



Russian Citizens in the EU Following the Russian Full-Scale Invasion of Ukraine

The Impact of Entry Restrictions, Barriers
to Protection and Possible Solutions

Policy Brief



FREE
RUSSIA
FOUNDATION

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Executive Summary

Since the beginning of Russia's full-scale invasion of Ukraine in February 2022, **the human rights situation in Russia has severely deteriorated**. The Russian authorities have introduced and enforced a range of expansive legislative measures that *de facto* allow it to target any individual or entity expressing dissent against Kremlin policies, particularly in relation to its war of aggression against Ukraine.

The enacted measures have severely restricted the freedoms of expression, association, and peaceful assembly, resulting in a **broad and systematic crackdown on civil society on an unprecedented scale**. Among other things, this has manifested itself in the mass closure of NGOs and independent media and in arbitrary arrests, persecution and harassment of human rights defenders, anti-war activists, journalists, bloggers, academics, lawyers, cultural figures, and minorities.

For people belonging to these categories, it has become **practically impossible to continue their professional activities, express an anti-war position or criticise the government policies** without the risk of persecution. Civic actors receiving funding from abroad and/or having any type of links with international organisations are treated with particular hostility and suspicion.

The high risks entailed in expressing disagreement with the actions of the Russian authorities and the fear of being drafted for military service have generated the most significant exodus from Russia in the past three decades. It is estimated that **around 650,000 Russian citizens who left Russia after the invasion are still abroad in 2024**. The vast majority of Russians fleeing the country were received by the neighbouring states (such as Armenia, Georgia, Kazakhstan, Kyrgyzstan and Uzbekistan), as well as other countries (such as Turkey, Serbia, or Montenegro) that have visa-free regimes for Russian citizens.

In response to the Russian invasion of Ukraine, the European Union and individual member states have introduced legislative changes specifically designed to limit the entry and residence rights of Russian passport holders. In September 2022, the EU **suspended the EU-Russia Visa Facilitation Agreement**, following which Russian citizens face longer visa processing times and additional checks. Moreover, Member States are allowed to deprioritise applicants whose reason for travel is not considered 'essential'.

Several EU Member States went much further and **unilaterally introduced a nearly absolute entry ban on Russian citizens**, including holders of short-term Schengen visas issued by other Member

States. The relevant domestic rules violate the Schengen Visa Code that does not allow for blanket bans on certain groups of visitors, based on their nationality alone.

The imposed entry restrictions have targeted a much larger group of Russian citizens than those perceived as tourists. The category particularly disadvantaged in this regard are **civil society actors, whose work and activities are now banned in Russia and who are facing risks of persecution inside Russia**. Given that EU Member States typically do not accept asylum applications from abroad, for most of those fleeing Russia, a Schengen visa is the only way to enter the EU legally. Evidence suggests that the possibility of obtaining a humanitarian visa is equally limited. In addition, the entry restrictions severely affect **Russian citizen family members of EU citizens and residents**.

Even when Russian citizens manage to enter the EU, their options to access international protection are limited. One of the main obstacles on this path is the **high evidential threshold**, which requires individuals to prove **a well-founded risk of persecution on political grounds**. The asylum procedure itself is lengthy and complicated, with applicants facing a number of substantial restrictions that hinder Russian civil society activists from continuing their professional activities.

Another layer of complexity is added by the so-called **‘Dublin system’** which regulates the EU Member States’ responsibility for examining asylum claims. Asylum systems of several EU Member States, however, are **systemically deficient** and, in some cases, do not provide an opportunity to submit an application for international protection at all or receive a thorough examination of this claim.

Therefore, there is an urgent need for a **unified, coordinated, and transparent EU-level approach to the issue** that would address the deficiencies in the existing Member State practices and provide an adequate level of protection to individuals vulnerable to possible repression from the Russian government. Such an approach would help mitigate the consequences of the repressive measures imposed by Putin’s government and strengthen Russian civil society by **allowing its members to continue their activities in a safe environment without fear of possible repercussions**. From a wider perspective, this would contribute to building stronger links between Russian democrats and the EU and increasing Russia’s democratic potential long-term.

Key Recommendations to EU Institutions and Member States

- Adopt an **unbureaucratic, flexible reception programme for Russian citizens** belonging to categories particularly targeted by the repressive measures, introduced by the Russian authorities.
- Provide Russian citizens already present in the EU and meeting a set of specific criteria **an in-country opportunity to receive or extend a temporary residence permit in the EU**, even if their situation does not meet the threshold for granting international protection.
- Provide Russian citizens an opportunity to **apply for the reception programme from third countries**.
- Consider mechanisms to uphold the **right of EU citizens and residents to reunify with their Russian citizen family members**.
- Introduce an unbureaucratic procedure for **issuing special identity documents to Russian citizens in the EU** in cases where Russian diplomatic representations seize or refuse to renew their passports.

Introduction

The period following the Russian invasion of Ukraine has been marked by two compounding developments. On the one hand, the human rights situation in Russia has severely deteriorated. Since February 2022, the Russian authorities have enacted a set of extensive legislative measures that allow it to suppress any public expression of disagreement with the Kremlin's policies.

On the other hand, whilst condemning the actions of the Russian government and providing financial and military support to Ukraine, EU Member States have adopted legislative changes specifically designed to limit the entry and residence rights of Russian passport holders in the EU. Such policies have had severe implications for antiwar and prodemocracy Russians—Russian civil society actors, whose work and activities are now banned in Russia and who are facing multiple barriers in accessing protection in the EU.

This Policy Brief discusses the current situation in the EU with regard to access to protection for Russian citizens in the aftermath of February 2022. It begins with an overview of the current human rights situation in Russia by focusing on repressive measures introduced and/or strengthened in the context of the invasion of Ukraine and their implications for certain groups. Next, it describes legislative and practical obstacles to accessing protection in the EU currently faced by Russian citizens and evaluates their compatibility with EU law. Finally, it identifies risks and challenges faced by Russian citizens abroad due to their precarious status. The Policy Brief ends with a set of recommendations.

Human Rights Situation in Russia After February 2022

Since the beginning of Russia's full-scale invasion of Ukraine, the Russian authorities have introduced and enforced a wide range of legislative measures, aimed to suppress dissent against Kremlin policies, particularly in relation to its war of aggression against Ukraine.

The implications of such measures go far beyond dispersal of peaceful protest actions and targeted persecution of civic actors and opposition figures, which culminated in the imprisonment and death of the leader of the Russian opposition Alexei Navalny. The set of legislative tools, recently developed by the Russian legislature, effectively allow the regime to target any individual or entity expressing any form of dissent, enabling the authorities to silence and to prosecute critical voices by various means.

The enacted measures have severely restricted the freedoms of expression, association, and peaceful assembly, resulting in a broad and systematic crackdown on civil society on an unprecedented scale. Among other things, this has manifested itself in the mass closure of NGOs and independent media and in arbitrary arrests, persecution and harassment of human rights defenders, anti-war activists, journalists, bloggers, academics, lawyers, cultural figures, and minorities, reinforcing the culture of fear, silence and self-censorship.

