

Analysis

Russia Adopts New Counter-Terrorism Law

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Summary

On 10 March 2006, Russia's new counter-terrorism law entered into effect. The new law is a part of a larger legislative package that also includes several revisions to the penal code and to criminal procedure law. It codifies Putin's 15 February decree, which established a "National Counter-Terrorism Committee" under the leadership of the Federal Security Service (FSB) director. The new counter-terrorism law streamlines and tightens the existing regulations, but is unlikely to yield any significant results.

Combating Terrorism in Russia

During the last decade, there have been numerous, but ineffective attempts to organize Russia's counter-terrorism efforts. Naturally, the FSB had a key role in this development. In 1995, the FSB established a "Counter-Terrorist Center" within its Department for the Protection of the Constitution and Counter-Terrorism. In January 1997, Prime Minister Viktor Chernomyrdin established the "Interdepartmental Counter-Terrorism Commission of the Russian Federation," which was renamed the "Federal Counter-Terrorism Commission" in 1998. Supervised by the prime minister and his deputy, the FSB director, the commission ultimately brought together over two dozen power ministry officials and deputy ministers. The commission's main accomplishment was producing the 25 July 1998 law on combating terrorism, as well as the 10 March 2006 law, which replaces the 1998 version.

The new law is part of a larger legislative package that also includes several revisions of the penal code and of the criminal procedure law. Most importantly, it incorporates President Putin's decree of 15 February 2006, in which he ordered the establishment of a "National Counter-Terrorism Committee" under the leadership of FSB director Nikolai Patrushev. The "National Counter-Terrorism Committee" is expected to replace the older "Federal Counter-Terrorism Commission," moving responsibility for terrorism from the prime minister to the FSB.

The new Counter-Terrorism Law

The 2006 counter-terrorism law is similar to the 1998 law in scope and structure, but there are clear differences on a number of points. The most important changes relate to the re-distribution of responsibilities among the various executive branch agencies, including the military. Furthermore, the law defines the mission area for counter-terrorism measures and gives the executive branch broader rights to encroach

on civilian life. For the first time, the new law permits counter-terrorism units to seek out and destroy suspicious airplanes or ships. Overall, the revisions and new additions to the terror law make apparent the Russian desire to learn from the spectacular terrorist attacks of the last few years, including the attacks on the Moscow Dubrovka theater during a performance of the musical "Nord-Ost" in October 2002, a public school in Beslan, North Ossetia, in September 2004, and the regional capitals of Nazran in Ingushetia in June 2004 and Nalchik in Kabardino-Balkaria in October 2005.

The new counter-terrorism law streamlines and tightens the existing regulations and is even more uncompromising than previous versions. The new law requires the employment of all useful "systemic and complex" means to combat terror (Article 5, paragraph 2). There appears to be unwavering confidence on the part of the state that terrorism can be subdued by expanding and integrating all available instruments of repression, even though this hope is hardly justified by the results of the continuous tightening of counter-terrorism legislation and organizational measures since the mid-1990s. In fact, since just before the start of Vladimir Putin's presidency, the number of terrorist acts in Russia has not only increased, but the attacks also reached hitherto unaffected parts of the country, namely the capital, Moscow, and have taken on appalling proportions. Although terrorist activities were mainly limited to Chechnya during the 1990s, the rebels employing terrorist tactics have in the meantime increased their operational radius to include almost the whole Northern Caucasus. Hence, there is little reason to believe that the new law will advance the Kremlin's counter-terrorism strategy and bring success in the Northern Caucasus.

The new law makes clear that the FSB now has the main responsibility for counter-terrorism, and that the chief of the FSB or one of his subordinates decides on the execution of counter-terrorism activities and

is responsible for their operational implementation. For the purposes of such operations, he can draw on the assistance of an “Operative Staff” and can call on personnel support and material resources” from other security, defense, and law enforcement agencies.

Various observers have complained that the Russian counter-terrorism law of 1998 lacked the broad scope necessary to successfully fight terrorism, namely the integration of preventive and reactive measures, both at the conceptual level and in practical implementation. Unfortunately, in adopting the 2006 law, legislators failed to develop a comprehensive law that would define prophylactic measures to combat terrorism. Instead, they were content to pass a law that mainly focused on combating imminent terrorist threats on an operational level, combined with the creation of inter-ministerial bodies that were assigned responsibility for all matters related to strategic planning, tactical research, international cooperation, and other duties. These bodies took the form of the National Counter-Terrorism Committee under the leadership of the FSB at the federal level, and through the retention of the Counter-terrorism Commissions at the regional level headed by the respective governors.

