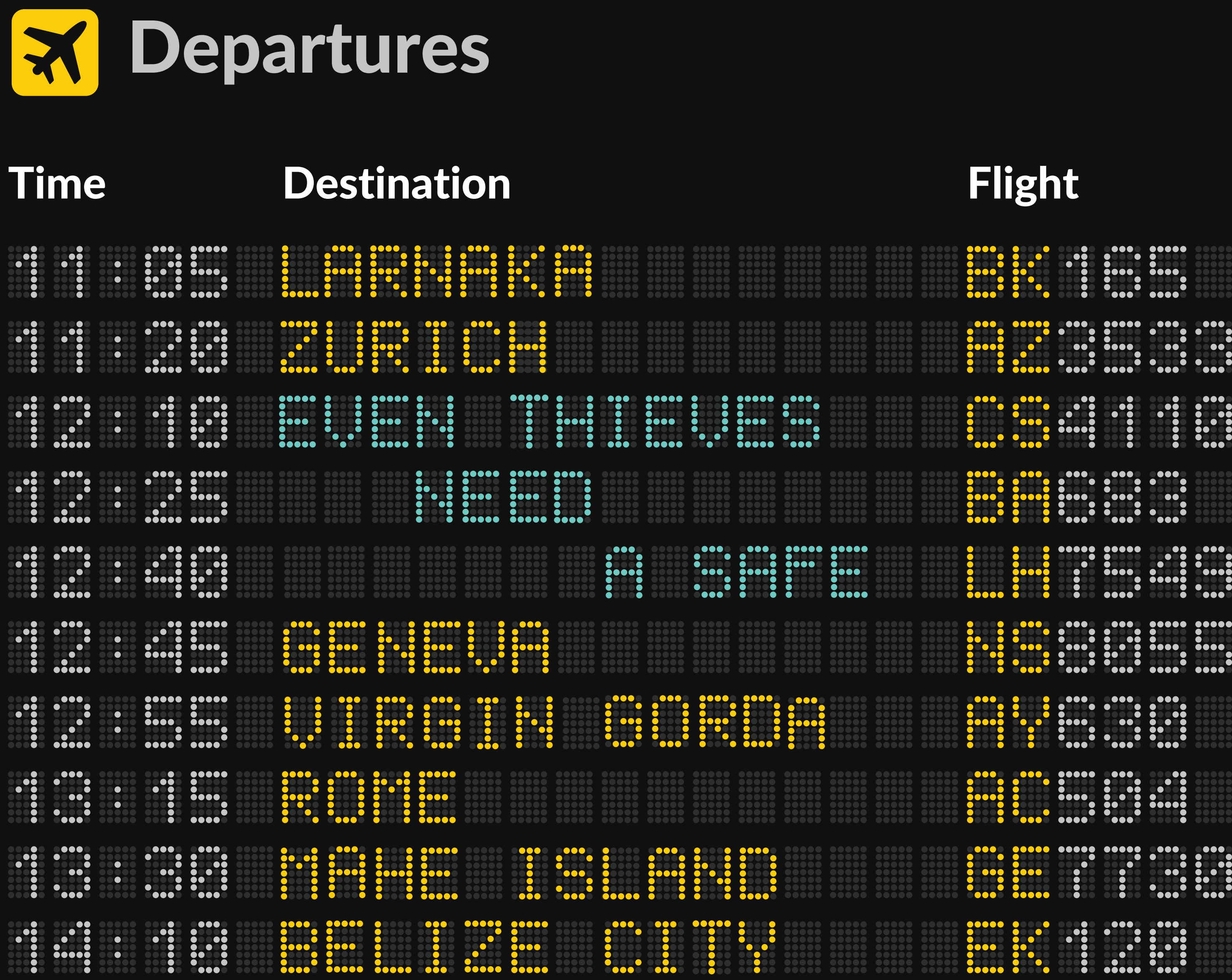


# Why the Putin Regime Causes, Deplores, and Yet Relies on Capital Flight for its Survival

FOREIGN POLICY RESEARCH INSTITUTE | William Spiegelberger

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*A nation must think before it acts*

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EVEN THIEVES NEED A SAFE

# Why the Putin Regime Causes, Deplores, and Yet Relies on Capital Flight for its Survival

*I've often seen a cat without a grin . . .*
*but a grin without a cat! It's the most*
*curious thing I ever saw in my life!*

- Lewis Carroll,

*Alice's Adventures in Wonderland* (1865)

# Executive Summary

Early in the millennium, Vladimir Putin resurrected the Russian economy and reasserted state power, but the methods that he employed have more recently led to economic stagnation. In response, the Kremlin regime proposed several economic reforms. It has not, however, implemented these reforms for fear of undermining its control, which is exercised largely by applying the law selectively to advance the regime's interests, instead of impartially on behalf of the country at large. This arrangement is a profitable one for the elite. Without legal security, however, even the elite cannot know whether the regime will someday come for their property. The resultant fear of expropriation has led to massive capital flight from the Russian Federation to jurisdictions where, in contrast to Russia, the law will protect private property. Collectively, these jurisdictions comprise what could be called a vast, virtual "Anti-Russia." The Kremlin has acknowledged the problem of capital flight, but is loath to stop it for fear of provoking Russia's moneyed classes to press for reform should they be forced to keep their wealth in Russia. The result is a regime that has expanded at the expense of the wellbeing of the country at large, which is shrinking, a good part of its wealth having fled across the border to a flourishing Anti-Russia.

