



Control and Punishment:
Human rights implications of
Russian legislation on NGOs

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Report by
the Moscow Helsinki Group and
Human Rights Without Frontiers

The **Moscow Helsinki Group** (MHG) was founded in 1976 and is the oldest contemporary Russian human rights organization. Its mission is to promote respect for human rights and democracy in Russia. It supports the development of the country's civil society and works together with hundreds of organizations in the different regions of Russia.

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Preface

This report examines new Russian legislation on NGOs, which was adopted in late 2005 and entered into force in April 2006. It discusses major concerns with respect to the provisions of the law, as well as its implementation, in light of international human rights standards. It also offers a number of recommendations to Russian authorities, which international actors are encouraged to bring up in their interactions with the Russian government. The report is intended to help raise awareness of the current situation of Russian civil society at the international level.

The overview of the provisions of the 2005 law draws on several thorough legal analyzes, while the review of the implementation of the law is primarily based on information from the Moscow Helsinki Group and other Russian NGOs, as well as media reports.

Summary

During the period in office of President Vladimir Putin, NGOs have come under growing attack in Russia, with government officials exploiting security concerns to challenge the credibility of independent NGOs. In particular, human rights, pro-democracy and environmental groups, which are almost completely dependent on foreign funding, have been accused of undermining "national interests." Security-oriented rhetoric was also used to justify the adoption in late 2005 of a new law that introduced significant changes to existing legislation on NGOs, the so-called NGO law. Despite strong criticism both at home and abroad, Putin signed this law in January 2006, and three months later, it entered into force.

The NGO law is vaguely and ambiguously worded and grants authorities wide and discretionary powers to make decisions about the status of NGOs, oversee and scrutinize their activities and initiate sanctions for alleged violations. At the time of the adoption of the law, Russian and international human rights organizations expressed concern that many of its provisions are inconsistent with international human rights standards and may result in violations of freedom of association and other fundamental rights. More than 18 months after the entry into force of the law, it is clear that it has had a far-reaching, adverse impact on Russia's civil society. While not all problematic provisions may have been applied so far, the law has proven to be open to arbitrary and selective implementation, and it has been used to impede, restrict and punish legitimate NGO activities. It has seriously constrained the day-to-day work of NGOs throughout the country and contributed to growing insecurity and vulnerability of NGOs.

Major concerns include:

New broadly and vaguely formulated grounds for denying NGOs registration as legal entities were introduced. As a result, the process of registering a new NGO is now characterized by a greater level of stress and uncertainty than previously, and a growing number of organizations have been refused registration on discretionary grounds, such as objections to the wording of their charters. Numerous foreign NGOs missed an October 2006 deadline for compulsory re-registration largely because of technical and bureaucratic obstacles created by registration authorities, and several well-known foreign organizations were forced to suspend their activities – in some cases for several months – while their applications were pending.

New onerous reporting obligations for NGOs were established. In accordance with the new provisions, NGOs are required to periodically submit lengthy and detailed accounts about their activities and funding to registration authorities. In order to complete the necessary paperwork, NGOs have had to invest considerable time and money, which has drained resources from their regular activities. Many organizations have simply been overwhelmed by the new requirements and have not had sufficient capacity to comply with them and/or enough funds to hire outside assistance to do so. As many as over 60% of all officially registered NGOs failed to hand in reports about their activities in 2007.

Registration authorities were granted broad powers to supervise and review the activities of NGOs. Across the country, organizations have been subject to intrusive and lengthy inspections, in the course of which their internal dealings have been closely scrutinized. The work of targeted NGOs has been crippled for up to several months, and, in some cases, reviews appear to have been undertaken for the specific purpose of putting pressure on NGOs. Following inspections, NGOs have frequently received warnings for minor, technical violations, which have had an intimidating impact on their activities by placing them at the risk of harsher sanctions in the event of any further "violations."

The grounds on which NGOs can be sanctioned were significantly expanded, and since the entry into force of the law, registration authorities have made active use of their powers to take punitive action against NGOs. In particular, they have warned or brought claims in court requesting termination of the legal status of thousands of NGOs for alleged failures to submit required information. Courts have helped turn de-registration into a repressive mechanism by approving requests to terminate the legal status of NGOs also in cases when organizations are known to be actively operating and when no evidence has been presented to support allegations of reporting violations. In several cases, de-registration requests have been brought against NGOs critical of official policies, raising concern about politically motivated implementation.

The law prohibits, among others, people deemed to be involved in "extremist" activities from founding, joining or participating in NGOs. Given increasing misuse of the country's vaguely worded anti-extremism legislation to punish opponents and critics of the regime, this provision further stifles legitimate NGO activities.

Background: Growing attack on NGOs

The period in office of President Putin has been characterized by growing consolidation of the powers of the federal executive and growing erosion of democratic checks and balances. The pro-Putin United Russia party now dominates the State Duma and routinely passes legislation proposed by the government, while political opposition parties have been marginalized into obscurity. All major TV-stations are controlled by the Kremlin, and the circulation of remaining independent newspapers is negligible, as a result of which there is hardly any space for open media debate about the political course of the country. Executive interference in the work of the judiciary is also commonplace, and courts do not provide any effective check on the government's powers. The December 2007 parliamentary elections, which served to reinforce the political course of recent years, were characterized by the absence of genuine political competition. Similarly, the March 2008 presidential elections promise to result in an uncontested victory for Putin's hand-picked favorite Dmitry Medvedev.

Among the final independent voices of Russian society, non-governmental organizations have come under growing attack in recent years. In particular, pro-democracy, human rights, environmental and other groups who are critical of official policies have been singled out for negative state propaganda because of their almost complete dependence on foreign grants. The Putin administration has openly exploited security concerns to challenge the credibility of NGOs funded from abroad by accusing them of serving as vehicles for foreign interests seeking to destabilize the political situation in Russia. President Putin set the tone in his 2004 state-of-the nation address, in which he claimed that some NGOs are primarily seeking to please their donors because "they cannot bite the hand that feeds them." Similar arguments have since been frequently used by government officials and have contributed to growing vulnerability of NGOs to harassment by authorities, such as punitive tax measures, arbitrary searches of office premises, and arrest and prosecution of activists.¹

Verbal assaults on NGOs by government officials also appear to have given impetus to campaigns against prominent civil society activists by extremist nationalist groups. Such groups have, inter alia, posted online lists with the

¹ For more information see the chapter on Russia in International Helsinki Federation for Human Rights (IHF), *Human Rights in the OSCE Region. Report 2007 (Events of 2006)*, at http://www.ihf-hr.org/cms/cms.php?sec_id=71; and IHF, *Human Rights Defenders at Risk in Belarus, Russia and Uzbekistan: Briefing Paper to the EU Forum on Human Rights, Helsinki, 7-8 December 2006*, at http://www.ihf-hr.org/documents/doc_summary.php?sec_id=58&id=4354.

names and addresses of activists along with calls for them to be killed.² While authorities have remained largely indifferent to this form of extremism and failed to take effective measures to protect those concerned, existing anti-extremist legislation has on numerous occasions been implemented against outspoken NGO activists, such as in the notorious case of the Russian-Chechen Friendship Society (see the chapter on the provisions of the NGO law and its implementation). NGOs working on human rights violations relating to the conflict in Chechnya have generally been among the most frequent targets of harassment, and were the first ones to suffer from the growing crackdown.³

