of the Muslim League president, Shujaat Husain, President Pervez Musharraf of Pakistan agreed to direct the Law Ministry to scrap the declaration of sect on all recruitment and other application forms issued by state and quasi-governmental institutions, as well as in the private sector. The move, it is generally believed, will help contain the divisive culture of sectarianism in the country. There is no reason, the government feels, to carry on supporting sectarian identification of citizens, nor is there a need, as per the constitution, for a declaration as to the sectarian and religious identity of the citizens.

This move has led to a public debate as to whether new passports should identify the religious affiliation of the bearer. Previously, a declaration of the person’s religion was required on all passports. The change has especially enraged the Islamists, who view the move as secularizing Pakistan and consider it as a threat to Pakistan’s Islamic identity. They have vowed protests to force the government to reverse itself on the issue. However, liberal politicians, civil rights groups, and religious minorities have supported the government move, stating that “[a]ll citizens should be treated equally and there should be no role for religion, caste, or creed in the way they are treated by the state.”

The Interior Ministry has resisted calls for the restoration of the religion column in the new passports. The issue is complicated, as the conservatives in the Muslim League, the dominant party in the ruling pro-military coalition, forced a demand for a review of the decision, leading to a split in the Cabinet. The Religious Affairs Minister, Ijaz-ul-Haq, has called for the restoration of the religious affiliation column. The column originally was introduced by Ijaz-ul-Haq’s father, General Zia-ul-Haq, who passed several other religion-related laws as well in an effort to Islamize Pakistan in the 1980s. (THE NEW YORK TIMES, Jan. 7, 2005, [http://www.nytimes.com/2005/01/07/international/asia/07/pakistan.html?pagewanted=print&position](http://www.nytimes.com/2005/01/07/international/asia/07/pakistan.html?pagewanted=print&position;); THE DAWN, Jan. 10, 2005, <http://www.dawn.com/2005/01/10/top2.htm>.)
(Krishan Nehra, 7-7103, kneh@loc.gov)

PAKISTAN – Donors Urged to Support Judicial Independence

The Brussels-based International Crisis Group, which is a prominent international human rights advocacy group, in a report and recommendation entitled “Building Judicial Independence in Pakistan,” has urged the United States, the European Union, and other donor countries to use their influence on Pakistan to press for the independence of the judiciary. The report urged the U.S. Government to treat the independence of the judiciary as a measure of democratic development in Pakistan. With advocacy offices in Washington, London, New York, and Moscow and field offices in other countries including Pakistan, the group exerts a strong influence on policy-making in key countries.



While urging the Asian Development Bank and other donor agencies to “insist on reform of the appointments and promotions systems for the superior judiciary (in Pakistan) and on a strict adherence to the seniority rule for promotions,” the group further stated that the donor agencies should consider judicial independence “as a policy condition for further implementation of the structural adjustment loan under the Access to Justice Program.” The donor agencies, it contends, must persuade Pakistan to introduce steps to remove corrupt judges from the superior and subordinate courts. Pakistan should also be encouraged to promote meaningful in-service judicial training on gender sensitization and the appropriate treatment in court of religious minorities, especially Ahmadis and Christians. Further, Pakistan should be asked to adopt a constitutional amendment on the introduction of a transparent system of judicial appointments to the high courts, and accountability for such appointment should be expanded beyond the executive and chief justices to include parliamentarians, bar councils, and associations.

Pakistan has been urged to adopt the following six essential steps for the independence of the judiciary:

1. Parliamentarians and members of the bar should be involved in a public discussion for posts on the high courts, and there should be no deviation from the seniority rules for promotion of high court judges to the post of Chief Justice.
2. A statutory rule should be provided for promotion of high court judges to the Supreme Court under the seniority rule.
3. The practice of not confirming additional judges and awarding government positions to retired judges must stop.
4. The practice of selectively offering new oaths to judges should be stopped, and there should be public renunciation of the use of the judicial oath as a mechanism for purging the judiciary. Measures and mechanisms should be developed to prevent corruption among judges and to remove corrupt judges, with oversight authority from a judicial commission.
5. Pakistan should provide and ensure representation of minorities and women. Chief Justices’ power over the assignment of cases and of judges should be curtailed.
6. Anti-terrorism and accountability courts should be made part of the regular judiciary. The country should establish such courts within Pakistan’s ordinary judicial hierarchy, with the power of review remaining in the relevant High Court and the Supreme Court.

(THE DAWN, Jan. 10, 2005, <http://www.dawn.com/2005/01/10/top8.htm>.)