For people belonging to these categories, it has become practically impossible to express anti-war sentiments or criticise the government policies or even continue their professional activities without the risk of persecution. Further, in the official discourse civic actors receiving funding from abroad and/or having any type of links with international organisations are labelled as 'foreign agents' or even 'national traitors' seek to 'destroy Russia'.¹ The key repressive legislative measures targeting civil society are listed below.

¹ See, e.g., Vladimir Putin's Speech Prior to the Meeting on Measures of Social and Economic Support for the Regions (16.03.2022) (in Russian) <<http://kremlin.ru/events/president/news/67996>> accessed 7 August 2024; Vladimir Putin's Address to the Federal Assembly (21.02.2023) (in Russian) <<http://kremlin.ru/events/president/news/70565>> accessed 7 August 2024.

‘Foreign agents’ law

In 2022, the Russian lawmakers introduced a new version of the ‘foreign agents’ law which significantly broadened its scope. At present, the designation of a ‘foreign agent’ can be attributed to any person (Russian or foreign citizen), media outlet, non-commercial organisation or public association if they are considered to receive any kind of (financial or non-financial) support from abroad and/or are deemed to be under ‘foreign influence’ and if their activities are claimed to be ‘political’.² Among other things, the term ‘political activities’ covers gathering information about Russia’s military activities and disseminating such data.³ In addition, the law maintains a separate category of individuals ‘affiliated with foreign agents’, a designation that covers founders, participants, members or employees of an organisation considered to be a ‘foreign agent’.⁴

‘Foreign influence’ is described in the law as ‘provision of support and/or influence on the person by a foreign source, including through coercion, persuasion and/or other means’.⁵ ‘Support’ is understood as ‘provision of money and/or other property, as well as provision of organizational and methodological, scientific and technical assistance, and assistance in other forms by a foreign source to the person’.⁶

Both terms are vaguely defined, undermine legal certainty and provide the authorities a nearly unlimited discretion in determining whether the relevant individual or entity can be classified as a ‘foreign agent’. As noted in the 2023 report, prepared by the UN Special Rapporteur on the Russian Federation, “‘foreign influence’ could potentially include any engagement with foreign nationals or entities, including the United Nations, travelling abroad, or simply watching or listening to content online, on radio or television’.⁷ The Special Rapporteur also stressed that there is no requirement for any causal link between such ‘foreign influence’ and the ‘political activity’ of the person or entity in question.⁸

2 Федеральный закон «О контроле за деятельностью лиц, находящихся под иностранным влиянием» от 14.07.2022 N 255-ФЗ [Federal Law N 255-FZ on the Control of Activities of Persons under Foreign Influence], Arts. 1 and 4. Available at <https://www.consultant.ru/document/cons_doc_LAW_421788/> accessed 7 August 2024.

3 Ibid, Art. 4(6).

4 Ibid, Art. 6.

5 Ibid, Art. 2(1).

6 Ibid, Art. 2(2).

7 Report of the Special Rapporteur on the situation of human rights in the Russian Federation, 15 September 2023, UN Doc A/HRC/54/54), para 21. Available at <<https://reliefweb.int/report/russian-federation/situation-human-rights-russian-federation-report-special-rapporteur-situation-human-rights-russian-federation-mariana-katarova-ahrc5454-advance-edited-version-unofficial-russian-version-enru>> accessed 7 August 2024.

8 Ibid.

Those designated as ‘foreign agents’ are obliged to publicly declare themselves as such, regularly submit extensive financial reports about their activities, and mark all their publications (including social media content) with a disclaimer that the relevant content has been produced or distributed by a foreign agent. In the Russian public’s perception, this term has highly negative connotations and is associated with terms such as ‘enemy of the people’, ‘national traitor’, or ‘spy’, severely undermining the reputation and credibility of individuals and entities affected.⁹

Furthermore, those declared ‘foreign agents’ are essentially banned from participating in public life. The prohibited activities include working in the civil service, participating in electoral commissions, organising public events, public institutions, as well as producing information materials for minors.¹⁰

As of July 2024, the register of ‘foreign agents’ maintained by the Russian Ministry of Justice has over 800 entries, which include journalists, bloggers, civic activists, human rights defenders, academics, and cultural figures. Those who are declared ‘foreign agents’ and fail to comply with the law’s requirements (such as identifying themselves explicitly as a foreign agent so designated by the Justice Ministry) risk administrative liability and fines.¹¹ Two administrative fines within one year can lead to a criminal prosecution and imprisonment of up to two (or, in some cases, five) years.¹²

The ‘foreign agents’ law has forced a large number of organisations to close because they either refused to mark their materials with the derogatory designation or were unable to comply with the extensive financial reporting requirements.¹³ Moreover, since 2024, businesses have been banned from advertising their products or services on platforms run by ‘foreign agents’, a move that has led to closure of several remaining in-country independent media projects.¹⁴ The Russian authorities regularly issue fines against ‘foreign agents’ for non-compliance and, as of June 2024, have started

9 Ibid, para 20.

10 Federal Law No. 255-FZ on the Control of Activities of Persons under Foreign Influence (n 2), Art. 11.

11 Кодекс Российской Федерации об административных правонарушениях от 30.12.2001 N 195-ФЗ [Code of Administrative Offenses of the Russian Federation], Art. 19.34. Available at <https://www.consultant.ru/document/cons_doc_LAW_34661/> accessed 7 August 2024.

12 Уголовный кодекс Российской Федерации от 13.06.1996 N 63-ФЗ [Criminal Code Of The Russian Federation], Art. 330(1). Available at <https://www.consultant.ru/document/cons_doc_LAW_10699/> accessed 7 August 2024.

13 See Human Rights Watch, ‘Russia: New Restrictions for “Foreign Agents”’ (01.12.2022) <<https://www.hrw.org/news/2022/12/01/russia-new-restrictions-foreign-agents>> accessed 7 August 2024.

14 See The Moscow Times, ‘Putin Signs Ban on Advertising for “Foreign Agents”’ (11.03.2024) <<https://www.themoscowtimes.com/2024/03/11/putin-signs-ban-on-advertising-for-foreign-agents-a84411>> accessed 7 August 2024.

criminal proceedings against 25 persons or entities declared as such.¹⁵ These proceedings are typically followed by listing of individuals on the wanted persons list and even issuing arrest warrants *in absentia*. Thus, the humiliating designation as a ‘foreign agent’ is a first step in the potentially unlimited persecution of the targeted person. Persons designated as ‘foreign agents’ are at high risk of being threatened by the Russian regime in many ways, including through Interpol search notices, threats of arrest and extradition by the states cooperating with the Russian Federation.

