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Committee on Economic, Social and Cultural Rights

Concluding observations on the sixth periodic report of the Russian Federation

Addendum

Information received from the Russian Federation on follow- up to the concluding observations*

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* The present document is being issued without formal editing.



Paragraph 8 (civil society organizations)

1. The right of association and freedom of association are not absolute and may be restricted by law to the extent necessary, including for the protection of the constitutional order, securing of due recognition and respect for the rights and interests of others, national defence and security, public order and the general welfare in a democratic society (Universal Declaration of Human Rights, art. 29 (2); International Covenant on Civil and Political Rights, art. 22 (2); Constitution of the Russian Federation of 12 December 1993, arts. 15 (4), 30 (1) and 55 (3)).
2. Regarding the legal regulation of the activities in the territory of the Russian Federation of non-profit organizations acting as foreign agents, the following should be noted.
3. Federal Act No. 121-FZ of 20 July 2012 amending certain legislative acts of the Russian Federation with regard to the regulation of the activities of non-profit organizations acting as foreign agents ensures that Russian society has the appropriate means to monitor the activities of non-profit organizations that are funded by foreign sources and that pursue political goals, including in the interests of their financial backers.
4. The recognition of specific Russian non-profit organizations as foreign agents is conditional on the legal relations related to the receipt of cash and other assets, as defined in Federal Act No. 7-FZ of 12 January 1996, the Non-Profit Organizations Act. For this purpose, such organizations are to be identified as specific political actors in the territory of the Russian Federation.
5. On 25 September 2013, the Federation Council of the Federal Assembly of the Russian Federation adopted Decision No. 350-SF,¹ in which it approved the initiatives of the Office of the Procurator General to amend the legislation of the Russian Federation regulating the establishment and activities of non-profit organizations.
6. This Federation Council decision was implemented in 2014.
7. Pursuant to Federal Act No. 147-FZ of 4 June 2014 amending article 32 of the Non-Profit Organizations Act, the Ministry of Justice has the authority, on its own initiative, to add a non-profit organization to the register of organizations acting as foreign agents if such an organization is identified and has not applied to be added to the register. It is also stipulated that the non-profit organization has the right to appeal against the decision to include it in the register in court.
8. Paragraph 3.2 (6) of Constitutional Court Decision No. 10-P of 8 April 2014² provides that the obligation on non-profit organizations acting as foreign agents to apply for inclusion in the register of non-profit organizations acting as foreign agents does not prevent them from receiving financial support, in the form of cash or other assets, from foreign and international organizations, foreign nationals and stateless persons. Nor are these organizations precluded from participating in political activities in the territory of the Russian Federation. They are therefore not discriminated against in comparison to non-profit organizations that do not receive foreign funding. Accordingly, the obligation on non-profit organizations acting as foreign agents to apply for inclusion in the relevant register before engaging in political activities is intended only to ensure greater transparency in the activities of such organizations. It does not prevent them from seeking and receiving funding from either foreign or Russian sources and does not entail different

¹ Decision of the Federation Council of the Federal Assembly of the Russian Federation to inform the Procurator General of the Russian Federation of the outcome of the review of Federal Act No. 121-FZ of 20 July 2012.

² Constitutional Court Decision No. 10 of 8 April 2014 on the review of constitutionality of articles 2 (6) and 32 (7) of the Federal Act on Non-Profit Organizations, article 29 (6) of the Federal Act on Voluntary Associations and article 19.34 (1) of the Code of Administrative Offences in response to complaints from the Ombudsman, the Kostroma Centre for the Support of Civic Initiatives and the individuals L.G. Kuzmina, S.M. Smirensky and V.P. Yukechev.

treatment for non-profit organizations involved in political activities based on the aims, forms and methods of such activities.

9. In any case, the legal consequences of adding a non-profit organization to the register of non-profit organizations acting as foreign agents do not include the mandatory dissolution of the non-profit organization.

10. Some non-profit organizations acting as foreign agents have taken the decision to dissolve themselves on their own (voluntary dissolution) either because they took issue with Russian legislation on non-profit organizations or in order to circumvent the law by evading accountability for their blatant and systematic failure to comply with the obligations on non-profit organizations acting as foreign agents to register and to identify the source of their publications.

