

111TH CONGRESS
2^D SESSION

H. R. 6365

To make certain individuals ineligible for visas or admission to the United States and to revoke visas and other entry documents previously issued to such individuals, and to impose certain financial measures on such individuals, until the Russian Federation has thoroughly investigated the death of Sergei Leonidovich Magnitsky and brought the Russian criminal justice system into compliance with international legal standards, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2010

Mr. MCGOVERN (for himself, Mr. ISSA, and Mr. HASTINGS of Florida) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To make certain individuals ineligible for visas or admission to the United States and to revoke visas and other entry documents previously issued to such individuals, and to impose certain financial measures on such individuals, until the Russian Federation has thoroughly investigated the death of Sergei Leonidovich Magnitsky and brought the Russian criminal justice system into compliance with international legal standards, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Justice for Sergei
5 Magnitsky Act of 2010”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

8 (1) The United States supports the people of
9 the Russian Federation in their efforts to realize
10 their full economic potential and to advance democ-
11 racy, human rights, and the rule of law.

12 (2) The Russian Federation is a member of the
13 United Nations, the Organization for Security and
14 Cooperation in Europe, and the International Mone-
15 tary Fund, has ratified the Convention against Tor-
16 ture and Other Cruel, Inhuman or Degrading Treat-
17 ment or Punishment, the International Covenant on
18 Civil and Political Rights, the International Cov-
19 enant on Economic, Social and Cultural Rights, and
20 the United Nations Convention against Corruption,
21 and is bound by the legal obligations set forth in the
22 European Convention of Human Rights.

23 (3) States voluntarily commit themselves to re-
24 spect obligations and responsibilities through the
25 adoption of international agreements and treaties,

1 which must be observed in good faith in order to
2 maintain the stability of the international order.
3 Human rights are an integral part of international
4 law, and lie at the foundation of the international
5 order. The protection of human rights, therefore,
6 particularly in the case of a country that has in-
7 curred obligations to protect human rights under an
8 international agreement to which it is a party, is not
9 left exclusively to the internal affairs of that coun-
10 try.

11 (4) Good governance and anti-corruption meas-
12 ures are instrumental in the protection of human
13 rights and in achieving sustainable economic growth,
14 which benefits both the people of the Russian Fed-
15 eration and the international community through the
16 creation of open and transparent markets.

17 (5) Systemic corruption erodes trust and con-
18 fidence in democratic institutions, the rule of law,
19 and human rights protections; this is the case when
20 public officials are allowed to abuse their authority
21 with impunity for political or financial gains in collu-
22 sion with private entities.

23 (6) The President of the Russian Federation,
24 Dmitry Medvedev, has addressed corruption in many
25 public speeches, including stating in his 2009 ad-

1 dress to Russia’s Federal Assembly, “[Z]ero toler-
2 ance of corruption should become part of our na-
3 tional culture . . . In Russia we often say that there
4 are few cases in which corrupt officials are pros-
5 ecuted . . . [S]imply incarcerating a few will not re-
6 solve the problem. But incarcerated they must be.”.
7 President Medvedev went on to say, “We shall over-
8 come underdevelopment and corruption because we
9 are a strong and free people, and deserve a normal
10 life in a modern, prosperous democratic society.”.
11 Furthermore, President Medvedev has acknowledged
12 Russia’s disregard for the rule of law and used the
13 term “legal nihilism” to describe a criminal justice
14 system that continues to imprison innocent people.

15 (7) The systematic abuse of Sergei Magnitsky,
16 including his arbitrary detention and mistreatment
17 in custody, by the same officers of the Russian Inte-
18 rior Ministry that Mr. Magnitsky had implicated in
19 the embezzlement of funds from the Russian Treas-
20 ury, reflects how deeply the protection of human
21 rights is affected by corruption. Sergei Leonidovich
22 Magnitsky died on November 16, 2009, at the age
23 of 37, in Matrosskaya Tishina Prison in Moscow,
24 Russia, and is survived by a wife and two sons.

