Civil Society Legal Support Program

Under Cooperative Agreement No. 118-A-00-06-00074-03

Final Programmatic Report for the Period

October 1, 2006 through May 31, 2013

Submitted by ICNL

I. Executive Summary

The International Center for Not-for-Profit Law (ICNL)[1] had implemented the *Civil Society Legal Support Program* ("Program") under Cooperative Agreement # 118-A-00-06-00074-00 from 2006 to 2013. The Program aimed to support the development of enabling legislation for non-governmental organizations (NGOs); to build the capacity of NGOs and activists to understand and comply with the law; and to increase the capacity of Russian lawyers to assist NGOs. ICNL implemented the Program jointly with Russian NGOs- implementing partners, specifically, the Lawyers for Civil Society non-commercial partnership (LCS)[2], the Agency for Social Information (ASI) (during the period October 2006-September 2009) and the Center for the Development of Democracy and Human Rights (CDDHR) (during the period October 2006-September 2009) (hereinafter, the "Consortium").

Under the auspices of the Program, ICNL was responsible for meeting the following objectives[3]:

1) enhancing the legal competence of Russian NGOs;
2) improving NGO-related legislation to allow NGOs in Russia to benefit from an enabling regulatory environment; and
3) building the capacity of local lawyers to provide specialized legal assistance to NGOs.

The Program's key accomplishments are reflected in the following examples:

- <u>Assistance with drafting and advocacy efforts resulted in the adoption of 35 positive modifications to NGO-related legislation as well as in the prevention of the adoption of at least five restrictive legal acts.</u> Throughout the Program, one shall note, that the legal framework for sustainability of Russian NGOs has been substantially improved overall, improving environment for local private philanthropy, public financing, and generation of income through sales of goods and services and engaging volunteers. These achievements, so far, have not been diminished even by the most recent legislative backlash against civil society. A substantial progress was also achieved in minimizing damages from 2006 restrictive amendments to NGO Law[4]. For example: 1) small NGOs with total annual revenues less than equivalent of USD 100,000, which do not receive foreign funding and do

[1] The terms "International Center for Not-for-Profit Law" and "ICNL" include the International Center for Not-for-Profit Law, Inc., which is a not-for-profit corporation with 501(c)(3) status; the International Center for Not-for-Profit Law, LLC, which is a single member "disregarded entity" under US tax law and which is covered under the umbrella of ICNL, Inc.'s 501(c)(3) status as a public charity; and the ICNL LLC Affiliate Office in Russia.
[2] LCS was replaced by Legal Team, Co. ltd, during the last eight months of the Program.
[3] Please, note that definition of objectives has been modified throughout the program. From(1) to help NGOs and Government bodies implement the legislation governing NGOs; (2) to support the development of enabling NGO legislation; and (3) to increase the capacity of Russian lawyers to assist NGOs (2006-2009) to :.(1) improving NGO-related legislation so that NGOs operating in Russia may benefit from an enabling regulatory environment; (2) enhancing the legal competence of Russian NGOs by providing access to information and legal advice to help them comply with the laws governing their activities; and (3) strengthening the community of Russian lawyers specializing in NGO law by facilitating information and expertise sharing, and by further developing the clearinghouse website on NGO legislation, www.lawcs.ru. (2009-2012).
[4] Federal Law of the Russian Federation on Non-commercial Organizations dd. January 12, 1996 (NGO Law).

not have foreign founders, are exempt from reporting requirements; 2) mandatory government audits of NGOs no longer take place annually, but rather every three years[5]; and 3) the tax treatment of Russian NGOs and their supporters has substantially improved through the adoption of over 20 amendments to the Russian Tax Code,[6] which, among other changes, exempts NGOs from paying income tax on the value of services which were donated to them, and permits individuals to deduct from their taxable income the amount of contributions to charities up to 25% of their taxable income. Other positive changes in the legal environment for NGOs include adoption of the legislation in regards to socially oriented organizations[7], a status for Russian NGOs, comparable to public benefit organizations (PBO), which makes a broad range of NGOs eligible for government's financial support, and also new Law on Endowments of NGOs[8].

- The Program provided over 29,000 legal consultations to almost 21,000 NGOs throughout Russia to help them to meet complex legal requirements and to avoid penalties and government's harassment.
- The capacity of NGO lawyers to provide legal assistance to NGOs and to champion law reforms has increased dramatically during the Program. Specifically, over 300 both NGO lawyers and commercial lawyers interested in non-commercial law based throughout Russia, benefited from the program. LCS has developed a network of lawyers covering 30 regions of Russia which specializes on providing assistance to NGOs. The network has gained a reputation as a valuable resource for legal advice for thousands of NGOs. The Russian government, at national and local levels, often references LCS's expertise in drafting legislation or providing trainings to government officials. Its website, www.lawcs.ru provides NGOs and other stakeholders with information about Russian NGO law and related initiatives. It received over 359,000 visitors by June 30, 2012. Furthermore, LCS is becoming more financially sustainable by generating funds through a variety of sources. In 2011-2013, LCS generated over 50% of its funds from its provision of legal services and from government grants and contracts.

