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Analysis of Law # 18-FZ
On Introducing Amendments to Certain Legislative Acts
of the Russian Federation¹

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Introduction

The International Center for Not-for-Profit Law (ICNL) is pleased to present this analysis (the “Analysis”) of the Federal Law of the Russian Federation # 18-FZ *On Introducing Amendments to Certain Legislative Acts of the Russian Federation* (“the Law”). The Law was signed by the President of the Russian Federation (“RF”) on January 10, 2006, and will come into effect within 90 days of its official publication on January 17, 2006.

The Law’s new provisions will affect significantly both Russian and foreign organizations carrying out activities in Russia. It is difficult to forecast at this time all of the possible ramifications of the Law, as much will depend on how its provisions are implemented. The Law includes a number of ambiguous provisions that may require elaboration in regulations yet to be promulgated. In addition, the development of appropriate regulations, forms, and guidelines could alleviate some of the perceived burdens imposed upon civil society. Continued monitoring of the Law’s implementation will be crucial to a complete assessment of its impact.

With these caveats, we analyze the major provisions of the Law. The Law amends four current laws – the Civil Code, the Law on Public Associations, the Law on Non-profit Organizations, and the Law on Closed Administrative Territorial Formations.² As certain of the amendments to the Law on Public Associations and to the Law on Non-profit Organizations are similar or identical, we

¹ Federal Law of the Russian Federation # 18-FZ *On Introducing Amendments to Certain Legislative Acts of the Russian Federation* dated January 10, 2006. This Analysis was prepared under the auspices of the USAID-funded project “Civil Society Unites for Legal Reforms Relating to NCOs.”

² The Civil Code of 1994, the Federal Law of the Russian Federation # 82- FZ *On Public Associations* of May 19, 1995 (“LPA”), the Federal Law of the Russian Federation #7-FZ *On Non-commercial Organizations* of January 12, 1996 (“LNCO”) and the Federal Law of the Russian Federation #327-1 *On Closed Administrative Territorial Formation* (“LCATF”).

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will address provisions topically. Because the application of the Law will present a number of interesting questions, we will not only present international and comparative analysis regarding its provisions, but will also consider the practical consequences of these provisions for Russian civil society. We will first summarize the provisions of the Law at issue, then present analysis of the provisions and their potential consequences.

We would like to acknowledge Russian experts Alla Tolmasova and Yuriy Djibladze, who work with the “Civil Society Unites for Legal Reforms Relating to NCOs Project,” for the materials they have developed regarding the law and for providing review of this Analysis. We have also referenced frequently the Council of Europe’s incisive opinion on the draft of the Law.³

Executive Summary

The Law introduces a number of new requirements for public associations (PAs), non-commercial organizations (NCOs), and foreign nongovernmental non-commercial organizations (FNNOs). These new requirements restrict who may form an organization in the RF, expand the grounds on which registration may be denied, and expand the supervisory powers of the state over organizations. Several of these provisions raise concerns about the RF’s compliance with its obligations under the European Convention of Human Rights (ECHR) and other international agreements. Specifically, the RF has the obligation under ECHR Article 11 affirmatively to protect the right to association, and may only interfere with the exercise of that where “necessary in a democratic society” for compelling state reasons.

The major changes to the laws governing PAs, NCOs, and FNNOs include:

- *Denial of Registration.* The law expands the ground on which the registration authority (“Rosregistration”) may deny registration to organizations. The provisions relating to denial of registration for branches of FNNOs are of special concern. The Law now provides that the registration authority may deny registration to a branch if its “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.” The European Court of Human Rights has specifically held that it is not consistent with a country’s obligations under Article 11 of the ECHR to deny registration on grounds almost identical to these.
- *Expanded Government Supervisory Powers.* The Law increases the reporting burden on organizations by among other things requiring them to report of all funds received from foreign sources and how these are allocated or used. In addition, the Law gives to the government invasive powers to interfere in the internal operations of a PA, NCO, or FNNO. These include:
 1. *The power to summon resolutions of the organization’s governing body.* The registration authority now has the ability to demand documents dealing with the details of an organization’s governance, including day to day policy decisions, supervision of the organization’s management, and oversight of its finances.
 2. *The power to send representatives to an organization’s events.* The Law even allows the government to send a representative to all of an organization’s events, without restriction. Thus, government representatives can attend strategy meetings of advocacy groups, board meetings, and other meetings that are strictly internal to the organization.

³ Van der Ploeg, J. Tymen, and Secretariat General of the Council of Europe, *Provisional Opinion On Amendments To Federal Laws Of The Russian Federation Regarding Non-Profit Organisations And Public Associations*, (December 1, 2005) (“CoE Opinion”).

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This power will have a chilling event on the ability of organizations to hold events, and on the willingness of members, service recipients, and other people to attend. This provision is inconsistent with Article 8 of the ECHR protecting the right to privacy, which protects against arbitrary interference by authorities in activities or premises.

3. *Supervisory powers over FNNOs.* The Law provides the registration authority with two additional intrusive supervisory powers over the branches, representative offices, and affiliates of FNNOs. The government can terminate implementation of any existing program of a subdivision of an FNNO.⁴ The Law does not provide any guidance with respect to the grounds on which the government may make this decision, which appears to be entirely discretionary. The Law also allows the registration authority to ban the transfer by an FNNO's branch, representative office, or affiliate of funds or other resources to particular recipients for the purposes of "protecting the basis of the Constitutional system, morality, health, rights and lawful interests of other persons, and with the aim of defending the country and the state security." The broad discretion granted under these provisions to interfere in the operations of a branch is inconsistent with Article 11.
- *Restrictions on who may found a PA or NCO.* The Law introduces a new requirement that a foreign national or stateless person must be domiciled in the RF in order to found, participate, or join a PA or NCO. This requirement raises a number of troubling questions about the RF's compliance with its obligation to protect the right to associate under international conventions to which it is a party. Specifically, the RF has the obligation, under the European Convention on Human Rights (ECHR) to secure the rights protection by the Convention to "everyone within" its jurisdiction.

In addition, the Law prohibits certain categories of persons from founding, joining, or participating in PAs or NCOs. Among these are foreign nationals whose stay in the RF is found to be "undesirable." Certain federal authorities have the right to determine that it is "undesirable" for a foreign national to remain in the RF, and these agencies have complete discretion to set their own rules for making that determination.

These provisions raise grounds for concern, and it will be critical to monitor implementation of the Law in order to determine the extensiveness of the practical problems arising from the Law.

⁴ LNCO, Article 23¹.

