



EU-RUSSIA CIVIL SOCIETY FORUM
ГРАЖДАНСКИЙ ФОРУМ ЕС-РОССИЯ

Policy Paper

Proposals on Increasing the Transparency and Accountability of National Governmental Authorities and Local Self-Governments

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Summary

Civil society in Russia and in the EU member-states expresses high interest in attracting government attention to the issues of transparency and accountability of national and local governments. On one hand, in the last decade civil society's movement for transparency of governmental institutions has developed very dynamically. On the other hand, transparency is still one the major challenges for the governments of Russia and the EU. Governmental transparency and accountability is directly linked with efficient public control over governmental activities, thus, directly affecting the quality of democratic processes.

At present, one must acknowledge that civil society in Russia and in the EU faces unjustified limitations regarding access to public information. There are evident contradictions between the growing NGO demands for governmental accountability and the lack of political will and readiness on behalf of governments to satisfy these demands.

Reiterating the utmost importance of transparency and accountability of national governments and local self-governments to ensure the quality of democratic processes, the EU-Russia Civil Forum proposes the following, in order to achieve progress in this area.

Description of the Problem

The Open Government Partnership, an international inter-governmental initiative launched in September 2011, testifies that movement towards governmental transparency and accountability is a major global trend. The OGP is a league of governments accepting voluntary obligations for increasing their openness. The OGP opens additional possibilities for civil society to establish constructive dialogue with their respective governments on increasing transparency, where these dialogues could also take place at the supranational level. Therefore, the EU-Russia Civil Society Forum believes that the governments of Russia and the EU should more actively engage with the OGP initiative in order to foster the effectiveness of this instrument.

Despite the existing legislative framework that defines access to public information, both in Russia and in most EU member-states, citizens and NGO activists face systematic ungrounded restrictions in this field. In the Russian Federation, one of the major reasons for a court to decline access to information and decide in favor of a governmental agency to withhold it, is the statement that "requested information is not relevant to the activities of government bodies and bodies of local self-government", despite a very broad definition of this term in the Russian FOI law. Citizens and NGOs in the EU countries often meet similar difficulties related to the interpretation of the definition "official document".

Additional difficulty derives from classifying information as a "secret protected by law", whether this is a state, administrative, or personal/family secret. This becomes another widely used obstacle for access to official information in Russia.

On one hand, protection of private data and secret information is indispensable. But on the other hand, a lack of clear classification procedures and systematic classification of data of wider social

importance (for example, data on regulations for law enforcement agencies) can hardly be considered as a positive practice. At the same time, the essence of such a secret category as "personal and/or family secret" is not specified in the Russian legislation, though the Criminal Code of Russia includes responsibility for the violation of such a secret.

As it has been already noted above, access to information about the functioning of the law enforcement agencies is a most sensitive field, where lack of access to information seriously impacts the quality of public control. Independent studies in Russia and in the EU proved that this problem is equally relevant for both parties. In Russia, restriction of information access to such data as police budget, staff, and evaluation for efficiency criteria prevents NGOs from independently evaluating police activities. In a number of the EU countries, information on police activities cannot be obtained upon a request since FOI/RTI laws do not cover police activities .

In the context of increasing governmental transparency and accountability, the necessity of the publication of official data in machine-readable formats becomes more and more evident. The movement to promote OpenData is an activity that is not common for civil society, as it targets the more technical side of the problem than human rights protection. Disclosing information in formats that are applicable for further usage and processing allows civil society to implement new possibilities provided by ICT development that were recognized before. In a number of European countries, in the UK or Germany for example, governments form official state open data catalogues, providing businesses and the non-profit sector with the possibility to use this data to implement their socially significant projects . For example, open data on breaches in law allow for such projects as the UK crime map: <http://www.police.uk> .

However, any activism of civil society for usage and processing of open governmental data does not make sense if government does not provide access to the data. Therefore, progress on the new concept of a "tech-oriented" approach to non-profit, non-governmental activities mostly depends on the will and readiness of governments to support such activism.

The Position of Civil Society

It is the opinion of the EU-Russia Civil Forum that essential qualitative changes are needed in the field of governmental transparency and accountability. Positive changes in this field can have an essential impact on the quality of changes in democratic processes. Public control of police activities, electoral procedures, the provision of governmental services, budget implementation, and judicial efficiency is strongly related to free access to information on governmental activities and further possibility of monitoring. However, the mere demands addressed to governments to increase their openness are definitely not sufficient. In order to achieve real changes, "strong political will" by government officials is needed to understand the key defining role of transparency and accountability in state administration and the defining importance of transparency for democratic structures, institutions, and processes as a whole.

Proposals

In respect of the aforesaid, the EU-Russia Civil Society Forum proposes the following to the governments of the European Union member-states and of the Russian Federation:

1. Increase involvement in the Open Government Partnership (OGP) and ensure participation of representatives of civil society in the process of drafting and reviewing national action plans under the OGP;

2. Pay particular attention to the process of developing joint standards for governmental transparency and search for the most effective balance between access to public information and protection of personal data and state secrets.
3. Address the necessity of a legal definition for the right to public access to information on police activities, including information on how these activities are regulated;
4. Design standards to enable the disclosure of official information in machine-readable formats, appropriate for further processing and analysis.

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