

EUROPEAN HUMAN RIGHTS ADVOCACY CENTRE

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Memorial Human Rights Centre (MHRC) and Georgian Young Lawyers' Association (GYLA)

The threat to the independence and activity of Russian NGOs

Prof. Bill Bowring, EHRAC

In the decade from 1992, when a free mass media flourished, together with political pluralism, Russia experienced an explosion of NGO activity. There are now over 300,000 active NGOs in all regions of Russia, at least 2,000 of them devoted to the protection of human rights. Today there are justified fears of a return to the dark days of the USSR, when any exercise of freedom of association posed a direct threat to the Communist Party and was harshly punished.

In November 2005, Yurii Dzhibladze, Director of the Center for the Development of Democracy and Human Rights, referred to "... the atmosphere of growing hostility towards NGOs, especially human rights and pro-democracy ones, that has been breeding among the political elites here since spring of 2004...". This new policy has been justified by reference to the "war on terror", and by "orange paranoia", and is aimed especially at foreign funding.

In fact, Russian human rights NGOs could not survive without foreign donors. Mikhail Khodorkovsky, the last wealthy Russian to attempt, through his Open Russia foundation, to provide funding for NGOs, is now imprisoned in a labour camp on the other side of Siberia.

The latest manifestation of the Kremlin's policy is the innocuously entitled Federal Law of 10 January 2006 No.18-FZ "On enactment of amendments to some legislative acts of the Russian Federation", which was published in the Russian Gazette on 17 January 2006. It comes into force on the 90th day after publication.

The law amends

- the Federal Law No.3297-1 (14 July 1992) "On closed administrative-territorial formations";
- the Federal Law No.82-FZ (19 May 1995) "On public associations", (LPA);
- the Federal Law No.7-FZ (12 January 1996) "On noncommercial organizations" (LNCO); and

• Part One of the Civil Code of the Russian Federation. The Russian authorities insist that the new law contains nothing objectionable, and that it has the approval of the Council of Europe (CoE). The draft passed by the State Duma at First Reading was indeed sent to the CoE for an

expert opinion, which was published on 1 December 2005. The law as enacted follows some of the expert's recommendations. But in some respects it is even worse. The LPA is amended so that registration may be refused if the association "defames the morality, national and religious feelings of the citizen" (Article 21). Article 38 gives powers of "nadzor" (supervisory review) of compliance with Russian laws to the Prosecutor's Office. The prosecutor will have power to intervene at any time, with no limitations. It also gives to "organs taking decisions on registration" wide powers of "control" over PAs. These include the right to demand administrative documents; to obtain tax and other information from other federal bodies; to send representatives to events organised by PAs, and once a year to carry out a full "investigation". There are draconian powers in the case of failure to comply.

The LNCO, as amended, deals with foreign NGOs, which must apply for registration within three months of the decision to found a branch or representation. The list of reasons for refusing include "contradiction of the Constitution or legislation of the RF", and "a threat to the sovereignty, political independence, territorial inviolability, national unity and 'self-being', cultural heritage and national interests of the RF" (Article 13). This is also an invitation to arbitrary interference. Foreign citizens and persons without citizenship may not be founders of NCOs (non-commercial organisations) if they are persons whose presence has been found to be "undesirable" (Article 15). There is a wide range of opportunities for "authorised organs" to interfere with NCOs.

For a period and in a form to be decided by the government, NCOs are to provide a "maintained account", on their activities, on their staff, on finances, and in particular on all funds received from foreign sources (Article 32).

How these amended laws will be implemented cannot be predicted. But government attacks on NGOs have already begun.

The campaign launched by the FSB on 23 January 2006 concerning so-called "rocks" and "British spies" was clearly aimed at Russian NGOs. A few days later the Ministry of Justice sought the liquidation of the Russian Research Center on Human Rights, which includes the Union of Soldiers' Mothers' Committees - and a Moscow arbitration court held that the Russian PEN Center owed 2 million roubles in property taxes, and froze its assets.

Most recently, on 3 February 2006 a criminal court in Nizhnii Novgorod imposed a two year suspended sentence on Stanislav Dmitrievsky, Executive Director of the Russian-Chechen Friendship Society (RCFS) and editor of "Pravozashchita" (Human Rights Protection), for "inciting racial hatred". He published two statements by Chechen rebel leaders Aslan Maskhadov and Akhmed Zakaev, widely published elsewhere. Qualified observers say that they contain no trace of incitement. RCFS also faces persecution by the Ministries of Finance and Justice. Grants received from the European Commission and US funds are being treated as pure commercial profit, leading to tax demands and fines.