Analysis of Amendments to the Law on Public Associations and the Law on Non-profit Organizations

1. Denial of State Registration

The Law states the grounds on which the state may deny registration of an NCO. These include:

- the NCO's statutes are contrary to the Constitution or the legislation of the RF;
- the NCO has the same name as a registered NCO, or a name that offends public morality, national and religious feelings of citizens;
- the NCO fails to submit required documents conforming with the Law, fails to execute its documents properly, or submits them to the wrong authority; and
- a proposed founder does not meet the criteria for founders set forth in the Law.

In addition, the Law provides new grounds for denial of registration of a branch of a foreign organization. These include:

- its goals are contrary to the Constitution or the legislation of the RF;
- its goals "may create a threat to the sovereignty, political independence, territorial integrity, national unity, unique character, cultural heritage and national interests of the Russian Federation"; or
- it was previously registered but liquidated on the grounds of a gross violation of the Constitution or legislation of the RF.

The Law also states the procedures for denial of registration, and appeals from denial.

These provisions expand the grounds on which registration may be denied to branches of FNNOs and NCOs.

- *FNNOs*. A branch of an FNNO is an independent legal entity that is registered under the Law on Non-commercial Organizations. It is distinguished from representative offices and affiliates, which are not independent legal entities. These remain under the legal control of their parent organizations, and do not register but instead provide "notification" (addressed below in section 5.)

The provisions relating to denial of registration for branches of FNNOs are of special concern. The Law now provides that registration authorities may deny registration to a branch if its "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."

The right to form a not-for-profit organization to pursue common goals has been recognized under international law as protected by the right to free association.⁵ This right may not be limited except where prescribed by law and necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. Only "convincing and compelling" reasons can justify restrictions on the right to associate and restrictions must be "construed strictly."⁶

⁵ See *Sidiroupoulos v. Greece*, 4 Eur. Ct. H.R. 500 (1998).

⁶ See *Sidiroupoulos v. Greece*, 4 Eur. Ct. H.R. 500 (1998); *United Communist Party v. Turkey*, 4 Eur. Ct. H.R. 1 (1998).

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The European Court has specifically addressed the application of grounds to deny registration similar to those articulated in the Law, and found that they are not “necessary in a democratic society.” In *Sidirououlos v. Greece*, a Greek court denied the registration of an association on the ground that its purpose was not, as claimed, the promotion of local culture, but rather, “the promotion of the idea that there is a Macedonian minority in Greece, which is contrary to the country’s national interest and consequently contrary to law.”

The Greek government asserted that its objection to the registration of the association was necessary to uphold “Greece’s cultural traditions and historical and cultural symbols.” The European Court found that this did not constitute a legitimate state aim which could be used to restrict the right to associate under Article 11, noting that “[e]xceptions to freedom of association must be narrowly interpreted, such that the enumeration of them is strictly exhaustive and the definition of them necessarily restrictive.”

The Court went on to consider whether denial of registration was necessary to protect one of the state aims enumerated in Article 11 – the protection of national security and prevention of disorder. It found:

Territorial integrity, national security and public order were not threatened by the activities of an association whose aim was to promote a region’s culture, even supposing that it also aimed partly to promote the culture of a minority; the existence of minorities and different cultures in a country was a historical fact that a “democratic society” had to tolerate and even protect and support according to the principles of international law.

The Court accordingly found that denial of the association’s registration violated Article 11.

The grounds for denial of an FNNO’s branch do not meet the strict limitations set forth in Article 11. Terms such as “threat to . . . territorial integrity,” “national unity,” “unique character,” or “cultural heritage” go well beyond the limited grounds articulated in the Article and therefore cannot be considered legitimate state aims that justifying restriction of the right to associate.

The Law’s grounds for denial of a branch are also ambiguous and subjective, and leave broad discretion leave broad discretion in the hands of government officials to determine whether an organization’s activities are problematic. Even Russian experts have been unable to explain the meaning of “objectives creating a threat to the unique character.” These vague provisions can not meet the standards outlined under the ECHR for restricting the right to associate.⁷

- *Written notice of denial.* The registration authority is not obliged to substantiate its reasons for denying registration to a branch in writing, with reference to exact provisions of the Constitution and the legislation of the RF. The registration authority must only “notify the applicant of the grounds for denial,” and this can be done verbally. This procedure is lacking in basic fairness. An applicant is entitled to written notice of the reasons that its application is denied so that it may take appropriate action, whether by correcting the defect or taking an appeal. This is particularly troublesome in light of the broad and ambiguous grounds on which registration can be denied, as officials can exercise unfettered discretion in making registration decisions, with no incentive to substantiate their decisions and little chance that these decisions can be questioned.

⁷ The CoE comments prepared while the Law was under consideration underscore that the grounds for refusing registration are too broad and vague – they “lend themselves to subjective determinations and are so broad that they may easily be abused. In addition, they suggest a second-guessing or speculation about the true intentions of the founders of the organization,” contrary to the European Court of Human Rights’ emphasis that the validity of a registration can only be judged based on the information presented in the application.

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The new procedure will further complicate the appeals process. It will be difficult for applicants to prepare appeals, and equally difficult for appeals courts to act, without an appropriate written record.

- *NCOs.* Formerly, registration of an NCO could only be denied if the required documents were not filed or if the documents were filed with the wrong government authority.⁸ Now, the registration authority may deny registration if an NCO presents by-laws that are contrary to the Constitution or legislation, if it has the same name as another NCO or if it is one that offends public morality or the national or religious feelings of citizens.

The grounds for denial, although broader than before, are for the most part in line with grounds used in other countries. The provision allowing for denial of registration to an NCO that presents a name that “offends public morality or national or religious feelings of citizens,” however, is too broad and vague, and leaves substantial discretion in the hands of registration officials to deny registration.

- *PAs.* The Law makes technical changes to the LPA. The denial of state registration of a PA may be appealed to a court or a higher registration authority - if the registration decision was made by a regional branch of Rosregistration, it can be appealed to the national Rosregistration authority. PAs may apply for registration after previously having been denied if they correct the shortcomings that led to the denial.

⁸ See Russian Federation Law #76-FZ *On State Registration of Legal Entities and Private Entrepreneurs* of June 23, 2003 (“Law on Registration of Legal Entities”).

2. New authority to exercise control over the activities of PAs and NCOs.

The Law adds new reporting requirements for PAs and for NCOs. It further provides new powers to government authorities to supervise PAs and NCOs.