After two decades in power, Vladimir Putin has good reason to gloat. President of the Russian Federation since 2000 (except for a stint as Prime Minister between 2008-2012), not only has he held Russia together, but in 2014, he even expanded it to include Crimea. He ousted U.S. influence from Syria, built the Nord Stream II pipeline despite U.S. opposition, and waged wide-ranging cyberattacks against U.S. government agencies, companies, and allies. Sanctions designed to rein him in have turned out to be a mere nuisance, a circumstance that he has spun as evidence that the United States, the West, and democracy in general are feebly ineffective. At home, Putin's power is uncontested, all credible political opponents having been killed, jailed, or exiled. This raw ability to come out on top has won Putin the admiration of such statemen as Donald Trump, Nigel Farage, Viktor Orbán, and Silvio Berlusconi despite, or perhaps because of, his ability to rig elections, quash dissent, and censor media. Yet, surely there is some downside to all this winning? The question addressed here is what Putin's achievements are costing the Russian state and economy.

## If It's Broke, Don't Fix It

In their 1993 book, *Russia 2010 and What It Means for the World*, Daniel Yergin and Thane Gustafson speculated that Russia faced a number of possible futures. One was to "muddle down," by which they meant that Russia would continue on the path that Boris Yeltsin was then treading to nowhere. Another future was an economic miracle brought about by good government, private-sector growth, and the return to Russia of capital that had fled abroad.[1] Russia did experience something of an economic miracle a few years after Yergin and Gustafson's book came out. From 1999 until the global financial crisis of 2007-2009, the country's "per-capita gross domestic product (GDP) doubled in constant prices (equivalent to the average annual growth rate of 7 percent) and grew sixfold in nominal dollars—from $270 billion to $1.7 trillion in constant prices."[2] Unfortunately, the party was not to last. After recovering from the financial crisis, the Russian economy began to stagnate in 2012. Relative to its old adversary, the United States, and to its new friend, the People's Republic of China, Russia started to shrink.

In late 2013, Putin acknowledged that the main reason for the slump was "internal rather than external in nature."[3] The response was a series of proposed economic reforms, none fully implemented, most not at all. In 2000, the Kremlin approved a "Program for the Socio-Economic Development of the Russian Federation for the Period 2000-2010." This so-called "Gref Program" initially led to a "sharp

1 Daniel Yergin and Thane Gustafson, *Russia 2010 and What It Means for the World* (New York: Random House, 1993), pp. 119-173.

2 Sergei Guriev, "Political Origins and Implications of the Economic Crisis in Russia," in Leon Aron, ed., *Putin's Russia. How It Rose, How It Is Maintained, and How It Might End* (Washington, D.C.: American Enterprise Institute, 2015), p. 8. See, also, Chris Miller, *Putinomics. Power and Money in Putin's Russia* (Chapel Hill: Univ. of North Carolina Press, 2018), pp. 59-78.

3 Vladimir Putin, "Presidential Address to the Federal Assembly," official website of the President of Russia, Dec. 12, 2013, at http:77eng.kremlin.ru/news/6402.

acceleration of economic growth, an influx of foreign investment . . . the strengthening of the ruble," and an average GDP growth of 7% during Putin's first "reformist" term as president (2000-2004).[4] Nonetheless, the Gref Program was dropped after only about a third of it had been implemented.

During the financial crisis late in 2008, the government announced its 189-page "Concept for the Long-Term Socio-Economic Development of the Russian Federation by 2020."[5] The Concept was not implemented at all. About a year later, then-President Dmitri Medvedev published "Forward, Russia!," in which he announced five "strategic vectors": new fuels, nuclear power, computing, communications, and medical equipment. Really only a wish list, Medvedev's program remained unfulfilled, with perhaps one exception: Russia is today, as it was then, a world leader in commercial nuclear technology.

Next, in early 2011, then-Prime Minister Putin ordered the Higher School of Economics and the Presidential Academy of the National Economy and Public Administration to draw up a plan called "Strategy 2020." Duly written up, the plan was never carried out. About a year later, in January 2012, Putin then published another plan entitled, "We Need a New Economy," and, shortly after he assumed the presidency that March, published twelve "May Decrees," calling "for a radical improvement in the investment climate and a major scaling back of the state's presence in the economy, predicting that this would lead to 1.5 times greater labor productivity over seven years (meaning 6% a year) and an increase to 27% of GDP."[6] As the Russians say, "It doesn't hurt to dream"—the decrees did not make the desired improvements happen. More recently, Putin published a further round of decrees focusing mainly on "national projects." These decrees did little or nothing to improve the attractiveness of Russian companies, whose low price-to-earnings ratios are essentially a vote of no confidence by would-be investors in Russian business.[7]