1 (8) There is extensive evidence that public offi-
2 cials from the Russian Interior Ministry, the Rus-
3 sian Federal Tax Authorities, the Russian General
4 Prosecutor’s Office, the Russian Federal Security
5 Service, as well as Russian regional courts and the
6 prison system have abused their powers and posi-
7 tions to commit serious human rights violations, em-
8 bezzled funds from the Russian Treasury, and retali-
9 ated against whistleblowers.

10 (9) The Public Oversight Commission for the
11 Observance of Human Rights in Penitentiary Cen-
12 ters of the city of Moscow, an organization empow-
13 ered by Russian law to independently monitor prison
14 conditions, concluded that “A man who is kept in
15 custody and is being detained is not capable of using
16 all the necessary means to protect either his life or
17 his health. This is a responsibility of a state which
18 holds him captive. Therefore, the case of Sergei
19 Magnitsky can be described as a breach of the right
20 to life. The members of the civic supervisory com-
21 mission have reached the conclusion that Magnitsky
22 had been experiencing both psychological and phys-
23 ical pressure in custody, and the conditions in some
24 of the wards of Butyrka can be justifiably called tor-

1 turous. The people responsible for this must be pun-
2 ished.”.

3 **SEC. 3. VISA LIMITATIONS ON CERTAIN PERSONS FROM**
4 **THE RUSSIAN FEDERATION.**

5 (a) INELIGIBLE FOR VISAS.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), an alien is ineligible to receive a visa to
8 enter the United States and ineligible to be admitted
9 to the United States who the Secretary of State de-
10 termines to be—

11 (A) an individual who engaged in any act
12 that was instrumental in causing the death of
13 Sergei Leonidovich Magnitsky;

14 (B) an individual who conspired to defraud
15 the Russian Federation of taxes on corporate
16 profits because of fraudulent transactions and
17 lawsuits against the foreign investment com-
18 pany known as Hermitage; or

19 (C) the spouse, son, daughter, or parent of
20 an alien described in subparagraph (A) or (B).

21 (2) PERIOD IN WHICH DETERMINATIONS TO BE
22 MADE.—The Secretary of State shall make the de-
23 terminations described in paragraph (1) not later
24 than the expiration of the 180-day period beginning
25 on the date of the enactment of this Act.

1 (3) WAIVER FOR NATIONAL INTERESTS.—The
2 Secretary of State may waive the application of
3 paragraph (1) in the case of an alien if the Sec-
4 retary determines that such a waiver is in the na-
5 tional interests of the United States. Upon granting
6 such a waiver, the Secretary of State shall provide
7 to the Congress notice of, and justification for, the
8 waiver.

9 (4) TERMINATION.—The provisions of this sub-
10 section shall cease to be effective on the date that
11 the Secretary of State transmits to the Congress a
12 statement certifying that the Secretary has deter-
13 mined the following:

14 (A) That the Government of the Russian
15 Federation has conducted a thorough and im-
16 partial investigation into the arbitrary deten-
17 tion, systematic abuse, and resultant death in
18 custody of Sergei Leonidovich Magnitsky, and
19 that the individuals responsible have been
20 brought to justice according to the laws of the
21 Russian Federation and pursuant to the inter-
22 national legal obligations of the Russian Fed-
23 eration.

24 (B) That the Government of the Russian
25 Federation has taken significant steps to bring

1 the criminal justice system and penal system of
2 the Russian Federation into compliance with
3 applicable international legal standards.

4 (C) That the Government of the United
5 States is confident that the investigation de-
6 scribed in subparagraph (A) was properly con-
7 ducted, transparent, and free of political influ-
8 ence.

9 (b) CURRENT VISAS REVOKED.—The Secretary of
10 State shall revoke, in accordance with section 221(i) of
11 the Immigration and Nationality Act (8 U.S.C. 1201(i)),
12 the visa or other documentation of any alien who would
13 be ineligible to receive such visa or documentation under
14 subsection (a).

15 (c) TERMINOLOGY.—Terms used in this section shall
16 have the meanings given such terms in section 101(a) and
17 (b) of the Immigration and Nationality Act (8 U.S.C.
18 1101(a) and (b)).

