Thursday 19 December 2019

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The Russian 'Foreign Agents' Law

European Parliament resolution of 19 December 2019 on the Russian 'foreign agents' law (2019/2982(RSP))

(2021/C 255/09)

The European Parliament,

— having regard to its previous resolutions on Russia and on EU-Russia relations,

— having regard to the statements by the Spokesperson of the European External Action Service (EEAS) of 23 November 2019 on amendments to the 'foreign agents' law in the Russian Federation, and of 26 November 2017 on the Russian law allowing the registration of foreign media as 'foreign agents',

— having regard to the statement of 11 December 2019 by the EU Delegation to the Council of Europe on amendments to the 'foreign agent' law in the Russian Federation,

— having regard to the Universal Declaration of Human Rights, in particular Article 19 thereof on the right to freedom of opinion and expression, and Article 20 thereof on the right to freedom of peaceful assembly and association,

— having regard to the United Nations Declaration on Human Rights Defenders, in particular Article 13 thereof on the freedom of association,

— having regard to the International Covenant on Civil and Political Rights (ICCPR), in particular Article 22 thereof on the right to freedom of association,

— having regard to the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights),

— having regard to the European Convention on Human Rights and the Protocols thereto, in particular Article 10 on the right to freedom of expression and Article 11 on the right to freedom of assembly and association,

— having regard to the European Union Guidelines on Human Rights Defenders,

— having regard to the Constitution of the Russian Federation, in particular Chapter 2 thereof on the rights and freedoms of citizens,

— having regard to the statement of 20 November 2019 by the Organisation for Security and Cooperation in Europe (OSCE) Representative on Freedom of the Media,

— having regard to the opinion of 15 July 2013 of the Commissioner for Human Rights of the Council of Europe on the 'Legislation of the Russian Federation on Non-Commercial Organisations in light of Council of Europe Standards', as well as to the updated opinion on 'Legislation and Practice in the Russian Federation on Non-Commercial Organisations in light of Council of Europe Standards: an Update' issued on 9 July 2015,

— having regard to the opinion of 27 June 2014 of the European Commission for Democracy through Law (Venice Commission) on the federal law on non-commercial organisations ('law on foreign agents'), the opinion of 13 June 2016 on Russian Federal Law No 129-FZ (on undesirable activities of foreign and international non-governmental organisations), and the report of the Venice Commission of 18 March 2019 on funding of associations,

— having regard to Rules 144(5) and 132(4) of its Rules of Procedure,

A. whereas the rights of freedom of thought and speech, association, and peaceful assembly are enshrined in the constitution of the Russian Federation;

B. whereas the Russian Federation is a signatory to the Universal Declaration of Human Rights and the European Convention on Human Rights, as well as a member of the Council of Europe, and has therefore committed itself to international standards and principles governing the rule of law and human rights and fundamental freedoms;

C. whereas in July 2012 the Russian Parliament adopted a law on 'foreign agents' requiring Russian NGOs to register with the Ministry of Justice of the Russian Federation as 'organisations performing the functions of foreign agents' if they receive foreign funding and engage in activities vaguely described as 'political activities'; whereas in June 2014 the law was amended to allow the Ministry of Justice to register NGOs as 'foreign agents' on its own initiative; whereas in November 2017 the scope of the law was extended to impose the use of the 'foreign agents' label on any foreign media directly or indirectly receiving foreign funding;

D. whereas the latest amendments to the law on 'foreign agents', which extend the status of 'foreign agents' to include private persons, including bloggers and independent journalists, were approved by the Russian Parliament on 21 November 2019 and signed into law on 2 December 2019 by President Vladimir Putin; whereas the law imposes specific requirements for registration, accounting, and labelling of publications, and makes non-compliance a criminal offence, including the possibility of sanctions with heavy administrative fines or imprisonment of up to two years;

E. whereas under this law, Russians and foreigners who work with or distribute content of news outlets labelled as 'foreign agents' would be declared 'foreign agents', potentially exposing journalists, their sources, or even those who share material on social networks to stigmatisation as 'foreign agents' and potentially leading to self-censorship while discouraging them not only from publishing but also from sharing publications;