PAs must now provide the registration authority with information about funding and property obtained from international and foreign organizations, and foreign nationals and stateless persons. They must further provide information about how they have allocated or used these resources. The reporting schedule and procedure will be established by the government in a forthcoming regulation.

NCOs must now report on their activities, and on the composition of their governing bodies. They must further report on their use of funds and other assets received from both foreign and local sources. The reporting schedule and procedure will be established by the government in a forthcoming regulation.

An organization that repeatedly fails to provide the required information may be sued in court by the registration authority for an order stating that it has terminated its activities as a legal entity and removing it from the Unified State Register of Legal Entities.

The Law also gives the registration authority new supervisory powers over both PAs and NCOs, including the powers to:

- Summon resolutions of the organization's governing body;
- Send representatives to an organization's events
- Review, not more than once annually, the extent to which an organization's activities comply with its statutory goals, including review of its expenditures and property management; and
- Summon from certain government authorities, and from investment and financial institutions, information regarding an organization's financial and economic activities.

The Law gives the registration authority the ability to issue written warnings to an organization's management. The warnings must specify concrete grounds for the warning, and state a time period of not less than a month in which the violations identified must be remedied.

Generally speaking, supervision of PAs and NCOs is exercised by Rosregistration, the Procurator's Office, Federal Tax Inspection, and the tax police, among other government bodies. The Law adds new reporting requirements, and provides new supervision powers.

- *New reporting requirements for PAs.* As of the Law's effective date, PAs will be required to submit information about the funding and property they receive from foreign and international organizations and foreign persons to the registration authority.⁹

The Law contemplates that regulations will be issued setting deadlines for submission of reports and establishing the reporting procedure. The Law does not specify what will be included in the reporting procedures, but additional guidance on a number of issues would be helpful to organizations attempting to comply. These include:

- the reporting schedule;
- the form of reporting;
- the availability of less burdensome means of reporting for small organizations;
- the availability of exemptions from the requirement for small amounts of funding;
- the categories in which the use of funds may be reported (e.g., grants or aid to beneficiaries, employee salaries).

⁹ See Articles 29 and 38 of the LPA.

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A regulation that addresses these issues might ameliorate some of the burden of complying with the requirement imposed on both the government and the NGO community.

One of the principal concerns with respect to the Law is that it vests the government with authority to collect information that does not appear to be tied to any specific regulatory goal articulated in this or other laws. For example, it is certainly reasonable, when an organization receives tax benefits, such as exemptions, for the state to seek reporting on information relating to the use of these benefits. Similarly, where the state has provided funding to an organization through grants or contracts, it will necessarily seek reporting to ensure that the funds it has provided are used appropriately and in accordance with the purpose for which they were provided.

By contrast, the Law requires that organizations provide information on all funding received from foreign and international sources. The Law does not attempt to tie this requirement to a particular regulatory purpose, and does not give any indication how the regulatory authorities may interpret or use the information. For example, suppose that upon review, the registration authority determines that a PA is receiving grant funds from the Eurasia Foundation. Is it permitted to give warnings or otherwise question the PA regarding its source of funding, and if so, on what authority, given that there is nothing illegal or improper about the funding source on its face?

This requirement is likely to have unintended consequences. Organizations that rely on public fundraising, for example, may not know the citizenship of their many small donors, and may not be able as a practical matter to report on all funds received from foreign donors. As a result, they may either have to curtail certain types of public fundraising or significantly alter their fundraising strategies to avoid inadvertently collecting funds from foreign donors who later cannot be identified. Similarly, the provision renders anonymous donations unacceptable, since it can not be determined whether these donors are foreign nationals.

- *Reporting requirements for NCOs.* NCOs must now report on their activities, and on the composition of their governing bodies. They must further report on their use of funds and other assets received from both foreign and local sources. The reporting schedule and procedure will be established by the government in a forthcoming regulation.
- *Sanctions for failure to supply information.* Repeated failure on the part of a PA or an NCO to provide the information required in a timely fashion is grounds for the registration authority to bring a claim in court requesting a ruling that the organization has terminated its activities as a legal entity, which shall entail its exclusion from the Unified State Register of Legal Entities.

This is a harsh sanction. Even a failure to twice provide required reports could subject an organization to a liquidation proceeding. By comparison, repeated failures to submit tax returns are punishable by fines levied against a legal entity or its management.

- *Supervisory powers of the Registration Authority.* The supervisory powers accorded by the Law are equally troubling. The Law provides for highly intrusive means of scrutiny of public associations and NCOs without appropriate procedural protections. The “very fact that the European Convention recognizes freedom of association as a right that must be respected necessarily entails some limits on the degree of regulation . . . The very essence of the freedom of association is the ability of those belonging to a body to decide how it should be run; this necessitates both a minimalist approach to regulation and very close scrutiny of attempts to interfere with the choices that associations and their members make about the organization of their

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affairs.”¹⁰ The Law permits government interference in the internal affairs of organizations that far exceeds the limited regulation of the right to associate permitted by Article 11.

The registration authority now has the following three invasive powers to interfere in the internal operations of a PA or NCO:

- *The power to summon resolutions of the organization’s governing body.* The registration authority now has the ability to demand documents dealing with the details of an organization’s governance, including day to day policy decisions, supervision of the organization’s management, and oversight of its finances. These matters are strictly the internal business of the organization and should not be scrutinized by the government absent some good cause to do so.
- *The power to send representatives to an organization’s events.* The Law even allows the government to send a representative to all of an organization’s events, without restriction. Thus, government representatives can attend meetings of an NGO making funding determinations for watch dog organizations targeting corruption in the government; the government’s participation potentially makes the grantor and grantee NGOs targets of government attacks designed to undermine their missions. They can attend the internal strategy sessions of a network of environmental organizations organization a protest against government environmental policies, interfering with the group’s ability to carry out the campaign. This power will have a chilling event on the ability of organizations to hold events, and on the willingness of members, service recipients, and other people to attend.

Article 8 of the European Convention protects the right to privacy, and has been applied to professional or business activities or premises to protect against arbitrary interference by the public authorities.¹¹ It can be inferred, therefore, that the premises of NGOs, including associations, are similarly protected under international law. This is not to prevent the government from inspecting association premises or from receiving association records under certain circumstances, but to do so within appropriate limits, which recognize the rights of associations under international law.

- *The power to review, not more than once annually, the extent to which an organization’s activities comply with its statutory goals, including review of its expenditures and property management.* The registration authority will be called upon to review the compliance of myriad specialized organizations with their goals – even though the registration authority itself cannot possibly have the expertise needed to judge whether particular activities are designed to meet an organization’s goals. Whether an organization’s activities conform to its mission is in the first instance the province of its governing body. Government intrusion into this function is inappropriate, and serves no real purpose.