Despite the Program's successes, many challenges remain as a legislative backlash against Russian civil society has gained momentum in the past year. There have been several negative developments in the legal environment of NGOs. On June 8, 2012, President Putin signed a law introducing severe penalties for violation of the law on meetings. On July 13, 2012, the Russian Duma adopted legislation which requires that NGOs register with the Ministry of Justice (MoJ) if they plan to receive funding from any foreign sources and if they intend to carry out political activities broadly defined as trying to influence government policy and public opinion. The law would potentially impose new burdensome reporting and audit requirements on such NGOs as well as severe criminal penalties for violation of these requirements. On December 28, 2012, President Putin signed another

[5] Federal Law on Amendments to the Russian Federal Law dd. July17, 2009 No. 7-FZ of January 12, 1996, "On Non-Commercial Organizations" (NGO Law).
[6] Federal Law # 385319-5 "On Introduction of Changes into Part Two of the Tax Code regarding Amendment of NGOs and Charitable Activities Taxation" was adopted on July 5, 2011.
[7] Federal Law of the Russian Federation on Amendments to Federal Law of the Russian Federation on Non-commercial Organizations dd. April 5, 2010 N 40-FZ.
[8] Federal law of the Russian Federation on Procedure for Establishment and Use of the Endowment for a Designated Purpose of Non-commercial Organizations dd. December 30, 2006, N 275-ФЗ (hereinafter referred to as Law on Endowments of NGOs).

law, which prohibits Russian NGOs to receive funding from US sources and to carry political activities and activities contradicting Russia's national interests, amongst others. In 2013 hundreds of Russian NGOs, especially advocacy and human rights groups have been subjected to government's audits and substantial fines for minor offences, affecting thousands more NGOs, which slowed down or even suspended their activities in fear of being audited and harassed by the government. No doubts, deficiencies in NGO-related legislation continue to pose difficulties for organizations and threaten the ability of civil society to provide oversight of government and private institutions and provide services to their communities.

In the following sections we will share the details of the key activities implemented by the Consortium which led to the main accomplishments since the Program's inception. We will also provide recommendations on the follow up assistance building upon accomplishments by this program and addressing remaining needs to improve legal environment for NGOs.

II. Main accomplishments:

Objective 1: Enhanced legal competence of Russian NGOs

Provision of legal consultations to NGOs

The Program helped to increase the legal competence of NGOs to comply with existing legislation. Almost 22,000 Russian NGOs benefited from legal consultations provided by the Program, total number of consultations exceeding 29,000.

	Year 1	**Year 2**	**Year 3**	**Year 4**	**Year 5**	**Year 6**	**Year 7 8 mon**	**TOTAL**
Number of NGOs Assisted	2,323	5,037	6,301	2,645	2,045	2,443	1.286	**22,080**
Number of Consultations Provided	2,900	7,375	8,972	3,419	2,346	3,143	1,436	**29,591**

Under the auspices of the Program, a network of lawyers managed by LCS, based in 20-31 regions (number differed throughout the Program) throughout Russia, and in Moscow, provided free consultations to NGOs. The network of lawyers constituted of the most qualified lawyers specializing on assistance to NGOs, which were selected by the Program on a competitive base and benefited from professional training and ongoing technical support from ICNL and LCS. The Program closely monitored the quality of consultations to insure the highest quality. Consultations were provided with regards to reporting requirements, registration of new NGOs, grant-making, NGO taxation, and other matters of importance to NGOs. Consultations were provided in person, over the phone, and/or by e-mail or Skype. About 1,400 of consultations were also provided via LCS website: http://www.lawcs.ru/project_law_NGO/consultations.html, The system of on-line consulting allowed the lawyers to answer difficult questions in the shortest timeframe possible (a maximum of three days) by providing top quality advice, because on-line consultations were only

provided by the best LCS network lawyers, chosen based on the monitoring of previous consultations, and double checked by Moscow ICNL and LCS experts.

Legal Audits

In 2006-2013 LCS lawyers provided 200 legal audits of regional NGOs in 24 regions of the Russian Federation.

The Program offered NGOs endangered by government's on-going harassment and/or facing state audits with "independent legal audits" to help them prepare for the government's audits. The experience of years of consulting NGOs demonstrated that a few NGOs complied with internal accounting and documentation keeping rules. This made them vulnerable to government's harassment in case of government audits; put them in danger of involuntary liquidation and severe penalties. While many organizations were in violation of internal documentation keeping rules, the government was using complex reporting and documentation in particular against certain types of NGOs, such as those, which receive foreign funding, advocacy groups, and youth organizations. The Program offered those organizations who feel endangered to government's harassment, to apply to an independent legal audit to be conducted by the network lawyers, which helped such organizations to identify and eliminate shortfalls in their internal documentation-keeping.

Based on the results of the legal audit of the selected organizations, the Program developed a self-check guide for NGOs to help them to verify whether their activities and internal documentation are in compliance with the legislation. The guide served as a tool for additional hundreds of NGOs seeking to prepare themselves for government's audits.

One example of an impact that the legal audits had made on Russian NGOs, follows:

> In 2010, the Moscow School of Political Studies successfully passed the state audit by the Moscow Department of MoJ after LCS lawyers had conducted a legal audit and provided corresponding consultations to this important Moscow NGO. (During the legal audit, the LCS lawyers identified and helped the NGO to eliminate some omissions, which could have led to sever penalties, if identified by government auditors.) Moreover, due to the positive results of the MoJ state audit, the School of Political Studies was released from an additional review by the Moscow Prosecutor's Office despite initially being selected as one of 40 Moscow NGOs subject to this additional audit.

Provision of informational and technical support to NGOs

Over 50,000 NGOs benefited from technical and informational assistance provided by the Program and dedicated to increasing legal competence of NGOs. Such assistance was provided in a variety of forms, such as through trainings, dissemination of information via websites, and publications and dissemination of other information relating to NGO- related legislation and initiatives, and to international best practices in the area of NGO law.

- **Trainings**

During the course of the Program, Consortium partners organized and, otherwise contributed to over 1298 events dedicated to increased legal competence of NGOs and/or reforms of NGO- related legislation. Over 50,000 NGOs and activists benefited from participation in such events.

