

**Mandate of the Special Rapporteur on the situation of human rights in the Russian Federation**

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(Please use this reference in your reply)

15 August 2024

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the situation of human rights in the Russian Federation, pursuant to Human Rights Council resolution 54/23.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the Federal Law No. 129-FZ of 23 May 2015 "On amending certain legislative acts of the Russian Federation" (hereinafter – the Law on Undesirable Organizations or simply the Law) which regulates the activities of foreign and international non-governmental organizations designated as "undesirable", and imposes significant restrictions and criminal penalties on individuals participating in the activities of such organizations.

In particular, I would like to focus on the amendments, implemented by the Federal Law No. 219-FZ "On Introducing Amendments to Certain Legislative Acts of the Russian Federation". The draft law was presented to the State Duma of the Federal Assembly of the Russian Federation on 12 February 2024. On 23 July 2024 the State Duma adopted the draft law into law. The law was approved without any further revisions by the Federation Council of the Federal Assembly of the Russian Federation on 2 August 2024 and signed by the President of the Russian Federation on 8 August 2024. The law is expected to enter into force 10 days after it is signed. The adopted law could allow to declare the activities of certain governmental and intergovernmental organizations, of which Russia is not a member (for instance, the Council of Europe), as "undesirable". This designation could significantly impact these organizations' capacity to promote human rights, interfering with the rights to freedom of assembly and freedom of expression in Russia. The legislation also includes provisions for administrative and criminal sanctions for involvement with these organisations, which may put a wider number of Russian nationals in and outside of Russia at risk of criminal prosecution.

The provisions enacted in the Law on Undesirable Organizations and the adopted amendments do not appear to conform with your Excellency's Government's international legal human rights obligations, in particular with regard to the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). Specifically, the law and its amendments would infringe on a number of fundamental human rights and would not meet the required thresholds of necessity, proportionality and non-discrimination under international law.

According to the information received:

Section 3.1(1) of Federal Law no. 272-FZ "On Sanctions for Individuals Violating Fundamental Human Rights and Freedoms of the Citizens of the Russian Federation", introduced by Federal Law no. 129-FZ of 23 May 2015 (the Law on Undesirable Organizations) and further amended on 27 December 2018 and 28 June 2021, establishes that any activities undertaken by a foreign

or international non-governmental organization (NGO) that allegedly pose “a threat to the foundations of the constitutional order of the Russian Federation, the defence capacity of the country or the security of the State” may lead to the NGO being designated as “undesirable” in Russia.

Overall, the Law on Undesirable Organizations amended five laws – the Federal Law No. 272-FZ “On Sanctions for Individuals Violating Fundamental Human Rights and Freedoms of the Citizens of the Russian Federation”, and the Federal Law No. 114-FZ “On the Procedure of Exit from the Russian Federation and Entry into the Russian Federation”, the Criminal Code, the Criminal Procedure Code and the Code of Administrative Offences.

An organization declared “undesirable” by the Prosecutor’s Office faces severe consequences, including a complete ban on operations in the Russian Federation. Such an organization is prohibited from opening new structural units in Russia, and existing structural units must close. The organisation is restricted from using accounts in Russian banks, engaging in property transactions, producing, distributing, or storing any materials in print or online, and carrying out any programmes or projects within Russia.

By virtue of the 2021 amendments to the Law on Undesirable Organizations, Russian nationals and legal entities have been additionally barred from involvement in the activities of “undesirable” organizations extraterritorially, i.e., beyond Russia’s borders.

The Law was also broadened to cover legal entities which may not threaten the constitutional order themselves, but that act as an intermediary for other “undesirable” organizations, for example by conducting financial transactions. The Law expanded its scope to include non-profit organisations, media outlets and individual Russian citizens including journalists, activists and human rights defenders.

I note that this Law provided the framework for declaring 72 organisations as “undesirable” between 2015-2022, 57 in 2023, and at least 52 for the first 7 months of 2024 amounting to a total of 181 “undesirable organizations” in Russia as of 12 August 2024.