The Kremlin's repeated failure to implement its own proposed reforms may seem puzzling at first glance. Perhaps, they become impracticable owing to intervening events like the world financial crisis or Western sanctions? Russian economist Sergei Guriev doesn't buy this explanation:

The problem is that the reforms needed to achieve such growth—fighting corruption, protecting property rights, privatization and integration into the global economy—threaten the elite's ability to hold on to power and extract rents. For those in power, a big piece of a shrinking pie is preferable to no piece of a growing one, which is what most of the current elite would receive under a fair legal system with clear rules and predictable enforcement.[8]

The Kremlin thus has good reason not to implement its plans. But why would the

4 Sergei Guriev, "20 Years of Vladimir Putin: The Transformation of the Economy," *Moscow Times*, Aug. 16, 2012.

5 Resolution No. 1662-r of Nov. 17, 2008, available in Russian at http://government.ru/info/6217/.

6 Guriev, "20 Years," supra note 4.

7 Jim Sloan, "Russia: The Cheapest Market In The World (But You Have To Get Past Some Pretty Dicey Stuff To Buy It)," *Seeking Alpha*, Sept. 18, 2019, at https://seekingalpha.com/article/4297417-russia-cheapest-market-in-world-you-to-get-past-pretty-dicey-stuff-to-buy.

8 Sergei Guriev, "The Return of Stagnation," *Moscow Times*, Dec. 4, 2013, at https:77www.themoscowtimes.com/2013/12/04/the-return-of-stagnation-a30204.

Moscow International Business Center (Dmitry Chistuprudkov/Wikimedia Commons)

Kremlin continue to promulgate and publicize plans that it apparently has no intention of implementing? One answer is that Potemkin Plans are part of an agitprop campaign that simultaneously serves three discrete goals: to demonstrate that the regime recognizes the problems; to give the impression that the regime is addressing those problems; and to show that the regime is necessary to protect Russia from foreign enemies allegedly responsible for Russia's troubles.[9] This campaign fits squarely into the theory of "informational autocracy" developed by Guriev and his colleague Daniel Treisman, according to which "[r]ather than terrorizing or indoctrinating the population, [informational autocrats] survive by leading citizens to believe—rationally but incorrectly—that they are competent and public-spirited."[10]

9 On the foreign-enemies narrative, see, Sergei Guriev, "Deglobalizing Russia," Moscow Carnegie Center, Dec. 16, 2015, p. 5, at https://carnegie.ru/2015/12/16/deglobalizing-russia-pub-62294.

10 Sergei Guriev and Daniel Treisman, "Informational Autocrats," *Journal of Economic Perspectives*, vol. 33, no. 4, Fall 2019, p. 101. The same authors will elaborate on this theory in their forthcoming book, *Spin Dictators: The Changing Face of Tyranny in the 21st Century* (Princeton: Princeton Univ. Press, 2022).

## The Dialectic of Entitlement

After "muddling down" under Yeltsin in the 1990s and then enjoying an economic boom in the early 2000s under Putin, Russia has since gone the way of another of Yergin and Gustafson's possible futures, the one characterized by "virulent nationalism and a Russian imperialism, intent on reversing the course of the last half decade."[11] Putin, in fact, reversed Yeltsin's legacy, both the good parts and the bad. The chaos of the 1990s ended. Putin brought relative economic stability to the country by balancing the state budget and paying down Russia's sovereign debt (here, ever-rising oil prices were a big help). He also put an end to the oligarchs' overweening political influence. In doing so, however, Putin did not follow the example of trust-busting Theodore Roosevelt. Where American institutions of state successfully asserted regulatory control over the robber barons' trusts without taking possession of them, the newly assertive Russian state quickly began acquiring assets squeezed from the oligarchs until "[s]tate capitalism replaced the oligarchical system as the most distinctive characteristic of [the] contemporary Russian economy."[12] Dmitri Trenin has called the resultant political-economic configuration "a regime posing as a state."[13] Anders *Åslund* has variously dubbed it "crony capitalism" and "authoritarian kleptocracy."[14]

Kleptocracy, or "rule by thieves," implies that the Russian regime obtains property illegally. Yet, theft committed by regime members *in violation of the law* may well be less common today than expropriation and persecution achieved *by means of the law*. Not uncommon in cases important to the Kremlin are dirty tricks like the exclusion of evidence and impossible deadlines for the filing of court papers, all imposed in an abuse of judicial discretion. These are procedural erosions of justice. As for substantive law, the Kremlin has developed a knack for first enacting legislation that will "legalize" an otherwise unlawful taking to be committed later. Paradigmatic of this approach was Putin's taking of Crimea: Before formally annexing the peninsula, Putin saw to it in March 2014 that the Russian parliament first ratified the Treaty of Accession of the Republic of Crimea to Russia, giving legal color to his unabashed land-grab.[15] This twisting and molding of the law to suit to interests of the ruling class—what some have called "autocratic legalism"[16]—suggests a further refinement to the name best describing the Putin regime. When a government acts in its own interest instead of that of the people in violation of the law, it is degraded into a mere regime, but when the same regime deploys its political power to rewrite and selectively enforce the law so as to render its violations legal, then the "rights of sovereignty and those of ownership" have been confounded "to the point of being indistinguishable, and