(Krishan Nehra, 7-7103, kneh@loc.gov)

WESTERN HEMISPHERE

CANADA – Travel Subsidies for Veterans

Canada’s Department of Veterans Affairs has announced a program to grant travel subsidies of C\$1000 to the first 1,500 veterans who served in Holland during World War II for the May 2005 celebration of that country’s liberation. (Veterans Affairs Canada, Travel Subsidy Information, <http://www.vac-acc.gc.ca/remembers>.) Holland’s celebration is particularly important to Canada, because more than 200,000 Canadians were involved in the Netherlands campaign. In making an early announcement about the program, the Department of Veterans Affairs also sought to avoid the criticism it received for delaying the announcement of a similar program for D-Day veterans. It has been



reported that as a result of that delay, only sixty Canadian veterans attended the ceremonies in France. (*Dutch Campaign Vets Get Travel Subsidy*, CBC NEWS, Dec. 15, 2004, <http://www.cbc.ca/story/canada/national/2004/12/14/veterans041214.html>.) (Stephen Clarke, 7-7121, scla@loc.gov)

CANADA – Violence in Hockey

In December 2004, Todd Bertucci pleaded guilty to assaulting another player during the course of a hockey game played the previous March in Vancouver. The charges in the case were filed after it became known that the assaulted player, Steve Morse, had suffered injuries as a result of the widely replayed incident that may well end the twenty-nine-year-old's career. However, before the trial, the Crown prosecutor agreed with the defense to jointly recommend that Mr. Bertucci be given a conditional discharge, which would result in no conviction being entered after just one year. In accepting this recommendation, the trial judge acknowledged that it would be widely viewed as another "slap on the wrist" for a player involved in a very serious incident of hockey violence. Nevertheless, the trial judge granted the discharge on condition that Mr. Bertucci perform two weeks' community service and pay a fine of C\$500 (about US\$405). One reason that this was deemed appropriate was that the manager of Mr. Bertucci's team had given him a glowing recommendation. Another reason was that allowing a conviction to stand could have made Mr. Bertucci ineligible to enter the United States. ([2004] B.C.J. No. 2692, B.C. Prov. Ct., Dec. 22, 2004.) (Steve Clarke, 7-7121, scla@loc.gov)

GUATEMALA – U.N. Human Rights Office

On January 10, 2005, the Guatemalan Foreign Relations Minister, Jorge Briz, and the UN High Commissioner for Human Rights (UNHCHR), Louis Arbour, signed an agreement for the opening of a UNHCHR Office in Guatemala later this year. The Office will not have as a mandate the reception and verification of human rights violation complaints, but will provide advice and assistance to Guatemalan human rights institutions and Guatemalan authorities. The Office will also provide assistance in the UN mission to verify the implementation of the peace agreements signed by Guatemala. (Ministerio de Relaciones Exteriores, República de Guatemala, *Comunicado No. 005-2005*, Jan. 10, 2005, <http://www.minex.gob.gt>.) (Norma Gutiérrez, 7-4314, ngut@loc.gov)

MEXICO – Executive Branch Creates Public Security Cabinet

A presidential resolution creating the Public Security Cabinet was promulgated and officially published in the official gazette on January 6, 2005. The new Cabinet is comprised of the Secretaries of Public Security, the Interior, National Defense, and the Navy, as well as the Federal Preventive Police Commissioner and the Public Security Secretariat's Undersecretary for Crime-Fighting Policy. The latter will serve as the group's executive secretary. The Attorney General of the Republic will be invited to be a permanent member.

The President of the Republic will preside over the Cabinet; in his absence it will be chaired by the Secretary of Public Security. Among the Cabinet's functions are: to serve as a coordinator of the Federal Executive branches dealing with public security; to promote and authorize mechanisms of coordination for the exchange of public security information with foreign governments and institutions; and to establish crime-fighting policy in coordination with the Executive Branch agencies in order to



develop plans and jointly implement actions aimed at discouraging crime. (*Acuerdo por el que se Crea el Gabinete de Seguridad Pública*, DIARIO OFICIAL, Jan. 6, 2005.)
(Norma Gutiérrez, 7-4314, ngut@loc.gov)

MEXICO – Genocide Charges Against Officials

On January 13, 2005, Ignacio Carrillo Prieto, a special prosecutor investigating the murders and disappearances of people during Mexico's "dirty war," said that he would seek genocide charges against about twenty-five former government and military officials in connection with the October 2, 1968, massacre of protesters in Mexico City's Tlatelolco Plaza. The Tlatelolco Massacre resulted in the deaths of numerous young activists just before Mexico hosted the 1968 Olympic Games. Carrillo Prieto said those officials "could include" Luis Echeverria, who was Mexico's president from 1970 to 1976.

The special prosecutor said that in the coming months he will also seek to charge several former officials with genocide in the disappearances and murders of about 500 people in the government's campaign of repression against students, democracy activists, and other protesters between the late 1960s and the early 1980s. (Noticieros Televisa website, at <http://www.esmas.com/noticierostelevisa/mexico/418117.html>; see also *Mexico To Seek Genocide Charges Against Officials in 1968 Massacre*, WASHINGTON POST, at <http://www.washingtonpost.com/wp-dyn/articles/A7818-2005Jan13.html>.)

(Gustavo E. Guerra, 7-7104, ggue@loc.gov)

MEXICO – Mexican Migrant's Guide

The Mexican Secretariat of Foreign Relations is reviewing the impact that the *Mexican Migrant's Guide* has had in order to decide whether to cancel further printings of this document that has sparked criticism in the United States. The Guide, which has an easy-to-read format and looks like a comic book, describes the physical and legal dangers involved in crossing the border illegally. For example, it states that the "safe and sure way to enter another country is by having previously obtained a passport..." "Crossing by river can be very risky, especially if you do so alone and at night." However, it has been argued that the booklet has provided many tips on how to cross the border illegally. For example, a passage reads that "[i]f you cross through the desert, try to walk during hours in which the heat is not so intense." Another states "If you become lost, walk along power line routes, train tracks, or dirt roads."

