Factsheet:
Russia's NGO Laws

Laws Regulating NGOs Prior to 2012

January 2006—"On Introducing Amendments to Certain Legislative Acts of the Russian Federation"[1]

The 2006 law on nongovernmental organizations (NGOs) amended four existing laws: the civil code and the laws "On Public Associations," "On Noncommercial Organizations," and "On Closed Administrative Territorial Formations." Penalties for noncompliance with the new requirements were severe. The amendments gave authorities the right to:

- Deny registration to any organization whose "goals and objectives…create a threat to the sovereignty, political independence, territorial integrity, national unity, unique character, cultural heritage, and national interests of the Russian Federation";
- Demand proof of residency from those founding an NGO, bar foreign nationals or stateless persons without residency in Russia from doing so, and similarly bar any individual whom state agencies, at their discretion, deem to be "undesirable";
- Prohibit, on vaguely defined grounds, the implementation of programs of foreign NGOs or the transfer of funds to their local branches;
- Require NGOs to submit to annual audits and produce supplemental reporting on activities and the source and purpose of all acquired funds; to provide unlimited information documenting the organization's daily management on demand; and to receive uninvited government representatives at NGO events.

August 2009—Amendments to the law "On Noncommercial Organizations"[2]

Ahead of a civil rights–focused visit by President Barack Obama, President Dmitry Medvedev introduced changes that scaled back some of the more restrictive provisions of the 2006 NGO law. Notable improvements included the following:

- NGOs could no longer be refused registration based on their perceived "threat to the unique character, cultural heritage, or national interest of the Russian Federation," and this language was removed from the law.
- An NGO could no longer be automatically denied registration if its documents were not adequately submitted. The organization would be informed of the missing materials, and the registration process would continue until its file was complete.
- The list of documents that the registration authority could request of an organization applying for registration was limited.
- Small NGOs that did not receive foreign funding would be exempt from annual financial reporting on donations of 3 million rubles ($100,000) or less.
- Mandatory government audits would be required every three years, rather than annually.

Despite the restrictions of the 2006 NGO Law, most organizations managed to continue their activities—especially following the 2009 amendments. However, the need to comply with the onerous demands of the law significantly affected their capacity to do human rights work.

November 2012—NGO Law on "Foreign Agents"

In July 2012, after taking office as president for a third term, Vladimir Putin signed the law on "foreign agents," which came into force in November of that year. Like the 2006 NGO Law, the new legislation was not a stand-alone measure, but rather a series of amendments to existing laws. The changes applied to the criminal code and the laws "On Public Associations," "On Noncommercial Organizations," and "On Combating Money Laundering and the Financing of Terrorism."[3]

The central, controversial aspect of the amendments was a requirement that organizations engaging in political activity and receiving foreign funding must register as foreign agents, even if the foreign funding they receive does not actually pay for political activities. The state determines whether an organization is engaging in political activity based not on the goals defined in its charter, but rather on its involvement in the logistical or financial organization of, or participation in, "political acts" aimed at influencing the decision making of public authorities, changing public policy, or influencing public opinion with respect to government policy. Designated foreign agents are then obliged to adhere to a number of other rules, such as the following:

- Foreign agents must produce financial reports about their political activities on a quarterly basis, file documents describing the composition of their management bodies and activities semiannually, and submit to a state audit annually.
- While planned audits may only occur once a year, foreign agents are subject to an unlimited number of unscheduled audits.
- Political activities must be registered with authorities before the organization is permitted to participate in them.
- If a foreign agent refuses to register as such, it is banned from participating in public demonstrations, access to its bank accounts is limited, and it may be subject to a fine of up to 300,000 rubles ($10,000) or up to two years in prison for its personnel.
- All foreign donations larger than 200,000 rubles ($6,700) are subject to mandatory monitoring.
- Foreign agents must label all materials distributed in the media, including on the internet, as products of foreign agents.
- Violations of the law are now under the jurisdiction of the federal agency responsible for monitoring money laundering and the financing of terrorism.

In addition, another amendment criminalizes the formation of "illegitimate" NGOs, loosely defined as nonprofit organizations that threaten violence or the health of citizens. Founding such a group is punishable by a fine of up to 300,000 rubles ($10,000) or four years' imprisonment. NGOs that urge citizens to commit illegal acts or refuse their civic duties are also considered illegitimate, and their formation is punishable by 200,000 ($6,700) rubles or three years' imprisonment. Individuals caught participating in the activities of illegitimate NGOs can be fined 120,000 rubles ($4,000) and face up to two years' imprisonment or "correctional labor."[4]

The legislation specifically exempts certain entities from the obligation to register as foreign agents, including recognized religious groups, state corporations, and business groups.[5]

Political Implications

The new law on foreign agents has been harshly criticized by Russian and international NGOs as well as Secretary of State Hillary Clinton for its potentially disastrous effect on the environment for civil society in Russia.[6] Major concerns include:

Threat to financial sustainability of Russian NGOs—The law discourages NGOs from accepting the most sustainable funding available to them, as there are few domestic sources and the government has been known to discourage Russian businesses from supporting NGOs. Furthermore, a large part of the foreign funding given to Russian human rights organizations is aimed at protecting Russian citizens from violations committed by the authorities, making it unlikely that these same authorities would replace such funding. Consequently, the law could bring on deep, permanent cuts to NGOs' budgets, leaving them in a weakened state reminiscent of the first years after the fall of the Soviet Union, when they relied primarily on volunteerism at the expense of professionalism and effective capacity.

