

*By Fax and Post*

The Registrar  
European Court of Human Rights  
Council of Europe  
F-67075 Strasbourg CEDEX  
France



MEMORIAL  
Human Rights Centre

## **RULE 40 - URGENT**

19 July 2013

**Re.: Ecodefence, Golos and Others v. Russia**  
**(Application no.9988/13)**

Dear Sir,

Further to the application submitted on 6 February 2013, we are writing to inform the Court of **the latest developments in the current case**, as set out in the attached Further Observations. We do so in order to comply with the obligation to ‘keep the Court informed...of all circumstances relevant to the application’ according to Rule 47(6) of the Court’s Rules.

In summary, the situation has significantly developed since February 2013 in that the Law on Foreign Agents is being applied in various ways all over the country. Some of the NGO-applicants were charged with administrative offences for their refusal to enter the roster of Foreign Agents. The Prosecutor’s offices have requested other NGO-applicants to enter the roster of Foreign Agents or to cease their so-called “political activities”. Others NGO-applicants have been warned that their statutory and/or actual activities could be regarded as “political” and have warned them not to pursue them in future. All of the NGO-applicants have been the subject of inspections and searches by the Prosecutor’s offices with a view to determining whether they are to be classified as “Foreign Agents”.

Accordingly the Further Observations contain significant additional information about the implementation of the law on “Foreign Agents” all over the country and, in particular, against the NGO-applicants. The Submission also contains further arguments as to the admissibility and merits of the present case.

We are also writing to submit application on behalf of **three new applicants**: Association Golos (12<sup>th</sup> applicant), Ms. Liliya Shibanova - the executive director of Association Golos (13<sup>th</sup> applicant), and Regional Golos (14<sup>th</sup> applicant), each of whom have been directly affected by the implementation of the contested law (*see application of 19/07/2013*). These applicants respectfully seek the joinder of their cases with the application lodged in February 2013 pursuant to Rule 42 of the Court’s Rules.

### **Request for urgent notification of the application**

In the light of the drastic deterioration in the applicants’ situations, as a result of the arbitrary implementation of the “Foreign Agents” law since February 2013, which has already had significantly deleterious effects on the applicant NGOs (notably Association Golos), the applicants request the Court to apply Rule 40 of the Rules of Court and give urgent notification of the application to the respondent Government.

As regards the particular position of Association Golos, after a judicial decision on an administrative offence entered into force on 14 June 2013 (*para.14.13 of application of 19/07/2013*), the Ministry of Justice insisted that Association Golos must enter the roster of Foreign Agents (*ibid, para. 14.14*). This resulted in a suspension of its activities for 6 months by the Ministry of Justice (*ibid, para. 14.16*). As a result of such an extreme interference with its right to freedom of association by the Ministry of Justice, the Board of Association Golos took the decision to dissolve the Association rather than to enter the roster of Foreign Agents (*ibid. para.14.17*).

It is reiterated that since the original application was lodged with the Court in February 2013, all the applicant - NGOs have been subject to inspections. Furthermore, nine of the applicants have been served with warnings, notices and/or reports on administrative offences for the refusal to abide the law on “Foreign Agents” and a number of applicant - NGOs have been charged with administrative offences for allegedly having failed to cooperate with prosecutors or await the results of the inspections (*paras. 81 and 82 of Further Observations*).

Many of the NGO-applicants are also highly likely to liquidate themselves rather than to enter the roster of Foreign Agents (*see, for example, statements of representatives of Golos, CAT and Public Verdict*). The applicants have intimated that the appropriate moment to initiate the procedure of self-liquidation would be the date when a judicial decision requiring an NGO either to enter the roster of foreign agents or to cease the so-called “political activity” enters into force (*see statements of Mr. Kalyapin and Ms. Taubina to ECtHR*). It is crucial for all the applicants to avoid administrative proceedings being brought against them (as has occurred in the 12<sup>th</sup>, 13<sup>th</sup> and 14<sup>th</sup> applicants’ cases) because they foresee that they will simply not be in a position to comply with such a heavy financial burden, both for NGOs (from 300,000 to 500,000 rubles) and for individuals (from 100,000 to 300,000 rubles) (*para. 14.31 of the application of 6/02/2013*). The decision to liquidate themselves before the beginning of the administrative proceedings is also explained by the real fear that the NGO leaders will be subject to criminal prosecutions, and, as a result, be at risk of imprisonment for up to two years (*ibid*).

