



RUSSIA

Choking on Bureaucracy

State Curbs on Independent Civil Society Activism

HUMAN
RIGHTS
WATCH



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I. Summary

Over the past eight years, the Russian government under President Vladimir Putin has engaged in efforts to weaken beyond recognition the checks and balances inherent in a truly democratic political system. A recent aspect of these efforts has been a policy to subject Russia's vibrant civil society to greater scrutiny and control, through a 2006 law that gives the government broad powers to regulate the activities of nongovernmental organizations (NGOs). The government has also used other measures, such as the amended 2002 anti-extremism law and a variety of administrative regulations, to target organizations that work on controversial issues, may be capable of galvanizing public dissent, or that receive foreign funding. This report documents the corrosive impact the 2006 law and other government measures have had on civil society in Russia. It demonstrates how these policies are aimed at weakening critical voices in Russia and have profoundly undermined independent activism.

The crackdown on civil society must be understood in the context of growing authoritarianism in Russia. After the Kremlin's legal and regulatory changes of the past eight years all of the major democratic institutions remain in place, but they have been largely voided of their capacity to serve as a check on executive power, in particular the Kremlin. The government has obliterated independent television, established considerable control over the print media, marginalized the parliamentary opposition, and ended the direct election of regional governors. The independence of the judiciary has also been compromised.

The Kremlin has made clear that the 2006 law aims to control and monitor foreign funding of NGOs, which it has viewed with intense suspicion since the so-called color revolutions in Georgia in 2003 and Ukraine in 2004. There, public uprisings ousted governments following elections that were allegedly rigged. The uprisings were perceived as having been driven by foreign-funded NGOs. President Putin has made several public statements discrediting NGOs as fronts for foreign governments seeking to interfere with Russia's internal affairs and weaken the country. Other government leaders have followed suit.

The government responded to initial criticism about the NGO law, which entered into force in April 2006, by arguing that it was doing what all states have the right to do—regulate NGOs—and that the new law is consistent with European standards. Any state has the right to regulate, and even set restrictions on, NGOs. But in order to be compatible with protections under international law for freedom of expression and association, these restrictions must be proportionate, necessary for a democratic society, and must pursue a legitimate aim. The restrictions must also be sufficiently clear so that those subject to them can reasonably know how to comply.

The restrictions in the 2006 law do not meet these tests. The law grants state officials excessive powers to interfere in the founding and operation of NGOs. For example, the Federal Registration Service may reject registration applications or notifications of organizational and operational changes if the organization’s “documents are prepared in an inappropriate manner,” which can and has been used to reject notifications on petty, minor grounds, such as typos or errors in formatting.

The 2006 law and implementing regulations impose onerous reporting requirements on NGOs, especially relating to any foreign sources of funding. It gives the Registration Service unlimited discretion to request documents for inspection and to interpret them, including for compliance with the constitution, laws, and “interests” of Russia in the broadest terms. In several cases, Human Rights Watch found that government officials had made burdensome requests for documents, including for confidential records and communications with clients.

The law also allows state officials to conduct intrusive inspections of NGOs on an annual basis. These inspections have become one of several tools for harassing NGOs and obstructing their work. The Registration Service is also authorized to inspect NGOs in response to complaints by citizens, as well as in response to information from state agencies suggesting violations.

The 2006 law has a punitive dimension. The Registration Service may issue warnings to NGOs for a wide variety of violations, many of them quite minor, including not filing timely activity reports, errors in founding documents, and the like. Essential

NGO tools such as needs assessment to help with project design have been found, absurdly, to be against the national interest. A project proposal by one small St. Petersburg for a workshop with police, in stating that police do not have sufficient awareness of the rights of refugees, was declared to have discredited the police force and hence undermined Russia's interests. Implementing regulations also grant the Registration Service the authority to petition for dissolution of an organization that has received as few as two warnings regarding the same violation. There appears to be no statute of limitations on such warnings.

Although the law provides a mechanism for appealing such warnings and other decisions, court proceedings are time-consuming and challenging, and not all groups have the resources, financial and human, that would allow them to endure lengthy court proceedings. What is more, there is growing concern among NGO activists that they may not be able to get a fair hearing in many Russian courts.

Under the 2006 law, all foreign NGOs operating in Russia must inform the Registration Service about their projects for the upcoming year and about the amount of money allotted for each project. The Registration Service then has the discretion to ban NGO projects, or even parts of projects, on grounds that are not clear. If a foreign NGO implements a banned project, the registration office can close its offices in Russia. Foreign NGOs must provide the Registration Service with quarterly updates on their work plans and notify the Registration Service of any new planned program at least one month in advance and of any "essential" changes in planned activity within 10 business days of deciding the changes.

The impact of the 2006 law has resulted in long delays and, in some cases, suspension of activities for weeks or months while the paperwork is submitted again and occasionally repeatedly. As a result, organizations must devote ever more time and resources in an attempt to comply with these onerous demands, significantly impeding their ability to do their substantive work. They spend more money than ever to pay lawyers and accountants: a 2007 Moscow State University study found that registering an NGO with the help of a consulting firm in Moscow costs 40 percent more than registering a commercial organization and takes twice as much time.

The NGO law is only one among many tools employed by the Kremlin that create a worsening climate for NGO activities and effectively paralyze the work of some organizations. Organizations that are working on particularly controversial subjects have been targeted for harassing tax inspections, inspections for building code or labor code compliance, and police raids, and some have faced politically motivated criminal charges. In what may be the start of a new trend, at least two NGOs were also inspected by police allegedly to verify whether the software installed on the organization's computers is legal or pirated. Human Rights Watch is unaware of similar inspections of organizations working on issues not viewed as controversial.

In addition, NGOs that work on human rights, are politically active, or that express or mobilize dissent are vulnerable to being targeted under the 2002 Law on Countering Extremist Activity (the anti-extremism law). The 2007 amendments to this law allow any politically or ideologically motivated crime, as well as certain forms of defamation of public officials, to be designated as extremist activity. The law has already been applied in an arbitrary manner against political activists and at least one political commentator, raising serious concerns that the law is being used to marginalize or silence legitimate political dissent.

Some point to the fact that the NGO law has not resulted in the wholesale closure of a large number of NGOs—as was initially feared—and have argued that there is no evidence of an intentional government policy to close down civil society or severely limit its scope. These observers sorely underestimate the effect that these combined measures have had on civil society. The onerous and intrusive provisions of the law and its abusive implementation, as well as the misuse of other legislation and regulations, have clearly narrowed the space for civil society and undermined NGOs' ability to facilitate checks on government conduct. There is little doubt that in practice the law, the manner in which it is implemented, and the context in which it is invoked are intended to have a choking effect on civil society—a state of affairs fundamentally incompatible with a democratic state that fully observes human rights and the rule of law.

The government does not target all NGOs equally. It has focused on NGOs that receive foreign funding and are most outspoken on controversial topics of Russian

government policy, such as the war in Chechnya or human rights more broadly, or on organizations that are in some way affiliated or viewed as supportive of Other Russia, the opposition movement associated with the political dissident Garry Kasparov. While it is true that Russia still has a large and active civil society, organizations that are most critical and that would be most likely to challenge government policy are instead preoccupied with fighting administrative interference and fulfilling bureaucratic requirements.

Human Rights Watch calls on the Russian government to end and desist from further arbitrary limitations on the work of independent civil society groups and instead empower NGOs to restore and enhance the prominent role they have played in Russian public life.

The fact that the government dramatically weakened NGOs' capacity without abolishing them altogether should not be rewarded by silence from Russia's international partners and interlocutors. Russia's partners should counter Russian government claims that the 2006 NGO law is no more restrictive than laws regulating NGOs in developed democracies. Foreign governments and international institutions need to make clear that several of the law's provisions and their implementation clearly violate international human rights standards and are intended to prevent the effective exercise of basic civil and political rights such as freedom of expression and association. Partner governments and multilateral organizations such as the European Union and the Council of Europe should call on the Russian government to adhere to its commitments to uphold freedom of expression and association. They should also publicly express support for the work of Russian NGOs and continue to support them financially and otherwise.

Methodology

This report is based on interviews conducted in six Russian cities—Moscow, St. Petersburg, Kazan (800 km east of Moscow), Voronezh (486 km south of Moscow), Nizhni Novgorod (406 km east of Moscow), and Ioskhar Ola (862 km east of Moscow) between May and October 2007. The report also draws on interviews with groups from Ryazan and Ingushetia that were conducted in Moscow. Human Rights Watch conducted 40 interviews with Russian NGOs (large Moscow-based groups and small

regional ones), activists, and lawyers. Follow-up interviews were conducted by phone and by email. Human Rights Watch also interviewed a Registration Service official and participated in roundtables on the NGO law that included Registration Service officials. All interviews were done by a Human Rights Watch researcher who is a native speaker of Russian.

In addition, Human Rights Watch examined official papers from the Federal Registration Service,¹ court rulings, Russian officials' public statements, analytical reports published by Russian groups, and media accounts. We also monitored court proceedings related to the Educated Media Foundation.

¹ An agency of the Justice Ministry responsible for NGO oversight.

II. Recommendations

To the Russian Government

With regard to the 2006 NGO law

- Amend the 2006 NGO law and relevant implementing regulations to remove the most restrictive provisions, which include:
 - Articles that allow officials to order an unlimited number of intrusive inspections and be present at all NGO events, as well as articles allowing the Registration Service to request dissolution of organizations for not submitting reports and other information;
 - The article granting officials the authority, regarding foreign NGOs, to ban projects or parts of projects that officials believe violate Russia's national interests, and articles requiring them to inform the Registration Service in advance about their projects and about the money allotted for each specific project.
- Ensure that Registration Service officials apply the law consistently across the country.
- Reorient the Registration Service's terms of engagement with NGOs. Instead of seeking primarily to punish NGOs for infractions the Registration Service should seek to educate NGOs about their legal obligations and assist them in preventing and correcting any administrative violations.
- Ensure Registration Service officials use their discretion to impose only those obligations and burdens on NGOs that are legal, strictly necessary, and proportionate, and that foster an environment in which civil society can operate freely.

To safeguard the work and role of NGOs in general

- End unlawful interference, harassment, and intimidation of NGOs and their staff.
- Refrain from interfering with lawful NGO activities.
- Thoroughly investigate any cases of unlawful interference, harassment, or intimidation of NGOs, human rights defenders, or civil society activists.

- Ensure anti-extremism laws are not used to prevent or interfere with peaceful expression of dissent.
- To demonstrate that anti-extremism legislation will not be used arbitrarily, exonerate Russian-Chechen Friendship Society director Stanislav Dmitrievsky and re-register the organization.
- Issue a standing invitation to the UN special representative on human rights defenders to visit the country.
- Use public opportunities by government spokespersons at all levels to reinforce the message and policy that NGO work is essential to a democratic society and is supported by the government.

To Russia's International Partners, particularly the European Union and the Council of Europe

- Seize every opportunity to raise strong concern about the plight of civil society in Russia and call on the Russian government to take concrete steps to foster an environment in which civil society can operate freely.
- Challenge Russian government statements that the restrictions of the 2006 NGO law imposed on foreign and Russian NGOs alike are standard in democratic societies.
- Encourage the Russian government to uphold freedom of expression and association by bringing legislation regulating civil society and its implementation into line with Russia's European and international commitments.
- Publicly express support for the work of NGOs and continue to support them financially and otherwise. Engage Russian civil society groups more intensively in the work of international forums, thus stressing the importance of their work.
- Express deep concern about instances of unlawful interference, harassment, and intimidation of NGOs and their staff and request thorough investigation of each such case.
- Underscore that official harassment of NGOs and restrictions imposed by the NGO law will make Russia vulnerable to litigation at the European Court of Human Rights.
- Encourage the Russian government to issue a standing invitation to the UN special representative on human rights defenders to visit the country.

To Donors

- Continue to support Russian civil society groups financially, in particular helping them to cover legal costs associated with withstanding judicial harassment and complying with requirements imposed by the 2006 NGO law.

III. Background

The worsening climate for NGOs in Russia has emerged in a context of growing authoritarianism in the country. In recent years the Kremlin has facilitated the dismantling of checks and balances on central executive power—the independent broadcast media, liberal opposition in the parliament, and direct election of regional governors. In addition, the independence of the judiciary has been compromised.² Following popular uprisings in Georgia (2003) and Ukraine (2004)—the so called color revolutions—that ousted governments following allegedly rigged elections, and were perceived to have been driven by foreign-funded NGOs, Russian government leaders expressed profound suspicion that foreign or foreign-funded organizations in Russia aimed to undermine the country’s sovereignty. The Kremlin embraced the need for a “managed civil society” in which the government supervises NGOs and closely controls how they lobby for policy changes.

The killing of award-winning journalist and human rights champion Anna Politkovskaia in October 2006, by perpetrators who remain unidentified, sent a chilling message to those activists who, like her, investigate government abuses. As Russia headed toward the 2007 and 2008 election cycle the government clamped down on Other Russia, an active and diverse opposition movement, and on public protests in general.

Dismantling Checks and Balances

When Vladimir Putin took office as Russia’s president at the end of 1999,³ a small group of oligarchs owned major media conglomerates, which in turn controlled Russia’s nationwide television channels—the primary source of information for the vast majority of Russians. These oligarchs also owned or controlled many of Russia’s radio stations, major newspapers, and internet publications. Although the oligarchs’

² See, for example, Lucien Fix, “Ludmilla Alexeeva and Tatiana Lokshina Speak of Human Rights in Russia,” at HRO.ORG, October 28, 2005, <http://www.hro.org/ngo/about/2005/10/28-2.php> (accessed February 6, 2008). See also Human Rights Watch, *Russia – Managing Civil Society: Are NGOs next?* November 22, 2005, <http://hrw.org/backgrounder/eca/russia1105/>.

³ Putin was prime minister when Boris Yeltsin unexpectedly resigned on December 31, 1999, and automatically became acting president. He was elected president three months later.

agendas heavily influenced news coverage, Russians nevertheless had access to a wide variety of opinions on television and in the print media; the oligarchs used their media to battle each other and the government.

When the second war in Chechnya broke out in autumn 1999, the Kremlin aggressively began to seek editorial control over the media, in particular national television channels. By mid-2003 all television stations with national reach had been placed under the firm control of the Kremlin or its supporters, as had most radio stations. Television news had become monotone, perpetually portraying the president in a positive light and avoiding criticism of his policies.⁴

In autumn 2004, in the immediate aftermath of the Beslan atrocity,⁵ Putin introduced a number of political reforms, including new election rules for the State Duma (the lower house of parliament), that made it significantly more difficult for opposition parties to get seats.⁶ In the 2003 election, representatives from nine different parties had won seats in the Duma, as did 71 formally unaffiliated candidates. By contrast, in 2007 only four parties won seats in the Duma.⁷

⁴ See Human Rights Watch, *Managing Civil Society: Are NGOs next?*

⁵ On September 1, 2004, armed militants stormed a school in Beslan, North Ossetia, on the opening day of classes, taking more than a thousand people hostage. The hostages were mostly teachers, schoolchildren, and parents. Three days later, after Russian forces stormed the school building, 330 people were dead, among them 186 children. See for example Jean-Christophe Peuch, "Russia: One Year After Beslan Tragedy, Questions Remain," August 30, 2005, <http://www.rferl.org/featuresarticle/2005/08/a4cb9d38-8de4-461b-9cac-580141eeaa76.html> (accessed February 1, 2008).

⁶ The reform was implemented in 2005. Whereas prior to 2005 half of the State Duma's 450 deputies were elected from single-mandate constituencies, after the reform deputies are elected only on a party list basis. Political parties must receive a minimum of 7 percent (as opposed to 5 percent prior to 2005) of the votes in parliamentary elections to clear the entry threshold for the Duma. New rules for registering political parties were also introduced in 2005, with a minimum threshold of 50,000 members, as opposed to 10,000 previously. See, for example, Nabi Abdullaev, "How Putin Put Kremlin Back on Top," *Moscow Times*, February 1, 2008, <http://www.themoscowtimes.com/stories/2008/02/01/001.html> (accessed February 1, 2008).

⁷ In the 2003 elections, four parties met the then 5 percent threshold to enter the Duma and won seats in single-mandate districts. They were: United Russia (222 seats), the Communist Party (52 seats), the Liberal Democratic Party (36 seats) and Rodina (37 seats). Five additional parties were represented by candidates who won single-mandate districts: the People's Party (17 seats), Yabloko (4 seats), the Union of Right Forces (3 seats), the Party of Life and the party Renaissance (a coalition, 3 seats), and the Agrarian Party (2 seats). Unaffiliated candidates won 71 seats (in the remaining three seats the number of votes "against all" exceeded that for any candidate). By contrast, in 2007, after the abolition of single-mandate districts only four parties controlled all 450 seats in the Duma: United Russia (315 seats), the Liberal Democratic Party (40 seats), A Just Russia (a coalition of which Rodina is a member, 38 seats), and the Communist Party (57 seats). The first three of these are pro-Kremlin. See, for 2003 results, "Results of Previous Elections to the Russian State Duma" at http://www.russiavotes.org/duma/duma_elections_93-03.php; and for 2007 results, "The Duma today" at http://www.russiavotes.org/duma/duma_today.php (both accessed February 4, 2008).

Another of the 2004 reforms provided for the appointment of regional governors, who had previously been elected by popular vote and to a degree had served as a political balance to the Kremlin.⁸

The independence of the judiciary has also been compromised in recent years. In the 1990s Russia's judiciary made important steps to become independent both in law and in practice. However, since Putin took office, several high-profile cases—most visibly, the conviction of Mikhail Khodorkovsky, owner of the energy conglomerate Yukos, and the company's dismantling—illustrate how political pressure is exerted on the judiciary.⁹

Crackdown on Dissent and Political Opposition

In 2007 Russian authorities cracked down on opposition political movements and on public protests expressing dissent. Police systematically harassed and detained activists planning and participating in a series of peaceful political protests called "Dissenters' Marches." The protests were organized by an opposition coalition called Other Russia and several other opposition groups seeking to protest setbacks in democracy in Russia.¹⁰

Protest marches took place in Moscow, St. Petersburg, and half a dozen provincial capitals. Authorities refused to allow or severely restricted the demonstrations. On April 14 riot police and special forces used excessive force to break up the

⁸ After the president nominates candidates, they must be confirmed by the regional parliament. If a regional parliament refuses to approve a presidential nominee three times (the president's second or third proposal can be either the original or a different nominee), the president has the right to dissolve the parliament. In 2000 Putin already limited governors' powers by forcing legislation through the State Duma to strip regional governors of their seats in the Federation Council (the upper chamber of parliament).

