



CONFERENCE OF INGOs
OF THE COUNCIL OF EUROPE

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CONSEIL DE L'EUROPE

Recommendation adopted by the Standing Committee on behalf of the Conference of INGOs on 30 September 2013

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The Opinion of the Expert Council on NGO Law on "The law introducing amendments to certain legislative acts of the Russian Federation regarding the regulation of activities of non-commercial organisations performing the functions of foreign agents"

The Conference of INGOs of the Council of Europe

Welcomes the opinion of the Expert Council on NGO Law on "The law introducing amendments to certain legislative acts of the Russian Federation regarding the regulation of activities of non-commercial organisations performing the functions of foreign agents";

Takes note that the authorities of the Russian Federation were invited to transmit any factual corrections they might deem necessary;

Takes note with concern of a significant number of problems identified by the Expert Council on NGO Law in regard to the defined law and its application;

Endorses the conclusions of the opinion of the Expert Council on NGO Law on the defined law and its application, and in particular paragraphs 113-120:

“As the opinion suggests, the Law gives rise to concerns with respect to its compatibility with the European Convention on Human Rights and other recognised international standards and principles. Chief among those concerns include: the definition of NCOs political activities; the registration and the labelling requirements for NCOs-foreign agents; the new reporting and supervisory rules for those NCOs; criminal and other sanctions and penalties against NCOs, their founders and managers, including NCOs-foreign agents; and the new reporting and supervisory rules for branch offices of FNCOs.

The vague definition of political activities in the Law gives the public authority broad discretionary power to determine what activities of NCOs are deemed political, and effectively prevents an NCO from engaging in any kind of otherwise legitimate advocacy activities, before it is entered into the foreign agent registry. This is of particular concern given the gravity of sanctions against NCOs which refuse to register as "foreign agents".

The new registration requirements pose a disproportional burden on NCOs-foreign agents and need to be viewed against the background of the public authority discretionary power to determine the nature of NCOs activities. The use of the term

"foreign agents" gives rise to particular concerns, given its negative connotation in Russia. It unduly stigmatises those NCOs and hinders their ability to exercise their legitimate right to participate in social and political life.

The new reporting and supervisory rules unduly single out NCOs based on their otherwise legitimate source of income (foreign funds) and on their political activities. They impose additional administrative and financial burdens on those organisations which are likely to hamper their ability to carry out their statutory mission.

The scope and severity of the new sanctions and penalties against NCOs— and in particular against NCOs-foreign agents—coupled with the vague language by which they are formulated, presents a threat for the very existence of NCOs. Those sanctions and penalties are reflective of the overall structural problems with the Law i.e. overly restrictive regulatory approach towards the exercise of otherwise legitimate NCOs activities and their foreign source of income.

The foregoing also pertains to the new reporting and supervisory rules for branch offices of FNCOs. Those rules suggest that the activities of branch offices of FNCOs are inherently suspicious because of their foreign origin. They impose additional administrative and financial burden on those offices which is likely to hamper their ability to pursue their otherwise legitimate statutory activities.

The application of the Law underscores the foregoing concerns. In particular, the vague definition of key terms and uncertainties surrounding the scope of application gives public authorities discretion in interpreting the Law which goes beyond the recognised international standards.

The extent to which the Law departs from international norms makes it a challenge to bring it in line with those norms. Even if the notion of NCOs "political activities"—which seem to be the centerpiece of the current discussions in Russia regarding possible amendments to the Law—were significantly narrowed (so, for example, to include only NCOs which directly support political parties or candidates during the election campaign), it would not necessarily resolve the structural problems with this law, unless other provisions were also revised and brought in line with international standards. This would also create conditions necessary for a more consistent application of the Law.”

Recommends in consequence that the national authorities of the Russian Federation take appropriate steps to amend the relevant legislation and ensure that its application conforms to international and European law and standards;

Decides to pursue dialogue with the authorities of the Russian Federation and to cooperate in the process of amending the law in question and in modifying its application.

Consequently **requests** the Expert Council on NGO Law to continue following developments on the above issues and to provide relevant advice.

Invites the Expert Council on NGO Law to pursue regular contacts with Civil Society in the Russian Federation, supporting civil Society organisations in their quest and aspiration to achieve the implementation in their country of the highest international and European standards that underpin the achievement of an enabling environment for civil society;

In this context **endorses** the view in the introduction to the opinion that peaceful "political activities" are perfectly honourable and democratic, contributing to the formation of informed

citizens and manifesting their freedom of assembly and of expression, in conformity with international and European standards;

Requests the Expert Council on NGO Law to cooperate with the Commissioner for Human Rights and with the European Commission on Democracy through Law (the Venice Commission) in their parallel consideration of relevant legislation in the Russian Federation; and further encourages intensified exchanges between the Expert Council and these other organs of the Council of Europe.