11 Yergin and Gustafson, *Russia 2010*, supra note 1, p. 5.

12 Dmitri Trenin, *Russia* (Cambridge: Polity, 2019), p. 157.

13 Id., p. 176.

14 Anders Åslund, *Russia's Crony Capitalism* (London: Yale Univ. Press, 2019), pp. 7, 158.

15 The Russian Duma voted 445-1 in favor of annexation. The lone nay vote was cast by Ilya Ponomarev, who currently lives in exile after having experienced considerable unpleasantness in Russia after his vote. See, Steven Pifer, "Crimea: Six years after illegal annexation," Brookings Institution, Mar. 17, 2020, at https://www.brookings.edu/blog/order-from-chaos/2020/03/17/crimea-six-years-after-illegal-annexation/.

16 See, Kim Lane Scheppele, "Autocratic Legalism," *Univ. of Chicago Law Review* 85 (2018), pp. 545-83; and Timothy Frye, *Weak Strongman* (Princeton: Princeton Univ. Press, 2012), p. 115.

President Vladimir Putin and Finance Minister Anton Siluanov meet in March 2018. (Kremlin.ru)

political power is exercised in the same manner as economic power."[17] This is Richard Pipe's famous formula for patrimonialism, which he argued was applicable to Russia under the tsars. Others have convincingly argued since that the term also applies to the regime created by Putin, whose main goal was "not the revival of Russia, restoration of the Russian empire, or the well-being of the Russian nation, but rather the preservation of the existing patrimonial regime at any cost."[18]

Atop the patrimonial regime sits Putin surrounded by his court, which is composed of old friends and colleagues from his days as Deputy Mayor of St. Petersburg. The court includes the "Ozero Summerhouse Co-operative" members like Andrei Fursenko, Yury Kovalchuk, Arkady and Boris Rotenberg, Nikolai Shalamov, Gennady Timchenko, and Vladimir Yakunin, as well as long-time acquaintances now serving as captains of industry and state: German Gref (CEO of Sberbank), Dmitri Kozak (Deputy Kremlin Chief of Staff), Alexei Kudrin (Chairman of the Accounts Chamber), Dmitri Medvedev (Security Council Deputy Chairman, former President and Prime Minister), Alexei Miller (CEO of Gazprom), and Igor Sechin (CEO of Rosneft). The court also includes several present and former members of the Russian security agencies, most notably Nikolai Patrushev (Security Council Secretary), Alexander Bortnikov (Federal Security Service Chief), and Sergei Ivanov (Special Representative of the President, former Chief of Staff and Minister of Defense). These three components of Putin's court—his

17 Richard Pipes, *Russia under the Old Regime*, 2d ed. (New York: Collier Books, 1992), pp. 22-23. See, also, id., *Property and Freedom* (New York: Vintage Books, 1999), pp. 159-208.

18 Anton Shekhovtsov, *Russian and the Western Far Right: Tango Noir* (London: Routledge, 2018), p. 71. See, also, Stephen Blank, "Russia, the Patrimonial State, and Its Future," *The Interpreter*, Apr. 20, 2015; and Alexandra Vasileva-Dienes, "Informality trap: a foundation of Russia's statist-patrimonial capitalism," *Contemporary Politics*, vol. 25, no. 3, Dec. 15, 2018.

Limassol Marina, Cyprus. (Adobe Stock)

dacha co-op cronies, technocrat-managers, and security agency colleagues—comprise what Åslund calls the "first three circles" of Putin's authoritarian kleptocracy.[19] Their principal means of support are powerful positions in state-owned or state-controlled industries, lucrative monopolies, and fat state contracts. In 2016, *Forbes* published data showing that four of the five top recipients of state procurement contracts in 2015 (in total worth more than $15 billion) happened to be Putin's former judo coach and his son, one of his dacha co-op partners, and the son of another co-op partner (the fifth recipient was a minority partner in a company belonging to one of the foregoing).[20] The members of this inner circle according to one study "receive 142 times more money in contracts than unconnected individuals."[21]

Below the courtiers come the surviving Yeltsin-era oligarchs and other tycoons. Although under Putin they lost their political clout, they have been allowed to hang on to much of the property that they amassed before he consolidated power. They cannot properly be said to *own* their assets, however, since their property rights are not vested, but contingent; the Russian private sector is "dependent on the good will of the Kremlin, where tycoons [have] to serve the state in order to preserve their standing and wealth."[22] As a result, it is now more accurate to say that they merely *possess* the assets from which

19 Åslund, *Crony Capitalism*, supra note 14, pp. 7, 158.

20 Natalia Lamerova and Konstantin Sonin, "The Role of Business in Shaping Economic Policy," in Daniel Treisman, ed., *The New Autocracy* (Washington, D.C.: Brookings Institute, 2018), p. 140.

21 Id., p. 141.

22 Catherine Belton, *Putin's People* (London: Simon and Shuster, 2020), p. 362.

they are permitted to enjoy a contingent flow of income, i.e., a usufruct. These tycoons and ex-oligarchs under the patrimonial regime might best be described as *vassals*.