A few examples of such events follow:

- The Consortium's informational campaign, conducted at request and in cooperation with theMoJ, informed NGOs throughout Russia about ongoing reforms in regards to NGO registration and reporting requirements, and temporary suspension of all government's audits of NGOs activities, occurring as a part of governmental administrative reform[9]. By disseminating this information, Consortium helped to stop a number of illegal NGO audits in the Russian regions initiated by confused local FRS officials.
- More than 700 Russian NGO representatives improved their knowledge of Russian NGO legislation, specifically focusing of reporting requirements established in legislation, by participating in 34 roundtables in 31 Russian regions as part of the all-Russia Action, "It's Easy to Follow the Law!," in November and December 2009. These events were organized by the Program, with support of the Ministry of Justice, and resulted, in a greater compliance of NGOs with reporting requirements. The number of NGOs that submitted their reports to the Ministry of Justice grew from 30% in 2008 to 60% in 2010.
- More than 650 participants, including NGO and government representatives, participated in 28 roundtables in 27 regional throughout Russia, within all-Russia campaign initiated by the Program "Who Needs Social Orientation of NGOs," in September 2009. This campaign aimed at informing the NGO community about the legislative amendments introducing the status of Socially Oriented Organizations (SOOs), discussing the existing mechanism for state support of NGOs and developing proposals for regional legislation on support for SOOs. Due to this campaign, NGOs became better informed about the new opportunities provided to them in new legislation, representatives of local authorities became better prepared to implement new law in the regions and more active in drafting regional regulations on distribution of subsidies to SOOs. Perhaps, most importantly, the dialogue and cooperation between government and NGO has been strengthened.
- Over 1,600 participants (Russian and foreign NGO leaders, lawyers and financial manages) took part in 38 Moscow "business breakfasts" and nine business breakfasts conducted in Russian regions since April 2010. Through these regular gatherings the program successfully facilitated advocacy campaigns by helping the stakeholders to find the common ground for legal reforms. The decisions taken as a result of active discussions, and follow up actions contributed to enhancing Russian legislation or preventing the adoption of restrictive acts.

- **Websites/internet resources**
    - LCS's website (www.lawcs.ru) has benefited more than 445,100 visitors. LCS' website has proven itself as an important source of news relating to Russian NGO – related legislation, international best practices, as well as resource to obtain legal advice in the area of NGO law.
    - The "Law and NGOs" (www.nkozakon.ru) operated by ASI in 2006-2009, had over 57,000 visitors, Over 1400 articles relating to NGO legislation and to NGOs activities were published on this website, educating NGOs and the public about

[9] Presidential Decree #724, dated May 12, 2008, dissolved the Federal Registration Service (FRS) as a stand-alone governmental body

NGO- related legislation as well as popularizing NGOs and importance of their activities to people and the State.

- A web portal "Noncommercial Legislation" (September 2010 – September 2012)- www.law-ngo.ru - entirely devoted to NGO law, offered a unique opportunity for discussions and debated among the NGO legal community and those stakeholders and individuals directly affected by existing legal acts and regulations. The opening of this web resource was greeted by Senator Boris Shpiegel, Head of the Council of Federation Commission on the Development of Civil Society Institutions, who mentioned in his letter of congratulations that the creation of the web portal is a good example of fruitful NGO activities in the sphere of enhancing NGO legislation.
- LCS lawyers have maintained an updated comprehensive database of legislation at the regional level, entitled: "On Research of Legally Established Possibilities of Dialogue between Civil Society and Bodies of State Power." This database compiles all legislation regulating available mechanisms of NGO-Government cooperation in all federal regions. Network lawyers collected more than 2,000 legal acts from seven federal regions of the Russian Federation. It is available at http://map.lawcs.ru/.

- **Distribution of materials**

In the course of the Program, over 100,000 copies of materials regarding Russian NGO – related legislation and the international best practices have been disseminated amongst NGOs and other Russian stakeholders. These include for example:

- 17 issues of *Bulletin on Implementation of the New NGO Law* (2006-2009), which was disseminated by ASI amongst 8200 NGOs, almost 2000 mass media, and over 500 government bodies. The Bulletin informed the public about the implementation process of the NGO Law, provided interpretation of the NGO Law, and also offered advice on how to comply with it;
- Ten issues of journal "Non-commercial Overview" in 2007-2009, which informs government representatives about the positive role of NGOs in resolving social issues, were distributed among representatives of the federal and regional state authorities. were distributed amongst hundreds of NGOs and government offices (9990 copies total).
- 104 (More than 100) newsletters and press releases were disseminated by LCS
- Program also prepared and disseminated as hard copes and or through posting on websites, many publications, including the following:
  - O*n Questions and Answers re NGO Taxation* [10] [2008] approved by the Head of the Department of the Federal Tax Service, and providing favorable interpretation benefiting NGOs, of Tax Code provisions, disseminated as hard copies (1000 copies);
  - On *How to Make a Donation in Russia" [2009](in English and in Russian)* , disseminated in hard copies (2000 copies in Russian) and also posted on LSC's web-site;
  - *On NGO Internal Documentation [2009] Disseminated in hard copies* (1000 copies in Russian) and also posted on the LCS web-site..

[10] «Наиболее часто встречающиеся вопросы по налогообложению прибыли некоммерческих организаций», Москва, 2008

- *Political Activities of NGOs: International Law and Best Practices [2009]* (in Eng. and in Rus.)
- *Guide to the Establishment of an Affiliate or Representative Office of a Foreign Non-Governmental Organization in Russia [2010]* (in Eng. and in Rus.)
- *Analysis of the Impact of Recent Regulatory Reforms on NGOs in Russia [2007]* (in Eng. and in Rus.)
- *Answers to Frequently Asked Questions, [2010]* posted on LCS website, in Russian. It was also officially approved by the MoJ and disseminated amongst MoJ's regional departments in August 2011.
- Other.

Monitored the impact of the Russian NGO Law[11]:

- ICNL developed the Monitoring Tracking Tool Guide (hereinafter referred to as "MTT") to help countries assess the impact of enacted legislation. The customized regional MTT was tested in Russia and has helped to assess the impact of the Russian NGO Law. In December 2007, ICNL completed the *Analysis of the Impact of Recent Regulatory Reforms on NGOs in Russia*. The process of assessing the impact of the NGO Law while engaging the key stakeholders in defining objectives and methodology has paid off. The Russian Federal Registration Service (FRS) and, since that agency's reorganization, the Ministry of Justice (MoJ), which assumed the FRS's functions related to NGOs, accepted many of ICNL's recommendations and revised and substantially simplified reporting forms for Russian NGOs.

