

# AMNESTY INTERNATIONAL

## PUBLIC STATEMENT

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### **Russian civil society organizations paying a high price for their independence**

Another Russian civil society organization has been dealt a severe blow by the Russian authorities today. A court in St. Petersburg ruled on 6 June that the film festival “Bok o Bok” (“Side by Side”) should pay an unprecedentedly heavy fine of RUB 500,000 (over USD 15,500) for two purported offences – its failure to call itself a “foreign agent” in a publication it has recently produced and the failure to register as such. An administrative case against its leader is ongoing, and may also result in a similarly high fine.

Since the so-called “foreign agents law”<sup>1</sup> came into effect in November 2012, independent civil society organizations across Russia have been subjected to pressure, intimidation, harassment and smear campaigns by the authorities, and the survival of many is at stake. Offices of hundreds of NGOs have been “inspected” by representatives of the prosecution, tax authorities and other government agencies. Four Russian NGOs and two NGO leaders have already been issued with extortionate fines in courts for failing to register as “organizations performing the functions of foreign agents”. Two more NGOs will be standing trial in court on the same grounds in the coming days. A further 15 NGOs have received official orders from the Prosecutor’s Office to “eliminate” their respective purported violations of the law – which involves similarly registering as “foreign agents” – within a month, or face legal consequences. Furthermore, at least 39 other NGOs have been officially warned by the Prosecutor’s Office that they will be violating the law if they receive foreign funding and engage in political activities but fail to register as “foreign agents”.

On 4 June 2013, a court in Moscow ordered that the Regional Public Organization Golos to pay a RUB 300,000 (nearly USD 10,000) fine for failing to register as a “foreign agent”. This NGO is one of the constituting members of the Association Golos, another NGO which itself had been issued with the same fine in the first trial of its kind, on 26 April. Additionally, the leader of the Association Golos had been ordered to pay RUB 100,000 for this purported violation.

The Association Golos played a prominent role in organizing election monitoring and reporting allegations of electoral fraud during the much-contested 2011 parliamentary and the 2012 presidential elections. The organization, members of its staff, and its partner civil society organizations have been the focus of a protracted smear campaign – including through a national television – and harassment by the authorities, culminating in the ongoing trials.

On 15 May 2013, Russian Justice Minister Aleksnadr Konovalov warned that if Golos continues to refuse to register as a “foreign agent” the Ministry will seek its closure through a court decision. Later the Minister was reported as saying that around a hundred Russian NGOs were likely going to have to register as such.

The “foreign agents law” requires that any NGO which is in receipt of foreign funding – however insignificant, financial or in kind – registers as an “organization performing the functions of foreign agent” if it engages in what the law calls “political activity” but which the law denies very loosely. Prior to this piece of legislation being enacted, Amnesty International warned that it would further stifle civil society activism in Russia and reduce independence of NGOs, expose them to significant

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<sup>1</sup> The Federal Law no. 121-FZ ‘On Introducing Changes to Certain Pieces of Legislation of the Russian Federation as Regards Regulation of Activities of Non-Commercial Organizations Performing the Functions of Foreign Agents’

administrative hurdles and increased bureaucratic pressure, undermine their financial viability, and create new channels for the authorities to subject independent civil society organizations throughout the country to arbitrary harassment and pressure, and thereby reduce democratic space in Russia and increase unlawful restrictions on freedom of association. The latest developments have confirmed these concerns.

The Russian government has defended the “foreign agents law” as a necessary means to increase transparency and accountability of civil society organizations in Russia. President Vladimir Putin cited huge sums of money which a relatively small number of Russian NGOs are supposedly receiving from foreign funders. These figures and the identity of the NGOs to which the President referred have been queried by members of Russian civil society, but their questions have been left unanswered. Yet, the government’s argument in the first instance is based on a misleading premise that NGOs’ work in Russia is non-transparent, and that they are not publicly accountable for what they do. This argument obscures the fact that there have long been strong legal regulations in place requiring that NGOs report on their work and their sources of funding. Such information is regularly submitted to the government, and is also available online to any member of public through the website of the Ministry of Justice. Ironically, it is often the same NGOs which work to keep the government publicly accountable for its human rights violations, or violations of the electoral regulations as in the case of Association Golos, that have become the first target of the newly introduced punitive measures.