¹⁰ Public Interest Law Initiative, *Enabling Civil Society: Practical Aspects of Freedom of Association*, (Budapest: 2003), p.42.

¹¹ See *Niemetz v. Germany*, Judgment of 16 December 1992, Series A, No. 251-B, 16 EHRR (1993), para. 31.

3. **Reporting requirements for branches and representative offices of foreign non-commercial non-governmental organizations**

The Law provides new reporting requirements for the branches, representative offices and affiliates of FNNOs.

FNNOs must report, for their branches, representative offices and affiliates, on the amount of funding and other resources received, how they are allocated, the purpose for which they are spent, actual expenditures, programs which the organization is planning to implement in Russia, and the allocation of money or property to natural or legal persons in Russia.

An FNNO's representative office and affiliate may be excluded from the register for the following reasons:

- it fails to submit all required information;
- It carries out activities inconsistent with those listed in its notification.

The registration authority may send a notice to the FNNO providing a written decision banning it from implementing a pending program or part thereof. The FNNO must terminate the program, and if it does not, it may be excluded from the register.

The registration authority may ban the transfer of funds from a FNNO "for the purposes of protecting the basis of the Constitutional system, morality, health, rights and lawful interests of other persons, and with the aim of defending the country and the state security."

The Law provides that the agencies charged with tax and money laundering and anti-terrorist financing compliance must review an NCO's expenditures and use of property for compliance with its statutory goals, the consistency of an FNNO's expenditures and use of property with its goals and objectives, and report to the registration authority on the outcome of its review.

Branches, affiliates, and representative offices of FNNOs will be required to provide reports to the registration authority. Like all NCOs and PAs, they will have to report on their receipt and allocation of financing and other resources. In addition, they will have to report on the intended use of assets they receive, the purpose for which funds are expended, actual expenditures, programs which the organization is planning to implement in RF, and the allocation of money or property to natural or legal persons in RF.

The government is required to issue a regulation setting the details for the reporting, and it is also anticipated that reporting forms will be issued. As discussed with respect to PAs and NCOs, the regulation and forms, and other details of the implementation process, will to a large extent determine how burdensome the reporting requirements are.

- *Registration Requirements.* An FNNO's branch or representative office must report on the amount of funding and other resources received, how they are allocated, the intended use of received assets, the purpose for which they are spent, actual expenditures, programs which the organization is planning to implement in the RF, and the allocation of money or property to natural or legal persons in the RF. Some of this information will likely be costly and labor intensive to produce.
- *Supervisory Authority.* The registration authority has the same powers to supervise a branch, affiliate, or representative office as it has with respect to an NCO; these are discussed above in section 2.

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- *Exclusion from the Registry.* A branch or a representative office of an FNNO may be excluded from the Registry by the decision of the Rosregistration for failure to report. The Law does not require that this failure be repeated – a one time failure to provide required reporting is sufficient to trigger exclusion. In addition, Rosregistration is permitted to exclude a branch or representative office from the register on its own determination; it need not apply to a court.

The Law allows the registration authority to remove a branch or a representative office of a FNNO from the Registry if the affiliate's or representative office's activities are not consistent with the goals described in its notification or the information submitted in its reports.

The Law further allows the registration authority to remove a branch or a representative office of a FNNO from the Registry if an FNNO's branch, representative office or affiliate fails to terminate a program after receiving a written decision from the registration authority.

- *Additional Supervisory powers over FNNOs.* The Law provides the registration authority with two additional intrusive supervisory powers over the branches, representative offices, and affiliates of FNNOs. The government can issue a written decision, stating grounds, banning implementation of any existing program of a subdivision of an FNNO.¹² The Law does not provide any guidance with respect to the grounds on which the government may make this decision, which appear to be entirely discretionary. Upon receipt of a decision, the FNNO's subdivision must terminate the activity, and if it fails to do so, it risks exclusion from the register and liquidation of the subdivision.

The Law also allows the registration authority to issue a written decision, with grounds, banning the transfer by an FNNO's branch, representative office, or affiliate of funds or other resources to particular recipients for the purposes of protecting the basis of the Constitutional system, morality, health, rights and lawful interests of other persons, and with the aim of defending the country and the state security.

These provisions are not consistent with the ECHR Article 11. The provision granting the government ability to terminate particular programs of an FNNO essentially interferes with the right to associate for the purpose that program was intended to fulfill. This interference can only be justified if necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. The Law, however, permits the termination of programs at the government's discretion, without restriction.

Similarly, the provision allowing the registration authority to police particular transfers of funds is highly intrusive. Given that this power amounts to the seizure of an organization's property, it should not be exercised without the protections normally accorded in such instances, i.e., the registration authority should not be able to bar transfers of funds or property without application to and approval by a court.¹³ Moreover, the breadth of this provision is extraordinary – it appears, for example, to permit the registration authority to bar a branch of an FNNO from paying a salary to an employee if the authority finds, in its discretion, that the bar would protect “morality.”

The Law does provide FNNOs the right to appeal against actions taken against them by the government.

¹² LNCO, Article 23.

¹³ See *Enabling Civil Society*, p. 47.

4. **Requirements Relating to Foreign Nationals and Stateless Persons as Founders, Members, and Participants**

The Law amends Article 19 of the LPA and Article 15 of the LNCO to permit only those foreign nationals and stateless persons who are “legally domiciled in the Russian Federation” to be founders, members, or participants in public associations or noncommercial organizations. Certain persons may not become founders, members or participants, including:

- Foreign nationals or stateless persons whose stay is deemed “undesirable”;
- Persons appearing on a money laundering and anti-terrorist financing watch list maintained by the Russian government;
- Organizations that have been suspended under the Law Countering Extremist Activities;
- Persons found by court decision to show signs of participating in extremist activity; and
- Persons who are currently incarcerated as a result of conviction of a crime.

The Law also introduces the concept of an “honorary member.”

a. **Legal Domicile in the Russian Federation**

i. **Consistency of the Requirement with the ECHR and International Best Practice**

The Law introduces a new requirement that a foreign national or stateless person be domiciled in the RF in order to found, participate, or join a PA or NCO. This requirement did not appear in previous iterations of the LPA or LNCO.

This requirement raises a number of troubling questions. The RF has the obligation, under the ECHR Article 1, to secure the rights protected by the Convention to “everyone within” its jurisdiction. The right to associate, including the right to found or become a member of an association, as well as the right to free expression, is protected by the ECHR and as a result must be made available to all within the jurisdiction of the member states.