Law on ‘undesirable organisations’

The ‘foreign agents’ law has been complemented by the law on ‘undesirable organisations’. Under the law, any international or foreign non-governmental organisation may be declared ‘undesirable’, if its activities are considered to pose ‘a threat to the foundations of the constitutional order of the Russian Federation, the defence capacity of the country or the security of the State’.¹⁶

An organisation declared ‘undesirable’ must cease its activities in Russia. It is illegal to receive funding from and participate in any activity of such an organisation, irrespective of whether it is located in Russia or abroad. It is also prohibited from disseminating any material produced by an ‘undesirable’ organisation, including on social media.¹⁷ As of August 2024, there are around 180 organisations declared ‘undesirable’ by the Russian Ministry of Justice.¹⁸ These include Open Society Foundations, Heinrich Böll Foundation, Konrad Adenauer Foundation, German Association of East European Studies, Transparency International, Central European University, as well as numerous media outlets, such as Dozhd TV (TV Rain), Meduza, Novaya Gazeta Europe, Bellingcat, and Radio Free Europe/Radio Liberty. In June 2024, the European Court of Human Rights found that the law on ‘undesirable organisations’ breached Articles 10 and 11 of the ECHR. The Court found in particular that the legal provision dealing with the designation of “undesirable organisations” had not met the “quality of law” requirement,

15 РБК, «Роскомнадзор сообщил об уголовных делах против 25 иноагентов» (08.06.2024) <<https://www.rbc.ru/rbcfreenews/666416669a79470fec229147>> accessed 7 August 2024.

16 Федеральный закон «О мерах воздействия на лиц, причастных к нарушениям основополагающих прав и свобод человека, прав и свобод граждан Российской Федерации» от 28.12.2012 N 272-ФЗ [Federal Law N 272-FZ on corrective actions on persons involved in violations of fundamental human rights and freedoms, rights and freedoms of citizens of the Russian Federation], Art. 3.1. Available at <https://www.consultant.ru/document/cons_doc_LAW_139994/> accessed 7 August 2024.

17 Ibid.

18 See РБК, ««Русь сидящую» признали нежелательной в России» (01.08.2024) <<https://www.rbc.ru/politics/01/08/2024/66ab89ff9a79477e188f06f3>> accessed 7 August 2024.

as it had not been clear what otherwise legitimate actions on the part of the applicants, including the Free Russia Foundation, the Ukrainian World Congress, the Association of Schools of Political Studies, and others, would lead to either a designation as “undesirable” or to sanctions.¹⁹

Laws on ‘fake news’ and ‘discrediting the army’

Freedom of expression has been further curtailed by laws on ‘fake news’ and ‘discrediting the army’, which effectively sanction any public expression of disagreement with the official position on the war against Ukraine. In March 2022, the Russian Criminal Code was amended to prosecute public dissemination of ‘knowingly false information containing data about the use of the armed forces of the Russian Federation to protect the interests of the Russian Federation and its citizens and to maintain international peace and security and about the operation of any Russian State agency abroad’.²⁰

The maximum penalty for such actions is 15 years of imprisonment. In 2022 and 2023, 273 people were prosecuted under this article, with several of them receiving lengthy prison sentences. For example, a sentence of 8.5 years of imprisonment was imposed on opposition politician Ilya Yashin and Dmitry Ivanov, a university student and creator of the Protest MGU Telegram channel, whilst Russian-American journalist Alsu Kurmasheva was sentenced to 6.5 years in prison.²¹

Further, the Russian Administrative Code and the Criminal Code have been amended to include articles on discrediting the use of the Russian armed forces, an offence that is punishable by up to five years of imprisonment.²² In 2022 and 2023, more than 8,000 cases were filed under the respective article of the Administrative Code.²³ As of July 2024, over 190 people have been prosecuted under the respective article of the Criminal Code.²⁴

Similarly to the laws on ‘foreign agents’ and ‘undesirable organisations’,

19 ECtHR. *Andrey Rylkov Foundation and Others v. Russia* (application no. 37949/18 and 84 others), Judgment of 18 June 2024.

20 Criminal Code Of The Russian Federation (n 12), Art. 207.3.

21 Meduza, ‘Russian-American journalist Alsu Kurmasheva sentenced to 6.5 years in prison in secret trial’ (22.07.2024) <<https://meduza.io/en/news/2024/07/22/russian-american-journalist-alsu-kurmasheva-sentenced-to-6-5-years-in-prison-in-secret-trial>> accessed 7 August 2024.

22 Code of Administrative Offenses of the Russian Federation (n 11), Art. 20.3.3; Criminal Code Of The Russian Federation (n 12), Art. 280.3.

23 Радио Свобода, «В 2023 году в суды РФ поступило 2870 протоколов о «дискредитации»» (09.01.2024) <<https://www.svoboda.org/a/v-2023-godu-v-sudy-rf-postupilo-2870-protokolov-o-diskreditatsii-32767615.html>> accessed 7 August 2024.

24 Statistics available at <<https://repression.info/ru/articles/280.3-pt-1>> accessed 7 August 2024.

the laws on ‘fake news’ and ‘discrediting the army’ are broadly interpreted and unpredictably applied. As summarised in the report of the UN Special Rapporteur on the Russian Federation,

[p]eople have been found guilty of displaying anti-war or pro-Ukraine signs or elements of clothing; taking part in anti-war rallies or their ‘silent support’, such as posting photos or comments, or liking anti-war posts on social media; sharing information about the death of civilians, destruction of civilian objects and claims of war crimes committed by the Russian army; expressing opposition to the war in conversations; opposing State-promoted pro-war symbols, such as ‘Z’ and ‘V’; and singing Ukrainian songs.²⁵

Terrorism, extremism, treason and espionage

In addition, the Russian authorities instrumentalise criminal provisions related to terrorism, extremism, treason and espionage to silence critical voices. The legal definition of extremism is broad, vague and covers a lengthy list of ‘extremist activities’. Under the Russian Criminal Code, participating in or financing an organisation declared ‘extremist’ is punishable by up to 12 years of imprisonment.²⁶ A person found guilty of displaying symbols of a group declared as such faces up to four years in prison for a repeat offense.²⁷

Further, individuals or entities suspected of being involved with an extremist organisation may be included in a countrywide database of ‘terrorists and extremists’. Individuals placed on the list have their bank accounts blocked and are [banned](#) from making financial transactions involving property. As of July 2024, the database lists over 15,000 people and entities designated as such,²⁸ which include the Free Russia Foundation, writer Boris Akunin, and Yulia Navalnaya, the widow of opposition leader Aleksei Navalny.²⁹

25 Report of the Special Rapporteur on the situation of human rights in the Russian Federation (n 7), para 35.

26 Criminal Code Of The Russian Federation (n 12), Art. 282.1.

27 Criminal Code Of The Russian Federation (n 12), Art. 282.4(1).

28 Коммерсантъ, «Чиханчин: в перечень террористов и экстремистов внесены около 15 тыс. человек» (17.07.2024) <<https://www.kommersant.ru/doc/6837135>> accessed 7 August 2024.

