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REPORT

with a proposal for a European Parliament recommendation to the Council on establishing common visa restrictions for Russian officials involved in the Sergei Magnitsky case
(2012/2142(INI))

Committee on Foreign Affairs

Rapporteur: Kristiina Ojuland

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PROPOSAL FOR A EUROPEAN PARLIAMENT RECOMMENDATION TO THE COUNCIL

on establishing common visa restrictions for Russian officials involved in the Sergei Magnitsky case

(2012/2142(INI))

The European Parliament,

- having regard to Article 215 of the TFEU,
 - having regard to the proposal for a recommendation to the Council by Guy Verhofstadt and Kristiina Ojuland, on behalf of the Alde Group (B7-0196/2012),
 - having regard to its resolution of 17 February 2011 on the rule of law in Russia¹,
 - having regard to its resolution of 16 December 2010 on the Annual Report on Human Rights in the World 2009 and the European Union's policy on the matter²,
 - having regard to its resolution of 14 December 2011 on the upcoming EU-Russia Summit on 15 December 2011 and the outcome of the Duma elections on 4 December 2011³,
 - having regard to its recommendation of 2 February 2012 to the Council on a consistent policy towards regimes against which the EU applies restrictive measures⁴,
 - having regard to the adoption of the Sergei Magnitsky Rule of Law Accountability Act by the US Senate's Foreign Relations Committee on 26 June 2012, seeking to impose visa bans and asset freezes on Russian officials allegedly involved in the detention, abuse and death of Sergei Magnitsky,
 - having regard to the draft resolution entitled 'Rule of law in Russia: case of Sergei Magnitsky', which was presented to the 2012 annual session of the OSCE Parliamentary Assembly, calling on national parliaments to take action to impose visa sanctions and asset freezes,
 - having regard to Rule 121(3) of its Rules of Procedure,
 - having regard to the report of the Committee on Foreign Affairs (A7-0285/2012),
- A. whereas the arrest, conditions of detention and subsequent death in custody of Sergei Magnitsky represent a well documented and substantial case of disrespect for fundamental human rights;

¹ Texts adopted, P7_TA(2011)0066.

² Texts adopted, P7_TA(2010)0489.

³ Texts adopted, P7_TA(2011)0575.

⁴ Texts adopted, P7_TA(2012)0018.

- B. whereas the posthumous prosecution of Sergei Magnitsky is a violation of international and national laws and clearly shows the malfunctioning of the Russian criminal justice system;
 - C. whereas the Russian Federation, as a member of the Council of Europe and of the Organisation for Security and Cooperation in Europe, has committed itself to fully respecting fundamental rights and the rule of law, and whereas the European Union has repeatedly offered additional assistance and expertise to help the Russian Federation modernise, and abide by, its constitutional and legal order;
 - D. whereas, despite the 2011 conclusions of the inquiry conducted by the Russian President's Human Rights Council on the illegality of Sergei Magnitsky's arrest, detention and being denied access to justice, the investigations are stalled and the officials involved have been exonerated and even assigned to the posthumous case; whereas such actions on the part of the authorities demonstrate the politically motivated nature of Magnitsky's prosecution;
 - E. whereas the European Union has urged the Russian authorities on many occasions and formats, from regular human rights consultations to summit-level meetings, to conduct thorough independent investigations in this special, well documented case, and to put an end to the current climate of impunity;
 - F. whereas the case of Sergei Magnitsky is only one but the most prominent and well documented case of abuse of powers by the Russian law enforcement authorities, heavily violating the rule of law; whereas a multitude of other juridical cases exist using systematically the pretext of economic crimes and alleged corruption for eliminating business competitors or political rivals;
 - G. whereas visa restrictions and other restrictive measures are not traditional judicial sanctions *per se*, but constitute a political signal of the EU's concern to a larger target audience and thus remain a necessary and legitimate foreign policy tool;
 - H. whereas EU sanctions on the Magnitsky case could prompt the Russian authorities to make genuine and fresh efforts to address, in a more concrete and convincing manner, the question of the rule of law in Russia and the current climate of impunity;
 - I. whereas several national parliaments of EU Member States – among them Italy, the Netherlands, the United Kingdom, Sweden and Poland – have already passed resolutions urging their governments to introduce sanctions on the Magnitsky case, while several other national parliaments, such as those in Portugal, France, Spain and Latvia, are at the initial drafting stage for such resolutions;
- 1. Addresses the following recommendations to the Council:
 - (a) to establish a common EU list of officials responsible for the death of Sergei Magnitsky, for the subsequent judicial cover-up and for the ongoing and sustained harassment of his mother and widow;
 - (b) to impose and implement an EU-wide visa ban on these officials and to freeze any financial assets they or their immediate family may hold inside the European Union;