Objective 2: Improved NGO-related legislation to allow NGOs in Russia to benefit from an enabling regulatory environment.

From October 2006 ICNL and its partners facilitated adoption of the 35 positive modifications to NGO-related legislation and helped to avoid adoption of at least 5 restrictive initiatives. These successes became possible because ICNL, as an "honest broker" with deep technical expertise, is valued by both governments and civil society in Russia. This provided us with access to a range of stakeholders and allowed us to use information to engage stakeholders in a constructive dialogue at the technical level. Utilizing established working relationships with the Council of Federation, State Duma, Ministries of Economics, of Justice, of Finance, of Foreign Affairs, Public Chamber, and other governmental bodies, ICNL provided technical assistance with specific legislation benefiting NGOs. ICNL's firsthand knowledge of practical problem which NGOs face on day- to-day bases, accumulated through the feedback from the network lawyers providing legal consultations to NGOs throughout Russia, and deep knowledge of Russian NGO legislation, in addition to international law and best practices, allowed us to be effective in our efforts to assist with law reforms.

[11] Federal Law of the Russian Federation dated January 10, 2006 # 18-ФЗ, On Introducing Amendments to Certain Legislative Acts of the Russian Federation.

Throughout the Program, one shall note that the legal framework for sustainability of Russian NGOs has been substantially improved overall, in particular, improving environment for local private philanthropy, public financing, and generation of income through sales of goods and services and engaging volunteers. These achievements, so far, have not been diminished even by the most recent negative changes primarily restricting foreign funding and advocacy and political activities of NGOs. A substantial progress was also achieved in minimizing damages from 2006 restrictive amendments to NGO Law[12].

In addition to legislation which was actually adopted with incorporation of the Program's recommendations, there were at least 50 additional initiatives[13], which ICNL and LCS had provided their input to, and which were not adopted for various reasons, many still remaining under the consideration of the Government and the State Duma, after the Program ended.

From October 2006 till May 2013, ICNL prepared and disseminated almost 300 comments, memos and other analytical materials regarding the important issues of NGO legal regulations, participated in multiple working groups working on new legislation, and facilitated government- NGOs hearings and discussions of various initiatives. Below we will provide with a description of the most remarkable successes in regards to reform of legal environment for NGOs:

1. ***Amendments to NGO Law,*** adopted in 2009[14], improved regulation of Russian NGOs, minimizing the damages from the 2006 restrictive amendments to NGO Law. Specifically:
    - NGOs with total annual revenue equivalent of less than USD 100,000, which do not receive foreign funding and do not have foreign founders, are exempt from reporting requirements.
    - Mandatory government audits of NGOs are no longer taking place annually, but rather every three years -- the same as for business entities.
    - Refusal to register a representative office of a foreign NCO may no longer be based on criteria such as "threats to unique character, cultural heritage, or national interests of the Russian Federation."
    - In considering a registration application for an NGO, the registration body may only request documents specified in the law.
    - And other positive modifications introduced by the new law.

These changes are the outcome of the advocacy campaign by Russian NGOs assisted by the Program. ICNL's assistance to the Presidential Council on Civil Society Development and Human Rights (PCCSDHR) in preparation of its meeting with President Medvedev, during which the President accepted the PCCSDHR's proposals to change the NGO law; assistance to the working group appointed by President Medvedev to draft changes into the NGO Law; ICNLs participation in the special working group within the Federal Registration Service's (FRS) Public Council assigned to prepare recommendations on state audits and reporting requirements for NGOs; ICNL's Analysis of the Impact of Recent Regulatory Reforms on NGOs in Russia presenting results of monitoring of

[12] Federal Law of the Russian Federation on Non-commercial Organizations dd. January 12, 1996 (NGO Law).
[13] Activities relating to these initiatives were reported in quarterly reports throughout the program.
[14] Federal Law on Amendments to the Russian Federal Law dd. July17, 2009 No. 170-FZ of January 12, 1996, "On Non-Commercial Organizations" (NGO Law).

implementation of NGO law*;* ICNL's sponsorship of an Analysis of the situation with NGO audits (prepared by GRANI Center and prominent Russian expert Alexander Auzan; ICNL's recommendations to multiple drafts of changes into the NGO law, consultations with the key stakeholders (i.e. FRS, Ministry of Economic Development (MoE), PCCSDHR and others), as well as a broad publicity campaign of importance of changes to the NGO law launched by Consortium partners, made these improvements to the NGO Law possible.

2. ***The Law on Endowments of NGOs*[15]*,*** adopted in 2006, encourages donors to establish endowments in support of certain public benefit activities. In 2011, this law was further improved to allow contributions of stock and real property into the endowments (not just money)[16]. ICNL's participation in the working group assigned to draft this law established by Prime Minister Medvedev, over 10 sets of comments and recommendations, numerous in-person meetings with the governmental drafters and the provision of numerous comparative law materials, as well as informational campaign by Consortium partners, informing and soliciting input from NGOs, all contributed to adoption and improvement of this law.

3. ***Amendments to NGO Law***[17], adopted in 2007, excluded certain types of NGOs from regulation under the NGO Law, including house owners' partnerships, and garden and country house non-commercial citizens' associations. ICNL prepared draft amendments which proposed to exclude these NGOs from the scope of the NGO Law. The recommendations had been followed with a meeting of ICNL's Russian Program Director and a FRS official that contributed to adoption of this legislation.