Gerónimo Gutiérrez, Undersecretary for North America at the Secretariat of Foreign Relations (SRE), stated that the Guide did not promote undocumented migration and that "[t]he Mexican Government is under the obligation to do everything it can, within the law, to prevent the loss of human life on the border..." According to SRE sources, the analysis to be conducted to determine whether or not to issue additional copies of the booklet would be based on the effect it has had on the Mexican population; for example, on whether or not there has been a drop in the number of migrant deaths at the border, a decrease in the dangers faced by immigrants at the border, or a reduction in requests by migrants for consular assistance. In the meantime no more Guides will be distributed because the approximately two million copies printed have already been distributed. An English translation of the



Guide is available from the Law Library upon request. (Natalia Gómez Quintero, *Guía del Migrante No Promueve Éxodo: SRE*, EL UNIVERSAL, Jan. 7, 2005; Natalia Gómez Quintero, *Analizan Cancelar 'Guía del Migrante,'* EL UNIVERSAL, Jan. 8, 2005, <http://www.eluniversal.com>.) (Norma Gutiérrez, 7-4314, ngut@loc.gov)

INTERNATIONAL LAW AND ORGANIZATIONS

CENTRAL AFRICAN REPUBLIC/ICC – Request for Investigation

The International Criminal Court (ICC), a permanent war crimes tribunal established by the Rome Statute of 1998, has received its third request for an investigation. The government of the Central African Republic sent a letter asking that prosecutors from the ICC review the question of whether war crimes have been committed within its borders. A preliminary investigation will be conducted by ICC Prosecutor Luis Moreno Ocampo; his findings will determine whether a formal investigation is needed. The previous two referrals concern Uganda and the Democratic Republic of the Congo. Those investigations are ongoing. The ICC, headquartered in The Hague, may conduct trials of individuals charged with war crimes that were committed after July 1, 2002. Ninety-seven countries participate as parties to the Rome Statute. (*International Criminal Court Prosecutors Receive Referral from Central African Republic*, UN NEWS SERVICE, JAN. 7, 2005, email from news8@list.un.org.) (Constance A. Johnson, 7-9829, cojo@loc.gov)

CHINA/TAIWAN – Agreement on Cross Strait Flights for Holiday

On January 15, 2005, in Macao, mainland China and Taiwan negotiators reached a landmark agreement to allow direct charter flights across the Taiwan Strait (forty-eight round trips in all) during the Lunar New year holiday, for the period January 29 to February 20, so that Taiwan businessmen and their families based in the mainland may travel home to visit their families. Lunar New Year this year falls on February 9. Under the agreement, services between the mainland cities of Beijing, Shanghai, and Guangzhou and the Taiwan cities of Taipei and Kaohsiung will be jointly operated by six airlines from each side, but will detour over Hong Kong air space.

For the Lunar New Year in 2003, six Taiwan airlines had run flights between Shanghai and Taipei/Kaohsiung with Beijing authorities' consent, but with a stopover in Hong Kong. The services were not run in 2004 because Beijing refused to negotiate with Taiwan over Beijing's insistence that mainland carriers also provide the services. (Luis Huang, *Holiday Charter Flights Operation Rules To Be Finalized Soon: CAA*, CENTRAL NEWS AGENCY, Jan. 16, 2005; *Taiwan-China Charter Flights Positive, But No Cause for Undue Optimism*, AFX-ASIA, Jan. 17, 2005, NEXIS, News Library, 90days File.) (Wendy Zeldin, 7-9832, wzel@loc.gov)

UNITED NATIONS – Briefing Paper on Oil-for-Food Program Audit Released

On January 9, 2005, the Independent Inquiry Committee examining the United Nations Oil-for-Food Program released a briefing paper on the Internal Audit Reports on the program. The Briefing Paper provides a limited perspective on the fifty-eight audit reports that were also released to the public. It stated that “the lack of focus on headquarters functions, oil purchase and humanitarian aid contracts, and bank letter of credit operations, in combination with the slow pace of audit performance, appear to have deprived the UN of a potentially powerful agent in helping to ensure accountability....” Included with the Briefing Paper in Annex 1 is a list of the fifty-eight audit reports, with descriptions of



their findings and recommendations. “The reports offer a picture of several organizations debilitated by stress and insufficient resources that too frequently operated in an ineffective, wasteful and unsatisfactory manner.” A more detailed report will be out by the end of January, and the committee’s final report should be out in June. (*Internal Audit Reports on the United Nations Oil-for-Food Program Briefing Paper*, Independent Inquiry Committee into the United Nations Oil-for-Food Program, at <http://www.iic-offp.org/documents/IAD%20Briefing%20Paper.pdf>. *Iraq: Oil for Food Scandal*, Council on Foreign Relations, at http://www.cfr.org/background/background_iraq_oilfood.php.) (Andrew Weber, 7-4758, anwe@loc.gov)