- (c) to call on Russia to conduct a credible and independent investigation encompassing all aspects of this tragic case, and to bring all those responsible to justice;
 - (d) to urge the Russian authorities to put an end to the widespread corruption and to reform the judicial system, and bring it into line with international standards, by creating an independent, just and transparent system that cannot, under any circumstances, be misused for political reasons;
 - (e) to raise, in the course of bilateral meetings with Russian authorities, this issue as well as the issue of intimidation and impunity in cases involving human rights defenders, journalists and lawyers, in a more determined, resolute and result-oriented manner;
2. Encourages the Council to take a coherent and proactive stance on other serious human rights violations in Russia, on the basis of well documented, converging and independent sources and convincing evidence, and to introduce similar restrictive measures against offenders as a last resort measure;
 3. Underlines that the commitment of the Russian authorities to basic values such as the rule of law, and respect for human rights and basic freedoms, remains the main prerequisite for EU-Russia relations and for the development of a stable and reliable partnership between the two parties;
 4. Instructs its President to forward this recommendation to the Council and, for information, to the Commission, the Member States, the Russian State Duma and the Government of the Russian Federation.

PROPOSAL FOR A RECOMMENDATION B7-0196/2012

pursuant to Rule 121(1) of the Rules of Procedure

by Guy Verhofstadt, Kristiina Ojuland on behalf of the ALDE Group

on establishing common visa restrictions for Russian officials involved in the Sergei Magnitsky case

The European Parliament,

- having regard to Article 215 of the TFEU,
 - having regard to the European Parliament recommendation to the Council on a consistent policy on restrictive measures, adopted on 2 February 2012¹,
 - having regard to the decision by the United States to impose travel restrictions on 60 officials involved in the Sergei Magnitsky case and to similar considerations in a number of other countries,
 - having regard to Rule 121(1) of its Rules of Procedure,
- A. whereas the arrest and subsequent death in custody of Sergei Magnitsky represents a well documented and substantial case of disrespect for fundamental human rights in Russia, and serves as a chilling reminder of the many documented shortcomings in the respect shown for human rights and fundamental freedoms in Russia;
- B. whereas Russia, as a member of the Council of Europe, has committed itself to fully respecting fundamental rights and the rule of law, and whereas the European Union has repeatedly offered additional assistance and expertise to help Russia modernise, and abide by, its constitutional and legal order, in line with Council of Europe standards;
- C. whereas there is an increasing need for a firm, robust and comprehensive EU policy towards Russia, offering support and assistance backed up by firm and fair criticism, including sanctions and restrictive measures when needed;
- D. whereas visa restrictions and other restrictive measures are not traditional judicial sanctions *per se*, but constitute a political signal of the EU's concern to a larger target audience and thus remain a necessary and legitimate foreign policy tool;
1. Addresses the following recommendations to the Council:
- (a) to establish a common EU list of officials responsible for the death of Sergei

¹ Texts adopted, P7_TA(2012)0018.

Magnitsky, for the subsequent judicial cover-up and for the ongoing and sustained harassment of his mother and widow;

(b) to impose and implement an EU-wide visa ban on these officials and to freeze any financial assets they or their immediate family may hold inside the European Union;

(c) to call on Russia to conduct a credible and independent investigation encompassing all aspects of this tragic case;

2. Instructs its President to forward this recommendation to the Council and, for information, to the Commission, the Member States, and the State Duma and Government of Russia.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	20.9.2012
Result of final vote	+: 62 -: 2 0: 1
Members present for the final vote	Franziska Katharina Brantner, Elmar Brok, Jerzy Buzek, Tarja Cronberg, Arnaud Danjean, Mário David, Michael Gahler, Marietta Giannakou, Ana Gomes, Andrzej Grzyb, Liisa Jaakonsaari, Jelko Kacin, Ioannis Kasoulides, Nicole Kiil-Nielsen, Evgeni Kirilov, Maria Eleni Koppa, Paweł Robert Kowal, Eduard Kukan, Vytautas Landsbergis, Krzysztof Lisek, Sabine Lösing, Ulrike Lunacek, Francisco José Millán Mon, María Muñiz De Urquiza, Annemie Neyts-Uyttebroeck, Norica Nicolai, Pier Antonio Panzeri, Ioan Mircea Pașcu, Alojz Peterle, Bernd Posselt, Hans-Gert Pöttering, Cristian Dan Preda, Libor Rouček, Tokia Saïfi, José Ignacio Salafranca Sánchez-Neyra, Nikolaos Salavrakos, Jacek Saryusz-Wolski, György Schöpflin, Werner Schulz, Marek Siwiec, Sophocles Sophocleous, Laurence J.A.J. Stassen, Charles Tannock, Inese Vaidere, Johannes Cornelis van Baalen, Geoffrey Van Orden, Sir Graham Watson, Boris Zala
Substitute(s) present for the final vote	Laima Liucija Andrikiienė, Elena Băsescu, Marije Cornelissen, Jacek Protasiewicz, Teresa Riera Madurell, Carmen Romero López, Marietje Schaake, Helmut Scholz, Alf Svensson, Indrek Tarand, Traian Ungureanu, Ivo Vajgl, Luis Yáñez-Barnuevo García, Joachim Zeller, Janusz Władysław Zemke
Substitute(s) under Rule 187(2) present for the final vote	Maria Badia i Cutchet, Ivari Padar