Under the accepted interpretation of “within jurisdiction,” the concept of jurisdiction cannot be arbitrarily limited to “legally domiciled” persons. ECHR Article 1 as initially proposed provided that the rights of the Convention would be afforded to “all persons residing within their territories.” This language was eliminated due to concerns expressed by the drafting committee that it might be interpreted in a manner that was too restrictive,¹⁴ and changed to the language that appears now. According to the European Court of Human Rights, the benefits of the Convention were intended to extend to “all persons in the territories of the signatory States, even those who could not be considered as residing there in the legal sense of the word.”¹⁵

According to the European Court of Human Rights’ interpretation of “within their jurisdiction,” the protections of the Convention must at a minimum apply to all those on the territory of the contracting country, whether or not they are legally domiciled there. The RF’s limitation of founding rights to “legally domiciled persons” is therefore inconsistent with the Convention. Moreover, the protections of the Convention do not end at the borders of a signatory country. The concept of jurisdiction also extends outside of the territory of the country to include those persons who are subject to the exercise of the “authority and responsibility” of the signatory.¹⁶

¹⁴ See *Collected Edition of the Travaux Préparatoires of the European Convention on Human Rights*, Vol. III, p. 260.

¹⁵ See *Bankovic v. Belgium*, (2001) 11 BHRC 435, para. 19/21.

¹⁶ See *G v. United Kingdom and Ireland* (Application No. 9837/82), para. 25.

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To bar a foreigner from establishing or participating in an NGO is a clear infringement of Articles 10 and 11 of the ECHR. As the government has the burden under the ECHR to justify any restriction, the Russian Government, if challenged, must demonstrate why restrictions on foreign founders and foreign members are ‘necessary in a democratic society’ to achieve particular state interests.¹⁷ Here, it is far from clear what state interest is served by the bar on certain foreign founders, members, and participants and how the bar can be justified as necessary in a democratic society.

How extensive this restriction will prove to be in practice is at present unclear, but it could have significant consequences for Russian civil society. For example, a large international business association with members from a number of countries could not establish itself as a PA or NCO with headquarters in Moscow, as its many members from other countries could not participate in the organization. This is a loss not only to Russian citizens who will lose the opportunity to associate within their own country with organizations with which they might wish to affiliate, but also to the country’s economy, which will not benefit from the revenue (both direct and from hotels, restaurants, travel and tourism associated with foreign members) and jobs that such organizations might create.

ii. Interpretation and application of the requirement

The articles on non-resident foreigner participation raise a number of practical considerations with respect to interpretation as well.

- *The meaning of “domicile.”* In the Russian language, the term “нахождение” encompasses the concept of physical presence. By its terms, the law appears to require that a foreign national be physically present in the RF in order to found, join, or participate in PAs or NCOs.¹⁸

In addition, Article 2 of the Law on the Legal Status of Foreign Nationals¹⁹ addresses what it means to be domiciled in the RF:

a foreign national domiciled in the Russian Federation shall be deemed as a person who has a valid permanent or temporary residence permit or a valid visa or other documents confirming the right of the foreign national to stay. . .

It therefore appears that under the Law, a foreign national, in order to found, join, or participate in a PA or NCO, must both be physically present in the RF and hold a valid permanent or temporary residence permit or a valid visa. Foreign nationals that do not meet these conditions presumably will not be allowed to found, join, or participate in PAs or NCOs.

- *Who are “founders, members, and participants?”* The Law’s restrictions on foreign participation apply to “founders, members, and participants.” Two of these terms are reasonably clear. A founder is a person who establishes a PA or an NCO.²⁰ A member is a person or legal entity (which under the LPA is limited to other PAs) who works jointly towards the goals of a PA

¹⁷ See ECHR Article 11; *Sidirouopoulos v. Greece*, 4 Eur. Ct. H.R. 500 (1998).

¹⁸ The English translation uses the terms “domiciled” and “legally staying” for “нахождение.” For consistency and ease of reference the term “domiciled” will be used here, although the Russian word has connotations that are somewhat different from the English term, as explained above.

¹⁹ Federal Law of the Russian Federation #115-FZ *On the Legal Status of Foreign Nationals in the Russian Federation* of July 25, 2002,

²⁰ See Article 6 of the LPA and Article 15 of the LNCO.

reflected in its by-laws, and whose membership is formalized by an application and other documents.²¹

The meaning of “participant” is less clear. Participants are defined as persons and legal entities (which in the LPA is limited to PAs) who express support for the purposes of the organization or its programs, or who participate in its activities, without having a formal membership with the organization, unless otherwise defined by the organization’s by-laws.²² The term appears to be broad enough to cover a range of stakeholders in an organization’s activities. These could include beneficiaries of an organization’s services, constituents in its advocacy efforts, or volunteers in its programs. If the term is understood this broadly, the restriction on foreign “participants” will obviously affect an enormous number of people and organizations, with significant ramifications for civil society. For example, a health care organization that provides needed medical care to a foreign patient who is without a valid visa could find itself in violation of the Law.

- *Proof of domicile.* It is not clear what obligations a PA or NCO will have to ensure that its founders, members, or participants are domiciled in the RF. The law contains no provisions stating an affirmative obligation for PAs and NCOs to document the domiciles of its founders, members, or participants, and to take action on that information.

If the Law is interpreted as requiring some measure of due diligence by organizations to collect and maintain evidence of the domiciles of its founders, members, and participants, this requirement may prove highly burdensome to some types of organizations. While it may be simple enough to document the domiciles of a handful of founders, it may be quite difficult for a large membership organization to maintain evidence of the domicile of all of its members. Documenting the domiciles of all persons who “participate” in an organization’s activities in some way is nearly impossible. It is further unclear what type of evidence will suffice. If a member states on his or her membership application that he or she is either a citizen of the RF or a foreign national domiciled, may the organization accept this declaration at face value?

- *Time frame for “legal stay.”* A related question is whether physical presence of a founder, member, or participant must be maintained during the life of the organization. If a foreign founder, member, or participant leaves the territory of the RF after registration, it is not clear whether the organization must in some way terminate that person’s status. Nor is it clear whether the organization has an affirmative obligation to keep track of the comings and goings of its founders, members, or participants, or as practical matter how it would carry out that obligation.
- *Consequences for existing PAs and NCOs.* The Law does not address specifically the obligations of existing PAs or NCOs with foreign founders, members, or participants.