29 The Guardian, ‘Russia adds writer Boris Akunin to terrorist list over criticism of war’ (18.12.2023) <<https://www.theguardian.com/world/2023/dec/18/russia-adds-writer-boris-akunin-to-terrorist-list-over-criticism-of-war>> accessed 7 August 2024; The Moscow Times, ‘Russia Adds Yulia Navalnaya to “Terrorists and Extremists” List’ (11.06.2024) <<https://www.themoscowtimes.com/2024/07/11/russia-adds-navalnaya-to-terrorists-and-extremists-list-a85689>> accessed 7 August 2024; The Moscow Times, ‘Moscow Labels Dozens of Indigenous Groups, Free Russia Foundation as “Extremist”’ (26.07.2024) <<https://www.themoscowtimes.com/2024/07/26/moscow-labels-dozens-of-indigenous-groups-free-russia-foundation-as-extremist-a85833>> accessed 7 August 2024.

In late 2023, Russia's Supreme Court ruled that the 'international LGBT movement' is extremist, giving a green light to arbitrary prosecution of LGBT people and of anyone who expresses solidarity with them. Russian courts have issued several extremism convictions in connection with the ruling, which involve administrative penalties for displaying the rainbow flag.³⁰

In July 2024, the Supreme Court formally added the non-existent "Anti-Russian Separatist Movement" and its 55 "structural divisions", including Free Russia Foundation, the Asians of Russia Foundation, the International Committee of Indigenous Peoples of Russia, and other movements and associations advocating both for an independent status and for the expansion of the rights of different regions of Russia, to the list of extremist organizations, thus opening the possibility of criminal prosecution of every Russian national questioning the current imperialistic policies of the Putin's regime.³¹

Avenues for remedies and redress

The situation is further aggravated by the fact that avenues for remedies and redress in the present context remain extremely limited, particularly in light of the withdrawal of the Russian Federation from the European Court of Human Rights and very narrow opportunities to ensure accountability for human rights violations at the domestic level. It is important to stress that lawyers who have criticised the government policy or represented human rights defenders, journalists, or anti-war activists have been facing severe pressure themselves. The actions taken against legal practitioners are not limited to disciplinary, administrative and criminal harassment and prosecution, but also involve physical violence.³²

30 See Human Rights Watch, 'Russia: First Convictions Under LGBT "Extremist" Ruling' (15.02.2024) <<https://www.hrw.org/news/2024/02/15/russia-first-convictions-under-lgbt-extremist-ruling>> accessed 7 August 2024.

31 See Sova Center Report <<https://www.sova-center.ru/misuse/news/persecution/2024/04/d49736>> accessed 7 August 2024.

32 Report of the Special Rapporteur on the situation of human rights in the Russian Federation (n 7), para 95.

Barriers to Protection: Entry Restrictions for Russian Citizens in the EU

The high cost of expressing disagreement with the actions of the Russian authorities, including the fear of being drafted for military service, has generated the most significant exodus from Russia in the past three decades. According to the estimates presented by the Russian independent online newspaper The Bell, around 650,000 Russian citizens who left Russia after the invasion were still abroad in 2024.³³

The vast majority of Russians fleeing the country were received by the neighbouring states (such as Armenia, Georgia, Kazakhstan, or Kyrgyzstan), as well as other countries (such as Turkey, Serbia, or Montenegro) that have visa-free regimes for Russian citizens and liberal residence requirements. Those who have not had an opportunity to obtain a Russian international travel passport fled to Armenia, Kazakhstan or Kyrgyzstan, the only countries that allow entry with Russian domestic ('internal') passports.³⁴

Meanwhile, following the Russian invasion of Ukraine, EU Member States introduced targeted legislative measures specifically designed to limit the entry and residence rights of Russian passport holders.

Suspending the EU-Russia visa facilitation agreement

In August 2022, Ukrainian President Volodymyr Zelensky called upon Western countries to ban all Russian visitors.³⁵ His call found support among several EU Member States, particularly those bordering Russia, who asked for an EU-wide ban on Russian citizens from acquiring visas for a short-term stay in the Schengen area, specifically targeting those labelled as 'tourists'.³⁶

The relevant proposal, nevertheless, did not find unanimous support in the Council which ultimately agreed on a compromise – namely, to suspend the EU-Russia Visa Facilitation Agreement.³⁷ Since 9 September 2022, when

33 The Bell, 'Russia's 650,000 wartime emigres' (19.07.2024) <<https://en.thebell.io/russias-650-000-wartime-emigres/#:~:text=Around%20650%2C000%20Russians%20who%20fled,invaded%20Ukraine%20are%20still%20abroad>> accessed 7 August 2024.

34 For the relevant statistics, see *ibid.*

35 Laurence Peter, 'Ukraine conflict: Ban Russian visitors, Zelensky urges West', *BBC News* (09.08.2022) <<https://www.bbc.com/news/world-europe-62480087>> accessed 7 August 2024.

36 See, e.g., YLE News, 'Finnish PM: EU should restrict Russian tourism' (08.08.2022) <<https://yle.fi/a/3-12568274>> accessed 7 August 2024.

37 Agreement between the European Community and the Russian Federation on the facilitation of the issuance of visas to the citizens of the European Union and the Russian Federation [2007] OJ L 129.

the respective Council Decision entered into force,³⁸ all Russian citizens are covered by the standard provisions of the Schengen Visa Code,³⁹ which allow for longer visa processing times (up to 45 days), higher application fees and additional checks. Moreover, Member States are allowed to deprioritise applicants whose reason for travel is not considered ‘essential’, a term that lacks legal certainty.⁴⁰

The newly imposed entry restrictions have targeted a much larger group of Russian citizens than those perceived as tourists. The category particularly disadvantaged in this regard are civil society representatives fleeing the oppressive regime, whose options to claim protection in the EU are now extremely limited. Given that EU Member States typically do not accept asylum applications from abroad, for most of those fleeing Russia a Schengen visa is the only way to enter the EU legally.

Furthermore, recently issued Commission guidelines on visa processing for Russian citizens reiterate that applications for a Schengen visa should only be examined by a Member State consulate in a country where the applicant legally resides (pursuant to Article 6 of the Schengen Visa Code). It is stressed that ‘Member States should not routinely accept visa applications from citizens of the Russian Federation that are present in a third country, such as Serbia, Turkey or the United Arab Emirates, for a short stay or for purposes of transit’.⁴¹ It follows, therefore, that Russians who have recently fled to non-EU countries, are required to return to Russia to apply for a Schengen visa – an impossible option for many, particularly those who were previously subjected or risk being subjected to persecution.

38 Council Decision (EU) 2022/1500 of 9 September 2022 on the suspension in whole of the application of the Agreement between the European Community and the Russian Federation on the facilitation of the issuance of visas to the citizens of the European Union and the Russian Federation (ST/12039/2022/INIT) OJ L 234I.

39 Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) [2009] OJ L 243.

40 Commission, ‘Communication from the Commission providing guidelines on general visa issuance in relation to Russian applicants following Council Decision (EU) 2022/1500 of 9 September 2022 on the suspension in whole of the application of the Agreement between the European Community and the Russian Federation on the facilitation of the issuance of visas to the citizens of the European Union and the Russian Federation’, C(2022) 6596 final, para 10.

