



## “Foreign agent” legislation in Russia is arbitrary, and creates a climate of distrust

The case [Kobaliya and Others v. Russia](#) (application no. 39446/16 and 106 others) concerned the evolving legislative framework in Russia requiring many NGOs, media organisations and individuals to register as “foreign agents”, and its repercussions on their activities and private life.

In today’s **Chamber** judgment<sup>1</sup> in the case, the European Court of Human Rights held, unanimously, that there had been:

**a violation of Articles 10 (freedom of expression) and 11 (freedom of association)** of the European Convention on Human Rights as concerned all the applicants, and

**a violation of Article 8 (right to respect for private and family life)** as concerned the individual applicants.

The Court found that the currently applicable legislation was stigmatising, misleading and used in an overly broad and unpredictable way. This led the Court to conclude that the legislation’s purpose was to punish and intimidate rather than to address any alleged need for transparency or legitimate concerns over national security.

It mentioned in particular the obligation for the designated organisations and individuals to label everything they published with a notice announcing their status as “foreign agents”, their exclusion from all electoral processes, restrictions on teaching professions, denial of access to young audiences and deprivation of revenue from private advertisers, as well as the manifestly disproportionate sanctions – including arbitrary fines and even dissolution. Such restrictions had a chilling impact on public discourse and civic engagement. They created a climate of suspicion and distrust towards independent voices and undermined the very foundations of a democratic society.

It found that the legislative framework had become considerably more restrictive since 2012, impacting a far greater number of NGOs, media organisations and individuals and moving even further from Convention standards.

### Principal facts

The applicants are 107 non-governmental organisations (NGOs), media organisations and individuals. Among them are prominent members of Russian civil society, including International Memorial and Memorial Human Rights Centre, Radio Free Europe/Radio Liberty, journalists, human-rights defenders, environmental activists, political scientists, content creators, and election monitors.

The case concerned “foreign agent” legislation in Russia and the way it had developed since 2012.

In 2012, Russia introduced amendments to its legislation on NGOs. These required Russian NGOs deemed to be involved in political activity and receiving foreign funding to register as “foreign agents”, under the risk of administrative and criminal penalties. They were also required to label

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution).

their publications with a notice indicating that they originated from a “foreign-agent” organisation (known as “labelling requirements”), to publish information regarding their activities online and to comply with more extensive accounting and reporting obligations. The European Court has already found violations of the Convention regarding this legislation in its judgment [Ecodefence and Others v. Russia](#) (nos. 9988/13 and 60 others) of 2022.

In 2017-19, the possibility of being designated a “foreign agent” was extended to media organisations, and later also to individual journalists, bloggers, content creators and public figures. In 2020, it was further expanded to include any individual engaged in broadly defined “political activities”.

Ultimately, the Foreign Agents Act of 2022, which codified and further expanded the previous legislation, introduced an even broader definition of “foreign agents”, covering any entity or individual who had received “support” or was otherwise “under foreign influence”. The concept of “foreign influence” includes not only financial support but also “organisational assistance” and “methodological guidance”. The definition of “foreign sources” now also includes Russian entities and individuals receiving funds from abroad, as well as any person “under the influence” of foreign entities or individuals.

The “foreign agent” labelling requirements were over time expanded to include social media accounts, websites and eventually all communications, including court submissions and each individual post on social media.

Repeat breaches of the labelling requirements resulted in larger fines. The largest was imposed on the applicants, Radio Free Europe/Radio Liberty and its director – approximately 16 million Euros in 1,044 cases.

Automatic restrictions associated with the designation included prohibitions on “foreign agents” holding any public office, whether elected or appointed, participating in election proceedings, receiving State support or grants, teaching in State educational institutions or producing any content for minors. For example, books and publications by “foreign agents” were subjected to the same regulations as pornographic or violent content, requiring them to be sold in opaque packaging with an “18+” age restriction label. There was also a ban on advertising in media products created by “foreign agents”.

The most severe sanction – dissolution – was imposed on the applicant organisations, International Memorial, the Memorial Human Rights Centre, the Movement For Human Rights and the League of Voters Foundation. This was on the grounds of “gross and repetitive” breaches of the labelling requirements.

## Complaints, procedure and composition of the Court

Relying in particular on Articles 10 (freedom of expression) and 11 (freedom of association) of the Convention, the applicants complained about the restrictions on their rights after being designated as a “foreign agent”. They alleged that the legislation had been stigmatising and had imposed a significant financial and administrative burden. In the applicants’ view, this was part of a systematic campaign against human-rights and media organisations who were critical of the authorities.

The individual applicants also complained that the legislation had provided for disclosure of their personal details on the Ministry of Justice’s website, extensive reporting of their personal financial information, and prevented them from certain employment or professional activities, in breach of Article 8 (right to respect for private and family life).

The applications were lodged with the European Court of Human Rights between 2016 and 2023.

