

FOREIGN AGENT LAW: IMPACT ON RUSSIAN ENVIRONMENTAL ORGANIZATIONS

Report from Naturvernforbundet





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By Naturvernforbundet, February 2016

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PREFACE

This report is written with invaluable help from Naturvernforbundet's Russian partners. It has been a challenge to finalize the work, as new organizations have been labelled Foreign Agents constantly, and as there is a constant flow of new information, news articles and analyses regarding the Foreign Agent law, and also on the law on Undesirable Organizations. Deadline for our collection of information was set on December 2nd 2015, when our partner organization Green World was formally listed as Foreign Agent in the register of the Ministry of Justice.

We express our gratitude to the Ministry of Climate and Environment as well as to the Norwegian Radiation Protection Authority. Their support enables Naturvernforbundet to follow the situation around the civil society development in Russia, and help us make the information we have public.



INTRODUCTION

■ Naturvernforbundet has over many years worked closely with Russian environmental organizations on a number of environmental issues, as preservation of biodiversity in the Barents region, phase out of old nuclear plants and promotion of energy efficiency and low carbon development. This work has all the time faced challenges from regulations on Russian side, but the situation deteriorated significantly with new NGO laws that were approved in the Russian Parliament and by the president in 2012. Among these the laws was the controversial “Foreign Agents law”, demanding non-governmental organizations (NGOs) that receive funding from abroad and at the same time engage in political activity, to register as Foreign Agents.

As Russian organizations decided not to register voluntarily, the Ministry of Justice decided to check around a 1000 organizations during the first half of 2013. From 2014 the Ministry started to include organizations in the register themselves. 2015 has been a challenging year for the Russian organizations. After a period of

uncertainty about what the laws would bring and how many it would strike, it became more than clear that the Russian authorities intended to use the law to massively harm and close down civil society organizations. From around 30 organizations in the register in the beginning of the year, the number by the end of November was over 100. It is commonly accepted that the law to a large degree hits human rights’ and environmental organizations.¹

The commissioner for Human rights within European Union expressed in July that “The Commissioner calls on the Russian authorities to revise the legislation on non-commercial organizations in order to establish a clear, coherent and consistent framework in line with applicable European and international standards”.² Moreover, the organization Youth Human Rights Movement (YHRM) writes in a recent report³ that also the European Commission for Democracy through Law (Venice Commission) clearly establish that this law constitutes a gross interference with the exercise of fundamental rights, which violates relevant international standards.⁴

The most recent event, which is of great concern for Naturvernforbundet and for many other organizations in the broad coalition of partners we cooperate with in Russia and other countries, is the decision to include our partner through 30 years, Green World from outside St. Petersburg, in the register at Friday 20th of November. The

process around this event and a few other environmental organizations that were registered as Foreign Agents will be described later in this report.

The consequences for the organizations that become Foreign Agents are huge, and in practice it turns out for most organizations that it is too difficult to go on with business as usual. Many choose to close down, but most find other ways to continue their important work.

The situation changes currently, and Naturvernforbundet follows the development closely in cooperation with our Russian partners. In 2014 Naturvernforbundet issued the report “Foreign Agents or Environmental Heroes? Legal restraints on Russian environmental NGOs”, which can be downloaded from our website www.naturvern.no. Smaller status reports on this topic were produced in April and June 2015 as well.

Andrey Talevlin from Naturvernforbundets partner organization Za Priroda, billed as foreign agents.





BACKGROUND INFORMATION ON THE FOREIGN AGENTS LAW⁵

■ The Foreign Agents law, law no. 121-FZ, was signed by president Putin on July 20, 2012, and went into force November 21. The law amends five laws regulating NGOs, 1) the law on public associations, 2) the law on non-commercial organizations, 3) the criminal code, 4) the code of criminal procedure and 5) the law on money laundering and financial terrorism. The law is publicly known as the Foreign Agents law, as it introdu-

ces the concept of NGOs “performing the functions of a foreign agent”, to refer to NGOs that receive foreign funding and participate in “political activity” in Russia.

The law demands that such NGOs, which receive foreign funding and participate in “political activity”, should register as Foreign Agents, by applying to be included in the special register of Foreign Agents when they submit their registration documents.

Naturvernforbundet’s Russian partners have refused to register voluntarily as Foreign Agents, as they consider themselves working for Russian interests; for the Russian nature and the health and environmental safety of Russian citizens. At the same time, they depend on foreign funding.

The law states that an NGO is considered to be carrying out political activity if it “participates in organising and implementing political actions aimed at influencing decision-making by state bodies intended to change state policy pursued by them, as well as shaping of public opinion for the aforementioned purposes”.⁶

Inscription: «Foreign agent ♥ USA» at the office of the human rights organization Memorial, Moscow
<https://www.tvpobeda.ru/posts/inostrannye-agenty-ot-bolotnoi-i-do-nashih-dnei>



Broadly understood, this can be said to cover almost everything that Naturvernforbundet’s partner organizations do. Discussions on where the line goes take place in all partner organizations, and the answers differ. However, they all agree that one of the results of the law is NGO self-censorship.

The law also imposes additional reporting requirements on NGOs that “perform the functions of foreign agents”, and additional governmental inspections and oversight. This includes both annual planned inspections, and increased grounds for unannounced inspections. According to partners, this forms an additional reason for not register.

It is important to note that also before this law Russian authorities had necessary information on how NGOs were funded through the then already existing reporting and inspection regime. Therefore, the demand to register as Foreign Agent is not based on an increased need for information, as claimed by the government. The goal is rather to control and demoralize NGOs, and decrease popular support for their work.