Security reasons have, further, been invoked to advocate more stringent measures to regulate and oversee the funding and activities of NGOs. Such rhetoric was prominently used when the new NGO law was adopted at the end of 2005. It was argued that this law was needed to combat terrorism and money laundering and to ensure that foreign powers do not abuse NGOs in ways undermining political stability. In the words of President Putin, the key objective of the law was to prevent foreign-funded NGOs from carrying out “what amounts to political activity” in Russia. “Whether these organizations want it or not, they become an instrument in the hands of foreign states that use them to achieve their own political objectives,” he said.⁴

Shortly after President Putin signed the NGO law in January 2006, the so-called spy scandal erupted, in which the Moscow Helsinki Group and several other prominent Russian human rights groups were accused of involvement in espionage for receiving project funding from the UK government.⁵ This was an apparent and blatant attempt to justify the adoption of the law. The groundless accusations never resulted in any formal investigation or proceedings, but were widely distributed by state-controlled media and served to tarnish the reputation of the NGOs in question.⁶

² See IHF, “Human Rights Defenders Endangered – Helsinki Committees Document Growing Persecution in Europe and Central Asia,” 20 November 2006, at www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4345

³ See the chapters on Russia in various IHF annual reports, at http://www.ihf-hr.org/cms/cms.php?sec_id=71

⁴ Fred Weir, “Russia Reigns In ‘Foreign Influence,’” *The Christian Science Monitor*, 6 December 2007.

⁵ See www.mhg.ru/smi/6E9572C

⁶ IHF Intervention to the 2006 OSCE Human Dimension Implementation Meeting on “Human Rights Defenders under Attack”, at http://www.ihf-hr.org/documents/doc_summary.php?sec_id=58&d_id=4307; and Center for the Development of Democracy and Human Rights, *Persecution of NGOs and Human Rights Defenders in Russia*, November 2006, at www.ihf-hr.org/documents/doc_summary.php?sec_id=54&d_id=4348.

The frequently cited concerns of the Putin administration with respect to foreign interference in the political affairs of Russia can be seen in the context of the so-called color revolutions, which have recently taken place in Georgia, Ukraine and Kyrgyzstan. As groups funded from abroad are perceived to have played a major role in these political upheavals, fears have arisen that foreign assistance to Russian NGOs will result in the development of a broad-based popular movement for democratic change also in this country.

However, despite the security rhetoric used when introducing the NGO law, no objectives of this kind are spelled out in the law itself, thus leaving the rationale for its implementation open to interpretation. The law also does not elaborate on the kind of foreign assistance that is deemed undesirable, and does not contain any definition of non-permissible "political activities," which reinforces concerns about potential selective application against groups that are critical of government policies. Such concerns are further reinforced by the fact that foreign funded NGOs only constitute a small fraction of all NGOs in Russia. According to official information, less than 1% of all registered NGOs have received funds from abroad.⁷

At the same time as the situation of independent NGOs has gradually worsened up to the point of the adoption of the NGO law, the Putin administration has taken steps towards creating a "managed civil society." In particular, it has encouraged the growth of pro-Kremlin youth groups, some of which have aggressively campaigned against opponents to the regime and sought to disturb anti-government protests. The initiative of President Putin to create the Public Chamber, a consultant body consisting of appointed members of NGOs that has been described in official rhetoric as the "genuine" representative of Russian civil society, has also been criticized as an attempt to weaken the position of independent NGOs.⁸

⁷ According to figures cited by the head of the Federal Registration Service (FRS) in September 2007, 1,496 out of a total of 216,000 registered NGOs had obtained funding from abroad. See "Все мы немного собственники," *Rossiskaya Gazeta*, 21 September 2007, at <http://www.rg.ru/2007/09/21/vasiliev.html>

⁸ See the chapter on Russia in IHF, *Human Rights in the OSCE Region. Report 2007 (Events of 2006)*.

Adoption of the NGO law

A draft bill introducing amendments to existing legislation on public associations and non-profit organizations, which had been prepared by officials from the Russian Ministry of Justice and a group of parliamentary deputies, was first put forward in November 2005. A few weeks later it was approved in the first reading by the State Duma (the lower house of the Russian parliament) following a hasty process, which did not allow time for any genuine debate or consultation of civil society.

The draft law was met with a storm of criticism. Both Russian NGOs and the Russian ombudsman criticized the draft for being incompatible with the Russian constitution and international human rights standards, and within days more than 5,000 people signed on to a petition against it.⁹ Western governments and international organizations also expressed concern about the draft law, and the Council of Europe issued a detailed expert opinion highlighting problematic aspects of it.¹⁰

In response to the criticism, President Putin called for changes to the draft bill. Accordingly, some of most controversial provisions were dropped before the bill was passed by the State Duma in the final reading and approved by the Federation Council (the upper house of the Russian parliament) in late December 2005. The bill entitled Federal Law No. 18 "On Introducing Amendments to Certain Administrative Acts of the Russian Federation" (hereafter the "NGO law") was signed into law by President Putin on 10 January 2006 and entered into force three months later, on 18 April 2006.¹¹

Government decree No. 212 (hereafter "implementing decree"), which was adopted in April 2006 and came into effect on the same day as the NGO law, regulates the implementation of the law. The Federal Registration Service (FRS), a body created within the Ministry of Justice in October 2004, and its regional

⁹ See "НЕТ - УЖЕСТОЧЕНИЮ КОНТРОЛЯ НАД ГРАЖДАНСКИМ ОБЩЕСТВОМ" 10 November 2005, at <http://www.hro.org/ngo/about/2005/11/10-2.php>

¹⁰ *Provisional opinion on amendments to federal laws of the Russian Federation regarding non-profit organisations and public associations* by J. Thymen van der Ploeg, Professor of Private Law, Faculty of Law, Vrije Universiteit Amsterdam, The Netherlands, in cooperation with the Secretariat General of the Council of Europe, 1 December 2005, at http://www.coe.int/T/E/Com/Press/News/2005/20051206_opinion.asp

¹¹ The law introduces amendments to four laws: the Law on Public Associations, the Law on Non-Profit Organizations, the Civil Code and the Law on Closed Administrative Territorial Formations.

branches (hereafter "registration authorities") are primarily in charge of the implementation of the law.

The provisions of the NGO law and its implementation

Although a number of changes were made to the NGO law before its adoption, many of its provisions remain problematic. These provisions are vaguely and ambiguously worded and grant registration authorities wide and discretionary powers to make decisions about the status of NGOs, oversee and scrutinize their activities and impose sanctions for alleged violations.

The Russian government has tried to argue that the NGO law is “not different” from laws in Western countries. However, an analysis undertaken by the International Center for Not-for-Profit Law (ICNL) showed that the Russian law is “substantially different” from the laws of Western countries and “much more restrictive” than these with respect to the cumulative effect of its provisions. While individual provisions may be restrictive in other countries, relevant legislation is generally “favorable toward NGOs.”¹² When assessing the impact of the Russian law, it is also important to keep in mind that it was adopted in a climate in which NGOs were already facing hostile attitudes and various forms of pressure by authorities (see the previous chapter).

Major concerns with respect to the provisions of the NGO law,¹³ as well as its implementation, are summarized below.