With the law having been turned to an instrument of power instead of justice, no one in Russia can feel secure in his or her property or person. The conflation of sovereignty and ownership has had some predictable consequences. One is that money leaves the country for safer shores.

## What's That Hissing Sound?

When a country sheds more capital than it takes in, it is said to suffer from "capital outflow," a blanket term encompassing three relatively distinct situations.[23] First, there is "capital export," the cross-border movement of capital for the purpose of profitable investment abroad. Then, there is "capital drain," which describes a continuous exodus of capital from one country to another with a higher rate of return and/or lower risk, a continuous process motivated not necessarily by an external shock, but more likely by the desire to evade taxes or launder money. Finally, there is "capital flight," which is the "large-scale exodus of financial assets and capital from a nation due to events such as political or economic instability, currency devaluation or the imposition of capital controls."[24] Put bluntly, capital export is motivated primarily by the quest for gain (greed); capital drain results from a mix of greed and aversion to loss (fear); and capital flight is a response primarily to fear.

Between 1993 and 2018, Russia ran a trade surplus of about ten percent of GDP per year thanks mostly to oil and gas exports. An impressive performance, such a surplus would ordinarily result in a commensurate accumulation of domestic financial reserves. Such is true, for example, in the case of Norway. Thanks to its massive North Sea oil revenues, Norway has stashed about three times its 2020 GDP in the state-owned "Oil Fund." Russian reserves, in contrast, are worth somewhat less than 30% of Russian GDP, leading Thomas Piketty and others to surmise that "financial wealth"[25] worth about 200% of Russian GDP has gone "missing."[26] After making adjustments to account for differential rates of return on capital abroad and at home, Piketty offers the "extremely conservative" estimate that cumulative capital flight from Russia from the early 1990s to the mid-2010s equals about one year of 2015 gross national income (GDP plus income from overseas sources), but may well be twice that amount.[27] Where did the missing capital go? Piketty and his colleagues conclude that "[s] ome Russian individuals . . . were somehow able to appropriate some of the trade surpluses in order to accumulate offshore wealth."[28] They conclude that some 50% of all Russian financial wealth is held offshore, a figure that compares unfavorably with the

23 For the following discussion of the types of capital outflow, the author is indebted to Oleg Komolov, "Capital Outflow and the Place of Russia in Core-Periphery Relationships," *World Review of Political Economy*, vol. 10. No. 3, Fall 2019, pp. 330-332.

24 "Capital flight," *Investopedia*, at https://www.investopedia.com/terms/f/financialasset.asp.

25 "Financial wealth" is the "sum of all the bank deposits, portfolios of stocks and bonds, shares in mutual funds, and insurance contracts." Gabriel Zucman, *The Hidden Wealth of Nations* (Chicago: Univ. of Chicago Press, 2015), p. 35.

26 Thomas Piketty, *Capital et idéologie* (Paris: Seuil, 2019), p. 697.

27 Id., p. 698.

28 Filip Novokamet, Thomas Piketty, and Gabriel Zucman, "From Soviets to Oligarchs: Inequality and Property in Russia 1905-2016," WID.world Working Paper Series, no. 2017/09, p. 19.

corresponding figures for the United States (4%), Europe (10%), Latin America (22%), and Africa (30%).[29]

Capital seeps out of developed economies primarily out of greed, evading law and regulation in search of a higher rate of return on principal and/or a lower tax rate on revenue, but it flees Russia primarily out of fear, in search of legal security for the principal, not a higher rate of return, which it would most likely earn in Russia.[30] This is because "Russia is one standard deviation more corrupt than the countries with a similar level of development. . . . The level of corruption in Russia is on par with that of the poorest countries in the world."[31] According to Transparency International's Corruption Perception Index for 2020, Russia enjoys the unenviable distinction of occupying the 129th rank (out of 179) with Azerbaijan, Gabon, Malawi, and Mali.[32]

Capital flight didn't begin under Putin. Wealthy Russians during the anarchic Yeltsin years sent money abroad mostly out of fear of their private-sector competitors. But capital flight also hasn't stopped under Putin. The new masters of the Russian universe now ship their wealth offshore primarily for fear of powerful regime members who, by enacting and enforcing laws in such a way as to enhance their power to expropriate, may be said to have monopolized the legitimate use of corruption, "which has ceased to be a bug in the system—it has become the system itself."[33] Thus, it is that "[a]ll the wealthy in Russia transfer their liquid assets abroad."[34] The key word here is *all*.

## Offshore Paradise as Necessary Evil

As the Russian economy was stagnating, Putin acknowledged the problem of capital flight and the common practice of large Russian-controlled companies to minimize their taxes by incorporating outside of Russia. In his December 2013 address to parliament, he noted that in the preceding year "$111 billion worth of Russian goods passed through offshores and partial offshores" and that half of Russia's $50 billion in foreign investments also ended up in tax havens.[35] In late 2014, the parliament passed a law, commonly called the "Controlled Foreign Company Law" or "CFC Law," requiring Russian tax residents to file a declaration by March 20, 2017, listing all controlling interests they have in businesses that are not Russian tax residents.[36] The response was quick. To

29 Piketty, *Capital*, supra note 26, p. 700.

30 Id., p. 698.

31 Guriev, "Political Origins," supra note 2, p. 14.

32 Corruption Perception Index 2020, Transparency International, available at https://www.transparency.org/en/cpi/2020/table/nzl.

