

EU impact on human rights development in Russia, 1992-2012 (4): from transitional democracy towards performing democracy

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Introduction

Today Russia's compliance with international norms and practice in human rights is a passionately debated topic. Russia commitment to human rights and democracy is in the worst crisis that could be compared to those had happened in mid 1990s when the first Chechen campaign started and with August 2008 war with Georgia. Politicians from many Western countries, parliamentarians, political scientists, and ordinary people are fiercely discussing political regime, domestic and foreign policy of Russia. Two years back international community has questioned Russian democratic performance after Duma elections in December 2011 and Presidential elections in March 2012. Today debates are framed by the role of Russia in regime change in Ukraine and Crimea coming under Russia control in March 2014. As a result of these events Russia was expelled from the informal G-8 and suspended from voting in Parliamentary Assembly of Council of Europe in April 2014.

Ukrainian drama especially emphasizes the presence and influence of two major actors in the post-soviet area - the European Union and Russia. An example of highly emotional expression over these events is poems of a young Ukraine poetess Anastasiya Dmitruk that appeared in Internet and received many supporters in post-soviet countries and as well numerous rhythmical responses from Russians. She uncompromisingly accused Russians as being non-free, enchained from the childhood, silent and subjected to Czar in opposite to Ukrainians, who are brave, fearless, ready to die for democracy².

There is a widespread vision of democratic transition of Russia attached to her political leaders. Gorbachev is commonly appraised as a true democrat and a crasher of the Soviet system. Eltzin is portrayed as a liberator of Russia from authoritative political regime, who ensured economic, civic and political freedoms in practice and introduced Russia into 'a club' of the developed Western democracies. Putin's leadership is growingly associated with reverse move – towards strengthening 'a vertical of power', limiting freedoms in the country

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² Dmitruk A. We will never be brothers <https://www.facebook.com/siadmytruk> ("You have not got a spirit to be free"; "Freedom is unknown word to you, from your childhood you are enchained", " you are looking for new orders, we are having lights of riot; you have Czar, we have Democracy, never we will be brothers").

and reintroducing firm state control over many spheres of public life. Medvedev' presidency (2008-2012) after a short period of illusions is mainly assessed as a technical and mostly dependent on "tandem" leadership.

'Putin's Russia'³ becomes a widespread term to describe Russia as a nondemocratic country with antidemocratic regime and people stuck with authoritative heritage. There are several concerns over Russian democratic stand that repeatedly appears in many evaluations. Many authors note authoritative legacy that remains in the power system, power succession process⁴, media control, state interference into economic life, courts dependence on a state, people's longing towards 'order' and their paternalistic expectations of social protection and problem-solving. So-called 'manual mode of management' or 'managed democracy' that receives high public support is another concern over stability and strains of democratic principles in Russia. Commonly accepted vision of Russia as being non-democratic at official level and democratic-driven public is under scrutiny of many researchers and analysts.

My paper addresses the issue of current democratic stand of Russia from a very particular angle – the impact of the EU and Council of Europe on democratic changes in Russia. The European organizations' strategy was to bring and to promote European standards and practices to the former Soviet countries and thus to create a new common ground for Europe without dividing lines. *My major thesis is that there are exact and direct results of EU and Council of Europe impact on Russia in the sphere of human rights. The paper attempts to evaluate if the changes that were brought about by European partners have rooted in Russian soil or they would vanish as foreign inclusions in the nearest future.*

Paper organization. I will start with outlines of formal framework for EU-Russia cooperation in a sphere of human rights, then I will present its main forms and mechanisms. Finally I will discuss some changes that came into existence or practice as results of cooperation of Russia with European partners, namely, the EU, the Council of Europe and European countries. It is important to consider if these changes reflect genuine transformation or it is a case when a form prevails over substance.

Human rights issues are indispensable part of EU-Russia from a side of the European Union. The EU set principles and provided mechanisms, financial and logistic assistance to Russia in order to introduce changes in various spheres of public life. The EU has regularly evaluated a progress of the assistance programs, what was reflected in main documents on EU-Russia cooperation. Considering that human rights issue has a high symbolic meaning for

³ Shevtsova, Lilia, *Putin's Russia*. Washington D.C.: Carnegie Endowment for International Peace 2003.

⁴ Sakwa, Richard. *The crisis of Russian democracy: the dual state, factionalism and the Medvedev succession*. NY: Cambridge University Press, 2011.

the European Union domestic and foreign policy, many actions have been well documented. This allows to overview major activities of the EU in this directions using available documents and self-presentation.

Russia interaction with the EU has narrower set of documents that were not presented well enough in 1990s and early 2000s. However in last two-three years one could witness a great growth of materials on human rights issue produced by officials of Russia Ministry of Foreign affairs. Human rights issue became a noticeable direction of Russian foreign policy since 2012. As many changes took place in Russia during last twenty years it is easy to track them even these practices are not often discussed or presented as having European origin due to growing criticism towards Western influence and rise of national sentiments among many Russians in 2000s.

Framework for EU-Russia cooperation in human rights

As it is stated on Internet-site of the Delegation of the EU to Russia, political framework for building a strategic partnership with Russia rests on their membership in the United Nations, the OSCE and the Council of Europe and their commitment to “upholding and respecting the fundamental values and principles of democracy, human rights, the rule of law and the market economy”⁵. Human rights issue has been integrated into all major documents that regulate EU and Russia relationship from the early 1990s. Thus it is necessary to identify formal framework of the EU-Russia relations in this sphere through analysis of the documents. It is also important to look at political practice and to consider changes that had happened in the EU and Russia during last 20 years what shaped inner and external dynamics of human rights issue and its interpretation in bilateral relations.

In the early 1990s the perceived roles of the EU and Russia were evident and unquestionable. The EU was viewed as a unity of developed democratic countries, while Russia by then was a country in transition from a highly centralized state economy and one-party monopoly in politics towards pluralistic democracy and market economy. The EU was a model to follow to Russia in her reforms, and Russia was eagerly relied on financial support, advice and guidelines from ‘experienced’ Europe. Importantly in the process of building relationship with European organizations, Russia was obliged to ensure that freedoms in political and economic spheres are not separated but are considered to be essential part of a democratic regime, and to develop effective protection for individual rights against state power abuses. These principles are important features of the EU’s democratic model, what is

⁵ Political framework. Europe and Russia: Building a Strategic Partnership. Delegation of the European Union to Russia. URL: http://eeas.europa.eu/delegations/russia/eu_russia/political_relations/political_framework/index_en.htm

quite different from the Russian tradition. Russia as a 'young democracy' needed to establish norms, laws, to build a democratic culture and practices, which could create limitations on power misuse of different origins.

