



EU-RUSSIA CIVIL SOCIETY FORUM
ГРАЖДАНСКИЙ ФОРУМ ЕС-РОССИЯ

Policy Paper

Position of the EU-Russia Civil Society Forum on the Protection of Human Rights Defenders

To the Summit of the
European Union and the Russian Federation
21 December in Brussels

Working Group „Human Rights/ Rule of Law“

EU-Russia Civil Society Forum
St. Petersburg, 10 October 2012

Position of the EU-Russia Civil Society Forum on the Protection of Human Rights Defenders

While protecting human rights, human rights defenders in Russia regularly face harassment and intimidation, arbitrary arrest, death threats, kidnappings and killings. The situation is especially alarming in the North Caucasus. (For more detail, see Stockholm Process paper enclosed.)

The recent string of amendments to legislation in Russia, including the law on NGOs as “foreign agents”, the Criminal Code on high treason and state secrets, as well as the regulation of public gatherings is likely to make the work of NGOs and human rights defenders ever more difficult and less secure. The judicial system, rather than providing rights defenders and activists protection by investigating and punishing the perpetrators of attacks against them, is likely to be used for persecution.

The EU has adopted several instruments to ensure the protection of human rights defenders, including the EU Guidelines on Human Rights Defenders¹ built on the principles of the UN Declaration on human rights defenders of 1998. The EU Guidelines on Human Rights Defenders, which set out practical suggestions on how to increase the protection of human rights defenders, should be wider implemented. In practice, not all EU missions apply and implement them. The Guidelines are not widely known within the EU itself, and government bodies involved in external relations seldom ground their actions in them². The EU should also ensure that proper protection measures are implemented³. Human rights defenders were not properly consulted on the content of the local implementation strategy of the Guidelines in Russia.

In addition, the issue of access of Western human rights defenders to Russia and Russian human rights defenders to the EU is often an impediment to their work. In recent years, a number of human rights defenders from Western European countries have been denied visas to enter the Russian Federation or prevented from crossing its border as they were included into the lists of persons who are not to be admitted to the country due to their professional activities.⁴ Usually, the actual reason for the ban is never disclosed to the person concerned and the procedure to appeal is not explained. For Russian non-governmental organizations it has also become very difficult to issue an invitation to experts abroad that is accepted by the Russian authorities. This has limited the opportunities for Western European human rights organizations to participate in relevant meetings within Russia.

This practice obviously contradicts international commitments within OSCE frameworks, undertaken both by Russia and the Western European states, which contain specific provisions on the access of NGO representatives to observe human dimension conditions by conducting fact-finding missions,

¹ http://eeas.europa.eu/human_rights/guidelines/defenders/docs/16332-re02_08_en.pdf

² A recent example of this is the case where authorities in two EU countries gave information about the Belarusian human rights defender Ales Bialiatski's accounts to Belarusian authorities.

³ For example, the recommendations of the Conference on defense of human rights defenders, organized by EU Mission in 2009, were not effectively followed.

⁴ More details could be found in the 2010 report by the Norwegian Helsinki Committee “PERSONA NON GRATA: The CIS ban system for human rights defenders and journalists”,

http://www.nhc.no/filestore/Publikasjoner/Rapporter/2010/Rapport_2_10_web_final2.pdf

attending meetings and engaging in other activities relevant to their human rights work across the participating states. The 1989 Vienna Document declares that the OSCE participating states “...will facilitate direct contacts and communication among these persons, organizations and institutions within and between participating states and remove, where they exist, legal and administrative impediments inconsistent with the CSCE provisions” (par. 26). In the 1990 Copenhagen Document (par. 10.4) and 1991 Moscow Document (par.4.2) the states are endeavoured to facilitate visits to their countries by non-governmental organizations⁵.