Registration of NGOs

Legal provisions

According to amendments introduced by the NGO law, both nonprofit organizations and public associations are required to apply to registration authorities to obtain legal status.¹⁴ In order to do so, they should submit a number of documents (such as application forms, copies of their charters and

¹² ICNL, “Analysis of the Chart Prepared by the Ministry of Foreign Affairs of the Russian Federation Comparing Several Countries’ Laws Regulating NGOs,” 3 May 2006.

¹³ For this analysis, an English translation of the NGO law prepared by the ICNL has been used. The translation is available at <http://www.icnl.org/knowledge/news/2006/01-19.htm>

¹⁴ Russian legislation makes a distinction between these two types of NGOs. A nonprofit organization is defined as “one not having profit-making as the main objective of its activity and not distributing the earned profit among the participants” (article 2 of the Federal Law on Nonprofit Organizations), while a public association is a “voluntary, self-governing, non-profit formation, set up at the initiative of individuals who have united on the basis of the community of interests to realize common goals” (article 5 of the Federal Law on Public Associations.)

information about founders) and pay the registration fee, whereby registration authorities should make a decision within 14 working days with respect to nonprofit organizations and 30 days with respect to public associations. If applications are approved, NGOs are entered into the register of legal entities maintained by the Federal Tax Service. Previously nonprofit organizations, like commercial companies, could register directly with tax authorities in a simpler procedure where a decision was made within five days.

As regards foreign NGOs, a distinction is made between branches of foreign organizations, on the one hand, and subsidiaries and representative offices, on the other hand. The former are required to apply for registration like Russian NGOs, while the latter are not considered separate legal entities and therefore do not need to register. They are, however, required to “notify” the authorities about their existence, and the process for doing so is broadly similar to the one for registration.¹⁵ In both cases, foreign NGOs should submit a number of documents similar to those required by Russian NGOs and, in addition, they should ensure that all documents are translated into Russian and duly certified. A decision on registration of branches of foreign NGOs should be made within 14 days and on acceptance of the notification of subsidiaries within 30 days.

The law also expanded the grounds on which an NGO can be denied registration; some of the new grounds are broadly and vaguely formulated and grant wide discretion to registration officials to decide whether to approve an application for registration.¹⁶ For example, an NGO can be refused registration if its charter is considered to “run counter to Russian legislation”; its name “insults public morality, ethnic and religious feelings”; or the documents it has handed in have not been submitted in a “procedurally correct way” or contain “unreliable” information. There are no explanatory provisions for how to interpret these grounds.

Moreover, branches or subdivisions of foreign organizations may be denied registration or notification if their goals and objectives are considered to “create a threat to the sovereignty, political independence, territorial integrity, national unity, unique character, cultural heritage and national interests of the Russian

¹⁵ See ICNL, *Analysis of Law # 18-FZ On Introducing Amendments to Certain Legislative Acts of the Russian Federation*, 17 February 2006, p. 21. This publication is available at http://www.icnl.org/knowledge/news/2006/01-19_Russia_NGO_Law_Analysis.pdf

¹⁶ Compare Josh Machleder, INDEM Foundation, *Contextual and Legislative Analysis of the Russian Law on NGOs*, 16 March 2006, p. 17. This publication is available at http://www.indem.ru/en/publicat/Russian_NGO_Law_03252006.pdf

Federation.” The European Court of Human Rights has specifically ruled that it is incompatible with the right to freedom of association to deny registration on grounds such as these.¹⁷

Implementation

While the law did not impose any obligation on existing Russian NGOs to re-register, subdivisions of foreign NGOs operating in the country were required to notify the registration authorities within six months of the entry into force of the law, i.e. by October 2006. As most foreign NGOs in Russia operate through representative rather than branch offices, they had to go through this process.

According to media reports, about 100 foreign NGOs had cleared the hurdle and been included in the official NGO register when the deadline expired, while at least as many groups were still waiting for a decision on their cases.¹⁸

Representatives of the FRS claimed that those NGOs that missed the deadline were themselves to blame and had demonstrated lack of “discipline,” “competence” and “respect toward the Russian state.”¹⁹ NGOs, however, reported experiencing various technical and bureaucratic difficulties when seeking to complete the process.²⁰ In many cases, registration officials applied application requirements in an overly rigid way, for example by rejecting applications due to minor errors such as accidentally misstated dates, false use of abbreviations or the submission of applications bound with plastic rather than string.²¹

It was particularly challenging for small NGOs without legally trained staff members to compile application files, which could consist of up to several

¹⁷ See ICNL, *Analysis of Law # 18-FZ On Introducing Amendments to Certain Legislative Acts of the Russian Federation*, 17 February 2006, p. 4-5.

¹⁸ “Russia Forces At Least 95 Foreign NGOs to Suspend Activities,” *Associated Press*, 19 October 2006; “Russia Registers 189 Foreign Non-governmental Organizations,” *RIA Novosti*, 22 December 2006.

¹⁹ Bellonia, “Russian NGO registration director calls suspended organizations ‘liars,’” 25 October 2006, at http://www.bellona.org/.articles/Movchan_speaks

²⁰ Human Rights Watch, “EU: Challenge Russia on Human Rights Abuses,” 23 November 2006, at <http://www.hrw.org/english/docs/2006/11/23/russia14661.htm>

²¹ Center for the Development of Democracy and Human Rights, *Persecution of NGOs and Human Rights Defenders in Russia*, November 2006, available at http://www.ihf-hr.org/documents/doc_summary.php?sec_id=54&d_id=4348; and Bellonia, “Russian NGO Registration Director Calls Suspended Organizations ‘Liars,’” 25 October 2006, at http://www.bellona.org/articles/Movchan_speaks

hundred pages.²² Some organizations paid several thousands of euros to have required documents translated into Russian and notarized.²³ Numerous applications were rejected because of allegedly poor Russian translations, as a result of which the affected organizations had to commission re-translations until registration officials were satisfied.²⁴

While those organizations that failed to meet the deadline were granted additional time to revise or complement their applications, they were forced to suspend their activities pending a re-consideration of their cases. Among others, well-known organizations such as Amnesty International, Human Rights Watch, Doctors without Borders and Penal Reform International had to temporarily close their offices.²⁵ Most organizations were eventually granted registration; however, sometimes the process lasted several months, such as in the case of Stichting Russian Justice Initiative (SRJI), a Netherlands-based NGO that provides legal assistance to victims of human rights abuses in the North Caucasus and currently represents clients in more than 100 cases pending before the European Court of Human Rights.

- In November 2006, the FRS rejected the request of the SRJI for inclusion in the registry of NGOs by saying that its application “contained inconsistencies,” the documents it submitted had not been “properly signed” and that its executive director did not have “adequate authority” to represent the organization. This decision was made although the organization had consulted closely with registration officials and prepared the application in accordance with their instructions.²⁶ Following a renewed application by the SRJI, its request was turned down a second time in January 2007, one day after the European Court of Human Rights ruled against Russia in a case in which the SRJI represented the complainants. This time FRS referred to a number of alleged errors in the documents handed in and argued that the SRJI should have applied for registration of a branch office instead of seeking to notify a representative office,

²² Claire Bigg, “Russia: Foreign NGOs Rush to Beat Registration Deadline,” *Radio Free Europe/Radio Liberty*, 16 October 2007, at <http://www.rferl.org/featuresarticle/2006/10/d51898dd-8fb8-464d-9535-78150bad455c.html>

²³ Center for the Development of Democracy and Human Rights, *Persecution of NGOs and Human Rights Defenders in Russia*, November 2006.