⁹ See, for example, Jurix (Jurists for Constitutional Rights and Freedoms), "Recommendations to promote judicial independence," undated paper, on file with Human Rights Watch. Yukos, once one of the world's largest non-state oil companies, is now an example of Putin's successful elimination of the country's economic players that try to fund opposition and independent media. In 2003 Yukos CEO Mikhail Khodorkovsky was put on trial and sentenced to eight years in prison on charges of tax evasion and fraud. He and other former Yukos executives reportedly were pressured to testify against one another. The court is also known to have refused to admit evidence favorable to the defendants. See, for example, Anton Troianovski, "Swiss Court: Yukos Case Is 'Political,'" *Washington Post*, August 25, 2007, <http://www.washingtonpost.com/wp-dyn/content/article/2007/08/24/AR2007082402011.html> (accessed February 1, 2008); "Court rejects motion to move former Yukos executive from prison infirmary to AIDS clinic," *International Herald Tribune*, February 1, 2008, <http://www.iht.com/articles/ap/2008/02/01/europe/EU-GEN-Russia-Yukos.php> (accessed on February 1, 2008); and Abdullaev, "How Putin Put Kremlin Back on Top," *Moscow Times*.

¹⁰ Dissenters' Marches bring together not only political activists but also a wide range of civil society representatives, including some prominent human rights activists, journalists, and scholars.

Dissenters' March in Moscow, beating numerous demonstrators and detaining hundreds. Authorities prevented observers and activists—including Other Russia's leader, Garry Kasparov—from traveling to Samara to participate in a Dissenters' March on May 18.¹¹

In a case reminiscent of the Soviet era, Other Russia activist Artyom Basyarov was forcibly confined to a psychiatric hospital in Ioshkar-Ola on November 23, 2007, one day before the protest he had been planning in that city.¹² He was released one month later.

Adoption of the 2006 NGO Law

Many observers have linked the Russian government's changed attitude toward NGOs and civil society with the so-called color revolutions in Georgia and Ukraine. Russia has lacked a strong opposition movement, a charismatic opposition leader, and independent media—all important factors in these uprisings—but this had no apparent bearing on the Russian government's determination to control more closely the foreign-funded NGO sector.¹³

Six months after Georgia's "Rose Revolution," President Putin made the first of several prominent statements expressing suspicion of foreign-funded NGOs in

¹¹ The Dissenters' March coincided with the EU-Russia summit that was being held in Samara. On May 17, at Sheremetev-1 airport in Moscow, police detained a Human Rights Watch representative planning to observe the demonstration. They claimed, falsely, that his ticket and passport appeared "counterfeit." He was released three hours later but missed his flight to Samara. Authorities used the same tactic to prevent other observers, activists, and organizers—including the coalition's leaders Garry Kasparov and Eduard Limonov—from traveling to Samara to participate in the Dissenters' March.

¹² Two plainclothes men approached Basyrov on the street, claimed that he was harassing a young woman, and took him to a psychiatric hospital in a nearby village. He told Human Rights Watch that he was forcibly medicated and restrained. When Basyrov was released a month later he was not provided any explanation for his hospitalization. Human Rights Watch telephone interview with Artyom Basyrov, member of the banned National Bolshevik Party and "Other Russia" activist, December 26, 2007. In another, extreme case, National Bolshevik Party member Yuri Chervochkin died on December 10, 2007, after he was beaten with a baseball bat by four men in Serpukhov, near Moscow, on November 22. According to a close friend who spoke to Chervochkin just prior to the attack, Chervochkin allegedly had seen the four men at a police station where he had been detained earlier that day. The local procuracy is investigating Chervochkin's death. Human Rights Watch telephone interview with Sergei Aksenev, member of the banned National Bolshevik Party, December 19, 2007.

¹³ See, for example, Thomas Carothers, "The Backlash Against Democracy Promotion (regulation of nongovernmental organizations)," *Foreign Affairs*, March 2006; Yevgeny Volk, The Heritage Foundation, "Russia's NGO Law: An Attack on Freedom and Civil Society," May 24, 2006, <http://www.heritage.org/Research/RussiaandEurasia/wm1090.cfm> (accessed December 29, 2007).

Russia and setting a new tone for the government's approach to the NGO community. In the months that followed, some federal and regional officials also made similar public statements.¹⁴

In autumn 2005 a group of State Duma deputies submitted draft amendments to legislation regulating the NGO sector. The authorities for the most part ignored requests from civil society activists not to rush through the controversial amendments. Then-Minister of Justice Yuri Chaika held two days of consultations on the bill with Council of Europe experts before its adoption. The experts, who had been given two days to review the draft, found it to be "in overall compliance with international standards" but expressed concern about its vague provisions and how they might be implemented.¹⁵ They objected to restrictions in the draft on foreign organizations and their staff, which were later scrapped. Chaika took this ambivalent assessment of the draft as unqualified approval. In December 2005 the newspaper *Rossiiskaia Gazeta* quoted Chaika as saying,

Our law is in compliance with all international requirements and standards, in particular the European Convention ... as well as another important document – Fundamental Principles on the Work [sic] of Non-Governmental Organizations in Europe, that was adopted by the Council of Europe in 2002.¹⁶

(The law's compliance with the Fundamental Principles is assessed in Chapter IV, below.)

¹⁴ In his May 26, 2004 state-of-the-nation speech, President Vladimir Putin of Russia issued a broadside attack against NGOs that, in his opinion, "serve dubious group and commercial interests" and fail to stand up for the "people's real interests." Human Rights Watch, *Managing Civil Society: Are NGOs next?* p. 1.

¹⁵ Sergei Strokan, "Strasbourg Assesses Russia's new NGO legislation] *Kommersant*, February 15, 2006, <http://www.kommersant.ru/doc.aspx?DocsID=649821> (accessed February 6, 2008). See also, "Putin Ordered Within 5 days to Summarize Criticisms on Draft Legislation on Non-governmental Organizations," NEWS.ru, December 5, 2005, <http://www.newsru.com/russia/05dec2005/npo.html> (accessed November 24, 2007).

¹⁶ Elena Lashkina, "Charity from Strasbourg. Yuri Chaika consulted with European Experts on NGO Law," *Rossiiskaia Gazeta*, December 6, 2005, <http://www.rg.ru/2005/12/06/chayka.html> (accessed December 30, 2007).

By the end of 2005 the parliament had adopted amendments that give the government broad powers to regulate the activities of NGOs, and on January 10, 2006, President Putin signed the bill into law.¹⁷

Responding to concerns about the law raised by the Parliamentary Assembly of the Council of Europe (PACE), later in January 2006 Council of Europe Secretary General Terry Davis requested another evaluation of the final version of the law. A second expert review found that the law was “somewhat better” than the prior draft, but that concerns remained.¹⁸ The review noted that several key recommendations made by the first Council of Europe expert review were not taken into consideration, such as the recommendation to “relax state supervision” over NGOs. Davis commented at the time,

Excessive powers of supervision remain an area of concern. Members of the State Duma also introduced some new amendments, which were not in the draft analysed by the Council of Europe, and which imposed an even stricter control of foreign NGOs. Such rules may be incompatible with the general prohibition of discrimination under the European Convention on Human Rights, and I will not be surprised if there is an appeal to the European Court of Human Rights (ECtHR) on this issue. Much will now depend on the secondary legislation and on how everything is put into practice.¹⁹

Despite these outstanding concerns, Leonid Slutsky, deputy chair of the Duma International Committee and deputy head of the Russian delegation to the PACE, asserted, incorrectly, that the new NGO law is less restrictive than similar laws in Europe: “[W]e considered the majority of the Council of Europe suggestions and

¹⁷ The full name of the law is the Federal Law on Introducing Amendments to Certain Legislative Acts of the Russian Federation No. 18-FZ, 2006, amending the Law on Closed Administrative Territorial Formations No. 3297-1, 1992; Law on Public Associations No. 82-FZ, 1995; Law on Non-Commercial Organizations No. 7-FZ, 1996; and article 61 of the Russian Federation Civil Code. The 2006 NGO law was published on January 17 and entered into force on April 18, 2006. Hereinafter, the 2006 NGO law.

¹⁸ Strokhan, “Strasbourg Assesses Russia’s new NGO legislation,” *Kommersant*.

¹⁹ “Council of Europe Analysis of the Russian NGO Legislation,” Council of Europe press release, Strasbourg, February 17, 2006. See also Strokhan, “Strasbourg Assesses Russia’s new NGO legislation,” *Kommersant*.

believe that the law became even more liberal than many analogous laws in developed democratic countries, for instance Belgium, Czech Republic, and Spain.”²⁰

Around the same time, the Russian Ministry of Foreign Affairs posted a chart to its website comparing the Russian NGO law with analogous legislation of France, the United States, Poland, Israel, and Finland, aiming to show that the Russian law was no more restrictive than its counterparts in these countries. The International Center for Not-for-Profit Law (ICNL), an expert organization that promotes a legal environment conducive to civil society and public participation, analyzed the 2006 law and found it to be more restrictive than in many other European countries.²¹ It also analyzed the Foreign Ministry’s chart, and concluded that “the Russian law is substantially different from the laws of the selected countries,” and that “the Russian law is more restrictive than the laws on NGOs from the other countries used for comparison.”²²

In July 2006 President Putin acknowledged that the law had “shortcomings” and pledged improvements at the Civil-G8, a global NGO forum held in the run-up to the St. Petersburg G8 summit of the world’s leading industrialized nations.²³ Subsequently, Putin received from Ella Pamfilova, chair of the Civil Society Institutions and Human Rights Council under the President of the Russian Federation,

²⁰ Katerina Labetskaia, “Anti-Russian Sentiments Interfere with Objective Perception,” *Vremia Novostei*, February 20, 2006, <http://www.vremya.ru/2006/29/5/145831.html> (accessed December 30, 2007).

²¹ See International Center for Not-for-Profit Law, “Analysis of Law #18-FZ ‘On Introducing Amendments to Certain Legislative Acts of the Russian Federation’ of February 17, 2006,” http://www.icnl.org/knowledge/news/2006/01-19_Russia_NGO_Law_Analysis.pdf (accessed February 5, 2008). ICNL is not alone in making such conclusions: see Alison Kamhi, “The Russian NGO Law: Potential Conflicts with International, National, and Foreign Legislation,” *The International Journal of Not-for-Profit Law*, Volume 9 (December 2006), http://www.icnl.org/knowledge/ijnl/vol9iss1/art_6.htm (accessed January 17, 2008).

²² ICNL noted in its analysis, “Even where there are isolated similarities between the provisions of the Russian law and those of the countries which are cited in the Chart, the Chart fails to account for the ‘Frankenstein’ effect that the Russian law exhibits. While a similarly restrictive provision might exist in the law of a particular country, the cumulative effect of the pulling together of multiple restrictive provisions from various countries results in a whole (in Russia) that is much more restrictive than can be seen in any of the countries cited in the Chart. By focusing the lens of inquiry closely on particular individual provisions, the Chart fails to capture the whole picture of regulation of NGOs presented in these various countries, and in Russia. Overwhelmingly, the regime governing NGOs in each of the cited countries is favourable towards NGOs, and encourages their free operation and establishment.” See International Center for Not-for-Profit Law, “Analysis of the Chart Prepared by the Ministry of Foreign Affairs of the Russian Federation Comparing Several Countries’ Laws Regulating NGOs,” May 3, 2006. On file with Human Rights Watch.

²³ “Putin admits defects in NGO law, pledges improvement,” Russian News & Information Agency Novosti, July 4, 2006, <http://en.rian.ru/russia/20060704/50874569-print.html> (accessed February 6, 2008).

a set of proposed amendments to the NGO law drafted by several NGOs.²⁴ However, to the best of Human Rights Watch’s knowledge, no further steps were taken to fulfill this pledge.

Efforts to Discredit Human Rights and Foreign-Funded NGOs

In early 2006, shortly after the 2006 NGO law was adopted, state-controlled television stations attempted to link Russian human rights NGOs with foreign intelligence. On January 22, a weekly show, “Special Correspondent,” reported that the Federal Security Service (FSB) had unmasked four alleged British spies working for the UK embassy in Moscow. Among those accused of espionage was an embassy employee who coordinated grants to Russian NGOs by the Global Opportunities Fund, which is attached to the UK Foreign and Commonwealth Office. The television program stated that a number of NGOs received the Fund’s grants, including Russia’s oldest human rights organization, the Moscow Helsinki Group, and several other prominent rights groups, as well as the Eurasia Foundation. The Moscow Helsinki Group tried to bring a libel suit against the station, but Savelovsky District Court of Moscow rejected the claim. The ruling was upheld by the Moscow City Court in July 2007.²⁵

After the 2006 NGO law was passed government officials continued to make hostile remarks apparently intended to discredit or raise suspicion about independent civil society groups. In a February 2006 speech to the Federal Security Service, President Putin urged vigilance toward NGOs, stating explicitly that they were fronts for foreign governments seeking to interfere in Russia’s internal affairs. A year later, addressing the Munich Conference on Security in February 2007, Putin lashed out at NGOs for being “instruments of foreign states to carry out [their] policies” toward Russia and for providing opportunities for foreign, “secret financing” of election campaigns.²⁶

²⁴ Human Rights Watch interview with Yuri Dzhibladze, president of the Center for the Development of Democracy and Human Rights, May 4, 2007.

²⁵ July 3, 2007 Decree by Moscow City Court on civil case #33-11981, on the website of Moscow Helsinki Group, www.mhg.ru/files/007/sudsav2.doc (accessed February 6, 2008).

²⁶ For a full transcript of Putin’s speech in Munich see, for example, http://www.kremlin.ru/appears/2007/02/10/1737_type63374type63376type63377type63381type82634_118097.shtml (accessed February 11, 2008).

In his 2007 state-of-the-nation address, Putin reiterated that the human rights and democracy movements were supported by forces intent on weakening Russia. He said, “Some, making skilful use of pseudo-democratic rhetoric, would like to return us to the recent past, some in order to once again plunder the nation’s resources with impunity and rob the people and the state, and others in order to deprive our country of its economic and political independence.”²⁷

In the lead up to the 2007 parliamentary elections, Nikolai Patrushev, head of the Federal Security Service, said that “the arsenals of foreign special services do include the practice of using NGOs – to obtain intelligence information, and as a tool for exerting covert influence on political processes.” He indicated that the revolutions that ousted unpopular governments in the former Yugoslavia, Ukraine, and Georgia were a product of such activities and said, “There is also the threat of the capacities of certain foreign NGOs being used to fund what amounts to subversive activities against Russia.” Patrushev noted that the state understands the important role of NGOs and is interested in their activities, and that his office draws attention only to “NGOs or their staff that engage in unlawful activities within our terms of reference.”²⁸ Several months earlier, in a media interview, Sergei Vasiliev, director of the Federal Registration Service, the agency that registers, inspects, and carries out other oversight over NGOs, did not criticize human rights groups directly but acknowledged concern that foundations use their support for human rights projects in Russia as a cover for “other” interests.²⁹

Russia’s NGO Sector

Russia has a vibrant and diverse NGO sector. According to Federal Registration Service data, there are more than 240,000 NGOs registered in Russia.³⁰ Many

²⁷ President Putin Annual Address to the Federal Assembly, April 26, 2007, http://www.kremlin.ru/eng/speeches/2007/04/26/1209_type70029type82912_125670.shtml (accessed June 15, 2007).

²⁸ “An interview with FSB Director Nikolai Patrushev,” WPS Russian Media Monitoring Agency, October 11, 2007. Translated from Russian; originally published in *Argumenty i Fakty*, No. 41, October 10, 2007.

²⁹ Boris Yamshanov, “Registration without Rejections New Head of Rosregistration on Dacha Amnesty, Lines, Lawyers, Religious and non-commercial organizations,” *Rossiiskaia Gazeta*, May 25, 2007, <http://www.rg.ru/2007/05/25/vasiliev.html> (accessed October 1, 2007).

³⁰ The Public Chamber of the Russian Federation, “Report on the State of Civil Society in the Russian Federation,” draft as of December 2007, <http://www.oprf.ru/newsblock/news/?id=1555&returnto=0&n=1> (accessed January 17, 2008). The report cites Federal Registration Service data.

provide social services or do other charitable work. Others are think tanks, advocate for public policy change, or seek to hold authorities accountable for rights abuses. According to a draft report by the Public Chamber (a state-funded institution—see below), most of Russia’s NGOs are focused on education and the sciences (32 percent), culture and sports (27 percent), healthcare, or are trade unions.³¹ Many NGOs, especially those dedicated to human rights and public advocacy, emerged in or after the glasnost era of the late 1980s; other groups, such as veterans’ organizations, trade unions, and hobby clubs, were already in existence in Soviet times.

Human rights organizations focus on a wide range of issues, including abuse in the army, women’s rights, the health system, conditions in detention and the penitentiary system, torture, humanitarian law violations in Chechnya, nationalism and xenophobia, and refugee and minority rights. As the government has moved to restrict political dissent, human rights groups have increasingly focused on freedom of expression, association, and assembly.

NGO funding

In the 1990s many NGOs, particularly human rights organizations, were funded primarily or exclusively by foreign donors. However, in recent years the funding environment has changed significantly. The Public Chamber draft annual report for 2007 noted three factors affecting the funding of NGOs: an increase in state funding, a rise in funding by Russian sources, and a decline in foreign funding as a consequence of the 2006 NGO law. It cited a study indicating that 44 percent of NGOs receive government funding, 30 percent raise funds through their own work, and 37 percent receive support from corporations or other businesses. There is overlap among these sources as many NGOs receive funding from multiple types of donors, while others NGOs receive no outside funding at all.³²

³¹ *Ibid.*, p. 21. The Public Chamber report does not provide any data for these categories of NGOs.

³² *Ibid.*, p. 26.