The law allows authorities to suspend the activities of any NGO that meets the requirements but fails to register as a Foreign Agent. Such suspension can be appealed. Failure to submit

reports, failure to register as Foreign Agent as well as failure to mark materials with Foreign Agent once an organization is in the register can result in fines. In theory, organizations that are added to the register of Foreign Agents can resume its activity once added to the register, but many finds it difficult to continue and close down.

The law also added new offenses to the Administrative and the Criminal Code relating to all NGOs.

For acting without registration an NGO can be punished for a fine between 300 000 and 500 000 roubles, also the director can be punished for a fine between 100 000 and 300 000 roubles. Also fine between 300 000 and 500 000 roubles for every publication or statement without labelling.⁷ In case of malicious (persistent) violations, the director can be punished with up to two years of corrective labour or even imprisonment.⁸

The Supreme Court removed in 2014 a lower limit for fines, and some organizations have after that been fined by lower sums than originally intended. We are also informed that Supreme Court is looking into the jurisprudence regarding the cases against the organizations. A hearing on this was planned for second half of 2015⁹, but there is no news on this yet.



The illustration shows the sharp increase in registration of organizations from December 2014 and through 2015.



LAW ON UNDESIRABLE ORGANIZATIONS

■ On May 19th 2015, the Russian Duma approved a third and final draft of legislation that criminalizes “undesirable organizations”, which was signed by the president at 23rd of May.

By July 8th, Russia’s Federation Council released a list of foreign organizations that it planned to declare «undesirable». These were: the Open Society Institute, also known as the Soros Foundation; the National Endowment for Democracy; the International Republican Institute; the National Democratic Institute; the MacArthur Foundation; Freedom House; the Charles Stewart Mott Foundation; the Education for Democracy Foundation; the East European Democratic Center; the Ukrainian World Congress; the Ukrainian World Coordinating Council; and the Crimean Field Mission on Human Rights.¹⁰

Since 21 July, at least two of those earmarked, the Charles Stewart Mott Foundation and the MacArthur Foundation, have announced decisions to close down their philanthropic work in Russia to avoid the prospect of being targeted.¹¹

Until the end of November the only organization that was formally listed in the register of

Undesirable Organizations was the American National Endowment for Democracy, but on November 30th also the Open Society Foundations and Open Society Institute Assistance Foundation were added to the list of Undesirable Organizations.¹²

It is still too soon to say whether Naturvernforbundet can be listed according to the law. In the register on the Ministry of Justice web page, Naturvernforbundet is mentioned as a donor of Za Prirodu, labelled as Agents in March, and of Baikal Environmental Wave, labelled recently.¹³

We also mention that another Norwegian donor, the Barents Secretariat, also is counted in the register as a donor of the Nenets organization Yasavey Manzara, which was labelled by the end of September 2015.¹⁴

The scope for the law on Undesirable Organizations is even wider than the Foreign Agent law, and both laws rely on the same kind of vagueness and unclear writing that benefits the authorities and creates fear and uncertainties within the NGOs.

We anticipate that Russian authorities will start to use this law more actively when the Foreign Agent law somehow has used up its “po-

tential”, seen from the authorities’ side. At the moment the Foreign Agent law is obviously well functioning as a tool for the authorities to break down the civil society.

In addition, several new laws restricting civil society performance were adopted in 2012, and for a review on these we refer to the previous annual report from Naturvernforbundet, “Foreign Agents or Environmental heroes?”, from February 2014.

Andrey Talevlin and Oleg Bodrov from «Foreign agent»-partners Za Prirodu and Green World.





STATUS OF THE FOREIGN AGENT REGISTER PER DECEMBER 2015

■ Per 2nd of December 2015, a total of 106 organizations are listed in the Foreign Agent register. 21 of them are environmental NGOs. ¹⁵

In the beginning of the year there were 30 organizations in the register. By early March this number had increased to 49 organizations, in June 68 organizations were registered, and in July 83. ¹⁵

Of the 106 organizations in the register of Foreign Agents by the beginning of December 2015, 21 of them are environmental organizations:

1. (10) Kaliningrad Regional Public Organization "Ecodefence! –Womens' Council", Kaliningrad (21.07.2014)
2. (15) Association "Partnership for Development", Saratov (2.10.2014)
3. (35) Jewish Regional Branch of the Russian Public Organization «Municipal Academy», Birobidzhan (26.01.2015) - One of the reasons for signing them in is arrangement of an environmental seminar.
4. (39) Interregional Charity Organization "Siberian Environmental Center", Novosibirsk (12.02.2015)
5. (43) Chelyabinsk Ecological Social Movement

- «For nature», Chelyabinsk (06.03.2015)
6. (44) Chelyabinsk Regional Charitable Social Foundation «For nature», Chelyabinsk (06.03.2015)
7. (48) Murmansk Regional Public Environmental Organization «Bellona-Murmansk», Murmansk (19.03.2015)
8. (49) «Educational Center for Environment and Security», Samara (20.03.2015)
9. (51) Rostov City Public Organization «Ecologic», Rostov-on-Don (03.04.2015)
10. (53) Ozerskaya Urban Socio-Environmental NGO Planet of hope, Chelyabinsk region (15.04.2015)
11. (65) Nizhny Novgorod Regional Public Organization «Ecological Center «Dront»», Nizhny Novgorod (22.05.2015)
12. (75) Altai regional public organization «Geblerovskoe Ecological Society», Barnaul (23.06.2015)
13. (78) Interregional public organization «The Northern Environmental Coalition», the Republic of Karelia (08.07.2015)
14. Altaj ecological and cultural public foundation "Altaj 21st century", Altai region (22.07.2015)
15. (83) Nizhny Novgorod ecological public non-profit organization «Green World», Nizhny

Novgorod region (29.07.2015)

16. (88) Interregional Social Ecological Foundation «ISAR-Siberia», Novosibirsk (26.08.2015)

17. (93) Regional public organization “Sakhalin Environment Watch”, Sakhalin region (18.09.2015)

18. (95) Society for the Protection of Consumer Rights and the Environment “Printsip”, Moscow region (05.10.2015)

19. (99) Krasnoyarsk regional public environmental organization “Friends of Siberian forests” (28.10.2015)

20. (102) Irkutsk regional public organization “Baikal environmental Wave” (10.11.2015)

21. (106) Green World, Sosnovyj Bor (02.12.2015)

According to Ministry of Justice, most of the NGOs registered shared a common goal, which in their formulation is: “Impact on the decision-making bodies of the state, aimed at changing state policy “. They also had common kinds of activities, which were “public events” and “formation of public opinion”.

