

# **Non-Governmental Organisations and Environmental Governance in Russia**

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## Abstract

This thesis examines the role of Non-Government Organisations (NGOs) in environmental governance in Russia. Environmental problems in Russia emerged as results of the rapid industrial development and over-exploitation of the natural resources. Today, environmental problems remain a persistent issue in Russia as the current Government has prioritised economic development of the country over environmental values. As a result, Environmental Non-Governmental Organisations (ENGOS) have accordingly begun to respond to the Russian Government's environmental policies.

While the growing roles of ENGOS in environmental governance have been explored in Western democracies, little attention has been paid to these developments in Russia. A key issue for the new roles of ENGOS is their agency - the capacities of ENGOS to produce environmental outcomes and respond to changes in governance in Russia. This thesis asks the question: *do ENGOS have agency in environmental governance in Russia and what are the conditions for their agency?* This study aims to broaden our understanding of the roles of ENGOS in environmental governance beyond Western democracies' political domains. To achieve these aims, the thesis studies conditions and constraints for ENGOS effective, legitimate and authoritative participation in Russian environmental governance.

This study draws on research interviews, reports and relevant literature. It examines the historical development of ENGOS in Russia, evaluates Russian laws regulating NGOs and compares these laws with those of other countries, explores changes in ENGO strategies and identifies implications of these changes for theory and the roles of ENGOS in governance.

The findings reveal that although ENGOS have expanded their roles in Russian environmental governance, they are targets of strong governmental control and their public support is low. This conclusion leads the thesis to advance six principles that would help to enhance ENGO agency in Russia. The thesis also identifies two key contributions to the underexamined theoretical issue of ENGO agency, namely, what does agency mean in different contexts and what does agency beyond the state mean for understanding the state's role? The findings demonstrated that the agency of ENGOS varies depending on the area of environmental governance, historical periods and political, legal and economic contexts, which can limit or enhance the agency of ENGOS. This thesis also finds that as ENGOS have achieved limited agency, there has been a related reconfiguration in the role of the Russian state. However, such reconfiguration has not meant a complete change of traditional state roles and, in many ways, appears conditional and tokenistic in the Russian context.

## **Declaration of Originality**

I certify that this thesis does not incorporate without acknowledgement any material previously submitted for a degree or diploma in any university; and that to the best of my knowledge and belief it does not contain any material previously published or written by another person except where due reference is made in the text.

Signed: \_\_\_\_\_ On: \_\_\_\_/\_\_\_\_/\_\_\_\_

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## **List of Abbreviations**

|       |   |
|-------|---|
| ACNC  | Australian Charities and Not-for-Profits Commission |
| CEC   | Central Election Commission                         |
| CMEA  | Council for Mutual Economic Assistance              |
| CSR   | Corporate Social Responsibility                     |
| EIA   | Environmental Impact Assessment                     |
| ENGO  | Environmental Non-Government Organisation           |
| ESG   | Earth System Governance                             |
| EU    | European Union                                      |
| FARA  | Foreign Agents Registration Act                     |
| FSC   | Forest Stewardship Council                          |
| IFAW  | International Fund for Animal Welfare               |
| IRC   | Internal Revenue Code                               |
| KSU   | Kazan State University                              |
| MNR   | Ministry of Natural Resources                       |
| NCO   | Non-Commercial Organisation                         |
| NGO   | Non-Governmental Organisation                       |
| NPO   | Non-Governmental Public Organisation                |
| RSFSR | Russian Soviet Federative Socialist Republic        |
| SEU   | Socio-Ecological Union                              |
| SRI   | Socially Responsible Investments                    |
| UN    | United Nations                                      |
| UNEP  | United Nations Environmental Program                |



|      |                                       |
|------|---------------------------------------|
| USSR | Union of Soviet Socialist Republics   |
| VAT  | Value Added Tax                       |
| VOOP | Vserossiskoe Obshestvo Ohrany Prirody |
| WWF  | World Wide Fund                       |



## Chapter 1. Growing roles of non-governmental organisations in governance

### 1. Introduction

The state of the natural environment and impacts of industrial development on the quality of the air, water and soil remain serious problems Russia and other Post-Soviet countries. Like in other countries, environmental problems in these countries emerged as results of the rapid industrial and agricultural development, technological disasters (e.g., Chernobyl) and over-exploitation of the natural resources in the Soviet Union.<sup>2</sup> Moreover, the planned economy of the Soviet Union and state ownership of natural resources did not encourage environmental conservation by individuals or enterprises. Collectively, these factors led to the further deterioration of the environment, particularly in industrially developed regions of Russia.<sup>3</sup>

After the dissolution of the Soviet Union in 1991, the Post-Soviet countries have begun to deal with environmental problems in their own way. In the case of Russia, the economic crisis in the 1990s has slowed down the development of industries, reducing pollution, which had a positive influence on the state of the environment.<sup>4</sup> Regardless of the reduction in environmental pollution and degradation arising from this economic slowdown, environmental problems have remained a persistent issue in Russia for the last two decades. One of the reasons for this is that the government has prioritised economic development of the country over environmental values.<sup>5</sup> As a result, the current Government has not effectively introduced and promoted environmental-friendly technologies, and continues to persist with old policies of unsustainable use of natural resources, and low levels of

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<sup>1</sup> Some elements of this thesis first appeared and were developed in the joint article E. Sofronova, C. Holley and V. Nagarajan, 'Environmental Non-Governmental Organizations and Russian Environmental Governance: Accountability, Participation and Collaboration' (2014) 3(02) *Transnational Environmental Law* 341. This thesis's research interviews were conducted in accordance with clearance of Macquarie University Human Research Ethics Committee (Ethics Reference: 5201200095). The referencing style in this thesis follows the style guidelines Australian Guide to Legal Citation. The footnote referencing restarts in each chapter. This thesis was edited by Elite Editing, and editorial intervention was restricted to Standards D and E of the *Australian Standards for Editing Practice*.

<sup>2</sup> L. Henry and V. Douhovnikoff, 'Environmental Issues in Russia' (2008) (33) *Annual Review of Environment and Resource* 437; G. Cromwell, 'Environmentally and Socially Responsible Business in Russia: Why Bother?' in W. Douma and F. Mucklow (eds), *Environmental Finance and Socially Responsible Business in Russia* (TMC Asser Press, 2010) 29; L. Henry, *Red to Green: Environmental Activism in Post-Soviet Russia* (Cornell University Press, 2010), 34–37.

<sup>3</sup> V. Zykov et al, *Razvitie normativno-pravovogo regulirovaniya ohrany prirody i ekologicheskoy metrologii* [A Development of Legal Regulation of Environmental Protection and Ecological Metrology] (IPK PFUR, 2005); Henry and Douhovnikoff, above n 2, 438–9. All Russian names of authors, names of articles, books, laws, cases and other materials were transliterated by the author and followed by English translation in the square brackets. All translations from Russian language were made by the author, except where otherwise indicated.

<sup>4</sup> Henry and Douhovnikoff, above n 2, 442.

<sup>5</sup> Ibid, 440; A.P.J. Mol, 'Environmental Deinstitutionalization in Russia' (2009) 11(3) *Journal of Environmental Policy & Planning* 223.

environmental law enforcement. Considering the global scale of environmental problems, the size of Russia and its geographical location, environmental problems have both domestic and international importance.

The international and domestic publics, expressing their interests through both individuals and non-governmental organisations (NGOs), have accordingly responded to this continuing degradation of the natural environment and the Russian state's ineffective response to these problems. In particular, NGOs have played an increasingly crucial role in forming, promoting and implementing environmental protection policies and values.

Examples of this include activities of Greenpeace on saving the Arctic from oil and gas drilling,<sup>6</sup> or the court challenge lodged by Greenpeace against decisions of the Ministry of Natural Resources of Russia (MNR) permitting gold mining in a national park (reserve).<sup>7</sup> Environmental non-government organisations (ENGOS)<sup>8</sup> (e.g., Greenpeace Russia, World Wide Fund [WWF] Russia, Dront, Green League and others) are forming environmental policies through memberships in new public forum. Examples include Civic Chambers and Public Councils working under state environmental agencies, and the collaboration of WWF Russia and Dront with the state in conservation of biodiversity. These illustrate the growing role of ENGOS in Russian environmental governance.