According to the ROMIR polling agency, in 2007 state budget funds constituted 29 percent of overall NGO funding.³³ Russian business donors primarily fund NGO charitable and social work through organizations devoted to children, education, and sports.³⁴ Human rights organizations and ecological groups very rarely receive funding from Russian sources.³⁵

Many NGOs, and especially human rights groups, still depend on foreign foundations for their financing, and only a few of them enjoy diversified funding.³⁶ The 2006 NGO law presented serious difficulties to foreign donors supporting Russian NGOs. As nonprofit organizations also affected by the law, foreign foundations faced new, burdensome requirements for reporting to the Russian supervisory authorities. The law enabled the state to exercise control over their funding policies.

Human rights NGOs' declining influence

In the 1990s Russian human rights groups were able to influence some aspects of public policy. The 1993 Constitution of the Russian Federation, which has been commended as a democratic and progressive document, as well as some key Russian laws were drafted with input from human rights experts.³⁷ This was due in part to the fact that several renowned former dissidents, including Sergei Kovalev and some of his allies, were members of parliament at the time. Accordingly, they had very tangible influence on the law-making processes and state policies.

Starting in 1999, with the gradual crackdown on independent media after the outbreak of the second Chechen war, human rights groups became marginalized

³³ Ibid., p. 35.

³⁴ Ibid., p. 35. Here the report refers to Russian donors as “donors, companies, and specialized organizations (most of them, foundations).” It is therefore unclear whether the passage also includes state donors.

³⁵ Ibid.

³⁶ Nikolay Petrov et al., “Civil Society and Political Processes in Regions,” *Moscow Carnegie Center Working Papers*, No. 3, 2005 (in Russian), <http://www.carnegie.ru/en/pubs/workpapers/72590.htm> (accessed December 8, 2007), p. 8. See also CIVICUS, “An Assessment of Russian Civil Society (2005),” http://www.civicus.org/new/media/CSI_Russia_Executive_Summary.pdf (accessed December 8, 2007), p. 9.

³⁷ See Sergei Kovalev’s biography (in Russian) at <http://www.hro.org/editions/kovalev/biokov.htm> (accessed February 7, 2008).

from the policy-making process. The issue of terrorism had become a serious concern after unprecedented terrorist acts in Moscow and Volgograd and incursions into regions outside Chechnya such as neighboring Dagestan by armed groups under Shamil Basaev's command. Fighting a war against terror became headline news. The issue was used to justify the strengthening of the executive branch, particularly law enforcement, to curb democratic initiatives and civic freedoms, and to discredit human rights defenders.

Government officials began to routinely claim that human rights defenders directly or indirectly assist terrorists and other forces trying to destroy the Russian state. Human rights groups' direct access to the executive and legislative branches of power diminished dramatically.

Public Chamber

One of the reforms Putin introduced in 2004 was the creation of a Public Chamber to coordinate the interests of Russian citizens, NGOs, and federal and regional authorities. Established in 2005, the Public Chamber consists of 126 members, one-third of whom are selected by the president of the Russian Federation.³⁸ Its official mandate is to analyze draft legislation, monitor activities of federal and regional authorities, and provide feedback to the government. It has only consultative powers. Regional Public Chambers have also been established throughout Russia.

Its proponents argued that the Public Chamber would enhance democracy in Russia. Others were skeptical of this claim and feared that the institution would instead weaken democracy. The work of the Public Chamber has no manifest negative implications,³⁹ and several of its members, such as Henry Reznik, a prominent human rights lawyer, and Oleg Zykov, a well-known narcologist and president of the No Alcoholism and Drug Abuse Foundation, are widely respected in the Russian NGO

³⁸ The president selects one-third of the members from among widely recognized personalities, including religious leaders, scientists, artists, doctors, journalists, and athletes. They, in turn, nominate another one-third of the members from national NGOs. These two groups then nominate the remaining one-third of the members from interregional and regional NGOs via conferences in each of the seven federal districts. Members serve a two-year term.

³⁹ See, for example, Alexander Auzan, "Autocracy of Serfs: Contemporary Limitations and Ways to Overcome Them" ("Samoderzhavie krepostnykh: sovremennyye granitsy i vozmozhnosti preodoleniya") in *Index on Censorship (Index. Dossie na tsenzuru)*, issue 26/2007, <http://www.index.org.ru/journal/26/auz26.html> (accessed February 6, 2008).

community. The Public Chamber also spoke out against the 2006 amendments to the NGO Law,⁴⁰ and for the past two years has critically reviewed the state of civil society in Russia.

The Public Chamber does, however, serve as a substitute to direct dialogue between NGOs and the state and expands state control of civil society. For example, in some cases, when NGOs try to engage Russian government authorities directly on human rights, they are referred instead to the Public Chamber.⁴¹ State funding allocated for NGOs is also channeled through the Public Chamber. Thus, independent civil society is increasingly marginalized and less able to participate in a system of checks and balances on executive power.

⁴⁰ See, for example, Gazeta.Ru, December 2, 2005, <http://www.gazeta.ru/2005/12/02/na1133535180.shtml> (accessed February 7, 2008).

⁴¹ See, for example, “Human Rights Defenders: Public Chamber Hinders Communications with Authorities” (“Pravozaschitniki: Obschestvennaya palata meshaet kommunikatsii s vlastyu”) Polit.Ru, September 14, 2005, <http://www.polit.ru/news/2005/09/14/dj.popup.html> (accessed February 7, 2008)).

IV. The 2006 NGO Law

Not-for-profit, nongovernmental organizations are broadly referred to in Russian law as non-commercial organizations (NCOs) and can assume different legal forms, including public associations, charitable foundations, unions, and representative offices or branches of foreign organizations.⁴² Public associations are regulated by the 1995 Law on Public Associations; all other forms of non-commercial organizations are regulated by the 1996 Law on Non-Commercial Organizations. Most domestic organizations discussed in this report are registered as public associations.⁴³ Foreign NGOs are generally registered under the Law on Non-Commercial Organizations.

The 2006 NGO law consists of amendments to the 1995 Law on Public Associations and the 1996 Law on Non-Commercial Organizations, as well as to the Law on Closed Administrative Territorial Formations from 1992, and to one article of the Civil Code.

A chart below details the changes introduced by the 2006 NGO law and indicates how the law has significantly expanded state officials' discretion to reject the registration of NGOs, to inspect NGOs, and to require reporting from NGOs. It is primarily this broad and vague discretion now accorded to state officials to interfere with the founding and operation of NGOs, open to discriminatory and arbitrary misuse, that is having a detrimental impact on human rights NGOs.

This discretion, combined with the abusive use of some potentially mundane, if onerous, administrative regulations, threaten both the freedom of association to establish and run NGOs and the freedom of expression of NGOs. They are also clearly

⁴² Law on Non-Commercial Organizations FZ-7 of 1996, art.2, part 3: "Non-commercial organizations can be established in the form of public or religious organizations (associations), non-commercial partnerships, institutions, autonomous non-commercial organizations, social, charitable and other foundations, associations and unions, as well as other forms provided for by federal laws." Article 7 of the Law on Public Associations No. 82-FZ from 1995 provides that "public associations can be established in one of the following legal forms: public organization; public movement; public foundation; public institution; amateur organization (*organ obschestvennoi samodeiatelnosti*); political party."

⁴³ This report uses the term NGO to refer to all not-for-profit organizations, including public associations, except for cases in which reference to an organization's legal form is relevant. Russian officials often use the term "NKO" (NCO). It is not always clear whether they refer to all legal forms of NGOs, or whether they mean only those registered as non-commercial organizations under the 1996 Law on Non-Commercial Organizations.

inconsistent with the Fundamental Principles on the Status of Non-governmental Organizations, a nonbinding standard drawn up by the Council of Europe that sets out best practices for the regulation of NGOs, with a view to ensuring that they benefit from freedom of association and fulfill duties and obligations.⁴⁴

The 2006 law introduces restrictions on who can found an NGO, and expands the grounds on which the state may reject the registration of a non-commercial organization. Whereas the Fundamental Principles state that states may “disqualify persons from forming an NGO with legal personality for reasons such as a criminal conviction or bankruptcy,” the 2006 law excludes individuals on far more discretionary terms, for example, foreigners whose “presence in the Russian Federation has been found to be undesirable.” Also excluded are individuals convicted under the anti-extremism law, whose vague and broad terms, as discussed below, are subject to arbitrary, discriminatory, and politically motivated interpretation and application. A non-commercial organization can also be rejected for registration, for example, if its name “insults public morality, ethnic and religious feelings.”

An organization’s registration application may also be rejected if its documents are prepared “inappropriately.” This term is not defined, leaving it open to subjective interpretation and contradicting the Fundamental Principles’ provision that the process of creating a new NGO should be easy to understand, inexpensive, and expeditious.⁴⁵ The vagueness of the term “inappropriately,” which leaves NGOs with lack of clarity and uncertainty as to what they need to do to comply, could also render any rejection on this ground an arbitrary interference with the right of association protected under human rights law (see section on European Convention on Human Rights, below).⁴⁶

⁴⁴ Fundamental Principles on the Status of Non-governmental Organizations in Europe, November 13, 2002, http://www.coe.int/t/e/legal_affairs/legal_co-operation/civil_society/basic_texts/Fundamental%20Principles%20E.asp (accessed February 1, 2008).

⁴⁵ Fundamental Principles, art. 28.

⁴⁶ The European Court of Human Rights has on several occasions found that rejection of registration of organizations on the grounds that they have incomplete or inappropriate documentation will be a violation of freedom of association, if the state has not made clear what exactly the organization must do to comply. See, for example, *Tsonev v. Bulgaria*, April 13, 2006; and *The Moscow Branch of The Salvation Army v. Russia*, October 5, 2006.

The 2006 law requires non-commercial organizations and public associations to report on financing obtained from foreign sources,⁴⁷ and authorizes the Registration Service to request information regarding an organization's financial activities from other governmental agencies (for instance, the tax service) and financial institutions without any judicial or other independent oversight. NCOs are now also required to report on their activities, and foreign organizations must provide prior notification of their substantive work, quarterly updates on this work, and reports on the allocation of funds for each project. Under the 2006 law and implementing regulations the Registration Service can inspect NGOs annually⁴⁸ and demand access to an organization's documents, including confidential documents.⁴⁹ Thereby, the Russian government has very broad discretion to oversee and control NGOs in a manner that is far greater than what is provided for in the Fundamental Principles, which envisions only annual reports and balance sheets.⁵⁰ In a meeting with Human Rights Watch on February 13, 2008, the chief of the department for relations with non-commercial organizations at the Registration Service, Alexander Stepanov, stated that as a rule access to confidential documents is not sought during inspections.⁵¹

The law and implementing regulations institutionalize a system under which even minor administrative infractions can result in the organization being dissolved.⁵² This contravenes the Fundamental Principles' guideline that all sanctions imposed upon NGOs must be proportionate to the violation and that dissolution should be considered a last resort.⁵³ Such disproportionate sanctions and the ease with which an association can be dissolved are also incompatible with the level of protection afforded to the right of association under human rights law (see below). Alexander

⁴⁷ Federal law on Introducing Amendments to Certain Legislative Acts of the Russian Federation, No. 18-FZ, 2006 art. 3(10).

⁴⁸ *Ibid.*, arts. 2(8) and 3(10)

⁴⁹ *Ibid.*, art. 3(10).

⁵⁰ Fundamental Principles, art. 60.

⁵¹ Human Rights Watch interview with Alexander Stepanov, chief of the department for relations with non-commercial organizations, Federal Registration Service, Moscow, February 13, 2008.

⁵² As described below, if an NGO repeatedly fails to submit timely information to the Registration Service, or receives as few as two warnings (which are often issued for minor technical inaccuracies in recordkeeping), the Registration Service can petition for the organization's dissolution.

⁵³ Fundamental Principles, arts. 70 and 71.

Stepanov assured Human Rights Watch on February 13, 2008, that in practice such dissolutions do not happen, however.⁵⁴

European Convention on Human Rights

As a member of the Council of Europe since 1997 and party to the European Convention on Human Rights (ECHR) since 1998, Russia has strict and clear obligations to respect the freedom of association and expression, obligations that it seems to be selectively disregarding in its current strategy towards human rights NGOs and social activists.

Article 11 of the ECHR states that everyone has the right to freedom of association. The only permissible restrictions to this right are those that are “prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.”⁵⁵

The European Court of Human Rights has consistently made clear that the right “to form a legal entity in order to act collectively in a field of mutual interest is one of the most important aspects of the right to freedom of association, without which that right would be deprived of any meaning.”⁵⁶ While a state has a right to regulate an association’s aim and activities, it must do so in a manner compatible with its obligations under the Convention.⁵⁷ The protection of opinions and the freedom of expression under Article 10 of the ECHR is also one of the objectives of the freedom of association.

⁵⁴ Human Rights Watch interview with Alexander Stepanov, February 13, 2008.

⁵⁵ European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), European Treaty Series No. 5, art. 11. Russia became a party to the ECHR on May 5, 1998. Article 22 of the International Covenant on Civil and Political Rights (ICCPR) also sets out that the only restrictions permissible on freedom of association are those “which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. Russia ratified the ICCPR on October 16, 1973.

⁵⁶ See for example, *Sidiropoulos and Others v. Greece*, judgment of 10 July 1998, Reports of Judgments and Decisions 1998-IV, para. 40; *Gorzelik and Others v. Poland [GC]*, judgment of February 17, 2004; and most recently *Ramazanova and Others v. Azerbaijan*, judgment of February 1, 2007, para. 54, *Zhechev v. Bulgaria*, judgment of June 21, 2007., para. 34, and *Ismayilov v. Azerbaijan*, judgment of January 17, 2008.

⁵⁷ *Ibid.*

Under the Convention governments have a duty not to interfere with the freedom of association and have positive obligations to secure the effective enjoyment of this freedom. These include an obligation to recognize the legal status of associations, and not to impose unnecessary delays or administrative burdens on any registration procedure in a way that would interfere with the right of association.⁵⁸ The Court has also made clear that in circumstances in which the state requires an organization to comply with new conditions or a re-registration process and where re-registration is then refused by the state, resulting in a loss of status or entitlement, this amounts to interference with the organization's right to freedom of association.⁵⁹

Russia has already been found to have violated the right to freedom of association, notably in two cases involving religious organizations, in circumstances that bear striking similarity to the current application of the NGO law to human rights and social activist organizations.⁶⁰

In those cases, organizations that were required under a new 1997 Religions Act to amend their articles of association and re-register them were refused re-registration. Different and inconsistent reasons were advanced for refusing to register them at various stages of the process: amongst the reasons given were failure to comply with the documentation requirements of registration; that the intent and activities of the organizations were not clear, not fully explained, or incompatible with Russian laws; and in one case that the organization had a "foreign origin." Failure to obtain re-registration for whatever reason put the organizations at risk of dissolution, and the Russian authorities had indeed sought to dissolve the two organizations.

In relation to provisions that discriminated against foreign nationals from being founders of organizations, the Court held that there was no reasonable and objective justification for a difference in treatment of Russian and foreign nationals as regards their ability to exercise freedom of association. In relation to complaints that the organizations had not complied with requirements to provide full descriptions of

⁵⁸ For example, *Tsonev v. Bulgaria*, judgment of April 13, 2006, para. 55.

⁵⁹ *Ibid*; and *The Moscow Branch of the Salvation Army v. Russia*, judgment of October 5, 2006.

⁶⁰ *The Moscow Branch of the Salvation Army v. Russia*, judgment of October 5, 2006; *Church of Scientology Moscow v. Russia*, judgment of April 5, 2007. See also *Presidential Party of Mordovia v. Russia*, judgment of October 5, 2004.

their activities and their structure, the Court made clear, as it had on other occasions, that the burden rested with the state to provide sufficient clarity and certainty as to what the applicable legal requirements were so that organizations could comply, otherwise rejection was arbitrary and unlawful. In respect of one of the organizations, the Salvation Army, the Court also noted that any allegations made about the organization's incompatibility with the Russian Constitution, or intent it had to overthrow or break Russian law had no evidentiary basis and must be rejected.⁶¹

In the current climate, the use of the NGO law to place obstacles in the way of NGOs forming and operating efficiently, and imposing administrative and bureaucratic demands on them in such a way as to ensure control and restraint on the activities of the NGOs is clearly incompatible with the principles of the case law set out by the Court in its cases on freedom of association, and the obligations states owe to individuals seeking to establish and run organizations.

The punitive, invasive elements of the law and the way in which it is implemented, as described below, are contradictory to Russia's obligations under international and regional law to respect freedom of expression and association, and have a choking effect on the exercise of those rights.

⁶¹ Ibid.

Changes Introduced by the 2006 NGO Law at a Glance

Non-Commercial Organizations

Before	After
<i>Registration</i>	
<i>Procedure</i>	
NCOs were registered by tax organs under the same procedure as commercial organizations.	NCO registration became a two stage process—first the Registration Service permits or rejects registration, and then tax organs register the organization.
<i>Grounds for Rejection</i>	
<ul style="list-style-type: none"> • Failure to submit all documents required for registration; • Documents are submitted to the wrong institution; • Organization’s founder is under dissolution procedure. 	<ul style="list-style-type: none"> • The constituent documents of the NCO contradict the constitution and legislation of the Russian Federation; • Another NCO has already been registered under the same name; • The name of the NCO insults public morality, ethnic, and religious feelings of citizens; • Documents required for registration have not been submitted in full, have been prepared in an inappropriate manner, or have been submitted to the wrong institution; • A person acting as a founder of an NCO falls into one of the categories listed below as forbidden to serve as the founder of an NCO.
<i>Time Required to Get Registered After Document Submission</i>	
Five days from document submission.	At least 24 days.
<i>Reporting</i>	
Regular financial reporting to tax authorities.	Reporting to the Registration Service about the NCO’s activities, composition of its governing bodies, financial expenditures, and the use of other resources including those obtained from international and foreign organizations, foreign nationals, and stateless persons.
<i>Control</i>	
No specific control mechanism.	The Registration Service is authorized to: <ul style="list-style-type: none"> • Not more frequently than annually, to inspect NCOs for compliance of their activities, including their financial expenditures and property management, with their statutory goals; • Request information regarding an organization’s financial activities from other governmental bodies and financial institutions; • Be present at all events.

