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SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

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

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolution 16/4, 15/21, and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention to information we have received concerning the **alleged increase in warnings, inspections and penalties to civil society organizations and human rights defenders as a consequence of the implementation of 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, which was adopted on 21 November 2012.**

The mentioned law establishes that any Russian NGO involved in political activity and receiving foreign funding must register as a "foreign agent". When the legal text was in draft stage it was the subject of an open letter we sent to your Excellency's Government on 11 July 2012. It was also the subject of a public statement we issued on 12 July 2012.

Moreover, the implementation of the mentioned law and the concerns associated with it was the subject of a public statement we issued on 14 May 2013, in the light of what we consider an increasingly hostile environment for non-governmental organizations (NGOs) and human rights defenders.

We would like to thank your Excellency's Government for the response dated 23 July 2012 to our open letter, as well as for the reaction to our public statement issued on 14 May 2013, whereby it is stated that the mentioned law does not intend to prohibit or

limit the receipt by non-governmental organizations of foreign funding and that no “punishment” is being contemplated. In both responses, your Excellency’s Government also indicates that the mentioned legislation concerns only those NGOs which engage in political activities funded by foreign sponsors and that they are merely designed to increase transparency and inform society. However, we have received new additional information which indicates otherwise and which is a source of serious concern to us.

According to the new additional information received:

Since mid-April 2013, over 300 organizations in more than 50 regions in the country would have been subjected to inspections in the framework of the mentioned legislation. Such inspections are reportedly led by the Prosecutor’s General office in coordination with the Ministry of Justice and other authorities. Below is a brief description of the cases received so far.

Golos Association for the defence of the rights of voters

We have been informed that on 9 April 2013, the Ministry of Justice opened a case of administrative violation against Golos Association for the defence of the rights of voters and its Executive Director, Ms. Lilya Shiobanova. It is reported that on that day the Ministry of Justice stated in its website that Golos received foreign funding and that it participates in political activity thereby infringing art.19.34(1) of the Code of Administrative Offences.

It is reported that since November 2012, when the mentioned law came into effect, Golos has not received foreign funding. Further, it is alleged that the Ministry of Justice may have considered the Andrei Sakharov Freedom Award 2012 awarded to Golos by the Norwegian Helsinki Committee as the foreign source of funding. However, according to the sources, the full amount of the award (7,700 USD), was sent back by Golos which deliberately decided not to receive any foreign income once the law came into force.

According to the reports received, on 23 April 2013, the Presnensky Court of Moscow ruled that Golos and its Executive Director have failed to register as foreign agents and decided to impose fines of 300,000 and 100,000 roubles respectively. This decision will reportedly make of Golos the first NGO to be penalized under the new law.

Kostroma Centre for Civic Initiatives

In addition to this case, it has been reported that on 16 April 2013, charges were brought against the Kostroma Centre for Civic Initiatives and its Director, Mr. Alexander Zamyranov, under the same mentioned law. According to reports received, the organization was searched a week prior to the opening of the case and was considered as being involved in political activities on the basis that it hosted a round-table on international relations. Sources indicate that the Centre

faces a fine of up to 500,000 roubles (approximately €12,000) and its Director a fine of up to 300,000 roubles (approximately €7,000).

Committee of Soldier's Mothers

We have also received reports indicating that on 17 April 2013, the Committee of Soldier's Mothers, an NGO based in the Kostroma region, received a letter informing it that it was in breach of the mentioned law on non-commercial organizations for not having registered as "foreign agents". This letter is allegedly based on the fact that some of the members of this organization reported alleged irregularities during the elections that took place in December 2011. Sources indicate that the Prosecutor's Office claimed through a statement that the organization was engaged in political activity by "purposefully influencing the image of the electoral commissions and other State organs, through participation in the electoral process".

It is further reported that Ms. Irina Reznikova, head of the Committee of Soldier's Mothers in Kostroma, disagreed with the conclusion of the prosecutor's office, arguing that some members of the NGO were monitoring the elections as private individuals and that election monitoring cannot be considered a political activity. Moreover, the mentioned law on non-commercial organization was adopted on 21 November 2012, whilst the above-mentioned elections took place in December 2011 and March 2012, so this decision of the Prosecutor's Office seems to be based on a retroactive application of the law, which will contravene the basic principle of legality.