33 Trenin, *Russia*, supra note 13, p. 158. See, also, Grigory Yavlinsky, *The Putin System* (New York: Columbia Univ. Press, 2019), p. 81: "Due to their sole ownership of the political resources in the country, the ruling circle has the opportunity to set up, at their complete discretion and without being held accountable for it, their own rewards and perks of all kinds, both formal and informal, individual and collective, for discharging their administrative functions."

34 Åslund, *Crony Capitalism*, supra note 14, p. 156.

35 Vladimir Putin, Presidential Address to the Federal Assembly, Dec. 12, 2013, Official Kremlin Website, at http://en.kremlin.ru/events/president/news/19825.

36 Federal Law No. 376-FZ of Nov. 24, 2014, "On amending Parts I and II of the Russian Federation Tax Code (in respect of taxation of the profits of controlled foreign companies)."

Aleksandr Khloponin (left) and Mikhail Prokhorov (right). (Wikimedia Commons)

avoid having to disclose their foreign assets, 40-50% of rich Russians promptly took up tax residence abroad or transferred their foreign assets to relatives who were not Russian tax residents.[37] What apparently spooked these Russians most was not tax (Russia then had a flat 13% income rate, since raised to 15% on incomes above about $70,000), but the prospect that state agencies would leak their financial information to enemies and rivals or abuse it themselves. *Bellingcat* founder Eliot Higgins has independently confirmed that such leaks are a real concern: "In Russia, because it's so corrupt and it's a police state, they have lots of information that people are just leaking absolutely everywhere, selling it on these online data . . . markets."[38]

Jailed activist Alexey Navalny has produced a series of well-documented videos exposing the posh foreign holdings of several Russian government officials. In one memorable video, Navalny tracks the sale history of a villa in Tuscany belonging to Aleksandr Khloponin, then Deputy Prime Minister and member of the Putin-friendly United Russia Party (URP). In 2017, Khloponin sold the villa to Russian billionaire Mikhail Prokhorov for a cool €35.5 million even though its fair market price could not have been higher than €10 million and was probably much less.[39] To Navalny, the (minimum) €25.5 million difference looked

37 Polina Devitt, "Declare offshore wealth? Russian tycoons would rather ship themselves offshore," *Reuters*, June 6, 2017, at https://www.reuters.com/article/us-russia-economy-tax-insight-idUSKBN18X0XJ. Russian-controlled companies registered abroad have likewise been reluctant to re-domicile in Russia despite tax and other incentives. To date, only a handful of foreign-registered Russian-controlled companies have seen fit to do so. See, "Lenta's Redomiciliation to Russia," Cleary Gottlieb, Feb. 17, 2021, at https://www.clearygottlieb.com/news-and-insights/news-listing/lentas-redomiciliation-to-russia; and Polina Lyadnova and Matthew Fisher, "COMMENT: Russian offshore? Not so fast…," bne Intellinews, May 20, 2019.

38 Video interview of Eliot Higgins, "Bellingcat: How to find real facts in a post-truth world," The Bruno Kreisky Forum for International Dialogue, Mar. 1, 2021, at https://www.youtube.com/watch?v=JP-eVDEWhm4.

39 The video in Russian with English subtitles is available on Navalny's Twitter feed of Apr. 26, 2018 at https://twitter.com/navalny/status/989574719111421953?lang=de.

President Vladimir Putin watching the Zapad military exercises on Sept. 13, 2021. (Twitter/Kremlin.ru)

very much like a bribe (Prokhorov denied the charge, later suing Navalny for defamation and winning exactly one ruble in damages). In a second video exposé, Navalny found that another URP member, the mayor of Nizhny Novgorod, owned two undeclared apartments in Miami worth about two million dollars in the aggregate, one registered in his wife's name and the other in his daughter's.[40]

Probably the most infamous recent case of graft-cum-offshorization was uncovered by the late whistle-blower Sergey Magnitsky, where $230 million embezzled from the Russian Treasury in late 2007 promptly wended its way abroad. The main embezzlers, Lieutenant-Colonel Artem Kuznetsov and Major Pavel Karpov, both of the Russian Ministry of the Interior, did not flee after the crime was exposed. They remained in Russia, where they were promoted within the ministry, apparently less afraid of being arrested than of having the money that they had embezzled stolen from them despite their secure positions in one of the so-called "Power Ministries" (the armed forces, police, secret services, etc.).

