



08.08.2023

Submission to the Committee on Economic, Social and Cultural Rights

SUBMISSION_FOR_THE_WORKING_GROUP_ESCR.

A. INTRODUCTION

- 1** These submissions are made to the Committee on Economic, Social and Cultural Rights (hereinafter, «the Committee») by Net Freedoms Project and OVD-Info. The submissions intend to raise the issues under the International Covenant on Economic, Social and Cultural Rights (hereinafter, «the Covenant») that follow from the 7th Periodic Report of the Russian Federation (E/C.12/RUS/7, 16 November 2022; hereinafter, «the Periodic Report»). The issues raised in the present submissions concern the Russian «Foreign Agents' law».
- 2** Net Freedoms Project is a group of lawyers taking court cases domestically and internationally on matters related to privacy and freedom of expression on the Internet. Among its fields of expertise is the functioning of the Russian «Foreign Agents' law» and this is the reason that the Russian Ministry of Justice lists organisations and individuals as «foreign agents» on the basis of their exercise of the freedom of expression on the Internet.
- 3** OVD-Info is an independent human rights media project aimed at monitoring cases of political persecution and violations of human rights in Russia and providing legal assistance to their victims. OVD-Info operates a 24-hour federal hotline to collect information on all types of political persecution, provides free legal assistance, researches different types of political persecution in Russia and engages in international advocacy.
- 4** After briefly updating the Committee on the recent legislative reform of the Russian «foreign agents'» and «undesirable organisations» legislation (sections «B» and «C» respectively), the submissions will raise issues specific to Articles 6, 10 and 13 of the Covenant (sections «D» — «F» respectively). Questions proposed to be put to the Government by the Committee will be listed in section «G».

B. RUSSIAN LEGISLATION ON «FOREIGN AGENTS» GENERALLY

- 1** In the Concluding observations on the 6th Periodic report of the Russian Federation under the Covenant the Committee was concerned about «the legal provisions restricting the operation of non-governmental organisations that receive foreign funding and engage in political activity, including those promoting Covenant rights» (E/C.12/RUS/CO/6, 16 October 2017, para. 7), that is the 2012 «Foreign Agents’ Act». The Committee recommended that «that the State party repeal[ed] or amend[ed] any legal provisions that unduly restrict the activities of non-governmental organisations, including the provisions [of the „Foreign Agents’ Act]“ (ibid., para. 8).
- 2** The Periodic report (paras. 330-348) is limited to a summary of the „foreign agent“ legislation as it existed prior to 2019, i.e., prior to the amendments allowing the Russian Ministry of Justice to list individuals as „foreign agents“, and to a reference to the judgement of the Russian Constitutional Court of 8 April 2014 no. 10-P which upheld the constitutionality of the „foreign agent“ legislation.
- 3** However, by the date of the submission of the Periodic report the European Court of Human Rights had already found the entirety of the provisions of the Russian „foreign agent“ legislation contrary to Article 11 of the European Convention on Human Rights (*Ecodefence and others v. Russia*, nos. 9988/13 et al., 14 June 2022). The Periodic report makes no mention of the said judgement or of the authorities steps to comply with it.
- 4** Importantly, already before the date of the submission of the Periodic report the Russian legislature had adopted the Federal Law of 14 July 2022 no. 255-FZ „On the Control over Persons under Foreign Influence“ (hereinafter, „the 2022 Foreign Agents’ Act“) incorporating all the existing provisions on „foreign agents“ and introducing new ones. The 2022 Act allows the Ministry of Justice to list any person, physical or legal, as „foreign agent“ if she is under „any foreign influence“; evidence of funding is no longer required.

5 In total 649 organisations and persons have been designated as „foreign agents“, including those that have later been excluded from the registry. More than 40 socio-educational initiatives and projects promoting freedom of scientific research, freedom of acquiring knowledge, and acquaintance with diverse opinions are included in the register. Nearly 40 entities and individuals focusing on environmental protection were recognized as „foreign agents“. At least 16 organisations helping HIV carriers and drug users are also recognized as such.