As more organizations are included in the register, it also becomes clear which additional reasons the Ministry of Justice use to justify the registration. Some of the more common themes here are¹⁶:

- Interference in internal and foreign policy of Russia.
- Development of the energy system of Russia, including social-economical issues linked to development of the Russian regions.
- Use of the Russian army in Ukraine.
- Progress of reforms to fight corruption.
- Reform for local self-government.
- Work towards legislation on elections.
- Work towards legislation on labour and social security.
- Organizing or just participating in demonstrations or any public rally by NGO or even member, staff person of the NGO.
- Participation in public councils of authorities, departments or ministries.
- Signing and/or publishing statements on any topics, for example in support of activists, as a call to change anything like to protect the forest, or to stop a dangerous project.

There a long list of consequences for the registered organizations:

- Long and thorough processes towards registration, with one or more inspections.
- Organizations have to pay big fines for being registered by force, and the average fine is 300 000 roubles.
- Organizations have to label all publications and materials with «Foreign Agent».
- Additional checks by Federal Service for Supervision in the Sphere of Telecom, Information Technologies and Mass Communications (Roskomnadzor)¹⁷, which control if the organizations use the label Foreign Agents as requested by the law. Additional fines for not labelling sufficiently is 300 000 roubles for each article or publication.
- Huge additional load of administrative work and reporting activity towards the Ministry of Justice. Estimated additional costs for extra work for organizations (audits etc) in the register is estimated to be around 273 000 roubles (fines are not included).¹⁸
- Risk of criminal persecution.

In addition the organizations face several additional, and more informal consequences:

- The organizations face negative propaganda in state affiliated media.
- It becomes difficult to cooperate with state agencies and authorities.
- The organizations loose public trust and goodwill.
- More difficult to work with reach out through some of their usual channels, as schools and libraries.
- The organizations impose self censorship in the hope to go under the “radar” of Ministry of Justice.
- All these consequences decrease effectiveness and real work.

The informal consequences described in the last part of this list are more or less valid for all organizations, even if they are not in the register yet. State agencies and authorities to a large extent fear to cooperate with NGOs, as the general mood towards the organizations has changed in a very negative way as a result of the sharp turn

regarding how the Ministry of Justice now relate to the organizations.

EASY TO ENTER, ALMOST IMPOSSIBLE TO EXIT.

It is clear that is very difficult to exit the register once you are there. An NGO that want to attempt to get out of the register supposedly have to stop receiving foreign funding or to implement «political activities». If they cease to receive foreign funding less than three months after they were registered as Foreign Agents, and also return the money, they can request exclusion of the Foreign Agents register. We have so far seen only one example of an organization that managed to get out of the register this way, which is the prominent Liberal Mission.¹⁹

Several other organizations have tried to get rid of the Foreign Agent label, but only five organizations have so far managed to get out of the register. Among these are the two first who applied for this in the first place, and most likely the Ministry did not have all instructions in place by then. This has obviously changed since.

The environmental organization Dront stopped to receive foreign funding in 2014. A week after they were included in the register Dront applied for exclusion, as they had no income from foreign sources. The appeal was refused by the Ministry of Justice, as one of the Russian donors Dront received money from, the grant program «Orthodox Initiative» by the foundation «Co-working», had foreign income.²⁰ The «Co-working» foundation itself is still not listed as a Foreign Agent, but Dront remains in the register. Moreover, the head of the coordinating committee of this grant program is Kirill, the Patriarch of Moscow and All Russia, and its executive director is Sergey Kiriyyenko, Director General of the State Atomic Energy Corporation Rosatom. Among members of the coordinating committee is Aleksander Konovalov, Minister of Justice.²¹ This is one example among many that shows how this law is used by the authorities as it likes, and in a totally unpredictable and random manner for the organizations.

Another organization that has tried to get out of the register is the human rights organization «Golos». Golos was the first organization of all to be included in the register. The reason was a prize of 7.728 Euro that they received from Sakharov Freedom Prize, even if the prize was returned by Golos.

In the beginning of October 2015 the Ministry of Justice refused Golos to leave the register because a project coordinator and member of the board of Golos had received a private research grant of \$4,600 from the International Center of Lithuanian electoral research. There is no evidence that this money were received to finance the activities of Golos.²²

From the beginning of the implementation of the Foreign Agent law, only 17 NGOs were excluded from the register, according to information about exclusion at the Ministry of Justice webpage. 4 of these are environmental organizations. However, most of the organizations (11) were taken out of the register because they closed down. Only six of the organizations that managed to get excluded have according to the Ministry stopped «to fulfil the Foreign Agent function», as they have stopped to receive foreign money. To our knowledge, several more NGOs are trying to close themselves down in order to try to avoid the fines or for principle reasons, but this is a long process that for many takes up to 6 months. This is not information that is visible in the register until they are closed down finally.





LABELLED AS FOREIGN AGENTS

- SOME STORIES ABOUT ENVIRONMENTAL ORGANIZATIONS

GREEN WORLD



Green World annual meeting.