11. According to the legal position set forth in Constitutional Court Decision No. 10-P of 8 April 2014 (para. 3.1 (5)), the legislative framework for the concept of a non-profit organization acting as a foreign agent does not imply that the State disapproves of such organizations and is not intended to foster a negative attitude towards their political activities, and therefore cannot be considered as an indication of mistrust or a desire to discredit such organizations or their goals.

12. It is important to note that the language used in Federal Act No. 7-FZ is “non-profit organization acting as a foreign agent” and not “non-profit organization that is a foreign agent”. The real meaning of “non-profit organization acting as a foreign agent” is a non-profit organization acting in the interests of its foreign sponsors.

13. In accordance with Russian legislation, for a non-profit organization to be deemed to be acting as a foreign agent, it must have two features: it must receive cash or other assets from foreign sources and it must engage in political activities (in the areas of activity laid down in the Act and in one of the forms listed in the Act). That is why the legislature did not confine the wording to “organization receiving foreign funding”.

14. Regarding Federal Act No. 129-FZ of 23 May 2015 amending certain legislative acts of the Russian Federation, which stipulates the grounds and procedure for declaring the activities of a foreign or international non-governmental organization (NGO) undesirable in the territory of the Russian Federation, the following should be noted.

15. The provisions of Federal Act No. 129-FZ are of a preventive nature and establish the legal conditions to deter and prevent activities of foreign (international) NGOs posing a threat to the fundamental values of the Russian Federation.

16. The activities of a foreign (international) NGO may be declared undesirable if the following conditions are met: the organization must be a foreign or international NGO and its activities must pose a threat to the constitutional order of the Russian Federation, national defence or national security (the threat must be real and not indirect, which must be demonstrated by the competent authorities).

17. Currently, exercising its powers under article 3.1 (1) of Federal Act No. 272-FZ of 28 December 2012 on Sanctions against Persons Involved in Violations of Fundamental Human Rights and Freedoms and of the Rights and Freedoms of Citizens of the Russian Federation, the Office of the Procurator General has declared the activities of 15 foreign entities undesirable in the territory of the Russian Federation, of which 10 are from the United States of America, 1 from the United Kingdom, 1 from Liechtenstein, 1 from Germany and 1 from Lithuania.

18. In the first half of 2018, the activities of three foreign NGOs, whose actions were intended to provoke social unrest, falsify election results, discredit Russian domestic and foreign policy and destabilize the sociopolitical situation in the country, were declared undesirable: the European Platform for Democratic Elections (Germany), the International Elections Study Centre (Lithuania) and the German Marshall Fund (United States of America).

19. The Ministry of Justice placed all these organizations on the publicly available list of foreign and international NGOs whose activities have been declared undesirable in the territory of the Russian Federation.

20. Foreign (international) NGOs whose activities have been declared undesirable in the territory of the Russian Federation and also any persons involved in their activities are not denied the right to legal protection from arbitrary decisions. The actions of procuratorial or justice officials may be challenged in court, which meets the requirements of article 46 (2) of the Constitution and is consistent with international law.

21. The decisions to declare undesirable the activities of the U.S. Russia Foundation for Economic Advancement and the Rule of Law and Open Russia of the United Kingdom (now Human Rights Project Management) were appealed against in court. The appeals were denied by the Tver District Court in Moscow and the decisions of the Office of the Procurator General were ruled to be lawful and well founded.

22. Accordingly, the provisions of Federal Acts Nos. 121-FZ and 129-FZ were adopted solely for the purpose of protecting the constitutional order, securing due recognition and respect for the rights and interests of others, national defence and security, public order and the general welfare in a democratic society. They are not inconsistent with international law and do not need to be amended or repealed.

23. The Constitution, in which the Russian Federation is proclaimed to be a democratic State governed by the rule of law, where the greatest value is placed upon human beings and their rights and freedoms and which has the duty to recognize, respect and protect human and civil rights and freedoms, guarantees the judicial protection of rights and freedoms for all and ensures justice on the basis of equality before the law and the courts.