PAs and NCOs are required to bring their founding documents, which including their founding acts and by-laws²³ into compliance with the Law’s provisions. The founding acts of PAs and NCOs are required to identify the founders.²⁴ We leave to Russian experts with greater experience in the law of the RF to opine on whether this provision can be applied retroactively. On its face, it would appear that the restriction on foreign founders cannot be applied retroactively, since the founding of an organization is a historical act that cannot at this point be changed. The only other alternative

²¹ LPA, Article 6. The documents must be sufficient to allow a count of the PA’s members for the purpose of guaranteeing the members equal rights.

²² LPA, Article 6.

²³ The deadlines in which organizations must bring their documents into compliance with the law vary by type of organization. The requirements are addressed below in Section 7.

²⁴ LNCO, Article 32; LPA, Article 38

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would be the involuntary liquidations of the many organizations with foreign founders already in existence, which is clearly a drastic solution to the problem which should be avoided.

Whether the provision can be applied retroactively to existing members of PAs is also open to question. If so, membership organizations will likely be required to terminate the memberships of foreign nationals not domiciled in the RF under the procedures set forth in their charters. Initially, this process could pose a heavy burden, particularly on large organizations, in connection with identifying foreign members who are not domiciled in the RF and notifying them of their terminations.

Note that under the LPA and the LNCO an organization is entitled to a warning from the government that it has violated the law, and to be given the opportunity to correct the violation, presumably before the government may take legal action against it. As a practical matter, therefore, PAs and NCOs will have some notice that the government believes that they are affiliated with a foreign national not domiciled in the RF as a founder, member, or participant. Once an organization receives a warning, it will presumably be given the opportunity to terminate its affiliation with the person (or object) before any government proceeding is initiated.

- *Sanctions for violation.* Both the LPA and LNCO provide for liquidation of organizations that violate their provisions. Under the LPA, a PA that has been warned of a violation and failed to correct can be liquidated in a court proceeding.²⁵ Under the LNCO, an NCO can be terminated by a court if it committed severe violations of the LNCO during its foundation which cannot be corrected, or if it committed multiple and severe violations.²⁶

b. Persons prohibited from association with a PA or NCO

- *Foreign nationals found to be “undesirable.”* A foreign national whose stay in the RF is found to be undesirable may not be a founder, member or participant of a PA or NCO. Certain federal authorities²⁷ have the right to determine that it is “undesirable” for a foreign national to remain in the RF upon the discovery of circumstances set forth in the Law on the Procedure for Exit from and Entry into the Russian Federation. The laws allow each of these federal authorities the ability to define, in its discretion, the criteria for determining who is “undesirable,” and the procedures for submitting and reviewing evidence of undesirability.

- *Persons on the Money Laundering Watch List.* Persons whose names appear on the government list compiled in accordance with the *Law on Combating Legalization (Laundering) of Criminally Gained Income* may not be founders, members or participants in PAs or NCOs.²⁸ The list is not publicly available. Indeed, it may not be provided to unauthorized persons.²⁹ The list is compiled by a government authority which provides it to financial institutions for use in monitoring transactions by suspect persons (primarily banks, stock exchanges, investment funds, credit unions, the postal service, etc.)³⁰

²⁵ LPA, Article 38.

²⁶ Civil Code, Article 61.

²⁷ These include the Ministry of Interior, Federal Security Service, Ministry of Defense, the Committee on Financial Monitoring, Foreign Intelligence Service, Ministry of Justice and Ministry of Foreign Affairs of Russia.

²⁸ See Section 2 Article 6 of the Federal Law #115-FZ *On Combating Legalization (Laundering) of Criminally Gained Income and Financing of Terrorism* of August 7, 2001.

²⁹ *Id.*, Article 7, point 6, and Article 4.

³⁰ *Id.*, Article 5. Auditors, solicitors, and certain other persons are permitted to request the information on the list, but not PAs and NCOs. *Id.*, Article 7(1).

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A PA or NCO has no practical means to protect itself from associating with someone on the list, since it has no way to know who is on the list. An organization will for the most part only know if it has affiliated with someone on the list if it is notified by the government. The organization's only option upon notification is to terminate its relationship with the person on the list; it will be subject to sanctions if it fails to do so.

The list is a tool designed to assist the authorities in overseeing financial transactions so that they may enforce the laws on money laundering and anti-terrorist financing. It contains the names of persons suspected of transferring funds for illegal purposes.³¹ With the enactment of the Law, however, the list may now be used to limit an individual's right to associate with PAs and NCOs, even though that person has never been found to have committed any offense.

We leave to Russian legal experts with greater experience on this issue whether there are means to ensure that this provision does not have an inappropriate chilling effect on the right to associate. In other countries, it violates the right to association, typically protected by the Constitution or other laws, to strip a person of a fundamental human right merely based on placement on a list as a suspicious person where there has been no finding that he or she has actually committed an offense.

- *Persons who are currently incarcerated as a result of conviction of a crime.* Persons who are currently incarcerated as a result of conviction of a crime are also barred from establishing, joining, or participating in PAs. This provision raises issues under the Russian Constitution. Article 32 (3) of the Russian Constitution already provides for the only limitation of the rights of the convicted and incarcerated which may be imposed by law: these persons do not have the right to elect or be elected. Otherwise, their rights, including their rights to associate, are guaranteed under the Constitution.³²

This restriction applies only to PAs, not to NCOs. It is further open to question (as with other aspects of this provision, see above p. 15), whether this provision applies retroactively.

- *Organizations suspended on the grounds of engaging in extremist activities and persons whose actions are defined as evidencing extremist activity.* The Law provides that a PA or a religious organization that has been suspended on the grounds that it has engaged in extremist activities may be denied the opportunity to be a founder, member or participant of an organization. Under the Law on Combating Extremists Activities,³³ a court may suspend a public association or religious association that engages in extremists activities that result "in violation of rights and freedoms of a person and a citizen, harm a person, a person's health, environment, public order, public safety, property, lawful economic interests of individuals and legal entities, society and the state, or if it created a real threat of causing such harm." The suspension is effective as of the date that the responsible government authority files suit. A PA or religious association has the right to appeal its suspension.

- *Persons who are the subject of a court decision that they have shown signs of participating in extremist activity also may not be founders, members, or participants in PAs and NCOs.* These provisions could potentially have a chilling effect on the right to associate, depending on the criteria and process used to determine involvement in extremist activities. We defer to Russian legal experts with greater experience on this issue as to what the practical affect of these provisions is likely to be on civil society.