Naturvernforbundet's partner Green World (GW), which has its basis in Sosnovyj Bor outside St. Petersburg, received on the 16th of November a 42 page letter from the Ministry of Justice, which informed that GW were about to be registered as Foreign Agents. On Friday 20th, the GW case went through a juridical assessment in the Consolation board in St. Petersburg, and the "verdict" was made formal. 2nd of December Green World appeared in the register of Foreign Agents. The level of fines will be decided by the local court in Sosnovyj Bor later.

The process that led up to the entry of Green

World in the register has demanded a lot of work from Green World over the three last years. The organization was inspected by the Ministry of Justice four times over a period of two years. This includes both the regular check that all organizations went through in 2013, and additional inspections that were initiated by opponents of Green World in the nuclear industry.

The first time somebody outside the Ministry of Justice initiated an inspection of Green World, was when the nuclear facility Ekomet-S, which work on reprocessing of radioactive waste, in September 2013 asked the Ministry of Justice to control if Green World fitted the Foreign Agent label. The Ministry did the check, but decided in favour of Green World. The second time was in the autumn 2015, when a well known public voice, a Mr. Rumjantsev, called the Ministry to implement an inspection again. Rumjantsev is known as a self-appointed "special agent of Putin", defending Putin's nuclear policy and the interests of the state. Rumjantsev has apparently had financial means to travel to and participate on several events arranged by the environmental organizations and authorities to discuss nuclear policy, and has published very tendentious articles on his own blogs against

the environmental organizations working with nuclear issues.

Green World has all the way along published information about the initiated processes, hoping this would show a picture of the witch hunt this has turned out to be, but in the end it has not helped.

A translation of Green Worlds press release from November 19th about the Foreign Agent label process can be found as appendix to this report.

ZA PRIRODU

At 6th of March 2015, Za Prirodu, a partner organization of Naturvernforbundet in Chelyabinsk, was labelled Foreign Agent. Za Prirodu had made an attempt to omit the law, registering a Foundation by the same name that would receive the funding, while the organization carried out the work. That did not help, and the local department of Ministry of Justice linked together the two different entities, and both were listed in the register.

After a long fight in the court system, the arbitrary court in Chelyabinsk recently quit the case against the Movement Za Prirodu, due to lack of evidence of violation of the law. The Foundation Za Prirodu has until now fought against the label and the fine. They have lost the case and have been forced to pay the fine, but the fine was decreased from 300 000 to 100 000 roubles. Za Prirodu has until now been able to continue to work, by the Movement Za Prirodu, but the fight in the court system has demanded huge amounts of time and resources.

BELLONA-MURMANSK

The Ministry of Justice department in Murmansk in March 2015 decided to consider the activity of Bellona-Murmansk, consisting of «ecological control and monitoring of the environment, coupled with the collection, processing and dissemination of information, reports, teaching materials», as political activity.

According to the Ministry, Bellona also «pro-



The staff of Bellona Murmansk.

mote measures to prevent activities that threaten environmental security, including public events (brochures, conferences, round tables, presentations)”.

In addition to this «political activity», the Ministry also considered two reports of the Joint Bellona Foundation, dedicated to the Russian industrial pollution areas of the Barents Region and the best practices of cooperation between NGOs and industrial companies, as political activity.

The organization decided do not spend time and recurses on what would probably be an ineffective court trial, and then received the lowest fine so far in the history of the Agent Law - 50 000 roubles. Bellona started then a process to close down.

Later Bellona was fined by another Ministry (Roskomnadzor), but this fine was not enforced as Bellona had closed down. Now Bellona look for other ways to act in the region.

PLANET OF HOPE

The Ministry of Justice included Planet of Hope in the Foreign Agent list, basing this on their political activity, such as “public events, formation of public opinion”. The organization was fined 300 000 roubles, and 10 000 more for delaying with delivering documentation for check.

After labelling Planet of Hope as Foreign Agent, its leader Nadezhda Kutepova was heavily persecuted by regional and federal media as a spy and traitor. Living in a closed mononuclear

city became dangerous, and in the kindergarten Kutepova's daughter was asked about the "crimes" of her mother. Nadezhda Kutepova chose in September 2015 to flee the country and sought asylum in France.

ECOLOGICAL CENTER «DRONT»

The inspection of Dront that led up to the registration in May 2015 as Foreign Agent started on basis of a letter to the Ministry of Justice from an activist in the highly conservative National liberation movement, Roman Zykov. The inspection "revealed" different forms of political activities: Receiving money from the World Wildlife Fund and the International Fund for Animal Welfare, support to the release of ecologist Eugeny Vitishko and cessation of the persecution of environmental activists of the North Caucasus, head of the NGO Askhat Kayumov took part in a rally for the return of election of the mayor, and publishing the newspaper «Keeper».

The Public Chamber of the Russian Federation stated very soon that they intended to make their own investigation around the registration of Dront. The secretary of the Public Chamber have also stated that he is not opposed to foreign financing of civil society organizations. Sadly enough, this did not help Dront.

The Ministry intended to fine the organization 300 000 roubles, but this sum was halved by

the local court. Finally Dront collected all the money they needed and paid the fine. One week later they applied for exclusion from the register, but working on the case Ministry of Justice found additional "violations" that they had not discovered in the previous check. It became clear that they have to close down. Later on, Dront was also fined for 150 000 roubles for a support concert arranged by other people.

ASSOCIATION «PARTNERSHIP FOR DEVELOPMENT»

Partnership for Development (PD) from Saratov was included to the register as Foreign Agents at October 2nd 2014, and received a fine of 300 000 roubles. By this PD became the second listed environmental organization. The leader of the organization, Olga Pitsunova, received a personal fine of 100 000 roubles. PD has decided not to pay the fine for the NGO, but the personal fine was paid by Pitsunova as soon as she received information about to which bank account she had to transfer the money.