UNITED NATIONS – Nairobi Declaration on Anti-Personnel Mines

The first review conference of the 1997 UN Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines, otherwise known as the Ottawa Convention, ended in Nairobi, Kenya, on December 6, 2004. The participants adopted a declaration renewing their commitment to eradicate the problems associated with anti-personnel mines and also endorsed a five-year plan to expedite the destruction and clearance of landmines. Under the plan, governments are required to adopt a variety of measures to combat the use of landmines and provide care for their victims. They also must promote universal acceptance of the Convention, meet their ten-year mine-clearance deadline, and expedite mine destruction efforts. (*GLOBAL: Nations Embrace Anti-Mine Action Plan*, available at <http://www.irinnews.org/report.asp?ReportID=44521&S>.) (Theresa Papademetriou, 7-9857, tmap@loc.gov)

UNITED NATIONS TRIBUNAL – Bosnian Serbs Sentenced

On January 17, 2005, the United Nations Criminal Tribunal for the Former Yugoslavia sentenced two Bosnian Serb military officers. The war crimes tribunal gave Vidoje Blagojevic a sentence of eighteen years and Dragan Jokic one of nine years for their actions in connection with the massacre of 7,000 Bosnian Muslims in July 1995. Both men will receive some credit for time already served. Blagojevic was a colonel in charge of a brigade and was charged with participating in the forced transfer of women and children from Srebrenica to another town. He had responsibility for the general welfare of all prisoners detained in the area, some of whom were killed or transferred elsewhere and killed. While acquitted of the charge of exterminating people, he was convicted of complicity to commit genocide, murder as a crime against humanity and a war crime, persecution, and inhumane acts. Jokic was a major and Chief of Engineering for another bridge. He was charged with assisting in the planning, monitoring, organizing, and carrying out of burials of the murdered, as well as with executions themselves and communications about them. He was convicted of extermination as a crime against humanity, murder as a violation of the laws of war, and persecution. A third defendant, Savo Todovic, made his first appearance before the Tribunal in mid-January 2005. He is accused of selecting detainees for killings, beatings, interrogations, forced labor, solitary confinement, and exchanges. (*UN Tribunal Sentences Two for War Crimes in Srebrenica Enclave*, UN NEWS SERVICE, Jan. 18, 2005, email from news8@list.un.org.)

The Security Council of the UN announced on January 18, 2005, that the terms of some of the judges on the Tribunal would be extended, to insure that the trials of all five of the current cases scheduled to be heard by 2008 can be completed. (*Terms Extended for Ad Hoc Judges at UN War Crimes Tribunal for Former Yugoslavia*, UN NEWS SERVICE, Jan. 18, 2005, email from news8@list.un.org.) (Constance A. Johnson, 7-9829, cojo@loc.gov)



UNITED STATES/MEXICO – SEC Sues Mexican Television Executives

On January 4, 2005, the U.S. Securities and Exchange Commission (SEC) filed civil fraud charges against Mexico's second-biggest broadcast television company and its longtime chairman, accusing them of hiding the executive's role in a series of self-dealing transactions that earned him \$109 million. The SEC has jurisdiction over TV Azteca SA because the Mexico City-based media company trades its United States depository receipts on the New York Stock Exchange.

Regulators are seeking unspecified civil money penalties against Chairman Ricardo B. Salinas Pliego and former chief executive Pedro Padilla Longoria for their role in the alleged fraud. A third official, board member Luis Echarte Fernandez, settled SEC charges by agreeing to pay \$200,000. He did not admit or deny wrongdoing. (EL IMPARCIAL (Mexican newspaper) website, at <http://www.elimparcial.com/edicionimpresa/Hoy/Editorial/408661.asp>; *SEC Sues Mexican Television Executives*, THE WASHINGTON POST website, at <http://www.washingtonpost.com/wp-dyn/articles/A48738-2005Jan4.html>.)
(Gustavo E. Guerra, 7-7104, ggue@loc.gov)

WTO – Policies to Help Tsunami-Hit Economies Encouraged

On January 14, 2005, WTO Director General Supachai Panitchpakdi urged the 148 member countries of the WTO to consider trade policies to help tsunami sufferers. Panitchpakdi, a former deputy premier of Thailand, one of the countries hit by the December 26 tragedy, sent a letter calling upon all the member countries to consider whether they could introduce any trade policies now to help the affected economies to recover. He also stressed that, in the long term, the best way for the Geneva-based organization to help the victims of the giant waves, which cut a lethal swathe from Indonesia to Somalia, is by speedily completing global negotiations on lowering barriers to trade. Trade remedies, including higher duties to block any surge in imports from a trading partner, are steps countries can legally take, the WTO leader argued. (World Bank Group, available at <http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,date:01-27-005~menuPK:278083~pagePK:34392~piPK:34427~theSitePK:4607,00.html>.)
(Karla Walker, 7-4332, kdwa@loc.gov)

