



Asociace pro podporu demokracie a lidských práv  
/ Association for Democracy Assistance and Human Rights

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## **EU-Russia CSF Russian members as “Foreign Agents” under Act No. 121-FZ (No. 102766-6)**

### **Introduction**

Legislation adopted by the Parliament of the Russian Federation in June 2012 widely known as the “Foreign Agents” Act has seriously affected the freedom of activity of many Russian non-profit organisations. Furthermore, this situation has raised serious questions as to how their future – and the future of Russian democracy – will be under the influence of the new law.

A certain number of the Russian non-profit organisations, which were consequently declared as “foreign agents”, are members of the EU-Russia Civil Society Forum. Among the main aims of the Forum is “to provide mutual support, assistance and solidarity among civil society groups”.<sup>2</sup> In its history, the Forum has many times shown serious concern about the deterioration of human rights in Russia and the illegal persecution of civil society activists. The Forum has adopted a very similar stance regarding the “Foreign Agents” Act.

The purpose of this paper is to open discussion about how the Forum could react to the new situation following the adoption of the law and how it could help its Russian members to overcome the legal discrimination they must face in their country.

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<sup>2</sup> Mission Statement of the EU-Russia CSF, Official Website of the EU-Russia CSF, (accessed 19.11.2013), <http://eu-russia-csf.org/home/about/mission-statement.html?L=0>

## The Adoption and the Content of the “Foreign Agents” Act

The Introductory Note No. 102766-6 “On Amendments to Legislative Acts of the Russian Federation regarding the Regulation of the Activities of Non-profit Organisations Performing the Functions of a Foreign Agent” became a federal law of the Russian Federation (No. 121-FZ) on 20 July 2012 after it was signed by the President of Russian Federation Vladimir Putin on the same day.<sup>3</sup>

Previously, the Act was adopted by the State Duma on 13 July 2012, as well as approved by the Federal Council on 18 July 2012.<sup>4</sup> The procedure from draft to the adoption of the law took to the Russian Parliament only two weeks, which is a highly remarkable speed. This was enabled by the fact that the draft was designed exclusively by the members of the political party “United Russia”, the main political supporter of Vladimir Putin. Secondly, there had been no debate on the draft held in the Russian public sphere.<sup>5</sup> Finally the legislation came into effect 120 days after the date of its official publication (i.e. on 21 November 2012).<sup>6</sup>

The “Foreign Agents” Act brought significant changes to existing legislation of the Russian Federation, which were applied to:

- the Federal Act of 19 May 1995 (No. 82-F3) “On Public Associations” and its amendments from January 2006 and August 2009;
- the Federal Act of 12 January 1996 (No. 7-F3) “On Noncommercial Organisations”;
- the Federal Act of 7 August 2001 (No. 115-F3) “On Combating Money Laundering and the Financing of Terrorism”;
- the Criminal Procedural Act of the Russian Federation;
- and the Criminal Code of the Russian Federation.<sup>7</sup>

The amendments of July 2012 require from those non-profit organisations engaging in political activity and receiving funding from abroad to register as “foreign agents”. It is necessary to note that this label itself has a very negative connotation, as for most Russians it has a meaning of “a spy acting in Russia in the interests of other countries”.<sup>8</sup> It is the Russian state that has the right to determine whether an organisation is engaged in political activity, regardless of actual aims of the organisation as defined in its charter.<sup>9</sup> In this way, “a political activity” can be understood very broadly ranging from making a direct influence on the decision-making of public authorities and changing public policy to funding of an organisation carrying out political actions.<sup>10</sup>

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3 Introductory Note No. 102766-6 *O vnesenii izmenenij v otdel'nye zakonodatel'nye akty Rossiyskoy Federacii v chasti regulirovaniya deyatelnosti nekommercheskikh organizacij, vpolnyayushikh funkcii inostrannogo agenta*, State Duma Official Website, (accessed 15.11.2013), <http://asozd2.duma.gov.ru/main.nsf/%28SpravkaNew%29?OpenAgent&RN=102766-6&02>

4 Introductory Note No. 102766-6.

5 International Legal Developments Year in Review: 2012, An Annual Publication of the ABA/Section of International Law, vol. 47 (2013), 665-666, (accessed 15.11.2013), [http://www.americanbar.org/content/dam/aba/publications/international\\_lawyer/til\\_47\\_1/inl\\_yir47\\_cpy.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/international_lawyer/til_47_1/inl_yir47_cpy.authcheckdam.pdf)