4. ***Amendments to the NGO Law,*[18]** adopted in 2010, provided base for government's support of NGOs carrying public benefit activities- "Socially Oriented Organizations" (SOOs). The SOOs are those NGOs carrying activities in a broad range of areas outlined by the law, from human rights and free legal aid to social services[19]. SOOs might be eligible for governments financial support (subsidies) distributed based on a competition. ICNL substantially contributed to drafting and promotion of this legislation. ICNL's representative D.Miloslavskaya presentation before the Charity Commission of the Public Chamber in 2007 initially made the case for introducing a public benefit organization status (PBO status) in Russia. Following this meeting ICNL prepared comparative

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[15] Federal Law on Procedure for Establishment and Use of the Endowment for a Designated Purpose of Non-commercial Organizations dd. December 30, 2006, N 275-ФЗ (hereinafter referred to as Law on Endowments of NGOs). In fact, this was a package of laws, including amendments to the Tax Code, amendments to the Law on Non-Commercial Organizations, and amendments to the Civil Code, in addition to the Law on Endowments of NGOs.
[16] Federal Law On Making Changes to the Federal Law of the Russian Federation on Procedure for Establishment and Use of the Endowment for a Designated Purpose of Non-commercial Organizations dd. November 21, 2011 г. N 328-ФЗ.
[17] Federal Law dd. November 29, 2007, № 278-FZ On Introducing Changes into Article 1 of the Federal Law On Non-commercial Organizations,
[18] Federal Law dd. April 5, 2010 N 40-FZ on Amendments to the Federal Law on Non-commercial Organizations.
[19] Federal Law dd. December 30, 2013 325-FZ On Introducing Amendments to Article 31-1 of the Federal Law "On Non-Commercial Organizations further extended the list of activities of socially oriented organizations with the activity aimed at anti-corruption and interethnic cooperation was the result of our previous efforts.

analysis of regulation of PBOs in various countries, which was shared with the President's administration, the MoE, and broadly publicized amongst other stakeholders by the Program. In 2007 at the invitation of the Council of Federation Commission on Civil Society Institutions Development, ICNL testified at the relevant public hearings and, at request of the Commission, committed to assist with developing a concept paper for NGO state support. In 2008-2009, ICNL and LCS had been working closely with the MOE to develop a concept for legislation on SOOs, providing multiple sets of recommendations and participating in numerous consultations with the government and NGO drafters. In April 2010, right before the consideration of the SOO law in the State Duma, ICNL facilitated and contributed to organizing public hearings on the draft Law at the Public Chamber. Following adoption of the law, ICNL continued assisting the MoE with drafting implementing regulation, many of which were also incorporated into final regulations[20]. The Russian Federal Government[21] allocated over $28 million to support SOOs in 2011 and almost $53 million in 2012. So far, in 2013 year, subsidies to SOOs organization constituted approximately $9 million. Subsidies to SOOs provided for a substantial source of income for many Russian NGOs.

5. ***Amendments to the Federal Law on the Organization and Holding of the XXII Winter Olympic Games,***[22] adopted in July 2010, for the first time permitted NGOs to engage volunteers. Before the appearance of this law only charitable organizations could engage volunteers. ICNL directly contributed to drafting and promotion of this legislation. In November 2009, at a meeting of Organizational Committee Sochi-2014, ICNL was requested to prepare amendments to Russian legislation to improve regulation of volunteer's legal status and activities. These amendments were prepared and presented to the Committee in November, 2009. In addition, ICNL had shared with the governmental drafters a number of comparative research materials, specifically, ICNL's research papers *On Legislation on Volunteers and Volunteerism in Eastern Europe and in Eurasia* (dd. 2008); *On Laws and Policies Effecting Volunteerism Since 2001* (dd. 2010). This cooperation provided an opportunity to advance reform of legislation on NGO volunteers. In July 2010, Amendments to the Federal Law on the Organization and Holding of the XXII Winter Olympic Games were adopted, incorporating ICNL's proposals regarding the notion of NGO volunteers.

6. **Amendments to Decree of the Government of the Russian Federation #212**,[23] which came into effect on April 10, 2007, substantially simplified reporting requirements for religious organizations. ICNL contributed to this important development by providing assistance with the preparation of the U.S. Commission on International Religious Freedom's (USCIRF) Report, "Challenges to Civil Society: Russia's Amended Law on

[20] The MoE Order № 465 dd. September 8, 2011 to implement Federal Government Decree № 713 dd. August 23, 2011.
[21] Russian Federal Government Decree # 713 dated August 23, 2011.
[22] Federal Law dd. July 2010 on Amendments to the Federal Law on the Organization and Holding of the XXII Winter Olympic Games and XI Winter Paralympics Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climate Health Resort and on Amendments to Certain Legislative Acts of the Russian Federation.
[23] This Decree came into effect on April 10, 2007, and postponed submission of reports until June 1, 2007.

Non-Commercial Organizations," and advising the USCIRF on the developments in Russia during their negotiations and assistance to Russia's religious groups.

7. ***Amendments to the Tax Code.***[24] The tax treatment of Russian NGOs and their supporters has substantially improved through the adoption of over 20 amendment**s** to the Russian Tax Code in 2011, drafted with assistance provided by ICNL and LCS. According to new Tax Code provisions:
   - NGOs do not have to pay profit tax or value added tax (VAT) on the value of in-kind contributions (services or property rights)[25] they receive. Previously, NGOs had to pay profit tax at the rate of 20% of their taxable income on the assessed value of, for example, office rent, even if the office had been leased to them for free. NGOs would also have to pay profit tax on the value of a gratuitous cleaning service or free use of copyrighted material. In addition to profit tax, NGOs also had to pay VAT on the market value of such assistance. Many NGOs, especially those who had a limited cash flow, declined such assistance from businesses or government when they could not afford to pay profit and VAT tax on the value of such assistance. This is no longer the case;
   - individuals can deduct from their taxable income the amount of contributions to charities up to 25% of their taxable income;
   - individual recipients of charitable aid are exempt from income tax on amounts of this aid;
   - certain social services provided by NGOs are exempt from VAT. The amendments extend VAT exemptions previously applied to state budget funded institutions providing social services (i.e. in the areas of culture, art, health care, education, and services to the needy) to NGOs providing the same services.[26] The equal VAT treatment benefits NGOs in multiple ways: attract new services providers and help eliminate the deficit of social services, help to increase the quality of social services by increasing competition amongst social services providers for governmental and public funds, contribute to NGO financial sustainability, and strengthen NGO relationships with the beneficiaries of social services;
   - new amendments encourage NGOs to carry out economic activities by allowing them to accumulate savings to secure future expenses relating to economic activities (establish a reserve fund). Assets to be contributed into such a fund are considered as expenses, deductable from taxable income for the purposes of profit tax.[27] The maximum amount of contributions into a reserve fund is limited to 20% of the gross revenue over the reporting period. Establishment of a reserve fund will help NGOs to better plan economic and other statutory activities. The reserve fund will put the NGO in better standing when it seeks a loan from a financial institution, and will also allow it to better protect the interests of other organizations that engage in business transactions with NGOs;