The Latvian Government and ARTICLE 19 were granted leave to intervene in the proceedings as third parties.

The Court's procedure for processing of applications against Russia can be found [here](#).

Judgment was given by a Chamber of seven judges, composed as follows:

Pere **Pastor Vilanova** (Andorra), *President*,  
Jolien **Schukking** (the Netherlands),  
Georgios A. **Serghides** (Cyprus),  
Peeter **Roosma** (Estonia),  
Ioannis **Ktistakis** (Greece),  
Oddný Mjöll **Arnardóttir** (Iceland),  
Diana **Kovatcheva** (Bulgaria),

and also Olga **Chernishova**, *Deputy Section Registrar*.

## Decision of the Court

### Articles 10 and 11 (freedom of expression and association)

First, the Court found that there had been an interference with the applicants' rights to freedom of expression, association and assembly. The designation of an applicant organisation or individual as a "foreign agent" had significantly hampered their activities, triggering additional accounting, auditing, reporting and labelling requirements and restricting their participation in the electoral process and/or organising public events. It also often resulted in sanctions, ranging from fines to dissolution.

It went on to point out that the "foreign agent" legislative framework had evolved considerably since 2012 and this required analysis, even though its findings in *Ecodefence* remained relevant. A far greater number of NGOs, media organisations and individuals were impacted and, instead of mitigating the previous legislation's shortcomings, the framework had moved even further from Convention standards.

It found in particular that the "foreign agent" label was both stigmatising and misleading.

As to the stigmatising effect, the Court referred to opinion polls which suggested that the majority of the population associated the term "foreign agent" with "traitors", "spies" or "enemies of the people". New restrictions, excluding "foreign agents" from holding public office, participating in election commissions, supporting political campaigns, educating minors and producing content for children, reinforced the stigma.

The "foreign agent" label was also misleading in so far as the legislation presumed that support in any form – funding, consultation or guidance – amounted to foreign control. Such unlimited discretion to apply the label had led to dozens of examples of its misuse by the authorities. Ligue of Voters Foundation, the independent election monitoring organisation, had been fined and liquidated for a donation of less than 3 euros from an allegedly foreign national, while another applicant had been designated for cashing his airline bonus miles with a non-Russian national.

Indeed, the authorities had provided no evidence to show that, in any of the 107 applications, the applicants had actually been under foreign control or acting in the interests of a foreign entity.

Nor had there been any "pressing social need" for the legislation's additional restrictions. In coming to that conclusion, the Court specifically addressed the labelling or public disclosure requirements which had expanded over time to be applied indiscriminately and in an unpredictable manner. For example, one applicant had been fined for publishing an obituary without the "foreign agent" label. Other applicants were fined for not indicating that an online database of Soviet political repression or the banners at a memorial events had originated from a "foreign agent" organisation.

In point of fact, the labelling requirements forced the applicants into communicating a message with which they disagreed. It also effectively prevented them from making any meaningful use of social media, as the character limit on certain platforms was almost equal to the “foreign agent” label itself.

The Court found that such restrictions had been far-reaching and designed to punish rather than to address any alleged need for transparency or concerns over national security.

Similarly, the severity and scope of the sanctions imposed on the applicants, ranging from professional and economic restrictions to financial penalties and even forced dissolution, had aimed to punish or silence rather than ensure transparency. They had been manifestly disproportionate.

Overall, the legislation had a chilling effect on public debate and civic engagement, creating a climate of suspicion and distrust towards independent voices, which undermined the very foundations of a democratic society. There had been violations of Articles 10 and 11.

### Article 8 (right to respect for private and family life)

The Court found that being designated as a “foreign agent” had had serious repercussions on the applicants’ social and professional lives and reputations, amounting to an interference with their right to respect for private life.

The designation did not require any evidence that the applicants had acted in the interests of a foreign entity or an individual assessment of conduct, for example when deciding to restrict the applicants’ exercising certain professions such as teaching, writing for children or access to elected office and civil service.

The Court could not see how publication of the applicants’ personal data and the obligation to submit frequent and detailed reports on their income and expenses had served any other purpose than to overburden and intimidate them.

Barring the designated individuals from participation in entire professions, cutting them off from the entirety of the youth population, and depriving them of revenue from private advertisers did not pursue the stated aim of upholding national security or transparency and could not be justified as being necessary in a democratic society. There had therefore been a violation of Article 8 in respect of the applicant individuals designated as “foreign agents”.

### Article 41 (just satisfaction)

The Court held that Russia was to pay the applicants amounts ranging from 5,500 euros (EUR) to EUR 10,000 in respect of non-pecuniary damage, and various other amounts in respect of pecuniary damage and costs and expenses, indicated in the appendix to the judgment.

## Separate opinion

Judge Serghides expressed a concurring opinion, which is annexed to the judgment.

*The judgment is available only in English.*

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.