Committee Against Torture (CAT)

On 22 April 2013, the NGO Committee Against Torture (CAT), based in Nizhny Novgorod and which advocates against torture and impunity, received a letter of warning from the local Prosecutor's Office. The letter allegedly indicates that CAT violates the mentioned law on non-commercial organizations. It is further reported that the letter from the Prosecutor's Office states that CAT receives funds from foreign sources. The letter also states that CAT has taken part in certain public events which are not identified and which the authorities consider to be political activity. It is reported that, according to the authorities, CAT should have registered as a "foreign agent".

Organization Man and the Law

Information has also been received that on 24 April 2013, Ms. Irina Protasova, head of the regional human rights organization Man and the Law, based in the Mari-El region, received a warning from the local Prosecutor's Office. The warning indicates the articles in the Charter of the organization which outline the right to "participate in elaboration of policy by state institutions", "to organize public gatherings, meetings and demonstrations" and "to come up with propositions for state institutions and to take part in election campaigns" as evidence of their political activity. The warning also states that the latest

inspection of the organization revealed foreign sources of funding, in which case Man and the Law should have registered as a foreign agent under the new law. Man and the Law is a local NGO which monitors local officials' and civil servants' compliance with human rights standards. The NGO also works on prisoners' rights and monitors detention facilities.

Anti-Discrimination Centre Memorial, Saint Petersburg

We have also received reports that, following an inspection that took place on 26 March 2013, the Prosecutor's Office filed an administrative case on 30 April 2013 under the mentioned law against the organization Anti-Discrimination Centre Memorial, established in Saint Petersburg, based on the alternative report that the organization submitted to the UN Committee Against Torture during the consideration of the Russian Federation in November 2012. The Prosecutor's office has allegedly stated that the report this organization presented before the UN Committee indicates that the organization is urging people to challenge the authorities and has considered this submission as a "political activity". The organization has reportedly received funding from foreign sources. On the basis of this, the Prosecutor has opened a legal case against this organization for having allegedly violated sections 1 and 2 of article 19.34 of the Code of Administrative Offences.

Komi Human Rights Commission Memorial (KHRC Memorial)

We have received reports indicating that, on 27 April 2013, the KHRC Memorial received a warning from the Prosecutor's Office stating that some of its activities, such as its participation in peaceful protest actions were considered a "political activity". As the organization receives funds from abroad it has been required to register as a "foreign agent" under the law on non-commercial organizations. On 9 May 2013, the Prosecutor's Office allegedly filed an administrative case against KHRC Memorial for not providing proper financial reports concerning funding from abroad. It is reported that the organization faces a fine of up to 500,000 roubles if it does not comply with this requirement.

We have also been informed that, on 18 May 2013, a meeting of KHRC Memorial was aggressively interrupted by members of a known radical nationalist group. It is reported that on that day members of KHRC Memorial had gathered in a local cafeteria in Syktyvkar, the capital of the Komi Republic, to report on their work and financial situation for the period 2011-13. The meeting was public and several journalists had been invited. As soon as the meeting began, it is reported that members of the right group entered the room, calling the HRC Memorial foreign agents and waving banners, one of which read "Motherland for Sale, Reasonable Price". Members of the human rights group managed to force the intruders out of the café and called the police. The police detained the intruders and released them after administrative protocol had been completed.

It is further reported that on 4 June 2013, cartoons of “Uncle Sam”, accompanied by the text “Here lives a foreign agent” appeared on the doors of several of the members of KHRC Memorial around Sytyvkar. Some relatives of human rights defenders were reportedly targeted with the graffiti as well. The same radical group had allegedly published the home addresses of the KHRC Memorial members online previously, prompting supporters of the group to suggest marking the residences in question with symbols identifying the inhabitants as “foreign agents”.