[24] Federal Law # 385319-5 "On Introduction of Changes into Part Two of the Tax Code regarding Amendment of NGOs and Charitable Activities Taxation" was adopted on July 5, 2011.
[25] Section 251.2.1) of the Tax Code as amended (hereinafter we make statement "as amended" when references sections of the Tax Code had been amended in July 2011, the set of amendments that we are commenting on).
[26] Section 149.2 of the Tax Code as amended.
[27] Sections 265.119.3 and 267.3 of the Tax Code as amended.

- volunteers are exempt from paying income tax on the amounts of compensation they receive for rent, transportation, meals and social insurance when they work in dangerous conditions;
- social advertisements (also called "public service announcements" (PSAs)) received a new boost through the adopted amendments. First, the amendments relieved mass media outlets who gratuitously post/broadcast PSAs from paying VAT on the assessed value of the PSAs. Previously, many mass media outlets were reluctant to post PSAs because they were required to charge VAT based on the cost of advertisements of similar scope. Since NGOs and government authorities almost never paid for the PSAs they requested, mass media outlets were forced to pay the VAT[28] themselves. Mass media outlets considered this additional cost a reason to avoid posting PSAs. Second, the amendments now allow mass media outlets and other organizations to deduct expenses incurred through the production of PSAs from their gross income for the purposes of profit tax[29]. Prior to the amendments, organizations could not deduct expenses related to the production of PSAs from their gross income[30] and therefore ended up with a greater amount of taxable income and higher profit tax when they produced PSAs. Permitting the profit tax deduction and well as VAT exemption will incentivize the production and publication of PSAs.

ICNL and LCS have been assisting the MoE and MF with these amendments since the beginning of 2010. They produced over 20 sets of comments and recommendations, including drafts of the amended provisions. In 2008, based on recommendations from ICNL and other Russian NGO experts, the MoE prepared and presented a Draft Concept on Promotion of Charitable Activities and Voluntary Work in the Russian Federation. ICNL and LCS provided their comments in December 2008 and continued to participate in the work of the working group under the auspices of the MoE. ICNL and LCS also had been disseminating drafts under consideration amongst NGO experts and soliciting their input, conducting discussions of the necessary tax reforms amongst NGO experts and facilitating public discussions of the proposed amendments using various forums, i.e. the Program's events (such as monthly business breakfasts, Public Chamber public hearings, experts meetings at the MoE, etc.) Many of ICNL's and LCS's recommendations were incorporated into the adopted Tax Code amendments. Following these amendments, tax treatment of Russian NGOs might be considered amongst the best in the Eurasia region.

8. ***Amendments to the Federal Law on Charities and Charitable Organizations***[31] adopted in January, 2011, improved legal environment for charitable activities and for volunteers. Specifically, amendments expanded list of charitable activities, which allow NGOs to use tax free donations for implementation of a broader list of activities compared with previously allowed. For example, free legal advice was added to the list of such activities. The amendments also introduced regulations for a special type of volunteer contract that

[28] VAT at 10% -18% according to Section 164 of the Tax Code.
[29] Section 264.1.48.4 of the Tax Code as amended.
[30] Section 252 of the Tax Code.
[31] Federal Law #383-FZ of December 23, 2010, on Amending the Federal Law "On Charitable Activity and Charitable Organizations" and Article 7 of the Federal Law "On the Insurance Contributions to the Pension Fund of Russian Federation, the Social Insurance Fund of the Russian Federation, the Federal Compulsory Medical Insurance Fund and Regional Compulsory Medical Insurance Funds".

allows more safety protection for volunteers in the workplace, the possibility to obtain health insurance and safety insurance, and other safeguards. In addition, amendments exempted payments to volunteers reimbursing their related expenses, from 34% social insurance payment (calculated based on the paid reimbursement amount and which was used to be paid by NGOs to the government in addition to the cost of reimbursement). ICNL proposed these amendments to the MoE and to the Ministry of Finance (MoF) in 2008, and conducted numerous meetings and consultations with governmental drafters and deputies, which resulted in adoption of these amendments.

9. ***The MoJ's Order on Posting NGOs reporting Forms on Line,***[32] adopted in October 2010, further simplified reporting requirements for NGOs by making it possible to complete and submit the reporting forms online http://unro.minjust.ru/ (instead of delivering hard copies). ICNL and LCS contributed to this legislation by participating in the working group with the MoJ authorized to work on improving reporting requirements or NGOs, and by submitting our recommendations to the MoJ, which were accepted.

10. ***Amendments to the NGO Law*** repealing new restrictive legislation expanding authority of government bodies to audit NGOs were adopted in November 16, 2011[33]. This restrictive legislation, adopted in July 2011, was substantially expanding the list of reasons why a government body can conduct an "unscheduled" (for an NGO-unexpected) audit, making it much broader than the list of reasons for unscheduled audits of businesses, and basically allowing such audits at government's discretion. In September 2011, following ICNL's recommendations and under initiative of Mr. Fedotov, the Head of the Council on the Development of Civil Society and Human Rights under the President of the Russian Federation, the State Duma deputy Mr. Plighin initiated amendments to the NGO Law to recall the newly adopted amendments. These amendments were adopted. We can recall no other situation in which the Duma repealed legislation it adopted less than six months ago, and we are proud to contribute to this success.