41 Ibid, para 7.

Unilateral visa bans

A number of EU Member States (including Poland, Latvia, Estonia, Lithuania, Finland, Czech Republic, Denmark, and the Netherlands), however, went much further and have severely restricted or *de facto* ceased issuing Schengen visas to Russian citizens.⁴² Poland, Latvia, Estonia, Lithuania and Finland – the countries bordering Russia – went as far as to unilaterally introduce a nearly absolute entry ban on Russian citizens, including holders of short-term Schengen visas issued by other Member States.⁴³ In a joint statement, the governments justified this step by referring to ‘substantial and growing influx’ of Russian citizens through their land borders (an expected development after Russian airlines were banned from EU airspace).⁴⁴

The relevant domestic rules appear to conflict with the Schengen Visa Code that currently does not permit blanket bans on certain groups of visitors, based solely on their nationality. The list of grounds under which Member States may refuse to issue a Schengen visa is found in Article 32(1) of the Code. These include cases where a person cannot prove the purpose of their intended stay or is considered a threat to public policy, internal security, public health or international relations of any of the Member States. The underlying principle of the Schengen *acquis*, however, is that each application should be assessed individually.⁴⁵ Importantly, the Commission guidelines on visa processing for Russian citizens advise the governments to carry out more checks, yet underline that refusals should still be based on an individual examination.⁴⁶

In other words, under the rules currently in force Member States shall continue to accept Schengen visa applications from Russian citizens for all purposes found in the Visa Code – including so-called ‘tourism’ (up until September 2022, perhaps, the fastest and the least paperwork route).

42 For an overview see Fragomen, ‘Worldwide/Russia: Update on Visa Suspensions for Russian citizens’ (17.07.2024) <<https://www.fragomen.com/insights/worldwiderussia-update-on-visa-suspensions-for-russian-citizens.html>> accessed 7 August 2024.

43 Joint statement of the prime ministers of Poland, Estonia, Latvia, Lithuania (08.09.2022) <<https://www.gov.pl/web/eu/joint-statement-of-the-prime-ministers-of-estonia-latvia-lithuania-and-poland>> accessed 7 August 2024.

44 Ibid.

45 This has been extensively discussed in Sarah Ganty, Dimitry V. Kochenov and Suryapratim Roy, ‘Unlawful Nationality-Based Bans from the Schengen Zone: Poland, Finland, and the Baltic States against Russian Citizens and EU Law’ (2023) 48 *The Yale Journal of International Law Online* 1.

46 C(2022) 6596 final, para 8.

Security threat narrative

Evidence suggests that options for pro-democracy Russian citizens to enter the EU via alternative routes are equally limited. The possibilities to obtain a humanitarian visa which remains the most viable option for many, are limited and largely restricted to exceptional cases, such as individuals who have made public appearances, including journalists who have openly criticized the government. The few EU countries issuing these visas—primarily Germany, Lithuania, and Poland—are unable to meet the current demand. Since February 2022 to early 2024, for instance, Germany has issued around 2,000 humanitarian visas to Russian citizens.⁴⁷ The relevant numbers for other EU Member States are significantly lower. Other avenues, such as work-related residence permits or business visas, are available only for a small fraction of people fleeing Russia due to specific professional or income requirements.

In European public and political discourses, Russian citizens are widely portrayed as a threat to the national security of EU Member States. For instance, Poland, Latvia, Estonia and Lithuania justified the blanket entry ban by making a generalised claim that '[a]mong the Russian citizens entering the EU/Schengen area, there are persons coming with the aim of undermining the security of our countries, insofar as three fourths of Russian citizens support Russia's war of aggression in Ukraine'.⁴⁸

These claims appear to be highly politicized and lack sufficient evidence, particularly as, since February 2022, no known individual from the recent wave of Russian emigration has been accused of collaborating with Russian security services or expelled on such grounds. Regarding security concerns, it remains unclear why existing legal mechanisms, such as conducting individual security checks, cannot adequately address these issues without resorting to broad measures that stigmatize and exclude an entire group, potentially undermining the Rule of Law within the EU.

The available research suggests that the majority of people who have fled Russia after February 2022 are precisely those who oppose the invasion of Ukraine, fear repercussions for expressing dissent, and share democratic values. For instance, a study on recent Russian emigrés demonstrates that one of the major reasons for leaving the country was political and moral disagreement with the Kremlin's policies.⁴⁹ The study proceeds to note that

47 Анна Розэ, «Гуманитарные визы в ФРГ за два года получили около двух тысяч россиян», *Радио Свобода* (26.02.2024) <<https://www.svoboda.org/a/gumanitarnye-vizy-v-frg-za-dva-goda-poluchili-okolo-dvuh-tysyach-rossiyan/32836054.html>> accessed 7 August 2024.

48 Joint statement of the prime ministers of Poland, Estonia, Latvia, Lithuania (n 41).

49 Ivetta Sergeeva and Emil Kamalov, 'A Year and a Half in Exile: Progress and Obstacles in

[t]he Russian migration outflow is not representative of the broader Russian population but reflects specific societal segments — well-educated, urban, politically active — with high human and social capital. This promises smooth integration and added value to host societies, assuming no major obstacles. (..)

Russian migrants significantly deviate from the average Russian citizen in key social and political attitudes. Our findings show a strong disconnection from pro-government sentiment prevalent in Russia and a history of political activism, suggesting a continued political engagement in their new countries.⁵⁰

Travel restrictions as incentives for the elites?

In justification of the introduction of blanket restrictions, the idea is expressed that visa restrictions will incentivize policy change in Russia by denying access by Putin's elite to the Western countries and thus stop their alleged "freedom of movement". There is no evidence to suggest that the blanket measures addressing the whole population have any impact on the policy making in an increasingly authoritarian country, where citizens have little or no impact on authorities' decisions.

Moreover, some members of Putin's elite are already subject to personal restrictive measures and banned from traveling to the EU, and there are clearly ways to expand the list of sanctioned persons by adding new names to the list. The nationality-based travel ban ignores the reality that Putin's elite, as well as their family members hold passports or permanent residencies of other nations that allow them to travel to the EU and thus are not impacted by restrictions.

Family members

Along with civic activists, the entry restrictions severely affect Russian citizen family members of EU citizens and residents. As noted above, Latvia, Estonia, Lithuania and Poland, alongside with several other EU Member States have officially ceased issuing Schengen visas to Russian citizens, subject to very limited exceptions.

the Integration of Russian Migrants' *SocArXiv* (22.02.2024), 13 <https://osf.io/preprints/socarxiv/ckf4v?fbclid=IwAR1O52CMS_wh3SAzdV1boIDWyF_-Q3uXPGIUXSN8EmjDQH1-qPQO5sn-ySM> accessed 7 August 2024.

50 Ibid, 5.

Although the exceptions include family members of citizens or residents of a particular Member State, the respective definitions of ‘family members’ are narrow. In Latvia, the exception is confined to spouses, children, parents, grandparents, grandchildren of Latvian passport holders and other persons if they are dependants.⁵¹ Nearly identical definitions of ‘family members’ have been introduced in Estonia⁵² and Lithuania.⁵³ Unregistered partners, siblings, cousins, uncles, aunts, nieces, nephews and other extended relatives do not fall within their scope (unless they are dependent) and are consequently barred from visiting their close ones in Latvia, Estonia or Lithuania, irrespective of how significant their relationship is.