Other Russian NGOs too, have been similarly heavily penalised under the new legislation in recent weeks, and others are to follow. Thus, on 29 May 2013 the Kostroma Centre for Support of Public Initiatives was fined RUB 300,000 and its leader RUB 100,000 on the same grounds. In the view of the government, which the court upheld, the NGO should have registered as a “foreign agent” because in February 2013 it had organized a roundtable on US-Russia relations which had been attended by a US diplomat. The court agreed with the prosecution’s view that this amounted to “political activity”.

The court hearings at which the first NGOs have been issued with heavy fines under the new law have given rise to concern about impartiality, the principles of fair trial and the principle of non-retroactivity of punitive provisions. Thus, in the trial against Kostroma Centre for Support of Public Initiatives the judge disregarded the NGO’s argument that it had not received any foreign funding since the “foreign agent law” came into force. The NGO’s lawyer also insisted, without success, that the law itself should be referred to the Constitutional Court to establish whether it conforms to Russia’s Constitution and international obligations. In the case against the Regional Public Organization Golos, the prosecution argued that the NGO’s “political activity” consisted in advocacy of changes to the electoral legislation. The NGO’s objection that it had been a different NGO, the Association Golos and not the Regional Public Organization Golos, that had been advocating the new legislation, was ignored by both the Ministry of Justice and the court. As a result, both NGOs appear to have been penalised for the same activity. Moreover, the Association Golos in its turn was penalised for receiving foreign funding which it had declined. The NGO had been awarded Andrei Sakharov Freedom Award by the Norwegian Helsinki Committee, which involved a cash prize of approximately USD 10,000; however, the Association Golos turned down the cash prize. Nonetheless, the NGO was fined by the court in a decision which cited this award as evidence of foreign funding.

Currently, a further two Russian NGOs are facing court hearings on similar grounds. Among them is a prominent human rights organisation Anti-Discrimination Centre Memorial which is being incriminated by the Russian authorities in connection with making a submission to the UN Committee against Torture prior to the examination of the Russian Federation’s fifth periodic report by the Committee during its 49<sup>th</sup> session in November 2012. The other one, similarly to Bok o Bok, is a St. Petersburg-based LGBT organisation Vyhod (“Coming Out”).

The language of “foreign agents” is akin to “spying” in Russian. In the view of the NGOs concerned, it is highly offensive and is intended to mar their reputation and discredit their work. Russian civil society organizations which receive foreign funding neither keep secret the support from abroad, nor

can do so by law (which predates the “foreign agents law”). However, all organizations affected – as diverse as human rights and environmental NGOs, election watchdogs and charities – are united in their objection to being presented as serving interests of some foreign forces and not those of the Russian people, and all these NGOs are refusing to be named “foreign agents” and to register as such. Notably, the law envisages not only heavy fines such as those currently imposed on organizations and individuals for not registering as “organizations performing the functions of foreign agents”, but also criminal charges against NGO leaders for persistently and wilfully refusing (*zlostnoe uklonenie*) to comply with the “foreign agents law”, and up to two years’ imprisonment.

While the “foreign agents law” has only recently come into force, and therefore none of the NGO leaders can yet be charged with persistently violating it, the Russian authorities have proceeded very swiftly to implement it. Further to the current concerns regarding heavy penalties already imposed and regarding survival of many penalised organizations, it remains a profound concern that the next step in the ongoing clampdown on independent civil society in Russia may be criminal prosecution and imprisonment of its leaders if they continue to refuse – as many have indicated that they would – to add their respective NGOs’ names to the “foreign agents” register.

The Russian Federation must respect and fully uphold its obligations under international human rights law, including the right to freedom of association, and to respect and acknowledge the important role the civil society groups play and refrain from further persecution and demonization of the civil society activists. The new legislation which requires Russian NGOs in receipt of foreign funding to register and publicly describe themselves as “foreign agents” should be repealed, court hearings against NGOs failing to do so stop, and heavy fines lifted.

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