WTO – Trade Deal Pushed

An agreement to liberalize global trade could be struck by the end of 2006. Supachai Panitchpakdi, the Director General of the WTO, said that the Doha round of trade talks has been deadlocked for years, with industrialized and developing countries squabbling mainly over subsidies and tariff barriers for agricultural products. He urged countries to work “as hard as possible” and give clear commitments by the summer of 2005. A summit of the 148 WTO members in Hong Kong later this year is designed to forge an agreement, but many observers believe that a breakthrough is unlikely before 2007. (Global Policy Forum, available at <http://www.globalpolicy.org/visitctr/wnw/wnw0401b.htm>.)
(Karla Walker, 7-4332, kdwa@loc.gov)



WTO/CANADA/EU/U.S. – Trade Dispute

On January 25, 2005, the United States, Canada, and the European Union launched formal trade disputes against each other, asking the World Trade Organization to rule on the legality of Brussels' customs rules and Washington's continued sanctions against the EU, because of a ban on hormone-treated beef imports. After failing to settle their differences in direct talks, all sides asked for the creation of a dispute settlement panel. The United States claims that the EU is failing to respect the global trade rules set by WTO, because it has a complex set of customs regulations that vary from country to country in the twenty-five-nation block, and further contends that this amounts to a trade barrier, because it makes it harder for foreign companies to enter the European market.

The EU responded by saying that the criticism is incorrect, claiming that WTO rules do not say how responsibility for customs regulations should be spread among EU countries, and requesting that the WTO condemn the United States and Canada for failing to lift sanctions. The EU also says it has complied with a previous WTO ruling on beef imports. In 1998, the WTO ruled that the EU's ban was illegal because of a lack of solid scientific evidence. The EU claims that in retaliation, the United States and Canada impose about US\$125 million (96 million *euro*) worth of duties each year on European products such as French Roquefort cheese, truffles, mustards, and other delicacies. In response, the EU passed legislation on the use of hormones in meat products for consumption, based on independent research. This new legislation came into force in October 2004 and maintains a permanent ban on the use of the hormone oestradiol 17b and a provisional ban on five other growth-promoting hormones, including testosterone, progesterone, and zeranol. The United States and Canada continue to maintain their trade sanctions against the EU over its hormone ban, rejecting EU claims that it now has solid scientific proof that the meat poses a risk to human health and therefore can be banned under world trade rules. (World Trade Organization, available at http://www.wto.org/english/tratop_e/dispu_e/distabase_wto_members2_e.htm.)
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RECENT DEVELOPMENTS IN THE EUROPEAN UNION

Prepared by Theresa Papademetriou, Senior Legal Specialist, Western Law Division

EU Parliament Endorses the EU Constitution

On January 13, 2005, the European Parliament endorsed the Draft Constitutional Treaty Establishing the EU Constitution, with 500 members voting in favor, 137 against, and 40 abstentions. The four major parties in the Parliament, the conservatives, socialists, liberal-democrats, and greens, were those that voted in favor, while British conservatives, communists, and far-right groups voted against. The Parliament also urged the EU Members to move rapidly in ratifying the Constitution. If it is ratified by all EU Members and the ratification instruments are deposited, it will enter into force on November 1, 2006. (*European Parliament Resolution on the Treaty Establishing a Constitution for Europe (2004/2129 (INI))*, EUROPAL, Jan. 12, 2005, <http://www2.europarl.eu.int/>.)

EU/U.S. Agreement to End Subsidies for Large Aircraft

On January 11, 2005, the EU, through European Commissioner Peter Mandelson, and the United States, through Trade Representative Bob Zoellick, established the terms to begin negotiations on subsidies for the civil aircraft sector. In dispute are government subsidies given to the two major civil aircraft makers, Boeing and Airbus, which have caused turmoil between the EU and the United States for a number of years. In 1992, the two sides signed a bilateral agreement on Trade in Large Civil Aircraft, which included ceilings on subsidies and on the volume of support provided by either side. On October 6, 2004, the United States filed a WTO complaint against the EU for subsidizing the Airbus company. In response to this action and on the same day, the European Commission filed its own suit with the WTO, claiming that the US Government was providing illegal subsidies to Boeing.

The January 2005 move indicates the willingness of both parties to resolve the issue through negotiations rather than pursue it through the WTO. It is estimated that the negotiations will last approximately three months, with the goal of eliminating the various types of subsidies and establishing fair competition rules. (WTO Dispute Settlement, *EU/US Agreement on Terms for Negotiation To End Subsidies for Large Civil Aircraft*, Brussels, Jan. 11, 2005, available at http://europa.eu.int/comm/trade/issues/respectrules/dispute/pr110_105_en.htm.)

New Standard Clauses for Data Transfers to Non-EU Countries

The 1995 Privacy Directive requires companies to ensure “adequate protection” for personal data transferred outside the EU. An established body of clauses has been in force since 2001. Companies are required to include these clauses in the drafting of contracts dealing with the transfer of data. Recently, a business coalition under the guidance of the International Chamber negotiated a series of new, replacement contractual clauses with the Commission. Companies consider some of these clauses to be more business-friendly, while providing the same level of protection to EU consumers regarding their personal data. In addition, the data protection authorities are granted more powers to intervene in case of violations and to impose sanctions, if necessary. (Press Release, *Data Protection: Commission Approves New Standard Clauses for Data Transfers to Non-EU Countries*, IP/05/12.)