11. ***Withdrawal of the draft of Federal Law on Introducing Changes to Some Legislative Acts of the Russian Federation in the Area of State Registration of Non-Commercial Organizations*** from the government's agenda The draft law proposed to expand the list of reasons to deny registration of NGOs in Russia. At the end of 2006, at the request of the governmental partner, ICNL prepared a comparative analysis of the proposed provisions in the draft law and provisions governing registration denial in other countries, specifically, France, Germany and Spain (countries of interest to the drafters). The purpose of the comparative study was to consider whether the Russian law's provisions (both existing at the time and those of the proposed law) were comparable to practices towards NCOs in the identified European countries, and whether the proposed grounds for

[32] Order of the Ministry of Justice of the Russian Federation dd. October 7, 2010, N 252 On Procedure for Posting Reports on Activities and Information on Continuation of Activities of Non-commercial Organizations on Internet.
[33] Federal Law dd. November 16, 2011 On Introducing Changes to Certain Legislative Acts of the Russian Federation on Issues of Implementing State Control (Supervision) and Municipal Control.

denial of registration are justified. ICNL provided its comments on the mentioned above draft of the Federal Law which were disseminated to the interested parties. As a result the Concept was not approved.

12. ***The Federal law "On Introducing Amendments in some Legislative Acts of Russian Federation related to Rates of the Insurance Contributions to State Insurance Funds"*** was adopted on December 3, 2011. The Federal law scheduled to come into effect in 2012-2013, reduced rates of insurance payments (from the original 34% to 30% and even 20% for certain types of taxpayers). However, the reduced rates did not apply to NGOs. LCS and ICNL prepared and sent to the Council of Federation Sub-Commission (CF Sub-Commission) on the Development of Civil Society**,** our proposals on reducing insurance payments rate in regards to NGOs. Resulting our recommendations, charitable NGOs using a simplified tax system were permitted to pay the reduced rate of 20% of each employee's salary to the Pension Fund. In addition, NGOs in the sphere of social services, scientific research, education, public health, culture and arts (theatres, libraries, museums and archives) and sports, using a simplified tax system and meeting a number of other conditions, were also allowed to use the reduced rate of 20%.

13. ***Avoiding adoption of the Federal Draft Law on Introducing Changes to Some Legislative Acts of the Russian Federation in the Area of State Registration of Non-Commercial Organizations.*** The draft law proposed to expand the list of reasons to deny registration of NGOs in Russia. ICNL received the draft from one of its contacts with Russian Government, with informal request for comparative analysis of the draft with some European countries. In its analysis, ICNL documented how France, Germany and Spain (countries of interest to the drafters) dealt with the concerns leading to the proposed criteria for registration denial in the draft law. ICNL distributed its analysis of the mentioned above draft law amongst interested parties. As a result, the draft law was not approved.

Fare to say, not all ICNL's efforts resulted in success, and several restrictive pieces of legislation were adopted by the Russian government throughout the program. Specifically:

- Russian Governmental Decree # 485, dated June 28, 2008[34], required all foreign organizations to apply to be included on the Government–approved grantor's list in order for their grants to be income tax-free for Russian recipients. The new procedure is very bureaucratic and vague. It basically excluded all foreign NGOs from the Government's pre-approved list of grantors eligible to provide tax free grants to Russian recipients (hereinafter referred to as the "list"). Only 12 organizations, each covered by multi-governmental agreements, will remain on the list and will not have to obtain new accreditation.
- On June 8, 2012, President Putin signed a law introducing severe penalties for violation of the law on meetings. On July 13, 2012 the Russian Duma adopted legislation which requires that NGOs register

[34] Resolution of the Government of the Russian Federation dd. June 28, 2008 # 485 Regarding the list of international organizations whose grants (free aid) obtained by Russian organizations shall be tax exempt and shall be accounted for as taxable income of taxpayers – recipients of such grants .

with the Ministry of Justice (MoJ) if they plan to receive funding from any foreign sources and if they intend to carry out political activities broadly defined as trying to influence government policy and public opinion. The law would potentially impose new burdensome reporting and audit requirements on such NGOs as well as severe criminal and administrative penalties for violation of these requirements. On December 28, 2012, the President signed another law which, amongst other provisions, further restricts activities of NGOs. The latter provisions call for suspension of activities of Russian NGOs which participate in political activity and receive monetary and other assets from the US citizens and organizations, or implement projects, programs or other activity on the territory of the Russian Federation that constitute threats to the interests of the Russian Federation. Additional new laws restricting civic space include a regulation on the Internet, and the changes to the articles on defamation and on treason to the Criminal Code.

Deficiencies in NGO-related legislation continue to pose difficulties for organizations and threaten the ability of civil society to provide oversight of government and private institutions and provide services to their communities

Objective 3: Increased capacity of local lawyers to provide specialized legal assistance to NGOs

The Program successfully promoted professional development of lawyers to enable them better protect NGOs, improve NGO compliance with regulations, and advocate for an enabling legal and fiscal framework for NGOs.

Prior to the Program, there were a few lawyers throughout Russia who specialized on provision of assistance to NGOs (NGO Lawyers). These few lawyers had had extremely limited communication or exchanges of experiences among themselves (with the exception of Moscow, where such lawyers at least knew of each other). As “single warriors,” most NGO lawyers were not able to organize themselves to collectively advocate for or against legislation, or to share experience and knowledge in terms of implementation of NGO legislation, issues facing by NGOs, and their solutions. They often missed important legislative developments, and overall, were less effective in their assistance to NGOs.

The Program helped to increase the capacity of Russian NGO lawyers by helping them to organize a professional network, under the management and assistance of the Program and LCS. Over 300 lawyers and NGO experts benefited from the program by being included into Programs’ distribution lists, participating in Programs ‘events, and receiving assistance with legal consultations and research.