19 **SEC. 4. FINANCIAL MEASURES.**

20 (a) SPECIAL MEASURES.—The Secretary of the
21 Treasury shall instruct domestic financial institutions and
22 domestic financial agencies to take 1 or more special
23 measures described in section 5318A(b) of title 31, United
24 States Code, if the Secretary of the Treasury makes a de-
25 termination, under section 5318A of such title, with re-

1 spect to money laundering relating to the conspiracy de-
2 scribed in section 3(a)(1)(B).

3 (b) BLOCKING OF ASSETS.—The Secretary of the
4 Treasury shall freeze and prohibit all transactions in all
5 property and interests in property of an individual de-
6 scribed in section 3(a)(1), or of any person acting as an
7 agent of or on behalf of such an individual, that are in
8 the United States, that come within the United States,
9 or that are or come within the possession or control of
10 United States persons, including their overseas branches.

11 (c) REGULATORY AUTHORITY.—The Secretary of the
12 Treasury shall issue such regulations, licenses, and orders
13 as are necessary to carry out this section.

14 (d) ENFORCEMENT.—A person that violates, at-
15 tempts to violate, conspires to violate, or causes a violation
16 of this section or any regulation, license, or order issued
17 to carry out this section shall be subject to the penalties
18 set forth in subsections (b) and (c) of section 206 of the
19 International Emergency Economic Powers Act (50
20 U.S.C. 1705) to the same extent as a person that commits
21 an unlawful act described in subsection (a) of such section.

22 (e) TERMINATION.—The provisions of this section
23 shall cease to be effective on the date that the Secretary
24 of the Treasury transmits to the Congress a statement
25 certifying that the Secretary has determined the following:

1 (1) That the Government of the Russian Fed-
2 eration has conducted a thorough and impartial in-
3 vestigation into the conspiracy (described in section
4 3(a)(1)(B)) to defraud the Russian Federation of
5 taxes on corporate profits, and that the individuals
6 responsible have been brought to justice according to
7 the laws of the Russian Federation and pursuant to
8 the international legal obligations of the Russian
9 Federation.

10 (2) That the Government of the Russian Fed-
11 eration—

12 (A) has taken significant steps to bring the
13 criminal justice system of the Russian Federa-
14 tion into compliance with applicable inter-
15 national financial and banking standards; and

16 (B) has substantially strengthened statu-
17 tory protections for individuals who disclose evi-
18 dence of illegal government activities.

19 (3) That the Government of the United States
20 is confident that the investigation described in para-
21 graph (1) was properly conducted, transparent, and
22 free of political influence.

23 **SEC. 5. REPORT TO CONGRESS.**

24 Not later than the 180th day after the date of the
25 enactment of this Act, the Secretary of State and the Sec-

1 retary of the Treasury shall submit to the Congress a re-
2 port on the actions taken to carry out this Act.

3 **SEC. 6. EFFECTIVE DATE.**

4 This Act shall take effect on the 90th day after the
5 date of the enactment of this Act.

6 **SEC. 7. DEFINITIONS.**

7 In this Act:

8 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
9 **TEES.**—The term “appropriate congressional com-
10 mittees” means—

11 (A) the Committee on Foreign Affairs and
12 the Committee on Financial Services of the
13 House of Representatives; and

14 (B) the Committee on Foreign Relations
15 and the Committee on Banking, Housing, and
16 Urban Affairs of the Senate.

17 (2) **FINANCIAL INSTITUTION; DOMESTIC FINAN-**
18 **CIAL AGENCY; DOMESTIC FINANCIAL INSTITUTION.**—

19 The terms “financial institution”, “domestic finan-
20 cial agency”, and “domestic financial institution”
21 have the meanings of those terms as used in section
22 5318A of title 31, United States Code.

23 (3) **UNITED STATES PERSON.**—The term
24 “United States person” means any United States
25 citizen, any alien lawfully admitted for permanent

1 residence to the United States, any entity organized
2 under the laws of the United States or of any juris-
3 diction within the United States (including foreign
4 branches), or any person in the United States.

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