F. whereas the Russian law on 'foreign agents' infringes the European Convention on Human Rights, the Council of Europe's international agreement, which defends, inter alia, freedom of speech and media; whereas Russia is therefore not fulfilling its obligations as a member of the Council of Europe; whereas the Commissioner for Human Rights of the Council of Europe has deemed this law to be incompatible with international and European human rights standards; whereas the law on 'foreign agents' violates Russia's commitments as a member of the OSCE and as a signatory to the Universal Declaration of Human Rights; whereas the EU expects the Russian Federation, as a permanent member of the United Nations Security Council, to abide fully by the international commitments it has made;

G. whereas a number of human rights defending organisations and NGOs, such as Amnesty International and Human Rights Watch, consider that the amended law will have a detrimental impact on the already restrictive environment for independent journalism in Russia, thus further undermining freedom of expression; whereas quality media, independent from governmental or pro-governmental structures, which work with many Russian correspondents across the country and are often the only source of reliable information and an alternative to state media in remote regions, are targeted by the law, thus impeding their work and, therefore, access to impartial media coverage;

H. whereas legislative restrictions and targeted prosecutions under the law on foreign agents in Russia have taken on more repressive forms in recent months, with the result of limiting the media's and civil society's access to independent funding, tarnishing their reputation and obstructing their activities, thus restricting the exercise of fundamental freedoms and reducing the space for independent and dissident actors in Russia;

I. whereas the law on 'foreign agents' is part of a broader campaign to stifle dissent, opposition, and civil society across Russia; whereas the shrinking space for Russia's independent civil society allows for the enhanced presence of non-independent government-organised non-governmental organisations (GONGOs); whereas the Russian government utilises GONGOs to promote its own policies while maintaining the semblance of an independent civil society;

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J. whereas the law has so far mainly targeted NGOs; whereas a total of some 80 NGOs are considered 'foreign agents' under this law, including virtually all leading human rights NGOs in Russia; whereas 49 Russian NGOs have applications pending before the European Court of Human Rights arguing that the law on 'foreign agents' violates a number of human rights, including the rights of freedom of expression and association, and protesting against the quality of the law and their persecution for failing to register as 'foreign agents', as well as excessive state control;

K. whereas dozens of organisations working on environmental issues have been forcibly put on the 'foreign agents' list since 2014, despite the ruling of Russia's Constitutional Court explicitly excluding environmental groups from the scope of that law; whereas many of the affected groups have had to close down to avoid being labelled as 'foreign agents' or from inability to pay the fines;

L. whereas an alarming global trend has surfaced over the last decade in which an increasing number of states are introducing and using laws to interfere with the right of freedom of expression, which includes the freedom to receive and impart information and ideas without interference by public authorities and regardless of frontiers, as well as freedom of assembly and association, whereas such laws are also hampering the work of civil society organisations and individuals;

M. whereas the European Court of Human Rights, in several of its judgments, has underlined that the public watchdog role exercised by NGOs is essential to a democratic society and is of similar importance to the role of the media;

N. whereas the legitimate aim of ensuring transparency of NGOs receiving foreign funding cannot justify measures which restrict the activities of NGOs operating in the field of democracy, human rights and the rule of law;

1. Calls on the Russian authorities to immediately repeal the law on 'foreign agents' and to bring the existing legislation into line with Russia's constitution and its obligations under international law; urges the Russian Federation to stop deliberately creating an atmosphere that is hostile to civil society and therefore condemns the use of the law on 'foreign agents' as a means to harass and suppress civil society organisations which cooperate with international donors or express political opinions;

2. Condemns the recently approved amendments to the law on 'foreign agents', which considerably widen its scope and will allow individuals to be stigmatised as 'foreign agents', thereby violating their human rights, in particular their freedom of expression and association, and their rights as citizens, restricting their commitment and contribution to Russian civil society and putting their personal safety at risk by bearing such a stigma;

3. Condemns the Russian authorities' continued efforts to restrict online and offline debate as well as independent journalism; reminds them that freedom of speech is a fundamental human right which reinforces all other human rights, allowing society to develop and progress; calls on the Russian Federation to acknowledge the positive contribution of a vibrant and active civil society to the state of democracy and society;