<i>Grounds for Dissolution (via court procedure)</i>	
Dissolution was governed by general provisions of the Civil Code—arts. 61(2) (dissolution of the legal entity) and 65 (bankruptcy).	Repeated failure to submit timely reports and other information to Registration Service. NCO’s continued activity in contradiction with its foundation goals
<i>Founders/Members</i>	
No restrictions; foreign citizens could be founders and members of NCOs.	<ul style="list-style-type: none"> • Foreign citizens and stateless persons may become founders and members of an NCO if they are legally present in the Russian Federation; • The following persons may not be founders or members of an NCO: <ul style="list-style-type: none"> ○ a foreign citizen or stateless person whose stay (domicile) in the Russian federation has been found to be undesirable; ○ a person placed on a special list in compliance with the Federal Law On Combating Legalization (Laundering) of Criminally Gained Proceeds and Financing of Terrorism, No. 115-FZ of 2001; ○ a public association or a religious organization whose activities have been terminated under the terms of the Federal Law On Countering Extremist Activities, No. 114-FZ of 2002; ○ a person whose actions were found by a court to have been “indicative” of extremism.

Public Associations

Before	After
<i>Registration</i>	
No significant changes.	
<i>Reporting</i>	
<ul style="list-style-type: none"> • Publication of annual report on use of property; • Registration Service notification about continuation of activities; • Regular financial reporting to tax authorities. 	In addition: <ul style="list-style-type: none"> • Annual reporting to Registration Service on financial expenditures and the use of other resources obtained from international and foreign organizations, foreign nationals, and stateless persons. [No.18-FZ, art.2 (7)]
<i>Control</i>	
<ul style="list-style-type: none"> • Registration Service had the right to request information from public associations (decisions of its directors and other officials and quarterly and annual reports); 	In addition: The Registration Service is authorized to: <ul style="list-style-type: none"> • Not more frequently than annually, inspect the organization for compliance of its activities, including

<ul style="list-style-type: none"> Registration Service had the right to be present at all events. 	<p>financial expenditures and property management, with its statutory goals;</p> <ul style="list-style-type: none"> Request information regarding the organization’s financial activities from other governmental bodies and financial institutions. [No. 18-FZ, art.2 (8)]
<p><i>Grounds for Dissolution, Suspension or Exclusion from the State Registry⁶³</i></p>	
<ul style="list-style-type: none"> Violating the rights and freedoms of citizens; Repeated or egregious violations of the constitution or other laws; Continued activity in contradiction with its foundation goals [Civil Code, art.61 (2), No.82-FZ, art.44]. 	<p>In addition: Repeated failure to submit timely reports and other information to the Registration Service.</p>
<p><i>Founders/Members</i></p>	
<p>No restrictions; foreign citizens could be founders and members of public associations.</p>	<ul style="list-style-type: none"> Foreign citizens and stateless persons may become founders and members of a public association if they are legally present in the Russian Federation; The following persons may not be founders (members) of a public association: <ul style="list-style-type: none"> a foreign citizen or stateless person whose stay (domicile) in the Russian federation has been found to be undesirable; a person, placed on a special list in compliance with the Federal Law On Combating Legalization (Laundering) of Criminally Gained Proceeds and Financing of Terrorism, No. 115-FZ of 2001; a public association whose activities have been terminated under the terms of the Federal Law On Countering Extremist Activities, No. 114-FZ of 2002; a person whose actions were found by a court to have been “indicative” of extremist activities. a person in detention pursuant to a court verdict.

⁶² As noted below, the number of ad hoc inspections an organization may be subjected to is unlimited.

⁶³ Prior to 2006 public associations could be dissolved or suspended. The 2006 amendments also provide for their exclusion from the State Registry. Exclusion from the State Registry means that an organization is deprived of its status as a legal person and can no longer have bank accounts, sign contracts, etc. Under article 3 of the 1995 Law on Public Associations, public associations may operate without registering as a legal person, but with significant limitations: they may not participate in federal and municipal authorities’ decision making; establish mass media outlets and conduct publishing activities; or participate in elections and referendums (Federal Law on Public Associations No.82-FZ of 1995, art. 27).

New for Foreign NGOs

Foreign NGOs may operate in Russia in one of three legal forms: as branches of foreign NGOs, as affiliates of foreign NGOs, or as representative offices of foreign NGOs. All are regulated under the Law on Non-Commercial Organizations. In theory, representative offices need only “notify” the Registration Service rather than register, though they must present the same documents as are required for registration and may be declined for the same reasons as in a registration process.

Grounds for rejection of registration/notification

- The organization’s goals are contrary to the Russian constitution or legislation;
- The organization’s goals create a threat to the sovereignty, political independence, national unity, cultural heritage, and national interests of the Russian Federation;
- The organization was previously registered in Russia but dissolved on the grounds of severe violation of the constitution and legislation of the Russian Federation [art. 3(4) and 3(9)].⁶⁴

Control/Reporting

- The Registration Service can prohibit foreign NGOs from implementing projects or sub-projects) [art. 3 (10)]. The law does not state explicitly the grounds on which the Registration Service can make this decision.
- The Registration Service can prohibit foreign NGOs from transferring funds or other resources to particular recipients, in order to “defend ... the constitutional system, morals, public health, rights and lawful interest of other people, guaranteeing defense capacity and security of the state” [art. 3(10)].
- Foreign NGOs shall report on the amount of money and other resources received, their intended allocation and actual spending; programs the NGO is planning to implement in Russia; and use of money and other resources allocated to physical persons and legal entities [art. 3(10)].

Grounds for exclusion from the registry of affiliates of foreign NGOs and representative offices of foreign NGOs

- Not submitting timely reports;
- Activities of affiliates of foreign NGOs and representative offices of foreign NGOs do not correspond with their stated goals;
- Non-compliance with a prohibition on implementing projects or sub-projects [art. 3(10)].

The 2006 NGO Law in Practice

Compliance with the 2006 NGO law has proved onerous for numerous NGOs. Vague provisions of the law, together with the government’s scope to inspect NGOs for any number of violations, mean that organizations must spend inordinate amounts of time and money on legal and accounting services to protect themselves from suspension or closure.

⁶⁴ Notification can be also rejected if the required documents are not submitted in full, are filled out inappropriately, or contain false information (art. 3(4)).

Registration of new organizations and registration of statute and other changes

The 2006 NGO law has not resulted in a decline in the number of NGOs that are being registered. In fact, according to Registration Service data, from January to July 2007, 17 percent more NCOs were registered than in the first seven months of 2006. In the same 2007 period, 14 percent of organizations that applied for registration were rejected.⁶⁵

At the same time, the 2006 NGO law introduced a more complicated registration procedure for NCOs than had previously existed. Organizations now need lawyers to assist them with the complicated registration procedure. The many NGOs that cannot afford qualified lawyers risk submitting flawed documents, which would be rejected, and as a result such groups may be forced to spend inordinate amounts of time revising and resubmitting documents and dealing with the Registration Service to remedy any flaws. A youth group interviewed by Human Rights Watch failed to prepare all of its registration documents properly and its application was rejected. The group had received one-time funding to cover the costs associated with the registration process, and conveyed to Human Rights Watch its concern that it would not have adequate funds to re-apply for registration.⁶⁶ A corporate lawyer who assists NGOs seeking to register told Human Rights Watch that even if an organization is registered, mistakes made by the NGO in the registration process can cause it to have problems with the Registration Service in the future.⁶⁷

A Moscow State University study in 2007 found that registering an NGO with the help of a consulting firm in Moscow costs 40 percent more than registering a commercial organization and takes twice as much time. These figures are even higher outside Moscow. For example, in Kalmykia, a province over 1,800 kilometers southeast of

⁶⁵ Between January and July 2007, 37,560 organizations were registered; 32,000 were registered for the same period in 2006. Federal Registration Service, "September 13, 2007 Collegium chaired by Sergei Vasiliev, Federal Registration Service Director, on implementation of the Federal Law # 7 issued on January 12, 1996 on Non-Commercial Organizations," December 6, 2007, <http://www.rosregistr.ru/index.php?menu=1005000000&id=3672> (accessed September 20, 2007). See also Human Rights Watch interview with Alexander Stepanov, February 13, 2008, and written answers provided at the meeting (on file with Human Rights Watch).

⁶⁶ Human Rights Watch interview, Russia, 2007 (identifying information withheld by request).

⁶⁷ Human Rights Watch interview with Igor Pastukhov, lawyer, Moscow, August 15, 2007.

Moscow, NGO registration costs might be 50 to 100 percent higher than for a commercial organization and 130-150 percent higher in comparison to Moscow.⁶⁸

A new NGO might be denied registration if its “constituent documents ... run counter to the Constitution and the legislation of the Russian Federation.”⁶⁹ In a notorious case that demonstrates just how arbitrarily restrictions based on compatibility with constitutional and legal protection of “security of the state” can be invoked, Rainbow House, a group that protects the rights of gay, lesbian, bisexual, and transgendered persons in Tyumen, was rejected on these grounds. In December 2006 Rainbow House was denied registration because its objectives “are aimed at protecting personal rights and liberties, including persons of non-traditional sexual orientation ... [These] can undermine the security of the Russian community and state,” because “they undermine spiritual public values” and “undermine the sovereignty and territorial integrity of the Russian Federation due to a reduction of the population.”⁷⁰ The group unsuccessfully appealed this decision to a Tyumen regional court. The group separately brought a case against the local registration service for improperly refusing to register Rainbow House. The Tyumen court and the appeal court in Moscow both refused to hear this case. The group plans to submit its case to the European Court of Human Rights.

As noted above, the Registration Service may reject registration applications if the organization’s “documents are prepared in an inappropriate manner.”⁷¹ This applies both to new registrations and notifications of organizational and operational changes. The experience of an environmental foundation in Voronezh illustrates how the Registration Service can interpret “inappropriate” to mean typos or errors in formatting and how this can paralyze an organization for weeks. Under the 2006

⁶⁸ Laboratory for Institutional Analysis of Economic Reforms at the State University – Higher School of Economics, Department of the Applied Institutional Economics and Laboratory for the Institutional Analysis at the Economic Faculty of Moscow State University, Institute for National Project «Social Contract», Institute for Civil Analysis with the support of Levada Analytical Center, “Economic Consequences of the New Russian NGO Legislation,” PowerPoint presentation, May 20, 2007, on file with Human Rights Watch.

⁶⁹ Federal law on Introducing Amendments to Certain Legislative Acts of the Russian Federation, No. 18-FZ, 2006, arts. 2(6) and 3(9).

⁷⁰ Letter No. 01- 20-022675/06 from the Ministry of Justice, Federal Registration Service branch of Tyumen Region, Khanti-Mansi and Yamalo Nenetsk autonomous district, to A.V. Zhdanov, who is a representative of Rainbow House, December 29, 2006, on file with Human Rights Watch.

⁷¹ Federal Law on Introducing Amendments to Certain Legislative Acts of the Russian Federation, No. 18-FZ, arts. 2(6) and 3(9).

NGO law, the Foundation For Ecological and Social Justice was obligated to register the fact that it had a new director; failure to do so in a timely manner could have resulted in the organization's dissolution.⁷² In June 2006 the Registration Service in Voronezh refused to register the change because the documents were prepared in an inappropriate manner. Victoria Gromova, president of the foundation, told Human Rights Watch,

We submitted documents to the Registration Service within three days. And it turned out that on one of the 15 [stapled] papers that we submitted we did not type in the header "Foundation for Ecological and Social Justice." That became grounds for returning the documents to us ... Documents were not accepted not because of factual mistakes ... there was just a minor typo.⁷³

The Foundation for Ecological and Social Justice had to resubmit the relevant documents several times. It took two months to get the change registered, during which the organization could perform representative functions but could not conduct any administrative or financial activities (for example, pay taxes and salaries, or perform bank operations); without being registered, the new director did not have the authority to sign off on such operations. Gromova told Human Rights Watch that the Registration Service "did not return documents to make corrections but just said 'Guys, we don't accept that.' ... For two months we were not able to sign any papers. [...] Basically we could not operate."⁷⁴

Registration Service inspections of NGOs

Numerous state agencies, ranging from the tax inspectorate to the sanitation inspectorate, may inspect NGOs to ensure compliance with government regulations.

⁷² The 2006 NGO law requires non-commercial organizations to inform the Registration Service within three days about a change in the head of the organization, a change in his/her passport data, a change of the organization's address, bank information, and other information. Grounds on which the Registration Service may decline to register these changes are the same as for rejection of an organization's registration. Repeated failure to submit this information, or failure to submit annual reports in a timely manner gives the Registration Service the right to petition for dissolution of the organization. Federal law on Introducing Amendments to Certain Legislative Acts of the Russian Federation, No. 18-FZ, art.3 (10).

⁷³ Human Rights Watch interview with Victoria Gromova, president, charitable foundation For Ecological and Social Justice, Voronezh, October 2, 2007. The Voronezh-based foundation "For Ecological and Social Justice" aims to unite ecological protection and human rights and supports youth initiatives related to these issues.

⁷⁴ Ibid.

The 2006 NGO law expands the circumstances under which the Registration Service may inspect NGOs to ensure that their work, including their financial expenditures and property management, complies with their statutory goals.⁷⁵ The Registration Service is authorized to inspect NGOs in response to citizens' appeals, as well as in response to information received from state agencies about alleged violations. Under the 2006 NGO law, the Registration Service can also initiate an inspection on its own, but it is not clear what the permissible criteria are for doing so.⁷⁶ Yet nothing in the law or in implementing regulations requires the Registration Service to inspect every organization, so an NGO may never be subject to inspection.

By law, an inspection by any of the relevant agencies should not last longer than two months.⁷⁷ However, there is no limit to the number of inspections allowed: the prevailing Registration Service administrative regulation says that a maximum of one "planned" (*planovaia*) inspection is permitted every two years, but there is no specified limit to the number of ad hoc (*vneplanovaia*) inspections.⁷⁸ In effect, an NGO could find itself under permanent inspection—for example, one planned inspection and five ad hoc inspections each lasting two months, back to back (or even more if the inspections overlap). Experience of commercial entities with tax inspections also suggests that a two-month limit is not always adhered to.

Registration Service officials have wide discretion to request documents for inspection and to interpret them.⁷⁹ During a 2007 inspection of Citizens' Watch—a St.

⁷⁵ Federal law on Introducing Amendments to Certain Legislative Acts of the Russian Federation, No. 18-FZ, arts. 2 (8) and 3 (10).

⁷⁶ Order of the Ministry of Justice No. 380 on Approval of Registration Service Administrative Regulations as Relates to its State Function to Conduct Inspections Ascribed to Registration Service Jurisdiction, and Taking up Measures based on the Inspections Results as Stipulated by Russian Federation Legislation (Registration Service Administrative Regulations), December 25, 2006, http://www.rosregistr.ru/docs/norm_akt/frs/prikaz_mu_372_25122006.doc (accessed October 17, 2007), art. 9.

⁷⁷ Ministry of Justice Order 222 Approving the Procedure for Conducting Inspections into the Conformity of Non-commercial Organizations' Activities, Including the Expenditure of Finances and Use of Property, with the Goals Envisaged in Its Founding Documents (Statutory Goals), July 11, 2006, and Registration Service Administrative Regulations No.380, December 25, 2006.

⁷⁸ Ministry of Justice Order 222 and Registration Service Administrative Regulation 380 are inconsistent with regard to planned inspections. Ministry of Justice Order 222 in point 5 provides for one planned inspection per year, whereas Registration Service Administrative Regulation 380 provides for one planned inspection every two years (point 8(3)). Alexander Stepanov of the Federal Registration Service told Human Rights Watch that Regulation 380 prevails over Order 222 in this regard. Human Rights Watch interview with Alexander Stepanov, February 13, 2008.

⁷⁹ For example, Ministry of Justice Order 222, points 7 and 19, list the kinds of documents the Registration Service may request of organizations being inspected. Some are quite specific, such as documents relating to the organization's finances.

Petersburg organization that works to establish parliamentary and civic oversight over the police, the security service, and the armed forces—the Registration Service demanded that all outgoing correspondence be submitted for inspection, including correspondence on confidential cases.⁸⁰ Inspectors may request access to all manner of technical documents.

According to Alexander Stepanov of the Federal Registration Service’s department for relations with non-commercial organizations, the Registration Service and its regional branches publish NGO inspection plans so that organizations will be aware of upcoming inspections.⁸¹ Not all regional branches of the Registration Service, however, have webpages or post inspection plans.⁸²

At the end of an inspection the Registration Service prepares an inspection report, which according to Registration Service administrative regulations is a classified document; neither the Registration Service nor the audited organization can share the document with third parties.⁸³ Citizens’ Watch submitted an appeal to the Russian Supreme Court in October 2007 requesting this norm be annulled, arguing it was inconsistent with the constitution and federal legislation.⁸⁴ At this writing the appeal is pending.

Warnings

Many of the inspections result in a warning to the organization, often for minor administrative violations. In October 2007 Federal Registration Service director

Others are open ended. For example, with regard to organizations the Registration Service is inspecting through an off-site inspection, such open-ended terms as “other documents” that, in accordance with legislation of the Russian Federation, the Registration Service has at its disposal (point 7). Point 19 states that an inspection agency has the right to “request and receive documents that are necessary to achieve the goals of the inspection.”

⁸⁰ The inspection took place in July and August 2007. Human Rights Watch interview with Yuri Vdovin, deputy chair, Citizens’ Watch, St. Petersburg, October 9, 2007.

⁸¹ Federal Registration Service, Main presentation points of A.V. Stepanov, chief of the department for relations with non-commercial organizations, Federal Registration Service, at a meeting with representatives from Russian nongovernmental and international organizations titled “Pressing Problems of Cooperation between a State Institution and Nongovernmental Organizations,” May 30, 2007, <http://www.rosregistr.ru/index.php?menu=152000000&id=3314> (accessed October 19, 2007).

⁸² A scan of regional Registration Service websites in December 2007 indicated that 31 branches did not have webpages, for example.

⁸³ Registration Service Administrative Regulations, art. 51, para 3.

⁸⁴ Citizens’ Watch decided to appeal after it received an inspection report on August 31, 2007, labeled “for internal use.” Human Rights Watch interview with Yuri Vdovin, deputy chair, Citizens’ Watch, St. Petersburg, October 9, 2007.