Despite these and other emerging examples of the burgeoning role of NGOs in Russia environmental governance, little attention has been paid to these developments and the challenges they face. Indeed, the role of civil society in environmental governance outside of Anglo American and European geographies has been under examination in developing countries.<sup>9</sup> However, the growing roles of NGOs in governance have been explored mostly in the US,<sup>10</sup> Australia<sup>11</sup> and the European Union (EU) countries.<sup>12</sup> A main focus of this

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<sup>6</sup> Information is available at <http://www.greenpeace.org/russia/en/campaigns/energy-climate/save-the-arctic/>, the last access on 11/03/2015.

<sup>7</sup> Information is available at <http://m.greenpeace.org/russia/en/base/news/02-september-komizolotocourt/>, the last access on 11/03/2015.

<sup>8</sup> For purposes of clarity a term 'ENGO' will be used to emphasize environmental NGOs as opposed to using a term 'NGO' more generally referring to all NGOs.

<sup>9</sup> E.g. K. Hochstetler, 'Civil Society and the Regulatory State of the South: A Commentary' (2012) 6 *Regulation & Governance*, 362; E. Benecke, 'Networking for Climate Change: Agency in the Context of Renewable Energy Governance in India' (2011) 11(1) *International Environmental Agreements: Politics, Law and Economics* 23; Henry, see above n 2.

<sup>10</sup> See for example, J. Freeman, 'The Private Role in Public Governance' (2000) 75 *New York University Law Review* 543, 543–675; B.C. Karkkainen, A. Fung and C.F. Sabel, 'After Backyard Environmentalism' (2000) 44(4) *American Behavioral Scientist* 692.

<sup>11</sup> C. Holley, N. Gunningham and C. Shearing, *The New Environmental Governance* (Earthscan, 2012); N. Gunningham and C. Holley, *Bringing the 'R' Word Back: Regulation, Environment Protection and NRM*, Occasional Paper (The Academy of the Social Sciences in Australia, 2010).

scholarship lies in exploring issues arising from new roles of NGOs in governance, including new forms of their interactions<sup>13</sup> with other environmental actors.<sup>14</sup>

Along with an emerging body of scholarship that seeks to broaden both the geographical and non-state perspectives of regulatory and governance studies,<sup>15</sup> this thesis explores the role of ENGOs in Russia (the Russian Federation or the RF), a Post-Soviet country.

ENGOs in Russia exist and work in a different political, legal, economic and social context discussed in more detail in the next section. The Russian economy is still considered in transition to a market economy; it is highly dependent on natural resources.<sup>16</sup> The private business sector is undeveloped and the state continues to control the major economic sectors,<sup>17</sup> such as mining, energy and defense industries. Moreover, historically, ENGOs in Russia emerged originally as scientific groups and worked mostly under conditions of the Soviet political regime, had limited strategies of influence and collaborated with the state rather than openly challenged its policies.<sup>18</sup> Despite granting more openness and freedom in the state policies, broadening of legal rights of all NGOs and foreign aid to the development of Russian civil society,<sup>19</sup> this historical legacy still influences the work of contemporary ENGOs in Russia.<sup>20</sup>

While there have been a number of studies into Russia's environmental bureaucracies,<sup>21</sup> eco-modernisation<sup>22</sup> and federal government structures,<sup>23</sup> and the historical development of soviet

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<sup>12</sup> C. Scott, 'Private Regulation of the Public Sector: a Neglected Facet of Contemporary Governance' (2002) 29(1) *Journal of Law and Society* 56; F. Biermann et al, 'Earth System Governance: A Research Framework' (2010) 10(4) *International Environmental Agreements: Politics, Law and Economics* 277; J. Black, 'Constructing and Contesting Legitimacy and Accountability in Polycentric Regulatory Regimes' (2008) 2(2) *Regulation & Governance* 137.

<sup>13</sup> P. Glasbergen, F. Biermann and A.P.J. Mol (eds), *Partnerships, Governance and Sustainable Development: Reflections on Theory and Practice* (Edward Elgar Publishing Limited, 2007).

<sup>14</sup> Biermann et al, see above n 12, 283.

<sup>15</sup> P. Stubbs, 'Stretching Concepts Too Far? Multi-Level Governance, Policy Transfer and the Politics of Scale in South East Europe' (2005) VI(2) *Southeast European Politics*, 66; E. Dellas, P. Pattberg and M. Betsill, 'Agency in Earth System Governance: Refining a Research Agenda' (2011) 11 *International Environmental Agreements*, 85.

<sup>16</sup> See for example at <http://wdi.worldbank.org/table/3.15>, the last access on 27/11/2014.

<sup>17</sup> Information available at <http://www.heritage.org/index/country/russia>, the last access on 27/11/2014.

<sup>18</sup> D. Weiner, *A Little Corner of Freedom: Russian Nature Protection from Stalin to Gorbachëv* (University of California Press, 1999).

<sup>19</sup> J.D. Hemment, 'The Riddle of the Third Sector: Civil Society, Western Aid and NGOs in Russia' (2004) 77(2) *Anthropological Quarterly* 215.

<sup>20</sup> O. Alekseeva, 'Commentary on Jakobson and Sanovich: The Challenging Landscape of the Russian Third Sector' (2010) 6(3) *Journal of Civil Society* 307, 308.

<sup>21</sup> J. Crotty and P. Rodgers, 'The Continuing Reorganization of Russia's Environmental Bureaucracy' (2012) 59(4) *Problems of Post-Communism* 15.

<sup>22</sup> Mol, see above n 5; M. Tokunaga, 'Environmental Governance in Russia: The Closed Pathway to Ecological Modernization' (2010) 42 *Environment and Planning A* 1686, 1699.

<sup>23</sup> G. Hønneland and J. Jørgensen, 'Federal Environmental Governance and the Russian North' (2005) 29(1)

ENGOS,<sup>24</sup> the impact of the NGO law<sup>25</sup> in Russia,<sup>26</sup> the role of ENGOS in Russian environmental governance and their relationships with the state, and each other has been less examined.<sup>27</sup> In particular, changes in environmental debates and organisational changes of ENGOS over the last decades mean there is a need to further explore the capacity of these non-governmental actors of governance in bringing changes in environmental governance process in Russia.<sup>28</sup>

This thesis aims to provide empirical insights on capacities of ENGOS in Russia to participate in environmental governance and achieve environmental outcomes. Earth System Governance (ESG)<sup>29</sup> is an analytical research framework employed by this thesis to study *agency* of ENGOS in Russia. As discussed below in more detail, *agency* is a much studied concept. However, for the purposes of this thesis *agency* of ENGOS is understood as the capacities of NGOs to produce environmental outcomes and respond to changes in environmental governance.<sup>30</sup> This thesis studies the work of ENGOS in Russia and their response to changing conditions of their operation in order to answer the question: ***do ENGOS have agency in environmental governance in Russia and what are the conditions for their agency?***

This study is drawn on 26 research interviews, reports, and other material relevant to their work and analysis historical development of ENGOS in Russia. It discusses debates on NGO law and compares it with laws in other countries, examines changes in NGO strategies and explores implications of these changes to theory and our broader understanding of the role of ENGOS in governance.

This chapter consists of seven parts commencing from the introduction. The second part briefly describes current political, legal, economic and social conditions for the work of

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*Polar Geography* 27; J. Richter, 'The Ministry of Civil Society?' (2009) 56(6) *Problems of Post-Communism* 7.

<sup>24</sup> V. Larin et al, *Okhrana prirody Rossii: ot Gorbacheva do Putina [Nature Protection in Russia from Gorbachev to Putin]* (KMK, Scientific Press, 2003); Weiner, see above n 18; E. Shvarts and I. Prochazova, 'Soviet Greens: Who are They?' in B. Jancar-Webster (ed), *Environmental Action in Eastern Europe: Responses to Crisis* (1992) 176.

<sup>25</sup> In this thesis, the term 'NGO law' is used when referring to laws and other legal regulations relating to NGOs and their activities.

<sup>26</sup> C. J. Albertie, 'Survey & (and) Critique of Russian Law & (and) Its Effect on NGOs' (2004) 2 *International Journal of Civil Society Law* 12; J. Crotty, S.M. Hall and S. Ljubownikow, 'Post-Soviet Civil Society Development in the Russian Federation: The Impact of the NGO Law' (2014) 66(8) *Europe-Asia Studies* 1253.