²⁴ United States Commission on International Religious Freedom (USCIRF), *Challenge to Civil Society: Russia’s Amended Law on Noncommercial Organizations*, March 2007, p. 13. This report is available at http://www.uscirf.gov/reports/Russia_NGO_report_FINAL_March5.pdf

²⁵ Center for the Development of Democracy and Human Rights, *Persecution of NGOs and Human Rights Defenders in Russia*, November 2006.

²⁶ SRJI, “Russian Government Rejects Registration of Russian Justice Initiative,” 23 November 2006, at <http://www.srji.org/en/news/2006/11/23/>

something which had never been pointed out the SRJI in its discussions with FRS staff.²⁷ As a result of the two refusals, the SRJI's Moscow office was forced to suspend its activities for more than three months until its application for registration of a branch office eventually was approved in February 2007.²⁸

The process of registering new NGOs has, further, become more demanding after the entry into force of the NGO law. This is partly because nonprofit organizations now register with registration authorities in the same way as public associations, and therefore need to submit more documents and wait longer for a decision. However, it is also because applications may be rejected on looser grounds, as a result of which completing the necessary paperwork requires more care and attention than previously.

It has been estimated that setting up a new NGO now requires submitting at least 60 pages of documentation and takes eight weeks or more,²⁹ compared to ten days for a commercial company.³⁰ NGOs often resort to legal assistance to finalize their applications,³¹ and the total costs involved in registering NGOs have been estimated to be 40% higher than in the case of commercial entities.³²

NGO monitoring has shown that registration authorities in different parts of the country apply registration criteria in different ways, thus increasing the uncertainty of the registration process.³³

NGOs have also been refused registration more frequently than previously, and in many cases, such decisions have been based on objections to the wording of the organizations' charters. For example, one organization in St. Petersburg was denied registration because its charter allegedly did not explain how it intended to

²⁷ SRJI, "Russian Government Rejects Registration of Russian Justice Initiative for Second Time," 25 January 2007, at <http://www.srji.org/en/news/2007/01/26/>

²⁸ SRJI, "Russian Government Registers Russian Justice Initiative," 27 February 2007, at <http://www.srji.org/en/news/2007/02/27/>

²⁹ *Новое законодательство: НКО и Росрегистрация – 5 проблем взаимодействия (New Legislation: NGOs and the Federal Registration Service – 5 Problems of Interaction)*, p. 5. This report was prepared in the framework of a joint project by the Interregional Human Rights Group, the Moscow Helsinki Group and International Youth Human Rights Movement and was published in October 2007. It is available in Russian at http://ngo.hrworld.ru/download/ngo_5problems_r.doc, and in English at http://ngo.hrworld.ru/download/ngo_5problems_e.doc.

³⁰ "NGOs Buried by Mountain of Paper," *The Moscow Times*, 24 August 2007.

³¹ *The First Year of Implementation of the New Russian NGO Legislation: Main problems and Recommendations on Amendments*, report prepared by a number of Russian NGOs to a meeting organized by the Conference of International NGOs of the Council of Europe in Strasbourg, April 2007, available at <http://www.lawcs.ru/ngo/analysis.html>

³² *The First Year of Implementation of the New Russian NGO Legislation: Main problems and Recommendations on Amendments*.

³³ *Ibid.*

realize its mission of providing social support,³⁴ while a well-known foreign NGO was told that “assisting law enforcement authorities” is not an acceptable objective.³⁵ According to the head of the FRS, inconsistencies in the wording of charters have become a principal reason for denying NGOs registration.³⁶ This development, which the vague wording of the NGO law has made possible, represents a significant change from the previous practice of considering only technical aspects of registration applications and constitutes interference in the internal affairs of NGOs.³⁷

The following case is particularly disturbing:

- “Rainbow House,” a group promoting the rights of homosexuals, was denied registration in the Tyumen region in October 2006 because it allegedly had extremist aspirations.³⁸ According to the regional registration authorities, the group’s advocacy of “non-traditional sexual orientation” could be considered to undermine “spiritual and cultural values” and the “territorial integrity” and “national security” of Russia.³⁹ By rendering this decision, which reportedly was based on a review of the group’s charter undertaken by the regional department of the ministry of interior, the registration authorities exceeded their powers as only a court can declare an organization “extremist.”⁴⁰ An appeal in the case was dismissed.

Moreover, when denying NGOs registration, registration authorities have typically failed to provide detailed written explanations of their decisions, which has made it difficult for NGOs to challenge the decisions in court. Courts, in their turn, have mostly approved registration authorities’ decisions when considering appeal cases.⁴¹

³⁴ *Новое законодательство: НКО и Росрегистрация...*, p. 6.

³⁵ This argument was used in the case of an organization requesting help from the MHG.

³⁶ *Все мы немного собственники*, *Rossiskaya Gazeta*, 21 September 2007, at <http://www.rg.ru/2007/09/21/vasiliev.html>

³⁷ *The First Year of Implementation of the New Russian NGO Legislation: Main problems and Recommendations on Amendments*, April 2007.

³⁸ Human Rights Watch and the European League of the International Lesbian and Gay Association (ILGA – Europe), *“We Have the Upper Hand.” Freedom of Assembly in Russia and the Human Rights of Lesbian, Gay, Bisexual and Transgender People*, June 2007, at <http://hrw.org/backgrounders/lgbt/moscow0607/>

³⁹ *The First Year of Implementation of the New Russian NGO Legislation: Main problems and Recommendations on Amendments*, April 2007.

⁴⁰ Inter-regional Human Rights Association AGORA, *Справка-меморандум о ставших известными фактах незаконных действий органов Росрегистрации при осуществлении функции регистрации и контроля за деятельностью некоммерческих организаций в 2006-2007 годы* (Information-memorandum detailing known facts about unlawful actions taken by registration authorities in the implementation of their mandate with respect to registration and control of NGOs in 2006-2007), June 2007, at <http://www.hro.org/ngo/about/2007/06/07.php>

⁴¹ *Новое законодательство: НКО и Росрегистрация...*, p. 7.

Reporting requirements for NGOs

Legal provisions

The NGO law and its implementing regulation established new reporting obligations for both Russian and foreign NGOs, without elaborating how the information NGOs are required to provide will be used.

Under amendments introduced by the law, Russian organizations must submit reports about their activities and finances to registration authorities on an annual basis. The reports should, inter alia, describe implemented programs and provide information about the date, number and composition of participants at any "main events" held within these programs; give details about how activities have been managed and publicized; and list funds obtained from Russian and foreign sources and explain how these have been used.

Foreign NGOs must submit several reports per year; they are required to report on funds they have obtained and their intended use every quarter, the actual expenditure and use of resources once per year, and all programs they plan to implement in Russia likewise once per year. Funding reports should, among others, specify the amount of funds obtained from foreign and international donors, as well as the money allocated to physical persons and legal entities in Russia. Activity reports should provide information about the name and date of programs, the timeframe and financing of programs, and any "main events" that will be organized. If an NGO decides to change a program after submitting a report, it must provide clarifying information within ten days.