KHRC Memorial is an organization that fights against human rights violations committed in the penitentiary system and police detention facilities in the Komi Republic.

Public Verdict Foundation

We have been informed that, on 14 May 2013, the human rights NGO Public Verdict Foundation received a letter from the Prosecutor's Office informing that an inspection had found that the organization had received foreign funding and that most of its activities were considered as “political activities”. According to the authorities, this would mean that the organization should have registered as a foreign agent under the mentioned law on non-commercial organizations and the letter gives the organization thirty days to remedy the so-called violations and register as a “foreign agent”.

According to reports received, the letter by the Prosecutor indicates that almost all programmes by the organization are deemed to be political. According to the letter, “*the Foundation seeks to intervene in state policy regarding law enforcement by lobbying state officials (...), to inform public opinion about the need to reform law enforcement policies, (and) to receive public support for their actions in order to exert a greater influence on policy makers.*” The letter reportedly provides examples of “political” programmes carried out by the Foundation, including being part of a working group of NGOs which provided recommendations on the reform of Ministry of the Interior; preparing, submitting and presenting an alternative report to the UN Committee Against Torture during the consideration of the Russian Federation in November 2012; and organizing supporting public campaigns in order to influence law making process.

Public Verdict Foundation is a non-profit human rights organization that works against human rights abuses committed by law enforcement officials. It offers legal aid to victims of human rights abuses and also provides training to law enforcement authorities about international standards in human rights. The Public Verdict Foundation is among eleven Russian human rights organizations who lodged a complaint against the 'Foreign Agents' Law to the European Court for Human Rights.

Finally, we have also received reports that there is an on-going smear campaign being led by certain media outlets against civil society and human rights defenders mostly targeting those affected by the mentioned legislation branding them as instruments of foreign interests. It is reported that, on various occasions, camera crews from a television station known for its shows discrediting the work of human rights defenders, have arrived with inspectors to film inspections.

We would like to express our serious concern with regard to the information received regarding the implementation of the Law on Introducing Amendments to Certain Legislative Acts of the Russian Federation Regarding the Regulation of Activities of Non-commercial Organizations Performing the Functions of Foreign Agents. As we had previously stated, we feel that the law could arbitrarily and unduly limit the enjoyment of the right to freedom of association, particularly of NGOs working on human rights issues. The information received on the forementioned cases seems to indicate that the inspections are having an intimidating, disruptive and stigmatizing effect on the work of NGOs and human rights defenders.

We would like to reiterate our concern that the mentioned legislation and its application, in particular 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 the legitimate work of human rights defenders and civil society organizations and have a serious damaging effect on civil society organizations and the right to freely associate in the Russian Federation.

We would also like to state our serious concern about the reported smear campaign which seems to be taking place simultaneously with the reported intensification of the application of the mentioned legislation and about its potential effect on the situation of many NGOs and defenders. We would like to urge the authorities to immediately react to this by publically supporting the work of NGOs and human rights defenders as a preventive action to avoid further social tensions and violence.

Furthermore, we would like to express our dismay at allegations received indicating that the Law on Introducing Amendments to Certain Legislative Acts of the Russian Federation Regarding the Regulation of Activities of Non-commercial Organizations Performing the Functions of Foreign Agents is being used to target organizations which cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights, as it seems to have been the case of Anti-Discrimination Centre Memorial, Saint Petersburg and Public Verdict Foundation.

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 standards that are applicable to the issues brought forth by the situation described above.

We would like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights (ICCPR), which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

We would also like to appeal to your Excellency's Government to take all necessary steps to ensure the right to freedom of association, as recognized in article 22 of the ICCPR, which provides that "Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests".

Furthermore, we would like to refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law."

In this context, we would also like to refer to paragraph 67 of the report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association A/HRC/20/22, which states that "The ability for associations to access funding and resources is an integral and vital part of the right to freedom of association."