Another step was the creation of the Federal Operational Staff within the structure of the National Counter-terrorism Committee, and the establishment of Operative Staffs in the regions comprising between five and ten representatives of the security and law enforcement agencies. The chief of the Federal Staff is nominated by the head of the FSB (in accordance with Article 14 of the Counter-Terrorism Law), while the regional FSB chiefs serve *ex officio* as the heads of the territorial staffs. The responsibilities and competences of the operational boards are defined by Article 14 of the law. They are identical to those assigned to the National Counter-terrorism Committee.

Lessons learned from Beslan?

With the new definition of competencies, the law addresses one of the main problems that surfaced during the Beslan hostage taking. The three different operational staffs responsible for the handling of the Beslan crisis not only worked independently of each other, but often at cross-purposes. These three bodies were: (1) The territorial Operative Staff, directly managed by the president of North Ossetia/Alania, A. S. Dzasochov; (2) the Federal Operational Staff under the leadership of FSB General V. A. Andreev; and (3) the staff attached to the three deputy FSB chiefs Prunichev, Anisimov, and Tichonov. These two FSB staffs were only formed during the course of the hostage crisis.

The authorities seem to have concluded that the main reason for the failure in Beslan was the transfer of responsibilities for counter-terrorist operations, including those in the Northern Caucasus, from the FSB to the Russian Interior Ministry (MVD) in 2003. This conclusion at least seems to explain why the new counter-terrorism law has restored all relevant responsibilities to the FSB, why the Ministry of the Interior and the Ministry of Defense are both strictly subordinated to the FSB as far as combating terrorism is concerned, and why the governors have lost their operational functions related to counter-terrorism activities.

However, the new law does not correct the problems revealed by the Beslan crisis. Articles 7 and 8 of the presidential decree state that the organizational and leadership structures of counter-terrorist activities in the Northern Caucasus will be defined in the future by special regulations. It is not clear from the new law, however, what these regulations will be.

Putin’s Leadership Failure

Although Russia has an international and domestic terrorism problem, Putin’s Kremlin has made little headway in addressing it. The list below provides an overview of the main problems:

1. From the very beginning, but especially since the wars in Chechnya began, the Russian security services have engaged in a completely disproportional and ruthless counter-terrorism campaign without any regard for the civilian population, and have been on par with the terrorists in terms of their indifference for human life.
2. The Kremlin is not only responsible for the exceptionally grave violations of human rights perpetrated by the Russian security forces in the Northern Caucasus in the course of “combating terrorism,” but has also for years been conducting combat operations and suppressing militant groups in the Northern Caucasus while consciously refraining from imposing martial law, thus lacking legal legitimacy and blatantly violating the constitution and the laws of the country.
3. For years, the Kremlin has been supporting and promoting the brutal Chechen regime of Ramzan Kadyrov, who – under the pretext of counter-terrorism, and without any regard for law and order – employs terrorism against his own real or imagined political enemies, as well as the civilian population, and who is regularly rewarded by Moscow with medals and promotions within the state hierarchy.
4. The law enforcement and security services have

been unable to adequately respond to any of the major terrorist attacks that have taken place in Russia since 1999, including the attacks in Moscow, Volgograd, Nazran, Beslan, and Nalchik, despite the constant expansion of the state's authority and its increased logistical resources. There are strong indications that these shortcomings are due not so much to professional incompetence, but rather to an apparent unwillingness to conduct investigations without regard for the reputation of individ-

uals or institutions or with the necessary respect for the victims and their relatives.

- By cooperating with groups that openly propagate the use of terrorist methods as a means to support their own political ends, such as the Palestinian Hamas organization, the Kremlin discredits and undermines the political legitimacy of its own counter-terrorism policies.

Translation from the German: Christopher Findlay

About the Author:

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Suggested Reading:

- Ekaterina Stepanova "Russia's Approach to the Fight Against Terrorism," in Jakob Hedeskog, et al. eds., *Russia as a Great Power: Dimensions of Security Under Putin*, London: Routledge, 2005.
- John B. Dunlop, *The 2002 Dubrovka and 2004 Beslan Hostage Crises: A Critique of Russian Counter-Terrorism*, Stuttgart: ibidem-Verlag, 2006.
- Paul Murphy, *The Wolves of Islam: Russia and the Faces of Chechen Terrorism*, Washington: Brassey's, 2004.

Opinion Survey

The New Counter-Terrorism Law in the Eyes of the Russian Public

Source: opinion surveys conducted by the "Public Opinion Foundation" (FOM) on 5/6 November 2005 and 18/19 March 2006
<http://bd.fom.ru/zip/tb0612.zip> and http://bd.fom.ru/report/map/projects/dominant/dom0545/domt0545_2/tb05450

Is a major terrorist attack possible in the area where you live? (March 2006)