Implementation

The new reporting obligations place a heavy burden on NGOs because of the scope and complexity of the required reports, as well as the sanctions in which failure to provide information may result.

A first deadline for Russian NGOs to submit annual activity reports expired in mid-April 2007. In order to complete the necessary paperwork by this deadline, NGOs had to invest considerable time, funds and staff resources, to the detriment of

their regular activities.⁴² One NGO representative described the reporting requirements as involving an “insane amount of details,” while others referred to the exercise as a “nightmare” that diverted time and energy from important on-the-ground work.⁴³

Lack of information, consultation and clear guidelines for filling out forms contributed to the problems experienced by NGOs, and in some cases registration officials reportedly lacked knowledge about the new requirements.⁴⁴ In a survey undertaken in the ten largest Russian cities, 70% of the NGOs questioned deemed the reporting forms to be “very complicated.”⁴⁵ A petition signed by hundreds of Russian NGOs emphasized that it was impossible to fill out the required forms without the assistance of experts such as lawyers and bookkeepers. It also pointed out that the reporting obligations partly duplicate those vis-a-vis tax authorities, forcing NGOs to compile and provide similar figures several times per year.⁴⁶ Representatives of registration authorities have admitted that they will not be able to study all the documents they receive.⁴⁷

As of early April 2007, only 1,500 of some 200,000 NGOs registered in the country had reportedly submitted their reports, and by mid-May less than 50,000.⁴⁸ This means that some 80% of all registered NGOs did not hand in reports by the deadline.⁴⁹ In some regions, the figure was as low as 5-6% of all registered organizations.⁵⁰ When a prolonged deadline expired on 1 September 2007, only 36% of all registered organizations in the country had still submitted reports, according to official information.⁵¹

⁴² “Right Groups See Problems Emerging as Deadline for NGO Reports Expire,” *Interfax*, 15 April 2007; “Russia: NGOs Uneasy as Deadline Passes,” *Radio Free Europe/Radio Liberty*, 19 April 2007.

⁴³ “Worst Fears of NGOs Realized,” *The Moscow Times*, 17 April 2007.

⁴⁴ *The First Year of Implementation of the New Russian NGO Legislation: Main problems and Recommendations on Amendments*, April 2007.

⁴⁵ “В Москве обсудили возможные изменения в законодательстве о НКО,” 28 June 2007, available at <http://www.demos-center.ru/news/18715.html>

⁴⁶ “Продолжается сбор подписей под обращением НКО к Владимиру Лукину и Элле Памфиловой,” 3 August 2007, at <http://www.nkozakon.ru/news/996/>. The full text of the petition is available at <http://www.lawcs.ru/doc/ngo/forma.doc>

⁴⁷ “Worst Fears of NGOs Realized,” *The Moscow Times*, 17 April 2007.

⁴⁸ “NGO Report Deadline Passes,” *The Moscow Times*, 17 April 2007; “NGOs Scramble to Meet Deadline,” *The Moscow Times*, 12 April 2007; “NGOs Buried by Mountain of Paper,” *The Moscow Times*, 24 August 2007.

⁴⁹ Regnum, “Правозащитники представили в Госдуму предложения по корректировке законодательства о НКО,” 27 June 2007, available at <http://www.mhg.ru/news/96A2CF7>

⁵⁰ Агентство Социальной Информации, «Законодательство об НКО» - Информационный бюллетень № 2, July 2007, available at <http://www.sovetpamfilova.ru/made/news/3583/>

⁵¹ “Only 36 percent of Russian NGOs reported working results,” *Itar Tass*, 11 September 2007; “Все мы немного собственники,” *Rossiskaya Gazeta*, 21 September 2007, at <http://www.rg.ru/2007/09/21/vasiliev.html>

Commenting on the matter, the head of the FRS said that while part of the organizations that failed to submit reports were groups that only existed on paper, others simply “ignored” the requirements of Russian law and deliberately sought to “evade” their obligations. He also indicated that NGOs were trying to conceal their spending of money, in particular funds obtained from abroad.⁵² It appears, however, that in practice many NGOs were overwhelmed by the new requirements and did not have sufficient capacity to complete the necessary paperwork and/or could not afford hiring outside assistance to do so.

Under the amendments introduced by the NGO law, failure to submit activity reports may have serious consequences as organizations found to violate their reporting obligations may lose their legal status. Representatives of registration authorities have publicly stated that all organizations that missed the reporting deadlines will be brought to court with a view to terminating their legal status.⁵³ A considerable number of NGOs have already faced sanctions, including removal from the register of legal entities, for failure to submit information in a timely fashion (see the section on “sanctions”).

The reporting process was also accompanied by a high level of uncertainty for those NGOs that submitted their reports within the deadline because of the lack of clarity as to how reports would be dealt with. The complexity of the reporting requirements made it likely that all organizations would make at least some mistake – technical or other – in their reports, which in itself rendered the mechanism into a potentially repressive tool.⁵⁴ Registration authorities, further, indicated that reviews of the activities of NGOs would be undertaken “if anything suspicious is found” in their reports.⁵⁵

⁵² See comments by FRF Head Sergei Vasiliev in “Все мы немного собственники,” *Rossiskaya Gazeta*, 21 September 2007, at <http://www.rg.ru/2007/09/21/vasiliev.html>

⁵³ Ibid. Representatives of regional registration bodies have made similar statements. See *Новое законодательство: НКО и Росрегистрация...*, October 2007, p. 18.

⁵⁴ “Rights Groups See Problems Emerging As Deadline for NGO Reports Expire,” *Interfax*, 15 April 2007.

⁵⁵ *The First Year of Implementation of the New Russian NGO Legislation: Main problems and Recommendations on Amendments*, April 2007.

Supervision of NGOs

Legal provisions

The NGO law granted registration authorities broad powers to monitor and scrutinize the work of NGOs. Under new provisions established by the law, they may summon resolutions by an organization's governing bodies; send representatives to events held by an organization; and, up to one time per year, review how the activities of an NGO comply with its statutory goals. These provisions are problematic in light of international human rights standards because they allow for interference in the internal affairs of NGOs without weighty grounds, such as reasonable grounds for believing that an organization has acted in violation of the law.⁵⁶

As formulated, the provisions appear to enable registration authorities to access any documents relating to an organization's governance and attend any of its events, thereby potentially gaining insight into strictly internal policy and management matters.⁵⁷ Moreover, whether an NGO has fulfilled its mission is primarily for the organization's own governing bodies to decide. Adequate assessment of this question requires knowledge and understanding of the field in which a particular organization works, which registration authorities cannot be expected to have.⁵⁸ The law also does not offer any guidance on criteria that may be used when undertaking an assessment.⁵⁹

Implementation

Reviews of the activities of NGOs undertaken by registration authorities have proven to be lengthy and intrusive and have seriously interrupted the work of the organizations affected.⁶⁰

⁵⁶ Compare *Provisional opinion on amendments to federal laws of the Russian Federation regarding non-profit organisations and public associations*, par. 26.

⁵⁷ ICNL, *Analysis of Law # 18-FZ On Introducing Amendments to Certain Legislative Acts of the Russian Federation*, p. 9.

⁵⁸ ICNL, *Analysis of Law # 18-FZ On Introducing Amendments to Certain Legislative Acts of the Russian Federation*, p. 9; INDEM Foundation, *Contextual and Legislative Analysis of the Russian Law on NGOs*, p. 23.