<sup>27</sup> See, e.g., L. Henry, 'Between Transnationalism and State Power: The Development of Russia's Post-Soviet Environmental Movement' (2010) 19(5) *Environmental Politics* 756;

<sup>28</sup> Biermann et al, see above n 12.

<sup>29</sup> Ibid. A choice of this theoretical approach as a main theoretical frame work for this thesis is discussed below.

<sup>30</sup> Dellas, Pattberg and Betsill, above n 15, 87; Biermann et al, see above n 12, 283.

ENGOS in Russia, providing a context for this thesis. The third part explains why ESG is chosen as a main theoretical framework for the thesis. The fourth part of this chapter outlines research questions guiding this thesis. Contributions made by this thesis are identified in the fifth part. The sixth part of the thesis introduces and explains the methodology of this thesis. Finally, the structure of this thesis is outlined.

## ***2. ENGOS in Russia: conditions for their work***

This section gives a more detailed description of political, legal, economic and social conditions for the work of ENGOS in Russia in order to link key issues of ENGOS' agency in Russia, aims of research, research questions and theoretical framework for this thesis.

The political regime in Russia is characterised differently by academics, for example, as 'managed democracy',<sup>31</sup> or 'competitive authoritarianism',<sup>32</sup> and the majority of them speak about the 'crisis of democracy',<sup>33</sup> in Russia. They argue that the current political regime has formal attributes of democracy, such as competitive elections, political pluralism, separation of power, declared civil and political rights, including a freedom of speech and freedom of associations, but all of these democratic rights are frequently violated to different extents. For example, elections are said to be rigged, with governmental critics harassed.<sup>34</sup>

The legal regulations on NGOs establish a broad range of rights for NGOs and, at the same time, challenge implementation of these rights. This is achieved via vague provisions of the NGO law, a lack of law enforcement mechanisms, extensive control and reporting requirements for foreign-funded NGOs and ineffective state system of the environmental protection bodies.

Recent studies of public opinion have demonstrated that a level of public engagement with NGOs remains extremely low.<sup>35</sup> Considering the public and non-governmental character of

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<sup>31</sup> S. Wegren and A. Konitzer, 'Prospects for Managed Democracy in Russia' (2007) 59(6) *Europe-Asia Studies* 1025.

<sup>32</sup> S. Levitsky and L. Way, 'The Rise of Competitive Authoritarianism' (2002) 13(2) *Journal of Democracy* 51; L. Diamond, 'Thinking about Hybrid Regimes' (2002) 13(2) *Journal of Democracy* 21.

<sup>33</sup> R. Sakwa, *The Crisis of Russian Democracy: the Dual State, Factionalism and the Medvedev Succession* (Cambridge University Press, 2010).

<sup>34</sup> Wegren and Konitzer, see above n 31, 1025, Levitsky and Way, see above n 32, 53.

<sup>35</sup> 'Report on the State of Civil Society in the Russian Federation 2009' (Civic Chamber of the Russian Federation, 2010), 18–19.

these organisations, one of the key challenges for NGOs including environmental is that Russia has some of the world's lowest levels of public trust in civil society organisations.<sup>36</sup>

While public trust in ENGOs is low, these are subject to two growing and competing demands from the Russian state. First, there has been a need to increase engagement of ENGOs in environmental governance<sup>37</sup> because of the mentioned above 1990s economic collapse and an associated reduction in environmental stress.<sup>38</sup> Since this time, the Russian Government has prioritised economic growth over environmental protection.<sup>39</sup> This prioritisation led to a weakening of state commitment to environmental protection functions. The state federal institutional structure on environmental protection was reformed and weakened<sup>40</sup> by a loss of staff, staff capacity and expertise,<sup>41</sup> whereby ENGOs and other civil society actors have been compelled to engage in environmental governance.<sup>42</sup>

Certainly, the Russian state has maintained its role as the predominant regulator. However, a shift in the 'steering' and 'rowing' of Russian environmental governance can be noted. New participatory mechanisms that are opening up new points of public input into many levels and stages of legal process, including legislation, promulgation of rules, implementation of policies and enforcement, have been recently established.<sup>43</sup> These include Civic Chambers and other Public Councils under the state bodies and agencies<sup>44</sup> (Chapter 6) to channel civic

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<sup>36</sup> V. Shlapentokh, 'Trust in Public Institutions in Russia: The Lowest in the World' (2006) 39(2) *Communist and Post-Communist Studies* 153; L. Jakobson et al, 'Civil Society in Modernising Russia' (The Centre for Studies of Civil Society and the Non-for-Profit Sector of the National Research University 'Higher School of Economics', 2011), 21.

<sup>37</sup> Biermann et al, see above n 12, 277–98.

<sup>38</sup> J. Oldfield, *Russian Nature: Exploring the Environmental Consequences of Societal Change* (Ashgate, 2005).

<sup>39</sup> Crotty and Rodgers, see above n 21, 15–16.

<sup>40</sup> K. Wernstedt, 'Environmental Protection in the Russian Federation: Lessons and Opportunities' (2002) 45(4) *Journal of Environmental Planning and Management*, 493; Mol, see above n 5, 229–30; V. Kotov and E. Nikitina, 'Reorganisation of Environmental Policy in Russia: the Decade of Success and Failures in Implementation and Perspective Quests' (2002), available at <http://www.feem.it/NR/rdonlyres/59A79BBF-DE58-4819-BC3F-C0FE71384402/346/5702.pdf>, the last access on 23/03/2014.

<sup>41</sup> Mol, see above n 5, 230–31.

<sup>42</sup> Biermann et al, see above n 12, 277–98.

<sup>43</sup> Participation is a multifaceted concept and debates vary depending on which feature of the participatory process is being discussed. For example, participation as 'communication', 'representation' and 'inclusiveness' are common areas of concern. See A. Fung, 'Varieties of Participation in Complex Governance' (2006) 66 *Public Administration Review*, 66, 67. R. Margerum, 'A Typology of Collaboration Efforts in Environmental Management' (2008) 41 *Environmental Management*, 487, 487–88; O. Lobel, 'The Renew Deal: The Fall of Regulation and the Rise of Governance in Contemporary Legal Thought' (2004) 89 *Minnesota Law Review*, 342, 373.

<sup>44</sup> For further on public chambers see: *Federalnyj Zakon RF ot 04 aprelya 2005 N 32-FZ 'Ob Obshestvennoj palate Rossijskoj Federatsii'* [Federal Law the RF 4 April 2005 N 32-FZ 'On the Civic Chamber of the Russian Federation'] (Russia). Note that the terms 'Public Chamber' and 'Civil Chamber' have been used interchangeably on the website <http://www.oprf.ru/en/about/>. For further on public councils see *Ukaz Prezidenta RF ot 4 avgusta 2006 N 842 'O poryadke obrazovaniya obshchestvennyh sovetov pri federalnyh ministerstvah'* [Decree of the President of the RF 4 August 2006 N 842 'On a Procedure for the Formation of Public Councils at the Federal Ministries'] (Russia).



activity towards state goals.<sup>45</sup> This development, combined with a growth in digital communication technologies,<sup>46</sup> has given rise to new mechanisms for enabling ENGOs to engage in public discussions of draft environmental laws,<sup>47</sup> as well as to monitor the work of state bodies.

At the same time, ENGOs have faced a second and countervailing trend in the state policies, namely growing state controls over non-government associations perceived as a threat to traditional structures of state hegemony.<sup>48</sup> This trend is reflected in the introduction of complicated measures to make NGOs more accountable to the state through changes to NGO law.<sup>49</sup> In particular, the laws have expanded the government's power to audit NGOs, mandating reporting from foreign-funded NGOs.<sup>50</sup> This steady increase in accountability measures for foreign-funded NGOs has been occurring since 2005. It was a major response to 'the coloured revolutions' in the former national Republics of the Soviet Union (the USSR) in the beginning of 2000s, where civil society activists and NGOs used forms of public actions (demonstrations, rallies and other) to advocate democracy and protest against their governments, accusing them of corruption.<sup>51</sup> These revolutions were considered a threat to political stability in Russia. The enactment of these laws also reflects the ruling United Russia party's concept of 'sovereign democracy'.<sup>52</sup> This concept emphasises the independence of Russia from Western democracies due to its own unique historical development and democratic values. Therefore, it claims that Russia's approach to democracy should not necessarily correspond to Western standards.<sup>53</sup>

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<sup>45</sup> Crotty and Rodgers, see above n 21, 16.