The 2023 amendments to the Law on Undesirable Organizations further prohibited participation of individuals in the activities of foreign or international NGOs, unless the offices of these NGOs are included in the relevant registry or registered with the Ministry of Justice of Russia.

The Law provides that the decision to designate an NGO as an “undesirable” organization is made by the General Prosecutor’s Office in consultation with the relevant foreign-policy government agency. The decision of the General Prosecutor’s Office is then forwarded to the Ministry of Justice, for inclusion in the List<sup>1</sup> of “undesirable organizations”.

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<sup>1</sup> Ministry of Justice of the Russian Federation, “Перечень иностранных и международных неправительственных организаций, деятельность которых признана нежелательной на территории Российской Федерации” (“List of foreign and international non-governmental organizations whose activities are recognized as undesirable on the territory of the Russian Federation”), Moscow, 5 August 2024, <https://minjust.gov.ru/ru/documents/7756/> (accessed on 12 August 2024).

By virtue of the Law, the List shall be made public on the website of the Ministry of Justice and published in a nationwide Russian Periodical determined by the Government which is the Russian Gazette (Российская газета). The decision taken by the General Prosecutor enters into force on the date of publication of the information about the relevant foreign or international organization.

According to the Law, the decision on the recognition of the activities of a foreign or international NGO as “undesirable” may be repealed by the General Prosecutor in coordination with the Ministry of Foreign Affairs and the NGO may then be taken off the List.

It is an administrative offence or a crime to participate in any activity of an “undesirable” organization, whether the organization is located in the Russian Federation or overseas.

Namely, article 20.33 of the Code of Administrative Offences, as amended on 28 June 2021, punishes “any involvement in the activities of an undesirable organization or any violation of the restrictions on its activities” by a fine ranging between RUB 5,000 to 15,000 for individuals (around USD 59 to 157), RUB 20,000 to 50,000 for officials (from around USD 216 to 590), and RUB 50,000 to 100,000 for legal entities (from around USD 590 to 1180).

Article 284.1 of the Criminal Code, as amended on 1 July 2021, covers three separate criminal offences. Paragraph 1 punishes any involvement in the activities of an “undesirable” organization by a person convicted under article 20.33 of the Code of Administrative Offences with fines, compulsory labour, or imprisonment of up to four years. Paragraph 2 punishes any fundraising or provision of financial services to an “undesirable” organization with fines, compulsory labour up to four years or imprisonment of up to four years. Finally, paragraph 3 punishes any organization of activities of an “undesirable” organization by fines, compulsory labour or imprisonment of up to six years.

#### *Amendments introduced in August 2024*

According to the information received, on 12 February 2024, new amendments (Federal Law No. 219-FZ “On Introducing Amendments to Certain Legislative Acts of the Russian Federation”) were presented<sup>2</sup> to the State Duma. The draft law, developed by the members of the Commission on Investigation of Facts of Interference by Foreign States in Russia's Internal Affairs, proposed to include “foreign and international organizations, which founders or participants are government bodies of foreign states”, in the list of organizations whose activities may be considered undesirable on the territory of Russia. The draft law noted that “the amendment will not apply to international intergovernmental organizations of which Russia is a member of”.

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<sup>2</sup> Press release of 8 February 2024, State Duma of the Russian Federation, [The State Duma developed amendments providing for the possibility of recognizing foreign organizations with foreign participation as undesirable in Russia](https://sozd.duma.gov.ru/bill/549382-8); text of the draft law, State Duma of the Russian Federation (accessible with VPN) <https://sozd.duma.gov.ru/bill/549382-8>

It was accordingly proposed to make relevant changes to the law provisions regulating sanctions for violating the draft law provisions, i.e., article 20.33 of the Code of Administrative Offenses of the Russian Federation and article 284.1 of the Criminal Code of the Russian Federation. On 13 May 2024 the Government upheld<sup>3</sup> the draft law, on 23 July 2024 the draft law passed its final reading in the State Duma and became law. The draft was approved by the Federation Council of the Federal Assembly of Russia on 2 August 2024. It was signed by the President of Russia and published<sup>4</sup> on 8 August 2024. The law will come into force 10 days after it was signed.

