



Illustration: Alina Kugush

New «Foreign Agents» Law. What will change?

On April 25, a group of deputies submitted to the State Duma a draft of a new law «On control over the activities of persons under foreign influence.» It will contain regulations relating to the activities of people and organizations recognized as «foreign agents». Lawyers of the Center for the Protection of Media Rights analyzed the bill. This article explains how the legislation on «foreign agents» will change if the law is passed.

Текст на русском

THERE WILL BE A SINGLE LAW ON «FOREIGN AGENTS»

What is the case now?

simultaneously:

- 1 The Law «On Non-Profit Organizations»;
- 2 The Law «On Measures of Influence on Persons Involved in Violations of Fundamental Human Rights and Freedoms, the Rights and Freedoms of Citizens of the Russian Federation»;
- 3 The Law «On Mass Media»;
- 4 The Law «On Public Associations».

Each of them has regulations that explain how people, organizations and public associations might be recognized as «foreign agents» and included in one of the registers, what duties are imposed after that, etc.

What will change?

If the law «On control over the activities of persons under foreign influence» is passed, it will invalidate all the provisions that previously regulated the rules for each type of «foreign agents». The document will establish new rules for the recognition of «foreign agents», new duties and restrictions.

At the same time, all existing norms on liability for violations committed by «foreign agents», which are already enshrined in the Criminal Code and the Code of Administrative Offenses, will also apply in the event of the adoption of a new basic law on «foreign agents».

THERE WILL BE ONE UMBRELLA STATUS FOR ALL «FOREIGN AGENTS»

What is the case now?

Currently, there are four «foreign agency» statuses in Russia:

- 2 Public association performing the functions of a «foreign agent»;
- 3 Foreign media performing the functions of a «foreign agent»;
- 4 An individual performing the functions of a «foreign agent».

There are specific bases for the imposition of each status. For example, the dissemination of information, political activity or the collection of information from the military field (all coupled with foreign funding). Read more in our memo «All about the status of a „foreign agent“: legal recommendations».

What will change?

The new law will introduce a single concept of «foreign agent». The following could be recognised as a «foreign agent» under this concept:

- 1 A Russian or foreign legal entity, regardless of its organizational and legal form;
- 2 A public association operating without the formation of a legal entity, another association of persons (for example, a whole team of journalists working on one project);
- 3 A foreign structure without the formation of a legal entity;
- 4 An individual, regardless of his citizenship or lack thereof.

A UNIFIED REGISTER OF «FOREIGN AGENTS» WILL APPEAR

What is the case now?

Currently in Russia there are registers for each of the types of «foreign agents»: NGOs, public associations, mass media and individuals.

What will change?

existing registries will be abolished, and existing data will be transferred to the new list.

FOR WHAT THEY WILL BE RECOGNIZED AS «FOREIGN AGENTS»

What is the case now?

Currently, the imposition of each «foreign agent» status requires separate grounds. At the same time, in all cases, it is necessary that there be foreign financing (or other assistance from foreign sources, for example, organizational and methodological, as in the case of recognizing a person as a natural person- a «foreign agent»).

What will change?

The new law prescribes uniform grounds for recognizing a person, organization or association as a «foreign agent».

Thus, a person can be recognized as a «foreign agent» if:

- 1** Carries out political activities (this includes, for example, public appeals to authorities that are aimed at adopting, repealing or changing laws, or spreading opinions about decisions taken by authorities or policies, etc.);
- 2** Conducts purposeful collection of information in the field of military, military-technical activities of the Russian Federation (a list of such information was previously approved by the FSB, it included, for example, information about hazing in the army, etc.) or finances it;
- 3** Distributes messages and materials intended for an unlimited number of persons or participates in the creation of such messages and materials (or finances their creation or distribution).

foreign influence in other forms.» That is, if the law is adopted, **foreign financing will not be a mandatory feature for being entered into the register of «foreign agents».**

At the same time, the terms «support» and «foreign influence» are defined very broadly in the bill:

«Support means the provision of funds and (or) other property to a person by foreign sources, as well as the provision of organizational, methodological, scientific and technical assistance, assistance in other forms to a person by a foreign source.»

«Foreign influence is understood as providing support to a person by a foreign source and (or) influencing a person, including through coercion, persuasion and (or) other means.»

At the same time, the wording used in the law, such as «persuasion», «coercion», «in other ways» and «in other forms» enables the regulatory authorities to apply the law indefinitely and absolutely unpredictably, in other words, to recognize almost anyone as «foreign agents».

THE REGISTER OF «FOREIGN AGENTS» WILL INCLUDE NOT ONLY «FOREIGN AGENTS», BUT ALSO PERSONS AFFILIATED WITH THEM

WHAT IS THE CASE NOW?