Harmonization of Pesticide Residue Limits

Currently, in the absence of EU legislation on the issue, there is a wide discrepancy among EU Members as to the maximum residue levels of pesticides allowed in various food products. Heightened safety concerns for vulnerable groups of people such as children and the ill, have now prompted the European Commission to devise a proposal for a regulation that will eliminate this problem. As envisioned, the regulation will compile a list of crops for which minimum residue levels must be established at the EU level. It will also identify pesticides that need not be subject to this requirement. (*EU Agrees To Harmonize Pesticide Residue Limits*, available at http://europa.eu.in/comm/food/fs/ph_ps/pest/intro_en.pdf.)

Dangerous Products – New Guidelines

The General Product Safety Directive, which has been in force since January 2004, requires producers and distributors to move rapidly to inform the appropriate national authorities in case a product that has been placed on the market poses a threat to the public. On December 13, 2004, the Commission adopted guidelines, addressed to the companies, that clarify the circumstances under which, when, and how the companies are required to notify the relevant authorities in the event a dangerous product has been marketed. Upon notification, the authorities may require the company to take further action, including tracking, withdrawing, or totally recalling the product. (*New Guidelines on Dangerous Products*, available at http://europa.eu.in/comm/consumers/copns_safe/prod_safe/gpsd/index_en.htm.)



**RUSSIAN FEDERATION:
ADMINISTRATIVE REFORM AND PUTIN'S LEGAL PROPOSALS**
Prepared by Peter Roudik, Senior Legal Specialist, Eastern Law Division

Following the terrorist attack on a school and the subsequent hostage crisis in the city of Beslan in early September 2004, President Vladimir Putin ordered immediate changes to Russia's political system to help combat terrorism. On September 13, 2004, he issued a decree that gave various Russian government entities two weeks to draft proposals to deal with emergencies and one month to prepare "appropriate measures on foreseeing and preventing terrorism in any form."¹ Among the most significant proposals were a new election law aimed at limiting the number of political parties and legislation establishing full control by the President of Russia over appointing regional leaders.

On December 15, 2004, the government-owned newspaper *Rossiiskaia Gazeta* published the amendments to federal laws on General Principles of Composition of Legislative and Executive Authorities of the Constituent Components of the Russian Federation and on Basic Guarantees of Electoral Rights of the Citizens of the Russian Federation. These amendments, which were signed into law on December 11, 2004, entered into force upon their publication. According to the amendments, the State Duma (the parliament's lower house) will now be elected solely from party lists, and top officials in the federation's constituent components will be elected by local legislative assemblies from candidates nominated by the President of the Russian Federation. These changes "contribute to consolidation of power but at the same time they lead to a diminishing of the role of local authorities and to a general decline of pluralism in the country."²

Changes in the Composition of the State Duma

Until recently, half of the Duma's 450 members were elected from single-mandate constituencies (the equivalent of U.S. Congressional electoral districts) and the other half from party lists. The new law eliminates the single-mandate districts, providing instead that all Russian legislators will be elected as members of their party lists in the single federal electoral district, which comprises the entire Russian territory. Electoral blocks, which consisted of combinations of small parties in previous elections, are prohibited. Non-party members may be included on the party lists if they comprise less than fifty percent of those individuals who are included on the list. Parties may offer places on their lists to any Russian citizen, and they may choose whether or not to accept petitions from non-party members to be included on their party lists. According to the law, the right to apply for party nomination belongs to every Russian citizen. However, the procedure for nominating non-party members is cumbersome and allows for significant leverage by the political party leadership.

The federal part of the party list will be limited to three candidates (at present the limit is eight). These three individuals will be the first to become members of the Duma if the party receives more than seven percent of the popular vote (during the last election the party barrier was set at five percent). The party lists must have no fewer than seventy regional groups of candidates (at present the limit is seven) and must include representatives from all eighty-nine constituent components of the

¹ SOBRANIE ZAKONODATELSTVA ROSSIISKOI FEDERATSII j (Collection of Laws of the Russian Federation, official gazette, hereinafter, SZ RF), 2004, No. 38, Item 3779.

² Reuters, *Putin Asserts Control After School Siege*, available at http://www.gazeta.ru/print/2004/09/14/oa_133391.shtml.



Russian Federation. Each regional group will represent no more than 10 million constituents. In order to be registered with the Central Election Commission and to be eligible to participate in the parliamentary elections, each party must collect no fewer than 200,000 signatures. No more than 10,000 signatures may come from any one constituent component. For extraordinary elections, the number of required signatures collected is half that amount. With regard to campaign financing, the law established a maximum limit for electoral spending, which is equal to US\$8 million. The next Duma elections, scheduled for December 2007, will be conducted under the new law.

