



EU-RUSSIA CIVIL SOCIETY FORUM ГРАЖДАНСКИЙ ФОРУМ ЕС-РОССИЯ

Russian Government Should Repeal the “Foreign Agents” Law and Restart a Dialogue with Independent Russian NGOs

Statement of the Steering Committee of the EU-Russia Civil Society Forum

The Steering Committee of the EU-Russia Civil Society Forum is extremely concerned about significant deterioration of the situation of independent non-governmental organisations in Russia in 2014. The Law No. 121-FZ (so-called “foreign agents” law) plays a dramatic role in the persecution of prominent non-governmental organisations and their members. The Russian state authorities keep performing unannounced inspections of NGOs leading to expansion of “foreign agents” list. A number of court appeals on past decisions have resulted in negative verdicts for NGOs; some are on-going. Several NGOs are to pay huge fines for failing to register voluntarily and may be financially unable to do that. These actions by the Russian authorities have already caused discontinuation of activities or even shutdown of several leading NGOs and have had dramatic negative impact on activities of dozens of other organisations and the overall ability of independent civil society to operate freely and without fear of persecution.

In December 2014, the official list of NGOs registered as “foreign agents” (<http://unro.minjust.ru/NKOForeignAgent.aspx>; see the background story see below) was expanded by inclusion of further 11 organisations. Among them are several members of the EU-Russia Civil Society Forum – “Citizens’ Watch” (St. Petersburg), “Human Rights Resource Centre” (St. Petersburg), “Man and Law” (Republic of Mari El), and the All-Russian Movement for Human Rights (Moscow). On 16 January 2015, yet another member of the EU-Russia Civil Society Forum – “Committee Against Torture” (Nizhny Novgorod) – was announced a “foreign agent” (see <http://minjust.ru/ru/press/news/v-reestr-nekommercheskih-organizacij-vypolnyayushchih-funkcii-inostrannogo-agenta-6>). Besides, such prominent organisations as the Moscow School of Civic Education (Moscow) and the Sakharov Centre (Moscow) were also labeled as “foreign agents” last month.

The appearance of the name of Academician Andrei Sakharov – even obliquely – on the list of “foreign agents” is a shame for the state. Andrei Sakharov, an outstanding Soviet dissident and a Nobel Peace Prize Laureate has played an invaluable role in the establishment of a free and democratic country. It is deplorable that twenty-five years after his death the organisation, founded to commemorate and continue his legacy of civil rights and the preservation of memory of resistance to Soviet oppression, has been blacklisted as a “foreign agent”.

On 14 January 2015, Alexander Konovalov, Minister of Justice of the Russian Federation, announced amendments to the Law No. 121-FZ (see www.kommersant.ru/doc/2645964), which are supposed to

document the ways of exclusion of NGOs from the list. The Steering Committee of the EU-Russia Civil Society Forum considers it as an absolutely insufficient measure.

Instead, we reiterate¹ our call on the Ministry of Justice of the Russian Federation and other relevant authorities to stop crackdown on independent NGOs, repeal the “foreign agents” law, create favorable conditions for implementation of freedom of association, and restart a dialogue with independent Russian civil society organisations.

Intergovernmental organisations, the international community, and in particular the European Union authorities, should pay close attention to violations of fundamental freedoms and the rule of law in the Russian Federation and continued governmental pressure on independent NGOs. We believe that Russian civil society is an irreplaceable partner for the international community in this time of severe crisis in the EU-Russia relations.

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The EU-Russia Civil Society Forum was established in 2011 by non-governmental organisations as a permanent common platform. At the moment 140 NGOs from Russia and the European Union are member of the Forum. It aims at development of cooperation of civil society organisations from Russia and EU and greater participation of NGOs in the EU-Russia dialogue. The Forum has been actively involved, inter alia, in the questions of facilitation of visa regime, development of civic participation, protection of the environment and human rights, dealing with history, and civic education.