Given the interconnection between the Law on Undesirable Organizations and its amendments of this year, I would like to share comments on the Law and its amendments in light of binding international standards concerning the rights to freedom of association, the right to an effective remedy and related principles.

#### *Applicable international legal framework*

Article 22(1) of the ICCPR, which states that “everyone shall have the right to freedom of association with others.” Article 22(2) ICCPR provides that any restrictions on the exercise of the right to freedom of association must be “prescribed by law” and “necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. Pursuant to article 2 of the ICCPR, States have a responsibility to take deliberate, concrete, and targeted steps towards meeting the obligations recognized in the Covenant, including by adopting laws and legislative measures as necessary to give domestic legal effect to the rights stipulated in the Covenant and to ensure that their domestic legal system is compatible with its international treaty obligations.

The “principle of legal certainty” under international law, enshrined in articles 9(1) ICCPR concerning the right to liberty and security of person and article 15 of the ICCPR concerning legality and the prohibition of retroactive criminal laws, requires that criminal laws are sufficiently precise so it is clear what types of behaviour and conduct constitute a criminal offense and what would be the consequence of committing such an offense (Human Rights Committee, general comment 31, para. 13(2004)). This principle recognizes that ill-defined and/or overly broad laws are open to arbitrary application and abuse (A/73/361, para. 34.). Moreover, the law must be formulated with sufficient precision so that the individual can regulate his or her conduct accordingly.

Articles 1 and 2 of the set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (also known as the UN Declaration on Human Rights Defenders) state that everyone has the right, individually and in association with others, to promote

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<sup>3</sup> [Кабмин одобрил законопроект о праве признавать нежелательными любые зарубежные организации. \(tass.ru\)](https://tass.ru)

<sup>4</sup> The Federal Law No. 219-FZ of 8 August 2024, Portal of official publication of legal acts, <http://publication.pravo.gov.ru/document/0001202408080013?index=5>

and to strive for the protection and realisation 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. Furthermore, article 5, paragraph b, states that for the purpose of protecting and promoting human rights and fundamental freedoms, everyone has the right, individually and in association with others, to form, join and participate in non-governmental organisations, associations or groups.

The use of legislation to create a restrictive and burdensome environment for NGOs effectively limits freedom of expression by civil society, guaranteed by article 19 ICCPR. The Human Rights Committee, in its general comment No. 34 on article 19, emphasized that laws restricting freedom of expression must be formulated with sufficient precision to enable individuals to regulate their conduct accordingly and must not confer unfettered discretion on authorities, thereby ensuring that restrictions are necessary and proportionate. This requirement for precision is rooted in the principle of legal certainty, which is essential to avoid unpredictable and arbitrary restrictions on fundamental rights. This principle is crucial for maintaining the rule of law and ensuring that individuals can foresee the consequences of their actions.

*Criteria for designating the activities of NGOs as “undesirable”*

The grounds on which an NGO may be included in the List are formulated in particularly broad terms: “a threat to the foundations of the constitutional order of the Russian Federation, the defence capacity of the country or the security of the State”.

When it was first introduced in 2015, the Ombudsman of the Russian Federation noted in his comment on the Law of Undesirable Organizations that “clear legal criteria of the status of “undesirability” in the territory of the Russian Federation (...) do not exist; legal grounds for finding that an NGO constitutes a threat for the foundations of the constitutional order of the Russian Federation, its defence capacity or the security of the State are not indicated.”<sup>5</sup>

These terms only serve to indicate the legitimate aims of the legal regulation, but not the actual grounds, and would require specification if concrete restrictive measures are to be adopted on its basis. In its 2016 comment on the Law on Undesirable Organizations by the Venice Commission, it noted the absence of specific criteria for the misconduct of foreign non-governmental organizations, alongside the use of vague and imprecise terms to describe the grounds which would lead to an “undesirable” designation. It stated that this absence had rendered the Law’s application unforeseeable.