The restrictive measures, introduced by Latvia, Estonia and Lithuania, primarily affect Latvian and Estonian passport holders of Russian descent who make up around a quarter of the respective countries’ population. Another particularly disadvantaged group consists of Russian citizens with permanent or temporary residence permits. In addition, the restrictions may also affect Ukrainian refugees hosted by these states, given that many Ukrainians have relatives in Russia. The latter two categories cannot be visited even by their Russian citizen spouses or children: in Latvia and Lithuania, the ‘family members’ exception does not apply to the relatives of legally resident non-EU nationals, while Estonia only allows visiting long-term residents.

Post-Entry Barriers to Accessing Protection in the EU

Even where Russian citizens have managed to enter the EU, their options to access international protection are limited. At present, EU and international law does not offer Russian citizens sufficient safeguards against potential persecution and return to Russia.

Following the invasion of Ukraine, the EU did not see a sharp increase in the number of Russian asylum seekers. Among other things, this can be

51 Embassy of the Republic of Latvia to the Russian Federation, ‘Entry into Latvia by citizens of Russian Federation’ (21.06.2024) <<https://www2.mfa.gov.lv/en/moscow/consular-information/entry-into-latvia-by-citizens-of-russian-federation>> accessed 7 August 2024.

52 Estonian Ministry of Foreign Affairs, ‘Restrictions on accepting visa applications for Russian and Belarusian citizens’ (29.05.2024) <<https://vm.ee/en/consular-visa-and-travel-information/visa-information/restrictions-accepting-visa-applications>> accessed 7 August 2024.

53 Consular information of MFA of Lithuania, ‘Russia: Documents suitable for travel to the Republic of Lithuania’ <<https://keli auk.urm.lt/en/incoming/rusija>> accessed 7 August 2024.

explained by the EU-imposed entry restrictions, as well as by the general reluctance of Russian citizens to undergo a formal asylum procedure for the reasons set out below. According to Eurostat data, Russian citizens filed 13,345 and 18,820 applications for asylum in EU countries in 2022 and 2023 respectively, with Germany, France, Poland and Finland their top destinations.⁵⁴

The right to asylum is part of EU law and is laid down in Article 18 of the EU Charter of Fundamental Rights (EUCFR). The Asylum Procedures Directive (2013/32/EU) further specifies that every person has a right to apply for international protection in the territory of a Member State concerned, including at the border, and obliges Member States to register and process such applications, regardless of the mode in which the applicant has entered the country.⁵⁵

Common standards for qualification for international protection are set in the EU Qualification Directive (2011/95/EU),⁵⁶ which is based on the 1951 Geneva Convention relating to the Status of Refugees and must be interpreted in line with this instrument. According to Article 1A(2) of the Convention, a refugee is any person who:

owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of [their] nationality and is unable or, owing to such fear, is unwilling to avail [themselves] of the protection of that country.

Further, the states are obliged to respect the principle of *non-refoulement*, which forms a cornerstone of international refugee law and prohibits returning someone to a state where they may face persecution and/or inhuman or degrading treatment. Among other instruments, the relevant principle is protected under Article 33(1) of the Geneva Convention, Article 3 of the European Convention on Human Rights (ECHR) and Article 19(2) of the EUCFR.

54 For the relevant statistics, see Eurostat, Asylum applicants by type, citizenship, age and sex - annual aggregated data. Available at <https://ec.europa.eu/eurostat/databrowser/view/MIGR_ASYAPPCTZA_custom_6978373/default/table?lang=en> accessed 7 August 2024; Eurostat, Asylum applications - annual statistics. Available at <https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Asylum_statistics&oldid=558844#Over_1_million_first-time_asylum_applicants_in_2023> accessed 7 August 2024.

55 Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) [2013] OJ L 180.

56 Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) [2011] OJ L 337.

The asylum approval rate for Russian citizens, however, generally remains low and varies across different EU Member States. For example, in 2023 a total of 9,028 Russian citizens applied for asylum in Germany, 7,663 of which were first-time applicants.⁵⁷ In the same year, the acceptance rate for Russian asylum applicants in Germany comprised 29%.⁵⁸

One of the main obstacles on the path of claiming protection for Russian citizens is the high evidential threshold, which is required to prove that an individual has a well-founded fear of persecution on political grounds and/or would be exposed to a real risk of being subjected to inhuman or degrading treatment in their country of origin. A solitary picket, participation in protests back in Russia, administrative detention, anti-war posts on social media or a 'foreign agent' status alone without existing criminal proceedings or court rulings might typically not suffice. Risks associated with the broad and unpredictable application of the repressive measures, described in Section II, as well as the impossibility of continuing professional activities or freely expressing an anti-war position is generally not considered sufficient basis for granting international protection.

Further, asylum systems of several EU Member States are systemically deficient and, in some cases, do not provide an opportunity to submit an application for international protection at all or receive a thorough examination of this claim. In addition, there may not always be sufficient awareness of the scope and nature of the repressive measures adopted by the Russian government. For example, the Bulgarian authorities consider that in most cases, it is unlikely that the applicants would face any persecution in Russia and typically deny Russian citizens international protection.⁵⁹ A Russian citizen who arrived in Hungary in March 2022 with a Schengen visa was not allowed to submit an asylum claim due to the deficiencies of the Hungarian asylum system.⁶⁰ The Hungarian authorities also found that expelling the applicant to Russia would not breach the principle of *non-refoulement*. The Hungarian immigration office considered that Russia was generally not a dangerous place and that political oppression only affected people with a visible public profile.⁶¹

57 ECRE, 'Germany Country Report: Differential treatment of specific nationalities in the procedure' (10.07.2024) <<https://asylumineurope.org/reports/country/germany/asylum-procedure/differential-treatment-specific-nationalities-procedure/>> accessed 7 August 2024.

58 ECRE, 'Germany Country Report: Statistics' (10.07.2024) <<https://asylumineurope.org/reports/country/germany/statistics/>> accessed 7 August 2024.

59 See Georgi A. Angelov, 'Russian Kremlin Critics Fleeing To Bulgaria Often Find They Are Not Welcome', RFE/RL (10.10.2023) <<https://www.rferl.org/a/russia-kremlin-critics-fleeing-bulgaria-not-welcome/32631596.html>> accessed 7 August 2024.

60 See Hungarian Helsinki Committee, 'No access to asylum – embassy system info note update' (13.06.2023) <<https://helsinki.hu/en/wp-content/uploads/sites/2/2023/06/Embassy-info-note.pdf>> accessed 7 August 2024.

61 For an analysis of the case see Eszter Benkő, Tamás Fazekas and Zsolt Szekeres, Imminent

A formal asylum procedure is not an appropriate solution for many of those affected, provided that it hinders Russian civil society activists from continuing their professional activities and participating in events, meetings and conferences abroad, including outside the EU. The asylum procedure itself is complicated, with applicants facing a number of substantial restrictions, such as restrictions on the movement, residence, and access to the labour market. The process of obtaining asylum is rather long and can take between six months and several years. In addition, during the asylum procedure the applicant is typically required to hand in their passport to the authorities.