⁵⁹ USCIRF, *Challenge to Civil Society: Russia's Amended Law on Noncommercial Organizations*, March 2007, p. 25.

⁶⁰ Inter-regional Human Rights Association AGORA, *Справка-меморандум о ставших известными фактах незаконных действий органов Росрегистрации при осуществлении функции регистрации и контроля за деятельностью некоммерческих организаций в 2006-2007 годы*, June 2007; Center for the Development of Democracy and Human Rights, *Persecution of NGOs and Human Rights Defenders in Russia*, November 2006 updated through March 2007.

By law reviews can last up to 30 days, and in some cases, they have dragged out even longer, up to several months. They have frequently been characterized by various procedural violations, such as failure to notify about checks in advance and participation in inspections of law enforcement authorities.⁶¹

The NGOs subject to inspection have been requested to provide detailed documentation relating to their work, ranging from activity plans and grant agreements to copies of correspondence.⁶² One NGO representative commented by saying "it appears that they [registration officials] can check everything, and we are obliged to give them everything."⁶³

- In January 2007, registration authorities in the Krasnodar region began an inspection of the NGO Etnika, which promotes the rights of national minorities. The organization was notified only the same day and, in addition to registration officials, ministry of interior and city administration officials participated. The staff members of the NGO were asked to produce a number of different documents, such as documents describing planned events, grant contracts, petitions to government bodies and documents confirming contacts with organizations abroad. Following a complaint by the NGO to the Russian human rights ombudsman, the inspection was suspended. However, two weeks later, it re-commenced and continued until April 2007.⁶⁴
- In July 2007, registration authorities in St. Petersburg carried out a screening of the NGO Citizens Watch, which inter alia advocates against intrusive surveillance powers. During the screening, the NGO was requested to present copies of all outgoing correspondence since three years.⁶⁵

Following reviews, registration authorities have frequently issued "warnings" to NGOs for minor, technical violations, thereby placing the NGOs at the risk of harsher sanctions in the event of any further "violations" on their part (see the

⁶¹ Ibid.

⁶² Ibid.

⁶³ "Росрегистрация проверяет правозащитников Петербурга," 27 July 2007, at <http://www.fontanka.ru/2007/07/26/052/>

⁶⁴ *Новое законодательство: НКО и Росрегистрация...*, October 2007, p. 10.

⁶⁵ "NGOs Buried by Mountain of Paper," *The Moscow Times*, 24 August 2007.

chapter on "sanctions"). NGOs have also sometimes been fined or had their activities suspended.⁶⁶

- In the summer of 2007, the NGO "For Ecological and Social Justice" was subject to a check by registration authorities in the Voronezh region. The review lasted more than 2 months – in violation of the law – and resulted in a warning, inter alia, for alleged failures to submit reports and inform about the re-election of an NGO official in a timely fashion.⁶⁷

In some regions, warnings have been given to almost all organizations whose activities have been screened:

- A total of about 80 NGOs were subject to inspection by registration authorities in the republic of Tatarstan in 2007. Out of these, 77 received warnings for violating the law.⁶⁸
- Registration authorities in the Chita region checked the activities of 90 NGOs in the course of 2007. Only 7 of them were not found to have acted contrary to their charters or the law.⁶⁹

There are, further, concerns that registration authorities have been able to select organizations for review in a completely arbitrary manner, which sometimes appears to have resulted in politically motivated choices. For example, in some regions, certain kinds of organizations – such as environmental NGOs – have been more frequently singled out for screening than others.⁷⁰ Moreover, in several cases documented by the human rights group AGORA, which monitored implementation of the NGO law in different Russian regions in the period April 2006 - May 2007, registration authorities were found to have coordinated their measures with those of other law enforcement authorities to put pressure on individual NGOs.⁷¹

⁶⁶ Center for the Development of Democracy and Human Rights, *Persecution of NGOs and Human Rights Defenders in Russia*, November 2006 updated through March 2007; *Новое законодательство: НКО и Росрегистрация...*, October 2007, p. 10-11.

⁶⁷ "Управление Федеральной регистрационной службы по Воронежской области собирается оштрафовать Благотворительный фонд," 27 August 2007, available at <http://www.nkozakon.ru/news/1025/>

⁶⁸ *Новое законодательство: НКО и Росрегистрация...*, October 2007, p. 10.

⁶⁹ "Читинская Росрегистрация подвела итоги года," 31 December 2007, at <http://zabinfo.ru/>

⁷⁰ *Новое законодательство: НКО и Росрегистрация...*, October 2007, p. 12.

⁷¹ Inter-regional Human Rights Association AGORA, *Справка-меморандум о ставших известными фактах незаконных действий органов Росрегистрации при осуществлении функции регистрации и контроля за деятельностью некоммерческих организаций в 2006-2007 годы*, June 2007.

Among others, the following case has been cited as an example of exploitation of the NGO law for the purpose of repression:

- In July-August 2007, the FRS carried out a thorough check of the St. Petersburg office of the international environmental NGO Bellona, requesting details about the activities and finances of the organization. The NGO was, inter alia, requested to provide information relating to all activities it has undertaken in the past five years, including the names of participants in various events, the topics of discussion and the conclusions reached.⁷² Upon concluding its check, the FRS accused the Bellona office of failing to pay advertisement tax on money donated by the British and Dutch consulates for a program to train environmental journalists. In accordance with the sponsorship agreements entered into with these consulates, the Bellona office should acknowledge their support in any media references to the said program. This is a standard condition of grant agreements and, as pointed out by the Dutch consulate in a letter to Russian authorities, is not any form of advertising taxable under Russian law.⁷³ The matter was transferred to tax authorities for investigation, and the Bellona office filed a complaint with registration authorities.⁷⁴

Regional registration authorities are also reported to have made use of their new powers under the NGO law to monitor specific events organized by NGOs, such as demonstrations, pickets and conferences.⁷⁵ These actions have reinforced the impression that the NGO law has created an unprecedented system for controlling NGOs, in which registration authorities keep close watch of the activities of NGOs and are ready to respond to and punish any "violation" they discover.

⁷² Bellona, "Bellona St. Petersburg under the gun of Russia's new NGO laws," 22 September 2007, at http://www.bellona.org/articles/bellona_NGO

⁷³ Bellona, "Norwegian foreign minister pegs Moscow on false allegations against Bellona," 27 September 2007, at http://www.bellona.org/articles/store_lavrov

⁷⁴ Bellona, "Bellona St. Petersburg under the gun of Russia's new NGO laws," 22 September 2007.

⁷⁵ *Новое законодательство: НКО и Росрегистрация...*, October 2007, p. 12.

Sanctions against NGOs

Legal provisions

The NGO law significantly expanded the powers of registration authorities to take punitive measures against NGOs, without elaborating on when such powers should be used.

Registration authorities may issue warnings to organizations that are found to violate the law or act contrary to their missions and state a time frame within which violations should be remedied. If the organizations in question do not comply with the warnings, they may face suspension of their activities and eventually be closed down. According to new provisions established by the NGO law, registration authorities may also, on their own initiative and without any court order, remove branches and representative offices of foreign NGOs from the register of legally registered organizations for non-compliance with statutory goals. As noted above, the law does not outline any criteria for when an organization should be considered to have acted contrary to its mission, which creates the risk of subjective interpretation.

