

Berlin 16 December 2020

RUSSIA ELECTION ALERT #7

Foreign agents law expanded ahead of 2021 State Duma election

Recently proposed amendments to the ‘foreign agents’ law in Russia would increase the number of organizations at risk of being labelled as ‘foreign agents’ and would force election candidates who received funding or other resources from an organization or person registered as a ‘foreign agent’ to also label themselves as a ‘foreign agent’. The amendments also expand the range of citizens who can be labeled as a ‘foreign agent’ to include anyone who carries out ‘political activity’ with the help of funding, material resources, or ‘organizational-methodical assistance’ from a foreign actor. There is serious reason to assume that the recent proposed amendments target specific individuals and organizations and have been drawn up at least in part with a view to the 2021 State Duma election. At the time of writing, the amendments have been adopted in their first reading, and it seems likely that they will enter into force without much change before the elections.



Interior of the State Duma of the Russian Federation, January 20, 2017. Source: hrw.org (Reuters)

With each national election in Russia, the presidential administration develops a strategy for achieving the Kremlin’s electoral goals. One element of the strategy for the 2021 State Duma elections that became obvious early on, is to allow a large number of parties to run. As many of those parties will not clear the 5% electoral threshold, their votes will be effectively added to the totals of the few parties which do clear the threshold. Another element of the strategy for the upcoming elections concerns the introduction of a three-day election instead of a single election day. Extending the election to three days creates additional opportunities for election fraud and the inappropriate use of administrative resources while complicating efforts to observe the process.

On 18 November, lawmakers led by Federation Council member Andrei Klimov and State Duma MP Vasily Piskarev proposed a set of amendments to existing legislation that contain hints of yet another element of the strategy for the 2021 State Duma election. These amendments, which expand the definition and application of the concept of ‘foreign agents’, seem aimed at discrediting specific prospective candidates and undermining both the Smart Voting campaign of Aleksei Navalny’s Anti-Corruption Foundation and independent election observation.¹

Two of the proposed amendments in particular may have implications for future elections, including next year’s State Duma election. Since 2012, NGOs in Russia which receive foreign funding while carrying out ‘political activities’ have been forced to register as ‘foreign agents’.² If the proposed amendments are adopted, NGOs (and citizen movements) which exist without a legal entity may also be included in the ‘foreign agent’ registry. At the same time, the definition of a ‘foreign agent’ organization is broadened to include organizations which receive funding from Russian organizations which in turn receive foreign funding, so that the number of organizations at risk of being labeled a ‘foreign agent’ increases.

The second proposed amendment with potentially major implications for next year’s election introduces two new types of candidates: a ‘candidate carrying out the function of a foreign agent’ and a ‘candidate who is affiliated with someone carrying out the function of a foreign agent’. The second type of candidate includes anyone who in the previous two years has worked for a ‘foreign agent’ organization or who has received funding or other resources from an organization or person registered as a ‘foreign agent’. A candidate with either one of the two designations has to mention it on the lists used for collecting signatures and a warning label stating their ‘foreign agent’ status has to be printed on all their campaign materials, covering at least fifteen percent of the material’s surface. The designation is also printed on ballots next to the name of the candidate. Meanwhile, the amendments also expand the range of citizens who can be labeled as a ‘foreign agent’ to include anyone who carries out ‘political activity’ with the help of funding, material resources, or ‘organizational-methodical assistance’ from a foreign actor.

Existing ‘foreign agent’ legislation has been widely criticized for being amenable to selective interpretation and implementation. What counts as ‘political activity’? And should foreign funding also be off limits when it comes from crowdfunding, winning an award, or participating in a research project? The recent amendments are criticized on the same grounds. What, for instance, is meant by ‘organizational-methodical assistance’? Russian lawmakers point out that other countries also have legislation limiting the actions of ‘foreign agents’, and that elections have to be guarded from foreign influence. There is serious reason, however, to assume that the recent proposed amendments target specific individuals and organizations and have been drawn up at least in part with a view to the 2021 State Duma election.