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

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¹ See statements by the Steering Committee of the EU-Russia Civil Society Forum from 10 June 2014, 23 July 2014, and 12 September 2014

Background Information²

According to the original provisions of the Federal Law No. 121-FZ (the so-called “foreign agents” law), 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, has clearly negative connotation and 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. A large group of Russian NGOs submitted a complaint to the European Court of Human Rights in January 2013, claiming that the law on “foreign agents” contradicts the Russian Constitution and international legal norms.

Much to the anger of the Russian government, no independent NGOs have voluntarily registered as “foreign agents”. Until 5 June 2014, the federal list of “foreign agents” contained just one organisation which is considered established by and controlled by the authorities.

The government responded to this unanimous refusal by NGOs to comply with the unjust law by a massive wave of inspections by prosecutors and other government officials in spring and summer of 2013, targeting over a thousand NGOs. These inspections resulted in 25 organisations receiving “notices of violation” for failing to voluntarily register as “foreign agents”. They received penalties for the violation and an order to register within 30 days. 75 other NGOs received “warnings” that they would be required to register if they continued their “political activities” and receiving foreign funding. Affected NGOs include leading 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.

As of now at least six Russian NGOs have been forced to shut down to avoid a threat of criminal prosecution of their leaders with up to two years of prison term for “repeated violations” of the law: “Golos” Association for the Protection of Voters’ Rights, its member organisation Moscow Centre “Golos”, Kostroma Centre for Civic Initiatives, Saratov Centre for Social Policy and Gender Studies, “Side by Side” NGO (LGBT film festival), and Antidiscrimination Centre “Memorial”. Three of them are members of the EU-Russia Civil Society Forum. Other NGOs have suffered serious reputational damages, and their interaction with various institutions and experts has become impossible as a result of the Kremlin’s hostile rhetoric and the “foreign agent” label. Moreover, a much larger number of NGOs has engaged in self-censorship because it is impossible to predict now which activities would be qualified as “political” by the authorities. The law deliberately defines “political activity”, a main criterion of a “foreign agent”, vaguely and broadly, thus allowing almost any NGO activity to be defined as “political” and therefore giving grounds for selective application of the law.

According to the new changes to the law enacted on 5 June 2014, 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 fulfil all the obligations entailed, including additional auditing and reporting. Most importantly, from that moment on they will be obliged to mark all their publications, press releases, interviews, and even oral statements as produced by a

² Information gathered by the Steering Committee of the EU-Russia Civil Society Forum for the Statement of June 10, 2014 – abridged and complemented.

“foreign agent”. Since all NGOs categorically disagree with the law and consider it contradictory to the Russian Constitution and international norms, they will most likely not abide by these requirements. Sanctions for non-compliance may follow immediately and exponentially: NGOs will be penalised for every episode of violation at the level of 4,000 to 6,500 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.

At the moment the official list of “foreign agents” includes 32 non-governmental organisations, among them EU-Russia Civil Society Forum members - Association for the Protection of Voters’ Rights “Golos”, its member organisation Moscow Centre “Golos”, Kostroma Centre for Civic Initiatives, Human Rights Centre “Memorial”, “Public Verdict” Foundation, “Soldiers’ Mothers of St. Petersburg”, the Institute for Freedom of Information Development Foundation, Regional Press Institute, Human Rights Resource Centre, “Man and Law”, “Citizens’ Watch”, the All-Russian Movement for Human Rights, and “Committee Against Torture”.

On 1 September 2014, an important development took place: the Moscow City Court overturned the decisions of previous court instances that the Association for the Protection of Voters’ Rights “Golos”, an active member of the EU-Russia Civil Society Forum, is a “foreign agent”, and called off substantial financial penalties applied at the NGO and its director. On the basis of this decision, the Ministry of Justice should have excluded the “Golos” Association from the list of “foreign agents”, but it didn’t happen.