EU and Russia signed a Partnership and Cooperation Agreement (PCA) in 1994 that came into force in 1997⁶. The PCA defined the main principles for cooperation and areas for common activities. It started from the declaration of common values such as democratic governance, human rights and the commitment to market economy. One of the objectives defined in the PCA was "to provide an appropriate framework for the gradual integration between Russia and a wider area of cooperation in Europe". PCA clearly stated that the cooperation and partnership depends on Russia commitment "to strengthen the political and economic freedoms, which constitutes the very basis of the partnership". This way, the PCA established three dimensions of political dialogue, economic cooperation and culture. The PCA had a strong emphasis on the political dimension putting it in front of the document. The "respect for democratic principles and human rights as defined in particular in the Helsinki Final Act and the Charter of Paris for a new Europe" underpinned the internal and external policies of the Parties and constitutes an essential elements of partnership⁷ according to the Art. 2 of the Agreement.

Political dialogue, according to the document, should "accompany and consolidate the rapprochement between the European Union and Russia, support the political and economic changes underway in Russia and contribute to the establishment of new forms of cooperation". Overall objectives were to "strengthen the links between Russia and the European Union", to "bring about an increasing convergence of positions on international issues of mutual concern thus increasing security and stability", and "foresee that the Parties endeavor to cooperate on matters pertaining to the observance of the principles of democracy and human rights, and hold consultations, if necessary, on matters related to their due implementation". The document prescribed establishment of regular meetings on a senior official level and at ministerial level and active use of diplomatic channels, expert meetings and cooperation on parliamentary level.⁸

EU-Russia cooperation on human rights: main forms and mechanisms

⁶ The reason for the delay of the enactment was the first war in Chechnya and the human rights violations related to the war.

⁷ EU-Russia Agreement on Partnership and Cooperation // Official Journal of the European Communities. 28.11.1997. P. L 327/5. URL:

<http://ec.europa.eu/world/agreements/downloadFile.do?fullText=yes&treatyTransId=643>

⁸ "Meetings shall take place in principle twice a year between the President of the Council of the European Union and the President of the Commission of the European Communities on one side and the President of Russia on the other". Atr. 7. EU-Russia Agreement on Partnership and Cooperation. P. L327/6.

EU assistance for democratic reforms in Russia

The concrete EU actions assisting Russian democratization are well presented in the EU documents. The documents include not only description of actions, but some of them give straightforward evaluation of the actions' effectiveness. Considering importance of Russia as a powerful 'alter ego' in the post-Soviet area, the issue of human rights received high priority, and the EU documents having sometimes a very diplomatic wording are rather direct and precise in evaluating Russian progress in this sphere.

The EU defined relations with Russia through Country strategies, which had appeared as a foreign policy instrument in June 1999. Then the EU adopted the first such document towards Russia under the title 'Common Strategy of the European Union on Russia'. It started from quite enthusiastic passage that reflected still high expectations: "A stable, democratic and prosperous Russia, firmly anchored in a united Europe free of new dividing lines, is essential to lasting peace on the continent. The issues, which the whole continent faces, can be resolved only through ever closer cooperation between Russia and the European Union. The European Union welcomes Russia's return to its rightful place in the European family in a spirit of friendship, cooperation, fair accommodation of interests and on the foundations of shared values enshrined in the common heritage of European civilization"⁹. This was a clear sign for the special role the EU attributed to Russia and its importance for stability and peace on the European continent. It is worthwhile to mention that this document probably tried to bridge the first deep estrangement between the EU and Russia, which was caused by NATO military operation against Serbia earlier that year.

The document defined four main objectives where the first came "Consolidation of democracy, the rule of law and public institutions in Russia". The detailed description of the objective included: "The establishment of efficient, transparent public institutions is one of the prerequisites for confidence and wider adherence to democratic guidelines and the operation of the rule of law...The Union wishes to support Russia in the consolidation of its public institutions, particularly its executive, legislative and judicial bodies and its police, in accordance with democratic principles. Institutions which are essential for the operation of the economy form the second part of this objective. The European Union will attach particular importance to regional and local administrations, within their powers. Relations between central, regional and local authorities are an essential factor in the future of the Federation. The emergence of civil society in all areas is indispensable for the consolidation of democracy in Russia. The European Union wishes to support that process, particularly by developing

⁹ Common Strategy of the European Union on Russia. 4 June 1999 (1999/414/CFSP). URL: trade.ec.europa.eu/doclib/docs/2003/november/tradoc_114137.pdf

direct exchanges between civil society actors in Russia and the Union”¹⁰. The exact spheres and forms of cooperation for the abovementioned objectives were set as follows:

“the Union will undertake efforts to:

(a) strengthen the rule of law and public institutions,

– by providing support for and by encouraging the necessary institutional reforms towards a modern and effective administration within Russia's executive, legislature, and judiciary at federal, regional and local levels; in particular by developing the capacity of an independent judiciary, public administration and accountable law enforcement structures through the promotion of contacts between judicial authorities and law enforcement bodies of the EU Member States and Russia,

– by developing training programmes for young politicians and civil servants,

– by exploring, in response to a Russian request, the scope for EU action, in cooperation with international organisations such as the OSCE, in support of the efficient conduct of free and fair Presidential and Duma elections in 1999 and 2000,

– by supporting Russian efforts to meet its international human rights commitments including those to the Council of Europe, the UN and the OSCE, and by promoting joint EU-Council of Europe activities regarding Russia in the fields of the rule of law and human rights;

– by giving assistance in safeguarding human rights, including those of women, children and minorities, and by enhancing programmes to promote the abolition of the death penalty.

(b) to strengthen civic society,

–by enhancing contacts between politicians of Russia and the EU, at federal, regional and local levels including with assemblies at all levels,

–by promoting greater cultural and educational exchanges between Russia and the EU, and deeper contacts between societies, building on the long tradition of Russia's involvement in the formation of European civilisation, in particular by reviewing and enhancing, as necessary, scholarships and student contact programmes,

–by supporting independent NGOs,

–by cooperating with Russia to strengthen support for refugees and internally displaced people within Russia,

–by contributing to the freedom of the media,

–by promoting equal opportunities for men and women”¹¹.

¹⁰ Ibid., P. 2.

¹¹ Ibid., P. 5-6.

This extensive quote gives a very accurate description of the actions that the EU has implemented in regard of human rights and democracy in Russia from earlier 1990s till current days.

