

(Translated from Russian)

Permanent Mission of the Russian Federation

No. 1112

The Permanent Mission of the Russian Federation to the United Nations Office and other international organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and, with reference to the joint enquiry by the Special Rapporteurs of the United Nations Human Rights Council on the rights to freedom of peaceful assembly and of association, on the promotion and protection of the right to freedom of opinion and expression and on the situation of human rights defenders regarding the alleged persecution of a number of non-profit organizations, has the honour to transmit herewith information from the Russian Federation.

The Permanent Mission of the Russian Federation takes this opportunity to convey to the Office the renewed assurances of its highest consideration.

Geneva, 17 March 2020

Office of the United Nations High Commissioner for Human Rights
Geneva

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Information from the Russian Federation with reference to the joint request by the Special Rapporteurs of the United Nations Human Rights Council regarding the alleged persecution of a number of non-profit organizations

Reference: AL RUS 9/2019

The Russian Federation, having studied the joint enquiry by the Special Rapporteurs of the United Nations Human Rights Council on the rights to freedom of peaceful assembly and of association, on the promotion and protection of the right to freedom of opinion and expression and on the situation of human rights defenders and their request for information regarding the purported persecution of a number of non-profit organizations, namely the Justice Initiative, Memorial, the Centre of Support for the Indigenous Peoples of the North, Siberia without Torture and People in Need, wishes to submit the following concerning the claims made in the request.

1. Pursuant to article 2 (6) of Federal Act No. 7-FZ of 12 January 1996 on Non-Profit Organizations, a Russian non-profit organization is understood to be acting as a foreign agent when it receives money or other assets from foreign States or government bodies, international or foreign organizations, foreign citizens, stateless persons or their authorized representatives and/or Russian legal entities receiving money or other assets from these sources (except for open joint-stock companies with State participation and their subsidiaries) and takes part in political activities within the territory of the Russian Federation, including in the interests of the foreign sources.

As the Constitutional Court held in its Decision No. 10-P of 8 April 2014, the obligation of non-profit organizations acting as foreign agents to apply for inclusion in the register of non-profit organizations acting as foreign agents does not preclude them from receiving financial support, in the form of money or any other assets, from foreign or international organizations, foreign nationals or stateless persons. Nor are these organizations precluded from participating in political activities in the Russian Federation and thereby discriminated against in comparison with non-profit organizations that do not receive foreign funding. Accordingly, the obligation for non-profit organizations acting as foreign agents to apply for inclusion in the relevant register before engaging in political activities is intended only to ensure greater transparency and openness in the activities of such organizations. It does not preclude them from seeking and receiving funding from either foreign or Russian sources and does not entail different treatment for non-profit organizations involved in political activities on the basis of the aims, forms and methods of such activities. This obligation does not itself violate the rights of such non-profit organizations.

2. The Justice Initiative foundation, a non-profit organization, was added to the register of non-profit organizations acting as foreign agents on 13 December 2019. It was established that this organization met the criteria for a non-profit organization acting as a foreign agent during an unscheduled documentation check carried out by the directorate of the Russian Ministry of Justice for the Republic of Ingushetia.

It was established that the director of the Justice Initiative foundation, [REDACTED], had engaged in political activities that helped to influence the authorities of the Republic of Ingushetia, as he had actively participated in organizing and holding unauthorized protests.

The source of the organization's foreign funding was money (more than 25 million roubles over the period 2017–2019) received from the Justice Initiative for Russia foundation (a non-profit organization acting as a foreign agent).

3. The interregional voluntary organization Memorial Human Rights Centre was added to the register of non-profit organizations acting as foreign agents on 21 July 2014 on the basis of an application from the procurator's office for the city of Moscow and in accordance with Federal Act No. 7-FZ of 12 January 1996 on Non-Profit Organizations.

The procurator's office for the city of Moscow established that, in accordance with the organization's statute, its activities were aimed at making public and disseminating reliable information about serious violations of human rights and fundamental freedoms and raising awareness of such violations among the general public and government and

international bodies; uncovering the truth about the crimes of totalitarian regimes and methods of governing society by terror and studying their causes and consequences; carrying out and supporting research to study mass human rights violations in conflict zones; and helping to protect persons subjected to persecution for political reasons or unlawful repression by government bodies.

It is thus stated in the organization's statute that it was established to carry out political activities, among other activities.

In pursuing these aims, Memorial uploaded information to its official website about the programmes that it carried out, which included supporting persons subjected to persecution for political reasons and protecting civil activists.

