



RUSSIAN-STYLE “FOREIGN AGENTS” LAWS SIGNAL A REJECTION OF DEMOCRATIC PRINCIPLES

// KIRILL KOROTEEV

The details may vary, but all Russian-style “foreign agents” laws share an underlying view that the state should be immune to international scrutiny and public accountability.

Since Russia adopted its initial law regulating the activities of “foreign agents” in 2012, a growing number of countries in the region have followed suit, most recently Hungary in 2023, and both Georgia and Kyrgyzstan in 2024. International civil society groups and human rights institutions have expressed concern or suggested minor amendments, but they may be missing the bigger picture: the basic rationale behind these laws is that governments should not be subject to such scrutiny and accountability.

In fact, if there is a “foreign agents” law in your country modeled on Russia’s law, it may already be too late to act. It is extraordinarily difficult if not impossible to remove these laws from the books, and the damage caused by their enactment may be irreversible in the short term.

Photo: An anti-“foreign agents” law poster that reads: “You are the foreign agents yourselves.”

Therefore, democracy and human rights advocates should take timely and decisive action to defeat Russian-style “foreign agents” bills at an early stage. As developments in Hungary, Kyrgyzstan, and Georgia have shown, **even defeated bills can be revived and adopted under new names**. Opponents of such laws should also recognize that they are merely the outward sign of a deeper, already advanced turn away from democracy by the governments in question.

To defend and justify legislative measures that would repress or punish independent civil society, sponsors of such bills often point to the U.S. Foreign Agents Registration Act (FARA) rather than examples from Russia.¹ Yet there are key differences between the U.S. and Russian laws, including the fact that FARA targets entities acting on instructions from foreign states, individuals, and organizations, whereas **the Russian law is exclusively concerned with nongovernmental organizations (NGOs), independent media, and individuals that critically scrutinize the activities of their government** based on their own will and conviction.

The Evolution and Impact of the Russian “Foreign Agents” Law

The Russian “foreign agents” law that was adopted in 2012 constituted a set of amendments to the 1997 Not-For-Profit Associations Act. It required NGOs to register as “foreign agents” with the Ministry of Justice if they received foreign funding and engaged in political activity. Subsequently, the ministry began designating “foreign agents” on its own initiative. In Russian, the term “foreign agent” suggests a spy or a traitor. This pejorative designation was used to smear and ultimately discredit NGOs.

The law’s definition of foreign funding was **overly broad** and could include **trivial expenses** such as hotel and train-ticket reimbursements. **Even the refusal of foreign funding was considered “foreign funding.”**² Likewise, political activity was defined vaguely as “attempts to influence public opinion in order to change governmental policies.” Russian courts interpreted examples of such activity as any information posted online, regardless of whether it was criticism of a law or policy, denunciation of torture, guidance on how to defend one’s rights in a police station, or instructions on how HIV-positive people can obtain the required treatment.

Moreover, **the law did not require the Ministry of Justice to establish that any instructions came from a foreign actor to the Russian “agent,” or that there was any relation between funding and “political activity.”** For example, the Civic Assistance Committee, an organization that received international funds to assist asylum seekers with food and clothing and also published materials on human rights defenders abroad—an unrelated “political activity” that received no such funding—was listed as a “foreign agent” despite the lack of any connection between the two lines of work.³

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The “foreign agent” designation imposed multiple obligations on targeted NGOs, such as labeling all publications with a statement that they were produced by a “foreign agent.” It also increased the organizations’ bureaucratic burden by requiring them to undergo an annual audit and file more frequent reports on their activities and finances.⁴ Failure to comply incurred fines, and **failure to voluntarily register as a “foreign agent” became an administrative offense or, in some cases, a crime.** Furthermore, “foreign agents” could not monitor elections or nominate candidates for public supervisory commissions (a term referring to independent visiting bodies for detention facilities).

In the absence of meaningful international reaction to this “legal” repression against Russian civil society, **the application of the “foreign agents” law was gradually extended beyond NGOs to media outlets and individuals.** (Given this history of expansion, civil society groups in Georgia were right to see even a watered-down “foreign agents” bill as a serious threat.)⁵ Most of the major Russian NGOs had to dissolve or were forced to shut down during the first decade of the law’s application. In addition, foreign funders, NGOs, and academic institutions that offered research, educational, or collaborative opportunities were prohibited from working in Russia after having been declared “undesirable.” This term was introduced under a separate piece of legislation that banned the activities of foreign NGOs that were seen as threats to national security, including the foreign legal entities of Russian groups.