Furthermore, both the Law on Undesirable Organizations, article 20.33 of the Code of Administrative Offences and article 284.1 of the Criminal Code, fail to specify what constitutes “participation” (involvement) in the activities of “undesirable organizations” that could result in a conviction. An analysis of convictions shows that all the individuals were sanctioned for the exercised

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<sup>5</sup> Заключение Уполномоченного на Федеральный закон от 23.05.2015 № 129-ФЗ «О внесении изменений в отдельные законодательные акты РФ», 25 мая 2015.

their legitimate rights to freedom of expression, assembly and association provided under the ICCPR, by sharing content on social media, campaigning for social and political causes, and participating in events and forums. Furthermore, many individuals are penalised for sharing hyperlinks to websites of “undesirable” that had been posted many years before their designation.

The legal provisions on “undesirable” organizations had not been formulated with sufficient precision to enable the organizations to foresee that their otherwise lawful actions would result in their designation as “undesirable” with a subsequent prohibition on their activities in Russia, and to enable the individuals to foresee that their actions would result in administrative or criminal conviction. This vaguely worded legislation amplifies the chilling effect of the severe penalties.

In addition, lack of precision in the formulation of the Law places burden on the individuals to foresee future designations or to review their websites, pages in social networks, etc., to ensure that previously shared material had not retroactively been classified as linking to an “undesirable” organization.

#### *Disclosure of the grounds for applying the designation*

The Law does not provide for any notification procedure of the organisation concerned about the decision taken by the General Prosecutor’s Office on its inclusion in the List. Therefore, the only way for the organization to learn that its activities have been deemed “undesirable” is to follow the website of the Ministry of Justice and/or the Russian Gazette, thus, an organization designated as “undesirable” becomes aware of its designation after the fact. The organization concerned cannot therefore challenge the steps taken by the General Prosecutor’s Office. Consequently, the organisation lacks the opportunity to challenge the findings or outcomes of the assessment before prohibitions on its activities are automatically imposed as a result of such a designation.

In its first judgement on “undesirable organizations” dated 18 June 2024, *Andrey Rylkov Foundation and Others v. Russia*, the European Court of Human Rights (hereinafter – the ECtHR) found that the legal provision dealing with the designation of “undesirable organizations” had not been clear and failed to define with sufficient precision the types of actions that would lead to either a designation as “undesirable” or criminal prosecutions and convictions.

#### *Judicial review to challenge designation as “undesirable”*

A review of the past nine years of application of the Law shows worrying patterns where judicial reviews initiated by individuals challenging their convictions lack adequate safeguards against the broad discretion granted to executive authorities. It appears, that the Law lacks provisions governing the procedure to challenge the decision on being designated as “undesirable”. Apparently, no organization has been removed from the List or successfully challenged its designation as “undesirable”. Equally, domestic courts failed to provide “relevant and sufficient” reasons supporting their determination that

the individuals participated in activities of an “undesirable” organization. The courts should also assess the effects of such measures on the organizations’ and individuals’ rights to freedom of expression and association in accordance with the requirements set in the provisions of the ICCPR.

Article 2(3) of the ICCPR provides that each State Party to the Covenant undertakes to ensure that any person whose rights or freedoms are violated shall have an effective remedy. The judicial review performed in a way where it is reduced to a procedural formality, appears to be in conflict with article 2(3) of the ICCPR granting the right to an effective remedy.

The Federal Law No. 219-FZ puts intergovernmental organisations which Russia is not a member of, such as the Council of Europe, including the ECtHR, the Commissioner for Human Rights and the Venice Commission, at risk of being designated as “undesirable”. This might lead to administrative and criminal convictions with up to six years’ imprisonment of the individuals involved in the activities of these organizations, where involvement in the activities includes a wide and broad range of undefined actions, in violation of Russia’s international human rights standards, specifically those governing freedom of expression, freedom of association, and protection against reprisals and intimidation for individuals and groups engaging with the international human rights mechanisms.