<sup>46</sup> P. Grabosky, 'Beyond Responsive Regulation: The Expanding Role of Non-State Actors in the Regulatory Process' (2013) 7(1) *Regulation & Governance* 114, 118–19.

<sup>47</sup> See: *Postanovlenie Pravitelstva Rossijskoj Federatsii ot 22 fevralya 2012 N 159* [Resolution of the Government of the RF 22 February 2012 N 159] (Russia).

<sup>48</sup> C. Scott, 'Accountability in the Regulatory State' (2000) 27(1) *Journal of Law and Society* 38; Crotty, Hall and Ljubownikow, see above n 26, 1267.

<sup>49</sup> *Federalnyj Zakon ot 19 maya 1995 N18-Φ3 'Ob obshchestvennyh ob'edineniyah'* [Federal Law of the RF 19.05.1995 N 82-FZ On Public Associations] (Russia); *Federalnyj Zakon RF 7-FZ ot 12 yanvarya 1996 'O nekommercheskih organizatsiyah'* [Federal Law of the RF 12 January 1996 N 7-FZ On Non-Commercial Organisations] (Russia).

<sup>50</sup> *Federalnyj Zakon RF 7-FZ ot 12 yanvarya 1996 'O nekommercheskih organizatsiyah'* [Federal Law of the RF 12 January 1996 N 7-FZ On Non-Commercial Organisations] (Russia), Article 32.

<sup>51</sup> E.g., the Rose Revolution in Georgia in 2003, the Orange Revolution in Ukraine in 2004–05, and the Tulip Revolution in Kyrgyzstan in 2005.

<sup>52</sup> D. Orlov, 'The New Russian Age and Sovereign Democracy' (2008) 46(5) *Russian Politics and Law* 72, 76.

<sup>53</sup> N. Popescu, 'Russia's Soft Power Ambitions' (2006) (1–12) *CEPS Policy Briefs* 1, 1.

The most recent changes to the NGO law occurred in 2012–2015,<sup>54</sup> giving a right to the Ministry of Justice to register NGOs that are engaged in ‘political activities’ and receive foreign funding as ‘foreign agents’. These terms, particularly ‘foreign agent’ carry a significant negative undertone, as in Russian language, the term ‘a foreign agent’ has historically been associated with a spy, an employee of a secret service of an enemy country who acts for money in the interests of enemy country.<sup>55</sup> Penalties for unauthorised rallies have been also increased and administrative procedures for organising public actions have been made more complicated.<sup>56</sup>

Significant tensions have recently emerged between these accountability measures and the growth of participatory trends in Russian environmental governance and they raise a range of overlapping issues regarding the agency of ENGOs in environmental governance. Different and interconnected groups of issues and challenges for agency of ENGOs can be identified here. The first group includes the historical legacy concerning the role of ENGOs in environmental governance. Another group of challenges is the current NGO law, which requires high accountability to the state.<sup>57</sup> Further, legal accountability requirements and their implementation differ across countries and can have negative impacts on ENGO agency. At the same time, issues of ENGOs’ capacities to select strategies to exercise power/influence are related to the problems of a legitimacy deficit and accountability to the public. Finally, considering the legitimacy deficit and low public support of ENGOs, their legitimacy and ways to claim it remains one of the most important problems of agency of ENGOs. Although, as discussed above, ENGOs in Russia work differently than those in Western democratic political contexts, issues of their operations are linked to broader concerns in the governance literature about NGOs, agency and their relationships to the state.

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<sup>54</sup> *Federalnyj Zakon RF ot 4 iunya 2014 N 147-FZ ‘O vnesenii izmeneniy v stat’yu 32 Federalnogo zakona ‘O nekommercheskih organizatsiyah’* [Federal Law of the RF 4 June 2014 N 147-FZ ‘On Amending Article 32 of the Federal Law ‘On Non-Commercial Organisations’] (Russia)

<sup>55</sup> T. Halpin, ‘A Blast from the Past as Russia Vilifies US’, *The Times* 14 July 2012; N. Kupina, ‘Ideologem: ‘Foreign Agent’: 3 Days in July 2012’ (2012) 3(41) *Political Linguistics* 43.

<sup>56</sup> *Federalnyj Zakon RF ot 19 iunya 2004 N 54-FZ ‘O sobraniyah, mitingah, demonstratsiyah, shestviyah i piketirovaniyah’* [Federal Law of the RF 19 June 2004, N 54-FZ ‘On Meetings, Rallies, Demonstrations, Marches and Pickets’] (Russia).

<sup>57</sup> For example, *Federalnyj Zakon RF 7-FZ ot 12 yanvarya 1996 “O nekommercheskih organizatsiyah”* [Federal Law of the RF 12 January 1996 N 7-FZ On Non-Commercial Organisations] (Russia); Crotty, Hall and Ljubovnikow, see above n 26, 1267.

### 3. *Earth System Governance research framework*

#### 3.1 Overview

As mentioned above, this thesis's theoretical framework is mainly based on the ESG framework. ESG is a flexible research framework that brings together interlinked analytical problems from different disciplines using interdisciplinary 'theoretical, epistemological and methodological approaches of the social sciences and the humanities'.<sup>58</sup> As a result, ESG allows for the integration of theoretical research problems on accountability and legitimacy of non-state actors raised by governance scholarship, with legal, social political and other relevant studies.<sup>59</sup> This framework provides a flexible theoretical framework to study agency of ENGOs considering both traditional roles of non-state actors and their recent broader engagement in forming policy. The ESG approach understands governance as:

the interrelated and increasingly integrated system of formal and informal rules, rule-making systems, and actor-networks at all levels of human society (from local to global) that are set up to steer societies towards preventing, mitigating, and adapting to global and local environmental change and, in particular, earth system transformation, within the normative context of sustainable development.<sup>60</sup>

Therefore, the complexity of the system of environmental governance and a shift in power to non-governmental actors give rise to a problem of agency beyond the state in environment governance.<sup>61</sup> This issue has been developed as one of the analytical problems of ESG. The focus of ESG on agency beyond the state makes this framework the most suitable for this research on the growing roles of ENGOs in governance.

Agency has been defined in the wider regulatory literature in different ways<sup>62</sup> and the most traditional view on agency is developed by the agent-principal theory, where a 'principal' delegates authority to an 'agent' to perform some service for the principal.'<sup>63</sup> Considering the shifts of power in environmental governance and increasing intentions and capacities of

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<sup>58</sup> Biermann et al, see above n 12, 280.

<sup>59</sup> Ibid.

<sup>60</sup> Ibid, 279.

<sup>61</sup> Biermann et al, see above n 12; Dellas, Pattberg and Betsill, above n 15; K. Tienhaara, A. Orsini and R. Falkner, 'Global corporations' in F. Biermann and P. Pattberg (eds), *Global Environmental Governance Reconsidered* (MIT Press, 2012) 45.

<sup>62</sup> L. Ford, 'Challenging Global Environmental Governance: Social Movement Agency and Global Civil Society' (2003) 3(2) *Global Environmental Politics* 120, 124; E. Kiser, 'Comparing Varieties of Agency Theory in Economics, Political Science, and Sociology: An Illustration from State Policy Implementation' (1999) 17(2) *Sociological Theory* 146; S. Shapiro, 'Agency Theory' (2005) 31 *Annual Review of Sociology* 263.

<sup>63</sup> Dellas, Pattberg and Betsill, above n 15, 88.

ENGOS to participate in steering of environmental issues, this definition does not embrace changes and implications of these changes for ENGOS. Therefore, as discussed above, *agency* of ENGOS includes their capacities to produce environmental outcomes and to respond to change in environmental governance.<sup>64</sup> ESG considers agency as a process that can be created, changed and lost, depending on time, scale, place, governance architecture or political context.<sup>65</sup> The context-dependent and changing character of agency is another key issue of the agency.