The period between 1991 and 2000 can be characterized as a search for identity and for regional and global roles for both actors. Whereas the first years of cooperation were cheered with enthusiasm, the relationship cooled down in 1994 with a more insistent policy towards the 'near abroad' and a more reserved policy towards the 'West'. Russian public opinion showed an increasing disappointment with the 'Western' support, which was far less extensive than initially expected. Default of 1998, worsening economic situation with arising social problems, a new military campaign in Chechnya evoked by terror attacks in Russian cities contributed to an equal degree to inconsistency and an increasing personal weakening of Yeltsin Presidency. The year 2000 opened a new period of EU-Russian relations: President Yeltsin stepped down on 31 December 1999 and passed on his office to the Prime Minister Putin. The second Chechen War was used by Putin to present himself as a strong leader and 'holder of the office'. Putin has enjoyed through all these 14 years a quite unusual stable popularity even in slightly changing positions (as a president and prime minister), which contradicted to low public trust towards some other institutions (juridical system, police, political parties, Duma, trade unions)¹².

Putin's policy towards Western countries including its European vector could be characterized by growing pragmatism and 'economization' of Russian foreign policy. This change had been reflected by a medium-term strategy towards the EU that was adopted by Russia as a response to the EU's common strategy¹³. The Russia's strategy towards the EU stressed necessity of multipolar world and put affront national interests of Russia, specifically the issue of security in Europe, the EU Eastern enlargement and Russian special interests in 'near-abroad'. Political dialogue was primarily interpreted as communication on a senior official level. Timopheev Bordachev noted that the Strategy showed that Russian political elite viewed the European Union as a main source for modernization of a country. At the same time, it is became clear that Russia's authorities would strongly oppose any attempt to limit country sovereignty¹⁴.

¹² Россия на новом переломе: страхи и тревоги / Под ред. М.К. Горшкова, Р. Крумма, В.В. Петухова. - М. : Альфа-М, 2009. С. 59; Петухов В.В. Эволюция представлений россиян о демократии: от мечты до запроса на работающие институты // Россия реформирующаяся. Вып. 11 : Ежегодник / отв. ред. М. К. Горшков. — М. : Новый хронограф, 2012. С. 277.

¹³ Стратегия развития отношений Российской Федерации с Европейским Союзом на среднесрочную перспективу (2000-2010 гг.) URL: http://www.mgimo.ru/files2/y11_2013/243404/4.4.strategy_russia_relations_eu.htm

¹⁴ Россия и Европейский союз: переосмысливая стратегию взаимоотношений / Под ред. А. Мошеса; Моск.

Importantly, economic advancement of Russia was seen in connection of active presence of Russian companies in European market, and Russian leaders eagerly used rhetoric of Russia belonging to Europe. Bordachev explained 'political economy of Russian capitalism' in the following manner: " During ten years of reforms a balance of economic and political powers and interests has been formed. Russian economic and political players could not be competitive on international market. At the same time, when they act through government and parliament, they are able to influence formation of national foreign policy, or, for example, investment climate...State and business in Russia are interested in friendly relations with the West, which is considered as a source of technologies and investments, and as well as stable consumer of main export good of Russia – natural energy resources. At the same time the state is not interested in losing its sovereign rights, and business – in strengthening of European colleagues"¹⁵.

Respectively in the Country Strategy Paper on Russia (2002-2006) adopted by the EU Commission on 27 December 2001, Russia was considered as an important partner in economic sphere and also in facing common challenges on the European continent. The document provided an overview of situation in Russia and overall evaluation of reforms that took place in Russia. The document noted "soft" security threats from Russia that were a serious concern for the EU and require continued engagement: "nuclear safety, the fight against crime, including drug trafficking and illegal immigration, the spread of diseases and environmental pollution". EU has noted the strengthening of state power in Russia in comparison to 1990s, and planned to continue support for Russian civil society development, free media, as well as juridical reforms through assistance programs. On level of political structures EU considered to influence Russia's democratization through integration of Russia into international institutions such as Council of Europe, OSCE, G8 and WTO.¹⁶

Major vectors of the EU foreign policy in the region determined EU cooperation objectives: Northern Dimension cooperation on the northwest of Russia and the Baltic Sea; Eastern Enlargement and Kaliningrad area. EU-Russia energy dialogue and trade became another important topic for the EU, what also contributing into the strengthening pragmatism in bilateral relations. Political and security issues came afterwards. It was repeated that the EU interested in "the consolidation of democratic institutions, the strengthening of the rule of

Центр Карнеги; Фин. ин-т междунар. Отношений. – М.: Гендальф, 2003. С. 79-80. / Rethinking the Respective Strategies of Russia and the European Union URL: http://www.eurocollege.ru/files/server/files/Russia-EU_Moshes.pdf

¹⁵ Ibid., С. 88-89.

¹⁶ EU Country Strategy Paper on Russia (2002-2006) // Official site of the European Union. European Union External Action. P. 1, 4-5. URL: eeas.europa.eu/russia/docs/02-06_en.pdf

law and the continuation of political (including administrative and judicial) and economic reform in Russia". It was noted that the need for effective and consistent implementation of legislation is fundamental to the protection of human rights and civil liberties, the improvement of the investment climate, further reduction of bureaucratic regulations of business activities, de-monopolisation, improved regulation of financial institutions and efforts to combat corruption.

The document gave a critical account to the situation with human rights in Russia. The situation in Chechnya was named as a central issue of EU-Russia relations. Other EU concerns with democracy in Russia were: media pluralism and possible political intolerance, attacks and intimidations of journalists, weakness of civil society what is considered by EU as major objective in order to consolidate democracy, the rule of law, media freedom and social safety. Another expressed expectation on a side of the EU was "Russia's co-operation to promote the democratisation of Belarus, where Russia's influence could have a significant role". The withdrawal of Russia' armed forces from Georgia of Transdnestrria (Moldova) was positively mentioned. The EU also expected "Russia to play a constructive role in the resolution of frozen conflicts in the southern Caucasus (Abkhazia, South Ossetia, Nagorno-Karabakh)"¹⁷. The overall evaluation of democratic reforms in political sphere was rather positive¹⁸.

The document gave some figures and descriptions of on the EU assistance for Russian reforms. Within TACIS program during ten years 1991-2001 at total 2, 464 billion euros were spent on various projects. Specifically 280 million euros went for 'support for institutional, legal and administrative reforms', 334 million euros - for 'support to the private sector and assistance for economic development', 305 millions – for 'development of infrastructure networks (including energy, transport and telecommunications)', 319 million – for nuclear safety and 274 million euros – for 'regional programs'¹⁹. In the area of public administration TACIS aimed at various levels of government (federal, regional and local). Some programs aimed at improving the efficiency of such bodies as the State Duma, the Federation Council, the Ministries of Economy, Finance, Anti-monopoly, Labour, Education, Health, etc. Special attention was given in the field of taxation (advice to tax reform and legislation, tax collection

¹⁷ Ibid. P. 4-5.