6 Introductory Note No. 102766-6.

7 Federal Law of the Russian Federation No. 121-FZ, State Duma Official Website, (accessed 15.11.2013), [http://ntc.duma.gov.ru/duma\\_na/asozd/asozd\\_text.php?nm=121-%D4%C7&dt=2012](http://ntc.duma.gov.ru/duma_na/asozd/asozd_text.php?nm=121-%D4%C7&dt=2012)

8 International Legal Developments Year in Review: 2012, 666.

9 Federal Law of the Russian Federation No. 121-FZ.

10 „Russia's NGO Laws“, Freedom House, (accessed 15.11.2013), <http://www.freedomhouse.org/report/contending-putins-russia/factsheet>

According to the law, labelled as a “foreign agent” is “every Russian non-profit organisation which receives finance or property from foreign states, their organs, international and foreign organisations, foreign citizens, stateless persons or persons authorized by them and (or) from Russian legal entities receiving financing or property from these specified sources (with the exception of the open joint-stock companies with state participation and their subsidiaries) and which takes part in political activities carried out in the territory of the Russian Federation, including for the benefit of foreign sources.”<sup>11</sup> The Act exempts certain entities from the obligation to register as foreign agents, including recognized religious groups, business groups, and state companies, as well as those active in the field of science, culture, education, arts, health, social support, etc.<sup>12</sup>

The rules for the activities of non-profit organisations in the Russian Federation adopted in July 2012 can be summed up in several points:

- These non-profit organisations labeled as “foreign agents” are required to register with the authorized body of the Ministry of Justice of the Russian Federation to which they have to be submitting financial reports on a quarterly basis and then semiannually additional documents describing the character of organisation’s activities as well as the composition of its leadership.
- A “Foreign Agent” is obliged to ask the authorities for permission before starting any political activities.
- While planned audits may occur once a year, in certain cases (further specified by the law) a “Foreign Agent” can be subject to an unlimited number of unscheduled audits.
- Foreign donations larger than 200,000 rubles (or an equivalent amount in foreign currency) are subject to mandatory control.
- Foreign agents must mark all materials distributed in all kinds of media, including the Internet, as products of a “Foreign Agent”.<sup>13</sup>

If an organisation labelled as a “Foreign Agent” refuses to register, it can face serious legal implications:

- Its activities can be suspended by court for a period of up to six months, which is appealable in the High Court.
- In such case it is forbidden for the organisation to carry out mass actions and public events.
- Its access to its bank accounts is limited.
- Persistent refusal to register and report on activities of the organisation can be punished by a fine of up to 300,000 rubles, or by compulsory works for a term of up to 400 hours, or correctional labour for up to two years, or by imprisonment for the same term.
- Violations of the Act are newly treated under the jurisdiction of the federal agency for the monitoring of money laundering and financing of terrorism.<sup>14</sup>

The Act also criminalizes “a creation of religious or civic associations whose activities are accompanied by violence against citizens or which can cause harm to their health” by imposing fines up to 300,000 rubles, or restriction of freedom or imprisonment or forced labour for up to four years. The leadership of non-profit organisations,

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11 Federal Law of the Russian Federation No. 121-FZ.

12 Federal Law of the Russian Federation No. 121-FZ. According to Freedom House this “immunizes the Russian Orthodox Church and foreign investors, encouraging their continued support for the regime and ensuring that no powerful entities side with civil society in opposition to the law”. “Russia's NGO Laws”, Freedom House.

13 Federal Law of the Russian Federation No. 121-FZ.

14 Federal Law of the Russian Federation No. 121-FZ.

including “Foreign Agents”, who urge citizens to commit illegal acts or refuse to fulfil their civic duties, is punishable by a fine of up to 200,000 rubles, or restriction of freedom, or imprisonment, or forced labour for up to three years. Individuals engaging in the activities of illegal non-profit organisations can be fined up to 120,000 rubles or they can face the sentence of restriction of freedom or imprisonment or forced labour for up to two years.<sup>15</sup>