Since 2022, foreign funding has not even been required to trigger the “foreign agent” designation—any “foreign influence,” broadly understood, is sufficient.⁶ Recently, a popular rock musician was listed as a “foreign agent” for having given interviews to foreign media. The Ministry of Justice explained that the media “provided him a platform for expression, so he was under their influence.”⁷ Furthermore, new restrictions have been introduced in piecemeal fashion—from a prohibition on the use of simplified accounting methods by “foreign agent” NGOs to a ban on teaching and running in elections for “foreign agent” individuals.

As a result of the threat of criminal prosecution, onerous reporting requirements, rules on publication labeling, and other burdens, **being listed as a “foreign agent” can be understood as a type of “civic death.”** The listing effectively impedes any free expression; results in fees, expenses, and fines; and—for organizations—ultimately leads to dissolution, whether by default, because of an inability to continue operations while meeting all conflicting requirements and burdens, or by a court order following two “violations” of the law, however minor.

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“Foreign Agents” Laws as an Indicator of Democratic Backsliding

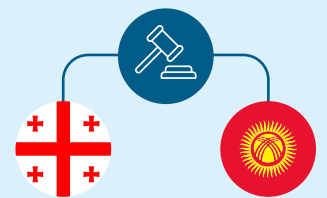
Proponents of the “foreign agents” laws argue that they are meant to increase NGO transparency. Yet the debates related to these laws in Russia, Georgia, and Kyrgyzstan did not identify deficiencies in existing regulations. **NGOs in many countries already file considerable paperwork, and their funding undergoes intense scrutiny**, which is rarely the case with private-sector government contractors. The Council of Europe’s Venice Commission has held that **enhancing transparency and accountability is an essential component of good governance**. These principles, however, are most appropriately applied to the public sector. Imposition of extensive reporting or disclosure requirements on private associations may be justified only under circumscribed conditions—for example, when such associations receive public funding or perform essential democratic functions, as with political parties.⁸

Clearly there are other motives at work. The European Court of Human Rights described the underlying rationale of the Russian “foreign agents” law persuasively in its 2022 judgment. Having collected a decade’s worth of complaints from Russian NGOs, the court found that **the law was based on a notion that matters such as respect for human rights and the rule of law are “internal affairs” of the State** and that **any external scrutiny of such matters is suspect and a potential threat to national interests**. This notion is not compatible with the drafting history and underlying values of the European Convention on Human Rights, then binding on Russia, as an instrument of European public order and collective security. According to those principles, the rights of all persons within the legal space of the Convention are a matter of concern to all member States of the Council of Europe—a viewpoint that stands in stark contrast to the Russian-style “foreign agents” laws.⁹

On the surface, Georgia’s recent “foreign agents” legislation may look very different from Russia’s. It does not require labeling, mandatory audits, or biannual activity reports. Yet it is based on the same idea: **the government has the ultimate authority to determine which speech is acceptable according to its own preferences, regardless of international human rights standards**. As such, the Georgian law is a “Russian-style law” in the sense that they share the same underlying rationale. Similarly, Article 29 of Kazakhstan’s tax code stipulates that the Ministry of Finance may, at its discretion, designate NGOs, businesses, and individuals as foreign agents. The Kyrgyzstani law, which borrows heavily from that of Russia, is another recent example.¹⁰

“Foreign agents” laws are potent tools for rulers who hope to make themselves irreplaceable; for would-be dictators, they are packaged in justifications that aim to distract the public from their true intent. Strictly speaking, in settings that are already extremely repressive, such as Belarus, Azerbaijan, Uzbekistan, Tajikistan, and Turkmenistan, such laws do not exist and would be redundant

“Foreign agents” laws



The recent laws in **Georgia** and **Kyrgyzstan** have notably been adopted in manifest disregard of the decisions of the European Court of Human Rights and the UN Human Rights Committee, which found the Russian law on “foreign agents” to be “absurd,” “arbitrary,” and in breach of international treaties.

if they did. Rather than being a symptom of the harshest dictatorships, **these laws have their origins in the breakdown and rollback of what had been comparatively democratic civil societies.**

The recent laws in Georgia and Kyrgyzstan have notably been adopted in manifest disregard of the decisions of the European Court of Human Rights and the UN Human Rights Committee,¹¹ which found the Russian law on “foreign agents” to be “absurd,” “arbitrary,” and in breach of international treaties.¹² **This defiance of supranational bodies is another glaring sign that the governments in question are adopting their “foreign agents” laws to increase authoritarian control rather than promote transparency.** And so long as the Council of Europe and the United Nations do not act to enforce their bodies’ decisions, the affected civil society organizations will be left to their own devices.