¹⁸ «Russia still faces formidable hurdles in the process of transition of its economy and society, in spite of considerable progress made since 1991 towards the establishment of a democratic political system and a market economy governed by the rule of law. Some fundamentals of a real democracy, such as wide acceptance of political pluralism and freedom of opinion, have been established. But autocratic tendencies are still strong, and civil society and the level of trust in the judicial system and in public institutions are still weak. In spite of these concerns it looks, however, more likely that the far-reaching freedoms already achieved, together with Russia's international opening and exposure especially to Europe, will have enough momentum to maintain and develop a democratic state governed by the rule of law" /Ibid., P.

¹⁹ Annex 3. TACIS programme of technical cooperation. Funds committed for Russia. EU Country Strategy Paper on Russia (2002-2006).

and training of tax personnel). On legal reform, the objectives were defined as 'twofold': "to provide better legal protection for economic operators, and to support the development of improved legal training and education. Work on the legal and regulatory framework has been conducted in areas such as the land market, the electricity market, environmental monitoring, road transport and telecommunications. High-level policy advice has been provided to key people and institutions, particularly on economic and social issues"²⁰. According to the document, the impact of the provided training for officials in the regions was limited, because of the lack of overall strategy for administrative reform in Russia. Although it was mentioned that "the impact has probably be rather more important in human resources development, with a significant improvement of training quality in higher education and in public administration institutions". Estimated 'thousands of students and officials have been exposed to EU best practice' through new curricula, training and seminars organised by the projects"²¹. The description of projects provided details for the intended institutional, legal and administrative reform²².

The next EU Country Strategy Paper on Russia, 2007-2013, put forward plans for coming six years and also continued a practice of giving detailed evaluation of Russian situation and the results of EU assistance programs. It was bitterly stated that "it is far from being the case that everyone in Russia shares the European view of what a stable, secure and prosperous Federation will involve: accountable institutions and an independent judiciary, a free market system integrated with the rest of the European economy, and a strong civil society". Major critics came to the "state dominance of the economy – notably of oil and gas – for private interest, the corruption of the bureaucracy, increased control of civil society, and the lack of independent media", "the inertia of the large Russian bureaucracy" that handicaps reform efforts in general. In the sphere of public life, the murder of journalist Anna Politkovskaya was considered as not enough investigated and changes in the law on NGO

²⁰ Annex 4. Past and ongoing EC technical assistance. EU Country Strategy Paper on Russia (2002-2006). P.5.

²¹ Ibid.

²² Judicial support, retraining for judges of General Jurisdiction Courts, simplification of court procedures, and training for the new bailiffs service, prison twinning aimed at professionalising the prison service; support to regional NGOs to monitor compliance with Council of Europe obligations; legislative support to the Ministry of Labour and Social Protection concerning vulnerable groups; public administration training; support to the Police Academy in St. Petersburg and support in developing alternative dispute settlement mechanisms; pair a western NGO with a Russian partner to work on the drafting of new legal documents; professionalizing public administration through special internship for an Academy for Training of the Civil Service and the training of Russian civil servants. Germany through Transform programme had placed two German consultants within the Duma to work on banking legislation and two others to work on drafting SME/privatisation legislation. Consultants are also working with the State Property Committee on privatisation law and practice. Since 1992 the Swedish Government has worked with the Ministry of Finance and relevant authorities on budget and tax reform, as well as other public finance issues. There were also a number of projects implemented by the World Bank, USAID and OECD mainly in economic and taxation issues to improve investment climate for foreign companies and to facilitate economic performance of local SME/ Ibid., P. 11.

registration was evaluated as “further discourage the emergence of a true civil society in Russia”²³.

The politics and governance in Russia was given the following description that doesn't require any additional comments: “Russia is characterised by a powerful bureaucracy, increasingly dominated by the Kremlin and widely seen as highly corrupt, a legal system described by some as politically-biased, powerful and repressive law enforcement agencies and a relatively weak civil society. The human rights situation throughout Russia is of particular concern, despite international commitments entered into by the Federation, while there remain no independent Russian media to speak of. And yet Russian citizens in general are not sensitive to political or civic rights issues. Power is increasingly concentrated within the Presidential administration. The Duma remains quiescent, and the role of the recently-instituted Public Chamber in relation to the Duma itself is unclear...The political opposition remains weak and fractious. Party political rivalry appears to be a mask for the struggle between rival clans for control of the national wealth”²⁴.

The document evaluated effectiveness of EU assistance programs implemented so far. By 2006 the EU assistance reached 2,7 billion euros since 1991, and comprised at levels of 50 million euros annual or some more, including 7 millions provided to support civil society organisations.²⁵ A section of the document titled “Lessons learned” gave evidence of Russia's changing attitude and growing criticism on the quality and arrangement of cooperation through assistance. According to the document Russia had insisted on dealing in this matter from more “symmetrical relationship – an emphasis on cooperation rather than assistance”. There were open complaints from Russian side “that large, international private sector consultancy teams can be slow, unresponsive and ineffective”²⁶. Examples of successful projects were named under the Northern Dimension Environmental Partnership and the training of Central Bank personnel - both projects involved significant Russian co-financing²⁷.

The Commission projects in support civil society revealed the need to “reverse the tendency for a disproportionate amount of funding to be awarded to foreign as opposed to Russian civil society organisations”. Projects aimed at democracy and human rights were funded under the Common Space of Freedom, Security and Justice²⁸. EC Humanitarian Office

²³ Country Strategy Paper, 2007-2013. Russian Federation / European Union External Action. P. 7. URL: ec.europa.eu/external_relations/russia/docs/2007-2013_en.pdf

²⁴ Ibid., P. 14-15.

²⁵ Ibid., P. 16-17.

²⁶ This evaluation strongly echoes the account given in a book «Development aid in Russia: lessons from Siberia» by Judith Marquand. NY: Palgrave Macmillan, 2009.

²⁷ Country Strategy Paper, 2007-2013. P. 19.

²⁸ Ibid., P. 20.

directed additional large resources through Humanitarian Aid Instrument to the North Caucasus region. In 1999-2007 172 millions euros were allocated for the victims of the conflict in Chechnya, assistance to displaced people in Ingushetia and Dagestan. About 500 million euros had been devoted to mine awareness²⁹. Additional thematic programmes aimed migration and asylum issues, support for non-state-actors for promoting democracy and human rights.