¹ The proposed amendments can be consulted at: <https://sozd.duma.gov.ru/bill/1052523-7>; <https://sozd.duma.gov.ru/bill/1060950-7>; <https://sozd.duma.gov.ru/bill/1057892-7>

² The registry of ‘foreign agents’ can be consulted here: <http://unro.minjust.ru/NKOForeignAgent.aspx>

The amendments, first, may complicate the intention of some opposition politicians, including people working for Aleksei Navalny's Anti-Corruption Foundation, to run in the election. Two prominent faces of the Foundation, Liubov Sobol and Ivan Zhdanov, plan to contest the Duma elections in single-member districts in Moscow. Since the Anti-Corruption Foundation is included in the 'foreign agent' registry, it seems inevitable that, if the amendments are adopted, they will have to register as 'candidates carrying out the function of a foreign agent'. Throughout the country, opposition candidates who work for, or have had ties with an organization included in the 'foreign agent' registry similarly face the prospect that they have to register as a 'candidate carrying out the function of a foreign agent' or as a 'candidate who is affiliated with someone carrying out the function of a foreign agent'. Given the negative connotation of the term 'foreign agent', this will likely make it harder for them to collect signatures, and, once they are registered, to conduct their campaigns and attract votes.

The amendments may also undermine the Anti-Corruption Foundation's Smart Voting (Умное Голосование) campaign. Smart Voting has been successful in preventing the election of a large number of United Russia candidates in regional and municipal elections in cities such as Khabarovsk, Moscow, Novosibirsk, Tambov, and Tomsk since 2018. Smart Voting has achieved this by calling on people to vote for one particular opposition candidate - even if that candidate is far from perfect - in order to prevent the opposition vote from becoming fragmented. In 2021, the Anti-Corruption Foundation plans to roll out Smart Voting in State Duma elections for the first time, and to as many districts as possible. Leaders from the Anti-Corruption Foundation suspect that the new legislation may be used to label candidates who have been selected for Smart Voting as 'candidates who are affiliated with someone carrying out the function of a foreign agent'.³ Some candidates may therefore refuse to be associated with Smart Voting. Candidates who, on the other hand, accept the label, may find it harder to attract votes or run effective campaigns. Andrei Klimov, one of the key lawmakers behind the proposed amendments, has denied that the proposed amendments aim to thwart Smart Voting.⁴

Finally, the amendments may further complicate the work of Golos and other election observation organizations. After it was branded a 'foreign agent', Golos decided to deregister and continue to operate as a 'movement'. If the proposed amendments are adopted, Golos - and the activists associated with Golos - once again is at risk of being labeled as a 'foreign agent'. Observers who are trained by Golos in theory then also become 'foreign agents' since they receive 'organizational-methodical assistance' from the movement. Registration as a 'foreign agent' has a number of unwelcome implications for individuals, including the fact that they are barred from working in state administration at any level of government. As a result of the amendments, it may therefore become harder for Golos (and other election observation organizations) to recruit observers.

At the time of writing, the amendments have been adopted in their first reading, and it seems likely that they will enter into force without much change before the elections. There is, admittedly, a great deal of uncertainty regarding both the intentions behind the proposed amendments and their possible implementation. Anyone interested in the upcoming State Duma elections, however, should keep an eye on the implementation of the amendments in the coming months.

³ "Gosdume predloženo sročno rasshirit' krug "inoagentov". Za shchiot kogo?, see <https://www.bbc.com/russian/news-54965166>

⁴ "Zakonodatelstvo uzhestochaetsia k vyrboram v Gosdumu", *Vedomosti* 22 November 2020, see <https://www.vedomosti.ru/politics/articles/2020/11/22/847858-zakonodatelstvo-uzhestochaetsya>



Author:

Max Bader (Leiden University)

More Election and Policy Alerts can be found [here](#).

More information also available at www.epde.org

EPDE is financially supported by the European Union, the Federal Foreign Office of Germany as well as with German Federal Foreign Office's funds by ifa (Institut für Auslandsbeziehungen), Funding programme zivik. The here expressed opinion does not necessarily reflect the opinion of the donors.



Federal Foreign Office



Institut für
Auslandsbeziehungen