New Procedure for the Appointment of Governors

The popular election of Governors and of other heads of all of the constituent components of the Russian Federation has been replaced by the “endowing with authority of the highest administrative official of the Russian Federation constituent component.” The law allows any Russian citizen who has reached age thirty to be “endowed” with such authority, for a term not exceeding five years.³ The candidate for the “endowing” will be nominated by the President of the Russian Federation no later than thirty-five days before the expiration of the term of the current governor. Consultations between the President and the Governor are to be conducted before nominating the candidate. The legislative assembly of the constituent component has two weeks to consider the presidential nomination and to agree with the President’s choice by a simple majority, or to reject the choice. In the latter case, the President must submit a new nomination or must nominate the rejected candidate again. If the candidate is rejected a second time, the President will have the following three options: to nominate the candidate for a third time; to appoint an acting Governor (for a six-month period); or to dismiss the legislative assembly. In case of a third rejection, the President appoints the acting Governor and decides whether to dissolve the legislative assembly or to start a new nominating process after expiration of the six-month term of the acting Governor.

It is a relatively easy procedure to dismiss a Governor. The President can dismiss him by decree for one of two reasons: loss of trust or inappropriate fulfillment of duties. The component’s legislature may vote no confidence in the Governor, but this vote requires confirmation by the President of Russia. Even though these amendments are in force, they do not affect incumbent Governors who were already elected or regions where elections of Governors were scheduled before the adoption of this law. Meanwhile, elected Governors may voluntarily resign before the expiration of their terms and may request presidential appointment for a new five-year term. This process has already started in several Russian regions whose Governors stated that they serve at the pleasure of the President and that they would like to receive confirmation of his confidence. Legal and political analysts believe that, in order to increase the manageability of the Russian territory, this move may be followed by a merger of the existing constituent components into enlarged units, the number of which may be between thirty and forty.⁴

³ Proposals to make connections between the candidate and the region (e.g., by birth or business association) and to make knowledge of regional specifics a mandatory requirement for the nominees were not supported by the Administration of the RF President during legislative debates.

⁴ CIVIL RELATIONS AND STATEHOOD IN CHANGING RUSSIA (Report of the Foundation for the Development of Political Centrism) 26 (S. Sulakshin, ed., Moscow, Geneva, 2004).



Other Related Legislative Proposals

Because President Vladimir Putin's centralization of power within the Kremlin has not proved effective in combating either corruption or terrorism in Russia,⁵ other laws were initiated by the incumbent administration at the State Duma of the Russian Federation. Among these legislative proposals are the newly drafted Counter-Terrorism Act, the Law on the Civil Chamber of the Russian Federation, and several amendments to existing legislation. All of these proposals were discussed during the plenary session of the State Duma in December 2004. At present, they are being reviewed by the Duma Committees in order for them to be submitted for their second reading in spring 2005. Russian legislative procedure requires that each law be discussed three times on the Duma's floor. However, the third reading is reserved for eliminating linguistic errors and resolving other minor issues and is often combined with the second floor discussion on the bill.

The Fight Against Terrorism and the Restriction of Rights

The Counter-Terrorism Act defines terrorism as a political phenomenon and provides a legal mechanism for the use of the armed forces in counter-terrorist operations, including those operations outside the territory of Russia. It also creates the Federal Antiterrorist Commission, chaired by the Prime Minister, and subordinate regional commissions. The Federal Security Service (the former KGB) is authorized to be the lead agency in charge of combating terrorist activities. The Act supplements the existing legal authorities granted to the government that apply during emergency situations and counter-terrorist operations with a "regime of a terrorist threat," which can be introduced if the authorities receive information about the possibility of a terrorist attack, even if such information is not confirmed. According to the bill, the Counter-Terrorist Operation Commander (i.e., the chief of the regional Federal Security Service) will be able to introduce the regime of a terrorist threat when he believes that the probability of a terrorist attack has increased. The regime of a terrorist threat can be introduced for a period of up to sixty days. According to the Act, individual rights and freedoms can be restricted if the regime of a terrorist threat is introduced. The Act proposes, during a regime of terrorist threat, the prohibition of mass events, increased passport and residence-registration control, limited movement of vehicles and pedestrians, and control of telephone conversations and electronic communications. The Act also establishes special rules for journalists working in the area of a counter-terrorist operation. They will be allowed to transmit information "in forms and volumes determined by the commander of the counter-terrorist operation." Additionally, journalists' access to the area of the counter-terrorist operation may be closed completely.

Although it was expected that the parliamentarians would speedily approve the bill, there has been no floor discussion on this proposed bill as of this writing. There are legal and political reasons for this delay. From the legal point of view, the draft does not define and divide the authorities of all of the government institutions responsible for ensuring the security of Russia's people. In addition to the Federal Security Service, these include various federal government and Russian constituent component administrative agencies. Additionally, in order to avoid duplication and confusion, about twenty federal laws will need to be amended. Because the bill is aimed at restricting political rights of citizens, the State Duma hopes to amend the law in order to prevent its misuse for political purposes. The amendments include allowing for some forms of legislative control over the introduction of the regime of a terrorist threat. One of the amendments proposes including members of the respective

⁵ Radio Free Europe/Radio Liberty, *Report: Putin's Methods Counterproductive in Russian Fight on Corruption and Terrorism*, Dec. 19, 2004, available at <http://www.rferl.org/>.



legislative bodies on the anti-terrorist commissions. In regard to the restrictions on journalists' activities, the President submitted his amendments to the Duma; they would eliminate all mention of mass media in the Counter-Terrorism Act, but provisions with the same wording are to be added to the Law on Mass Media. A high-ranking member of the Duma's Security Committee stated that the second reading of the Act can occur no earlier than March 2005.⁶

Manipulation of Public Opinion

The Law on the Civil Chamber of the Russian Federation provides for the creation of a new federal government entity. The Civil Chamber is to become an advisory body with the right to review legislative proposals considered by the State Duma and regional legislative assemblies and to oversee public control over the activities of the federal authorities. The Chamber will consist of 126 members, forty-two of whom will be appointed by the President of the Russian Federation, with the rest to be selected by these appointed members. The Chamber is intended to include socially prominent figures and representatives of non-government organizations. Government officials cannot be members of the Chamber, and members of political parties will not represent their parties. The decisions of the Chamber will not be binding and will not have legal force.