Human Rights Dialogue and Special Programs

In accordance to Partnership and Cooperation Agreement, EU and Russia have regular meetings on human rights issue on official level. Following the endorsement at the EU-Russia Summit in November 2004, the EU and Russia have agreed to hold consultations on human rights on a regular, semi-annual basis considering the importance of the consultations for “overall EU-Russia relations.” The Human Rights Dialogue is one of the tools EU employed in its external relations since 2001. Its basic principle is “to ensure that the issue of human rights, democracy and the rule of law will be included in all meetings and discussions it has with third countries and at every level, whether ministerial talks, joint committee meetings or formal dialogues led by the Presidency of the Council, the Troika, heads of mission or the Commission. It will further ensure that the issue of human rights, democracy and the rule of law is included in programming discussions and in country strategy papers”³⁰. In March 2005, EU and Russia have started a Dialogue on Human Rights with the first meeting that took place in Luxemburg with participation of the EU troika and a Deputy Director for Humanitarian Cooperation and Human Rights, Russian Ministry for Foreign Affairs³¹.

Since then meetings within Human Rights Dialogue held twice a year, mainly in Brussels, even the EU representatives had many times restated the wish to hold meetings in Moscow, “where it would benefit from the participation of relevant line ministries and agencies”³². During last meetings in 2012-2013 the EU raised concerns related to specific human rights issues in the Russian Federation: the deteriorating conditions in which non-governmental organisations operate in Russia further to the series of legislative changes (treason law, internet filtering, law on demonstrations, law on foreign funding for NGOs, libel law), the prospect of new laws affecting the LGBTi community and the harassment of human rights

²⁹ Ibid., P.28.

³⁰ EU guidelines on human rights dialogues with third countries. European Union External Action. P.5. URL: <http://www.consilium.europa.eu/uedocs/cmsUpload/16526.en08.pdf>

³¹ Presidency press statement. EU-Russia human rights consultations. Brussels. 8.09.2005. Council of the EU.12801/05 (Press 228). URL: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/misc/86164.pdf

³² The European Union – Russian Federation human rights consultations. Brussels. 10.12.2012. A566/12. URL: http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/134146.pdf

defenders and opposition leaders. The EU also deplored the lack of investigation into several criminal cases (Magnitsky, Estemirova, Politkovskaya). Russia on her turn repeated its concerns on the rise of racism and xenophobia in the EU, pointed out at the lack of EU investigation into secret detention facilities and raised the issue of stateless non-citizens in a number of EU Member States³³. The seventeenth meeting on 19 May 2013 the EU expressed concerns related to prosecution of oppositions leaders following presidential campaign of 2012: particular the wave of restrictive legislation, the recent checks conducted on the basis of the “foreign agents” law and the ongoing court cases; the fining of election monitoring organisation GOLOS; the charges brought against ADC Memorial in St Petersburg; the trial of Alexei Navalny; the situation of the people criminally charged related to events on Bolotnaya square in May 2012³⁴. The last consultation in this format took place on 28 November 2013 in Brussels. The EU concerns were mainly repeated the previous meetings, adding new cases of prosecution against oppositional leaders and activists³⁵.

The format of EU-Russia human rights dialogue has been often criticised as being ineffective and even “have indeed coincided with a period of worsening political conditions in Russia”. According to a study prepared on request of the European Parliament in 2011, the consultation on a senior level “lack concrete review and benchmarking mechanisms” and “has not been well dovetailed to European aid projects”³⁶. General suggestion was that consultations should be improved «by significantly broadening the circle of interlocutors. The EU must press to include civil society actors, as well as officials from the Interior Ministry and Prosecutor's office. Consultations must be held in Russia. There must be specific objectives and explicit benchmarks to assess the progress of the consultations. The results of the consultations and the issues raised must be discussed at the highest level of EU-Russia dialogue. Human rights consultations cannot be improved unless all these well-known ‘modalities’ issues are improved”³⁷. International Federation for Human Rights (FIDH) released an assessment of the EU-Russia Human Rights Consultations in October 2010. The recommendation was to suspend the Dialogue, because “FIDH strongly feels and fears that the

³³ Ibidem.

³⁴ The European Union – Russian Federation human rights consultations. Brussels, 19 May 2013. A258/13. URL: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/137151.pdf (access date: 18.06.2013)

³⁵ The European Union – Russian Federation human rights consultations. Brussels, 28 November 2013. 131128/01. URL: http://eeas.europa.eu/statements/docs/2013/131128_01_en.pdf

³⁶ Young, Richard, and Shapovalova, Natalia. EU human Rights Policy towards Russia. Policy Department Directorate General External Policies. 25.03.2011. EXPO/B/DROI/2010/07. PE 433.871. Brussels, 2011. P. 4. URL: http://www.fride.org/descarga/EU_Human_Rights_Policy_Towards_Russia.pdf

³⁷ Ibid., P. 4, 27.

human rights consultations are being “instrumentalised”, and have become a “process” rather than a mean to achieve measurable and tangible results”³⁸.

Falling to attract broader representation of civil society organizations and to bring human rights consultations to Russia, the EU had initiated establishing EU-Russia Civil Society Forum in late 2010. It had the first meeting in March 2011, and consequent General Assemblies were held in December 2011 in Warsaw, in October 2012 in St. Petersburg and on October 2013 in The Hague³⁹. The Forum activities attract Russian NGOs and also representatives of Russian human rights bodies such Russia's Presidential Council for Development of Civil Society and Human Rights with its leader Mikhail Fedotov, who became a Council Chairman in 2010. The EU financially and institutionally supports EU-Russia Civil Society Forum, organising contacts of Russian and European NGOs with the EU officials. Most recently Vygaudas Ušackas, Head of the EU Delegation to Russia, invited CFS representatives to a reception on 1 April 2014. The event was attended by Ella Pamfilova, who was recently appointed Russian human rights Ombudswoman, and Mikhail Fedotov, representatives from various Russian regions and delegates of the German, Polish and Dutch embassies in Moscow⁴⁰.

The format of EU-Russia Partnership for Modernisation that started in November 2009 provides additional dimension for EU-Russia cooperation. Even human rights and democracy issues occupy rather marginal place, they are present at main documents and regularly evaluated. In the annual 2013 report it was mentioned development of people-to-people links through education, research and support for EU-Russia Civil Society Forum⁴¹. Annual evaluation of a situation with human rights is performed within. EU-Russia Common spaces progress reports under the heading of the third space “Freedom, Security and Justice”⁴².

