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Foreign Agent Laws: Challenging Democracy in the Name of Sovereignty?

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Abstract:

What does it mean when governments start labeling journalists, activists, or entire organizations as “foreign agents”? Is it simply a matter of transparency, or is it a tool of repression disguised in legal language?

In 2024, the European Court of Human Rights (ECtHR) gave a clear answer in the landmark case *Kobaliya and Others v. Russia*: such laws, at least in their Russian form, are “not necessary in a democratic society.” They stifle debate, stigmatize civil society, and erode the very freedoms they claim to protect.

But Russia is not alone. From Beijing to Tbilisi, and even in Washington and Brussels, governments are grappling with how to manage foreign influence without undermining democracy. Some lean heavily on national security arguments; others invoke transparency. The difference lies in whether the laws are narrowly tailored to disclose foreign lobbying—or whether they become weapons to silence dissent.

This piece explores how “foreign agents” laws work in practice, comparing Russia’s authoritarian model with frameworks in the United States, China, and Georgia. The lesson is clear: sovereignty and security can be defended, but only if civil society remains free to speak, organize, and challenge power.

Introduction

The 2024 judgment of the European Court of Human Rights (ECtHR) in *Kobaliya and Others v. Russia* brought renewed attention to the proliferation of so-called “foreign agents” laws and their implications for democratic societies. Building on its earlier ruling in *Ecodefence and Others v. Russia* (2022), the Court reaffirmed that Russia’s legislative framework not only violates the European Convention on Human Rights — particularly Articles 8, 10, and 11 — but also has a “chilling effect on public debate and civic engagement, creating a climate of suspicion and distrust toward independent voices” (Press Release, ECHR 248, 22 Oct. 2024).



Quote: Radchenkova, Foreign Agent Laws,

NSM#Blog October 2025, <https://nsm.uni-graz.at/en/the-nsmblog>

These judgments matter far beyond Russia. While Moscow withdrew from the Council of Europe in 2022 and is no longer bound by Strasbourg rulings, the ECtHR's conclusions set a symbolic benchmark. They underscore the risks of similar legislation spreading to other states, from hybrid regimes such as Georgia or Nicaragua to established democracies considering new transparency registers. The broader question is whether safeguarding sovereignty – what Russia claims it does – must necessarily come at the expense of democratic freedoms.

The Russian Trajectory

Russia pioneered the modern “foreign agents” framework in 2012, amending its Law on Non-Commercial Organizations to require NGOs receiving foreign funding and engaging in “political activity” to register as “foreign agents” (Federal Law No. 121-FZ of 20 July 2012). “Political activity” was defined broadly to include almost any attempt to influence public opinion or state decision-making.

At first, the Constitutional Court upheld the law, insisting it neither prevented NGOs from receiving foreign funds nor restricted participation in political life (Decree of the CCRF, 8 Apr. 2014). In practice, however, the legislation became steadily harsher.

- 2016: expanded definition of political activity, extending to issues of federalism, national security, and even human rights;
- 2017: foreign media outlets designated as “foreign-agent media”;
- 2019–2020: individuals — including journalists, scientists, and bloggers — could be labelled agents, obliged to form legal entities, and exposed to criminal liability;
- 2022: sweeping law on “control over persons under foreign influence” introduced the vague notion of “foreign influence” without requiring proof of funding (Federal Law No. 255-FZ);
- 2022–2024: bans proliferated — agents barred from teaching, running educational programs, participating in elections, or even advertising their own work;
- 2025: initiation of criminal proceedings is triggered by a single violation of the “foreign agent” legislation.

The cumulative effect has been the contraction of independent civil society. NGOs have shut down under the weight of stigma, complex reporting requirements, and fear of criminal prosecution (Amnesty International, *Agents of the People*, 2016).

The Russian government defends its law by reference to the United States’ Foreign Agents Registration Act (FARA), insisting that “agent of a foreign principal” in FARA is “essentially similar” to Russia’s definition (ECtHR, *Ecodefence*, para. 114). Yet, as Strasbourg repeatedly underlined, Russia’s application is qualitatively different: it conflates any foreign connection with foreign control, stigmatizes organizations, and imposes sanctions far beyond transparency needs.



