

The Nikitin Case: Victory for the Rule of Law in Russia?

Friday, October 6, 2000

Lipton Hall
New York University School of Law
108 W. 3rd Street
(between Sullivan and MacDougal streets)
New York, N.Y.



For more information, contact:

Alison Rose
212-998-6199
ar55@is8.nyu.edu

Cosponsored by Bellona USA and
New York University School of Law

On September 13, 2000, the Presidium of the Russian Supreme Court rejected a prosecutorial appeal to reopen the Nikitin case. The decision was final and could not be appealed. Thus, after five years of fighting the prosecutor's office and the Federal Security Service (FSB), a successor to the KGB, Aleksandr Nikitin had finally beaten charges of high treason and divulging state secrets. Western newspapers, NGOs, and foreign government officials hailed the decision as a victory for the rule of law in Russia.

A former Soviet naval officer in the employ of Bellona, a Norwegian environmental organization, Nikitin coauthored a 1995 report entitled "The Russian Northern Fleet: Sources of Radioactive Contamination." The report triggered an FSB raid on Bellona's Saint Petersburg offices, and Nikitin was arrested. He spent ten months in pretrial detention before being released and was not allowed to leave the city for the next several years while the court case dragged on. The accusations against Nikitin stemmed from a section of the report detailing safety problems linked to third-generation nuclear installations and another section describing accidents aboard nuclear submarines. Nikitin argued that the material was unclassified, had been previously published in the Russian press, and, furthermore, was critical to the public health and safety.

The Nikitin case became the most closely watched Russian court case in the post-Soviet period. Nikitin's acquittal by the Saint Petersburg City Court in December of 1999, and the Supreme Court's refusal in April 2000 and again in September 2000 to overturn the verdict, show the judicial system's ability to rebuff strong political pressure. They are unarguably steps forward in the development of the rule of law.

But how much weight should the case carry? The decrees on state secrets upon which the prosecutor urged conviction were not only unpublished but were issued after the arrest. A conviction would have been retroactive and arbitrary. Now, however, the Law on State Secrets has been brought in line with the Constitution, and the scope of information that constitutes state secrets has been widened. What does this mean for future Nikitins? And what light does the case throw on both the problem of government accountability and the freedom of citizens to receive and exchange information about government actions in areas the state considers sensitive?

9:00 *Welcome and Introduction*

John Sexton, dean, NYU School of Law
Stephen Holmes, professor, NYU School of Law
Aleksandr Nikitin speaks of his experiences

10:00-12:00 *Anatomy of the Nikitin Case*

Panelists:

Elena Barikhnovskaya, lawyer, Salans, Hertzfeld & Heilbronn, Russia

Jon Gauslaa, legal advisor to Bellona Norway

Mikhail Matinov, Nikitin legal defense team

Yuri Schmidt, Nikitin legal defense team

Moderator: Aryeh Neier, president, Open Society Institute

12:00-1:30 *Lunch Break*

1:30-3:00 *The Legal Context: Freedom of Information, State Secrets, and Whistle-Blowing*

Panelists:

William Cohen, president, Center for Human Rights Advocacy; visiting lecturer, University of Denver College of Law

Janos Kis, professor, NYU School of Law; chair, political science department, Central European University

Ivan Pavlov, Nikitin legal defense team

Louise Shelley, director, Center for Transnational Crime and Corruption; professor, American University

Moderator: Justice John Dooley, Vermont Supreme Court

3:30-5:00 *The Political Context: Activism in Russia Today*

Panelists:

Rachel Denber, deputy director, Europe and Central Asia Division, Human Rights Watch

Stephen Handelman, author of *Comrade Criminal: Russia's New Mafia*; coauthor of *Biohazard*; commentator on Russian affairs

Yuri Vdovin, president, Citizens' Watch, Russia

Moderator: Norman Dorsen, director, Global Law Program; professor, NYU School of Law

5:00-6:00 *Public Reception*

We thank the Open Society Institute for its generous support of this event. We are also grateful to the Goldman Fund and Bellona Norway.