ESG distinguishes environmental actors and agents. While individuals, organisations and networks that participate in environmental decision making are defined as environmental actors, agents of governance are described as authoritative actors who possess the ability to prescribe behaviour and to obtain the consent of the governed.<sup>66</sup> Authority is understood as legitimacy and capacity to exercise power, where power is understood as a capacity to influence outcomes, with or without legitimacy.<sup>67</sup> Agents participate in governance in preventing, mitigating or adapting to earth system transformation. They can do it using various means of agency—strategies<sup>68</sup> (as examined in the research questions and Chapter 6) either indirectly (by influencing the decisions of other actors) or directly (by making steering decisions).<sup>69</sup> Further, different agents can create, constrain or enhance each other's agency and legitimacy.<sup>70</sup>

Another analytical problem within ESG relevant to this thesis is the legitimacy and accountability of environmental actors.<sup>71</sup> Capacity and legitimacy of actors are strongly related to each other. In order to become an agent, an actor must make claims as to why they should be empowered to govern.<sup>72</sup> Legitimacy of state actors is based on the traditional state monopoly on the use of power. For non-state actors, legitimacy claims may appeal to moral arguments, expertise, participation or problem-solving ability.<sup>73</sup> Transparency and accountability of actors can be regarded as tools for ensuring legitimacy of actors.<sup>74</sup> Theoretical aspects of the concept of legitimacy and accountability are discussed in more detail in Chapters 2 and 7.

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<sup>64</sup> Biermann et al, see above n 12, 283.

<sup>65</sup> Dellas, Pattberg and Betsill, above n 15, 89, 92; Biermann et al, above n 12, 283.

<sup>66</sup> Biermann et al, see above n 12, 283.

<sup>67</sup> Ibid, 283.

<sup>68</sup> Dellas, Pattberg and Betsill, above n 15, 92.

<sup>69</sup> Biermann et al, see above n 12, 283.

<sup>70</sup> Dellas, Pattberg and Betsill, above n 15, 95.

<sup>71</sup> Biermann et al, see above n 12, 280.

<sup>72</sup> Black, see above n 12, 145, 148–149.

<sup>73</sup> Scott, see above n 12, 61–62.

<sup>74</sup> Biermann et al, see above n 12, 287.

### 3.2 Why ESG

This thesis is an interdisciplinary study of ENGOs in Russia with a focus on legal issues of their operation. The ESG framework best suits this thesis because it is an interdisciplinary research framework integrating theoretical and methodological approaches from different disciplines as discussed above. Furthermore, compared with other theoretical scholarship focusing on NGOs, ESG is designed for research of environmental governance, and takes into account challenges of actors' relationships in this sphere. These challenges include the changing and complicated nature of environmental issues, their international and scientific character, the economic impact of these issues and a diverse range of governance actors and institutions.<sup>75</sup> ESG's focus on agency beyond the state is needed to explore capacities of ENGOs to become legitimate environmental actors in a context of Russian environmental governance. Other relevant research studies focus mostly on NGOs' roles in Western democracies as countervailing power to the state,<sup>76</sup> international negotiators,<sup>77</sup> and their strategies of influence,<sup>78</sup> overlooking the growing role of NGOs to excise power and make steering decisions. The institutional approach concentrating on the organisational issues and political contexts of NGO<sup>79</sup> work pays limited attention to legal issues regulating NGO operations and their relationships with other actors. Although the regulatory scholarship<sup>80</sup> (discussed in more detail in the literature review) provide theoretical frameworks for a study of the legitimacy and accountability of NGOs as actors making steering decisions, they generally refer to the NGOs in a context of Western democracies<sup>81</sup> or developing countries.<sup>82</sup>

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<sup>75</sup> Biermann et al, above n 12, 281, F. Biermann, P. Pattberg and F. Zelli (eds), *Global Climate Governance Beyond 2012: Architecture, Agency and Adaptation* (Cambridge University Press, 2010), 16.

<sup>76</sup> O.J. Sending and I.B. Neumann, 'Governance to Governmentality: Analyzing NGOs, States, and Power' (2006) 50(3) *International Studies Quarterly* 651.

<sup>77</sup> M. Betsill and E. Corell, 'NGO Influence in International Environmental Negotiations: a Framework for Analysis' (2001) 1(4) *Global Environmental Politics* 65; M. M. Betsill and E. Corell, *NGO Diplomacy: The Influence of Nongovernmental Organizations in International Environmental Negotiations* (The MIT Press, 2008).

<sup>78</sup> N. Hall and R. Taplin, 'Revolution or Inch-by-Inch? Campaign Approaches on Climate Change by Environmental Groups' (2007) 27(1) *Environmentalist* 95; N. Hall and R. Taplin, 'Room for Climate Advocates in a Coal-Focused Economy? NGO Influence on Australian Climate Policy' (2008) 43(3) *Australian Journal of Social Issues (Australian Council of Social Service)*.

<sup>79</sup> Henry, above n 2.

<sup>80</sup> Black, see above n 12; Scott, see above n 12; C. Scott, 'Regulation in the Age of Governance: the Rise of the Post-Regulatory State' in J. Jordana and D. Levi-Faur (eds), *The Politics of Regulation: Institutions and Regulatory Reforms for the Age of Governance* (Edward Elgar Publishing, 2004) 145; C. Holley, N. Gunningham and C. Shearing, *The New Environmental Governance* (Earthscan, 2012).

<sup>81</sup> Holley, Gunningham and Shearing, above n 80, Black, above n 12; Scott, see above n 12; Karkkainen, Fung and Sabel, see above n 10.

<sup>82</sup> J. Braithwaite, 'Responsive Regulation and Developing Economies' (2006) 34(5) *World Development* 884; Hochstetler, see above n 9.

ESG combines the abovementioned features of these approaches and gives an opportunity to explore agency of ENGOs in Russia in regards to their abilities to become environmental agents through the study of their accountability, legitimacy, strategies of influence and changes in ENGO roles in the context of their relationships with the state, business and society, their formal and informal systems and networks.<sup>83</sup>

### 3.3 ESG and this study

As discussed above, ESG changes and issues of ENGO engagement in governance are understood as integrated, interrelated and, at the same time, context-dependent and reflexive.<sup>84</sup> This allows the thesis to analyse different roles of ENGOs and conditions, which constrain or enable their agency in Russia, a Post-Soviet country.<sup>85</sup> Therefore, this thesis studies changes in ENGOs' agency depending on historical, political and legal contexts in Russia (Chapters 3 and 5).

A study of the roles of ENGOs in Russia and conditions/constraints for their agency relies on theoretical themes raised by ESG, such as capacities and legitimacy of ENGOs to exercise power.<sup>86</sup> Therefore, there is a need to explore the internal capacity of ENGOs to become agents of governance. This capacity is based on their staff, funding, knowledge, reputation and abilities to employ various strategies for influencing, opposing, networking and collaborating with other environmental actors and agents.

However, these capacities as well as formal legitimacy of ENGOs are granted and changed by the state through laws and their implementation. Therefore, their influence on agency of ENGOs is examined by this thesis in Chapters 4 and 5 and in comparison with laws in other countries. Strategies of ENGOs are considered as the means to exercise their agency and they are analysed in Chapter 6.

This thesis also explores informal legitimacy of ENGOs as a key component of their agency given by society and a manner in which ENGOs claim their legitimacy (Chapter 7).<sup>87</sup> The impact of these accountability demands on ENGO strategies and legitimacy (Chapters 6 and 7) is also explored by this thesis.

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<sup>83</sup> Biermann et al, see above n 12, 283.

<sup>84</sup> Ibid, 279–280.

<sup>85</sup> Ibid, 280.

<sup>86</sup> Ibid, 293.

<sup>87</sup> Biermann et al, see above n 12, 283; Black illustrates such legitimacy using an example of the Forest Stewardship Council that is seen as legitimate by a number of market actors in the forestry and chemical industries respectively, but it has no legal basis, Black, see above n 12, 145.

Moreover, in accordance with governance scholarship, the roles of ENGOs as environmental agents require new forms of accountability (in addition to their traditional accountability) for their operation, funding, management and outcomes of other activities, not only to the state but also to all environmental actors.<sup>88</sup> At the same time, ENGOs through their participation in environmental governance make performance of governance systems and their actors more accountable.<sup>89</sup>

To conclude, all abovementioned theoretical issues of ENGOs' agency raised by ESG are studied in the context of Russia, considering new global participatory trends in environmental governance and external features of Russian governance.<sup>90</sup>

#### **4. Research questions**

As discussed above, the main aim of this research is to provide empirically based insights on the role of ENGOs and changes in their agency in environmental governance in Russia. This thesis explores how ENGOs exercise their agency in practice, how their new roles correlate with their legitimacy, accountability to the state, the public and businesses, and choice of strategies of influence and what prevents them from becoming influential actors (agents) of environmental governance in Russia. Therefore, this thesis seeks to answer a main research question: *do ENGOs have agency in environmental governance in Russia and what are the conditions for their agency?*

In order to answer this research question, this thesis has to study the changes of ENGOs' capacities and conditions for their agency over time from the Soviet conservation groups to contemporary ENGOs modelled on Western NGOs. On a descriptive level, there is also a need to explore the impact of changes in the NGO law on their agency through study of these laws, their implementations and differences in their legal design and enforcement over different political domains.