Sergei Vasiliev announced that between January and April 2007 the Registration Service had found violations and issued warnings to 6,000 non-commercial organizations.⁸⁵

The Individual and the Law, a human rights group based in Ioshkar-Ola, the capital of the Republic of Mari-El, was inspected by the Registration Service for a month beginning in March 2007.⁸⁶ As a result the organization received a warning for such technical violations as not filling out member forms and not issuing member cards; conducting meetings of its governing body irregularly; failing to elect a secretary for these meetings; and not collecting dues from its members. The Registration Service considered these to be a violation of article 15-2 of the Russian constitution, which states that “... private citizens and their associations shall be obliged to observe the Constitution of the Russian Federation and its laws.”

In two cases described to Human Rights Watch, inspectors issued warnings to organizations that turned out to be groundless, because documents the inspectors determined were missing from materials to be inspected had actually not been requested, or had been erroneously made subject to the inspection. The Registration Service found Ryazan-Memorial, a human rights organization, to be in violation of its statute for not re-electing the board, its chair, and an auditing commission. Ryazan-Memorial did not submit to the Registration Service the minutes from the re-election meeting because that meeting had not taken place during the period covered by the inspection, and the inspectors had not specifically requested the documents. The Registration Service issued a warning to a Voronezh-based NGO, Free University, for not submitting minutes from a board meeting that had taken place before the period of inspection.⁸⁷

In at least two other cases the Registration Service found alleged major violations based on an arbitrary interpretation of an organization’s documents. The Registration Service’s inspection of Citizens’ Watch noted that the organization had

⁸⁵ Yamshanov, “Registration without Rejections” *Rossiiskaia Gazeta*.

⁸⁶ The Individual and the Law was founded in 1999. The group addresses human rights violations in detention facilities, including facilities for juveniles; conducts trainings on human rights issues for law enforcement personnel; provides legal services; and publishes reports based on its human rights monitoring.

⁸⁷ Free University conducts trainings on human rights issues. Human Rights Watch interview with Maria Gordeeva, program coordinator, Free University, Voronezh, October 2, 2007.

undertaken to acknowledge in its publications financial support the organization received from the St. Petersburg consulates of the Netherlands and the United Kingdom. The Registration Service argued that this commitment amounted to an agreement to provide advertisement, thereby changing the nature of the funding from tax-exempt charitable grants to commercial funding. The Registration Service said Citizens' Watch was therefore obliged to pay taxes on these grants. The Registration Service similarly told the St. Petersburg-based environmental organization Bellona that it had engaged in illegal advertising for acknowledging support received from foreign consulates in its publications, and for not paying taxes on these tax-exempt grants.⁸⁸ The Registration Service also found that a study tour to Germany and France that Citizens' Watch organized for St. Petersburg judges violated article 14, part 4 of the Law on Public Associations, which states that regional public associations may function only within one subject of the Russian Federation.⁸⁹

The Registration Service's authority to make inspections was given substantial muscle by Ministry of Justice implementing regulations introduced in the course of 2006. Under one of these, an organization can be dissolved or excluded from the State Registry if it receives two warnings regarding the same violation. Another implementing regulation apparently envisages other measures the Registration Service may take to hold such organizations accountable, though it does not state what these measures are.⁹⁰ There appears to be no statute of limitation for an issued warning.⁹¹

⁸⁸ Human Rights Watch interview with Yuri Vdovin, deputy chair of the board, Bellona, St. Petersburg, October 9, 2007.

⁸⁹ Ibid.

⁹⁰ Registration Service Administrative Regulations, point 76. This point reads: "The issuing of a new (repeated) warning (representation, instruction) and failure to eliminate the violation indicated in this, is grounds for applying measures of accountability in cases envisaged by legislation of the Russian Federation, including petitioning a court to stop the work (dissolve) of the subject of the inspection.

⁹¹ In September 2007 Ryazan-Memorial received a letter from the Ryazan district Registration Service stating that the "current legislation of the Russian Federation does not have a cancellation procedure for an issued warning." Letter No. 33/3662 from the Ministry of Justice, Federal Registration Service branch of Ryazan district, to A. Blinushov, board chair, Ryazan-Memorial, September 21, 2007, on file with Human Rights Watch. Articles 2(8) and 3(10) of the 2006 NGO law state that a warning can be appealed to a higher organ, for example, the Federal Registration Service, or to a court.

The Registration Service also has the discretion to move to dissolve an organization based on provisions in the civil code that allow a legal entity to be dissolved for repeated or severe violations of the law or regulations.⁹²

(The explicit provisions in the 2006 NGO law itself for NGO dissolution are discussed below.)

Challenging a warning in court

Although the law provides a mechanism for appealing Registration Service warnings and other decisions, court proceedings tend to be time-consuming and challenging, and not all groups have resources, financial and human, that would allow them to endure lengthy court cases.

Two NGO advisors interviewed by Human Rights Watch called into question whether NGOs could get a fair hearing in local courts. As noted in the background section of this report, the executive has been regaining control over the judiciary in recent years, especially in high-profile, politically sensitive cases. In addition, informal personal relations affect lower-profile cases, particularly at the local level. Olga Gnezdilova, legal advisor to Interregional Human Rights Group – Voronezh/Chernozemie said,

It is useless to appeal Registration Service actions in court. Until 2006 the Registration Service and the district court were located in the same building and almost merged together. In three years we were not able to win a single case against the Registration Service; the cases were mostly appealing rejection to register trade unions.⁹³

Pavel Romanov, who at the time of Human Rights Watch’s research was a lawyer for AGORA, a human rights group based in Kazan (see below), also noted that personal connections are of paramount importance in the courts: “In Chuvashia people who

⁹² Dissolution of legal entities is regulated by article 61 of the Civil Code. Article 61 also allows an NGO to be dissolved for “systematically” undertaking an activity that is counter to its founding goals. Civil Code of the Russian Federation, Num. 51-FZ of 11/30/1994, <http://www.consultant.ru/popular/gkrf1/> (accessed February 1, 2008), art. 61.

⁹³ Human Rights Watch interview with Olga Gnezdilova, legal advisor, Interregional Human Rights Group – Voronezh/Chernozemie, Voronezh, October 2, 2007.

had previously worked for the Registration Service and procuracy now work for courts. They also transfer their relations and connections.”⁹⁴

The Individual and the Law appealed the warning it received after its March 2007 inspection (described above) to Ioshkar-Ola City Court and then to the Supreme Court of the Republic of Mari-El, which on August 16, 2007, rejected the appeal.⁹⁵ Ryazan-Memorial appealed the groundless warning it had received, but succeeded in having only part of the warning repealed.⁹⁶

There are, however, examples of successful litigation against the Registration Service in Russian courts. AGORA has won three cases against the Registration Service in Kazan courts, and six in other regions. In one of the Kazan cases, the court ruling handed down on October 29, 2007, obliged the Federal Registration Service to respond to a memorandum documenting allegedly illegal actions taken by Registration Service officials in 2006 and 2007. AGORA had submitted the memorandum to Sergei Vasiliev, director of the Federal Registration Service, on June 7, 2007.⁹⁷

Apparent targeting of inspections

The experience of AGORA, an interregional human rights organization that receives funding in the form of foreign grants, would appear to confirm the concerns that organizations that work on controversial issues are targeted for inspection. Based in Kazan, the capital of Tatarstan, AGORA provides legal services to activists and NGOs, monitors the human rights situation, and reports on its findings. For the past year-and-a-half it has been focused on documenting how the 2006 NGO law has been implemented and has been representing NGOs in court when they challenge

⁹⁴ Human Rights Watch telephone interview with Pavel Romanov, lawyer, Interregional Human Rights Organizations' Association "AGORA," August 2, 2007.

⁹⁵ Human Rights Watch interview with Sergei Poduzov, co-chair, The Individual and the Law, Ioshkar-Ola, May 31, 2007; Human Rights Watch email correspondence with Sergei Poduzov between June and October 2007; and Human Rights Watch telephone interview with Julia Sereda, member of the board, Ryazan-Memorial, February 2008. With regard to the latter, the Registration Service had also found that according to Ryazan-Memorial's statute it was, inter alia, a charity organization but had not carried out any charitable work. Ryazan-Memorial was unsuccessful in its challenge to this point of the warning.

⁹⁶ Human Rights Watch interview with Julia Sereda, member of the board, Ryazan-Memorial, Moscow, October 5, 2007.

⁹⁷ Human Rights Watch telephone interview with Pavel Chikov, chair, Inter-regional Human Rights Organizations' Association "AGORA," October 31, 2007.

Registration Service decisions. The Registration Service conducted a planned inspection of AGORA in May 2007. Pavel Chikov, chair of the organization, told Human Rights Watch he believes it was triggered by a request from the authorities. Around the time of the Registration Service inspection, the group was also audited by the Tax Service, the economic crimes department of the local police inspectorate, and by Rosfinmonitoring (the Federal Financial Monitoring Service).⁹⁸ AGORA is challenging the legality of these inspections. Agora's three partner organizations—the Kazan Human Rights Center; the Human Rights Center of Chita; and Shield and Sword, an NGO based in the Republic of Chuvashia—were also inspected in 2007 by the Registration Service (as was its partner organization in Mari-El, The Individual and the Law, see above). Three of them were also inspected by the tax service, and one by the economic crimes department of the local police inspectorate.⁹⁹

All five, including AGORA, were issued warnings for administrative infractions by the Registration Service. AGORA and the Kazan Human Rights Center were successful in their appeals to annul the warnings in court proceedings.¹⁰⁰

A case in which foreign support appears to have precipitated inspections involved the Center for Enlightenment and Research Programs (CERP). CERP is a small St. Petersburg-based NGO that seeks to develop the capacities of local NGOs and authorities in the areas of domestic law and international human rights standards. In summer 2007 the Registration Service launched inspections of CERP and other organizations supported by the Dutch government-backed foundation MATRA.

Just days before the inspection, CERP was to hold a workshop for activists from St. Petersburg and the surrounding Leningrad province; MATRA representatives were planning on attending to meet local NGO and government representatives. CERP had originally booked a hall at the Vsevoloskiy district administration office of Leningrad province. A few days prior to the event, the district administration was approached by two plainclothes Federal Security Service officers who asserted that the local

⁹⁸ Established in 2002, the Federal Financial Monitoring Service is an executive body that combats money laundering and the financing of terrorism, and coordinates the work of other federal executive agencies in this sphere.

⁹⁹ Human Rights Watch telephone interview with Pavel Chikov, October 31, 2007.

¹⁰⁰ Ibid.

administration was forbidden from holding events with participation by the Dutch. A last-minute attempt to hold the workshop at a hotel was also thwarted by Federal Security Service intervention.¹⁰¹ Several days after the ordeal with the workshop facilities, CERP was notified of an impending inspection by the St. Petersburg branch of the Registration Service. The month-long audit revealed several infractions, including conducting “educational” instead of “enlightenment” work as stipulated in CERP statute documents, and holding events outside of St. Petersburg despite CERP’s status as a regional organization. Invoking compatibility with constitutional and legal protection of “security of the state” (in a way not dissimilar to the case of the Rainbow House NGO, described above), the Registration Service’s conclusions noted that in recent CERP project proposals for workshops for police on migration law and international standards of refugees, CERP stressed that the police do not have sufficient awareness of the rights of refugees, a claim that discredits the police force and undermines Russia’s interests. The Registration Service’s conclusions were forwarded to the procuracy and Tax Inspectorate, compelling them to inspect CERP, although neither agency was able to identify any violations.

On January 11, 2008, the Registration Service filed suit in St. Petersburg City Court to dissolve CERP;¹⁰² proceedings are pending at this writing.

Annual reporting

As noted above, the 2006 NGO law introduced a new reporting system for all NGOs, obliging them to detail annually their activities, the composition of their governing bodies, as well as financial expenditures, and the use of other resources.¹⁰³

According to Registration Service data, as of September 1, 2007, only 36 percent of

¹⁰¹ After being notified that the event was banned from the local district offices, CERP representatives booked a room at a local hotel. One day prior to the event, the hotel administrator called back explaining that there had been a mistake and that a room was in fact not available. After prodding, the administrator admitted that the hotel too had been approached by the FSB and was forbidden to host the event for CERP. Human Rights Watch telephone interview with Maria Kazankova, a St. Petersburg lawyer specializing in non-profit law and head of CERP, February 4, 2008.

¹⁰² Human Rights Watch telephone interview with Maria Kazankova, February 4, 2008. The inspection’s conclusions of the Registration Service’s St. Petersburg branch, the suit filed by the Registration Service with the St. Petersburg City Court, and CERP’s counter-arguments submitted to the court are on file with Human Rights Watch.

¹⁰³ As noted above, foreign organizations must also file quarterly activity reports and annual reports projecting future work. Prior to the adoption of the 2006 NGO law, public associations had to notify the Registration Service about the continuation of their work. Other types of NCOs were not obligated to report to the Registration Service. The 2006 NGO law obliges public associations to report on foreign funds.

216,000 non-commercial organizations registered with the Registration Service had submitted their annual reports. Less than 20 percent submitted reports by the due date, April 15.¹⁰⁴

The authorities justified the requirement that NGOs report on foreign funding by referring to the need to oversee the influx of foreign money into the country and to prevent it from being used to interfere with Russian domestic affairs. In an interview with the newspaper *Rossiiskaia Gazeta*, Sergei Vasiliev said,

The purpose of the reporting is to make NCO work transparent: where the money is coming from – legal or physical persons, how much and how it was spent, also some other parameters. That is why some are making a fuss and do not want to show that financing is coming from foreign sponsors.¹⁰⁵

Olga Gnezdilova, of Interregional Human Rights Group – Voronezh/Chernozemie, pointed out to us, however, that prior to the adoption of the 2006 NGO law the state already had a mechanism for tracking foreign funding of NGOs, as NGOs had to report on their sources of funding to the tax inspectorate. Gnezdilova commented,

[W]e were told that the law is against those who try to play a political role, against those who receive Western money, but the state does not know how this money is spent. However, that is absolutely clear because all submit tax forms; there is tax inspection that scrutinizes all documentation.¹⁰⁶

Russian activists criticize the authorities for failing to make widely and easily available information about the new reporting requirements, the lack of clear instructions as to how to fill in new reporting forms, and a lack of consultation

¹⁰⁴ Andrey Sharov and Mikhail Falaleev, “Amnesty Year. Registration of dacha property rights will be further simplified. Interview with Sergei Vasiliev, director of the Federal Registration Service,” *Rossiiskaia Gazeta*, September 12, 2007, <http://www.rg.ru/2007/09/12/amnistiya.html> (accessed October 22, 2007).

¹⁰⁵ Yamshanov, “Registration without Rejections,” *Rossiiskaia Gazeta*.

¹⁰⁶ Human Rights Watch interview with Olga Gnezdilova, Voronezh, October 2, 2007.

centers in the regions.¹⁰⁷ These are clear responsibilities of the authorities if they are to respect freedom of association. Report preparation also requires significant time and resources, and even large Moscow-based groups that have access to information find the process challenging. Leading human rights groups told Human Rights Watch that it took them about two to three weeks to prepare the report, and that they had to work after hours to complete their report in order not to significantly reduce their substantive work.¹⁰⁸

NGO dissolution

The 2006 NGO law provides that repeated failure to submit timely reports and other information to the Registration Service can lead to an organization's dissolution.¹⁰⁹ It is commonly agreed that a significant number of NGOs that had been registered in Russia had long since ceased operations but failed to notify the authorities about the termination of their activities. The authorities have claimed that the Registration Service has been striving to rid the Registry of these "phantom" organizations. In a written reply to questions submitted by Human Rights Watch, the Registration Service stated that as of January 1, 2008, courts had found that 5,390 organizations were effectively not functioning and "ended their legal personality."¹¹⁰ The petitions had been filed by local Registration Service branches. The Registration Service also stated that between 2005 and 2007 the Federal Registration Service filed 1,302 petitions to terminate the activities of public associations; courts rejected fewer than one percent of these petitions.¹¹¹

Enforcing the dissolution provision

At the end of January 2006—just after the NGO law was adopted but before it entered into force—the Ministry of Justice filed a lawsuit to dissolve the Russian Research

¹⁰⁷ See Olga Gnezdilova, United Group on Freedom of Association, "New Legislation: NCO and Federal Registration Service – 5 problems of interaction," 2007, pp. 19-20.

¹⁰⁸ Human Rights Watch interviews with Tatiana Kasatkina, director, Memorial Human Rights Center, Moscow, July 18, 2007; Svetlana Gannushkina, chair, Civic Assistance, Moscow, August 1, 2007; and Nina Tagankina, executive director, Moscow Helsinki Group, Moscow, June 26, 2007.

¹⁰⁹ Federal law on Introducing Amendments to Certain Legislative Acts of the Russian Federation, No. 18-FZ, 2006, art. 3(10).

¹¹⁰ Written answer provided during Human Rights Watch interview with Alexander Stepanov, February 13, 2008, on file with Human Rights Watch.

¹¹¹ *Ibid.*

Center on Human Rights, an umbrella organization of a dozen Russian human rights groups, including the Moscow Helsinki Group and the Union of Soldiers Mothers' Committees. The Ministry of Justice claimed that the organization had failed to file reports of its activities for the past five years, a claim disputed by the organization. The timing of the lawsuit suggested that the authorities wished to signal that reporting requirements that existed previously but were not enforced would now be enforced vigorously. Ultimately, the Center submitted all documents, and no further action was taken against it.

Subsequent cases illustrate the risk NGOs face that the Registration Service will indeed move to dissolution when its officials believe an organization has not submitted activity reports. The cases described below suggest that, at minimum, the Registration Service is overzealous in its recourse to a punitive approach, when it could be more leniently and constructively exercising a role that educates NGOs about their legal obligations and assists them in preventing and correcting administrative violations. In at least one of the cases below, a deliberately punitive and targeted approach may be in evidence.