³¹ The *Law on Combating Legalization (Laundering) of Criminally Gained Income* defines actions constituting a suspicious pattern with respect to financial transactions; financial institutions report this behavior to the federal authorities, who add persons to the list on the basis of this information.

³² Constitution, Article 30 (1).

³³ *Law on Combating Extremists Activities* of July 25, 2002, N 114-Φ3, Article 10.

c. Honorary members

The law permits foreign nationals and stateless persons to be elected honorary members of or honorary participants in a public association. Honorary members and participants do not have rights and duties in the association.

This provision is apparently intended to allow non-resident foreign nationals to engage in some fashion in the affairs of a PA or NCO. There are no requirements for honorary membership; even consent from the foreigner designated a member is not required. However, the provision does not have any legal consequences because the honorary member acquires no rights or obligations in the organization. Even prior to this amendment, any person could be elected as an honorary member as no law prohibited it.

d. Organizations that are not subject to restrictions on founders, members and participants in PAs and NCOs

Article 47 of the Law on Public Associations is amended to provide that the restrictions on founders, members, and participants do not apply to the “structural subdivisions of international public associations set up and functioning in foreign jurisdictions.”

A PA established in the RF is recognized as “international,” if, according to its by-laws, it carries out its activities in other countries by establishing and operating a sub-division (an independent organization, a branch, a representative office or an affiliate). Any foreigner or stateless person can be a founder, a member, or a participant of such a structural sub-division. So, for example, if an international humanitarian relief organization founded in the RF establishes a branch in Indonesia to work on tsunami reconstruction efforts, that branch can include non-Russian founders, members, and participants.

5. Registration Procedures

a. New Authority and New Procedures for Registering an NCO

The Law now requires that an NCO, like a PA, register with Rosregistration, rather than with the Federal Taxation Service.

NCOs are now subject to the registration procedures established in the Law on Non-commercial Organizations. An NCO now submits its application and related documents to Rosregistration, which decides whether it will be registered. It is then entered into the Register of Legal Persons by the Federal Tax Service following that agency's review. The Law sets the procedure for registering an NCO, stating the application documents that must be submitted, the time period in which the registration authority must act on an application, and the process for granting or denying an application to register.

Russian NCOs will be now registered by Rosregistration just like public associations. Previously, the vast majority of NCOs were registered in the same manner as commercial legal entities, i.e. with the Federal Taxation Service, which maintains the register of legal entities.³⁴

The new registration procedures for NCOs duplicate, for the most part, those for PAs. The only major difference is the time period in which the registration authority must make a decision on registration; it is 14 business days as opposed to 30 days for a PA. Previously, the time period was 5 days.

A summary of the changes introduced for registration of NCOs follows. These provisions also apply to the registration of a branch of an FNNO:

- *The registration authority.* The registration authority is now Rosregistration (previously it was the Federal Taxation Service.)
- *Time limits for registration.* New deadlines for registration include:
 - Rosregistration has 14 days from the date an application is submitted to render a decision.
 - Rosregistration then transfers the documents from the registration application package to the Federal Tax Service.³⁵
 - The Federal Tax Service, which maintains the state register, must make an entry in the register within 5 business days of receipt of the documents.
 - The registrar must transfer the registration documents back to Rosregistration within 1 day after the entry has been made.
 - Rosregistration must issue a certificate confirming the state registration within three business days upon obtaining notice of the entry made in the state register.

The Law does not set a limit on the time that the process may take from submission of an application until issuance of a certificate. However, in light of the potential for delays between dispatch and receipt of information between Rosregistration and the Taxation Service, the time required to register an NCO could easily be doubled as compared with the previous process.

³⁴ Law of the Russian Federation #76-FZ on State Registration of Legal Entities and Private Entrepreneurs of June 23, 2003.

³⁵ The documents that must be transferred are listed in the Law on the Registration of Legal Persons.

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- *The list of documents.* The list of documents required for registration has been expanded. Additional documents include the following:

- two copies of a document indicating the composition of the elected governing bodies; and
- documents certifying the legality of the use of names or symbols (where there are issues of intellectual property or copyright protection under Russian law or if the full legal name of another legal person is incorporated into an organization's name).

b. The Registration Agency and the Procedures for Registering a PA

The Law merges two provisions of the existing LPA on registration into one (Article 21). Under the new provisions, Rosregistration remains the registration authority for PAs. The Law sets deadlines relating to the process of entering an organization into the unified register.

The following is a summary of the procedure for registering PAs:

- *State Registration Agency.* The registration authority for PAs remains the same: the Federal Registration Service, which is a part of the Ministry of Justice (Rosregistration).
- *Time limits for registration.* The time in which Rosregistration must render a decision on a PA's application to register has changed; the registration authority now has 30 days in which to render its decision. Previously, the entire registration process, culminating in issuance of a registration certificate, had to be completed within 30 days.

The other deadlines involved in the registration process are identical to those set forth above with respect to NCOs.

c. New procedure for establishing branches, representative offices, and affiliates of FNNOs

Articles 13¹ and 13² of the LNCO, set forth new procedures for establishing an FNNO.

The Law defines FNNOs as organizations that: (1) are established under the law of a foreign state; (2) do not have government agencies as founders; and (3) carry out activities that are not for the purpose of gaining profits and distributing those profits among participants. An FNNO may carry out activities in the RF through branches, affiliates and representative offices. These branches are treated as a form of NCO and must register using procedures established in Article 13¹ of the LNCO. They attain legal capacity in the RF on the date that their information is entered into the register in accordance with Article 13¹. Article 13² of the LNCO states that affiliates and representative offices are subject to a notification procedure, which differs substantially from the one previously in effect for these entities.

The Law's amendments to the LNCO incorporate a number of new provisions regulating the procedure for creating and operating structural subdivisions of FNNOs. The Law regulates all types of FNNOs, including foundations and associations. Foreign organizations founded by government

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agencies are not subject to the Law, regardless of whether or not the founders are involved in the work of the organization.

Therefore, the Law is unclear as to how organizations with government founders shall be regulated. At a minimum, it does not appear that the LNCO applies, and therefore its provisions, such as those on reporting, shall not apply to those organizations with government founders.

FNNOs can carry out activities in the Russian Federation through their structural subdivisions – branches, affiliates and representative offices. There is no definition of “activities.” This suggests that an FNNO which has not followed the procedures to register a branch or notify the registration authority of its affiliates or representative offices may not carry out any activities in the RF. It is not clear how expansively this provision should be read. For example, if an FNNO wishes to send a representative to the RF to conduct a two week assessment visit, must it first register a branch or provide notification of a representative office? May an FNNO without a presence in the RF extend grants to a local organization without registering a subdivision in the RF? The answers to these questions are at present unclear, and FNNOs that have not followed the branch registration or notification procedures should exercise caution before engaging in any activities, however minor, in the RF.