An empirical aspect of this thesis involves answering questions on the response of ENGOs to changes in legal, social and political conditions for their agency in environmental governance in Russia, and the implication of these findings for a broader theory on the roles of non-state

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<sup>88</sup> Black, see above n 12, 151-152.

<sup>89</sup> Biermann et al, see above n 12, 287; Black, see above n 12, 147.

<sup>90</sup> Biermann et al, see above n 12, 281.

actors in governance. This includes a study of the legal regulation of ENGOs, ways of influence in their relationships with other actors of environmental governance and issues of their legitimacy and accountability in the light of the recent increase in state control and accountability measures.

Therefore, the following research questions encompass this thesis:

- **How do the historical development and the Soviet legacy influence ENGO agency in Russia?** (Chapter 3)
- **What are the legal conditions for ENGO agency?** To answer this question, the following is relevant: Have recent legal accountability measures marginalised, constrained ENGOs or limited their agency in Russia? How can NGO law be changed to enhance agency of ENGOs? (Chapter 4)
- **How do the NGO law and its implementation differ across political domains and how does this influence their agency?** (Chapter 5)
- **What strategies employed by ENGOs would/can enhance their agency?** (Chapter 6)
- **Are ENGOs in Russia legitimate actors of environmental governance in Russia?** (Chapter 7)

## 5. Contribution

Through this research, the thesis explores changes in agency of ENGOs in Russian environmental governance, contributing to our understanding of the roles of ENGOs in environmental governance and mutual impacts of the state and ENGOs on each other's agency. By doing so, it makes four contributions. First, this thesis empirical research goes beyond existing studies into NGOs in Post-Soviet countries,<sup>91</sup> which have largely focused on early stages of ENGO development/formation,<sup>92</sup> or are rooted in political science and organisational issues.<sup>93</sup> In this context, this thesis can be seen as the next stage of this broader research agenda, and offers new empirical and theoretical insights by examining ENGOs in the more mature state. Additionally, it offers insights into recent legal developments in Russia and other related countries that are playing an increasingly large role in influencing ENGO agency. The thesis analysis of the NGO law and its impacts on ENGOs offers one of the first

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<sup>91</sup> Weiner, see above n 18, Hemment, see above 19; Larin et al, see above n 24; Henry, see above n 2; S.E. Mendelson and J.K. Glenn (eds), *The Power and Limits of NGOs: A Critical Look at Building Democracy in Eastern Europe and Eurasia* (Columbia University Press, 2002) and others.

<sup>92</sup> See for example, Weiner, see above n 18, Hemment, see above 19; Larin et al, see above n 19.

<sup>93</sup> Henry, see above n 2; J. Crotty, 'Making a difference? NGOs and Civil Society Development in Russia' (2009) 61(1) *Europe-Asia Studies* 85.



studies into the impacts of the recent changes in NGO law in 2009–2015 on environmental NGOs, complementing previous studies<sup>94</sup> to provide significant policy insights on the impact of these laws from ENGOS' perspectives (Chapter 6 and 7).

Second, this thesis (Chapter 7) goes beyond existing governance scholarship, which focuses on theoretical issues of legitimacy and accountability as a result of growing roles of non-state actors based on empirical findings mostly from the Anglo American and European context, for example, in the US,<sup>95</sup> Australia<sup>96</sup> and the EU countries.<sup>97</sup> By drawing on and interrogating this literature using its own empirical research and the more limited literature on environmental NGOs in Non-Western countries, this thesis allows confirmation, reformulation or qualification of the original theoretical claims.<sup>98</sup> This contributes to a more coherent theory on the conditions for the agency of ENGOS in countries where civil society is weak and the state does not give up its predominant and regulatory role, but also fosters participatory and collaborative relationships with ENGOS. This will broaden our understanding of the context-dependent nature of agency of ENGOS and the impact of growing agency of ENGOS on the state power. It argues that the state can recognise ENGOS as a legitimate and powerful environmental actor and create new participatory avenues and forums (e.g. Public councils and Civic Chambers) enhancing their agency (Chapter 6). At the same time, the state takes countervailing measures aiming to control and limit their agency through increasing accountability measures and state actions manipulating their legitimacy. As a result, the agency of ENGOS is limited and reconfiguration of the state power often is tokenistic and conditional, allowing the state to continue to exercise control over ENGO agency.

Third, from a normative perspective, the thesis develops principles for agency of ENGOS, including recommendations for how the NGO legal regulations and governance arrangements might be reconfigured to achieve greater cooperation and effectiveness between ENGOS, the state, business and the broader community.

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<sup>94</sup> For example, Albertie, see above n 26; Henry, see above n 2; Crotty see above n 93; D. Javeline and S. Lindemann-Komarova, 'A Balanced Assessment of Russian Civil Society' (2010) 63(3) *Journal of International Affairs* 171; Crotty, Hall and Ljubownikow, see above n 26, 1253–1269.

<sup>95</sup> See for example, Freeman, see above n 10, 543–675, Karkkainen, Fung and Sabel, see above n 10.

<sup>96</sup> C. Holley, N. Gunningham and C. Shearing, *The New Environmental Governance* (Earthscan, 2012); N. Gunningham and C. Holley, *Bringing the 'R' Word Back: Regulation, Environment Protection and NRM*, Occasional Paper (The Academy of the Social Sciences in Australia, 2010).

<sup>97</sup> C. Scott, 'Private Regulation of the Public Sector: a Neglected Facet of Contemporary Governance' (2002) 29(1) *Journal of Law and Society* 56; Biermann et al, see above n 12; Black, see above n 12.

<sup>98</sup> D. Layder, *Sociological Practice: Linking Theory and Social Research* (Sage Publications Ltd, 1998), 167–68.

Finally, the thesis makes a contribution to governance theory about agency. In the ESG literature, the issue of agency, identified as the capacity of public actors (at local, national and international levels) to act in the face of earth system transformation or to produce effects that ultimately shape natural processes<sup>99</sup> requires further elaboration. Two key theoretical questions in this analytical problem of ESG are: what does agency mean in different contexts<sup>100</sup> and what does agency beyond the state mean for understanding the state.<sup>101</sup> By drawing on its empirical data, the thesis reflects on these issues and offers some insights for these theoretical issues in the concluding chapter.

## **6. Methodology**

In order to answer the research questions, this thesis employs a qualitative methodology. This section of the thesis provides a description of methods of data collection, approaches to inquiry and analysis of data. It aims to give a justification of methods and approaches applied in this study. First, there is an explanation as to why the qualitative approach suits to this study. Second, the methods applied in this thesis are introduced. Third, a process of research is outlined.

### **6.1 Qualitative research**

All scientific work begins with a question, either of a ‘what’/‘how’ (facts) or ‘why’ (theory) sort. Research questions always specify the methods of research.<sup>102</sup> This thesis asks research questions about ENGOs’ agency in Russia, ways in which ENGOs and other actors of environmental governance work together with other agents, conditions and obstacles for their agency and whether they differ across different jurisdictions, namely Russia, Western countries and Post-Soviet countries. Finally, in what manner environmental governance and laws can be reconfigured to promote ENGOs as agents in environmental governance.

Therefore, the research questions posed by this thesis have exploratory, experiential and contextual character and qualitative methodology is well suited to answering them. Qualitative research has a capacity to study issues of context and at the same time seeks in-depth understanding of meanings and consciousness of actors and events in the social

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<sup>99</sup> Dellas, Pattberg and Betsill, above n 15, 89.

<sup>100</sup> Ibid, 91; Biermann et al, see above n 12, 283.

<sup>101</sup> Dellas, Pattberg and Betsill, above n 15, 87–89; Biermann et al, see above n 12, 283.