The biggest EU Commission program realized in Russia was TACIS that aimed to support the transition to a market economy, to reinforce democracy and the rule of law through technical assistance. Within TACIS in 1991- 2006 1500 projects were implemented in 58 Russian regions on a total sum of 2,7 billion euros. In 2007 the program was replaced by a new financial mechanism the European Neighborhood and Partnership Instrument (ENPI)

³⁸ Assessment of the EU-Russia Human Rights Consultations: “A good and constructive atmosphere » and 8 human rights defenders assassinated. October 2010. FIDH- International Federation for Human Rights. URL: <http://www.fidh.org/IMG/pdf/assessment.pdf>

³⁹ EU-Russia Civil Society Forum. URL: <http://eu-russia-csf.org/home/general-assemblies.html?L=%271%2F%2F>

⁴⁰ Kick-off meeting in Moscow. 07.04.2014. EU-Russia Civil Society Forum. URL: <http://eu-russia-csf.org/newsdetail/article/948.html?L=1%27%22&cHash=2b69ed74825436042b85b5396b68cd9a>

⁴¹ Progress report approved by the coordinators of the EU-Russia partnership for modernization for information to the EU-Russia summit on 28 January 2014. URL: http://formodernisation.com/en/info/progress_report.php

⁴² EU-Russia Common spaces progress report, 2012. URL: http://eeas.europa.eu/russia/docs/commonsaces_prog_report_2012_en.pdf

that allocated 11.2 billion euros for the period 2007-2013, which represents an increase of 32%, compared with the amount available over the period 2000-2006⁴³. ENPI differs from TACIS scheme by more active participation of Russian representatives in a selection process, contribution to co-financing of projects and their management. The changes were introduced after critical evaluation of TACIS program as being ineffective. The EU also included the demand for projects to have support of local and federal government to ensure their sustainability⁴⁴. The projects are to be within strategic priorities of the roadmaps to the four Common Spaces. Russia also actively participates in EU funded regional actions, such as Erasmus Mundus, Tempus, Northern Dimension and other relevant programmes⁴⁵.

The EU special programs on human rights and democracy

The EU also supported special programs and projects aimed at promotion of human rights in Russia. From 1994 (1997) Russia was included to the special program initiated by European Parliament - European Initiative for Democracy and Human Rights. In 2005 only 870 thousand euros had been supported 200 small and bigger projects⁴⁶. In 2003 within the EIDHR targeted projects, a tripartite programme between the Council of Europe, the EU and the Russian government has been designed to assist Russian state institutions to comply with the obligations of membership of the Council of Europe. The EU has also co-financed, together with the Council of Europe, a project to support a school for the promotion of human rights and democracy among young Russian politicians, and numerous so called micro projects⁴⁷.

The programme was renamed to the European Instrument for Democracy and Human Rights (EIDHR) in December 2006. Since its launch in Russia in 1997, the EIDHR has supported over 330 projects. The EU allocated about 1,1 billion euros for 2007-2013 to help

⁴³ European Neighborhood and Partnership Instrument. Development and cooperation – Europeaid.

http://ec.europa.eu/europeaid/how/finance/enpi_en.htmURL:

⁴⁴ Evaluation of Council Regulation 99/2000 (Tacis) and its Implementation. Synthesis Report. Vol. 1. Jan. 2006.

URL: http://ec.europa.eu/europeaid/how/evaluation/evaluation_reports/reports/2006/728_vol1_en.pdf

⁴⁵ EU-Russia Cooperation Programme (Tacis/ENPI). Delegation of the European Union to Russia. URL:

http://eeas.europa.eu/delegations/russia/eu_russia/tech_financial_cooperation/index_ru.htm

⁴⁶ European initiative for democracy and human rights (EIDHR) // Official site of the European Union. URL:

http://europa.eu/legislation_summaries/human_rights/human_rights_in_third_countries/r10110_en.htm

⁴⁷ Micro projects included protecting prisoners' rights in various regions; the creation of a human rights school for penitentiary personnel in Chelyabinsk; the introduction of an innovative system of civic education in Krasnodar; the production of a series of radio features to promote the rights of minority indigenous peoples of Siberia; the creation of online translation services for human rights NGOs in Saint-Petersburg; activities to raise public awareness on the problem of trafficking in women in Chelyabinsk; legal clinics for internally displaced persons (IDPs) and migrants in Perm and Nizhniy Novgorod; training for journalists in Voronezh, Moscow and Northern Caucasus; consultations on alternative civil service issues in Vladimir, Moscow, Novosibirsk, Bryansk, Nizhniy Novgorod; providing assistance to NGOs in Kaliningrad; strengthening civilian monitoring of human rights observance in the military/European Initiative for Democracy and Human Rights. Delegation of the European Union to Russia. URL:

http://eeas.europa.eu/delegations/russia/documents/eu_russia/eidhr_2003_en.pdf

local and international NGOs worldwide promote human rights around the world⁴⁸. Annual budget for Russia mounts at level of 150 million euros, what is three times more than a decade before⁴⁹. The EU presents projects that received support on the official site of the Delegation of the European Union to Russia in 2003-2014⁵⁰. According to the EU publications, in 2013 the EU supported 14 projects with total budget of 3 million euros and in 2014 provides for another 12 projects with the same financing volume. The variety of supported projects demonstrates the continuation of the EU priorities for Russia: human rights and democracy education; non-discrimination projects; anti-corruption actions; protection of children rights in conflict zones; support for regional NGO Golos; monitoring rights of conscripts and military servants; strengthening human rights protection in the North Caucasus etc.⁵¹

After presenting interaction of the EU and Russia in the sphere of human rights and democratisation the question remains to be answered: what the effect all these activities and investments have if any? And could these changes be easily reversed?

Changes under the European influence

New institutions:

From 1993 there have been established human rights institutions, both at federal and local levels that did not exist before: Ombudsman, Regional ombudsman and the Ombudsman for Children's Rights. The Constitution of the Russian Federation of 1993 provided for the establishment of the Ombudsman Office at the federal level. The Federal Constitutional Law on the Commissioner for Human Rights came into force in March 1997⁵². The first regional Ombudsman was appointed in 1997. As of May 2013, regional ombudsmen were functioning in all federal entities except for six regions⁵³. There is also a network of

⁴⁸ Human Rights. Key EU policies. Delegation of the European Union to Russia. URL: http://eeas.europa.eu/delegations/russia/key_eu_policies/human_rights/index_en.htm

⁴⁹ List of projects, 2014. Delegation of the European Union to Russia. URL: http://eeas.europa.eu/delegations/russia/documents/eu_russia/eidhr_brochure2014_en.docx

⁵⁰ Projects. Delegation of the European Union to Russia. URL: http://eeas.europa.eu/delegations/russia/eu_russia/civil_society_dialogue/overview/projects_partners/index_en.htm

⁵¹ List of projects, 2013. Delegation of the European Union to Russia. URL: http://eeas.europa.eu/delegations/russia/documents/eu_russia/eidhr2013brochure_en.doc

List of projects, 2014. Delegation of the European Union to Russia. URL: http://eeas.europa.eu/delegations/russia/documents/eu_russia/eidhr_brochure2014_en.docx

⁵² The Ombudsman is elected by the State Duma, on the nomination of either the President, or the members of the State Duma or the Council of Federation, for a five-year-term, once renewable. The Commissioner submits annual reports to the President of the Russian Federation, the Council of Federation and the State Duma, Government, Constitutional Court, Supreme Court, Supreme Arbitration Court, Prosecutor General and Chairman of the Investigative Committee. The Commissioner may also submit special reports on various human rights issues to the State Duma.