Despite this Pitsunova was fined once again, and now for 200 000 roubles. This was as she happened to pay after deadline, as the court had delayed in informing her where to transfer the money. Court bailiffs blocked Pitsunova's pension bank account, and were determined to seize



A concert in support of «Dront», in Nizhny Novgorod.

Pitsunova's private property (flat), not only as payment for her personal debt, but also for the debt of the organization (illegal according to the Russian legislation). Also they hoped to conduct a search in the apartment under the guise of an inventory of the property.

To avoid new legal claims, fines and courts, Pitsunova had to hide from the prosecutor's office and court bailiffs. PD decided to close down, but the organization was excluded from the list of Foreign Agents only November 6th 2015. However, the situation with the personal case of Olga Pitsunova is not over - the 200 000 roubles fine is still remaining.

NORTHERN ENVIRONMENTAL COALITION

The organization was listed in the course of the inspection of the Republic of Karelia Attorney. According local media, reasons for inspection were appeals of «vigilant citizens.» Claims to the organization activities emerged after some environmental activists were seen among the participants of the protest actions in Petrozavodsk in April of 2015 for ending political oppressions and dismissal of governor of Karelia.

Northern Environmental Coalition was registered in 2013 on the basis of the nature protection group of Petrozavodsk State University, working in the region for more than 16 years. Environmentalists saved thousands of hectares of unique forests in the European North of Rus-

sia from destruction, and contributed to creation of new protected areas in Karelia.

SAKHALIN ENVIRONMENT WATCH

Sakhalin Environmental Watch (SEW) was listed as Foreign Agents on September 18th 2015. In its decision, the Ministry of Justice said that the organization «opposes the development of the energy sector of the country», and also that their work increased the sense of ecological danger, stating that the demands of SEW on the necessity of planting of greenery in Yuzhno-Sakhalinsk «increase a sense of ecological danger in the region».

After that Sakhalin Environment Watch returned 159 000 USD to the Hollywood actor Leonardo DiCaprio foundation, funding that was granted for preservation of the «East» nature reserve. They also returned other grants with the purpose to be excluded from the register as Liberal Mission did. If that will not happen they will close down, the SEW leader declared.



A meeting in the «Northern Environmental Coalition» in the Republic of Karelia.



DARK SKIES FOR CIVIL SOCIETY

GOING IN THE WRONG DIRECTION

Putin has stated to the Presidential Council for Civil Society and Human Rights³¹ that he intend to do some changes in the law, in order to make clearer what political activity really is.³² If this will be any steps in positive direction or not remains to be seen. However, Human rights activists and members of Presidential Human Rights Council believe that it is impossible to improve the law on Foreign Agents.³³

What reality shows is movement in a clearly negative direction, with the sharp turn in how the authorities use the law towards the organizations since the end of 2014 and in 2015. The Ministry of Justice also proposes to toughen the law on Foreign Agents.³⁴ This implies to toughen reporting requirement for the organizations labelled Foreign Agents, requiring that they will not only have to provide the Ministry of Justice annual audit reports and quarterly reports on its activities, but also reports on all the projects and activities within three days from the date of agreeing a project or making a decision of an event. Civil servants will also be banned from participating in the planning and implementation of activities by Foreign Agent organizations. And if any Russian legal entity (including commercial organizations) will receive money from foreigners and transfer it to a Foreign Agent

organization, then the organization has to report about it.

Also, many NGOs were ruled by local courts to pay fines in the high end (300 000 roubles), even if the Constitutional court have stated that fines could be lowered down to half the size. In total, as it was estimated by “Closed Society” Initiative for Information and Analysis, Russian organizations have paid more than 14 000 000 roubles in fines.

Roskomnadzor has started to investigate the activity of the organizations with Foreign Agent label, and fine those who do not fulfil the requirements to label all their production and activity with “Foreign Agent” label. Bellona-Murmansk was fined for lack of label in two articles,³⁵ and the Court ruled two fines by 150 000 roubles each. Dront was fined for not labelling a concert that was organised by a third part in support of Dront.

A ban for Foreign Agents to in any way participate in election campaigns was integrated in the Russian law «On basic guarantees of electoral rights of citizens», which was amended in November 2014.

By this measure, Russian citizens from Foreign Agents organizations equates to foreign observers.³⁶

EXPECTED DIFFICULTIES

In addition, more restrictions towards Foreign Agents are expected:

- Nizhny Novgorod officials called for vigilance in dealing with Foreign Agent organizations:

It has been media cases where public authorities and institutions has been criticised for too close cooperation with Foreign Agent organizations.³⁷ This is expected to worsen as more organizations are labelled.

- Foreign agents might be banned watching prison:

It is expected that Foreign Agent organizations not will be able to nominate candidates to members of public monitoring commissions (PMC).³⁸ It is expected that this will lead to weaker control of human right violations in prisons and all sorts of detention centres.

- Difficult to close down:

More civil society organizations are also facing difficulties to close down with and unpaid Foreign Agent fine. The fines are often quite high, and with lack of resources, for example from foreign sources (sic!), it is difficult to pay the fine and close the organization. It is expected that more organizations will have to go through bankruptcy procedures, as the organization Committee against torture is trying to do now.³⁹ However, it has turned out that this is not an easy solution, and the Committee is applying for the second time⁴⁰.