The case of Kuznetsov and Karpov corroborates the view that the Power Ministries and political elite are not monolithic, but "so fragmented by clan, factional, and interagency rivalries . . . that they cannot act cohesively"[41] but "compete against each other for budget allocations and corrupt rents, exploiting their freedom from responsibility."[42] The competition can indeed be ruthless. When a pair of ambitious detectives at the Investigative Committee (analogous to the FBI) got too close to uncovering certain

40 "Voprosy agitatsii. Vozmozhno, eta kvartira mera v Mayami budet neplokho agitirovat' za menya" [Campaign questions. Perhaps the mayor's Miami apartment won't be bad for my campaign], Navalny's official website, Dec. 21, 2016, at https://navalny.com/p/5173/.

41 Daniel Treisman, "Introduction: Rethinking Putin's Political Order," in *The New Autocracy,* supra note 20, p. 3.

42 Andrei Soldatov and Michael Rochlitz, "The *Siloviki* in Russian Politics," in *The New Autocracy,* supra note 20, p. 84.

shady dealings involving officers of the Federal Security Service (analogous to the CIA), the result was a skull twice fractured in prison followed by a suicide and a host of trumped-up criminal proceedings against the detectives instead of the suspects.[43] This was not an isolated incident: “By the mid-2000s, Putin’s secret services . . . were at each other’s throats, fighting, spying on, and jailing one another in competition for spoils.”[44] Though considerable inter-agency rivalry was intentionally built into the system to prevent any one agency from becoming too powerful and to facilitate presidential supervision and control, this rivalry has since “largely degenerated into a fight for material benefits, with every service trying to defend its rents and sphere of influence against possible encroachment.”[45]

Just as the Kremlin’s reforms were stillborn because they could undermine the regime’s monopoly on power and corrupt rents, so, too, the push for de-offshorization has been spotty because the fundamentally lawless system cannot function long without what Åslund calls its “fourth circle,” aka the “Anglo-American offshore,”[46] which offers real, if sometimes unscrupulous, legal protection to property. Thus, it is that Putin’s politico-economic system, where personal relationships trump the law, requires and nurtures its very antithesis, let’s call it “Anti-Russia,” where the law trumps personal relationships, i.e., a *Rechtsstaat*. And if, as seems to be the case, at least half of all Russian financial assets now inhabit the invisible realm of offshore tax havens, then this virtual Anti-Russia, in terms of raw financial heft, may already be larger than the real Russia that occupies a geographical space.

## The Cheshire Cat Conundrum

Since de jure title to a rent-producing asset is less important than the de facto ability to capture the rents, and even the fact that the trusted insider of today can find himself the penal-colony inmate of tomorrow,[47] Russia may be said to comprise only two principal socio-economic classes. First, there is an upper class, encompassing Putin’s courtiers (Åslund’s first three circles of the regime), vassals (surviving Yeltsin-era oligarchs), and anyone else wealthy to have reason to fear expropriation. The distinguishing characteristic of this class is its ability to move capital out of Russia to the vast, virtual Anti-Russia of offshore banks, shell companies, and trusts, the bulk of which are located in Cyprus, Seychelles, the British Virgin Islands, Switzerland, and Belize.[48] Second, there is the lower class, composed of everyone else.

Those who can keep their money in Zurich or Nicosia, have their villa in Tuscany or Miami, and send their children to school at Oxford or Harvard will endure only a fraction of the

43 Joshua Yaffa, “The Double Sting: A Power Struggle between Russia’s Rival Security Agencies,” *New Yorker*, July 27, 2015.

44 Andrei Soldatov, “Putin’s Secret Services: How the Kremlin Corralled the FSB,” *Foreign Affairs*, May 31, 2018.

45 Soldatov and Rochlitz, “The *Siloviki* in Russian Politics,” in *The New Autocracy,* supra note 20, p. 90.

46 Åslund, *Crony Capitalism*, supra note 14, p. 158.

47 Russia’s former Minister of Economic Development, Aleksey Ulyukaev, for example, is currently serving an eight-year sentence after having crossed Putin crony Igor Sechin, head of the state-controlled oil giant Rosneft. The circumstances of his crime (bribery) are murky, and his trial was marked by procedural irregularities.

48 These are the top five destinations for Russian capital. See, “TOP-10 of the Russian companies controlled by offshore shareholders,” Aug. 8, 2019, at https://credinform.ru/ru-RU/Publications/Article/297e5c6aef7c.

externality-cost of capital flight from Russia. Though many in this upper class might like to see the Russian economy thrive and the legal system function normally because then there'd be a bigger pie for all, they can tolerate the existing circumstances because they don't have to suffer the consequences of unaffordable food, inadequate healthcare, dilapidated infrastructure, and sub-standard schools. Everyone else will suffer, and, in fact, most everyone else *has* been suffering: Real incomes are 10% lower in 2021 than they were in 2013;[49] rising food prices have become a serious political problem;[50] and the pension age has been raised to the point where some 40% of Russian men are not expected to live long enough to collect benefits.[51]

Given the widely divergent interests of the upper and lower classes, the Kremlin has addressed them differently. To shore up his poll ratings among the lower class, Putin has endorsed a patriotic narrative of Russia as a besieged fortress. The upper class, which is better able to observe the "limitations of an incompetent incumbent" thanks to its access to non-Russian sources of information, will not be impressed with this narrative.[52] The upper class has had to be co-opted instead, on the one hand with gifts (state contracts, monopolies, usufructs etc.), and on the other with indulgences (license to stash wealth offshore-wealth). Their revealed preference is for the publicly vilified, decadent, Western Anti-Russia where they keep their money, villas, and children. In short: bread—and an offshore breadbasket—for the upper class, and circuses for the rest. Putin may therefore tout de-offshorization to impress the lower class, but he must tolerate it to keep the upper class quiet.

