



# General Assembly

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## Human Rights Council

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Agenda item 4

Human rights situations that require the Council's attention

### **Written statement\* submitted by the Human Rights House Foundation (HRHF), a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 May 2013]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **The Human Rights Council should address the crackdown of civil society in the Russian Federation**

Since May 2012, an unprecedented crackdown of civil society took place in the Russian Federation. As reported to the Human Rights Council in July 2012<sup>1</sup> already and as underlined by the United Nations High Commissioner for Human Rights “we have seen a worrying shift in the legislative environment governing the enjoyment of the freedoms of assembly, association, speech and information in the Russian Federation. At least four new legal provisions have been made that will have a detrimental effect on human rights in the country.”<sup>2</sup>

On 21 November 2012, the law on “foreign agents”<sup>3</sup> entered into force. This law requires all non-governmental organisations, which receive foreign funding and engage in “political activities”, to register as such agents.

The term of “political activity” is defined in the law as “any public action aimed at change of state policy and policy of state bodies.” This broad definition reflects an aim at applying it based on the political conjuncture rather than on real legal norms, which constitutes a serious threat to the work of any civil society organisation, in particular of those organisations working for the promotion and the protection of human rights.

The Special Rapporteur on the rights to freedom of peaceful assembly and association Maina Kiai considered that “these amendments constitute a direct affront to those wishing to freely exercise their right to freedom of association.”<sup>4</sup> “Labelling NCOs and their materials by law as ‘foreign agents’ is clearly intended to stigmatize any activity conducted by civil society receiving foreign support, including legitimate ones,” further said the Special Rapporteur on the rights to freedom of opinion and expression Frank La Rue. “Everyone should be entitled to promote their ideas freely without arbitrary restrictions.” Those who do not comply with the law face fines of up to 300’000 Russian rubbles (approximately 7’500 EUR), freezing of assets for up to six months and the leaders of those organisations can face up to 2 years detention.<sup>5</sup>

The legislative amendments regulating NGO’s funding are only one aspect of the current crackdown of civil society in the Russian Federation.

On 8 June 2012, the Protest Law<sup>6</sup> entered into force. This law aims at regulating the participation in public assemblies and rallies. The new law increases up to 150 fold for individuals and 300 fold for organisations the existing penalties for violating rules on participation in and organisation of peaceful protests. The new maximum penalty for participation in an unlawful protest is 300’000 Russian Rubbles (approximately 9’000 EUR) for individuals and up to 1 million Russian Rubbles (approximately 32’000 EUR) for organisations. The law imposes various restrictions on the location used for public protests and bans individuals with multiple administrative convictions related to organizing public

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<sup>1</sup> See HRHF’s oral statement at the Human Rights Council on 6 July 2012:  
<http://humanrightshouse.org/Articles/18313.html>.

<sup>2</sup> Press release of 18 July 2012.

<sup>3</sup> Law Introducing Amendments to Certain Legislative Acts of the Russian Federation Regarding the Regulation of Activities of Non-Commercial Organizations (NCO) Performing the Function of Foreign Agents.

<sup>4</sup> Joint press release of 12 July 2012 issued by the United Nations Special Rapporteurs on freedom of peaceful assembly and association, human rights defenders, and freedom of expression.

<sup>5</sup> See: <http://humanrightshouse.org/Articles/18328.html>.

<sup>6</sup> See: <http://humanrightshouse.org/Articles/18187.html>.

events from organising public events. The application of the new regulation is given to the regional authorities, bringing the country to a situation in which no common ground can be applied in relation to the right to exercise freedom of assembly.

In parallel to those restrictions, in July 2012 defamation was reintroduced as a criminal offence in the Russian Federation, which mandates fines on media outlets of up to 2 million Russian Rubbles (approximately 60'000 EUR) for producing “defamatory” public statements.

Also in July 2012, changes introduced to the law on Information, Information Technologies and Information Protection increased Internet censorship and curbed the right to freedom of expression.<sup>7</sup> On 23 October 2012, the law on amendments to the Criminal Code was adopted, which expands the definition of treason, making it so vague that it allows the government to brand any inconvenient figure as a traitor. The new definition includes “any consultative or other assistance to a foreign state, an international organisation, or their representatives in activities against the security of the Russian Federation.”

Under the provisions of the Criminal Code, one could imagine that somebody advocating for changes in public policies abroad, even at the United Nations, and especially changes in anti-terror legislation or in public security policies such as the use of force by police forces during demonstrations, could be qualified as a traitor. Penalty for violating the treason law includes fine of up to 500'000 Russian Rubbles (approximately 15'000 EUR) and a prison term of up to 20 years.