- Difficult to register new NGOs:

At the same time some organizations continue to face problems with registration of new NGOs. An example is how a group of human rights defenders in the Ural region three times made documents for registration, and had them returned by the Ministry of Justice three times, with new requests for corrections.⁴¹

- Media Foreign Agent bill

In October a Foreign Agent bill for media was proposed. If adopted, media will have to report to Roskomnadzor about any foreign support they receive. Otherwise the media institution will have to pay the received amount of money as fine, and head or editor of the media institu-

tion 30 000 to 50 000 roubles in addition.⁴²

INCREASE IN PUBLIC, HOSTILE ATTACKS

The Russian organizations, also those who are not yet in the register, experience substantial increase in public, hostile attacks. The partners Naturvernforbundet cooperate with to close old nuclear reactors experience this in particular. They have been faced with several attacks on basis of their cooperation with Naturvernforbundet/Friends of the Earth Norway, and are in public accused of being agents, that they are promoting the interest of Norway and NATO in Russia and so on²⁴. This negative publicity increases the scepticism against organizations, and makes people in general affiliate organizations with spies. The consequence is that they both the public and also potential cooperation partners become more reserved against the activity of the organizations.

The law is to a large degree discussed and analysed in Russian mass media. The challenge is that the average Russian citizen to a large extent relies on Kremlin controlled media, and most of all on TV. Here very little is published about the Agent laws. Printed Kremlin controlled media do inform about the Agent laws, but usually refers to it in a neutral manner, and some times in a very negative way.

One recent example of media response was when Green World recently was labelled agents. The pro Kremlin TV channel Life News came to Sosnovyj Bor, where they interviewed Oleg Bodrov together with veterans of the nuclear industry supporting Green World. Life News also participated in a press conference organized by Green World in St. Petersburg, where Naturvernforbundet and Za Prirodu gave presentations as well. What Life News finally showed on TV was film of Oleg Bodrov with a negative voiceover from the TV channel, as well as Naturvernforbundet stating that Green World receives finances from Norway.²⁵

This is just one example on how mass media twist the work and function of the organizations,

to really make them sound as “Foreign Agents”. Also many smaller publications uncritically print negative articles about organizations’ role as Foreign Agents. A list of negative articles about the Foreign Agents can be found in the link below.²⁶

However, some voices critical to the law have also appeared in bigger mass media. Among them are the head of the Presidential Council for Civil Society and Human Rights, Mikhail Fedotov, who in mass media has expressed that the registration of organizations more and more looks like a witch hunt.²⁷

Not long ago the Russian Public Collegium for Press Complaints also judged a TV program for propaganda, being biased, manipulative, forming the «enemy image».²⁸

Rather many articles expressing criticism against the law and sympathy with the organizations appear, but mostly in media sources or on web pages which do not have a very big audience. One example can be found in the link, about the decision to label Green World as foreign agents.²⁹ That this is not read by the general public can be one reason for why there has not been formed any mass movement in support of the organizations.

Even if the overall media picture have a negative bias towards the Foreign Agent organizations, it seems that many people do not understand the need for the Foreign Agent label. A recent (August of 2015) opinion poll showed that a majority of the population do not see any personal use of law that label civil society organizations as Foreign Agents. 54 % said they do not see any use of it, while 28 % were not sure, and only 18 % supported the law.³⁰

DOUBLE STANDARDS

Foreign Agents law has exceptions for religious organization and also for state corporations, which legal entity exist as in the form of NGO.

The state nuclear corporation Rosatom is one of such state corporations. Every year Rosatom receive a lot of foreign support from abroad to deal with radiation safety issues. For example has Kola Nuclear Power Plant during 2014 and

2015 received Norwegian support in the range of 6 000 000 Norwegian kroner or 644 000 euro.⁴³ If there was no exceptions in the law, then Rosatom could be one of the major “Foreign Agents”.

This exception also means that if such organizations contribute to any foundation or launch a granting program, then any NGO receiving this funding might be labelled as a “Foreign Agent”. It is important to note that Rosatom actually has granting program, which clearly means that any NGO receiving funding from Rosatom is at risk. If this NGO is loyal the risk is probably minimal, but if this NGO is critical then there is clearly a risk to be listed as a “Foreign Agent”.

- KREMLIN AFFILIATED NGOS PUT CRITICAL NGOS AT RISK.

“Center of National Glory of Russia”,⁴⁴ “St. Andrew Foundation”,⁴⁵ lead by Vladimir Yakunin, former head of Russian Railways Company, «Fund of St. Basil the Great»,⁴⁶ “Elena and Gennady Timchenko Charitable Foundation”,⁴⁷ they are all Putin’s friends’ NGOs, and have all received foreign funding. Still, even if, as we have experienced, any NGO’s activity might be consider as “political”, these foundations and organizations are not subject to the same harsh judgement by the authorities as more independent and critical organizations.⁴⁸

Many Russian high officials were taking part in programs led by organizations from the list of possible “Undesirable Organizations”. Even current president Vladimir Putin in his earlier years during the 1990ies, took part in programs of National Democratic Institute (US), which is now listed as Undesirable Organization.

Valentina Matviyenko, Speaker of the Federation Council that made the list of possible «Undesirable Organizations», personally organized work closely with the US government’s largest organization dedicated to international assistance - USAID.⁴⁹ And many other examples of high ranking persons affiliation with possible or already Undesirable Organizations can be given.



CONCLUSIONS

■ 1. In 2015 Russian authorities has removed all potential doubts about their intentions to use the Foreign Agent law to harm the civil society. The picture is without doubt gloomy at the present, and recent development indicates that situation will deteriorate further. Current Russian authorities consider NGOs as a threat to their authoritarian ruling, and we expect they will increase pressure towards independent NGOs. This is the situation that characterizes the near future, which we have to deal with and currently try to adapt to.

