

**Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association;
the Special Rapporteur on the promotion and protection of the right to freedom of opinion and
expression; and the Special Rapporteur on the situation of human rights defenders**

REFERENCE: AL
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20 June 2014

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 24/5, 25/2, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **reported negative consequences of the enforcement of, and amendments to, the Law on Introducing Amendments to Legislative Acts of the Russian Federation in Part Regulating Activities of Non-commercial Organizations which Carry Functions of Foreign Agents (the "Law")**.

On 11 July 2012, the draft text of this Law was the subject of a communication by the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders, and was followed on 12 July 2012 by a public statement by the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the situation of human rights defenders. We acknowledge receipt of your reply on 23 July 2012. Moreover, on 14 May 2013, the reported enforcement of the Law was the subject of a public statement which highlighted an environment increasingly hostile to the work of non-governmental organizations and human rights defenders.

In June and December 2013, the UN Committee against Torture issued two public statements regarding the reprisals reportedly suffered by non-governmental organizations (NGOs) who had cooperated with the Committee and the application of the mentioned Law.

Furthermore, on 13 June 2013, the alleged enforcement of the Law was once again the subject of a communication by the Special Rapporteur on the rights to Freedom of peaceful assembly and of association; the Special Rapporteur on the promotion and

protection of the right to freedom of opinion and expression; and the Special Rapporteur on the situation of human rights defenders. We regret that to this date no reply was received to this communication.

On 18 December 2013, once again, the mentioned Law and the consequences of its implementation was the subject of a letter of allegations where concerns were expressed that this Law could arbitrarily and unduly limit the enjoyment of the right to freedom of association, particularly of NGOs working on human rights issues. In that letter the situation of the organizations ADC Memorial was highlighted. We thank your Excellency's Government for the reply to this communication dated 19 February 2014.

According to the new information received:

Consequences of the enforcement of the Law

On 8 April 2014, the Saint Petersburg City Court upheld that the organization ADC "Memorial", an NGO working to combat discrimination of any sort, was performing the functions of a "foreign agent" by submitting information on police actions to the UN Committee against Torture. It is reported that the NGO refused to register and decided to dissolve its structure and continue its activities without registration.

Reports received indicate that on 20 May 2014, the court of Novocheerkassk issued a decision instructing the organization "Union of Don Women" to register as "foreign agent". "Union of Don Women" works in the Caucasus region for the rights of women and advocating against violence, for peace and for women's rights. It is alleged that on 22 May 2014, the head of the organization was warned about an investigation under the Law, and on 29 May she received summons regarding alleged violations of article 19.34, part 1, of the Administrative Code of the Russian Federation.

On 20 May 2014, the head of the organization "Planet of Hopes" was questioned in connection to the inspection launched on the organization by the Prosecutor's Office of the Chelyabinsk region under the so-called law on "foreign agents." "Planet of Hopes" works for the rights of victims of a major nuclear accident that took place at the Mayak plutonium plant in 1957 which contaminated the territory around the nuclear plant known as the Eastern Ural Radioactive Trace. In the framework of its work, the organization sends complaints to the European Court of Human Rights. According to the information received, the Deputy Prosecutor of Ozersk requested information to the head of "Planet of Hopes" regarding her criminal record and place of residence. In addition, the investigation is looking into details of the lease with the landlord of the property where the organization is registered, including the method of payment and use of the property.

According to reports received, on 24 May 2014, the district court of Moscow dismissed the appeal presented by the Human Rights Centre Memorial against the order of the Prosecutor's Office on 29 April 2013 to register as "foreign agent". HRC Memorial works documenting and reporting human rights violations in

various regions in the country. It is reported that the district court reject the appeal arguing that “Memorial” had engaged in “political activity”.

Recent amendments to the Law

According to the information received, on 4 June 2014, the Duma voted in favour of an amendment to article 22 of the Law Non-commercial Organizations which Carry Functions of Foreign Agents. This amendment will allow the Ministry of Justice to at its own initiative and without a court decision register non-commercial organizations that, according to the Law, act as “foreign agents” and have failed to register. It is alleged that the Ministry will be able to act on the basis of information collected by itself and its local branches, as well as by State bodies, local authorities, organizations and citizens. The decision to register organizations as “Foreign agents” will be subject to appeal in court.

We continue to be seriously concerned at the negative consequences of the implementation of the Law and the impact on human rights organizations, including the ones mentioned above. We would like to reiterate that, in our view, the mentioned legislation and its application remain very problematic. In particular, we are concerned that the interpretation of vaguely defined concepts such as “engaging in political activities” or “staging political actions to influence public policy or opinion” may be used to obstruct and stigmatize the legitimate work of human rights defenders and civil society organizations and have a serious damaging effect on these organizations and the right to freely associate in the Russian Federation. Furthermore, we would like to reiterate our concern at allegations received indicating that the Law is being used to target organizations which cooperate with the United Nations, its representatives, and mechanisms in the field of human rights.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency’s Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

In connection to the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide information concerning the reported amendment to article 22 of the Law on non-commercial organizations, and how these are compatible with international human rights obligations and standards, including those contained in the International Covenant on Civil and Political Rights.

3. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to the mentioned cases of organizations affected by the application of the Law.

4. Please indicate what measures have been taken to ensure that the legitimate right to associate freely is respected, and that the integrity of those exercising this right is guaranteed.

5. Please kindly indicate what measures have been taken to ensure that human rights defender are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

We would appreciate a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

We are considering to publicly express our concerns about the issues raised in this communication as we are of the view that the information upon which the press release is going to be based is sufficiently reliable to indicate a matter warranting public attention. The press release will indicate that we have been in contact with your Excellency's Government to clarify the issue/s in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Maina Kiai

Special Rapporteur on the rights to freedom of peaceful assembly and of association

Frank La Rue

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Michel Forst

Special Rapporteur on the situation of human rights defenders

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer to articles 19 and 22 of the International Covenant on Civil and Political Rights, which guarantee the right to freedom of expression and association with others.

We would also like to refer to Human Rights Council resolution 24/5 which highlights the States' obligation to both respect and fully protect the rights of all individuals to associate freely, and to take all necessary measures to ensure that any restrictions on the free exercise of the right to freedom of association are in accordance with their obligations under international human rights law.

Regarding our concerns that the mentioned Law may be used to obstruct and stigmatize the legitimate work of human rights defenders and civil society organizations, we would also like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 5 point b), which provides for the right to form, join and participate in non-governmental organizations, associations or groups
- article 9, paragraph 4, point a), which protects the right to access to and communication with international bodies;

Regarding allegations received indicating that the mentioned Law is being applied to human rights organizations for engaging with UN human rights mechanisms, we would also like to point to Resolution 24/24 of the Human Rights Council (A/HRC/RES/24/24), which calls on States to ensure adequate protection from intimidation or reprisals for cooperation with the United Nations, its mechanism and representatives in the field of human rights.

Furthermore, we would like to refer your Excellency's Government to the "OSCE Guidelines on the Protection of Human Rights Defenders" that are based on OSCE commitments and internationally recognized human rights standards that participating States have adhered to. In particular, we would like to refer to Guideline no. 10 on conducive legal, administrative and institutional framework; Guidelines no. 24 to 26 on criminalization and arbitrary and abusive application of legislation; Guidelines 70 and 73 on access to funding and resources; and Guideline 91 on the right to access and

communicate with international bodies. The OSCE Guidelines are available at <http://www.osce.org/odihr/119633?download=true>