<sup>102</sup> M. Adams, 'Dimensions of Distinctiveness in Comparative Law' in M. van Hoecke (ed), *Methodologies of Legal Research* (Hart Publishing, 2011) vol 9, 236.

world.<sup>103</sup> Thus, qualitative methods to study the operation of ENGOs and law in the broader social and political context are appropriate for this thesis.<sup>104</sup>

In the qualitative methodology, the research questions are studied through flexible methods enabling contact with the people involved to an extent that is necessary to grasp what is going on in the field.<sup>105</sup> This thesis examines the responses of ENGOs to changes in this space and a qualitative study will be the most suitable in evaluating this response. Quantitative studies are of limited use here due to the complex and changing nature of ENGOs' participation in decision-making processes. However, the quantitative approach in forms of numerical data, graphs and tables are used to illustrate and support empirical finding and theoretical assumptions.

***A theoretical base for the methodology.*** Every scientific research methodology has its own philosophical underpinning based on different philosophical scholarship. The main differences of these schools of thoughts lay on their understanding of ontology (existence of an objective reality) and epistemology (the possibility of knowing this reality). The main theories of philosophy in social science are positivism<sup>106</sup> and interpretivism.<sup>107</sup> Traditionally, in social science, positivism is associated with quantitative approaches. Qualitative methods are more sensitive to subjective interpretation and more associated with interpretivism, which is based on post-modernism tradition.<sup>108</sup> Both of these theories have their own extremes. Traditional positivism fails to recognise that the social reality is often unpredictable and difficult to determine by universal laws. On the contrary, the interpretivist subjective approach provides the opportunity to explore the reality in depth from the subjective perspective.<sup>109</sup> However, Layder argues that interpretivism tends to take this view to the

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<sup>103</sup> J.W. Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches* (Sage Publications Incorporated, 2008).

<sup>104</sup> M. McConville and W.H. Chui (eds), *Research Methods for Law* (Edinburgh University Press, 2007), 5.

<sup>105</sup> C. Holley, *New Environmental Governance* (Doctor of Philosophy Thesis, The Australian National University, 2008), 87.

<sup>106</sup> Within a scholarship of positivism, the world exists as an objective reality and in principal it is knowable in its entirety. The task of the researcher is to explain this reality in a structural and context free manner, aiming at generalisation and the discovery of universal laws. See D. della Porta and M. Keating, 'How Many Approaches in the Social Sciences? An Epistemological Introduction' in D. della Porta and M. Keating (eds), *Approaches and Methodologies in the Social Science* (Cambridge University Press, 2008), 23.

<sup>107</sup> The interpretivists argue that world can be understood not as objective reality, but as a series of interpretations that people within society give of the reality. Research aims at understanding events by discovering the meanings through human beings experience and attitude to the external world. From this perspective theory is important, but is not always established prior to the research. See *ibid*, 26–27.

<sup>108</sup> *Ibid*, 26–27.

<sup>109</sup> Layder, see above n 98, 140.

extreme and this leaves out of account many features of social life, such as social structures and systems, forms of domination, ideology and others.<sup>110</sup>

In order to avoid these extreme paradigms of positivism and interpretivism, this thesis employs Layder's Adaptive theory approach to frame and guide its methodology. From an epistemological point of view, Adaptive theory attempts to reconcile the idea that many features of reality must be explained in terms of actors' meanings and subjective understandings with the fact that other aspects of reality have more in common with natural phenomena and must be explained in a more 'objective', scientific way.<sup>111</sup> From ontological perspective, Adaptive theory focuses on both subjectivism and objectivism, which means that it conceives the social world as including both objective and subjective aspects and they both condition and influence each other.<sup>112</sup> This approach suits this thesis because laws regulate and influence ENGOs, but practice and enforcement of these laws by the state as well as choice of available strategies and rights by ENGOs can be subjective.

## 6.2 Research methods

In broad terms, the qualitative research methodology is a combination of multiple methods, approaches<sup>113</sup> and traditions from different disciplines, such as law, social and humanity sciences, which collect and study empirical data and allow a broader legal research from a perspective of interdependence of laws and society.<sup>114</sup> There are many different qualitative methods (e.g., an observation method, a documentary and doctrinal analysis, interviewing, focus groups). In order to examine the role of NGOs in terms of the shifting nature of governance, the observation method, the documentary and doctrinal analysis, comparative methods and in-depth interviewing are employed because they suit the empirical-normative character of this thesis. This allows a study of the formal and legal aspects of ENGO regulations, changes and trends in their development, implementation of these regulations, and their dependency on a political context. A response of ENGOs and regulators, such as relevant state agencies, can be studied best through the documentary analysis and interviews, which would provide independent and subjective views of stakeholders. Within qualitative methods research, interviewing is in the most suitable method for this study. In comparison to

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<sup>110</sup> Ibid, 139.

<sup>111</sup> Ibid, 140.

<sup>112</sup> Ibid, 141.

<sup>113</sup> J.W. Creswell, *Qualitative Inquiry and Research Design: Choosing among Five Approaches* (SAGE Publications, Incorporated, 2012),

<sup>114</sup> T. Hutchinson, 'Developing Legal Research Skills: Expanding the Paradigm' (2008) 32 *Melbourne University Law Review* 1065, 1072; P. Martin et al (eds), *Environmental Governance and Sustainability* (Edward Elgar Publishing, 2012), xxxi.

focus groups, research interviewing allows the respondents to focus on the issue he or she considers more important and not to depend on a group dynamic and opinions. Research interviewing is a more flexible method compared to questionnaires. In interviews, research questions can be added or changed according to the development of the interviewing process, which allows the gathering of more information.<sup>115</sup>

**Observation method.**<sup>116</sup> The observation method is often applied with other methods, such as interviews.<sup>117</sup> This method allows the researcher to participate in a normal routine of the subject or object studied. For the purposes of this study, this may include watching, studying, listening and discussing what is observed.<sup>118</sup> For example, issues discussed on a working meeting of ENGOs' members, sessions or meetings of civil forums (e.g., Public Chambers). The issues discussed and raised during these meetings helped to guide the interviews and collect more information from interviews through adapting questions and including new questions and themes.

**Documentary analysis and doctrinal research.** The documentary analysis is one of the methods of theoretical underpinning for research and collection of empirical data for this thesis. Sources for the study that contain the relevant for the thesis data include:

- legislation (Russian and from other countries) on the regulation of NGOs and environmental regulation, including Law and sub-legislation
- judicial cases
- newspaper articles
- electronic documents on the official websites of the NGOs, such as repots, interviews and other relevant information
- the literature relevant to NGOs operation.

Given that this research also raises legal issues of the operation of ENGOs in Russia, a doctrinal method for the collection of analysis data from documentary sources and the literature is used in this project. The primary concern of this method is a discovery of the legal principles relevant to a particular problem. Legal research, therefore, can be defined as conducting investigation to discover the principles and rules of law applicable to a particular

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<sup>115</sup> B. Curtis and C. Curtis, *Social Research: A Practical Introduction* (Sage, 2011), 32.

<sup>116</sup> This method is developed by and more typical for ethnographic research, *ibid*, 81.

<sup>117</sup> *Ibid*, 32, 82.

<sup>118</sup> *Ibid*, 82–83.

problem and to discover the legal answer.<sup>119</sup> The domestic legislation of the RF in regards of NGOs legal status and their rights and responsibilities is analysed. This includes a study of primary legal sources, such as administrative laws and other sub-legislation, which sets up conditions for legitimate ENGOs' operation in Russia and laws regulating environmental protection. The federal laws and sub-laws of the federal bodies of executive power are published and can be found in *Rossiyskaya Gazeta* (Russian Gazette), an official daily newspaper of the Russian Government, in the official Internet-portal of legal information, <http://pravo.gov.ru/>, which is a part of the state system of legal information and other sources. In addition, legal databases GARANT<sup>120</sup> and ConsultantPlus<sup>121</sup> provide a free access to the Russian legislation and have been used for this research.