■ 2. We have also seen an increase in establishment of governmental foundations and granting programs, and expect more support for loyal NGOs, with the result that real and critical NGOs will be replaced by organizations that are loyal and/or affiliated with authorities or major corporations. By this there might continue to be a kind of a civil society in Russia, but it will not be independent.

■ 3. Russian organizations do not

intend to give up their important work. With a slow development after the breakdown of the Soviet Union, Russian civil society has developed immensely in the recent years. The organizations should constitute a natural part of the Russian society, activating people and giving relevant and important inputs within fields like human rights, environmental protection, the cultural sphere, indigenous peoples' development and many others. We expect that tools developed for communication and cooperation, such as information technologies and social media, will enable also Russian "real" organizations to continue their work, and provide a basis for continued cooperation.

APPENDIX 1: LEGAL ANALYSIS OF THE LAW ON “UNDESIRABLE ORGANIZATIONS”⁵⁰.

A. Consequences for organizations

1) The formation of structural sub-divisions of “undesirable NGOs” in the Russian Federation is prohibited and those already in operation are to be closed.

2) The dissemination of information prepared by the “undesirable NGO”, through mass media and the Internet is prohibited, as also is the preparation and storing of such materials for dissemination. The last clause “for dissemination” should be understood to mean “more than one copy”.

3) The implementation in the Russian Federation of programmes (projects) “for the undesirable NGO” is prohibited. This does not necessarily mean that the programme (project) was initiated by the NGO itself. “For” will be interpreted broadly to mean “in the interest of” or “in collaboration with”. This prohibition is also fully applicable to Russian NGOs, and affects individuals as well as Russian non-profit organizations.

4) There is an obligation on the part of credit organizations and non-credit financial institutions to refuse to conduct operations with monetary funds and / or other property, when one of the parties is an “undesirable NGO”. Credit organizations and non-credit financial institutions are obliged to provide information about this refusal to the federal executive authority responsible for implementing measures against legalisation (laundering) of revenue acquired by criminal means and financial terrorism. The authority, in turn, must inform the Prosecutor General’s Prosecutor Office and the Ministry of Justice.

B. Consequences for individuals:

1) Criminal responsibility (Article 284.1 of the RF Criminal Code).

Crime:

- Carrying out operating control of the “undesirable NGO”, or
- Participation in the activities of the “undesirable NGO”, providing imposition of administrative sanctions for “similar deeds” happened twice in a period of a year.

Punishment:

- Penalties of 300,000-500,000 rubles, OR revenue for the period of 2-3 years;
- Compulsory community service for up to 360 hours;
- Community service up to 5 years;
- A term of imprisonment from 2 to 6 years.

In this case “operating control” should be read not only as the formal director, but also everyone performing organizational and administrative functions.

There is a note in the article on the relief from responsibility, if the person had “voluntarily ceased participation in the activities” of the undesirable NGO. Based on this wording, relief from responsibility for the head of the organization is out of question.

Criminal proceedings will be initiated and investigated by the Investigative Committee of Russia, as well as “the investigators of the authority, which has discovered the crime”. Guess, which one.

2) Administrative responsibility (Article 20.33 of the RF Code of Administrative Offences).

Misdemeanor:

- Carrying out the activities of an “undesirable NGO”.
- Participating in the activities of an “undesirable NGO”.
- Violation of legislative prohibitions established in the “Dima Yakovlev” law (see also Consequences for Organizations).

Punishment:

Penalties - citizens 5,000-15,000 rubles; public servants – 20,000-50,000 rubles; legal entities – 50,000-100,000 rubles.

3) Ban on entry to the Russian Federation for foreign citizens

Changes to the federal law “On the procedure for exit from the Russian Federation and entry into the Russian Federation” are being made, whereby foreign citizens and stateless persons participating in the activities of undesirable NGOs can be forbidden to enter the Russian Federation.⁵¹

APPENDIX 2: GREEN WORLD PRESS RELEASE 19.11.2015 ON FOREIGN AGENT PROCESS

NGO GREEN WORLD - A CIVIL SOCIETY WATCHDOG ON RUSSIAN NUCLEAR INDUSTRY IS INCLUDED IN THE LIST OF "FOREIGN AGENTS"

On November 16th 2015, at 13:15 in the nuclear town Sosnovyj Bor on the Baltic Sea coast, 40 km from the St. Petersburg, representatives of the Leningrad Region Department of the Ministry of Justice of Russian Federation handed the environmental Non Governmental Organization (NGO) Green World (GW) an Act on the results of an unscheduled on-site inspection of the organization.

On the 46 pages of this document are set out the facts which, according to its authors, argue that GW «received funding from foreign sources, was involved in political activities carried out on the territory of the Russian Federation that were aimed at shaping public opinion in order to influence decision-making by government authorities related to state policy, as well as aimed at creating public resonance and attracting the attention of the state system and civil society».

As result, according to the Ministry of Justice of Russian Federation, GW has received the designation of «NGO acting as a Foreign Agent».

Overview over controls GW underwent recently:

April 25, 2013

On-site inspection was conducted by the assistant of a prosecutor of Leningrad Region (Marina Ahberdovnaya Kozyreva) on the subject of GW's role as a potential "Foreign Agent". The justification for the inspection was an order of the President of the Russian Federation for a review of all NGOs in Russia. Statutory and financial documents were provided, including samples of printed materials, documentary films, and explanations and answers to questions were given. GW received a response by phone that there were no claims regarding our work based on this inspection.

August 09, 2013

Unplanned inspection of GW took place by the deputy prosecutor of Sosnovy Bor, Leningrad Region, N.E. Bogdanova. The reason for this inspection was a complaint by the Close Joint

Stock Company (CJSC) Ecomet-S (Sosnovy Bor) that Green World supposedly acts as a «Foreign Agent,» but is not registered as such. GW provided all required statutory documents and other publications.