4. Considers this law and the excessive use of fines and settlements against the media, human rights organisations and civil society to be deliberately aimed at forcing them to focus their resources on paying fines and judicial defence, and thus to limit freedom of expression; is deeply concerned by the targeting of human rights organisations and defenders, which adds to the deteriorating situation of human rights in Russia; condemns, among others, the dissolution of the historically important movement 'For Human Rights';

5. Expresses its concern at the risk of selective applicability of the law to target concrete individuals, particularly independent journalists and political opposition activists, owing to the lack of clear criteria, as well as legal uncertainties over the grounds and consequences of its application to ordinary citizens; calls on the Russian authorities to establish a framework for activities of non-commercial organisations (NGOs) that is clear, coherent and consistent and is in line with European and international standards, in particular by using clear definitions, by avoiding the use of stigmatising language such as 'foreign agents' or discriminatory legal provisions related to sources of funding, and by preventing the criminal prosecution of NGOs, media and bloggers or of individual persons carrying out activities for NGOs or media; expresses its

concern over the crowding-out of independent civil society organisations by government-organised NGOs; notes with concern specifically the situation around Anastasiya Shevchenko in Rostov-on-Don;

6. Strongly opposes the Russian authorities' methods of using the power of the state to suppress freedom of expression and speech and thereby instil fear in society; calls on the Russian authorities to support the impartiality of media channels, including those owned by Russian state companies, and to improve the safety and working environment of journalists in Russia, including by advancing their professional skills by making use of existing international programmes; stresses the need to guarantee efficient legal recourse procedures for journalists whose freedom to work has been threatened, so as to avoid self-censorship;

7. Commends and expresses its support for all individuals and organisations who are still carrying out their legitimate and peaceful human rights work despite being targets of repression; urges the Russian authorities to cease all harassment, intimidation and attacks directed at civil society, the media, and human rights organisations and defenders; condemns the Russian authorities' failure to protect these actors against attacks, harassment and intimidation by third parties or to impartially investigate such attacks against them;

8. Notes that Russia's register of 'foreign agent' media has 10 entries, all of which are outlets linked to either Radio Free Europe or Voice of America; recalls that Russia's government has criticised other foreign media for reporting on the demonstrations held in the country;

9. Expects the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy (VP/HR), the Council and the Commission to raise concerns about the law on 'foreign agents' in their contacts, meetings and communications with Russian representatives, including at the highest levels, and asks them to report back to Parliament on their exchanges with the Russian authorities;

10. Reiterates its call on the Commission, the EEAS and the Member States to continue to closely monitor the human rights situation in the Russian Federation and calls on the EU Delegation in Russia and the embassies of the Member States to continue monitoring court cases involving civil society organisations and activists; further calls on the VP/HR and the EEAS to ensure that cases of persons prosecuted for political reasons are raised in their communications with the Russian authorities and that Russian representatives are formally requested to respond in these cases; asks the VP/HR and the EEAS to report back to Parliament on their exchanges with the Russian authorities;

11. Calls on the VP/HR to use every possibility to support civil society that promotes democratic values, rule of law, fundamental freedoms and human rights in Russia and to strengthen people-to-people contacts with the citizens of Russia;

12. Asks the EU Member States to raise the matter of the law on 'foreign agents' in the institutions of the Council of Europe, primarily in the Committee of Ministers and in the Parliamentary Assembly of the Council of Europe (PACE); asks the Venice Commission to examine the amended law on 'foreign agents' with a view to producing a legal opinion and appropriate recommendations; calls on the Russian authorities to fully implement all recommendations of the Council of Europe's Venice Commission, in compliance with Russia's international obligations in this respect; calls on EU Member States to apply constant pressure on the Russian authorities within the OSCE fora to meet the OSCE standards concerning human rights, democracy, the rule of law and the independence of the judiciary;

13. Encourages the EU to continuously call on Russia to repeal or amend all laws incompatible with international standards; calls on the VP/HR to draw up a new and comprehensive EU-Russia strategy aimed at strengthening peace and stability; reaffirms that any dialogue should be based on firm principles, including respect for international law and the territorial integrity of Russia's neighbours; underlines that the sanctions against Russia can be lifted only when Russia fully complies with its obligations;

14. Instructs its President to forward this resolution to the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the Council, the Commission, the governments and parliaments of the Member States, the Council of Europe, the UN High Commissioner for Human Rights, the OSCE and the President, Government and Parliament of the Russian Federation.