24. These provisions are fully applicable to the social relations that are involved in human rights work in the Russian Federation.

25. The national criminal law also provides for additional guarantees to ensure the safety of persons involved in human rights. For example, under article 105 (2) (b) of the Criminal Code, if the murder of a person or his or her relatives is committed for the purpose of obstructing the lawful fulfilment by that person of his or her professional or civic duty or in retaliation for such activity, that is considered an aggravating factor. Fulfilment of civic duty refers both to the execution by a citizen of his or her personal obligations for the benefit of society or in the interests of individual persons and to the performance of other community services.

26. Article 105 (2) (k) of the Criminal Code provides for criminal liability for murder motivated by political, ideological, racial, ethnic or religious hatred or enmity, or by hatred or enmity directed against any specific social group.

27. The above criminal offences are punishable by a custodial sentence of 8 to 20 years and an additional period of restriction of liberty of 1 to 2 years upon release, or by life imprisonment.

28. Similar aggravating factors are provided for in article 111 (Intentional infliction of serious bodily harm), article 112 (Intentional infliction of moderate bodily harm) and article 115 (Intentional infliction of minor bodily harm) of the Criminal Code.

29. Article 136 of the Criminal Code prohibits discrimination, defined as the violation of the rights, freedoms and interests of persons based on their sex, race, ethnicity, language, origin, financial status, official capacity, place of residence, attitude to religion, beliefs, membership of voluntary associations or any other social group, committed by a person making use of his or her official position.

30. Under article 149 of the Criminal Code, it is also a criminal offence to obstruct a meeting, rally, demonstration, march or picket or participation in them or to compel anyone to participate in them if such actions are committed by a person in his or her official capacity or with the use or threat of violence.

Paragraph 15 (a) (land rights of indigenous peoples)

31. The establishment, protection and use of areas in which natural resources are traditionally used by numerically small indigenous peoples in the North, Siberia and the Far

East of the Russian Federation are regulated by the following federal laws to ensure that they may use such resources and maintain their traditional way of life:

- Federal Act No. 82-FZ of 30 April 1999 on Guarantees of the Rights of Numerically Small Indigenous Peoples of the Russian Federation
- Federal Act No. 104-FZ of 20 July 2000 on General Principles for the Organization of Communities of Numerically Small Indigenous Peoples in the North, Siberia and the Far East of the Russian Federation
- Federal Act No. 49-FZ of 7 May 2001 on Regions of Traditional Resource Use of Numerically Small Indigenous Peoples in the North, Siberia and the Far East of the Russian Federation

32. Work is under way to improve the legislation directly governing matters related to the livelihoods of numerically small indigenous peoples and also sectoral legislation, taking into consideration the need to address existing gaps and conflicting laws, primarily regarding the regulation of land and other natural resources.

33. The Federal Agency for Ethnic Affairs has brought a bill before the Government to amend the Federal Act on Regions of Traditional Resource Use by Numerically Small Indigenous Peoples in the North, Siberia and the Far East of the Russian Federation and some other legislative instruments.

34. This bill is intended to define the procedure for establishing regions of traditional resource use by the numerically small indigenous peoples in the North, Siberia and the Far East of the Russian Federation, including federal regions.

35. The bill also provides for the addition to Federal Act No. 49-FZ of provisions on the conditions for the use of regions of traditional resource use of the numerically small indigenous peoples in the North, Siberia and the Far East of the Russian Federation by individual companies and legal entities regarding their obligation to obtain the consent of representatives of the numerically small indigenous peoples in the North, Siberia and the Far East of the Russian Federation and their communities for business or other economic activities not related to traditional livelihoods, except for persons carrying out scientific or other not-for-profit activities in regions of traditional resource use.

36. The Federal Agency for Ethnic Affairs is working with the Association of Indigenous Peoples of the North, Siberia and Far East of the Russian Federation on a bill to amend article 8 of Federal Act No. 82-FZ of 30 April 1999 on Guarantees of the Rights of Numerically Small Indigenous Peoples of the Russian Federation in order to approve the compensation procedure and the calculation method for losses caused by damage to the traditional settlement areas of the numerically small indigenous peoples of the Russian Federation by the activities of organizations of all forms of ownership and by physical persons.

