



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 November 2015

CONF/PLE(2015)REC4

The Opinion of the Expert Council on NGO Law on the Federal law of 23 May 2015 #129-FZ on “Introduction of amendments to certain legislative acts of the Russian Federation” (law on “undesirable” organisations)

The Conference of INGOs of the Council of Europe

Welcomes the Opinion of November 2015 of the Expert Council on NGO Law concerning the "Federal Law on introduction of amendments to certain legislative acts of the Russian Federation", known particularly for the introduction of the concept of "undesirable" organisations and their "undesirable" activities.

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 the Amendments it introduces, as well as in the initial and consequential application of these Amendments.

Endorses the Conclusions of the Opinion of the Expert Council on NGO Law on the defined Law as well as on the initial and consequential application of the Amendments it introduces and in particular paragraphs 70-74:

“In many respects the issue of the compatibility with European standards of the provisions in the Federal Law turns on whether there will be appropriate substantiation for any decision deeming the activities of an organisation to be “undesirable”. This is rather a matter of application of the provisions concerned than their particular content.

Nonetheless, the grounds for deeming activities to be “undesirable” are broad and are prone to arbitrary application in a manner that cannot be remedied through judicial control. Any such arbitrary application would necessarily be incompatible with rights and freedoms under the European Convention. There is, in any event, an element of arbitrariness in the provisions in the Law being directed just to foreign and international organisations, particularly as there are undoubtedly many other measures that could be deployed to tackle activities undertaken by any and every organisation that pose legitimate threats to the country’s constitution, defence capability and national security.

Moreover, the formulation of the provisions suffers from uncertainty regarding the scope of the term “non-governmental” and the lack of foreseeability as to whether certain conduct will or will not entail criminal responsibility.

Furthermore, the absolute ban on dissemination, distribution, production and storage of information material, even though it emanates from the organisations whose activities are deemed to be “undesirable”, is far too broad in any case to be compatible with the right to freedom of expression under Article 10 of the European Convention.

Finally, particular care will be needed in the application of the power to refuse someone entry to the Russian Federation because of his or her participation in the activities of an organisation whose activities have been deemed “undesirable”, not just because of the need to substantiate any such a decision but also because such a refusal could be disproportionate to the level of participation concerned.”

Recommends in consequence that the authorities of the Russian Federation take appropriate steps to withdraw the Law and Amendments, or at the very least to amend the relevant legislation to ensure that it conforms to international and European law and standards.

Decides to pursue dialogue with the authorities of the Russian Federation, and declares its availability to co-operate with the authorities in their follow up to this Opinion.

Consequently requests the Expert Council on NGO Law to continue to follow 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 "As with individual citizens, NGOs and associations have the fundamental right to peacefully disagree with governmental policies, and to peacefully express their opinions, without being muzzled by the authorities - the very authorities who should be accountable to their citizens for protecting and promoting citizens' liberties"

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