It is recalled that the law on “Foreign Agents” does not specify at what stage a criminal prosecution may be initiated against an NGO leader (*para. 99 of Further Observations of 19/07/2013*) nor does the law specify what kind of behavior may be regarded as a “malicious” refusal to enter the roster of Foreign Agents (*para. 15.42 of the application of 6/02/2013*). The deputy-head of the NGOs department of the Ministry of Justice, Ms Tatyana Vagina, has outlined the sequence of applicable sanctions under the “Foreign Agents” law (*para. 100 of Further Observations*), however, in practice, the implementation of the law on “Foreign Agents” has been extremely arbitrary and unpredictable (*ibid, para. 101*).

The 13<sup>th</sup> applicant, Ms. Liliya Shibanova, faces an imminent risk of being criminally prosecuted as the head of Association Golos, allegedly for the persistent refusal to enter the roster of Foreign Agents. This risk is also confirmed by the official statement of Ms Vagina herself about the sequence of sanctions, according to which the suspension of an NGO’s activities will be accompanied by a criminal prosecution of its leader (*ibid, para. 100*).

In light of the above and in the interests of the parties the applicants respectfully request the Court to urgently inform the Russian authorities of the introduction of the present application according to Rule 40 of the Rules and under Rule 54 § 2 (a) to invite the respondent **Government, to reply the following questions:**

- 1) In the light of the inconsistent application of sanctions under the ‘Foreign Agents’ law to date, is there a settled order or sequence of the application of sanctions against NGOs for refusing to enter the roster of Foreign Agents? If so, what is this order/sequence of sanctions and where is it set out? The respondent Government should disclose any such document to the applicants.

2) Does the domestic law allow the various sanctions to be applied simultaneously to the same NGO if it refuses to enter the roster of Foreign Agents?

3) Does the domestic law stipulate which state bodies should apply the law on “Foreign Agents”? If so, the respondent Government should explain which provisions of the law may be applied by each authority. In particular, the respondent Government should explain which authority has responsibility for:

- the decision as to whether an NGO’s activity is considered as “political”; and
- the imposition of sanctions.

4) The respondent Government should explain whether an NGO still has an obligation to enter the roster of “Foreign Agents” if it ceases either to receive foreign funding or to pursue so-called “political activity”?

The applicants respectfully draw the attention of the Court to the fact that the replies of the Russian authorities to the questions set out above are crucial for the applicants in the present case. They are also very important for all other NGOs affected by the implementation of the law on “Foreign Agents” across the country. Replies to these questions would significantly influence the decisions of the applicant NGOs (and indeed other Russian NGOs) relating to their behavior, including the decision as to their possible self-liquidation. In other words, it is submitted that the replies to these questions are crucial in order to prevent irreparable damage to the applicant - NGOs (namely their liquidation or dissolution) which may be imminent.

The applicants also request the Court to invite the Russian authorities to provide the Court and the applicants with the General Prosecutor’s instructions on initiation of wide-spread inspections of NGOs which could shed light on the reason of inspections, its’ scope and duration. This is particularly relevant for the applicants who still await the results of the inspections in their regard.

Lastly, in light of the developments which are set out in this letter and the attached Further Observations, the applicants respectfully request the Court to reconsider its decision of 10 April 2013 on the refusal to apply Rule 41 of the Court’s Rules and to give priority treatment of the present case taking into account the recent drastic development of the situation and to consider the merits of the present case as soon as is practicable.

Yours faithfully,

Furkat Tishaev,  
Applicants’ legal representative

Enclosures:

- 1) Further Observations of the applicants
- 2) Powers of Attorney from Association Golos, Ms. Shibanova and Regional Golos
- 3) Application on behalf of Association Golos, Ms. Shibanova and Regional Golos

*(attachments to Further Observations and to the new application will be sent by post only)*