37. A further bill is being developed to propose a register of representatives of numerically small indigenous peoples in order to eliminate the remaining barriers to upholding the specific rights and preferences guaranteed to such peoples in their traditional use of natural resources and maintaining their traditional way of life.

38. Article 39.14 of the Land Code (Federal Act No. 136-FZ of 25 October 2001) provides that when land is allocated in areas where numerically small indigenous peoples traditionally live and earn their livelihoods for purposes not related to their traditional economic activities and crafts, public assemblies and referendums may be held on the allocation of land for construction in locations where the interests of such peoples will be affected. Land is allocated based on the results of the assemblies or referendums.

39. According to the policy outline for the sustainable development of the numerically small indigenous peoples in the North, Siberia and the Far East of the Russian Federation (approved by Government Order No. 132 of 4 February 2009), the fundamental principles of sustainable development for these minorities are the need for their representatives and associations to be involved in decision-making on matters affecting their rights and interests in the exploitation of natural resources in areas where they traditionally live and

earn livelihoods and also the need to assess the cultural, ecological and social impact of the proposed projects and works in these areas.

40. An example of legislative recognition of the procedure to involve indigenous peoples in decision-making and consultation processes is the law adopted in 2010 in the Republic of Sakha (Yakutia) on ethnological impact assessments in areas in which the numerically small indigenous peoples of the Republic of Sakha (Yakutia) traditionally live and earn their livelihoods. The main objectives of an ethnological impact assessment include ethnological monitoring, the avoidance of any negative consequences on the development of the ethnic group from changes to traditional settlement areas due to planned economic and other activities and the determination of compensation levels for losses caused by users of the land and other natural resources in traditional settlement areas of numerically small indigenous peoples. The key principles of ethnological impact assessments are the requirement to carry one out before a decision is made to conduct planned economic and other activities in traditional settlement areas of numerically small indigenous peoples, transparency, the involvement of voluntary organizations (associations) and the consideration of public opinion.

41. In the Russian Federation, there is an established practice of holding negotiations between corporations (engaged in mining in close proximity to traditional settlement areas of small indigenous minorities), regional authorities and indigenous peoples. Sakhalin Energy, which has been operating on Sakhalin Island since 1994, uses the Sakhalin Numerically Small Indigenous Peoples Development Plan as a mechanism for engagement with the small indigenous minorities of the North. The Plan is renewed every five years. Before each five-year phase of the Plan, an ad hoc working group drafts a document and organizes two consultation tours in traditional settlement areas of numerically small indigenous peoples. The outcomes of the consultations are complemented by a final evaluation carried out by an independent expert, an indigenous representative and a sociologist. Lastly, a conference is held with delegates from all seven traditional settlement regions of the indigenous peoples of Sakhalin province to consider and approve the Plan. Indigenous peoples take part in the administration of the programme. Decisions on the allocation of funding to the various programmes and projects are made by programme committees consisting entirely of indigenous representatives specifically elected at public meetings for that purpose. A set of measures to reduce the impact of projects has been developed, which covers both the concerns of indigenous peoples regarding the Sakhalin-2 project expressed during the public consultations and provides for remedial action.

Paragraph 51 (d) (access to health care for drug users)

42. It must be recalled that opioid substitution therapy is the regular prescription of methadone, buprenorphine or morphine as a replacement for street drugs.

43. Opioid substitution therapy is limited to a reduction in acuteness and severity of the disease and is not intended to eradicate it, i.e. ending drug use and overcoming drug dependence.

44. Opioid substitution therapy for drug addiction, which is in fact the replacement of one addiction with another (for example, heroin addiction with methadone addiction), is based on a paradigm by which opioid dependence is viewed as incurable and the complete cessation of drug use as all but impossible. The relevant prohibitions and restrictions on such psychoactive substances were adopted in the Russian Federation in full compliance with international conventions.

45. In the outcome document adopted by the General Assembly at its thirteenth special session in 2016 on the world drug problem, it is stated that the problem continues to present challenges to the health, safety and well-being of all humanity. The representatives of Member States reaffirmed their commitment to the goals and objectives of the three international drug conventions (the Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol; the Convention on Psychotropic Substances of 1971; the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic

Substances of 1988) and their resolve to reinforce national and international efforts and further increase international cooperation to face the challenges.