Memorial received financial support for these political activities from foreign sources, including the Open Society Foundation, the Embassy of the United Kingdom in Russia, the Embassy of the Kingdom of the Netherlands in Russia, the European Commission, the Czech public welfare organization Člověk v tísni (People in Need), the German registered association Deutsch-Russischer Austausch (German-Russian Exchange), the Embassy of France in Russia and the National Endowment for Democracy.

4. The central directorate of the Ministry of Justice for Moscow found a number of gross violations of the legislation of the Russian Federation on non-profit organizations during a check of the activities of the interregional voluntary association Centre of Support for the Indigenous Peoples of the North.

On 12 August 2019, on the basis of the violations of the legislation in force that were identified in the organization's activities, the central directorate filed an administrative action with the Moscow City Court calling for the organization to be disbanded. On 6 November 2019, following its consideration of the application, the Court adopted a decision to dissolve this non-profit organization.

The organization filed an appeal against the decision of the Moscow City Court, which is currently under consideration.

5. The Irkutsk regional voluntary human rights organization Siberia without Torture was registered as a legal entity by inter-district inspectorate No. 17 of the Federal Tax Service for Irkutsk Province on 31 July 2014.

In accordance with the version of its statute dated 15 February 2019, the organization's activities are aimed at ensuring public oversight; protecting human and civil rights and freedoms; monitoring information about cases of torture, inhuman or degrading treatment; carrying out information and awareness-raising programmes in the areas of the organization's activities; shaping public opinion to reject the use of torture, inhuman or degrading treatment or punishment by State representatives; helping to improve and develop legislation on the prevention of torture or inhuman or degrading treatment; and cultivating citizen initiatives and the participation of citizens in the administration of public affairs and in public initiatives.

Between 10 January 2019 and 6 February 2019, the directorate of the Ministry of Justice for Irkutsk Province carried out a routine document check of the organization with a focus on the compliance of its activities, including its expenditure of funds and use of other assets, with its statutory aims.

The following violations of the legislation of the Russian Federation were identified during this check:

In violation of articles 28 (1) and 29 (3) of Federal Act No. 7-FZ of 12 January 1996 on Non-Profit Organizations and article 6 (2) of Federal Act No. 82-FZ on Voluntary Associations, the organization's statute did not set out any specific obligations.

In violation of paragraph 7 of article 29 (1) of Federal Act No. 82-FZ and article 32 (1) and (5) of Federal Act No. 7-FZ, Siberia without Torture did not submit the documentation requested for the check, as specified in an order of the directorate of the Ministry of Justice for Irkutsk Province of 17 December 2018, by the deadline set in a notice of 10 January 2019 informing the organization of the verification.

On 6 February 2019, an official warning was sent to the governing body of Siberia without Torture requiring the organization to remedy, by 25 March 2019, the violations that had occurred. The violations were remedied on 18 March 2019.

6. In accordance with article 3.1 (1) of Federal Act No. 272-FZ of 28 December 2012 on Corrective Action against Persons Involved in Violations of Fundamental Human Rights and Freedoms and of the Rights and Freedoms of Citizens of the Russian Federation, the activities of a foreign or international non-governmental organization may be deemed undesirable in the Russian Federation if they pose a threat to the constitutional order of the Russian Federation, its defence capabilities or national security, including by facilitating or hindering the nomination of candidates or lists of candidates, the election of registered candidates, the proposal or conduct of a referendum or the achievement of a particular outcome in an election or referendum (including other forms of participation in an election or referendum, except for participation in an election or referendum as a foreign or international observer).

Pursuant to article 3.1 (4) of Federal Act No. 272-FZ, the decision to declare the activities of a foreign or international non-governmental organization undesirable in the Russian Federation is made by the Procurator General or a deputy procurator general in consultation with the federal executive authority responsible for the formulation and implementation of government policy and for laws and regulations in the area of the international relations of the Russian Federation.

The Ministry of Justice adds organizations to the register of foreign and international non-governmental organizations whose activities have been declared undesirable in the Russian Federation, or excludes them from the register, on the basis of information received from the Procurator General regarding the adoption, or revocation, of decisions to declare the activities of organizations undesirable in the Russian Federation.

On 12 November 2019, on the basis of information received from the Procurator General, *Člověk v tísni* was added to the register of foreign and international non-governmental organizations whose activities have been declared undesirable in the Russian Federation.

Activities carried out in the Russian Federation by a foreign or international non-governmental organization whose activities have been declared undesirable in the Russian Federation are subject to administrative and criminal penalties.

If it is established that non-profit organizations or their officials have participated in the activities of a foreign or international non-governmental organization that has been declared undesirable in the Russian Federation, the Ministry of Justice or its local bodies draw up reports concerning administrative offences under article 20.33 of the Code of Administrative Offences of the Russian Federation.
