



EU-RUSSIA CIVIL SOCIETY FORUM ГРАЖДАНСКИЙ ФОРУМ ЕС-РОССИЯ

Statement

Steering Committee
of the EU-Russia Civil Society Forum

Amendments to the Russian Law on “Foreign Agents” Signify a New Level of Threat to Civil Society in Russia

On June 4, 2014, President Vladimir Putin signed a law amending the infamous Russian legislation on “foreign agents”. According to the new rules, the Ministry of Justice has received power to include NGOs on the list of “foreign agents” on its own decision. No court verdict would be necessary for this. This development creates a completely new situation in the implementation of the law and puts Russian civic organisations in much more difficult situation in the context of the continued crackdown by the authorities. Russian civic activists and their European partners express their concern in strongest terms about a new level of existential threat to civil society in Russia signified by this new amendment.

Obviously, the new amendments represent the government’s reaction to Russian NGOs’ refusal to abide by the repressive law and their strong resistance in courts. The government failed to force NGOs to voluntarily accept the status of “foreign agents”, despite of administrative and judicial pressure.

Immediately after the amendments to the law entered into force, the Ministry of Justice used its new powers. On June 5th it issued a decision to include five NGOs into the list of “foreign agents”. Four of them had already closed down or are in the process of self-closure to avoid criminal prosecution of their leaders for refusal to register as “foreign agents”: National Association for the Protection of Voters’ Rights “Golos”, its Moscow Member Centre “Golos”, Kostroma Centre for Civic Initiatives, and Saratov Centre for Social Policy and Gender Studies. One more, the “Union of the Women of the Don”, is still fighting in courts against a decision of prosecutors who ordered them to register as a “foreign agent”.

A more repressive turn in the government’s policy has been quite obvious in a manner the recent trials of two leading Russian NGOs have been conducted in Moscow, the Human Rights Centre “Memorial” on May 23rd and the “Public Verdict” Foundation on June 4th and 5th. Both NGOs are members of the EU-Russia Civil Society Forum. “Memorial” has lost its appeal against a decision of the prosecutors who had found the NGO in violation of the law on “foreign agents” and told it had to register. This decision of a court came despite a total lack of any evidence of “Memorial”’s “political activity” that had to be presented by the prosecutors as a proof of the NGO’s functioning as a “foreign agent”. The negative verdict of the judge came as a shock to observers and participants of the trial.

The same judge blatantly violated standards of fair trial during review of “Public Verdict”’s complaint on June 4th by suddenly agreeing to include as evidence a big stack of documents submitted by the prosecutors without letting the NGO representatives to study the papers. The next morning, on June 5th, violations continued when the court session took place in the absence of representatives of “Public Verdict” who were physically blocked from entering the court building in time for the trial. The NGO was therefore deprived of its right to submit motions demanding to be acquainted with the new evidence. Just two weeks earlier, the strongest NGO in the South of Russia and a member of the EU-Russia CSF, the “Union of the Women of the Don”, also lost its case against prosecutors in a court in the Novocherkassk Town Court where a judge found all activities of the organisation to be “political”. The Union plans to appeal.

These negative developments in law and judicial practice demonstrate the resoluteness of the Russian government to completely shut down independent voices of civil society organisations and put the NGO community under its firm control.

More than ever Russian civil society needs strong international solidarity and support. It is of great importance that the international community raises its strong objection not only to the Russian government’s actions in Ukraine and addresses the security issues but focuses on the rule of law, fundamental freedoms, and the state of civil society in Russia. International war and peace issues are intrinsically linked to further evolution of repressive policies in the domestic affairs in Russia.

June 10, 2014

Background:

According to the original provisions of the law on “foreign agents”, which was enacted in November 2012, it was the responsibility of NGOs themselves to apply to the federal list of “foreign agents”. However, Russian NGOs unanimously condemned the law from the moment it was adopted and refused to put on this derogatory, false and damaging label which, in the Russian language, is tantamount to an admission of espionage. They have repeatedly stated that they are nobody’s agents and act according to their own mission and in the interests of the Russian public and the constituencies they serve.

