



# **Russian Federation: Content of NGO Legislation and its Incompatibility with International Legal Norms**

January 2006

LL File No. 2006-02671  
LRA-D-PUB-000183

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## RUSSIAN FEDERATION

CONTENT OF NGO LEGISLATION AND ITS INCOMPATIBILITY WITH INTERNATIONAL  
LEGAL NORMS

*On January 10, 2005, President Vladimir Putin of Russia enacted a law, which restricts activities of noncommercial organizations in Russia. Specifically, the law imposes a partial ban on activities of foreign nongovernmental organizations in Russia and introduces a strict government control over Russian individuals and organizations receiving financing from abroad in any form. Specific provisions of the law appear to be in contradiction with Russian constitutional provisions and international obligation.*

**I. Introduction**

A draft of the Federal Law on Amendments to Selected Legislative Acts of the Russian Federation was submitted to the State *Duma* (lower chamber of the Russian legislature) of the Russian Federation on November 2, 2005, by the administration of the Russian Federation President. On January 10, 2006, President Putin signed this bill into law. The law was officially published in the government owned daily newspaper ROSSIISKAIA GAZETA on January 17, 2006. According to provisions of article 6.1 of this law, it will enter into force after expiration of a 90-day period since its first official publication. The English translation of this law is not available at this moment. The general concept of the law seems to give broader competencies to the federal authorities to gain more control over nongovernmental organizations than at present. The stipulated purpose of the law, as stated in its explanatory note, is to combat money laundering and terrorism is a legitimate one however, some regulations introduced by the law appear too intrusive concerning the governance of *bona fide* organizations and the powers of supervisory authorities appear to be too extensive.

**II. Major Provisions of the Law**

The law amends four existing legislative acts – the Civil Code, and federal laws on Closed Administrative Territorial Units, on Nongovernmental Organizations, and on Public Associations. In general, the adopted amendments affect the status, financing, registration, and activities of the nongovernmental organizations.

The first group of amendments relates to foreign organizations and Russian organizations having a foreign noncommercial organization or a foreign individual among the founders. Under the new law, such organizations are prohibited from working in the so-called “closed administrative territorial units.” Russian organizations having foreign financing are outlawed in such territories also. Also, the new law introduces a total ban on activities of foreign organizations if they do not have a properly registered branch or representation in the Russian Federation.

The law introduces changes to the registration procedure. Instead of the existing procedure, which simply requires notification of state authorities of the existence of an NGO, a more complex authorization system will be implemented. The law establishes a new registration procedure providing for the scrutiny of a list of documents prior to a decision to issue the state registration. Although the simpler notification procedure is preserved for foreign nongovernmental organizations, their registration will be

transferred from the Ministry of Foreign Affairs, as it was before, to the specially created Federal Registration Service. Foreign nongovernmental organizations, which do not have the status of a Russian legal entity can continue their work with their current status; however, within six months after this law enters into force, they must submit a notification to the Registration Service, otherwise their work in Russia will become illegal.

In regard to monitoring the NGO's financial activities, the law does not authorize the Federal Registration Service to review finances of nongovernmental organizations on its own; however, it has the right to request financial inspections to be conducted by tax police, banking institutions, or law enforcement authorities. The final version of the law states that a "structural division of a foreign NGO shall inform authorized government institutions on the amount of the received financial resources, their intended distribution, purpose of usage, and factual spending." Foreign NGOs are obliged to submit to the registration authorities documentary evidence of spending the received funds by Russian physical and juridical persons and provide the list of all Russian recipients of foreign funds. The law states that the audit and review of NGO's activities cannot be conducted more than once a year.

Section 3 of the law provides for reasons to deny registration of an NGO. It states that the registration request of a foreign nongovernmental organization shall be denied if the creation of this organization will constitute a threat to "sovereignty, political independence, territorial integrity, national unity, customs, cultural heritage, and national interests of the Russian Federation." The registration denial can be appealed to the higher registration authority or to the court. This right is preserved for foreign organizations also.

### **III. Contradictions with Domestic and International Legal Norms**

It appears that provisions of the Federal Law No. 18 on Amendments to Selected Legislative Acts of the Russian Federation of January 10, 2006, contradict Russian Constitution, Civil Code, and Federal Constitutional Law on Government of the Russian Federation because they limit the constitutional right of Russian citizens on freedom of associations, discriminate between NGOs with different forms of property and legal organization, and provide for the expansion of the authority of executive agencies.

Simultaneously, these provisions do not conform to international legal standards agreed to by Russia. The Russian Federation has the right to regulate its legislation concerning the issues of the establishment and function of NGOs on its territory. However, this should be carried within the limits of the European Convention of human Rights (ECHR). Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950, states that each individual has the right to a freedom of association. No restrictions shall be placed on the exercise of these rights other than such as are necessary in a democratic society in the interests of national security, public safety, prevention of disorder or crime, and for the protection of health or morals. That means that all restrictions must have a legal basis that is sufficiently precise to avoid abuse. It appears that this requirement is not met by the Russian law.

This right is also protected by Article 22 of the International Covenant on Civil and Political Rights of December 19, 1966, which prohibits states from enacting legislative measures, which would prejudice the guarantees provided for in that Covenant. According to the Russian Constitution, international legal norms prevail over domestic legislation, and must have precedence if domestic legislation contradicts Russia's international obligations. The European Union Charter on Fundamental Rights specifies the unrestricted right of each individual to associate with others in the sphere of politics and civil society (art. 12). Even though Russia is not a party to the Charter, in 1999, the Russian Federation signed the Strategy for the Development of Relations Between the EU and Russian Federation,

and agreed to recognize major legal principles accepted in Europe in order to build a democratic state governed by law.

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January 2006