Opposing the Broader Assault on Democratic Norms

We may have grown too accustomed to democratic backsliding, common disregard of international court decisions, and hollow expressions of concern following the arrests and prison sentences of human rights defenders. Such complacency leads us to sleepwalk into bigger crises that could have been avoided.

While it is important to call out falsehoods and mischaracterizations, it makes little sense to focus on fighting the “foreign agent” rhetoric, or indeed any authoritarian regimes’ rhetoric, as such. Opposing authoritarianism at a systemic level is what will ensure that no such laws are proposed in the first place.

To oppose authoritarianism and its antidemocratic laws effectively, two broad strategies will be required. First, **democracies and prodemocracy international institutions must consistently support civil society rather than corrupt, authoritarian-leaning governments,** even if cooperative engagement with the latter may seem more profitable in the short term. Second, **democratic actors must pursue bilateral and multilateral enforcement of human rights treaties that leave no room for “foreign agents” laws.** These laws may appear to be defensive or inward-looking in nature, coming down hardest on domestic groups and individuals. In reality, however, they are an aggressive assault on the very idea of international law, democratic standards, and fundamental rights to which all human beings are entitled.

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ENDNOTES

- 1 For a helpful overview and analysis, see Nick Robinson, *Foreign Influence Registration Laws and Civil Society: An Analysis and Responses*, International Center for Not for Profit Law, April 2024, www.icnl.org/post/report/foreign-influence-registration-laws-and-civil-society.
- 2 Moscow City Court, case no. 4g-1084/2015, cassation ruling of 23 April 2015, *Association GOLOS and the Plenipotentiary for Human Rights in the Russian Federation*.
- 3 Meshchanskiy District Court of Moscow, case no. 2-10549/2015, judgment of 22 July 2015, *ROO Grazhdanskoye Sodeystviye*.
- 4 More specifically, NGOs were obliged to file biannual rather than annual activity reports, and quarterly rather than biannual financial reports.
- 5 For example, the Georgian variant of the bill only provided for the NGOs' obligations to submit one annual financial statement.
- 6 "Russia: New Restrictions for 'Foreign Agents,'" Human Rights Watch, 1 December 2022, www.hrw.org/news/2022/12/01/russia-new-restrictions-foreign-agents.
- 7 Zamoskvoretskiy District Court of Moscow, case no. 2a-1907/2022, judgment of 10 November 2022, *A.V. Makarevich*.
- 8 Council of Europe, *Venice Commission, Urgent Opinion 1190/2024 on the Law of Georgia on Transparency of Foreign Influence*, CDL-AD(2024)020, 24 June 2024, para. 31, available at: [www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2024\)020-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2024)020-e).
- 9 Council of Europe, European Court of Human Rights, *Ecodefence and others v. Russia*, nos. 9988/13 et al., 14 September 2022, para. 139, available at: <https://hudoc.echr.coe.int/fre#%7B%22itemid%22%3A%22001-217751%22%7D>.
- 10 For reference, the text of the Kyrgyzstani law is available at the following web address: <https://cbd.minjust.gov.kg/4-5321/edition/6031/ru>. (Original source material in Russian.)
- 11 Please see the European Court of Human Rights' judgement in *Ecodefence and others*, cited above. For the UN Human Rights Committee, refer to CCPR/C/RUS/CO/8, 1 December 2022, para. 34. Also, please consult condemnations by the Committees against Torture and Discrimination against Women: CAT/C/RUS/CO/6, 28 August 2018, para. 28, and CEDAW/C/RUS/CO/9, 23 November 2021, para. 18.
- 12 Council of Europe, European Court of Human Rights, *Ecodefence and others v. Russia*, nos. 9988/13 et al.

ABOUT THE AUTHOR

Kirill Koroteev is a Russian lawyer who litigates cases of human rights violations in domestic and international courts. He has represented multiple organizations and individuals affected by the Russian "Foreign Agents" law in Russian courts, the European Court of Human Rights, and the UN Treaty Bodies. He also advises human rights NGOs in the countries where similar laws have been or are being adopted.

PHOTO CREDITS

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