## **The Impact of the “Foreign Agents” Act on the Activities of EU-Russia CSF Russian Members**

After the “Foreign Agents” Act came into effect on 21 November 2012, hundreds of non-profit organisations in the Russian Federation started facing legal discrimination by the authorities. Since March 2013 massive inspections were conducted mostly by prosecutors or specialists from the Ministry of Internal Affairs, the Ministry of Justice, the Ministry of Emergencies, the Federal Security Service (FSB), the Tax Inspectorate and the Federal Service for Supervision of Protection of Consumer Rights and Human Well-Being (*Rospotrebnadzor*).<sup>16</sup>

Many inspections were carried out without the inspectors providing any documents to justify them. In addition, the organisations under inspection were given short deadlines of several days for the preparation and submission of required documents which varied significantly in content as well as in volume, but which always had to include information on the sources of funding.<sup>17</sup> That these inspections can be conducted in a very violent way is evident from the case of the human rights organisation All-Russia Public Movement. During a police search of their Moscow office in June 2013, seven people were injured.<sup>18</sup>

In the period following the adoption of the “Foreign Agents” Act also other laws concerning the activities of Russian non-profit organisations were passed. In the first place, in December 2012 the Dima Yakovlev Law, in fact a response of the Russian government to the previously approved U.S. Magnitsky Act, not only banned adoptions of Russian children by U.S. citizens, but also targeted all U.S.-funded NGOs and Russian-American citizens working in the non-profit sector. The law imposes a ban on politically oriented organisations that receive funding from the United States and prohibits Russian-American citizens from leading or belonging to a foreign non-profit organisation that engages in political activity.<sup>19</sup>

As a result of the “foreign agents” campaign, the Ministry of Justice of the Russian Federation, together with various prosecutors’ offices, filed in total 14 administrative lawsuits against Russian non-profit organisations in total. According to Human Rights Watch prosecutors lost nine of them.<sup>20</sup> Previously, the EU-Russia Civil Society Forum had expressed its deep concern in this regard and has repeatedly urged the government of the Russian Federation to “end its crackdown on civil society [and] repeal its recent restrictive legislation in the area

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15 Federal Law of the Russian Federation No. 121-FZ.

16 “Serious concerns about massive inspections of non-profit organisations currently conducted in Russia”, Statement by the Steering Committee of EU-Russia CSF, 21 March 2013, (accessed 19.11.2013), [http://eu-russia-csf.org/fileadmin/Statements/21.03.2013\\_EU-Russia\\_CSF\\_SC\\_Statement\\_On\\_the\\_NGO\\_inspections\\_eng.pdf](http://eu-russia-csf.org/fileadmin/Statements/21.03.2013_EU-Russia_CSF_SC_Statement_On_the_NGO_inspections_eng.pdf)

17 “Serious concerns about massive inspections of non-profit organisations currently conducted in Russia”.

18 “On deterioration of the legitimate work of human rights groups in Russia”, Statement by the Steering Committee of EU Russia Civil Society Forum, 09 July 2013, (accessed 18.11.2013), [http://eu-russia-csf.org/fileadmin/Statements/EU-Russia\\_CSF\\_-\\_SC\\_statement\\_For\\_Human\\_Rights\\_09.07.2013.pdf](http://eu-russia-csf.org/fileadmin/Statements/EU-Russia_CSF_-_SC_statement_For_Human_Rights_09.07.2013.pdf)

19 “Russia’s NGO Laws”, Freedom House.

20 “Russia: “Foreign Agents” Law Hits Hundreds of NGOs”, Human Rights Watch, 20 November 2013, (accessed 25.11.2013), <http://www.hrw.org/news/2013/11/20/russia-foreign-agents-law-hits-hundreds-ngos-updated-november-20-2013>

of fundamental human rights and freedoms”.<sup>21</sup> Among the non-profit organisations that are being persecuted by the new legislation are a significant number of the Forum members: according to available data there are 67 Russian member organisations in the Forum out of which 17 have already been sanctioned under the “Foreign Agents” Act.<sup>22</sup>

Concerning only the Russian non-profit organisations that are members of the Forum, until the end of November 2013 it was only the Association of non-profit organisations for the protection of the rights of voters (GOLOS), a leading expert group monitoring elections in Russia, whose activities were suspended by the court. Previously this year, GOLOS refused to register as a “foreign agent” and subsequently was sentenced to pay a fine of 300,000 rubles. Its director, Grigory Melkonyants, called the whole process and the approach of the Ministry of Justice “absurd”.<sup>23</sup> In any case, at least from the viewpoint of the Western Europeans, it seems to be quite problematic to call elections' monitoring a political activity.