In the atmosphere in which the Russian human rights defenders operate, multi-entry long-term visas to the EU member states can significantly increase protection for them and their families when they are at imminent risk. Over the last few years several partner organizations of the EU-Russia Civil Society Forum have experienced that human rights defenders are not given visas as it is believed that there is a risk that they will apply for asylum in the respective country. It is especially difficult for human rights defenders and their families from the North Caucasus region, who are most at risk, to have access to immediate safety measures. The EU Guidelines for the protection of human rights defenders include recommendations to provide visas on the basis of protection grounds⁶. However, this is not the practice in the majority of the EU member states. Specifically when the visa application process has been outsourced to private agencies, there is little opportunity to stress the necessity and urgency.

The members of the EU-Russia Civil Society Forum call on the Russian Federation:

- to repeal the recently approved repressive legislation, most notably amendments to the Law on NGOs (about “foreign agents”), the amendments to the Criminal Code on high treason and state secrets, the amendments to the Law on Meetings, Rallies, Demonstrations, Marches and Pickets; and while repealing them ensure that they are not implemented;
- to make investigation of murders and violent assaults of human rights defenders and court proceedings on them open to the public and ensure access to information;
- to provide unhindered access to the North Caucasus for international human rights organizations, media and international bodies and EU missions;

⁵ In the 1990 Copenhagen Document, the OSCE participating States committed themselves to “allow members of such groups and organizations to have unhindered access to and communication with similar bodies within and outside their countries and with international organizations, to engage in exchanges, contacts and co-operation with such groups and organizations and to solicit, receive and utilize for the purpose of promoting and protecting human rights and fundamental freedoms voluntary contributions from national and international sources as provided for by law” (para. 10.4). Finally, the 1991 Moscow Document states that the participating States should “endeavour to facilitate visits to their countries by non-governmental organizations from within any of the participating States in order to observe human dimension conditions” (par. 4.2).

⁶ <http://www.consilium.europa.eu/uedocs/cmsUpload/GuidelinesDefenders.pdf> para. 14 of the revised EU Guidelines (2008) includes the following specific reference to visas for HRDs: “providing measures for swift assistance and protection to human rights defenders in danger in third countries, such as, where appropriate, issuing emergency visas and facilitating temporary shelter in the EU Member States.”

- to honour the commitments as an OSCE participating state, to stop the practice of denying entry to Russia human rights defenders or journalists without providing a reason as to why; provide persons who have been black listed with the reasons as to why they were barred from entry, beyond referral to general laws on national security; let persons who have been banned have their case re-examined to establish whether the decision was in compliance with national and international laws;
- to mandate bodies like the Presidential Council for Civil Society and Human Rights and the Ombudsman for Human Rights to monitor such instances of entry denial;
- to involve in human rights consultations Russian state bodies, such as the Federal Ombudsman's office, Prosecutor-General's office and Ministry of the Interior, as well as respective Directorates of the European Commission and the European Ombudsman.

The members of the EU-Russia Civil Society Forum call on the European Union:

- to request the Russian Federation to repeal the recently approved repressive legislation and prevent its implementation;
- to update and revise the EU guidelines on human rights defenders, so that they apply not only to the EU diplomatic missions, but to all relevant governmental bodies of the member states;
- to promote awareness and ensure implementation of EU Guidelines on human rights defenders by embassies of the EU member states, including their official publication and dissemination in Russian;
- to ensure that human rights defenders (including their relatives) at risk are granted multi-entry long-term visas to the Schengen area guaranteeing swift procedures for consideration of visa applications;
- to organize direct visits to the regions of Russia by heads of the EU missions and other high-level EU officials to meet with human rights defenders at risk and under pressure;
- to ensure flexible and speedy procedure for direct financial support to human rights defenders in cases of threats and pressure
- to include specific references to the EU Guidelines on human rights defenders in the new EU-Russia strategic partnership agreement;
- to investigate new measures to support and protect Russian NGOs (especially those working with the EU) in the context of new laws on "foreign agents" and high treason, including symbolic public support

The Members of the EU-Russia Civil Society Forum call on both parties:

- to negotiate amendments to the EU-Russia visa facilitation agreement concluded in 2007, adding civil society representatives (especially human rights defenders) to the list of categories of citizens who can enjoy a facilitated visa regime between the EU and Russia.

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This publication has been supported by



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