Just how long the lower class will be placated by the PR-circus is anyone's guess, but Putin can probably continue to count on members of the upper class not to make too much trouble so long as he and the West continue to allow them to ship rents to the offshore Anti-Russia.[53] As one commentator put it, "Why would they risk demanding institutional change at home when they can so easily change their individual circumstances?"[54] Putin's long-term concern about capital flight is therefore necessarily tempered by the short-term expedient of tolerating capital flight since providing "an offshore escape route" for the elite is the "best way to take the pressure off the only constituency with real influence for reform. Keep the money bottled up at home, and pressure for change will come fast."[55]

This offshore expedient comes at a cost. In tolerating the massive outflow of capital from

49 Yury Kochetov, "Pandemic Pushed Russians' Household Finances to Decade Low," *Moscow Times*, Jan. 29, 2021.

50 Jake Cordell and Uliana Pavlova, "'We Need Our Government': Surging Food Prices Put Kremlin on Edge," *Moscow Times*, Mar. 12, 2021.

51 Tom Barnes, "Russian men 'may not make it to retirement'," *Guardian*, June 17, 2018.

52 Guriev, "Informational Autocrats," supra note 10, pp. 101-102.

53 Chris Miller has identified three reasons why Russia's leading oligarchs have not abandoned Russia: (1) a fire-sale would get them a bad price for their assets; (2) the oligarchs believed Kremlin promises to improve the business environment, and (3) the Kremlin gave "strong implicit guarantees of the oligarchs' right to continue holding their property." Miller, *Putinomics,* supra note 2, pp. 82-83. To this list, a fourth reason can be added: Many oligarchs have stayed in Russia precisely because the Kremlin allows them to get a fair amount of their wealth out of Russia.

54 Stanislav Markus, "The Atlas that has Not Shrugged: Why Russia's Oligarchs are an unlikely Force for Change," *Daedalus*, vol. 146, issue 2, Spring 2017, p. 102.

55 Nicholas Shaxson, *Treasure Islands* (London: Vintage, 2011), p. 201.

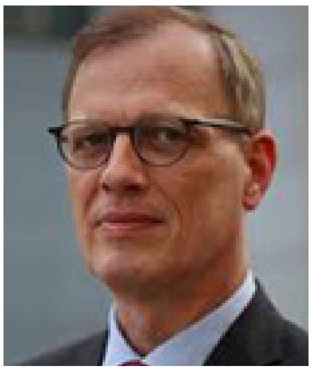
Russia, as well as in refusing to implement economic reforms, the Kremlin regime has consistently demonstrated that its priority is self-preservation. Its handling of the COVID-19 crisis corroborates this view. Instead of dipping into ample state reserves to help see the Russian public through difficult times, the Kremlin has been “not generous,” electing to save money over lives.[56] According to Russian state figures, there have been 723,350 excess deaths in Russia since the start of the pandemic—one of the worst COVID 19-related mortality rates in the world—not 249,215, which is the “official” figure reported to the public.[57] Thanks to COVID 19 and a host of other factors, the population of the Russian Federation is now smaller than it was when Putin became president in 2000, even though his 2014 annexation of Crimea brought over two million people under Russian jurisdiction.[58] The regime is growing at the expense of the country, which is shrinking. Of course, so-called “present trends” never continue. Russia is ever able to surprise. But if present trends were to continue, Putin could someday face what might be called the “Cheshire Cat Conundrum” (apologies to Lewis Carroll): “I’ve often seen a country without a regime, but a regime without a country! It’s the most curious thing I ever saw in all my life!”

56 Video interview of Sergei Guriev, “The impact of COVID-19 in Russia with Sergei Guriev,” Wheeler Institute for Business and Development, Sept. 1, 2021, at https://www.youtube.com/watch?v=duDxS8hAFTc.

57 “Russia Becomes World Leader in Weekly Covid Deaths,” *Moscow Times*, Nov. 9, 2021, at https://www.themoscowtimes.com/2021/11/09/russia-becomes-world-leader-in-weekly-covid-deaths-a75517.

58 “Russia Marks Record 12-Month Population Decline,” *Moscow Times*, updated on Oct. 13, 2021, at https://www.themoscowtimes.com/2021/10/11/russia-records-record-12-month-population-decline-a75262.

# About the Author



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# Further Reading

- **Russia's Nuclear Activity in 2020: Show of Strength Despite Covid-19** by Maxim Starchak
- **Zapad 2021 and Russia's Potential for Warfighting** by Johan Norberg and Natalie Simpson
- **Understanding Russia's Cyber Strategy** by Josephine Wolff
- **Russia's Defense Industry: Between Political Significance and Economic Inefficiency** by Pavel Luzin

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