Currently, the registers of «foreign agents» themselves include exclusively people and organizations that have received this status. In addition, in March 2022, amendments were adopted to the Law «On Measures to influence persons involved in violations of fundamental human rights and freedoms, the rights and

in Russia, where people affiliated with «foreign agents» should also be entered». As of April 28, 2022, this registry has not been created.

What will change?

If the bill is adopted, the register of «foreign agents» will also include people affiliated with «foreign agents». These are people who:

- 1** Are or were part of the bodies of an NGO-«foreign agent», are or were its founder, member, participant, manager or employee;
- 2** Are or were, a part of the bodies of an unregistered public association — a «foreign agent», are or were its founder, member, participant, head;
- 3** Are or were part of the management bodies, were or are the founder, manager, employee of a «foreign agent» included in the register in connection with the distribution or participation in the creation of messages and materials;
- 4** Carry out or have carried out political activities and receive or have received money or other property assistance for it from NGOs, unregistered public associations, people recognized as «foreign agents» (including through intermediaries).

It turns out that anyone who is somehow connected (or was connected) with NGOs, public associations, mass media or individuals who were previously recognized as «foreign agents» can be recognized as an affiliated person.

At the same time, people affiliated with «foreign agents» will not be subject to the requirements and restrictions that exist for «foreign agents» themselves. That is, they will not have to put notes or submit reports to the Ministry of Justice.

A person who is entered into the unified register of «foreign agents» as an individual affiliated with a «foreign agent» can appeal

more than two years from the moment of inclusion in it (for example, he resigned from an NGO that performs the functions of a «foreign agent»).

A "FOREIGN AGENT"'S WEBSITE CAN BE BLOCKED FOR NOT SUBMITTING A REPORT AND OTHER VIOLATIONS

What is the case now?

A website can be blocked only on general grounds.

What will change?

The bill stipulates the right of the Ministry of Justice to apply to the Federal Supervision Agency for Information Technologies and Communications (Roskomnadzor) with a request to block the website of a «foreign agent» if a violation was committed. For example, access to the resource can be restricted for violating reporting deadlines or if the person in question has not established a legal entity (if required by law), or for «other violations of the foreign agents law».

THERE WILL BE MORE CHECKS AND CONTROLS

What is the case now?

The Ministry of Justice has the right to conduct scheduled and unscheduled checks. The basis for the latter may be, for example, the expiration of the time limit for the elimination of a violation imposed on an organization, or a report of a violation received from citizens or organizations.

What will change?

organizations, but also for individuals. For example, it will have the opportunity to request and receive information about the financial and economic activities of «foreign agents» from the authorities, as well as from credit institutions and other financial organizations.

In addition, the Ministry of Justice will have the right to send its representatives to participate in events held by «foreign agents». These can be seminars, webinars, meetings of the board of directors, meetings and much more.

The Ministry of Justice had previously had to respond to received applications in a general manner, but now the bill establishes the direct duty of the department to check statements from state agencies, parties and public associations, the Public Chamber, the media, citizens and organizations about those who need to be included in the register.

Besides, if the bill is adopted, the Ministry of Justice will submit an annual report on the activities of «foreign agents» to the Federation Council and the State Duma. In particular, this report will contain information about the participation of «foreign agents» in political activities, about the receipt and expenditure of money, and the results of monitoring the activities of «foreign agents».

PERSONAL POSTS WILL NOT NEED TO MENTION THE «FOREIGN AGENT» STATUS OF THE AUTHOR

What is the case now?

NGOs, public associations, mass media and individuals recognized as «foreign agents» are required to indicate their status when distributing information materials. At the same time, the special form for indicating this status has been approved only for the «foreign agent» media.

What will change?

«Foreign agents» will have to state their status in the materials that they produce or distribute **in connection with their «foreign agency» activities.**

That means that, in fact, «foreign agents» will be exempted from stating their status in the «everyday content» that is in no way related to the activities specified in the law. For example, one won't have to mention one's status on personal photos or messages of a neutral nature on social media.

At the same time, just as now, the status will have to be mentioned by «foreign agents» themselves, as well as the founders, members, participants, heads of any legal entity included in the register, or members of a management body within such an entity. It will be necessary to label materials that are distributed in the media, the Internet, and also sent to public authorities, educational organizations and other bodies and organizations. However, it will only be required if the materials are created or distributed in connection with the «foreign agency» activities.

In addition, the «foreign agent» will have to inform its founders (participants), beneficiaries and employees about the status.

Meanwhile, the law does not say that any authority will have to approve the form for stating one's status. The document itself uses the following wording:

«The materials (information) were produced, distributed and/or sent by a „foreign agent“ or are related to the activities of such an agent.»

«The materials (information) were produced, distributed and (or) sent by the founder, member, participant, or head of a legal entity included in the register, or a member of a management body.»