Moreover, under amendments introduced by the NGO law, failure to comply with reporting obligations may result in disproportionately harsh sanctions. If NGOs have repeatedly failed to provide required information “within an established time period,” registration authorities may bring a claim in court requesting termination of their legal status, or even liquidation in terms of nonprofit organizations.⁷⁶ What is more, registration authorities may themselves decide to remove branches and representative offices of foreign NGOs from the registry of legal entities for a one-time failure to submit required information “in a timely manner.” These provisions are particularly problematic since it not clear whether any minor omission, such as an unreported small donation, can be considered to qualify as a failure to comply with reporting requirements, and it is not explained anywhere in the NGO law or its implementing decree what is meant with a “timely manner.”⁷⁷

⁷⁶ See Art. 29, Section 4 of the Federal Law of Public Associations (as amended by the NGO law) and Art. 32, Section 10 of the Federal Law on Nonprofit Organizations (as amended by the NGO law). The process of liquidation is, however, more complicated than the one of de-registration and is less frequently resorted to by registration authorities. For a more detailed discussion of the difference between de-registration and liquidation, see *Новое законодательство: НКО и Росрегистрация...*, October 2007, p. 19.

⁷⁷ Compare USCIRF, *Challenge to Civil Society: Russia's Amended Law on Noncommercial Organizations*, March 2007, p. 23-24.

While NGOs can operate in Russia also without legal status, organizations that lack such status have considerably fewer rights, as a result of which it is more difficult for them to carry out their work. They can, for example, not have bank accounts in their own name, appear in court in their own capacity or enter into agreements as organizations.

Registration authorities may, further, resort to two additional sanctions with respect to foreign NGOs. First, they may order that the implementation of a specific project or activity of a branch or representative office of a foreign NGO be terminated, and remove the organizations from the registry of legally registered organizations if they do not comply. The law does not offer any guidance as to the grounds that may warrant issuing an order of this kind. Second, they may ban the transfer of money from a foreign NGO to particular recipients for the purpose of “protecting the basis of the constitutional system, morality, health, rights and lawful interests of other persons” and with the aim of “defending the country and state security.” These broadly worded provisions grant registration authorities significant discretionary powers to meddle in the activities of foreign NGOs in ways that are not consistent with international standards.⁷⁸

Implementation

After the entry into force of the NGO law, registration authorities have made active use of their powers to initiate sanctions against NGOs.⁷⁹

As noted above, many organizations have been warned for acting contrary to their charters or Russian law in connection with reviews of their activities (see the section on “supervision of NGOs”). Such warnings have had an intimidating impact on the work of NGOs because any further violations found on the part of these organizations may result in harsher sanctions, including closure.

In another major trend, NGOs across the country have been sanctioned because of an alleged failure to provide required information to registration authorities. In thousands of cases, registration authorities have warned organizations on these grounds or brought claims to court requesting termination of their activities as

⁷⁸ Compare ICNL, *Analysis of Law # 18-FZ On Introducing Amendments to Certain Legislative Acts of the Russian Federation*, p. 11; INDEM Foundation, *Contextual and Legislative Analysis of the Russian Law on NGOs*, p. 25.

⁷⁹ *The First Year of Implementation of the New Russian NGO Legislation: Main problems and Recommendations on Amendments*, April 2007.

legal entities. According to information from the FRS, some 18,000 organizations received warnings for reporting violations only in the first half of 2007,⁸⁰ while the activities of a total of 2,300 organizations had been terminated as of 1 September 2007.⁸¹

Additional thousands of NGOs that failed to submit activity reports in 2007 are potentially threatened by termination of their legal status. As noted above, representatives of registration authorities have suggested that a strict approach will be taken against these organizations (see the section on "reporting requirements for NGOs"). Some of them have already faced de-registration claims, with these cases now making their way through courts.

It should be noted that although the new provisions introduced by the NGO law allow registration authorities to turn to courts requesting de-registration of organizations found to violate reporting obligations, they do not directly require such a course of action. On the basis of other legislation,⁸² registration authorities may instead seek fines against organizations failing to provide required information. However, unlike previously, when de-registration was a mechanism used to terminate the legal status of organizations that de facto had ceased to exist, it has assumed a repressive character since the entry into force of the NGO law, targeting also organizations known to be actively operating.⁸³

In a common pattern, courts have approved requests to terminate the legal status of NGOs without considering whether or not these organizations are operating and without asking registration authorities to produce any evidence to support their claims of reporting violations. In fact, some organizations have been stripped of their legal status even if they have been able to show that they have filed required information on time.⁸⁴

- On 19 July 2007, a court in Ulan Ude, in the Republic of Buryatia, admitted a request by the regional registration authorities to terminate the legal status of the Regional Human Rights Defender Center (RHRDC). This

⁸⁰ "NGOs Buried by Mountain of Paper," *The Moscow Times*, 24 August 2007.

⁸¹ Все мы немного собственники," *Rossiskaya Gazeta*, 21 September 2007, at <http://www.rg.ru/2007/09/21/vasiliev.html>

⁸² The Code of Administrative Violations.

⁸³ *Новое законодательство: НКО и Росрегистрация...*, p. 16.

⁸⁴ Interregional Human Rights Group, *Практика обращений ФРС в суд с требованием об исключении некоммерческих организаций из реестра юридических лиц*, August 2007, at http://www.ngo.hrworld.ru/download/library/analit_frs_vsudi.doc. See also the press release, "Счет пошел на сотни... будут ли закрыты тысячи НПО? ФРС может закрыть до 80% некоммерческих организаций," at <http://www.irhrg.ru/news.shtml#150807>.

decision was made although representatives of the RHRDC presented evidence that they had submitted reports in a timely manner and, hence, that the claims of the registration authorities were groundless. The RHRDC, a regional affiliate of the Moscow Helsinki Group, has offered legal assistance to victims of human rights violations for many years and brought numerous cases against authorities to court.⁸⁵

NGOs facing de-registration claims have also often not been adequately informed about the court proceedings against them and have therefore not had any opportunity to defend themselves.⁸⁶ Further, in several cases, registration authorities have requested de-registration of well-known regional organizations critical of official policies, raising concern about politically motivated implementation.⁸⁷

- A Nizhny Novgorod court ruled in June 2007 that the International Youth Human Rights Movement (YHRM), an umbrella movement for human rights activists in Russia and other countries, be taken off the register of legally registered organizations for failing to submit reporting documents to the regional branch of the FRS. The organization had, however, acted in accordance with the NGO law by handing in its report to the central FRS branch in Moscow, where it has been registered as an international organization since 2004. It only learnt of the court decision in August 2007 since the hearing was held behind closed doors and it did not receive any notification at its current address.⁸⁸ The YHRM, which actively promotes freedom of association and has been a vocal critic of the new NGO legislation, appealed the decision.⁸⁹ In a court hearing held in November 2007, the FRS withdrew its case against the YHRM, and the June 2007 ruling was repealed. It appeared that the FRS changed approach in

⁸⁵ Interregional Human Rights Group, *Практика обращений ФРС в суд с требованием об исключении некоммерческих организаций из реестра юридических лиц*, August 2007; For Human Rights, *Хроника «заказного» правосудия*, Nr. 14 (205), 22 June 2007, at <http://www.zaprava.ru/hronica/1105.pdf>

⁸⁶ *Новое законодательство: НКО и Росрегистрация...*, p. 18.