6 Concern for discrimination on the grounds of disability, ethnicity, sexual orientation, gender identity or health status had been singled out in the Concluding Observations on the sixth periodic report of the Russian Federation in paragraphs 23-24, at the same time dozens of NGOs fighting for equality have been designated as „foreign agents“ and forced to limit or cease their activities. NGOs that focus on the rights of LGBTQ people are exposed to various forms of discrimination and pressure as the very phenomenon is legally perceived as „alien to the Russian culture“, so foreign assistance is effectively the only feasible source of funding. Thus, NGOs such as charitable foundation „Sphere“ that promotes equal rights and respect for human dignity regardless of sexual orientation and gender identity, are designated as „foreign agents“ and forcibly dissolved.

7 Despite the proclamation of support for ethnic and indigenous rights stated in the Article 1 of the Seventh periodic report submitted by the Russian Federation in 2022, in reality more and more associations dedicated to defence of such rights are being persecuted as „foreign agents“. 15 individuals and independent associations of indigenous peoples from Altai, Siberia and northern regions were designated as „foreign agents“.

8 Numerous other independent associations dedicated to defence of women's rights, labour unions, religious organisations and centres supporting refugees and migrants are being denied state and public assistance due to their „foreign agents“ designation.

C. RUSSIAN LEGISLATION ON «UNDESIRABLE ORGANISATIONS»

- 1** The «undesirable» status means complete outlawing of the organisation labelled as such. This includes the ban on any cooperation with the organisation, including reposts or links to their projects, under the threat of administrative and criminal prosecution with an up to 5 years possible prison sentence. In 2022, the legislation was amended to prohibit cooperation with such organisations even outside of Russia.
- 2** Overall, 101 organisations have been designated as «undesirable» in Russia. Among them there are, for instance, 10 socio-educational initiatives and projects, as well as 9 research projects. Among them, for instance, are educational institutions like Bard College and Free University, and prominent research centres like Woodrow Wilson International Center and Macdonald-Laurier Institute. Also, 6 organisations focusing on environmental protection were labelled as «undesirable», including Greenpeace and World Wildlife Fund.

D. ARTICLE 6 OF THE COVENANT

- 1** Under Article 6(1) of the Covenant the State Parties recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right. Article 6(2) further specifies that employment should safeguard «fundamental political and economic freedoms to the individual».
- 2** Article 11(9) of the 2022 Foreign Agents' Act prohibits the individuals listed as foreign agents to engage in teaching to persons under 18 years old and to engage in teaching activities in any public institutions, whether federal, regional or local. Legal entities listed as «foreign agents» are prohibited from undertaking teaching activities for those under 18 years old.
- 3** Ministry of Justice declared a number of academics, researchers and university staff as «foreign agents», as well as a number of private schools, the decisions being arbitrary and directed at those who expressed views differing from those of the Government. Individuals declared «foreign agents» are fired from their positions with immediate effect, private education institutions are forced to close and lay off their staff. It follows from the Government's stance that the Ministry of Justice decides at will which teaching staff may be allowed to continue their activities and which is banned from profession.

E. ARTICLE 10 OF THE COVENANT

- 1** The Covenant provides for the widest possible protection and assistance to the family as the fundamental unit of society. The latest prosecution of individuals with anti-war views has seen children being denied those rights whether due to the activist position of their parents or because of undue persecution of children themselves for expressing their thoughts and feelings about the matter. This is illustrated by two notorious examples.
- 2** In October 2022, a Commission on Juvenile Affairs ruled that Elena Joliker — the mother of Varvara Galkina, 10, — was improperly performing parental duties and registered the family as being in a socially dangerous situation. This was triggered by Varvara not attending the «Important Conversations» (see para. 22 below), using a pro-Ukrainian profile picture in a social network account and a post on Russian military aggression in Ukraine. After a harsh interrogation of Elena and Varvara in a police department and a search in their home, the family was let go with a warning as Varvara could not have been prosecuted due to her being a minor. However the family is now registered with the social services which poses risks and additional burden on the family for purely speculative reasons.