Over 30 NGO lawyers located throughout Russia voluntarily united their efforts into a network. The Program had been providing this network of lawyers with informational support and professional development. The network, under the auspices of LCS, has gained a reputation as a valuable resource for legal advice for thousands of NGOs. The impact from the network’s work is described under Component 1 of the Program’s Final Report.

The Program provided the network lawyers and other NGO lawyers who subscribed for assistance, with assistance in the following forms:
1. Providing technical support to regional lawyers from the LCS network as they consult on the most complex legal issues; distributing new laws and regulations, commentary, and (v) providing technical assistance with research, analytical and drafting projects implemented by NGO lawyers, at their request, for example:

- LCS sent out 84 newsletters (starting from 2009) informing NGO lawyers and experts on the news in regards to NGO legislation, implementation practices and legislative initiatives soliciting their input in regards to the later.
- LCS network lawyers assisted at least 300 lawyers of commercial and non-commercial organizations on NGO legislation, providing them with legal advice and consultations.

2. Building capacity of young lawyers through internships at ICNL's Moscow office or with LCS office. LCS developed a special internship program for law students to enhance their knowledge of NGO-related legislation and to build their capacity to serve the NGO community. Under this program almost 76 law students were placed in the LCS office and with regional NGOs. Under the supervision of ICNL and LCS staff, the interns carried out different legal tasks, participated in ICNL and LCS events, and facilitated legal assistance to the host NGOs. Under the supervision of LCS staff, the interns carried out different legal tasks, participated in ICNL and LCS events, and provided legal assistance to the host NGOs.

3. Facilitating of experts meetings to enhance their knowledge and exchange of experience in practicing NGO-related legislation. In addition to the immediate transfer of knowledge, opportunity for planning common actions and advocacy, these meetings and consultations contribute to the better communication within NGO legal expert community. For example:

- Expert meeting aimed at elaborating proposals for the Federal Program on State Support of SOOs, organized by the President's Expert Council on Civil Society Institutions and Human Rights in cooperation with Ministry of Economic Development, assisted by the Program (March, 2010);
- Expert meeting in the Public Chamber, "Problems with NGO Legislation Enforcement Practices in the Russian Regions: Lack of Common Interpretation or Selective Liberalization?" facilitated by the Program. Results of this meeting were sent to the Ministry of Justice by the Public Chamber Working Group on Charity (April, 2010).
- Workshop "NGO Legal Auditing Procedures" during which experiences with NGO legal audits were discussed and guidelines for future NGO legal audits were developed (December 2009);
- An expert roundtable on implementation of NGO legislation in the regions was organized by the program jointly with the Public Chamber. MoJ officials and NGO lawyers shared their experience and identified the inconsistencies with implementation of certain provisions (June 2011).
- The Program hosted the expert's meeting regarding the classification of NGO activities in the All-Russian Classified Index of Economic Activities. The existing system of classified indexes of economic activities does not include specific NGO activities. This presents certain difficulties during the registration process both for NGOs and MoJ as well as for State Statistics Service (Rosstat). Without such a classification, it is impossible to calculate and present a complete overview of NGOs' contribution to the national economy. Following this meeting, two lists of indexes were compiled by the Program with

engagement of NGO experts – one for non-commercial activities and another for entrepreneurial activities of NGOs. They are currently being considered by the government. (August 2011)

- An expert meeting regarding the procedure of the registering NGOs - foreign agents took place in October 2012 and was organized jointly by LCS and Public Chamber. Over 30 NGO experts and lawyers took part in it.

The LCS, as a Russian NGO uniting NGO lawyers on professional bases, is a success of the program of its own. It serves as a trustworthy source of legal assistance and information about NGO law to thousands of NGOs throughout Russia. The Russian government, at national and local levels, often references LCS's expertise in drafting legislation or providing trainings to government officials. Its website, www.lawcs.ru provides NGOs and other stakeholders with information about Russian NGO law and related initiatives. It received over 359,000 visitors by June 30, 2012. Furthermore, LCS is becoming more financially sustainable by generating funds through a variety of sources. In 2011-2013, LCS generated over 50% of its funds from its provision of legal services and from government grants and contracts.

III. Comments and Recommendations

Despite the Program's successes, many challenges remain as a legislative backlash against Russian civil society has gained momentum in the past year. There have been several negative developments in the legal environment of NGOs. On June 8, 2012, President Putin signed a law introducing severe penalties for violation of the law on meetings. On July 13, 2012, the Russian Duma adopted legislation which requires that NGOs register with the Ministry of Justice (MoJ) if they plan to receive funding from any foreign sources and if they intend to carry out political activities broadly defined as trying to influence government policy and public opinion. The law would potentially impose new burdensome reporting and audit requirements on such NGOs as well as severe criminal penalties for violation of these requirements. On December 28, 2012, President Putin signed another law, which prohibits Russian NGOs to receive funding from US sources and to carry political activities and activities contradicting Russia's national interests, amongst others. In 2013 hundreds of Russian NGOs, especially advocacy and human rights groups have been subjected to government's audits and substantial fines for minor offences, affecting thousands more NGOs, which slowed down or even suspended their activities in fear of being audited and harassed by the government. No doubts, deficiencies in NGO-related legislation continue to pose difficulties for organizations and threaten the ability of civil society to provide oversight of government and private institutions and provide services to their communities.

The following serious problems continue to prevent NGOs from carrying out their activities in Russia:

1. Deficiencies in the legal environment hinder the ability of NGOs to fulfill their missions. For example, the new law on foreign funding for Russian NGOs and a lack of clarity in the legal provisions could result in termination of NGO activities and criminal liability for their managers;

2. Weak compliance of NGOs with federal and local regulations, which creates vulnerability in government's audits. Compliance is weak due to NGOs ignorance of their legal and financial responsibilities and to unclear regulations; and
3. Lack of competent legal assistance and accessible legal information for NGOs.

Assistance with improving legal environment for Russian NGOs remains to be extremely critical, as it is uniquely placed to provide NGOs the legal help they need to survive in the current environment.