As a consequence of the implementation of the new regulations, in March 2013 a large-scale campaign of inspections of NGOs began in Russia. The scale and the scope of those inspections, as well as the invasive, disruptive and intimidating manner adopted by the authorities, are unprecedented in the country. To date, it is difficult to know exactly how many NGOs were inspected and face to labelled as “foreign agents. As of 18 April 2013, 246 organisations in 54 Russian regions reported to Agora that they had been inspected<sup>8</sup>. According to Human Rights Watch<sup>9</sup>, a Ministry of Justice official told the Russian Presidential Council for Civil Society and Human Rights that ministry officials participated in 528 prosecutor’s office inspections of NGOs in 49 regions, suggesting the true scale of the inspections.

The Ministry of Justice clarified that the purpose of these inspections was to determine whether the activities of the NGOs comply with the goals stated in their charters and in the legislation.

On 29 April 2013, the Russian Federation was reviewed under the Universal Periodic Mechanism of the Human Rights Council.<sup>10</sup> Out of 231 recommendations in total, 49 were made in regard to the current restrictions to freedom of expression, freedom of association and assembly. The Russian Federation is now addressed with many recommendations requesting for its most recent repressive legislations to be overturned.

The Russian Federation was indeed strongly recommended “to remove regulations which limit the legitimate exercise of the rights to freedom of expression, association and assembly”<sup>11</sup> and in particular “to repeal the amendment which requires NGOs that accept

<sup>7</sup> See: <http://humanrightshouse.org/Articles/18379.html>

<sup>8</sup> The list of prosecutors’ inspections compiled by Agora can be found at: [http://openinform.ru/fs/j\\_photos/openinform\\_405.pdf](http://openinform.ru/fs/j_photos/openinform_405.pdf)

<sup>9</sup> See Human Rights Watch’s report: <http://www.hrw.org/reports/2013/04/24/laws-attrition-0>

<sup>10</sup> Report of the Working Group [http://www.upr-info.org/IMG/pdf/a\\_hrc\\_wg\\_6\\_16\\_1.12\\_russian\\_federation.pdf](http://www.upr-info.org/IMG/pdf/a_hrc_wg_6_16_1.12_russian_federation.pdf)

<sup>11</sup> A/HRC/WG.6/16/L.12; Recommendation 140.151 made by Norway.

foreign funding to register and identify themselves as ‘foreign agents’”<sup>12</sup>, “in line with the resolution by the Parliamentary Assembly of the Council of Europe adopted on 2 October 2012”<sup>13</sup>, and “in light of the resolution on human rights defenders, as approved by the Human Rights Council at its 22<sup>th</sup> session.”<sup>14</sup>

Although the UPR plays a unique role in highlighting a country’s human rights situation, the UPR should not be used as a tool to reduce the debate on certain country situations under other international mechanisms, but rather to enrich and guide the activities of the Human Rights Council.

Civil society in the Russian Federation is facing a situation in which it will not be possible to provide services to people in need. Associations providing legal counsel, accommodation centres for children, organisations insuring shelter for victims of domestic violence are some of the civil society activities considered as political and therefore labelled as “foreign agents” because they receive funding from abroad to do their work. NGOs working on prison conditions, prevention of torture, election monitoring, as well as those protesting peacefully in the streets and human rights defenders using international mechanisms to protect and promote human rights can be held criminally responsible of treason.

As any other State, the Russian Federation must be held to its international obligations and must allow all citizens to fully enjoy their human rights. As witnessed during the UPR, the repression is unprecedented in the Russian Federation. The Human Rights Council’s credibility as the highest United Nations human rights protection body depends on the way the Council is addressing this situation. The Council can indeed not stay silent in regard to a State building a repressive system and thereby violating most fundamental rights, such as the rights to freedom of expression, freedom of association and assembly, and the right to be a human rights defender, without fearing criminalisation.

The mere fact that in a country those who engage in promoting the change of public policies in order for them to be in line with international human rights law or developing and discussing new human rights ideas and principles and advocating for their acceptance, in line with the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms adopted by the United Nations General Assembly on 9 December 1998, should be enough for the Human Rights Council to take a close look into national legislation and practice as a particular concern of the Council.

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<sup>12</sup> A/HRC/WG.6/16/L.12; Recommendation 140.175 made by Ireland.

<sup>13</sup> A/HRC/WG.6/16/L.12; Recommendation 140.169 made by Sweden.

<sup>14</sup> A/HRC/WG.6/16/L.12; Recommendation 140-176 made by Chile.