I respectfully underline the importance of maintaining and upholding the fundamental guarantees of international human rights law under articles 19 and 22 of the ICCPR, recalling that any interference with individuals and organisations’ rights to freedom of expression and association respectively, must be accompanied by a proper assessment to ensure that such interference is necessary, proportionate, and justified. This requirement ensures that freedoms of expression and association are safeguarded against arbitrary or excessive limitations.

The United Nations human rights mechanisms have consistently highlighted the incompatibility of the Law on Undesirable Organizations with international human rights standards and encouraged a review of the Law and its implementation to ensure the criteria of necessity, proportionality, and non-discrimination. It also includes information on recent amendments to the laws on “foreign agents” and “undesirable organizations” by special procedures mandate holders and treaty bodies’ concluding observations, namely CCPR/C/RUS/CO/8, paras. 34-35; CERD/C/RUS/CO/25-26, paras. 18 and 19. Recent reports by the United Nations Special Rapporteur on the situation of human rights in the Russian Federation (A/HRC/54/54, paras. 26-31, 112(d)) and the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association (A/78/246) documented the use of legislation to unnecessarily and disproportionately restrict the activities of civil society and liquidate a number of prominent human rights organizations.

I also wish to draw your Excellency’s Government’s attention to the Secretary-General’s reports on reprisals, specifically the sections that assess how laws on “undesirable organisations” negatively impact the willingness and ability of civil society actors to engage with international bodies, including the United Nations. In particular, the 2023 report (see A/HRC/54/61, annex II, para. 125) summarizes the references to the issue in previous reports as follows: A/HRC/42/30, Annex II, para. 88; A/HRC/45/36, annex II, para. 105; A/HRC/51/47, annex II, para. 126.

Consequently, I recommend rescinding the Federal Law No. 129-FZ of 23 May 2015 with all its subsequent amendments, including the recent amendments introduced by the Federal Law No. 219-FZ, which allows to declare the activities of governmental and intergovernmental organisations “undesirable”, to ensure that no legislation concerning the activities of these organizations violates Russia’s international human rights obligations. I stand ready to engage in dialogue with Your Excellency’s government on this very important matter.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned assessment of the Federal Law No. 129-FZ of 23 May 2015 with all its subsequent amendments, in particular, the Federal Law No. 219-FZ.
2. Please explain how the law on “undesirable organizations” and amendments to it are compatible with Your Excellency’s Government’s obligations under articles 2, 19 and 22 of the ICCPR and articles 19 and 20 of the UDHR, and how Your Excellency’s government would remediate the aforementioned inconsistencies with international human rights standards enshrined in the law on “undesirable organizations”.
3. Please, explain how the definitions of “a threat to the foundations of the constitutional order”, “the defence capacity of the country” and “the security of the State” are compatible with the principle of legal certainty established under article 15(1) and with subsequent foreseeability of law necessary under article 19(3) of the ICCPR; and please explain how the measures undertaken under the law on “undesirable organizations” meet the requirements of necessity in democratic society and proportionality under international human rights law.
4. With reference to the Federal Law No. 219-FZ of 8 August 2024, please provide information on the scope of the definition “foreign and international organizations”, in particular, whether this definition is intended to cover international intergovernmental organizations; and if so, whether it is intended to cover international intergovernmental organizations which the Russian Federation is and is not a party to, such as the United Nations and the Council of Europe respectively, etc.
5. Please provide any information on the remaining stages of the legislative process with regard to the law on “undesirable” organizations, including your Government’s plan for consultation with civil society and concerned individuals and groups.
6. Please indicate if any assessment has been performed as to the possible negative effects of the Law and its amendments, including the August 2024 amendments, on the organizations designated as “undesirable”, and whether legal safeguards have been put in place to prevent such

from happening in the future. If so, please provide us with the relevant information.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

Mariana Katzarova  
Special Rapporteur on the situation of human rights in the Russian Federation