⁸⁷ Interregional Human Rights Group, *Практика обращений ФРС в суд с требованием об исключении некоммерческих организаций из реестра юридических лиц*, August 2007.

⁸⁸ Amnesty International, "Russian Federation: Flaws in the law on NGOs more and more visible," 16 August 2007, at <http://www.amnesty.org>; Freedom House Europe, "Shuttering of International Youth Human Rights Movement by Russian Court Highlights Ongoing Loss of Independent Voices in Russia," 17 August 2007, at <http://www.freedomhouse.org/template.cfm?page=70&release=541>

⁸⁹ YHRM, "YHRM unlawfully persecuted in Russia" 9 August 2007, at http://www.yhrm.org/eng/news/archives/08_2007/?vw=260

response to a broad-based solidarity campaign that was launched in support of the YHRM.⁹⁰

Limits on who can found, join or participate in an NGO

Legal provisions

The NGO law prohibits certain categories of people from founding, joining or participating in NGOs, including individuals who have been found by court to be involved in “extremist” activities. These provisions are problematic because the country’s anti-extremism law is vaguely worded and open to arbitrary implementation.

Implementation

Concerns about the restrictions introduced by the NGO law are reinforced by a recent trend, in which Russia’s anti-extremist legislation has been increasingly exploited to silence opponents and critics of official policies.⁹¹

The case of the Russian-Chechen Friendship Society, an NGO reporting on human rights violations related to the conflict in Chechnya, is an illustrative example of how the concept of “extremism” can be used to stifle legitimate NGO activities.

- In February 2006, RCFS Director Stanislav Dmitrievsky was found guilty of “inciting ethnic hatred” and given a two-year suspended prison sentence for allowing the publication of appeals by the late Chechen separatist leader Aslan Maskhadov and his envoy Akhmed Zakayev for a peaceful resolution of the Chechen conflict.⁹² The sentence was subsequently upheld on appeal.⁹³ As the offence of which he was convicted qualifies as an “extremist” activity, the sentence made him ineligible for further NGO involvement under the NGO law. What is more, under the anti-extremist

⁹⁰ “Federal Registration Service withdrew its claim against the YHRM,” 3 December 2007, at http://www.yhrm.org/eng/news/archives/12_2007/?vw=282

⁹¹ See intervention to the OSCE HDIM 2007 by the IHF, the Monitoring Center SOVA and the Moscow Helsinki Group on “Civil liberties in threat in the fight against ‘extremism’ in Russia,” available at http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4438

⁹² IHF, “A Fair Trial for Stas Dmitrievsky?,” 2 February 2006, at www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4187.

⁹³ IHF Intervention to the 2006 OSCE Human Dimension Implementation Meeting on “Human Rights Defenders Under Attack,” September 2006, at www.ihf-hr.org/documents/doc_summary.php?sec_id=58&d_id=4307.

law, an NGO whose leader or governing member is found guilty of "extremism" must publicly distance itself from the actions of this person or can else be considered to endorse "extremism," which may be a ground for liquidation.⁹⁴ Applying the provisions of the anti-extremism and NGO laws, a Nizhny Novgorod court ordered in October 2006 that the RCFS be closed down because of the failure of Dmitrievsky to resign from his positions within the RCFS following his conviction and the failure of the RCFS to publicly denounce him.⁹⁵ An appeal by the RCFS to the Russian Supreme Court was rejected in January 2007.⁹⁶ Russian authorities have subsequently depicted the RCFS as an "extremist" organization, although it has not been declared as such by court, and tried to prevent its participation in international events.⁹⁷

⁹⁴ Art. 15 and 7.

⁹⁵ IHF, "Flawed Court Case Based on Flawed NGO Law Leads to Ruling to Close Down the Russian-Chechen Friendship Society," 13 October 2006, at www.ihf-hr.org/documents/doc_summary.php?sec_id=58&d_id=4323.

⁹⁶ "Statement of the International Helsinki Federation for Human Rights (IHF) regarding the decision of the Russian Supreme Court to deny the appeal against closure of the Russian Chechen Friendship Society," 23 January 2007, at www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4364.

⁹⁷ IHF, "Exclusion of Nongovernmental Organizations a Violation of the Helsinki Principles," 13 September 2007, at http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4436; SOVA, *The Sowing Season in the Field of Russian Nationalism*.

Recommendations to the Russian authorities

President Putin has repeatedly expressed readiness to propose changes to the NGO law if it is shown that it has had a negative impact on the work of NGOs.⁹⁸ He has also encouraged NGOs to provide comments about the implementation of the law.⁹⁹ In accordance with his advice, several Russian NGOs have published information about the impact of the new law and proposed concrete suggestions for amendments.¹⁰⁰ In support of these initiatives, HRWF and the MHG would like to make a number of recommendations to the Russian authorities. We would also like to encourage international actors to bring up these recommendations in their interactions with the Russian government:

The Russian authorities should promptly initiate a review of the NGO law and its implementing regulations with a view to ensuring that they are consistent with the provisions of international human rights treaties to which Russia is a party. The review should be undertaken in consultation and cooperation with civil society representatives and human rights officials and should, in particular, have the following objectives:

- *Clarify and simplify registration procedures for NGOs and limit the grounds for denying registration so as to not to leave any discretionary powers to registration authorities to interpret these grounds;*
- *Revise and simplify the requirements for NGOs to report on their activities and finances so as to ensure that no information is collected without a clear and specific purpose spelled out by law (such as monitoring correct use of tax-exempt grants), necessary documentation can be compiled with reasonable efforts and costs, and reviews of reports are carried out in a transparent and well-regulated manner;*
- *Bring to a minimum the powers of registration authorities to supervise and oversee the work of NGOs so as to exclude any interference in strictly internal matters of NGOs and prevent that*

⁹⁸ See, for example, "Президент Путин пообещал подумать о поправках в закон об НКО," 15 October 2007, at <http://www.newsru.com/arch/russia/15oct2007/nko.html>

⁹⁹ "Putin Promises Revision of Law Curbing NGO Activities in Russia," *MosNews*, 5 July 2006, available at <http://www.ngowatch.org/articles.php?id=328>

¹⁰⁰ See, among others recommendations made in *Новое законодательство: НКО и Росрегистрация...*, October 2007; *The First Year of Implementation: Main problems and Recommendations on Amendments*, April 2007.

the work of NGOs is impeded without weighty grounds. Also, ensure that NGOs are selected for review on the basis of clear and transparent criteria and that reviews are implemented in accordance with strict procedural standards;

- *Limit the powers of registration authorities to take punitive action against NGOs so as to eliminate the risk of arbitrary and subjective decisions and ensure that any sanctions are proportionate to the violations of which NGOs are found guilty. In particular, ensure that NGOs that are actively operating are not deprived of their legal status merely because of failure to provide required information;*
- *Amend the provisions on who can found, join and participate in an NGO so as to abolish restrictions that are not consistent with international standards and international best practice.*

The Russian authorities should also adopt detailed and clear instructions to guide registration officials in the implementation of the NGO law and to increase transparency with respect to implementing practices. In addition, they should establish an independent accountability mechanism to review the conduct of registration officials for the purpose of preventing and punishing misuse of powers afforded by the relevant legislation.