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The European Magnitsky Act as a way to counter impunity for human rights violations in the world

On 20 November 2018, representatives of the governments of all 28 EU countries gathered in the Hague in order to discuss the Netherlands' proposal to adopt, within the EU, of a joint legal mechanism that would allow the imposition of personal sanctions on persons involved in gross violations of human rights around the world.

The United States, Canada, Great Britain, Estonia, Latvia and Lithuania have already introduced similar legal mechanisms. They have an unofficial name 'Magnitsky Act', by analogy with the law that was adopted in the United States in 2012 and imposed personal sanctions on individuals involved in the death of Russian lawyer, Sergei Magnitsky.

On 10 December 2018, in Brussels, foreign ministers of the EU countries will discuss the proposal to develop a European analogue of the Magnitsky Act.

The effectiveness of the sanction policy of an individual EU country depends on the positions of other EU countries, which may create barriers to its implementation. In addition, the current EU sanctions policy is based on the introduction of restrictions on representatives of individual countries and, therefore, is geographically limited. Therefore, it is important to introduce a new joint sanction mechanism that would allow sanctions imposed on human rights violators around the world to be enforced and would allow such decisions to have legal force on the territory of the entire EU.

The impetus for the initiation of the introduction of a joint EU sanction mechanism, analogous to the Magnitsky Act, were high-profile and brutal incidents of violations of human rights and basic international agreements, in particular: the downing of the MH17 flight by a missile that was released from the territory of the Donbas, which was not controlled by the Ukrainian state, and the launcher station was delivered from Russia; the brutal murder of journalist Jamal Khashoggi at the Consulate General of Saudi Arabia in Istanbul, in connection with which the United States and Canada imposed personal sanctions on 17 citizens of Saudi Arabia under the Magnitskiy Act; an attempt to kill Sergii Skripal with chemical weapons on the territory of Great Britain: the British party has indicated the names of Russian special services, involved in the crime.

The war in Syria, leading to numerous civilian casualties, and the Russian occupation of the Crimean Peninsula and further inciting armed conflict in the Donbas are accompanied by numerous gross violations of human rights and fundamental freedoms. **These events started a chain reaction that led to the strengthening of authoritarian and oppressive regimes around the world. In such countries, human rights and fundamental freedoms are blatantly violated with impunity.**

Impunity provokes new crimes. On 25 November 2018, near the Kerch Strait, in violation of the rules of the UN Convention on Law of the Sea, Russia blocked the transit passage of three ships of the Naval Forces of Ukraine; subsequently, using a shooting and ram attack, it seized the Ukrainian ships and captured 24 members of their crews. In accordance with the norms of international humanitarian law, the captured Ukrainian servicemen are prisoners of war. However, Russia arrested them and prosecuted in a civilian court.

In general, except for the prisoners of war, in connection with the occupation of the Crimea and the developments on the Donbas, approx. 100 citizens of Ukraine fell victim of politically motivated prosecutions by the Russian law enforcement bodies. Criminal cases were fabricated, and confessions in crimes were obtained by means of torture and inhumane and degrading treatment. There are concrete individuals behind each such persecution, who, feeling impunity, give and execute criminal orders.

On 12 December 2018, the most famous hostage of the Kremlin, the Ukrainian film director Oleg Sentsov, will be bestowed the Sakharov Prize – an annual European Union recognition for achievements in the field of human rights protection. The prize is an important signal of support for all Ukrainian political prisoners held by Russia. Between 9-12 December, a global action to support Ukrainian political prisoners in Russia called #SaveOlegSentsov will take place in different cities of the world. Human rights activists are calling for effective steps to free Ukrainian political prisoners and cease the persecution. The adoption of the European analogue of the Magnitsky Act would be an important step towards that.

Over the past three years, the United States have imposed sanctions under the Global Magnitsky Act (adopted in 2016) against several dozen people involved in human rights abuses. Citizens of China, Myanmar, Nicaragua, Pakistan, Saudi Arabia and others were subjected to sanctions. The US example inspired other democratic countries to create their own versions of the Global Magnitsky Act. Now, the time has come for the European Union to create its own act.

Democratic countries have faced the challenge of joining forces in order to protect the values that underpin the world democratic community. Introducing a joint legal mechanism within the European Union that would allow for the imposition of personal sanctions on individuals involved in gross human rights violations in various countries around the world, would be an important tool to punish human rights abusers, and a preventive mechanism to prevent such violations. In addition, officials of individual states (as a rule, non-democratic) who ignore the decisions of the ECHR and the UN recommendations, could be subjected to sanctions under the Magnitsky Act. This dangerous tendency becomes more widespread and reduces the existing achievements in the field of human rights protection.

We hereby call on the governments of the European Union countries to immediately begin the development of a European analogue of the Magnitsky Act. Individuals involved in human rights abuses, including assassinations, torture, enforced disappearances, and political persecution, should be held responsible for their criminal acts.

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