⁵³ There are no regional Ombudsmen institution in the Republic of Tuva, Novosibirsk oblast, Chukotsky Autonomous Okrug, Vladimir oblast; Kurgan and Magadan oblast.

Ombudsmen for Children's Rights, both at federal and local levels. Furthermore, in 2012 the institution of Presidential Commissioner for protection of the rights of entrepreneurs was established. Similar institutions are functioning at the regional level⁵⁴.

The Presidential Commission on Human Rights in Russia was established in 1993. In 2004 it was reorganized to Presidential Council for Development of Institutes of Civil Society and Human Rights. In 2011 it was once more reorganized to the Presidential Council for Development of Civil Society and Human Rights. In 2002-2010 Ella Panfilova, who was recently appointed to a position of RF Ombudsman, headed the Council⁵⁵.

Reforms in judicial system

The reforms have been greatly influenced by the European Union and Council of Europe through consultations, personnel trainings, special projects and on-going evaluation of new laws, legislations and practice by European partners. Nils Muižnieks, Council of Europe Commissioner for Human Rights, gave overall evaluation of the changes in his report published in November 2013⁵⁶. The report also evaluates several important reforms have been undertaken to address the systemic deficiencies revealed in the judgments of the European Court of Human Rights⁵⁷. Recent reforms have included the adoption of the new Law on Police, which entered into force in March 2011. Another important piece of draft legislation - the Code of Administrative Procedure was before the State Duma in April 2013⁵⁸. In September 2012, the Government of the Russian Federation approved the Concept of the Federal Programme "Development of the judiciary in the Russian Federation for 2013 -2020" to follow-up to the previous programme "Development of the judiciary for 2007 -2012. RF

⁵⁴ Report by Nils Muižnieks, Council of Europe Commissioner for Human Rights, following his visit to the Russian Federation, from 3 to 13 April 2013. CommDH(2013)21 12 November 2013. URL: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2416108&SecMode=1&DocId=2093492&Usage=2>

⁵⁵ Совет при Президенте РФ. URL: <http://www.president-sovet.ru/about/>

⁵⁶ "Significant legislative efforts have taken place and have most notably included the adoption of a new Criminal Code (1996); a Civil Code (1996); a Code of Criminal Procedure (2001); an Arbitration Code (2002); a Code of Arbitration Procedure (2002) and a Code of Civil Procedure (2002). Other achievements have included improvements in the material conditions for the work of judges (salary increase, gradual refurbishment of the court premises) and the introduction of modern information technologies in court proceedings. In 2007, an Investigative Committee of the Russian Federation was established as a separate entity within the Prosecutor's Office and since January 2011 it has been operating as an independent structure. In 2008, a new Federal Law was enacted, establishing public monitoring commissions to oversee the human rights situation in places of deprivation of liberty" /Report by Nils Muižnieks, Council of Europe Commissioner for Human Rights. P. 6.

⁵⁷ In April 2010 it was the enactment of the Law on Compensation for Violation of the Right to Trial within a Reasonable Time. In December 2010 a new law introduced appeal courts within the system of the courts of general jurisdiction, with a view to limiting the recourse to the supervisory review procedure. Since January 2012, the new system has been operational with regard to civil proceedings, and was extended to criminal proceedings in January 2013. Federal Programme "On the development of the Penitentiary System in the Russian Federation for 2007-2016" is also underway, seeking to address deficiencies in detention conditions/ Report by Nils Muižnieks. P. 9.

⁵⁸ Report by Nils Muižnieks. P. 7.

Government adopted in April 2013 the Federal Programme “Justice” for the years 2013 - 2020⁵⁹.

Russia in European Court of Human Rights

In 1998 Russia ratified European Convention on Human Rights and Protocols and thus accepted jurisdiction of the Court. Russia participation in the work of the Court provides a real opportunity for Russian citizens to appeal for protection of their violated rights to European Court. Russia is among courtiers that have highest number of applications⁶⁰ and the highest numbers of judgements through time of the Court existence from the 1959⁶¹. The high number of applications and cases brought against Russia by its citizens could not be possible without human rights education, growing awareness of human rights law in Russia and improvement on legal advising including independent agencies. The EU and the Council of Europe supported creation of a network of the Council of Europe Human Rights Centres in different Russian regions in late 1990s. Legal clinics became a widespread tool of training of law students and providing needed legal advice.⁶² The Court decisions demonstrate the need for further reforms in the justice system has been recognised by the Russian authorities on several occasions, including at the highest political level, according to the report of Nils Muižnieks⁶³.

Electronic government

In promoting democracy abroad the EU has developed a very special pattern of external governance that is directed to project its norms of good governance beyond its borders.⁶⁴ One of the tools for modernisation of governance and bringing transparency and accountability to power institution was introduction of electronic government. The EU had implemented a number of projects at regional and federal level in 2004-2011⁶⁵. The large project “Support to e-Government in the Russian Federation – Government-to-citizens (G2C) electronic services”

⁵⁹ Ibid., P. 11.

⁶⁰ Pending Applications Allocated to a Judicial Formation. European Court of Human Rights. 31.01.2013. Strasbourg. URL: <http://www.echr.coe.int/ECHR/EN/Header/Reports+and+Statistics/Statistics/Statistical+data/>

⁶¹ Statistics 1959 to 2011. European Court of Human Rights. Feb. 2012. Strasbourg. P. 3. URL: <http://www.echr.coe.int/ECHR/EN/Header/Reports+and+Statistics/Statistics/Statistical+data/>

⁶² Currently the Court has 24,102 applications concerning Russia in 2013, of which 23,845 were declared inadmissible or struck out. It delivered 129 judgments (concerning 257 applications), 119 of which found at least one violation of the European Convention on Human Rights/ Russia. European Court of human Rights. URL: http://www.echr.coe.int/Documents/CP_Russia_ENG.pdf

⁶³ Report by Nils Muižnieks, Council of Europe Commissioner for Human Rights. P.13.