So far, three of the Forum members from Russia have faced administrative lawsuits based on the “Foreign Agents” Act. These are the Kostroma Centre for Support of Public Initiatives (Kostroma), the Anti-Discrimination Centre “Memorial” (St. Petersburg), and the Centre for Civic Analysis and Independent Research GRANI (Perm), whereas ADC “Memorial” is currently undergoing a civil lawsuit as well.<sup>24</sup>

After the administrative cases against ADC “Memorial” and its director, Olga Abramenko, were cancelled due to a number of violations in case files, on 12 July 2013 the prosecutor’s office filed a civil lawsuit against the organisation claiming that “its failure to register as a “foreign agent” was unlawful and impaired the legitimate interests of the general public”.<sup>25</sup> Court hearings on the civil lawsuit started on 5 August 2013 and the prosecution's argumentation appeared to be quite the same as the one used in the previous administrative cases against the organisation.

The last hearings of the suit took place in St. Petersburg on 25 November 2013 and are due to resume on 12 December 2014. The procurator’s office insisted that ADC “Memorial” should be listed in the “foreign agents” register. ADC “Memorial” pointed out on its website that: “□It is for the first time in the recent history of prosecution of NGOs in Russia in accordance with the newly adopted laws, which introduced the notion of a ‘foreign agent’, that the court was asked to recognize the activities of an NGO as the activities of a foreign agent. Until now NGOs were either simply brought to trial for ‘violations of the law on NGOs’ or were tried to forcedly register as NGOs carrying out activities of a foreign agent ‘in the interests of an unspecified group of persons’, which was also a novelty in Russian legal practice.”<sup>26</sup>

Regarding the results of the lawsuits, the Centre for Civic Analysis and Independent Research GRANI, with its director Svetlana Makovetskaya, was more successful. The organisation managed to win repeatedly in court against the prosecutor’s office. After the courts of three instances found that the claims of the prosecutor against

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21 “EU-Russia Civil Society Forum: Connecting Cooperation with Solidarity”, Statement of the EU-Russia Civil Society Forum 4th General Assembly, The Hague, 06 October 2013, p. 1 (accessed 25.11.2013), [http://eu-russia-csf.org/fileadmin/Policy\\_Papers/Policy\\_Papers\\_Hague/Connecting\\_Cooperation\\_with\\_Solidarity\\_EN-1.pdf](http://eu-russia-csf.org/fileadmin/Policy_Papers/Policy_Papers_Hague/Connecting_Cooperation_with_Solidarity_EN-1.pdf)

22 The data were provided by the Communication Team of the EU-Russia Civil Society Forum, the Human Rights Watch and Closed Society.org. See more at “Russia: “Foreign Agents” Law Hits Hundreds of NGOs“.

23 “ROO “Golos” priznana “agentom” i oshtrafovana na 300 tysyach rublej”, Agentstvo social’noj informacii, 5. June 2013, (accessed 26.11.2013), <http://www.asi.org.ru/news/roo-golos-priznana-agentom-i-oshtrafovana-na-300-ty-syach-rublej/>

24 “Russia: “Foreign Agents” Law Hits Hundreds of NGOs”. See also “Persecution of members of the EU-Russia Civil Society Forum – the Association GOLOS and the Kostroma center for support of community initiatives – should be stopped immediately”, Statement by the Steering Committee of EU-Russia CSF, 22 April 2013, (accessed 18.11.2013) [http://eu-russia-csf.org/fileadmin/Statements/CSF\\_Statement-Golos\\_Kostroma\\_Centre\\_ENG.pdf](http://eu-russia-csf.org/fileadmin/Statements/CSF_Statement-Golos_Kostroma_Centre_ENG.pdf)

25 “Russia: “Foreign Agents” Law Hits Hundreds of NGOs”.