Many of those who were forced to leave Russia for political reasons and in fear of persecution did not apply for asylum either deliberately (hoping that they had left for a short time) or on the recommendation of the host country (for example, in Lithuania those who arrived were strongly discouraged from applying for asylum). Persons at risk, such as scholars, lawyers, and human rights activists, were offered temporary job contracts or research fellowships. As a result, these people live in EU countries with work visas and temporary residence permits without a proper consideration of their risks of persecution.

Another layer of complexity is added by the so-called ‘Dublin procedure’ which regulates the EU Member States’ responsibility for examining asylum claims.⁶² As a rule, the responsible state is the one that issued the entry visa or, in case of an irregular entry, that the person entered first. For example, many Russian citizens seeking protection in Germany have entered the country with a visa issued by a different state, such as Croatia, Bulgaria, or Greece. In this case, the German authorities would require the protection seeker to return to the respective state. As noted above, however, asylum systems of several EU Member States are systemically deficient.

Draft evaders and deserters

In September 2022, Russia declared a partial mobilisation, following which thousands of men of conscription age have fled the country. Whilst

Risk of Irreparable Harm: Why Failure to Protect Russians Fleeing the Putin Regime Would Be a Serious Blow to the Court’s Reputation’, *Strasbourg Observers* (12.03.2024), <<https://strasbourgobservers.com/2024/03/12/imminent-risk-of-irreparable-harm-why-failure-to-protect-russians-fleeing-the-putin-regime-would-be-a-serious-blow-to-the-courts-reputation/>> accessed 7 August 2024.

62 Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) [2013] OJ L 180.

Russian law does provide the possibility of conscientious objection, those mobilised were typically denied this right.⁶³ Further, as highlighted in the report of the UN Special Rapporteur, ‘many men have been mobilised by deception, the use of force, or by taking advantage of their vulnerability. Mobilised men have been immediately sent to military units, with or without their consent and without regard for their age, health or family situation’.⁶⁴ Whilst the Russian authorities deny there is a need for a second wave of mobilisation,⁶⁵ such a possibility cannot be excluded.

Anyone who resists conscription and does not join the military faces a punishment of up to two years of imprisonment.⁶⁶ The number of prosecutions for desertion, unauthorised absence or disobeying orders increased significantly in 2023. According to the Russian independent media outlet Mediazona, during the period from 2022 to June 2024, Russian military courts received over 10,000 criminal cases regarding refusal to serve in the army. Deserters face severe criminal penalties. There are cases when individuals were sentenced to seven or nine years in prison for escaping their military unit.⁶⁷

The prosecution of conscientious objection and desertion is generally not considered a reason for granting international protection. Nevertheless, under both international refugee law and in EU law, people fleeing military service can be granted refugee status where the state provides no alternatives to military service, if punishment for refusal to perform military service meets the threshold of inhuman or degrading treatment, if it triggers persecution on political grounds, or if the relevant person would be obliged to participate in war crimes or crimes against humanity.⁶⁸ The

63 Федеральный закон «Об альтернативной гражданской службе» от 25.07.2002 N 113-ФЗ [Federal Law N 113-FZ on alternative civilian service]. Available at <https://www.consultant.ru/document/cons_doc_LAW_37866/> accessed 7 August 2024. See also Report of the Special Rapporteur on the situation of human rights in the Russian Federation (n 7), para 96.

64 Ibid, para 97.

65 Фонтанка.ру, «В Кремле прокомментировали публикацию Financial Times о новой мобилизации в России» (25.05.2024) <<https://www.fontanka.ru/2024/05/25/73622378/>> accessed 7 August 2024.

66 Criminal Code Of The Russian Federation (n 12), Art. 328(1).

67 Медиазона, «Более 10 тысяч российских военных обвинили в отказе от службы с начала войны в Украине» (18.06.2024) <<https://zona.media/news/2024/06/18/awol-10k>> accessed 7 August 2024.

68 For an analysis see, e.g., Maarten den Heijer, ‘Why EU Countries Should Open Their Borders to Russian Draft-Evaders’, *VerfBlog* (26.09.2022) <<https://verfassungsblog.de/why-eu-countries-should-open-their-borders-to-russian-draft-evaders/>> accessed 7 August 2024; Tom Dannenbaum, ‘The Legal Obligation to Recognize Russian Deserters as Refugees’ (02.03.2022) <<https://www.justsecurity.org/80419/the-legal-obligation-to-recognize-russian-deserters-as-refugees/>> accessed 7 August 2024; Tom Dannenbaum, ‘Mobilized to Commit War Crimes? Russian Deserters as Refugees, Part II’ (27.09. 2022) <<https://www.justsecurity.org/80419/the-legal-obligation-to-recognize-russian-deserters-as-refugees/>> accessed 7 August 2024.

relevant norms, however, are often interpreted narrowly. In Germany, for instance, protection is generally only granted to deserters. Applications from Russian draft evaders are typically rejected, as it is difficult to prove that the applicant would, with considerable probability, be recruited for the war or subjected to a disproportionately severe punishment for refusal to perform military service.⁶⁹ Meanwhile, several Member States (such as Latvia, Estonia and Lithuania) openly announced that they would not consider asylum claims from Russian draft evaders due to security concerns.⁷⁰ This approach is incompatible with EU and international law, according to which anyone claiming asylum in the EU is entitled to an individual assessment of their claim.

Russian citizens with a precarious status abroad

Along with civic actors who have remained in Russia, many Russian citizens who have fled abroad currently find themselves in a precarious position. As noted in Section II above, people working abroad and/or having links with international organisations are treated by the Russian authorities with particular scrutiny. Given the broad and unpredictable application of the restrictive measures adopted by the Russian authorities, persons having connections with foreign states or entities face a significant risk of becoming subjected to various types of pressure and/or persecution upon return to Russia. This particularly applies to people who have continued their activities abroad, such as refusal to comply with the ‘foreign agent’ status requirements, expression of anti-war sentiments or participation in protests.

The first group particularly disadvantaged in this regard are Russian citizens with a precarious residence status in the EU (e.g., individuals whose claims to international protection have been rejected, holders of visas or temporary residence permits). Another group is comprised of those who have fled to visa-free countries and whose status is equally insecure. For example, in 2023 Kazakhstan introduced a new rule that allows Russian citizens to stay in the country no longer than 90 days out of each six-month

69 For an analysis, see Pro Asyl, ‘Germany: Federal Office for Migration rejects asylum for Russian refusers’ (17.02.2023) <<https://www.proasyl.de/en/news/germany-federal-office-for-migration-rejects-asylum-for-russian-refusers/>> accessed 7 August 2024; Connection e.V., ‘Country report: Russia. Military Service and Conscientious Objection’ (08.10.2023) <<https://en.connection-ev.org/article-3878#>> accessed 7 August 2024. See also Natalia Smolentceva, ‘Germany: No asylum for Russian draft dodgers?’, *DW* (19.04.2024). <<https://www.dw.com/en/germany-no-asylum-for-russian-draft-dodgers/a-68863537>> accessed 7 August 2024.