3 Since April 2022 Maria Moskaleva, 13, has been separated from her father who had the sole custody of his daughter, has been denied visits and information on his whereabouts, all in breach of the conventional child's rights. Her father — Aleksey Moskalev — was charged and sentenced to 2 years in prison for discrediting the Russian Army in a few comments about the war in Ukraine in the social media. The prosecution of Aleksey Moskalev started with Maria's drawing an anti-war picture in school, which triggered the director of the school to engage the police in investigation into the family life and parental influence on the child. After that an administrative offence under the Article 20.3.3 of the Code of Administrative Offences and a criminal case under the Article 280.3 of the Criminal Code had been initiated against Aleksey. In March 2023 Aleksey was detained and Maria was sent to the rehabilitation centre for underage children. While in detention and being transferred, Aleksey was denied visitation with his daughter. In April 2023 Masha was placed into custody of her mother, whom she hadn't been in contact with for several years.

F. ARTICLE 13 OF THE COVENANT

- 1** The Russian Federation stated in its report that the Russian Constitution and federal legislation guarantee the right of everyone to education. Moreover, the Government referred to Article 48 of the Federal Law «On Education in the Russian Federation» which provides for an educational environment free from any political propaganda and imposition of predetermined views, as well as incitement to hatred.
- 2** Since the start of large-scale invasion of Ukraine, Russian authorities started to broadcast propaganda, including among children, aiming to convince the society that the invasion was a «forced response to an imminent threat from Ukraine» and actions of Russian armed forces are in full compliance with international law.
- 3** In September 2022 the new policy was implemented that mandates Russian schools to hold special lessons on ‘Russian Values’ — the so-called «Important Conversations» — for all students from the 1st to the 11th (last) grade. The goal of the special courses is to teach children patriotism and explain the context and grounds for the special military operation in Ukraine. While the courses for youngest grades do not include the direct discussions of the war in Ukraine but the general conversations on the love of the motherland, 11-12 year old children are introduced to quotes from Vladimir Putin’s speech on 24 February 2022, and taught about the official goals of the invasion. The refusals of the parents to let their children attend the courses are systematically denied by the school administrations, some threaten to expel the children or report the parents to the social services or the Prosecutor’s Office.
- 4** In addition, teachers who speak about Russian aggression against Ukraine and war crimes committed by Russian armed forces are often prosecuted for «discrediting» or spreading «fakes» about the use of Russian armed forces. For example, on 3 August 2022, Irina Gen was sentenced to a five-year probation and banned from teaching for three years. At least 55 teachers and professors have been fired from educational institutions because of their anti-war position.

5 The same is happening in higher and professional education institutions. As early as February 2022, they started receiving teaching materials and recommendations on how to conduct propaganda lessons and events. The number of mandatory «patriotic» events has also increased. Administrations of universities and colleges pressure students who vocally express their position. Besides expulsions or threats of expulsions for attending anti-war rallies, students have been forced by the educational institutions to censor their social media profiles, detained and threatened for wearing anti-war symbols or expressing any opinions contrary to the official one and forced to donate their stipends «to the needs of the Russian military». In September 2022, when mobilization was declared, college administrations attempted to have students deliver military draft orders. The expulsion of male students from educational institutions further makes them immediately eligible for draft, which makes the threats of expulsion tangible amid the ongoing war.

G. QUESTIONS TO THE GOVERNMENT OF THE RUSSIAN FEDERATION

1 We respectfully request the Committee to address these questions to the Russian Federation:

- What is a binding time-frame within which the «foreign agents’» and «undesirable organisations» legislation is repealed so that the Government complies with the requirements of the Covenant, in particular, its Article 6? If there is none, the Government should undertake to adopt it;
- Does Russia disseminate information in educational institutions that denies the internationally recognised borders of Ukraine as determined in 1991?
- What measures is the Russian Federation taking to provide students with access to sources of information alternative to the official position about the war with Ukraine?
- How many students and teachers were expelled, fired or prosecuted for anti-war statements and how does this compare with Russia’s international obligations?
- How does the persecution of parents for expressing their or their children’s anti-war position comply with Russia’s international obligations in the area of the right to a family and childhood?

Respectfully submitted,

This 4th of August 2023

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