⁶⁴ These principles were laid down in the White Paper on European Governance, 2001, that refers to openness, participation, effectiveness and coherence as the major five principles that should be also applied to its external relations/ European governance. A white paper. COM/2001/0428 final // Official Journal. N^o 287. 12/10/2001. P. 0001 – 0029. <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52001DC042final>

⁶⁵ The previous EU-funded projects in the areas of e-Government what were implemented between 2004 -2009 in the regions of the North-Western Federal Okrug, namely, in Arkhangelsk, Kaliningrad, Novgorod, Petrozavodsk and Saint-Petersburg.

was designed to promote e-Government as a primary instrument in the reform of public administration; to improving the relations between government and citizens by strengthening transparency and accountability of the state to its citizens, increasing administrative efficiency, and improving access to government services. According to the EU Delegation press release, the project touched about 25,000 people, mainly civil servants, from the whole of the Russian Federation. The project had provided training for 3,000 civil servants from 53 different regions⁶⁶. Today millions of Russians benefit from real performance of the e-Government performance on regional and federal level.

Similarly in December 2008, a Federal Law on Providing Access to Information about the Activities of Courts in the Russian Federation was adopted. It provided access to court hearings and the use of information technologies in court proceedings, including its review of judicial practice. The decisions of the Constitutional Court are also available online. The Federal Program “Development of the judicial system for 2007-2011” and its successor, the Federal Programme “Development of the judicial system for 2013-2020” focuses on this area, including in court records management. Further, the “Justice” project has inter-connected the electronic databases of the courts.

Conclusions

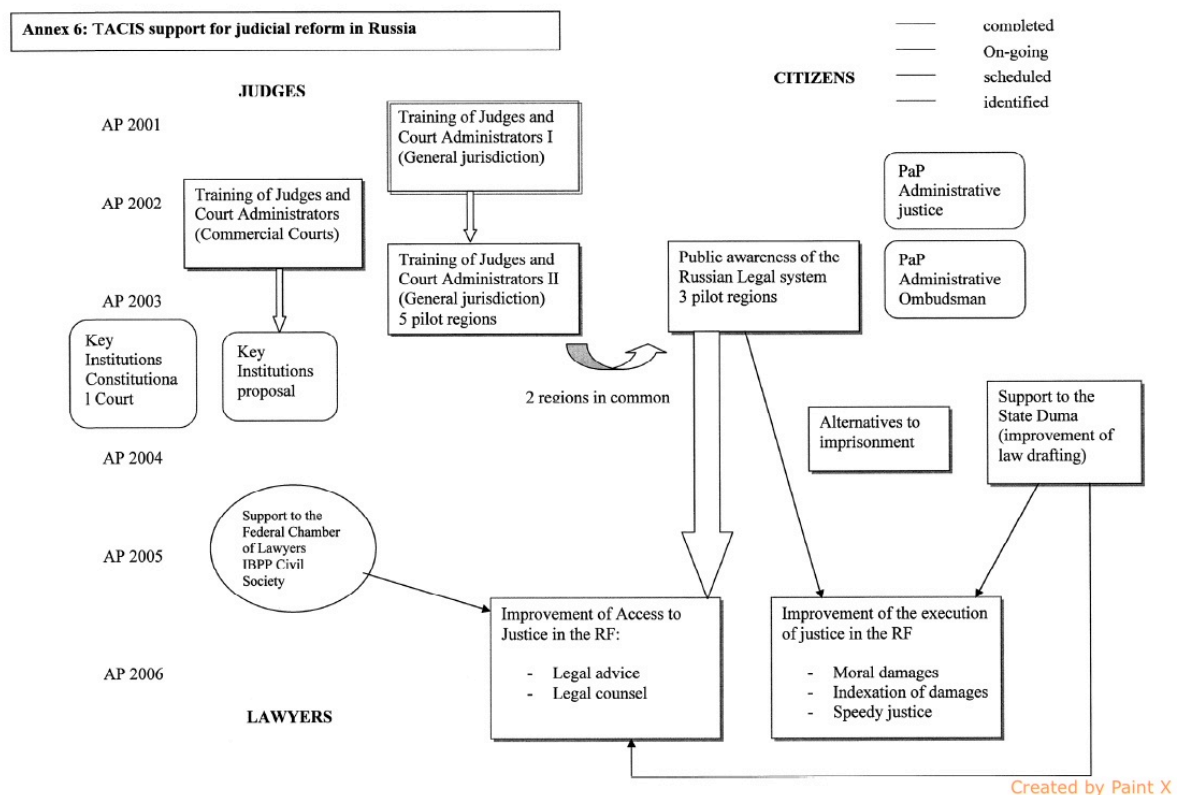
Beyond constant inner and outer criticism of imperfections of Russia’ democracy, I argue that those changes have become an integral part of Russian institutional, normative, civic and societal sphere, although the question remains if those changes could be reversed or subverted? The main concern is still exists whether Russia has moved from transitional democracy towards performing democracy and if this process is completed and irreversible. In a closing I would like to refer to Vladimir Lukin, RF Ombusman, 2003-2013, who just finished his two terms and prepared a quite extensive and candid evaluation of democratisation and human rights situation in Russia in his final report. Lukin stated that it is extremely difficult to give any prediction for a such specific country like Russia with its ‘unpredictable past, controversial present and its eternal search for that national identity’. On his opinion, Russia presents quite imperfect, but still open society, that could not be compared to any periods of Russian history. “Russian citizens have the amount of opportunities to implement their fundamental rights and freedoms that greatly exceeds of those that Russians had in the second part of XIX century and Soviet people in XX century. Nevertheless we should not forget that these opportunities are often limited at least in comparison to Russian and

⁶⁶ http://eeas.europa.eu/delegations/russia/press_corner/all_news/news/2011/20110926_en.htm

international standards, that we accepted as a guidelines. There is a certain progress in establishing human rights and freedoms as a supreme value of the state, although there are many resources to be explored”⁶⁷.

Ombudsman believed that democratisation transformation in Russia will continue and the life will become freer through joint efforts of Russian citizens. I cannot not to agree on this opinion, as I am not merely a scholar but also witnesses of those changes on institutional, normative, civic and societal level that gradually transform Russian society and public institutions.

Appendix. 1. TACIS support for judicial reform in Russia Country Strategy Paper, 2007-2013. Russian Federation / European Union External Action. P. 54. URL: ec.europa.eu/external_relations/russia/docs/2007-2013_en.pdf



⁶⁷ Лукин В.П. Доклад Уполномоченного по правам человека в Российской Федерации за 2013 год. URL: <http://ombudsmanrf.org/doklady/7265-доклад-уполномоченного-по-правам-человека-в-российской-федерации-за-2013-год>