In Nizhni Novgorod, the District Registration Service moved to close a youth organization on grounds of non-submission of annual reports, even though a properly registered change of status by the organization meant that its reporting requirements at district level had ended. The Youth Human Rights Movement (YHRM) had initially been an inter-regional organization, but in 2004 had re-registered itself as an international organization; according to the YHRM, the Nizhni Novgorod District Registration Service had been properly notified of this change.¹¹² As an international organization, the YHRM had been submitting its activity reports since 2004 to the Federal Registration Service in Moscow, as prescribed by law.¹¹³

On August 8, 2007, the YHRM learned that the Sovetsky District Court in Nizhni Novgorod had ruled to dissolve the organization on June 13, based on a petition filed by the Nizhni Novgorod District Registration Service. The court found that because the YHRM was not submitting reports to the Registration Service the organization

¹¹² Human Rights Watch telephone interview with Andrei Yurov, honorary president, YHRM, August 9, 2007.

¹¹³ Ibid.

must have ceased operating. The court issued its ruling in the absence of YHRM representatives. On August 9, YHRM filed a motion with the Sovetsky District Court to have the ruling overturned, stating that the YHRM representatives were not duly notified of the court hearing.

After a broad public campaign protesting the dissolution of the YHRM, the Registration Service disseminated a statement saying that it had petitioned to terminate the Inter-regional Youth Public Movement, “Youth Human Rights Movement,” not the International Youth Public Movement “Youth Human Rights Movement.”¹¹⁴ The Registration Service claimed that the inter-regional group was not active any longer, rather than acknowledging that it no longer existed as a legal entity. However, in its petition to court dated May 11, 2007, the Nizhni Novgorod District Registration Service had sought to terminate the Youth Human Rights Movement without specifying whether this was the inter-regional or international group.¹¹⁵ It is unclear whether the move to dissolve the YHRM was the result of a bureaucratic error or whether it was intentional. Regardless, the burden of appealing to a court to annul the dissolution rested with the YHRM. The organization was successful in this endeavor: In November 2007 the Registration Service revoked its petition for YHRM’s dissolution, and the dissolution was annulled.¹¹⁶

On September 5, 2006, a court in Voronezh dissolved a regional public organization, Consumer Protection, which has been actively consulting and representing consumers in court. The Registration Service requested dissolution of the organization, concluding that Consumer Protection did not exist because it had not responded to the Registration Service’s requests; as it turned out, the Registration Service had sent the requests to an outdated address (who was at fault for this is not clear to Human Rights Watch). Consumer Protection was not duly notified of the

¹¹⁴ Federal Registration Service of Nizhni Novgorod district, “Information about activities of International Youth Movement ‘Youth Human Rights Movement,’” undated, <http://www.reis.nnov.ru/news30082007.html> (accessed November 7, 2007).

¹¹⁵ Ministry of Justice, Federal Registration Service branch of the Nizhni Novgorod District Registration Service, petition to court No. 41/553454, May 11, 2007, on file with Human Rights Watch.

¹¹⁶ Human Rights Watch telephone interview with Dmitri Makarov, lawyer for f YHRM, January 31, 2008. See also “FRS Revoked Its Suit Against MPD, http://yhrm.org/news/archives/11_2007/?vw=384 (accessed February 6, 2008).

court proceedings and only learned accidentally seven months later that it had been dissolved, in March 2007. The group is appealing the decision.¹¹⁷

Dissolution proceedings faced by an inter-regional cultural organization, Mari Union (Mari Ushem), appear to be part of other harassment against the organization (see Chapter V, Other Types of Pressure on Civil Society). Mari Union among other things promotes the participation in public life of the Mari people in the Republic of Mari-El.¹¹⁸ On November 8, 2006, the Ioshkar-Ola City Court granted a motion by the Mari-El Registration Service to dissolve Mari Union. The Registration Service argued that since the organization had failed to provide reports notifying the service that it was still active, it no longer existed as a legal entity, and that it had failed to inform the Registration Service that it had elected a new head of the organization. Mari Union acknowledged it had not submitted the report but appealed on the grounds that the court did not evaluate all circumstances of the case and that the organization was indeed functioning. On December 27, 2006, the Supreme Court of the Republic of Mari-El revoked the ruling and referred the case to a lower court for review. On February 6, 2007, the Ioshkar-Ola City Court refused the Registration Service's request to dissolve Mari Union, noting that even though the organization failed to submit reports to the Registration Service, the organization had not terminated its activities—it produced publications, organized cultural events, and submitted reports to the Tax Service and Pension Fund.¹¹⁹

Offices of foreign NGOs operating in Russia

Under the new law, offices of foreign NGOs operating in Russia must inform the government registration office about their projects for the upcoming year, and about the amount of money allotted for each project.¹²⁰ The Registration Service has the authority to ban foreign NGO projects and even parts of projects on grounds that are

¹¹⁷ Human Rights Watch interview with Valentina Badalova, chair, Voronezh city public organization Consumer Protection, Voronezh, October 2, 2007.

¹¹⁸ Mari-Ushem (Mari Union) is the largest organization representing ethnic Mari, the indigenous population of the Republic of Mari-El. See pp. 66-68 for details of other forms of harassment experienced by Mari Union, including a criminal investigation against its head, extremism charges against its members, and physical attacks on its members.

¹¹⁹ Human Rights Watch interview with Nina Maksimova, head of Mari Union, Ioshkar Ola, May 30, 2007.

¹²⁰ Federal law on Introducing Amendments to Certain Legislative Acts of the Russian Federation, No. 18-FZ, art. 3(10).

not clear.¹²¹ If a foreign NGO implements a banned project, the registration office can close its offices in Russia. Registration officials may also prohibit foreign NGOs, presumably foundations, from funding projects that do not have “the aim of defending the constitutional system, morals, public health, rights, and lawful interest of other people, guaranteeing defense capacity and security of the state.”¹²² Foreign NGOs must provide the Registration Service with quarterly updates to their work plans and notify it of any new planned program at least one month prior to its realization and of any “essential” changes in its planned activities within 10 business days of deciding the changes.

The law also required all foreign NGOs to re-register their offices in Russia by October 18, 2006. Dozens of foreign NGOs, including those that submitted their documents prior to the October 18 deadline, were not recorded in the State Registry by October 18 and had to suspend their activities in Russia for days or weeks until the registry reviewed their registration documents and officially re-registered the organizations.¹²³

¹²¹ Alexander Stepanov of the Registration Service told Human Rights Watch that this had been done in only one case, when a foreign NGO registered in Russia planned a project to be carried out in Belarus. Human Rights Watch interview with Alexander Stepanov, February 13, 2008.

¹²² Federal law on Introducing Amendments to Certain Legislative Acts of the Russian Federation, No. 18-FZ, art. 3(10).

¹²³ Human Rights Watch’s office in Russia had to suspend its activities for three weeks pending re-registration papers. The application for re-registration, formally called “notification” (*uvedomlenie*) “was rejected for technical reasons such as the way the official name of the Russia office was formulated. These corrections required that original documents be signed de novo in the head office, notarized and apostilled de novo, sent to Russia and then translated and notarized de novo. The Registration Service also required Human Rights Watch to translate the charter of the Russia office (which was drafted by a Russian lawyer in Russian) into English and then translate it back into Russian (with an official, notarized translation).

V. Other Types of Pressure on Civil Society

The NGO law is only one of several means the government has used to harass and control certain types of NGOs. Other forms of pressure used by the authorities include specious criminal or other charges against organizations or their leaders, police inspections, and interference with an organization's substantive work. Anti-extremism legislation has also been arbitrarily used to target at least three NGO leaders; its broad and vague provisions raise concern that the law may be applied as a deterrent to those who wish to tackle violations of human rights that the Russian government would rather not be exposed.

State initiated actions have taken place against a backdrop of a number of incidents in which activists have also been the victims of violence by unidentified assailants, none of whom have ever been caught or prosecuted. Whether there is (or the extent of) any official collaboration or tolerance of these attacks has not been possible at this stage to determine, but the attacks contribute to the hostile context in which activists must carry out their work in Russia today.

Administrative and Judicial Harassment

Criminal proceedings against heads of NGOs

In two cases documented by Human Rights Watch, the authorities lodged questionable criminal charges against the head of an NGO, presumably to pressure the organization. The more high-profile of these involved the Moscow-based Educated Media Foundation, a foreign-funded NGO that trained journalists and worked with many media outlets. The organization was the legal successor in Russia to Internews, a global organization headquartered in the United States that seeks to “improve access to information” and “foster independent media.”¹²⁴

¹²⁴ See Internews home page, <http://www.internews.org/about/default.shtm> (accessed January 20, 2007).

Educated Media Foundation, Moscow

In January 2007 Manana Aslamazyan, the director of the Educated Media Foundation, was detained at Moscow's Sheremetevo-2 airport for failing to declare excess cash upon returning from a trip to Paris. Aslamazyan was carrying 9,550 euros and 5,130 roubles (the equivalent of US\$12,400) in undeclared currency. The limit for bringing undeclared currency to Russia is \$10,000. This type of customs violation is usually treated as an administrative offense, punishable by a fine.¹²⁵

On January 31, 2007, a criminal investigation was opened against Aslamazyan, for contraband (smuggling).¹²⁶ On April 18 about 20 officers from the Interior Ministry's Economic Crimes Department searched the offices of the Educated Media Foundation for 11 hours. Police linked the search to the criminal investigation against Aslamazyan. Staff and regional journalists attending a training seminar being held that same day in the foundation's offices were not allowed to leave until the end of the search. Police confiscated financial documents and computer servers, completely paralyzing the work of the organization; as a result, the Educated Media Foundation was forced to suspend its activities. On June 20 the procuracy announced that Aslamazyan had been criminally charged with contraband and that it was considering opening an investigation on two more criminal charges, illegal business activities and money laundering. The accusation of money laundering was related to foreign grants the organization received from December 2006 to March 2007.¹²⁷

On June 21 the Golovin District Court in Moscow rejected a complaint filed by the Educated Media Foundation that the document seizure at its office was unlawful and unjustified. On July 4 the organization's founders decided to dissolve the organization, as it was unable to function. Aslamazyan accepted a consultancy position with the US-based Internews Network and left Russia.

¹²⁵ Code of Administrative Violations, arts 173- FZ, adopted December 10, 2003, 16 (4) and 15 (1). The criminal code at article 188 (1) sets out criminal penalties for smuggling 250,000 rubles or more worth of goods across the border of the Russian Federation.

¹²⁶ The investigation was opened under article 188, part 1 of the criminal code.

¹²⁷ "Educated Media Foundation Press Release No.9," June 21, 2007, <http://www.internews.ru/index.cgi?id=25> (accessed December 6, 2007).

Aleksei Simonov, president of the Glasnost Defense Foundation and one of the Educated Media Foundation's founders, is convinced that "the organization fell victim of a full-scale campaign orchestrated by the government against remaining independent areas of public life in Russia."¹²⁸

Russia's media community protested the persecution of Aslamazyan and the Educated Media Foundation. On April 23, 2007, a television company located in the Siberian city of Tomsk posted on its website an open letter to President Putin, signed by over 2,000 media professionals in support of Aslamazyan and the Educated Media Foundation.¹²⁹

Center for Assistance to Migrants, Nizhni Novgorod

In August 2007, FSB agents searched the Nizhni Novgorod Center for Assistance to Migrants, an NGO that provides legal counsel to migrants and represents them in court, in connection with forgery charges against the organization's head, Almaz Choloyan. Observers are concerned that the accusations against Choloyan are questionable. The only known evidence against her was obtained from a migrant in detention who may have been pressured into giving testimony.

On August 27 at 7 a.m. Choloyan was surrounded by six plainclothes FSB officers as she left her apartment building. The agents presented Choloyan with a search warrant for her apartment. During the search the FSB agents cut the phone line to prevent Choloyan from calling her lawyer and confiscated the Choloyan family's passports, video tapes, and computer diskettes. Choloyan told Human Rights Watch,

They were very rude during the search in my apartment. They cut off my home phone, took away all [cell] phones: from my kids, from my husband. They did not let me call anyone and very rudely yelled, "Give [us] what you have at home! Stamps, passports, clean Russian Federation passports."... When they took my mother's passport, a

¹²⁸ Human Rights Watch telephone interview with Aleksei Simonov, president of the Glasnost Defense Foundation, December 6, 2007. Simonov was appointed acting chair of Educated Media Foundation after Aslamazyan left Russia and chaired its liquidation commission.

¹²⁹ Open letter to President Putin, <http://tv2.tomsk.ru/internews/> (accessed June 25, 2007).

citizen of Russia—she has been living in Russia since 1993—they shouted, “We found it! We found what we were looking for!” ... They seized even the VHS from my niece’s funeral.¹³⁰

Choloyan told Human Rights Watch that at the end of the search FSB agents indicated they intended to take her into custody, and they told her to put on warm clothes and pack money and food. Choloyan believes she was not taken into custody only because the investigator present at the search refused to sign papers necessary to detain her. Choloyan signed a written promise not to leave the city.

After searching Choloyan’s apartment, the FSB agents accompanied her to the Center for Assistance to Migrants. The agents searched the one-room office from 9 a.m. until 4 p.m. “We calculated we had here [in a one-room office] two people [agents, witnesses, and the like] per square meter.... They took 12 large boxes with [legal] literature and documents,” Choloyan said.¹³¹ During the search all of the organization’s financial documents, computer equipment, archives, judicial literature, and even posters were seized.¹³² Confiscation of these materials has paralyzed the Center’s work.¹³³

Choloyan told Human Rights Watch that she believes she is under surveillance, that her cell and office phones are tapped, and that the Center is bugged. Choloyan also said that from May through August 2007, FSB agents approached a group of migrants in Nizhni Novgorod province and forced them to sign pre-written statements against her, and threatened to deport them if they refused to sign. “Two men came and said, ‘Sorry, we signed; two FSB agents came and told us either all of you will be expelled tomorrow or you sign.’”¹³⁴

¹³⁰ Human Rights Watch interview with Almaz Choloyan, head of the Nizhni Novgorod Center for Assistance to Migrants, Nizhni Novgorod, September 18, 2007.

¹³¹ *Ibid.*

¹³² The posters featured the slogan, “Migrants are not a burden but a blessing for Russia.”

¹³³ Human Rights Watch interview with Galina Kisina, lawyer representing Almaz Choloyan, Nizhni Novgorod, September 18, 2007.

¹³⁴ Human Rights Watch interview with Almaz Choloyan, September 18, 2007.

In September 2007 Choloyan’s status in the criminal case changed from suspect to witness, as authorities did not have enough evidence to formally charge her within the timeframe stipulated by the Criminal Procedure Code.

Administrative harassment

Human Rights Watch documented tax inspections, police raids, and threats of criminal charges against several NGOs that appeared clearly aimed to intimidate them or to force their closure.

Information Center of the NGO Council, Grozny, Chechnya

The Information Center of the NGO Council (hereinafter, “the Center”) is an NGO with offices in Grozny, Chechnya, and until December 1, 2007, in Nazran, Ingushetia. It distributes daily information bulletins on the situation in Chechnya. In the past two years the Center has been subjected to administrative harassment as well as threats and, on one occasion, a raid of its premises.

In January 2005 masked men speaking Russian, wearing military uniforms, and carrying machine guns raided the Nazran office of the Center. They put six of the Center’s employees—including four women—face down on the floor and searched the office. The assailants neither identified themselves nor explained the grounds for the search, and confiscated the center’s computers “for inspection.”¹³⁵

In February 2006 the Second Operational Investigative Bureau, a federal police agency based in Grozny, visited the Center’s Nazran office. They questioned staff about their activities and volunteers and, reportedly, openly threatened them.¹³⁶

The tax service froze the Center’s bank account on February 2, 2007, and on March 7 the Chechen Republic Ministry of Justice filed suit with the Grozny City Court requesting the dissolution of the Center’s Grozny office on the grounds that the Center’s main office was not at its legal address in Grozny. The Center’s

¹³⁵ Human Rights Watch email correspondence with Taisa Isaeva, head of the Information Center of the NGO Council, June 18, 2007.

¹³⁶ *Ibid.*

headquarters had temporarily moved to a different location while the building at the legal address was undergoing renovation. A note about the temporary relocation and the new address was posted on the Center's door. Neither the Ministry of Justice nor the Tax Service notified the Center when dissolution proceedings began in court on April 5.

On April 14 the organization was ordered by the Chechen Republic Ministry of Justice to submit, within 48 hours, a full report on its activities, including information regarding the times and places of meetings with international and Russian NGOs, and topics discussed at these meetings. However, when the requested documents were brought to the ministry, officials refused to accept them, saying that the dissolution suit had already been submitted to the court.

The dissolution procedure was stopped in late April after the Ministry of Justice dropped the case against the Center. However, on May 18 the head of the Center was invited to the Chechnya branch of the FSB for a "conversation" and questioned about the organization's activities, its donors, and funding. The FSB official then said they would contact the Center again if needed.

Throughout summer 2007 the Center was repeatedly inspected by the Ingushetia Tax Service. On June 13 the Ingushetia procuracy ordered an investigation against the organization for operating in Ingushetia without being registered with the Ingushetia Tax Service, a violation of the administrative code. These inspections forced the Center to send its staff on leave for 10 days in July and to suspend all work for that period. In August the Center received a bill for back taxes and penalties for the equivalent of almost US\$20,000. The Center has appealed the tax bill and fine in court. At this writing proceedings are ongoing.¹³⁷

Taisa Isaeva, head of the Center, told Human Rights Watch that in September 2007 an FSB official asked her to become an informer, and that when she refused, FSB officials threatened to close her organization within three days. Several days later, the Tax Service of South Federal District started a new inspection of the Center. No

¹³⁷ Human Rights Watch telephone interviews and email correspondence with Taisa Isaeva, head of the Information Center of the NGO Council, June-September 2007.

significant violations were found.¹³⁸ Isaeva also told Human Rights Watch, “After I refused to cooperate [with the security services] the organization received direct threats and then our landlord was pressured to evict us from our office. Ultimately, we were forced to close our office in Nazran.”¹³⁹

Human Rights Watch is unable to evaluate whether the Center may have been remiss in its obligation to properly register with the Tax Service. However, the manner in which the inspections were conducted appears to have been intrusive and punitive.