26 “Prokuror prosit sud priznat’ deyatel’nost, ADC “Memorial” deyatel’nost’yu inostrannogo agenta”, ADC “Memorial” Official Website, 25 November 2013 (accessed 28.11.2013), <http://adcmemorial.org/www/8231.html>

GRANI were unfounded, the Perm non-profit organisation decided to question in court the actual demand of the prosecution to register as a “foreign agent”. Subsequently, in September 2013, the District Court of Perm declared that the prosecution of GRANI was unlawful and the organisation is not a “foreign agent”.<sup>27</sup>

The rest of the non-profit organisations and Russian members of the Forum were notified of violations of the law or received official warnings not to violate it. For example, in the suit of the non-profit organisation Baikal Environmental Wave, the District Court of Irkutsk decided on 18 October 2013 that it must register as a “foreign agent” because it is politically active, as well as funded from abroad.<sup>28</sup> The ecologists defended themselves by a statement that the environmental protection of Baikal Lake cannot be understood as a political activity.

Olga Abramenko, the director of ADC “Memorial”, tried to explain what kind of non-profit organisations are endangered by the “Foreign Agents” Act the most: “We can only guess why certain NGOs (and not others) became victims of the ‘foreign agents’ campaign. Among the persecuted organisations we can find more of those concentrating on human rights or on the fight against discrimination as such – although there are exceptions, e.g. the Kostroma Center, an absolutely innocent and small NGO, or the Women of Don. In our case [ADC “Memorial”] we are concerned with the protection of very unpopular groups [of population] such as the Roma people, migrants, LGBT activists, and human rights activists. We work on the international level a lot. Maybe this is the reason for our persecution.”<sup>29</sup>

Svetlana Makovetskaya, the director of the Center GRANI, emphasizes that the inspections under the “Foreign Agents” Act in the end concentrated more on the well-known non-profit organisations than on the groups that might have real potential to endanger the system, simply because the latter were less visible. She mentions three types of NGOs that were hit by the legislation the most: “There will always be pretensions to the organisations which are engaged in election monitoring, because from the perspective of the Russian administration it is a highly political activity. [...] The environmentalists are often in conflict with the interests of Russian business, which has the possibility to make an arrangement with state to organize an inspection where it needs one.”<sup>30</sup> The third type of NGOs facing problems are the human rights organisations, and mainly those operating in the national republics in the Caucasus.

## **Further Implications of the Persecution of the EU-Russia CSF Russian Members: How the Forum can help?**

When concerning the impact of the “Foreign Agents” Act on the activities of Russian non-profit organisations, it is necessary to realize the whole context of the matter. Anton Burkov, a member of the Urals Centre for Constitutional and International Human Rights Protection of the NGO Sutyajnik who is currently also a member of the Steering Committee of EU-Russia Civil Society Forum, points out that active non-profit organisations have always had a hard time in Russia. Among other things, he recalls the 1996 legislation that demanded a re-registration of all non-profit organisations in the country: “The NGO I am working with has undergone major persecution since

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27 Georgij Ivanushkin, „Sudy podverdili, chto Permskij regional’nyj pravozashitnyj centr i Centr GRANI ne yavlyayutsya “inostrannymi agentami””, Agentstvo social’noj informacii, 11 November 2013, (accessed 25.11.2013), <http://www.asi.org.ru/news/sud-tret-ej-instantsii-priznal-chto-permskij-regional-ny-j-pravozashhitny-j-tsentr-ne-yavlyaetsya-inostranny-m-agentom/>. [http://www.grany-center.org/we/actions/news/details\\_920.html](http://www.grany-center.org/we/actions/news/details_920.html)

28 „Kirovskij rajonnyj sud Irkutskaja soglasilsya s dovodami prokuratury i priznal, chto sotrudniki obshestvennoj organizacii “Bajkal’skaya ekologicheskaya volna“ vedut politicheskuyu deyatelnost’”, Radio ECHO Moskv, 18 October 2013 (accessed 20.11.2013), <http://www.echo.msk.ru/news/1179750-echo.html>

29 Interview with Olga Abramenko made by the author (27 November 2013).

30 Interview with Svetlana Makovetskaya made by the author (26 November 2013).

1997. [...] It was hardly possible to register. It took eight years, more than ten national court cases and three cases before the European Court for Human Rights, two of which are still pending.”<sup>31</sup>

Olga Abramenko offers another view of the things: “This [‘Foreign Agents’] law is a part of other repressive legislation approved recently. Its adoption was a reaction to the protest activity of the population in the years 2011-2012, which our authorities seemingly didn't expect. During the period before the introduction of the ‘Foreign Agents’ Act the conditions for the work of NGOs were difficult. But of course, in a certain sense the 2012 legislation was a milestone which also showed great solidarity within the civil society. For example, the list of “foreign agents” remains empty.”<sup>32</sup> According to Abramenko, there is a heated discussion between so-called social organisations and orthodox human rights activists regarding the stance towards the authorities – as a hard-line approach can easily become dangerous.