The complaint by Ecomet-S to the prosecutor's office coincided with the promotion of a repository site for radioactive waste disposal in Sosnovy Bor, in which Ecomet-S has an interest as it produces radioactive waste

At the same time, the Federal State Unitary Enterprise RosRAO (an operator of radioactive waste), according to the website for state purchases (number 31300696401, publication date 25.11.2013), signed a contract with the Foundation «Russian Public Policy Center» (Moscow) contract for the «Organization of public hearings on the preliminary environmental impact assessment of the radioactive waste repository site of RosRAO» in the amount of 17.000.000 (seventeen million !!!) rubles (about \$257.000 !!!).

For several months prior to the public hearings on the depository, the free-of-charge newspaper "Narodnyje Vesti FM ("People's News FM") was distributed, promoting nuclear projects and discrediting opponents of the construction of the depository, including GW. It was at this time (15.08.2013) that the newspaper published an article titled «Green World with a Norwegian slant,» which argued that GW supposedly defends the interests of Norway by criticizing the projects of radioactive waste repository and Leningrad Nuclear Power Plant-2 (LNPP-2).

As a result of the audit, the prosecutors of Sosnovy Bor did not give GW any further signals. From a telephone conversation for checking with the prosecutors, GW learned that the application of CJSC «Ecomet-S» was dismissed. .

In this way, «radioactive business» in Sosnovy Bor tried to block criticism by GW of the radioactive waste repository project.

October 13 – November 11, 2014

GW was subjected to a planned audit of its documents by the Leningrad Region Department of the Ministry of Justice of Russian Federation. The inspector was Olga O. Bochkareva. The order number was 257 and dated April 2, 2014. The aim

was to see whether “the activity of the organization, including expenditure of funds and the use of other assets complied with the organization’s statutes».

After the audit, Green World received instructions for improvements (act 45 of 11.11.2014 and directions 11.11.2014. №47 / 02 – 4110).

All improvements were made under the supervision of the Ministry of Justice of Russian Federation.

October 19 – November 16, 2015

An unscheduled on-site inspection of GW was conducted by the Leningrad Region Department of the Ministry of Justice of Russian Federation. The inspectors were Vera M. Ivanova the Head of NGO Affairs of the Leningrad Region Department of the Ministry of Justice of Russian Federation and inspector Maria E. Reysma. The basis for this inspection was a request by the citizen M.M. Rumyantsev (resident of Ekaterinburg, Ural Region of Russia), who stated that GW acts as a «Foreign Agent,” but is not registered in this status.

The request of Mr. Rumjantsev to the Ministry of Justice coincided with public discussion of Environmental Impact Assessment materials in support of the license to operate the Leningrad NPP-2 (under construction). Green World was busy to show violations of the laws and safety standards in the process to promote realization of Leningrad NPP-2 project. GW during this same period was forced to spend much of its time responding to the Ministry of Justice.

According to representatives from the Ministry of Justice, GW involved in political activities with donations received from other countries. For 11 years, Green World has received funds for the project «Decommissioning». With Norwegian support, Green World and NGO colleagues in the Decommissioning project network have, among other things, arranged study trips to look at decommissioning processes at nuclear power plants in Lithuania, Germany, the United States, and also looked at repositories of radioactive waste in Sweden and Finland. At these trips we have had representatives from federal, regional and municipal authorities from nuclear regions of Russia, experts and employees of Rosatom and nuclear power plants, and also media http://decomatom.org.ru/public/10let_decom_291014.pdf.

The decommissioning of nuclear power plants

in Russia is an actual problem. More than sixty percent of Russian NPPs have passed their designed lifetime. The technological, ecological, social and economical experience of other countries with decommissioning of nuclear power plants is needed in Russia.

GW with colleagues from regions of Russia, Norway, and the United States have summarized the international best practice decommissioning nuclear power plants and presented it in the form of a Concept to the nuclear community of Russia and to the International Atomic Energy Agency (Vienna) http://www.greenworld.org.ru/sites/default/greenfiles/conception_eng_1610.pdf.

The status of «foreign agent» for GW and for our decommission-partners NGO “Za Prirodu” (“For Nature”), Chelyabinsk, Ural Region, Russia, brings harm to the safety of Russian nuclear facilities.

Green World has worked for 27 years in support of the safety of nuclear facilities in Sosnovy Bor, near St. Petersburg, because the members of the organization live in close proximity, and feel responsible for Sosnovy Bor residents, for St. Petersburg residents, and for the 100 million other inhabitants of the Baltic region countries.

In order to be effective in this, we have received support from Norway, Sweden, Finland, Germany, Russia and the United States.

The accusations that Green World is a “Foreign Agent” are absurd. Our habitat is indivisible!

GREEN WORLD is an Agent for Nature! Members of Green World are Agents for Planet Earth.

Oleg Bodrov,

Chairman of Green World,

The International Network of NGOs Decommissioning

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■ **NATURVERNFORBUNDET** is the oldest environmental and nature protection organization in Norway. Naturvernforbundet is membership based and democratic, and consists of over 22,000 members in about 100 local groups across the country, working to solve environmental issues both local and global.

■ Our main goal is to protect nature and the environment so that human activity does not exceed the tolerance limits of our planet. We are concerned with a wide range of issues in environmental and nature conservation, but work specifically with the areas conservation, climate change, energy and transportation.

■ Although we have a national agenda, many environmental questions have proven to have an international or even global character. Issues concerning development, resource allocations and international cooperation are very much part of our everyday activities.

■ A member of Friends of the Earth International, Naturvernforbundet is part of the largest grassroots environmental network with more than 2 million members worldwide. Together we campaign the most urgent environmental and social issues.

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