



Whose Law do You Follow?

by Richard W. Rahn

THE RULE OF LAW REQUIRES THAT NO ONE BE SUBJECT TO CONFLICTING LAWS, ANYWHERE

Increasing numbers of people find themselves in legal never-never land, where they cannot follow the law of their home country without violating the law of another country for which they can be prosecuted. Intelligence agents of all countries have always faced such risks. However, now more and more business people, and even government foreign policy and statistics officials, find themselves being charged and convicted of felonies, no matter what they do.

This past week, the U.S. government indicted 12 Russian military intelligence officers for hacking into Democratic National Committee (DNC) computers and other related attempted political interference in the U.S. 2016 election. Assume these people are guilty as charged and they were operating under legal instructions from their own government. They are now trapped in Russia and other countries that do not have an extradition treaty with the U.S., particularly given that it would be too risky for them to come to the U.S. to wage a legal defense, even if they are innocent.

Attempting to interfere with another country's elections is something that many countries do all of the time, including the United States. When Russian President Boris Yeltsin ran for re-election in 1996, the United States and other countries engaged in actions to help Mr. Yeltsin and to thwart the communists. As is well known, President Obama and his administration took a number of actions (all of which failed) to try to prevent Israeli Prime Minister Benjamin Netanyahu

from being re-elected in 2015. What do you think the reaction would be if the Israeli government indicted a number of officials of the Obama administration for electoral interference?

Also this last week, the Greek Supreme Court upheld the conviction of Andreas Georgiou, former head of the Hellenic Statistical Authority, for the crime of reporting the "correct" numbers of the size of the Greek debt in 2009 to the European Union Eurostat agency, as he was supposed to do. His numbers were vetted by Eurostat, the European Central Bank and the IMF, and deemed to be correct. These correct numbers, however, were not politically convenient for the Greek government at the time, which was trying to paint a much rosier picture of the fiscal health of Greece than was the case.

For telling the truth, Mr. Georgiou was accused of bringing harm to Greece and dereliction of duty for refusing to falsify the figures. If he had done so, he would have been in violation of EU regulations. Mr. Georgiou was originally charged with his alleged violation of duty for not subjecting the 2009 deficit figures to a vote within the government. (What kind of mentality thinks that it is appropriate to vote on financial statements according to political preference rather than standard accounting procedures?)

Mr. Georgiou was found guilty and given a two-year suspended sentence, which has now been upheld by the Greek Supreme Court. This case illustrates the necessity of appointing judges who are sworn to and actually uphold the Constitution and laws as written, and not what the political preferences of the day are.

Private business people are increasingly caught in legal crosshairs of governments with conflicting laws. Environmental laws and regulations sharply vary from country to country, and what is mandated in one country can be illegal in another. The same is true with food preparation and labeling, and product safety laws and regulations.

Financial and tax laws and regulations differ greatly from country to country. The United States taxes worldwide income, while most countries only tax in-country income — which leads to endless disputes about where taxes ought to be

paid. In Switzerland, up to a few years ago, bankers were prohibited by law from revealing their account holders.

The law was originally passed in the 1930s to protect the assets of German Jews and other refugees from the Nazis, communists, etc. The United States' IRS became increasingly aggressive in demanding the names of Americans who had foreign bank accounts — which put some Swiss bank officials in an impossible situation. If they traveled to a country that had an extradition treaty with the United States, they could be snatched and taken to the United States and even jailed, although they had been in total compliance with their own country's law.

The United States is perhaps the most aggressive country when it comes to trying to apply its laws to both Americans and non-Americans living outside the United States. This leads to charges of hypocrisy and resentment by foreigners and their governments — which is likely to backfire on the United States.

It would not be surprising if more and more Americans find themselves languishing in foreign jails, because they did something that would not be illegal in the United States but perhaps unbeknownst to them was illegal in another country. For instance, the U.K. has far stricter libel laws than the United States. If an American writes something in the United States very critical of Muslims in the U.K., he could be convicted of libel if he travels to the U.K.

The solution is, in part, to demand that governments stop the extra-territorial application of their laws, and require dual criminality (that is, the action has to be illegal in both countries) for felonies.

The rule of law is necessary for both civil society and economic growth, and requires that people not be subject to conflicting laws wherever they may reside.

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