In the opinion of Svetlana Makovetskaya, “the Russian NGOs have to understand that for various reasons the claims of the authorities against them will most likely continue. Not only because there is – without any doubts – a tendency of the Russian state to put under greater control all non-governmental structures related to business, as well as to non-profit sector, but because in our country [...] the NGOs proved to be non-transparent for the citizens, authorities and media. They haven't found an appropriate signal with the help of which they could present their current activities in public. It is always difficult to explain what we are working towards because [...] the picture of NGOs in media and society is steady and outdated. On the one hand, there is a public demand for the NGOs to show that their activities have practical results [...]; on the other hand, it is clear that in Russia a political winter has arrived, and in such a situation everything will depend on the abilities of the NGOs to adapt”.<sup>33</sup>

To the question what is the real impact of the “Foreign Agents” Act, Olga Abramenko reacts: “Nowadays we can see that literally several organisations face serious problems, although originally dozens and hundreds were inspected by the prosecutor. Those several will be limited in their activities. But the general result of the law is intimidation, limitations in funding sources (which limits the possibilities of NGOs to work), and the worsening reputation of NGOs in public opinion.”<sup>34</sup> Anton Burkov has a similar vision of the situation: “The goal of this law is to scare NGOs from receiving funding from abroad or from co-operating with those who receive funding from abroad. The number of NGOs actually prosecuted under the law is not comparable to the number of those that have self-censored their activity.”<sup>35</sup> According to him, the scale of fear is immense: “[...] this law achieves its goal, which was not for the direct prosecution of NGOs; no state would have such resources available to prosecute so many NGOs. The NGOs made it themselves. And actually foreign donors were affraid to support Russian NGOs so as not to be called “supporters of foreign agents”.”<sup>36</sup> He concludes that in this way the nature of present-day legislation appears to be different than in the previous period.

Olga Abramenko believes “the danger is that no-one will be now willing to stand up for certain groups. Who will perform in favour of the protection of migrants when even high representatives and members of parliament make xenophobic expressions against immigration? Not surprisingly on this basis pogroms and attacks against migrants can become possible. This is just one example of one minority, but the absence of the ‘second voice’ in favour of minority protection significantly changes the ‘climate’ in the country.”<sup>37</sup>

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31 Interview with Anton Burkov made by the author (19 November 2013). More information on the lawsuit history of Sutyajnik: <http://sutyajnik.ru/cases/217.html>.

32 Interview with Olga Abramenko.

33 Interview with Svetlana Makovetskaya.

34 Interview with Olga Abramenko.

35 Interview with Anton Burkov.

36 Interview with Anton Burkov.

37 Interview with Olga Abramenko.

What follows is the logical question of how non-profit organisations in Russia can react to the legal discrimination, and if they have any instruments to struggle against it. Olga Abramenko says: “There is a possibility of judicial protection, which was successful in some cases (for example two NGOs in Perm and the ADC “Memorial”). But in other cases it failed; the organisations were closed, and our persecution continued in the form of civil lawsuits. What raises particular concerns is the strategy used against us [ADC “Memorial”] that is now applied to other NGOs in Saratov, Novocheboksarsk, St. Petersburg... This method is dangerous because it doesn't include fines and similar repressions, but there is a harmless ‘duty’ to register as a ‘foreign agent’. Now the suit is in process and it is possible that ADC “Memorial” will become the first non-profit organisation in the country to receive such a decision from the court.”<sup>38</sup>

Svetlana Makovetskaya has a different answer: “The non-profit organisations have to come with a strategy for the formation of a responsible and transparent information field concerning their activities, possibly with some elements of self-regulation. Secondly it is necessary to lead a dialogue with the authorities and to look for various forms of mutual interaction with state organs. And finally – there are two possibilities – either not to register your organisation (then you can usually act freely) or to register, which means that you will have to follow stricter rules. I am absolutely persuaded that a NGO has to obey the law to the maximum; I don't say that it should be servile. [...] The prosecution has the right of inspections. The question is not about preventing them from inspecting, but about being prepared for inspection”.<sup>39</sup>