Moreover, we believe it is pertinent to refer to the Concluding Observations by the UN Committee on the Elimination of Racial Discrimination when, at its eighty-second session in February 2013, it considered the twentieth to twenty-second periodic report from the Russian Federation. The Committee expressed concern at the adoption of the Federal Law regarding the "Regulation of Activities of Non-Commercial Organizations Performing the Function of Foreign Agents" and the impact it may have on the ability of non-governmental organizations who work to promote and protect the rights of ethnic or religious minorities, indigenous peoples and other vulnerable groups to continue their legitimate activities. In this connection, the Committee recommended that the Federal Law on Non-commercial Organizations be reviewed "to ensure that non-governmental organizations working with ethnic minorities, indigenous peoples, non-citizens and other vulnerable groups who are subjected to discrimination are able to carry out their work effectively (...) without any undue interference or onerous obligations". (CERD/C/RUS/CO/20-22, para 13)

In this connection, we would 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, and in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 5 points b) and c) which provide that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to form, join and participate in non-governmental organizations, associations or groups, and to communicate with non-governmental or intergovernmental organizations;

- article 8, paragraph 1, which stipulates that everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs; and

- article 13 which stipulates that everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedom, through peaceful means, in accordance with article 3 of the declaration.

In addition, we would also like to refer to Human Rights Council Resolution 22/6 which calls upon State to ensure that now law criminalizes or delegitimizes activities in defence of human rights on account of the origin of the funding received. (A/HRC/RES/22/6, para. 9)

Regarding allegations received indicating that the mentioned legislation has been used to target one organization which cooperated with the United Nations, its representatives and mechanisms in the field of human rights, we also wish to recall the provisions of resolution 12/2 of the Human Rights Council (A/HRC/RES/12/2), which, inter alia, “condemns all acts of intimidation on reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (OP 2) and “calls upon all States to ensure adequate protection from intimidation or reprisals for

individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (...)” (OP 3).

We would also like to refer to the Concluding Observations by the UN Committee against Torture which reviewed the fifth periodic report of the Russian Federation at its forty-ninth session in November 2012. During this review, the Committee expressed its concern about reported acts of intimidation, harassment and violent attacks on human rights defenders. More specifically, the Committee, voiced its serious concern about “the approach taken by the State party toward the work of individuals and organizations that monitor and report on human rights conditions in the State party. This includes a 2012 requirement that organizations receiving financial support from sources outside the State party register and identify themselves publicly as “foreign agents,” a term that seems negative and threatening to human rights defenders (...)”

The Committee recommended that the State party recognizes that human rights defenders are at risk and have been targeted due to the performance of their human rights activities, which play an important role in a democratic society; amend its legislation requiring human rights organizations that receive foreign funding to register as “foreign agents” (...)”.

The UN Committee further urged the State party to ensure that all human rights defenders are able to conduct their work and activities in line with the provisions of the Declaration on human rights defenders. In this connection, the Committee urged that State Party to ensure that no individual or group will be subjected to prosecution for communicating with, or for providing information to, the Committee against Torture, the Sub-Committee on Prevention of Torture or the United Nations Voluntary Fund for Victims of Torture or to other United Nations human rights organs in performing their respective mandates.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the summary of the cases accurate?
2. Please provide information on how the aforementioned implementation and interpretation of the provisions contained in the Law on Introducing Amendments to Certain Legislative Acts of the Russian Federation Regarding the Regulation of Activities of Non-commercial Organizations Performing the Functions of Foreign Agents are in line with your obligations under international human rights law, particular with article 21 of the ICCPR.
3. Please also provide information concerning the Law on Introducing Amendments to Certain Legislative Acts of the Russian Federation Regarding the

Regulation of Activities of Non-commercial Organizations Performing the Functions of Foreign Agents and its implementations and how the actions undertaken by public officials regarding the mentioned cases are compatible with the international norms and standards of the right to freedom of association, and of opinion and expression.

4. Please provide information on the outcome of the mentioned inspections.

5. Please kindly indicate what measures have been taken to ensure that civil society organizations, particularly those working in the defence and promotion of human rights, are able to carry out their work without fear of threats or acts of intimidation and harassment of any sort.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of those working as members of civil society organizations and as human rights defenders are respected. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

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