EVERYBODY MUST APPLY TO BE INCLUDED IN THE REGISTER INDEPENDENTLY

What is the case now?

According to the current legislation, NGOs and public associations that fit the definition of «foreign agents», and people who are engaged in political activities or collect information from the military or military/technical field and receive foreign support, are required to be included in the relevant registers voluntarily. Therefore, they can be held accountable, for example, fined under the article of the Administrative Code. However, for people and organizations that fit the definition of «foreign agent» media, the procedure is different at the moment: they do not have to submit an application for inclusion in the register voluntarily. Therefore, there is no punishment.

What will change?

The draft of the new law prescribes the obligation of all people who «intend to act as a „foreign agent“» to submit an application to the Ministry of Justice for inclusion in the register before their actions begin. If the application has not been submitted, the Ministry of Justice has the right to include the person in the register itself.

Only the following persons are exempt from this duty:

- 1** Employees of diplomatic missions, consulates, representatives of foreign authorities, etc.;
- 2** Foreign journalists accredited in the Russian Federation;
- 3** Other persons by decision of the Ministry of Justice in coordination with the Federal Security Service (FSB) and executive authorities.

EXCLUDED FROM THE REGISTRY WILL BE DEVELOPED

WHAT IS THE CASE NOW?

In the current legislation, the procedure for being excluded from the registers exists only for NGOs and public associations recognized as «foreign agents», as well as for people who are included in the register of «foreign agent» private persons. There is no such procedure for people and organizations included in the register of «foreign agent» media. In this case, the decision on exclusion from the register is made by the Ministry of Justice in coordination with the Ministry of Foreign Affairs.

What will change?

The new law (if adopted) will develop the procedure for the exclusion of any «foreign agent» from the register. For this, one will need to refuse foreign support or stop the «foreign agency» activities. A year after that, one will be able to submit an application for exclusion from the register to the Ministry of Justice, which will have to conduct an audit. If these facts are confirmed, the «foreign agent» will be excluded from the list.

In addition, as now, the grounds for exclusion from the registers will be:

- 1** Termination of the activity of the concerned legal entity in connection with its liquidation;
- 2** Termination of the activity of the concerned public association operating without the formation of a legal entity, another association of persons, or a foreign structure without the formation of a legal entity;
- 3** Death of the individual in question.

They will have the right to submit a free-form application to the Ministry of Justice for exclusion from the register, attaching confirmation that the circumstances that served as the basis for inclusion in the register have been terminated.

People affiliated with the «foreign agent» will be able to be excluded from the register if they were not associated with the «foreign agent» within two years after being included in it (for example, they resigned from an NGO or media that were included in the register).

NEW RESTRICTIONS FOR «FOREIGN AGENTS»

What will change?

The range of restrictions for «foreign agents» in the new bill will be significantly expanded. For instance:

- positions of the state civil service and municipal service, or to be either a member of the election commission or the referendum commission.
- 2** The inclusion of an official or citizen in the register may be the basis for refusal of admission to state secrets.
 - 3** A «foreign agent» will not be able to participate in the activities of commissions, committees, advisory, expert and other bodies that exist under the authorities.
 - 4** Public associations included in the register will not be able to nominate candidates to the public supervisory commission.
 - 5** «Foreign agents» will not be able to conduct an independent anti-corruption examination of regulatory legal acts (or drafts).
 - 6** A «foreign agent» will not have the right to carry out activities that promote or hinder the nomination of candidates, lists of candidates, the election of registered candidates, the initiative of holding a referendum and directly holding a referendum, achieving a certain result in elections, referendums, as well as in other forms to participate in election campaigns or referendum campaigns. «Foreign agents» will be prohibited from making donations to the election funds of candidates, registered candidates, electoral associations, and referendum funds.
 - 7** A «foreign agent» will not be entitled to receive state financial support. This can formally include benefits, pensions, and subsidies.
 - 8** «Foreign agents» will be prohibited from making donations to political parties and their regional offices. Political parties will not be able to make deals with «foreign agents».
 - 9** Funds deposited by or in favor of «foreign agent» organizations will not be subject to insurance.

are involved.

1111.A «foreign agent» will not have the right to produce information products for minors.

1212.«Foreign agents» will be prohibited from acting as organizers of public events, for example, rallies, as well as transferring money or other property to organize or conduct a public event.

1313.A «foreign agent» will not be able to act as a supplier (contractor, worker) for the purchase of goods, work, or services to meet state or municipal needs.

1414.A «foreign agent» will not be able to use the simplified taxation system and simplified accounting statements.

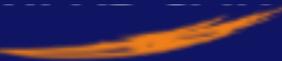
The text has been prepared by lawyers of the Center for the Protection of Media Rights

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