The last question this paper should tackle is the possibilities for the Forum and non-Russian NGOs to help the Russian non-profit sector defend itself and further develop. Olga Abramenko finds it important to talk about the situation of Russian NGOs widely in the countries where the Forum members work, also during the meetings with authorities of these countries, so that this topic would appear on the agenda on the international level.<sup>40</sup> On the other hand, Svetlana Makovetskaya stresses that Russia is not the only country in the world where the state authorities interfere in the internal affairs of the non-profit organisations and that even in the Western Europe they often have to challenge political pressures. “The situation of Russia should be discussed in this whole context; otherwise, I don't believe that our European colleagues would be able to help us. Our authorities don't listen when the Europeans address them, they perceive these actions as interference in our internal politics. This doesn't mean that the Europeans don't have the right to talk about what they find important, but they have to understand the consequences when this is afterwards presented to the public as manifestations of extreme disloyalty and non-patriotism. Nevertheless it is good to show solidarity and lead serious discussions.”<sup>41</sup>

To conclude optimistically, Anton Burkov has a positive approach to the matter: “It is necessary [for the Russian NGOs] to keep going, keep applying for foreign funding, to comply with the law. Yes, there will be less funding available for actual human rights activity: more money will be spent on accounting, reporting and auditing. But this is the law. It is necessary to challenge it before the constitutional court and the European Court for Human Rights. It is a mistake to refuse foreign funding simply because this was the goal of the law – to awaken self-censorship. The aim of the Forum should be to help the NGOs to get more funding for their work.”<sup>42</sup>

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38 More about the court successes of the GRANI center and the Perm Regional Human Rights Center: Ivanushkin, „Sudy podtverdili, chto Permskij regional'nyj pravozashitnyj centr i Centr GRANI ne yavlyayutsya “inostrannymi agentami””. Interview with Olga Abramenko.

39 Interview with Svetlana Makovetskaya.

40 Interview with Olga Abramenko.

41 Interview with Svetlana Makovetskaya.

42 Interview with Anton Burkov.



## Conclusions

- According to available data there are 67 Russian member organisations in the Forum out of which 17 have already been sanctioned under the “Foreign Agents” Act. As of the end of November 2013, it was only the GOLOS whose activities were suspended. So far three of the Forum members from Russia have faced administrative lawsuits based on the “Foreign Agents” Act, whereas one of them is undergoing a civil lawsuit as well.
- Although the “Foreign Agents” Act has got certain specifics, it is only one part of a series of legislation restricting the activities of the non-profit organisations since the 1990's.
- The actual definition of a political activity is very broad, and in fact it means any attempt to influence governmental policy or even public opinion. Any definite clues are missing in the law.
- One of the aims of the “foreign agents” campaign was to weaken the credibility of non-profit organisations by pointing out that they work as “spies” for other countries. The Russian NGOs could attempt to challenge it and improve their communication strategies towards the public.
- In some cases, the law can threaten the financial sustainability of Russian NGOs and consequently limit their activities. This concerns mainly those drawing attention to election monitoring, human rights, ecology or questions regarding minorities. It is unlikely that the Russian government, as well as the majority of Russian companies, would be willing to replace the foreign funding.
- The law was designed to intimidate NGOs funded from abroad and to prevent everyone from co-operating with such NGOs. The intimidation leads inevitably to self-censorship. Therefore, the NGOs need to learn how to comply with the law and how to survive in the worsened conditions.
- The Forum members can help their Russian colleagues by expressing their solidarity, leading discussions and information campaigns, persuading the European authorities to care for the situation of Russian non-profit sector and finally by assisting the Russian NGOs so that they may receive more funding from abroad to maintain their activities.

For the use of this discussion paper several Skype interviews were made by the author with following persons:

- Interview with Olga Abramenko, the director of Anti-Discrimination Centre “Memorial” (27 November 2013).
- Interview with Anton Burkov, a member of the Urals Centre for Constitutional and International Human Rights Protection of the NGO Sutyajnik and a member of the Steering Committee of EU-Russia Civil Society Forum (19 November 2013).
- Interview with Svetlana Makovetskaya, the director of the Centre GRANI (26 November 2013).

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