46. The Russian Federation is taking sustained and appropriate measures to strengthen international cooperation, including cooperation with United Nations entities, in the implementation of drug programmes, strategies and policies.

47. Methadone, along with heroin, owing to its scientifically and clinically proven adverse effects, is included on the list of narcotic drugs, psychotropic substances and their precursors whose trade is prohibited in the Russian Federation in accordance with national legislation and international agreements, specifically list I, comprising narcotic drugs, psychotropic substances and their precursors subject to control in the Russian Federation, approved by Government Order No. 681 of 30 June 1998. Buprenorphine and morphine are included in list II, comprising narcotic drugs, psychotropic substances and their precursors whose trade is restricted in the Russian Federation and that are subject to control measures in accordance with national legislation and international agreements.

48. Pursuant to article 31 (6) of Federal Act No. 3-FZ of 8 January 1998 on Narcotic Drugs and Psychotropic Substances, the treatment of drug addiction using narcotic drugs and psychotropic substances that appear on list II is prohibited in the Russian Federation. Therefore, opioid substitution therapy using methadone, buprenorphine or morphine is prohibited under Russian law.

49. Furthermore, in accordance with paragraph 32 (d) of the government anti-drug policy strategy for the period up to 2020, approved by Presidential Decree No. 690 of 9 June 2010, one of the main measures to develop and improve the effectiveness of drug treatment in the field of psychiatry and narcology is the prevention in the Russian Federation of substitution methods of drug addiction treatment using narcotic drugs and psychotropic substances that appear on lists I and II under Government Order No. 681.

50. It should be noted that drug addiction patients are treated only in medical institutions of the State and municipal health-care systems (Federal Act No. 3-FZ, art. 55 (2)).

51. In the Russian Federation, medical institutions take a comprehensive approach to health care in the field of psychiatry and narcology. Medical institutions apply a step-by-step continuing care model for persons suffering from drug addiction disorders, including medical rehabilitation followed by social (non-medical) rehabilitation and reintegration provided by appropriate organizations.

52. Preventive measures, diagnosis, treatment and medical rehabilitation are provided free of charge in medical institutions of the State and municipal health-care systems.

53. In the Russian Federation, the drug addiction treatment programmes implemented are abstinence-based (drug-free). The pharmacological effects of the medications used in such programmes are aimed at the suppression of drug cravings, the cessation of drug use and relapse prevention.

54. The organization of medical rehabilitation for drug addicts is considered part of health care.

55. To ensure continuity in the treatment of persons using narcotic drugs and psychotropic substances for non-medical purposes, regulations have been developed on cooperation between medical institutions providing health care in the field of psychiatry and narcology and organizations working on the integrated rehabilitation and reintegration of persons involved in the illegal use of narcotic drugs and psychotropic substances. These regulations stipulate the aims, objectives and conditions for cooperation between such organizations.

56. The measures taken in this regard have led to the following statistical changes. The past five years have seen a stable reduction in the number of drug-dependent persons in the Russian Federation: the number has decreased by 59,565 persons, or 17.9 per cent, from 332,659 in 2012 to 273,094 persons in 2017.

57. Moreover, in 2017, of the total number of drug users (459,155 persons) 222,056 were injecting drug users (in 2016, the figure was 262,924 out of 495,982), or 151.3 per

100,000 population (in 2016, it was 179.3). The reported prevalence of injecting drug use decreased by 15.6 per cent.

58. The medical prevention of the non-medical use of psychoactive substances, including in the workforce, is carried out in accordance with the laws and regulations of the Ministry of Health pertaining to: the prevention of non-infectious diseases and the promotion of healthy lifestyles; the work of health centres for the promotion of healthy lifestyles among the adult population of the Russian Federation, including alcohol and tobacco cessation; screening of certain groups of the adult population; mandatory preventive and periodic check-ups for persons employed in physically demanding jobs or jobs with harmful or hazardous working conditions; medical check-ups before and after work shifts or journeys; and sobriety tests.