Much to the anger of the Russian government, no independent NGOs have voluntarily registered as “foreign agents”. Until June 5th, the federal list contained just one organisation which is considered established by and controlled by the authorities.

The government responded to this refusal by a massive wave of inspections by prosecutors and other government officials last year, targeting over a thousand NGOs. They resulted in 25 organisations being warned of “violations” for failing to register as “foreign agents”, and 75 NGOs cautioned they would be required to register if they continued their “political activities” and received foreign funding. Affected NGOs include human rights, environmental, anti-corruption, and social research organisations.

Most of the groups which were found in violation of the law have appealed to courts and have been engaged in a legal battle for several months. Many NGOs have lost their cases while some have had their complaints upheld by courts. Trials continue in many regions. But even those who have won their cases are not immune from a new inspection and an order to register. Since this May, a campaign against NGOs has resumed: prosecutors have again come with inspections to dozens of NGOs across Russia.

So far, at least six NGOs, facing the prospect of a two years’ imprisonment for their leaders, have been forced to close: “Golos” Association for the Protection of Voters’ Rights, its Moscow Member Centre “Golos”, Kostroma Centre for Civic Initiatives, Saratov Centre for Social Policy and Gender Studies, “Side by Side” NGO for LGBT film festival, and Anti-Discrimination Centre “Memorial”. Three of them are members of the EU-Russia Civil Society Forum. Other NGOs have had their reputation severely damaged

and their interaction with various institutions and experts curtailed as a result of the Kremlin's hostile rhetoric and labelling them as "foreign agents". And many more NGOs have engaged in self-censorship as it is impossible for them to predict which of their activities would be qualified by the government as "political". The law defines "political activity", a necessary criterion of a "foreign agent", purposefully vaguely and broadly, to include almost all typical work of all NGOs and therefore allowing selective application of the law.

According to the new changes to the law enacted on June 5th, NGOs legally will be forced with the status of a "foreign agent" immediately from the moment of their inclusion into the federal list by a decision of the Ministry of Justice and will have to fulfill all the obligations entailed, including additional auditing and reporting. Most importantly, they will be obliged to mark all their publications, press releases, interviews, and even oral statements as produced by a "foreign agent". Since all NGOs categorically disagree with the law and consider it contradictory to the Russian Constitution and international norms, they will not abide by these requirements. Sanctions for non-compliance will follow immediately and exponentially: NGOs will be penalised for every episode of violation at the level of 8,000 to 10,000 Euro (300-500 thousand rubles), to be followed by suspension of the work of the organisation and then its closure, and all the way up to the criminal persecution of the NGO's leaders with up to two years of prison term. These are highly inadequate and grossly disproportional sanctions from the perspective of international law.

As we have already witnessed in the last few months, NGOs will likely choose to close down voluntarily to avoid criminal prosecution of its leaders. We should expect in the coming months a much higher level of harassment and consequently many cases of liquidation of civic organisations, either by the government or by NGOs themselves.

According to the law, NGOs have the right to appeal to court against a decision by the Ministry of Justice. However, there is little hope for justice after a decision of the Constitutional Court of Russia issued on April 6th, when it found the law on "foreign agents" in compliance with the Constitution and upheld legality of the notion of a "foreign agent" and of the broad definition of "political activity".

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The EU-Russia Civil Society Forum was established in 2011 as a permanent common platform of non-governmental organisations. It aims at cooperation and coordination of at the moment 126 member organisations from Russia and the European Union as well as greater participation of NGOs in the EU-Russia dialogue. It has been actively involved inter alia in the questions of visa regulation, development of social, environmental and human rights standards, dealing with history, and civic participation.

EU-RUSSIA CIVIL SOCIETY FORUM / ГРАЖДАНСКИЙ ФОРУМ ЕС-РОССИЯ

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