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Strasbourg's Assessment

In *Kobaliya and Others v. Russia*, the ECtHR examined applications from over a hundred NGOs, journalists, and individuals. The Court concluded that the Russian framework was “in-compatible with pluralism and not necessary in a democratic society” (*Kobaliya*, para. 69). Five key flaws were identified:

1. **Vague and arbitrary criteria:** “Foreign influence” and “political activity” were defined so broadly that virtually any civic engagement could qualify. This violated legal certainty (*ibid.*, para. 66).
2. **Stigmatization through mandatory labeling:** All publications had to be marked as originating from a “foreign agent,” amounting to compelled speech with a chilling effect (*ibid.*, para. 85).
3. **Disproportionate sanctions:** Excessive fines, forced dissolution, and criminal liability were punitive, not transparent (*ibid.*, para. 92–97).
4. **Invasive reporting:** Obligatory publication of personal data and quarterly reports intruded disproportionately into private life (*ibid.*, para. 107).
5. **Restrictions on professional life:** Prohibitions on teaching, election participation, and public activities lacked rational connection to national security aims (*ibid.*, para. 115).

Together, these provisions undermined freedom of expression, association, and privacy. Unlike FARA in the U.S. or registration schemes in the U.K., Russian law presumed guilt by association and treated foreign funding as de facto evidence of subversion.

Comparative Perspectives: USA, China, and Georgia

To understand whether “foreign agents” laws are inherently anti-democratic, comparison is essential. Further study contrasts Russia’s model with legislation in the United States, China, and Georgia.

United States

Originally enacted in 1938 to counter Nazi propaganda, The Foreign Agent Registration Act (FARA) today requires individuals acting “at the order, request, or under the direction or control of a foreign principal” to register with the Department of Justice (22 U.S.C. § 611). While its definitions can be interpreted broadly, FARA avoids two critical pitfalls: it does not stigmatize agents with mandatory public labels, and its penalties (up to \$10,000 or five years imprisonment) are proportionate relative to average income (Waters, 1988; Atieh, 2010). Reporting is detailed but limited to foreign-related activities, not personal finances. Crucially, FARA does not bar agents from running for office or teaching.



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China

China has no single “foreign agents” law but regulates NGOs through the 2017 Law on the Management of Foreign NGOs (FNGO Law) and the 2023 Counter-Espionage Law. These impose strict registration and supervision by the Ministry of Public Security, with vague national security criteria and harsh sanctions, including detention or deportation (ChinaLawTranslate, 2023). Penalties can reach 41% of average annual income, comparable to Russia’s punitive fines. Yet China avoids overt stigmatization: NGOs are not branded “agents” in public discourse, though in practice they are tightly constrained.

Georgia

In 2024, Georgia adopted the Law on Transparency of Foreign Influence. A draft had referred to “agents of foreign influence,” but after protests the final law softened terminology to “organizations pursuing the interests of a foreign power” (Law No. 6171895, 2024). The law applies to NGOs and media outlets receiving more than 20% foreign funding, who must register and disclose finances. Unlike Russia, it does not restrict civic participation. However, penalties for non-compliance can reach GEL 25.000 — 166% of the average annual income — raising concerns about affordability and democratic necessity (Zedelashvili, 2023).

Conclusion

The comparative evidence suggests that “foreign agents” legislation is not inherently anti-democratic. States can reasonably demand transparency about foreign influence to protect sovereignty. What matters is *how* such laws are framed and enforced.

- Russia’s framework stands apart for its stigmatization, breadth, and restrictions on civic life.
- The U.S. and Georgia rely on disclosure rather than prohibition, though enforcement and penalties remain contentious.
- China’s model echoes Russia’s vagueness and severity, but without formal “agent” branding.

The ECtHR’s five criteria — clarity, non-stigmatization, proportionate sanctions, limited reporting, and civic freedoms — offer a benchmark for evaluating these laws. When these standards are met, foreign funding transparency can coexist with democratic society. When they are ignored, as in Russia, such laws become tools of authoritarian control. As European states consider new registries and transparency requirements, the *Kobaliya* judgment stands as a caution: invoking sovereignty must not become a pretext for silencing civil society.

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