



In partnership with Memorial Human Rights Centre (MHRC), the Georgian Young Lawyers' Association (GYLA) and Article 42 of the Constitution

State scrutiny of NGOs in Russia 2006-2008

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In Russia, there are nearly 200,000 registered non-governmental organisations (NGOs). Additionally, there are an unknown number of

unregistered NGOs, which have a named head of organisation, members and an adopted organisational charter. These unregistered NGOs cannot operate as legal persons and therefore have severe difficulties in obtaining funding as only legal entities may open

a bank account.

After the adoption of amendments to the Law on Non-commercial Organisations in 2006, the State suddenly and dramatically increased the legal requirements upon NGOs. Organisations struggled to adapt to these changes in

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the time available. Tens of thousands of NGOs, who had experienced no demands for information from the authorities for many years, were suddenly inundated with requests from various official bodies.

In 2006-07, one in six NGOs that filed for registration were refused. After reviewing 119 of these refusals, human rights activists have concluded that in more than half the cases refused, the refusal was based on institutional weaknesses and in particular as a consequence of an NGO submitting documents that were not correctly assembled into a file or numbered.

for organisation members or the use of an abbreviated organisational name on a stamp were deemed by the registration and control bodies as a flagrant violation of the law and could be used as a reason for filing a court action to close an NGO. The equation of 'gaps' in an NGO's documents with a 'flagrant violation' of legislation and the subsequent notification and decision to suspend an NGO's activities became a widespread practice.

Recently there has been a trend for prosecutors to designate certain NGOs as being extremist and to use this as a reason to close them. Thus, it seems

NGOs was transferred from the Federal Registration Service to the Ministry of Justice. The effects of this change for NGOs are not yet clear. However, legal analysts at AGORA believe that following President Medvedev's decree to transfer control and abolish the Federal Registration Service, the Government's campaign against NGOs is coming to an end. 2009 is marked by uncertainty as to the role and functions of the Ministry of Justice vis-à-vis NGOs. The Russian Ministry of Justice has yet to make any steps to define its policy.

Until now, there has been a lack of systematic jurisprudence and clarifications from the Supreme Court in cases

Since 2006, thousands of NGOs have been faced with illegal actions on behalf of the registration authorities. In 2007 alone the registration authorities issued 45,920 notifications of violations of Federal laws, inspected 13,381 NGOs, denied registration to 11,044 NGOs and sent 8,274 cases to court seeking closure or termination of NGO activities. According to the Federal Registration Service, in 2007, violations of the law were identified in the vast majority of audited NGOs. Interestingly, these statistics are considered to be an indicator of the effectiveness of the Federal Registration Service. According to a study conducted by AGORA, of 14 instances of media reports on the quantitative outputs of the Federal Registration Service in 2007, 13 highlighted the Federal Registration Service's punitive function.

Relations with the Federal Registration Service did improve, but change was slow and gradual. For example, it took two years for the Supreme Court of Russia, in the case of Voice (an organisation from Samara), to decide that "the closure of public organisations is not permitted on the grounds of only one violation of Federal law".¹ Prior to this decision, delayed meetings of NGO members, the late preparation of meeting minutes, the absence of identity cards

that the Russian authorities may have come to see the fight against extremism as a means by which to apply pressure on NGOs to desist from criticising the authorities. The Russian Criminal Code classifies all crimes of an extremist nature, including incitement to hatred, as crimes against State security. Consequently, it can appear that law enforcement activity is primarily targeted at defending the State rather than at protecting society. For example, in early 2008, the Council of Elders of the Balkar People was closed, as the Council's activities were deemed to be extremist. It was only thanks to the work of lawyers before the Russian Supreme Court that this decision was held to be unfounded and illegal.

There are also court decisions which could be described as questionable even in terms of common sense. The Raduzhny House, based in the Tyumen Region, aims to protect the rights of sexual minorities. It was refused registration on the grounds that protecting gays and lesbians "undermines the sovereignty and territorial integrity of Russia" and is therefore extremist. Over 2007-08 the organisation exhausted all domestic remedies appealing against its closure and has now filed a complaint with the ECtHR.²

In summer 2008, control over

concerning NGOs which has led to a huge array of often contradictory lower instance judicial decisions concerning NGOs. This must be addressed, as the evolving jurisprudence on NGOs is ambiguous and often demonstrably discriminatory. However, a certain protective function does still exist and it should be emphasised that it is still possible to successfully protect NGOs through the legal system as long as qualified legal assistance is available. In 2008, lawyers from AGORA helped the following organisations to have the claims of public bodies, including the Russian Supreme Court, against them recognised as unfounded: the Association for the Rights of Voters 'Voice', the Voice-Povolzhie Fund (Samara), the Youth Studio of Guitar Songs 'Great Spring' (Baikal Region), the Children's Ballet Theatre (Vladimir) and the Antifascist Union (Moscow region).

Note: Most of the information used in this article is taken from a study by AGORA of more than 250 cases, court decisions and general jurisprudence on the liquidation of NGOs over 2006-08. It is available online in Russian at: http://www.openinform.ru/fs/j_photos/openinform_174.pdf.

¹ For the text of the decision of the Russian Supreme Court refusing to close Voice see: http://www.supcourt.ru/stor_text.php?id=20248831.

² *Raduzhnyy Dom v Russia* (No. 12200/08).