- *Branches of FNNOs.* Branches of foreign NCOs register with Rosregistration as described above, under Article 13¹ of the LNCO, just as PAs and NCOs do.
- *Affiliates and Representative Offices.* The Law on NCOs states that affiliates and representative offices are subject to a notification procedure, just as they were prior to the Law’s enactment. However, the Law provides for a notification procedure that differs substantially from the one previously in effect, including a different registration body, procedures, and grounds for denial of notification, see below.
- The provisions of the Law may only be applied to the extent that they do not run counter to the international treaties ratified by the Russian Federation.

d. The procedure for notification of establishment of an FNNO's representative office or affiliate

The Law requires that an FNNO provide “notification” when it sets up an affiliate or representative office.

The FNNO must notify Rosregistration of its decision to set up an affiliate or representative office within three months of making the decision. The authorized body certifies the notification. The format of the notification will be elaborated in a regulation.

The Law sets the procedure for notification, stating the documents that must be submitted with the notification, the time periods in which the registration authority must act, and the process for the authorities' recording of a notification.

The Law specifies the grounds for denial of notification by an FNNO. They are:

- it has not submitted all of the required documents in complete form;
- its documents contain unreliable information;
- its goals are contrary to the Constitution or law of the RF
- its goals “may create a threat to the sovereignty, political independence, territorial integrity, national unity, unique character, cultural heritage and national interests of the Russian Federation”; or
- it was previously excluded from the register on the grounds of a gross violation of the Constitution or law of the RF.

The Law also provides a procedure for appealing a denial of notification.

FNNOs must provide notification of their decisions to establish affiliates and representative offices. Under the new notification procedure, an FNNO provides notification to Rosregistration, rather than the Ministry of Foreign Affairs, which was the case in the past.

Under Russian law, a representative office is a separate division of a legal person located outside of its main location that represents the interests of the legal person and provides its defense.³⁶ An affiliate is a separate division of a legal person located outside of its main location that carries out all or part of its functions, including its representation. Representative offices and affiliates are not legal persons. They act in compliance with the regulations approved by their founders and they act based on the authority conveyed by their founders. All representative offices and affiliates must be listed in the founding documents of their founding legal person.

The notification procedure, as can be seen in the summary above, is very similar to the registration process for branches of FNNOs and for NCOs. Many of the steps that the FNNO must carry out, and the documents it must submit, are the same as if it were registering a branch. In addition, the registration authority may deny notification for many of the same reasons that it can deny registration of a branch.

- *Grounds for Denial.* The list of grounds for denial includes circumstances in which the FNNO's branch or representative office has goals that “create a threat to the sovereignty, political independence, territorial integrity, national unity, unique character, cultural heritage and national interests of the Russian Federation.” As discussed above with respect to registration of NCOs and branches, this language is highly problematic and not consistent with Russia's obligations under the ECHR.

³⁶ Civil Code, Article 55

- *Issuance of Decisions.* The registration authority is required to substantiate a decision to deny notification in writing, and an applicant may only appeal the, “[d]enial of entering the data into the register.” These issues are discussed with respect to registration of branches, above.

6. Involuntary liquidation of a branch of an FNNO.

The Law provides for involuntary liquidation of an FNNO’s branch when: (1) the parent organization has been liquidated; (2) the FNNO fails to provide the information required under the reporting provisions of the Law; or (3) the organization’s activities are determined to be incompatible with the goals declared in its founding documents or those included in its reports.

The Law affords wide discretion to the government to seek liquidation of a branch of an FNNO. If Rosregistration determines that the organization’s branch activities are incompatible with its mission, it may file a court claim filed seeking liquidation of the branch. This broad language provides excessive discretion to the government to seek liquidation. The Law provides no criteria for how the determination of incompatibility with statutory goals will be made. As a practical matter, given the wide variety of fields of endeavor in which NGOs engage, it will be difficult for the registration authority to have sufficient mastery of all to determine whether particular activity is consistent with an organization’s statutory goals.

The LNCO also allows involuntary liquidation based on even a one-time failure to file required reports.³⁷ This is a very harsh sanction for a reporting violation. While it is necessary to have some type of means of ensuring that organizations comply with their reporting obligations, generally the first failure to report is subject to a warning, with greater penalties accorded only to repeat failures to correct the violation. Liquidation should only be imposed in extraordinary cases.

The provisions on involuntary liquidation do not apply to affiliates and representative offices of FNNOs. These entities are not independent legal entities and the concept of liquidation does not apply. They may, however, be excluded from the register, essentially terminating their ability to operate in the RF.

7. Provisions relating to compliance with the law by existing organizations

Organizations will be required to bring themselves into compliance with the Law’s provisions; the steps they must take to do so will depend upon the type of organization:

- **PAs and NCOs that are already registered need not re-register (Article 6). However, they may need to amend their founding documents, if, for example, they have foreign founders that must be removed.**
- **Branches, affiliates, and representative offices of FNNOs must provide notification of their intent to do business in the RF within 6 months of the Law’s effective date (October 17, 2006.)**
- **Branches of FNNOs, as well as PAs and NCOs, must bring their charters into compliance with the Law’s provisions.**

PAs and NCOs that are already registered will not be required to re-register under the Law. However, they are required to bring their founding documents into compliance with the Law’s provisions. The need to amend their founding documents is likely to affect many organizations, and all organizations will need to review their documents to determine whether changes need to be made. Similarly, branches of FNNOs must bring their founding documents in compliance with the provisions of the Law.

³⁷ LNCO, Article 32

The Law does not establish the term within which PAs, NCOs, and branches of FNNOs must bring their founding documents in compliance with the new Law. According to Russian experts, Russian organizations must adopt the required change at the first meeting of the authorized body eligible to adopt such changes.³⁸

The affiliates and representative offices of FNNOs must submit notifications to the registration authority within 6 months after the Law has come into effect (by October 17, 2006). Branches and representative offices failing to comply with the requirement of notification shall cease to exist after October 17, 2006.

Conclusion

ICNL appreciates this opportunity to comment on the Law, and looks forward to continued dialogue about its provisions as implementation of the Law moves forward.

³⁸ Alla Tolmasova, Center for the Development for the Development of Democracy and Human Rights.