Because the Law on the Civil Chamber states that the Civil Chamber must approve constitutional amendments, analysts believe that the Chamber, which will be obedient to the Kremlin, can be used by the incumbent administration to show support for desired laws and constitutional changes.⁷ As an example, the analysts use the International Center for the Protection of Human Rights, which was created in September 2004 under a decree of President Putin.⁸ The decree provides for the creation of favorable conditions for so-called government-friendly human rights NGOs and ignores other public organizations that criticize government policies.

Increased Control over the Judiciary

The Federation Council, the upper chamber of the Russian legislature, has proposed changes to the Federal Law on the Judiciary, specifically, the procedure for appointing judges. At present, the President of the Russian Federation appoints the judges for all courts upon recommendations submitted to him by the Supreme Qualification College, whose members are elected by the All-Russian Congress of Judges, a self-governing professional body. The Supreme Qualification College is the highest authority that selects candidates for judicial appointments and decides whether to remove a judge from office, which revokes the judge's immunity. The College coordinates the work of provincial Qualification Colleges in all constituent components of the Russian Federation and thus influences the election of chairpersons for all provincial and lower courts. The new proposal, which has already been discussed and approved by both chambers of the legislature and is now awaiting presidential confirmation, changes the composition of the Supreme Qualification College. According to the Act, one half of the College will be appointed by the President of the Russian Federation and the other half

⁶ V. Chursina, *Popravki k Pravam Cheloveka* (Amendments to Human Rights), NOVAIA GAZETA (Feb. 7, 2005).

⁷ E. Rudneva, *Reformu Sdal* (Reform Is Done), at http://www/gazeta.ru/print/2004/12/08/oa_141967.shtml.

⁸ SZ RF, 2004, No. 40, Item 3941.



will be appointed by the Federation Council, which mostly consists of appointees of the Governors of the constituent components.

Acts Against Foreign Critics

Other legislative proposals under the Duma's consideration include amendments to the Law on Entry Into and Exit From the Russian Federation, which, if adopted, will allow the Russian Foreign Ministry to request the expulsion from Russia of those foreign individuals who are critical of the Russian government. It also adds "behavior or making statements that can be considered as disrespectful or unfriendly toward the Russian Federation" as new reasons to deny a visa request.

Expanding Access to Banking Secrecy

Claiming the necessity to increase the fight against the financing of terrorism, the Government of the Russian Federation introduced amendments to the Law on Banks and Banking Activities. Proposed amendments provide for the elimination of banking secrecy and recommend allowing law enforcement authorities to obtain information on capital transfers from financial institutions if there is a suspicion of a violation of law, even if a criminal investigation is not initiated. At present, personal financial information may be disclosed only to the courts, the Federal Service on Financial Monitoring, and in some cases to the investigative authorities upon the prosecutor's request.

Extending Control in Former Soviet States

A bill that would provide for the simplification of the acceptance of the autonomous republics of the former Soviet Union into the Russian Federation is also included in the legislative agenda of the State Duma. The purpose of this bill is to sever the regions of conflict of Abkhazia and South Ossetiya from the Republic of Georgia, and Transdnyester Province from Moldova, and to accept them as integral parts of Russia.

Criminal and Tax Code Amendments

President Putin's proposed amendments to the Criminal Code of the Russian Federation provide for adding property confiscation as one of the forms of criminal punishment. The President is proposing that money, valuable items, and other property received as a result of committing a crime, as well as income received from this property, be subject to confiscation. The amendment allows the seizure of property transferred by a convict to another person, if this person had a reason to believe that the property was received as a result of a criminal act. According to the logic of this amendment, the government may confiscate the salary paid to an employee who believes that the business owner has violated the rules for operating a business.

If passed, amendments to the Tax Code will cancel the existing practice of dispute resolution in a court where tax inspection must prove the taxpayer's guilt. New provisions will allow tax inspectors to recover fines imposed by the tax authorities without court rulings, if a guilty taxpayer does not appeal the fine to the superior tax inspectorate within thirty days of the imposition of the fine. The supervisory tax agent will make the decision on the imposition of a fine and its recovery. That will give the tax service the right to define whether a taxpayer is guilty or not and to recover the fine and penalties. The amendment does not give the taxpayer the right to appeal to the court the decision of tax authorities. Only the fact of the recovery, but not the fine itself, can be appealed to the court and the taxpayers will have the burden of proving their innocence. These amendments affect both juridical entities and individuals and make it possible for the state authorities to stop the work of, and bankrupt, any business.

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