Civic Assistance Committee, Moscow

Civic Assistance Committee, a Moscow-based NGO with a longstanding record of working on refugee issues, became the subject of a criminal investigation by the procuracy after a member of parliament accused the group of giving cover to “ethnic criminal groupings.”¹⁴⁰ In October-November 2006 the economic crime unit (RUBEP) and organized crime unit (RUBOP) of the Moscow police thoroughly inspected the Civic Assistance Committee by examining the organization’s statute and the letters it provides to refugees and asylum seekers urging the authorities to respect their rights. Svetlana Gannushkina, chair of the Civic Assistance Committee, was called in for questioning several times: “I told them how we work. They listened, listened and became pretty enthusiastic about that [the work], and said they are tired of having to respond to stupid requests to inspect someone instead of [fighting crime].”¹⁴¹ Even though neither of the two agencies found grounds to open a criminal case, the procuracy continued the investigation. Although ultimately no charges were brought, in January 2007 the procuracy issued Gannushkina with a warning for violating the Law on Refugees. Gannushkina challenged the legal grounds of the accusations against her:

¹³⁸ Human Rights Watch interview with Taisa Isaeva, head of the Information Center of the NGO Council, Moscow, October 8, 2007, and email correspondence with Taisa Isaeva, December 11, 2007.

¹³⁹ Human Rights Watch email correspondence with Taisa Isaeva, December 11, 2007.

¹⁴⁰ Russia has a strict residential registration system: each person should be registered at his/her domicile. Police regularly check registration documents on the streets; people who look non-European are checked more frequently. Often refugees are not registered. Civic Assistance issues refugees so-called “protection letters” in which it explains that the individual has applied for refugee status and asks the authorities to allow the person to remain in Moscow and not to prosecute them. In October 2006 a criminal suspect was killed on the street. Along with a passport and registration card, the police found on the suspect a protection letter supposedly issued by Civic Assistance. This incident became the grounds for an investigation.

¹⁴¹ Human Rights Watch interview with Svetlana Gannushkina, chair of Civic Assistance, Moscow, August 1, 2007.

How can I violate the Law on Refugees? I'm not a subject of this law. The law establishes a legal relation between a [refugee] and the state. But I'm neither the state, nor a refugee.... But they warn me that the "next time" there is going to be a criminal case.¹⁴²

In spring 2007 the Registration Service inspected the Civic Assistance Committee pursuant to a request by the procuracy. The inspection was conducted from April 9 to May 8. "Following the Registration Service's request we sent them 600 pages of various documents, i.e. our entire staff had been working for the Registration Service," Gannushkina told Human Rights Watch.¹⁴³ The Registration Service concluded that the Civic Assistance Committee was operating within its statutes and the law. "The inspection was exhausting but its result was positive for us. It is absolutely obvious, I want to stress that once again, that the procuracy used the Registration Service for the purpose of harassment."¹⁴⁴

Centre for International Protection, Moscow

The Centre for International Protection has been the target of several incidents of harassment, beginning in 2005. The Centre provides legal assistance to applicants to the European Court of Human Rights and the United Nations Human Rights Committee. Its founder and program supervisor, Karina Moskalenko, is representing Mikhail Khodorkovsky in his case against Russia at the European Court of Human Rights. The Russian government has filed petitions asking the ECtHR to remove the Centre's lawyers from cases filed with it, and has made repeated inquiries about the nature of the lawyers' arrangements with the Centre. For instance, in late 2005 the Centre was representing a client who filed a case against Russia for ill-treatment in the penitentiary system. The government presented the ECtHR with allegations that the lawyers were "trying to obtain money from the Government through the European Court on the basis of an unlawful contract" and that one of the lawyers had fabricated her power of attorney.¹⁴⁵ Whilst there is nothing unlawful about a

¹⁴² Ibid.

¹⁴³ Ibid.

¹⁴⁴ Ibid.

¹⁴⁵ Letter from the Centre of Assistance to International Protection [sic] to the Human Rights Ombudsman of the Russian Federation V.P.Lukin, undated.

government raising legitimate concerns with the European Court of Human Rights about an application, in the context, attempts to discredit lawyers of the Centre for International Protection before the Court, and seeking to prevent the lawyers from representing victims of human rights violations before the Court and to dissuade victims from using the Centre to bring applications to the Court, could also amount to an interference with the right of individual petition.¹⁴⁶ If there are allegations of fraud or fabrication in relation to an application it is a matter for the Court to investigate and to determine.

After government interference with the Centre's work, several staff, including lawyers, have left the organization.¹⁴⁷

In July 2006 the group received a bill for back taxes and penalties for the equivalent of US\$167,000. The government has charged that grants the Centre received from foreign donors in the period 2002-2005 constitute taxable income; the Centre has argued that the grants are tax exempt.¹⁴⁸ If the government enforces the bill, the Centre, which has some 250 cases pending before the European Court, will have to close.

In April 2007 the Procuracy General initiated disbarment proceedings against Karina Moskalenko, arguing that she failed to adequately represent Mikhail Khodorkovsky, even though Khodorkovsky himself rejected these allegations. On June 8 a panel of the Moscow Bar Association rejected the procuracy's request that Moskalenko be

¹⁴⁶ The Court has repeatedly emphasized that the right of individual petition to the Court requires that a victim must be able to interact with the Court freely, without any pressure from the authorities. By "any form of pressure" the Court means "not only direct coercion and flagrant acts of intimidation of applicants or their lawyers but also other improper indirect acts or contacts designed to dissuade or discourage them from pursuing a remedy or having a "chilling effect" on the exercise of the right of individual petition by applicants and their legal representatives." See *Akdivar and Others v. Turkey*, ECHR 1996-IV; *Tanrikulu v. Turkey* [GC], ECHR 1999-IV; *McShane v. the United Kingdom*, judgment of May 28, 2002; *Fedotova v. Russia*, judgment of April 13, 2006; *Nurmagomedov v. Russia*, judgment of June 7, 2007.

¹⁴⁷ Letter from the Centre of Assistance to International Protection to the Human Rights Ombudsman of the Russian Federation V.P.Lukin, undated.

¹⁴⁸ According to the Center, these grants are tax exempt based on "privilege granted by Art. 251 para 1 of the RF Tax Code (subpara 14) – exemption from taxation of grants provided to implement programs determined by law; and privilege granted by Art. 251 para 2 of the RF Tax Code – exemption from taxation of donations to non-profit organizations." Letter from the Centre of Assistance to International Protection to the Human Rights Ombudsman of the Russian Federation V.P.Lukin. See also "Russia: Apparently Politically Motivated Tax Order Threatens the International Protection Centre," an Appeal by the International Helsinki Federation for Human Rights and the Moscow Helsinki Group, August 14, 2006, http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4285 (accessed December 7, 2007).

disbarred. The bar association's board upheld the decision on June 21, and it is not subject to further appeal.¹⁴⁹

Tolerance Support Foundation, Nizhni Novgorod

The Tolerance Support Foundation—an NGO based in Nizhni Novgorod that works to promote tolerance among various ethnic groups in Nizhni Novgorod province and on issues of abuse in Chechnya—and its predecessor, the Russian-Chechen Friendship Society (for the closure of which see the section “Anti-Extremism Legislation,” below), have faced a series of administrative and criminal charges.¹⁵⁰

On August 29, 2007, officers from the computer crimes department of the local Ministry of Internal Affairs directorate appeared at the organization's office and presented a warrant for a complete inspection of the foundation's financial, administrative, and other activities. The warrant did not indicate the grounds for the inspection. After the search, the police confiscated all four of the organization's computers, claiming that the foundation could not provide licenses for the software installed on them. The computer seizure paralyzed the foundation's work for 10 days, until the organization purchased used computers to replace the ones that were confiscated.¹⁵¹

On October 2 the procuracy opened a criminal case on software pirating that may result in charges against Oksana Chelysheva, director of the Tolerance Support Foundation, and Stanislav Dmitrievsky, a consultant to the Foundation, under article

¹⁴⁹ “Council of Moscow Bar Association Refused to Disbar Khodarkovsky's Defender,” NEWS.ru, June 21, 2007, http://www.newsru.com/arch/russia/21jun2007/mos_print.html (accessed June 21, 2007).

¹⁵⁰ The Tolerance Support Foundation is a successor to the Russian-Chechen Friendship Society, which was dissolved by court order in October 2006.

¹⁵¹ Human Rights Watch telephone interview with Oksana Chelysheva, director of the Tolerance Support Foundation, October 29, 2007. Around the same time the Nizhni Novgorod Human Rights Alliance was inspected for software licensing; no violations were found. Human Rights Watch phone interview with Sergey Shimovolos, head of the Nizhnii Novgorod Human Rights Alliance, August 30, 2007. The independent newspaper *Novaia Gazeta-Nizhni Novgorod* was raided on August 31, 2007, apparently in reprisal for its critical reporting on the local authorities. Much as with the raid on the Tolerance Support Foundation, the authorities presented a warrant for a complete inspection of the newspaper's documents and activities. The police confiscated six computers for examination for illegal software, preventing the newspaper from publishing its next issue, and threatening the loss of the newspaper's archived data on those computers. Moreover, the editor maintains that the confiscated computers were not even subject to the warrant because they were the personal property of the newspaper's employees. “Russia: Crackdown on Human Rights Groups,” Human Rights Watch news release, August 30, updated August 31, 2007. <http://hrw.org/english/docs/2007/08/29/russia16771.htm>.

146, part 2 of the Russian Criminal Code (violation of copyright and associated rights).¹⁵²

The office of the Tolerance Support Foundation was once again searched for illegal software on the morning of October 6. The search was conducted by a procuracy investigator and two officers from the anti-terrorist center of the Ministry of Internal Affairs, accompanied by three witnesses who, in violation of procedural norms, helped to search the office. The police seized CDs found in the office. After the search Stanislav Dmitrievsky was taken to the procuracy for questioning and released.¹⁵³ In the course of the next month, all of the organization's staff members were also questioned by the procuracy as witnesses.¹⁵⁴ At this writing, there have been no further developments in that case.

Human Rights Watch is unaware of similar inspections of organizations working on issues not viewed as controversial. Other harassment against the Tolerance Support Foundation and its predecessor suggest that the organization was singled out because of its work. On September 28, 2007, the Tolerance Support Foundation was informed by its bank branch office that the bank had received a transfer meant for the foundation but would not release the money. The bank branch's head of security ordered that the money be sent back to the donor, and referred to information received from Rosfinmonitoring (Federal Financial Monitoring Service), without providing further information. The Tolerance Support Foundation has not been able to access its account at all since September 28,¹⁵⁵ but it received no notification from any government agency that its account had been frozen, and at this writing has received no written explanations from the bank.

The freezing of the Tolerance Support Foundation's account combined with other incidents of harassment made it impossible for the organization to hold an

¹⁵² *Ibid.*, and Human Rights Watch email correspondence with Oksana Chelysheva, November 21, 2007. Dmitrievsky may face charges because the confiscated computers belonged to him and were loaned to the Tolerance Support Foundation. Human Rights Watch telephone interview with Oksana Chelysheva, October 29, 2007.

¹⁵³ Human Rights Watch telephone interview with Oksana Chelysheva, October 29, 2007.

¹⁵⁴ Human Rights Watch telephone interviews with Oksana Chelysheva, October 29, 2007, and Stanislav Dmitrievsky, consultant, the Tolerance Support Foundation, January 30, 2008.

¹⁵⁵ Human Rights Watch email correspondence with the Tolerance Support Foundation, September 28, 2007, and Human Rights Watch telephone interview with Oksana Chelysheva, October 29, 2007.

international forum in commemoration of Anna Politkovskaia, scheduled to take place in Nizhni Novgorod on October 5-6. On the morning of October 5 the Tolerance Support Foundation learned that the conference room it had reserved for a press conference scheduled for that day was no longer available.¹⁵⁶ The next day, the migration police briefly detained five foreign human rights activists, including representatives of Amnesty International, Human Rights First, World Organisation Against Torture, and Barcelona-based League for Human Rights, who had come to Nizhni Novgorod to participate in the event. All five were issued fines for alleged violation of visa rules because their visas specified only Moscow as a destination city.¹⁵⁷

Human Rights Alliance, Nizhni Novgorod

In mid-September 2007 Nizhni Novgorod authorities tried to prevent a three-day seminar on freedom of association organized by the Nizhni Novgorod Human Rights Alliance. About 22 activists from eight regions of Russia participated in the event. Sergei Shimovolos, the organizer of the seminar, told Human Rights Watch that authorities threatened conference venue providers with tax, fire, and sanitary service inspections to force them not to host the seminar. The organization held the seminar by relocating to a new place every day.

Shimovolos told us, “Pressure was put not on us as organizers [of the seminar] but on those who would provide a venue and services to us; they used ... just harassment with threats: ‘If you don’t get rid of them, you’ll have problems; do whatever you want.’ Problems were real, as they [security agents] worked with their databases looking for possible violations they [service providers renting out premises for events] can be hooked on.... Grey Horse [a horse club], this is a company, was caught for having insufficient fire-prevention measures.”¹⁵⁸

¹⁵⁶ Ibid.

¹⁵⁷ See “Nizhni Novgorod: eyewitness accounts,” <http://www.finrosforum.fi/?p=628&language=en> (accessed October 30, 2007).

¹⁵⁸ Human Rights Watch interview with Sergei Shimovolos, head of the Nizhni Novgorod Human Rights Alliance, September 18, 2007.

Shimovolos also said that the participants of the seminar were under surveillance by people they believed to be security service agents, who followed them in cars.¹⁵⁹

Voice of Beslan, Vladikavkaz

Several measures have been taken against Voice of Beslan, an NGO founded by those affected by the 2004 terrorist attack in Beslan. In 2005 the organization addressed an open letter to world leaders appealing for justice for victims of Beslan, effectively blaming the government for the deaths due to its decision not to negotiate with the militants, and condemning President Putin and the Russian government for conducting what it believes to have been an ineffective investigation into the atrocity.¹⁶⁰ In June 2007 the organization appealed to the European Court of Human Rights over failure of the Russian authorities to investigate the terrorist attack that left so many dead.

On August 13, 2007, six weeks after the organization filed its complaint with the ECtHR, Voice of Beslan faced charges of involvement in illegal activity, pursuant to a complaint filed by a former member of Voice of Beslan who had long left the organization. The plaintiff has claimed she is the true head of Voice of Beslan, and the organization under the current leadership of Ella Kesaeva was operating illegally. The plaintiff requested that Kesaeva's organization be dissolved and that a "new" Voice of Beslan be registered. Kesaeva told Human Rights Watch that she asked the court to investigate whether additional signatures on the plaintiff's complaint were genuine, but that the court rejected her request. At the end of December, the Supreme Court of North Ossetia ruled to dissolve Voice of Beslan.¹⁶¹

Further, in January 2008 the procuracy of Ingushetia filed suit with a court in Ingushetia against Kesaeva's Voice of Beslan, alleging that its 2005 open letter amounted to extremism (see also section below, Anti-Extremism Legislation).¹⁶²

¹⁵⁹ Ibid.

¹⁶⁰ For the text of the open letter, see <http://www.golosbeslana.ru/301105.htm> (accessed February 4, 2008).

¹⁶¹ Human Rights Watch telephone interviews with Ella Kesaeva, chair, the Voice of Beslan, December 20, 2007, and January 28, 2008.

¹⁶² Ibid.

Ella Kesaeva told Human Rights Watch that Voice of Beslan would continue to work for justice despite having been dissolved.¹⁶³

Anti-Extremism Legislation

NGOs that work on human rights, are politically active, or that express or mobilize dissent are vulnerable to being targeted arbitrarily under the 2002 Law on Countering Extremist Activity (the anti-extremism law). The law itself is problematic, and Human Rights Watch has documented several cases of arbitrary application of the anti-extremism law against political and civic activists, giving credence to concerns that the law is being used to marginalize or silence legitimate political dissent.¹⁶⁴

The law's definition of extremism and extremist activity itemizes almost a dozen acts including "the forcible change of the foundations of the constitutional system and violation of the integrity of the Russian Federation," justifying terrorism, incitement of racial hatred, and "propaganda and public display of either Nazi attributes and symbols or the attributes and symbols similar to Nazi attributes and symbols to the extent of confusion."¹⁶⁵ The list of extremist actions was amended twice, in July 2006 and in August 2007. As amended, the law's definitions of extremism raise concerns that they will be used to silence critics of the government. Two new definitions of what may be designated extremist are particularly open to discretionary application: any allegedly politically or ideologically motivated crime; and making a statement

¹⁶³ Ibid.

¹⁶⁴ In May 2007, a district procuracy in the city of Krasnodar issued an "extremist" warning to the local branch of Yabloko for distributing copies of two books, *Unloved Country* and *For the Motherland! For Abramovich! Fire!* The books, by political commentator Andrei Piontkovsky, are very critical of the Kremlin. Yabloko challenged the warning repeatedly, but ultimately the Krasnodar Territory Court upheld it in October 2007. In a separate case, in September 2007 the Basmannyi Inter-District Court in Moscow began hearings on charges brought by a district procuracy in Moscow alleging that *Unloved Country* represents "extremist material." The court called for an expert linguistic assessment of the book, which at this writing is ongoing. For an analysis of the Russian government's misuse of extremism laws, see also SOVA Center, "Misuse of Anti-Extremism Legislation: Short Analysis and Recommendations," May 7, 2007, <http://xeno.sova-center.ru/29481C8/926AD2F> (accessed November 13, 2007), and SOVA Center, "Anti-extremism Legislation and its Implementation as Instruments of Illegitimate Restrictions on Fundamental Rights in Russia," March 30, 2007, <http://xeno.sova-center.ru/29481C8/8F4A10A> (accessed November 13, 2007).

¹⁶⁵ Federal Law Countering Extremist Activity, No. 114-FZ, 2002, art. 1.

accusing a public official of acts of extremism in the course of fulfilling his duties.¹⁶⁶ In a welcome development, however, the amendments removed from the list of extremist activities “humiliating national pride.”

Under article 10 of the law, the activities of an organization believed to be carrying out extremist activities can be suspended. A court can dissolve an organization if it finds the organization to have engaged in extremist activities.¹⁶⁷ The law also obliges an organization to distance itself within five days from its head or a member of its governing body if the latter makes a public statement found to be extremist.¹⁶⁸ Failure to do so can result in an organization’s dissolution.

