



Law on “undesirable organisation” designation breached the Convention

The case of [Andrey Rylkov Foundation and Others v. Russia](#) (application no. 37949/18 and 84 others) concerned the designation by the Russian Government of four applicant organisations as “undesirable” and the prosecution of individuals for engaging in activities with other organisations which had likewise been declared “undesirable”.

Today the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 11 (freedom of assembly and association) of the European Convention on Human Rights in respect of the Free Russia Foundation, the Ukrainian World Congress, the Association of Schools of Political Studies, and Společnost svobody informace, z.s., and

a violation of Article 10 (freedom of expression) and Article 11 in respect of all applicants who had been convicted for their involvement with “undesirable organisations”.

The Court found in particular that the legal provision dealing with the designation of “undesirable organisations” had not met the “quality of law” requirement, as it had not been clear what otherwise legitimate actions on the part of the applicants would lead to either a designation as “undesirable” or to sanctions.

Principal facts

The applicants are four organisations which had been declared “undesirable”: one based in Washington D.C., the Free Russia Foundation; one in Toronto, Ukrainian World Congress; one in Strasbourg, the Association of Schools of Political Studies of the Council of Europe; and one in Prague, Společnost Svobody Informace, z.s.; and three organisations based in Russia, the Andrey Rylkov Foundation for the Protection of Health and Social Justice, Ekologicheskaya Vakhta Po Severnomu Kavkazu, Akoo Molodyye Zhurnalisty Altaya, and a number of Russian nationals.

New Russian legislation in 2015 introduced a new power for the Prosecutor General to designate any non-Russian entity as an “undesirable organisation” where it was felt the organisation undermined the foundations of the Russian constitutional order, defence capabilities, or national security.

This designation imposed severe restrictions on an organisation, including bans on having offices or carrying out projects in Russia; using Russian bank accounts; disseminating content through the media; and on the public accessing their website from within Russia. In 2021 Russian nationals were also prohibited from participating in the activities of an “undesirable organisation”, even when resident outside Russia. Penalties ranged from fines to imprisonment and hard labour.

The four applicant organisations – Free Russia Foundation, Ukrainian World Congress, the Association of Schools of Political Studies of the Council of Europe, and Společnost svobody informace – were all designated as undesirable organisations. The other applicants were convicted for involvement with organisations, including Open Society Institute and Open Russia, which had received a similar designation.

Complaints, procedure and composition of the Court

Relying on Articles 10 (freedom of expression) and 11 (freedom of assembly and association), the four applicant organisations which had been designated as “undesirable” complained that that

criteria for their designation had been unforeseeable and had impinged on their freedoms of expression and association

Also relying on Article 10 and 11, the remaining applicants complained of their convictions for involvement with “undesirable” organisations.

The applications were lodged with the European Court of Human Rights between 17 July 2018 and 31 July 2023.

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),
Darian **Pavli** (Albania),
Ioannis **Ktistakis** (Greece),
Andreas **Zünd** (Switzerland),
Diana **Kovatcheva** (Bulgaria),

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

Decision of the Court

[Article 10 and 11 regarding the applicant organisations designated “undesirable”](#)

Designating an organisation as “undesirable” had had legal and practical consequences resulting in a comprehensive ban on the organisation’s operation in Russia. These consequences had amounted to an interference with the applicant organisations’ rights under Article 11 but also Article 10, in so far as the ban had been imposed in connection with the organisation’s public statements and forms of expression. The question was whether that “interference” had been “prescribed by law”.

In order to meet the “prescribed by law” requirements, there had to be a statutory basis for the interference with rights, and the law in question had to be both adequately accessible and formulated with sufficient precision to enable the individual to foresee the consequences which a given action might bring about.

The four applicant organisations in question had been sanctioned for a wide range of activities that the authorities had deemed unacceptable. Those activities included association with foreign officials or organisations that had been previously designated as “undesirable” or “foreign agents”, such as some of the Free Russia Foundation’s board having previously been employed by the US State Department. In terms of actions that led to the designation, they included seminar reports critical of the Russian authorities, training activists, and support for the “European model of democracy”.

The authorities did not allege that those activities had broken any laws. No accusations of inciting violence, undermining democratic principles or interfering with the integrity of elections had been levelled at the applicant organisations.

The Court noted the Venice Commission’s strong criticism of the absence of specific criteria for the misconduct of NGOs, 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 Act’s application unforeseeable.

The Court held that the legal provisions on undesirable organisations had not been formulated with sufficient precision to enable the applicant organisations to foresee that their otherwise lawful actions would result in their designation as “undesirable” and a prohibition on their activities in Russia. Judicial reviews initiated by the applicants had not provided adequate safeguards against the

essentially unrestricted discretion given to the executive authorities. The interference with the applicant organisations' rights had thus failed to satisfy the "prescribed by law" criterion.

There had therefore been a violation of Article 11 of the Convention interpreted in the light of Article 10 in respect of these four applicant organisations.

[Article 10 and 11 regarding applicants prosecuted for associating with "undesirable organisations"](#)

The Court found that the prosecution and conviction of the applicants for their involvement in the activities of organisations designated as "undesirable" had constituted an interference with their right to freedom of association.

The Court noted the applicants had not engaged in any conduct that would have been otherwise prohibited under Russian law, were it not for their alleged association with an organisation designated as "undesirable". Rather, they had exercised their legitimate Convention rights to freedom of expression, assembly and association by sharing content on social media, campaigning for social and political causes, and participating in events and forums. Since the law under which the applicants had been convicted had failed to specify what had constituted "involvement" in the activities of "undesirable organisations" that could result in a conviction, Article 20.33 of the Code of Administrative Offences did therefore not meet the "quality of law" requirement.

The Court furthermore noted that the domestic authorities failed to convincingly establish the identity of the prohibited British organisation Open Russia and the eponymous Russian movement, and also penalised the applicants for sharing hyperlinks to websites of "undesirable organisations" that had been posted many years before their designation. The Court considered that imposing a responsibility on the applicants to foresee future designations or to review their websites to ensure that previously shared material had not been retrospectively classified as linking to an "undesirable" organisation constituted a disproportionate "chilling effect" on their freedom of expression.

Overall, there had been a violation of Articles 10 and 11 of the Convention in respect of the applicants who had been convicted for their involvement with "undesirable organisations".

[Other Articles](#)

Given its findings, the Court held it was not necessary to give a ruling on the complaints under other Articles.

[Just satisfaction \(Article 41\)](#)

The amounts that the Court held that Russia was to pay the applicants in respect of pecuniary damage, non-pecuniary damage and costs and expenses are set out in the [judgment](#).

[Article 46 \(binding force and execution of judgments\)](#)

The Court reiterated that cessation of a Contracting Party's membership of the Council of Europe did not release it from its duty to cooperate with the Convention bodies. The Committee of Ministers continued to supervise the enforcement of the Court's judgments against Russia, and Russia was required to implement them.

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.