Loose definition of "political activity"—The law's definition of political activity is broad, including any activity seeking to influence government policy or public opinion with regard to government policy. While it explicitly excludes events organized within the fields of science, culture, art, health, social assistance, defense of motherhood/children, support for the disabled, environmental protection, philanthropy, and volunteerism, NGOs involved in these fields are not completely immune. Once an "apolitical" organization engages in a critique of government policy, its activities could be deemed political as well. For example, environmental actions such as the Khimki forest protests of 2011 could be considered political activity.

Further damage to credibility of NGOs—The regime has taken many steps to rouse public suspicion of civil society organizations that receive foreign funding, which most NGOs do. In Russian, "foreign agent" evokes the Soviet-era term for spies and plays into the regime's long-standing narrative that foreign interests are bent on interfering with Russia's sovereignty and destabilizing the country. The law's language stresses the danger of these NGOs, requiring them to "warn" the public by labeling all of their materials, even their websites, as the propaganda of a foreign agent.

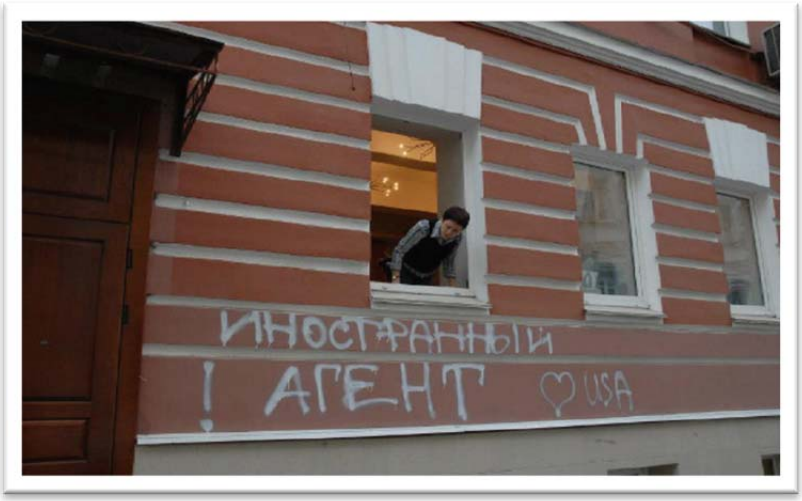
Contact with government bodies severed—Many NGOs fear that taking on the label "foreign agent" will make it simpler for the government to discourage cooperation between state bodies and civil society. Already in August, three months before the law came into force, the Mari El republic in the Volga Federal District issued orders prohibiting members of its administration from making contact with organizations that receive funding from abroad.[7] While the order was most likely enacted to impress federal authorities with the Mari El officials' enthusiasm for the foreign agent law, similar orders could emerge across the country, seriously hampering civil society's ability to engage in dialogue with the authorities on any policy issue. By the regime's logic, it would be quite inappropriate for government representatives to consult with foreign agents about domestic affairs.

Convenient exceptions—The new law is careful to exempt recognized religious organizations, state corporations, and business groups. This immunizes the Russian Orthodox Church and foreign investors, encouraging their continued support for the regime and ensuring that no powerful entities side with civil society in opposition to the law.

Impact Since Implementation

Thus far, implementation of the foreign agent law has been extremely weak, and there are some signs of disagreement among senior officials about the regime's legislative crackdown on civil society.

- Upon the law's implementation on November 20, prominent human rights organizations like the Moscow Helsinki Group openly refused to register themselves as foreign agents, despite qualifying as such.[8] Affected NGOs were required to register by November 21, but the authorities had yet to prepare the registration form on that date.[9]



The words "foreign agent (loves) USA" were spray-painted outside the Moscow office of the human rights group Memorial in November 2012, after the foreign agent law came into force and the organization announced plans to defy its registration requirement.

- Days after the law came into force, the Justice Ministry's website already contained a registry of identified foreign agents,[10] but by mid-January only one NGO had been officially registered as a foreign agent.[11]
- Among other evidence of mixed attitudes among elites and official bodies about the law, the Public Chamber refused to support it, and the Kremlin's rights council openly criticized it.[12] In mid-January, during an address to the Russian parliament, Justice Minister Aleksandr Konovalov stated that the law did not give the ministry the authority to hunt down suspected foreign agents and contradicted existing NGO laws.[13]
- After the law's enactment, the human rights organization Agora sent a letter to the Justice Ministry asking for guidance on whether it should register as a foreign agent. On January 9, the ministry replied that it could not reach a definitive conclusion on the matter.[14]
- Since the law's passage, the government has pushed through other laws that tighten restrictions on NGO activities. At the end of December—in answer to the Magnitsky Act, passed by the U.S. Congress—the parliament passed the Dima Yakovlev Law, which primarily bans adoption of Russian children by U.S. citizens, but also includes a provision that specifically targets U.S.-funded NGOs and Russian-American citizens working in the civil society sector.[15] While the foreign agents law increased controls on all foreign-funded NGOs, the Yakovlev Law goes a step further, imposing an all-out ban on "politically oriented" organizations that receive funding from the United States and prohibiting dual Russian-American citizens from leading or belonging to an international or foreign NGO that engages in "political activity."

This factsheet was prepared by Katherin Machalek.