Further amendments considered by the State Duma in October 2007, if adopted, will authorize the Federal Registration Service to issue warnings to public and religious associations for allegedly extremist activities and to maintain a federal list of extremist literature.¹⁶⁹ Under article 7 of the anti-extremism law, an organization can be dissolved if such a warning is not appealed or if the warning is upheld by a court, if the organization does not correct violations listed in the warning, or if new facts confirming signs of extremist activities are revealed within 12 months from the date the warning was issued.¹⁷⁰

The Registration Service has indicated it would proactively monitor organizations to ensure their compliance with the anti-extremism law. At a June 2007 press conference, Vitally Astakhov, head of the NCO Department of the Penza Registration Service, said that Registration Service officials were paying serious attention to NGO compliance with anti-extremism legislation, adding that “special attention is being

¹⁶⁶ Ibid., and Federal Law on Introducing Amendments to Certain Legislative Acts of the Russian Federation in connection with advancement of public administration in the field of counteraction to extremist activity No. 211-FZ, July 24, 2007, article amending article 4 part 2 of the Law on Mass Media No. 2124-1, 1991, by adding the following: “information distribution about public association or other organization included in a published list of public and religious associations, and other organizations with respect to which there is a valid court order on liquidation or prohibition of activities under the terms of Federal Law on Counteraction to Extremist Activity No. 114-FZ, 2002 ... without a reference that the public association or other organization are dissolved or that their activities are prohibited.”

¹⁶⁷ Federal Law on Counteraction to Extremist Activity No. 114-FZ, 2002, arts.9 and 10.

¹⁶⁸ Ibid., art. 15.

¹⁶⁹ SOVA Center, “Amendments to transfer to FRS rights to compile extremist materials lists are passed in the first hearing,” October 9, 2007, <http://xeno.sova-center.ru/89CCE27/89CD14E/9F3236F> (accessed October 17, 2007).

¹⁷⁰ Federal Law on Countering Extremist Activity No. 114-FZ, 2002, art. 7.

paid to ethnic and sport organizations.”¹⁷¹ Ryazan-Memorial, inspected in May-June 2007, told Human Rights Watch that Registration Service officials conducting the inspection into compliance with its statutes and Russian legislation included examination of how the organization was complying with anti-extremism legislation (Ryazan-Memorial received a warning for alleged tax violations, but no violation of anti-extremism legislation was found).¹⁷²

According to one press report, the press service of Chechnya President Ramzan Kadyrov announced that the Chechnya branch of the Registration Service was cooperating with the Chechnya FSB and the federal and Chechen Republic Ministry of Internal Affairs in order to prevent extremist manifestations in NGO activities.¹⁷³

In one case the authorities closed an NGO using the anti-extremism law, and many are concerned that this demonstrates the authorities’ ability to arbitrarily apply the law’s many vague provisions to intimidate other organizations they find inconvenient. In February 2006 a criminal court in Nizhni Novgorod handed Stanislav Dmitrievsky, who at the time was executive director of the Russia-Chechen Friendship Society, a two-year suspended sentence with a four-year probation period on charges of “inciting racial hatred.” The charges derived from articles he had published in 2004 in the newspaper *Pravozashchita* that featured statements from Chechen rebel leaders Aslan Maskhadov and Akhmed Zakaev.¹⁷⁴ The statements amounted to protected speech: a statement by Maskhadov, who was killed by Russian forces, called for the international community to facilitate negotiations to end the Chechen conflict. A statement by Maskhadov’s representative, Zakaev, urged Russian voters not to re-elect President Putin and alleged that the war was in only Putin’s interests.

¹⁷¹ Minutes of press conference on results of new NCO legislation realization, Penza, June 5, 2007, <http://www.lawcs.ru/> (accessed July 20, 2007).

¹⁷² Ryazan-Memorial learned they were inspected for compliance with the anti-extremism law only upon reading the inspection report. Human Rights Watch interview with Julia Sereda, October 5, 2007.

¹⁷³ “Chechnya Registration Service Collected More than 8 million roubles during the First Half of 2007,” REGNUM Information Service, September 7, 2007, <http://www.regnum.ru/news/881804.html> (accessed September 8, 2007).

¹⁷⁴ Dmitrievsky was editor-in-chief of the newspaper *Pravozashchita* (Human Rights) published by the Nizhni Novgorod Human Rights Society (NHRS). Three years after publication of the articles concerned, the Nizhni Novgorod district procuracy filed a motion requesting that NHRS be deprived of its publishing rights, that *Pravozashchita*’s activities be terminated, and that Akhmed Zakaev’s and Aslan Maskhadov’s statements published in *Pravozashchita* be recognized as extremist materials. On October 11, 2007, a court in Nizhni Novgorod granted the procuracy’s request.

Dmitrievsky has submitted his case to the European Court of Human Rights, which is to review it in an expedited procedure.

In October 2006 the Nizhni Novgorod Province Court ordered the dissolution of the Russian-Chechen Friendship Society under the terms of the extremism law for “tacitly approving” of Dmitrievsky’s actions by failing to distance itself from him within five days of his conviction.¹⁷⁵ In late January 2007 the Russian Supreme Court upheld the decision to dissolve the organization, prompting the European Union to issue a public statement voicing concern that the NGO law and the law on extremism “can be implemented in an arbitrary manner.”

On August 17, 2007, the Nizhni Novgorod District Court granted a government motion to toughen the terms of Dmitrievsky’s suspended sentence. Under the new terms allowed by the court’s decision, if Dmitrievsky commits two administrative violations within a year at any time during his four-year probationary period, the government can petition to replace his suspended sentence with a two-year prison term. Administrative violations might be as minor as crossing the street in the wrong place and are routinely used against activists for participating in public demonstrations. On October 26, 2007, the Nizhni Novgorod Province Court annulled the ruling, stating that the district court violated procedural norms, and returned the case to the lower court for a second review.

¹⁷⁵ RCFS was dissolved under art. 61, part 2, para 2 of the Civil Code and art.44, part 1, para 2 of the Law on Public Associations No. 82-FZ, allowing dissolution of a legal entity for gross and repeated violation of Russian legislation. Among the violations cited were:

- art. 15 of the Law on Counteraction to Extremist Activity, stating that “[I]f the head of or a member of the governing body of a public or religious association or any other organization makes a public statement calling for extremist activity without mentioning that this reflects his personal opinion, as well as in case of the entry into legal force of a court decision in respect to this person for an extremism offense, the public or religious association or any other organization must publicly state its disagreement with words or actions of such person within five days from the day of the offensive statement. If the public or religious association or any other organization fails to make such public statement, this may be regarded as a fact testifying to the presence of extremism signs in their activity.” (RCFS failed to distance itself from Dmitrievsky.)
- art. 19, part 3, para 4 of the Law on Public Associations prohibiting person whose actions were recognized as having signs of extremist activities by the court decision to be founders or members of public association. (After conviction Dmitrievsky remained the organization’s founder and head.)
- art. 29 of the Law on Public Associations stating that a public association is obliged to inform the registration organ about continuation of its activities.
- art. 14 part 6 of the Law on Public Association stating that only all-Russia public associations are permitted to use in their names the words “Russia,” “Russian Federation” and their derivatives without obtaining a special permit.

Email communication from Oksana Chelysheva to Human Rights Watch, November 29, 2007.

In a second case, on December 19, 2007, the procuracy of Ingushetia filed extremism charges with a court in Nazran against Voice of Beslan. The procuracy alleged that an open letter the organization sent to world leaders, blaming Putin and the Russian government for the deaths of so many hostages in the Beslan atrocity, amounted to extremism under the 2007 amendment to the extremism law.¹⁷⁶ At this writing a hearing had not been scheduled.

On May 3, 2006, the prosecutor's office, on the initiative of the Mari-El branch of the Federal Security Service, opened a criminal case against Vitalii Tanakov, a priest of a traditional pagan Mari religion and a board member of Mari Union (see above). Tanakov was accused of incitement to ethnic and religious hatred (article 282, part 1 of the Russian Criminal Code) for writing and distributing a pamphlet entitled *A Priest is Speaking*. Tanakov was found guilty of humiliating others based on their ethnicity and attitude towards religion, and of incitement of social enmity. On December 25, 2006, Tanakov was sentenced to 120 hours of community work. In April 2007 the Ioshkar-Ola city prosecutor sought to have the city court declare Tanakov's pamphlet "extremist literature". At this writing proceedings are ongoing.¹⁷⁷ If Tanakov's pamphlet is declared extremist literature, Mari Union could face dissolution under article 15 of the Law on Countering Extremist Activity if it fails to publicly distance itself from Tanakov within five days of his conviction.

In August 2006 charges against Nina Maksimova, the head of Mari Union, were separated from the Tanakov case and a criminal case was opened against her for incitement to enmity. The case against Maksimova was closed and the charges were dropped in November 2006 for lack of evidence, although she was notified of that only in March 2007. As reported by Maksimova's lawyer, Maksimova refused to

¹⁷⁶ "The Procuracy of Ingushetia Requests the Court to Designate as Extremist a Two-Year-Old Letter by "Voice of Beslan," News.ru, January 9, 2008 (accessed February 4, 2008).

¹⁷⁷ The case has been the subject of several hearings, appeals, and re-hearings, and its final outcome is still to be determined. On June 14, 2007, the Ioshkar-Ola city court dismissed the case because the pamphlet in question had not been submitted as evidence. The procuracy appealed this decision to the Mari-El Supreme Court, which returned the case to a lower court for another review. On August 8 the Ioshkar-Ola city court declared the pamphlet to be extremist literature. Tanakov appealed the decision to the Mari-El Supreme Court, which on September 25 annulled the August 8 decision on procedural grounds and returned the case to the Ioshkar-Ola city court for a new hearing.

proceed with a case against the Ioshkar-Ola procuracy and FSB for arbitrary criminal prosecution because she feared further reprisal.¹⁷⁸

Threats to Activists

With regard to human rights organizations, while the authorities vigilantly enforce the laws regulating NGOs, they are by contrast lax in reacting to violence and threats of violence against human rights defenders. In her March 2006 report, the United Nations special representative of the secretary-general on human rights defenders, Hina Jilani, expressed concern that “the situation of defenders in the Russian Federation seems to be increasingly vulnerable, and that both defenders and their families reportedly are in almost constant danger both from State actors and non-State actors.”¹⁷⁹

On November 23, 2007, Oleg Orlov, chair of the Memorial Human Rights Center, and three journalists from the Moscow-based REN-TV television station—Karen Sakhinov, Artem Vysotsky, and Stanislav Goryachikh—were kidnapped from their hotel rooms in Nazran, the capital of Ingushetia, beaten, and released. Armed men in masks stormed the Hotel Assa in Nazran and abducted the four men. The attackers took all their belongings, including laptops, cell phones, clothes, and money. The assailants, who spoke un-accented Russian, told the four men they were suspected of illegal possession of explosives. They then put black plastic bags over the four men’s heads and drove them to the Ingush border with Chechnya. There they brutally beat the four, threatened to execute them, told them to leave Ingushetia, and then abandoned them. Orlov and the journalists managed to reach a nearby village and eventually gave testimony to police. Two of the three journalists had to be hospitalized for their injuries. Orlov and the REN-TV journalists were in Nazran to report on a demonstration against the authorities’ inability to counter a wave of

¹⁷⁸ “Mari Union Leader is Pressured due to her Complaints on FSB,” Civitas, April 27, 2007, <http://www.civitas.ru/news.php?code=2435&year=2007&month=4&atyear=0> (accessed July 13, 2007).

¹⁷⁹ Promotion and protection of human rights. Human rights defenders. Report submitted by the Special Representative of the Secretary-General on human rights defenders, Hina Jilani. Addendum. Compilation of developments in the area of human rights defenders. E/CN.4/2006/95/Add.5, March 6, 2006. <http://daccessdds.un.org/doc/UNDOC/GEN/Go6/122/53/PDF/Go612253.pdf?OpenElement> (accessed November 20, 2007).

murders, abductions, and “disappearances” in Ingushetia.¹⁸⁰ Police interviewed the four men, but at this writing there is no information about any progress in the investigation.

On September 27, 2007, at about 9 p.m., Aleksei Suslikov, who is deputy chair of the Consumer Rights Protection Center, a Saratov-based NGO, and head of the Saratov Public Chamber, was attacked by two unidentified assailants in the hallway of his apartment building. Suslikov suffered a craniocerebral trauma with nine open wounds, apparently caused by a hatchet. A doctor who examined Suslikov stated that the nature of the wounds indicated that the assailants attempted to kill the activist.¹⁸¹ The assailants took files Suslikov had with him and his keys, but did not touch his money or other valuables. The police did not respond to calls for aid, did not show up at the crime scene, and only talked to Suslikov at the hospital the day after the assault.¹⁸² Activists believe that the attack was related to Suslikov’s work, in particular projects on housing and property rights.¹⁸³ Several days prior the attack, Suslikov had received a threatening text message on his mobile phone saying that in the future he would not be able to help consumers.¹⁸⁴ A police investigation for assault was opened, but at this writing the police are not known to have taken any meaningful steps in the investigation.

On January 25, 2007, Galina Kozlova, a member of the Mari Union board, was attacked by an unidentified assailant near her home in Ioshkar-Ola. As a result of the attack Kozlova sustained head injuries and a concussion, and has eyesight problems.¹⁸⁵ Two years earlier, on February 4, 2005, Vladimir Kozlov, chair of the Mari

¹⁸⁰ See “Russia: Prosecute Attack on Rights Activist, Journalists,” Human Rights Watch news release, November 24, 2007, <http://hrw.org/english/docs/2007/11/24/russia17407.htm>.

¹⁸¹ Human Rights Watch telephone interview with Pavel Chikov, October 31, 2007. AGORA lawyers represent Suslikov’s interests.

¹⁸² Human Rights Watch telephone interview with Aleksei Suslikov, February 1, 2008.

¹⁸³ Ibid.

¹⁸⁴ Sergei Vladin, “Streets of Broken Housing” (“Ulici Razbitogo Zhilia”), *Saratovskie Gubernskie Vedomosti*, October 20, 2007, <http://www.sargv.ru/topnews/537/> (accessed October 23, 2007).

¹⁸⁵ On March 15, 2007, the European Parliament issued a resolution strongly condemning the attack on Kozlova and continuous harassment against activists in Mari-El. See European Parliament resolution of 15 March 2007 on Galina Kozlova, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0087+0+DOC+XML+Vo//EN&language=EN> (accessed February 8, 2008).

Council and Kozlova's husband, was severely beaten close to his office. The authorities have failed to investigate these attacks. Kozlov told Human Rights Watch that the criminal case was closed "due to absence of witnesses and impossibility to find assailants."¹⁸⁶

In August 2006 the ultra-nationalist webpage Russian Will posted a direct call to kill individuals it listed as "enemies of the nation." The list contained names, photos, dates of birth, home addresses, and phone numbers. The list has repeatedly appeared on and disappeared from the Russian Will webpage.¹⁸⁷ The list included prominent human rights defenders Svetlana Gannushkina and Sergei Kovalev. Gannushkina told Human Rights Watch that after the list was published she and other people included on it received threatening phone calls.¹⁸⁸ In November 2006 the FSB rejected opening a criminal investigation into the death threats posted on the Russian Will webpage, arguing that "perception of the information as a call [to murder] is a result of superficial, common [*bitovo*] analysis of its content" and that posting of the list "does not represent real public threat due to its insignificance."¹⁸⁹

Those who expose abuses in Chechnya and fight for accountability, like the late Anna Politkovskaia, are especially vulnerable. In March and in September 2005 several hundred leaflets were distributed in Nizhni Novgorod directly calling for human rights defenders Oksana Chelysheva and Stanislav Dmitrievsky to be killed for their work on Chechnya. Nobody has been prosecuted for the production and distribution of the leaflets, and on July 19, 2007, the Nizhni Novgorod procuracy closed the criminal case on the grounds that the statute of limitations had expired.¹⁹⁰

¹⁸⁶ Human Rights Watch interview with Vladimir Kozlov, chair of Mari Council, Ioshkar-Ola, May 31, 2007.

¹⁸⁷ Even though as of October 25, 2007, the list was off the Russian Will webpage available at <http://russianwill.org/material/vragi.html>, a slightly modified version was available at a blog in Liveinternet.ru at <http://www.liveinternet.ru/users/neo18/post41447922/> (accessed October 25, 2007). A comment to the posting said, "These people are still alive, and therefore the information is still useful."

¹⁸⁸ Human Rights Watch interview with Svetlana Gannushkina, August 1, 2007.

¹⁸⁹ *Ibid.*, and "FSB Abolishes Death Sentence to Human Rights Defenders," *Kommersant*, November 16, 2006, <http://www.kommersant.ru/doc.aspx?DocsID=722314&print=true> (accessed October 25, 2007).

¹⁹⁰ Human Rights Watch interviews with Oksana Chelysheva, director, Tolerance Support Foundation, Nizhni Novgorod, September 17, 2007, and Stanislav Dmitrievsky, consultant, Tolerance Support Foundation, Nizhni Novgorod, September 17, 2007. Copies of the leaflets are on file with Human Rights Watch.

Human rights defenders and investigative journalists became more conscious of their vulnerability after Politkovskaia was murdered in October 2006.

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Choking on Bureaucracy

State Curbs on Independent Civil Society Activism

Over the past eight years the Kremlin has stifled public dissent in Russia by establishing control over television and much of the print media, marginalizing the parliamentary opposition, and limiting public demonstrations.

With the adoption of a 2006 law regulating nongovernmental organizations (NGOs), the government began to subject Russia's vibrant civil society to greater scrutiny, control, and interference. This report documents how the government is applying this law and other regulations to NGOs that work on controversial issues, may be capable of galvanizing public dissent, are associated with certain opposition movements, or receive foreign funding.

Some of these organizations have been subjected to intrusive inspections by the Registration Service, to harassing tax audits, police raids, and even criminal charges against their leaders. To preempt warnings from the Registration Service, which can lead to an organization's closure, many NGOs have no choice but to become bogged down in complying with myriad regulations and responding to inappropriate government demands. NGOs are forced to devote precious time and resources to comply with, and sometimes challenge, excessive and unnecessary bureaucracy instead of focusing on substantive work.

The overall impact of the Russian government's new policies toward NGOs has been to choke them with bureaucracy, to undermine independent activism, and to further silence dissenting voices. Human Rights Watch calls on the Russian government to end and desist from further arbitrary limits on the work of independent NGOs.

The Russian Constitution against a background of documents required by new legislation.

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