70 See, e.g., Bleona Restelica, ‘Lithuanian MF: We Will Not Grant Asylum to Russians Fleeing Mobilisation’, *Schengen News* (27.09.2024) <<https://schengen.news/lithuanian-mf-we-will-not-grant-asylum-to-russians-fleeing-mobilisation/>> accessed 7 August 2024.

period unless they obtain a residence permit which, in turn, would require a work contract. Likewise, in Turkey it has become more difficult to obtain a residence permit.⁷¹ In addition, in countries such as Kyrgyzstan, Tajikistan, Uzbekistan and Azerbaijan Russian citizens face a high risk to be extradited to Russia following its request.⁷²

In addition, Russian lawmakers have expanded the rights of the authorities to seize the passports of Russians traveling outside the country. Moreover, there are numerous cases where Russian diplomatic representations abroad have refused to issue citizens a new passport after the old one has expired. This problem is most often faced by political activists who have criminal proceedings started against them after they have left Russia.⁷³

Recommendations

The analysis above has shown that EU law and policies currently do not provide adequate safeguards to Russian citizens in the view of the deteriorating human rights situation in Russia. Moreover, several Member States have openly departed from EU law to further limit the entry and residence rights of this group.

Against this background, there is a need for a unified, coordinated, and transparent EU-level approach to the issue that would address the deficiencies in the existing Member State practices and provide an adequate level of protection to individuals vulnerable to possible repression from the Russian government. Such an approach would help mitigate the consequences of the repressive measures and strengthen Russian civil society by **allowing its members to continue their activities in a safe environment without fear of possible repercussions**. From a wider perspective, this would contribute to building stronger links between Russian democrats and the EU and increasing Russia's democratic potential long-term.

71 For an overview see Caress Schenk, Aleksandr Motin, Yury Slinko, 'How Do Receiving Countries Respond to the Inflow of Russian Migrants?', *Russia.Post* (29.06.2023) <https://russiapost.info/politics/migrants_ru> accessed 7 August 2024.

72 Медуза, «Кремль собирается преследовать россиян, выступающих против войны, по всему миру. В какие страны лучше не ездить? Большой гид «Медузы»» (13.03.2024) <<https://meduza.io/feature/2024/03/13/kreml-sobiraetsya-presledovat-rossiyan-vystupayuschih-protiv-voyny-po-vsemu-miru-v-kakie-strany-luchshe-ne-ezdit-bolshoy-gid-meduzy>> accessed 7 August 2024.

73 See Алексей Стрельников, «В ловушке: власти РФ оставляют россиян без загранпаспортов», DW (27.07.2024) <<https://www.dw.com/ru/v-lovuske-vlasti-rf-ostavlyaut-rossian-bez-zagranpasportov/a-69780354>> accessed 7 August 2024.

Based on the analysis provided, this Policy Brief makes the following recommendations to **EU institutions and Member States**:

- To adopt an **unbureaucratic, flexible reception programme for Russian citizens belonging to categories particularly targeted by the legislative measures outlined above**, such as the ‘foreign agents’ law, the law on ‘fake news’ and ‘discrediting the army’, as well as those connected with organisations declared as ‘extremist’, such as the LGBT community. The relevant categories could include, but are not limited to, persons affiliated with NGOs, media, anti-war activists, lawyers, academics, cultural figures, minorities, and people having links with international organisations. Where considered appropriate, any security concerns arising in this context can be addressed by conducting thorough security checks.
- Upon meeting a set of criteria, to provide Russian citizens already present in the EU (with a precarious status, such as rejected asylum seekers, people on fixed-term contracts, students, irregular entrants, etc.) **an in-country opportunity to receive or extend a temporary residence permit in the EU**, even if their situation does not meet the threshold for granting international protection. For an individual to qualify under the programme, it should be sufficient to demonstrate their belonging to one of the vulnerable categories, to describe the nature of their activities and to show how and to what extent the repressive measures may potentially affect them upon return to Russia. When assessing such applications, the main focus should be placed on **obstacles to their (professional) activities and/or expressing an anti-war position**, rather than the severity and likelihood of punishment. In the meantime, particular attention should be paid to individuals who have **continued their (anti-war) activities after having left Russia and now face increased risk of persecution**. A similar solution was adopted in Poland in respect to Belarusian citizens who had been previously granted a Polish humanitarian visa and could then convert it into a temporary residence permit without being required to leave Poland.⁷⁴
- When considering application for extension of the resident permits and permanent residency of political activists and other categories of Russian citizens, **the entire period of legal residence in the EU member states should be taken into account** in the country of final residence, as they often have to change the country of temporary residence.

74 See Office for Foreigners (Poland), ‘New temporary residence permit for Belarusians holding humanitarian visas’ (07.07.2022), <<https://www.gov.pl/web/udsc-en/new-temporary-residence-permit-for-belarusians-holding-humanitarian-visas>> accessed 7 August 2024.

- To provide Russian citizens an opportunity to **apply for the reception programme from third countries** (such as Central Asian countries, Georgia, Armenia, Turkey, etc.), even where they are present in the respective country for a short stay or for purposes of transit, as well as to make greater use of humanitarian visas.
- To pay particular attention to the **right of EU citizens and residents to reunify with their Russian citizen family members**. Member States are called to adhere to the provisions of the Schengen Visa Code that currently does not allow for blanket bans on certain groups of visitors, based on their nationality alone. Under the rules currently in force, Member States shall continue to accept Schengen visa applications from Russian citizens for all purposes found in the Visa Code – including visits to an unrestricted and undefined range of hosts, supported by the required documentation (such as an invitation letter, proof of sponsorship or other documents relating to the purpose of the journey).
- To develop a common approach for admission of **conscientious objectors, military draft evaders and deserters**. In case another wave of mobilisation is announced, to find solutions for the larger number of military evaders, particularly those at high risk of being mobilised and/or previously engaged in anti-war activities.
- To introduce a simplified and transparent procedure for **issuing special identity documents to Russian citizens abroad** in cases where Russian diplomatic representations seize or refuse to renew their passports, including due to criminal proceedings, launched against the relevant persons in Russia. Similar solutions were adopted in several Member States with respect to Belarusian citizens who, according to a new decree, are now required to return to Belarus to receive, exchange or renew their passports in person.⁷⁵ Belarusian citizens who live in Lithuania and Poland, for instance, are allowed to apply for a special identity document which allows them to leave and re-enter the respective countries.⁷⁶

75 Viktoryia Kolchyna, 'Belarusians Abroad Face Document Limbo', *IWPR* (03.10.2023) <<https://iwpr.net/global-voices/belarusians-abroad-face-document-limbo>> accessed 7 August 2024.

76 Fragomen, 'Belarus/Lithuania/Poland: Belarusian Nationals Can No Longer Obtain or Renew Their Passports While Abroad' (16.07.2024) <<https://www.fragomen.com/insights/belaruslithuanipoland-belarusian-nationals-can-no-longer-renew-their-passports-while-abroad.html>> accessed 7 August 2024.

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