Law enforcement in regards of ENGOs operation is studied through judicial practice, which is available from databases of judicial decisions published at official websites of Russian courts.<sup>122</sup> According to Russian legal tradition, in their decisions courts cannot refer to legal scholarship in the form of published articles or newspaper reports.<sup>123</sup> However, as these sources often provide a critique or evaluation of the law, they are relied on herein. This kind of research helps in classification, explanation, comparison and understanding of the current legislation relevant to NGOs' legal status and operation in Russia.<sup>124</sup> A study of ENGOs' reports and publications available at their official websites, reports of international NGOs (the International Center for Non-for-Profit Law,<sup>125</sup> Human Rights Watch<sup>126</sup>) and other information available at open sources also helps to examine NGO law enforcement.

Doctrinal research also includes an analysis of secondary sources, such as law texts,<sup>127</sup> academic books and articles, which contain explanations and interpretations of particular laws and discuss issues arising from implementation of law. From the theoretical perspective, this method provides opportunities to study contemporary theoretic approaches to environmental governance and the role of NGOs in governance through reviewing the relevant literature, which is discussed in detail in the literature review section.

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<sup>119</sup> S. H. Amin, *Research Methods in Law* (Royston, 1992), 14.

<sup>120</sup> The database is available at <http://www.garant.ru/>, the last access on 27/11/2014.

<sup>121</sup> The database is available at <http://www.consultant.ru/>, the last access on 27/11/2014.

<sup>122</sup> For example, decisions of the Supreme Commercial Court are available at <http://ras.arbitr.ru/>, decisions of the Supreme Court are available at <http://www.supcourt.ru/indexA.php>.

<sup>123</sup> See for example Article 170 of the Commercial Procedure Code of the Russian Federation, [http://www.arbitr.ru/\\_upimg/E1513AF41F62EB226D7213C96F865A1F\\_cpc\\_d.pdf](http://www.arbitr.ru/_upimg/E1513AF41F62EB226D7213C96F865A1F_cpc_d.pdf), the last access on 27/11/2014.

<sup>124</sup> Amin, see above n 119, 25.

<sup>125</sup> Available at <http://www.icnl.org/research/monitor/>, the last access on 27/11/2014.

<sup>126</sup> Available at <http://www.hrw.org/publications>, the last access on 27/11/2014.

<sup>127</sup> For example, in the Russian legal system, comments of a particular Law written by judges, academics or practitioners may be published.

**Comparative analysis.** The comparative method, often seen by scholars as one of the doctrinal approaches, is also applied in this research. From the legal point of view, the comparative study helps to examine what legal regulatory approaches can be used to empower or constrain ENGOs to participate in environmental governance in the Western countries and in the Post-Soviet countries. It also helps to understand how the NGO law, which have been largely influenced by the Western political culture during the process of democratisation in Russia in 1990s, take roots in the Russian legislation and how cultural, historical and social context shape this influence and its implementation.<sup>128</sup> In addition, by comparing different legislation of NGOs and their implementation, the thesis explores knowledge of alternative regulative techniques and their effects.<sup>129</sup> Its comparative research also helps to expand understanding of legal, political and social conditions for ENGOs' work in Russia in comparison with other countries (see Chapter 5).

Comparative studies are considered a sub-branch of legal research and its focus is to present analyses of internal dynamics and principles of the existing laws of the countries studied.<sup>130</sup> The main tools include describing laws, comparing rules and definitions,<sup>131</sup> often using a linguistic analysis (for example, how words and definitions are used in the compared laws and whether they have the same meaning) and a structural analysis of laws (where the relevant data can be found and what texts and laws to analyse).<sup>132</sup>

**Semi-structured interviews.** Semi-structured interviews are one of the methods of qualitative research. This project relies on a small-n sample and semi-structured qualitative interviews, chosen as the most suitable for this thesis because large-n research (for example, in form of surveys in forms of multiply choice questions, focus groups) has a noted difficulty accommodating the complex nature of ENGOs as actors of environmental governance, relationships with the state, business and society and is less capable to fully capture the context and personal experience of participants.<sup>133</sup> A semi-structured interview has specific themes and is loosely structured, open-ended key questions. Questions for semi-structured interviews are based on issues discussed in the literature relevant to the topic (see Appendix

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<sup>128</sup> I. Markovits, 'Exporting Law Reform-But Will it Travel' (2004) 37 *Cornell International Law Journal* 95, 95.

<sup>129</sup> L. Wintgens, 'Legisprudence and Comparative Law' in M. van Hoecke (ed), *Epistemology and Methodology of Comparative Law* (Oxford and Portland Oregon 2004) 299, 314.

<sup>130</sup> J. Bell, 'Legal Research and Comparative Law' in M. van Hoecke (ed), *Methodologies of Legal Research*, European Academy of Legal Theory Series (Hart Publishing, 2011) vol 9, 158.

<sup>131</sup> M. van Hoecke, 'Deep Level Comparative Law' in M. van Hoecke (ed), *Epistemology and Methodology of Comparative Law* (Oxford and Portland Oregon 2004) 165, 166–167.

<sup>132</sup> Ibid, 175, 177.

<sup>133</sup> Layder, see above n 98, R.K. Yin, *Case Study Research: Design and methods* (Sage publications, 2009), H. Arksey and P.T. Knight, *Interviewing for Social Scientists* (Sage, 1999), 5.

1). These questions and in-depth probing to some extent restrain the researcher from ‘imposing’ his or her own prior assumptions about what is relevant.<sup>134</sup> Interviewers are free to follow up ideas and ask for clarifications or further elaboration.<sup>135</sup> The main advantage of the semi-structured interview is the same issues of interests to the thesis are covered in each interview, while open-ended questions allow individual experience, meaning and perception to emerge.<sup>136</sup> This type of interview also allows the exploration of stakeholder meanings and understanding of regulations, their personal beliefs and experience. Therefore, semi-structured interviews are the most appropriate technique to collect data for this thesis because it allows the researchers to explore views, for example, on the impact of the NGO law on legitimacy of ENGOs, which can vary with subjective concerns. For example, views of members on the legitimacy of their organisation.

### 6.3 Process of inquiry

*Process of interviewing.* This thesis draws on a documentary analysis and interviews with representatives from ENGOs, relevant governmental agencies and businesses. The process of interviewing was organised in several stages. First, a comprehensive list of all the possible questions (an interview protocol) to representatives from ENGOs, governmental agencies and business was developed prior to field work in Russia and translated into Russian (see Appendix 1). Questions were based on issues discussed in the literature relevant to the topic. These questions concerned a work of the ENGO and its aims; general successes and failures regarding its goals; factors influencing its work (e.g., laws, funding); and the strengths and weaknesses of its specific strategies for influencing behaviour of other environmental actors.

Second, a range of ENGOs different in size, location and direction of activities and state environmental agencies were contacted and asked if their staff could be approached (without knowing a staff member has nominated them). This method of recruiting participants does not allow individual staff to be identified and the identity of any potential participants will remain confidential. All interviewees were informed of the research and its aims. They were asked to consent to participate in this research and informed that their participation is voluntary and confidential. The interviews lasted from 20 minutes to one hour. These methods of data collection, the process of interviewing and list of questions were approved by the Macquarie University Human Research Ethics Committee (Appendix 3).

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<sup>134</sup> Layder, see above n 98, 52.

<sup>135</sup> Arksey and Knight, see above n 133, 2.

<sup>136</sup> Holley, see above n 105.



A total number of interviews conducted in 2012–2014 was 26, which includes 21 interviews with members of ENGOs (including two with experts currently located in Australia but with experience working in international ENGOs and/or in Post-Communist countries); four interviews with governmental officials; and one with a representative from business (see Table 12). Given growing attempts by the state to control ENGOs, and the numerous gaps in our understanding of ENGOs experiences in Russia, this thesis is grounded mostly on ENGO interviews. While interviewing of a wider sample of governmental officials was also included, the thesis's primary aim is in-depth examination of ENGOs to offer timely insights into the effectiveness and challenges<sup>137</sup> of ENGOs as both advocates and collaborators in modern Russian environmental governance. Currently in Russia, partnerships between ENGOs and governmental officials are limited and still developing and, as a result, there were regional officials who interacted directly with ENGOs and gave their consent for interviewing.

In terms of participants from businesses, approximately six representatives were contacted from businesses in Moscow and other regions; however, interactions between business and ENGOs are almost non-existent. As a result, only one interview with a representative of a big Russian company was included to confirm this fact. Representatives from timber companies where few examples of successful collaboration come from were either unwilling to participate or difficult to contact considering the size of Russia and the remoteness of these areas.

The work of new participatory institutions, which include representatives from the state, society and business, was also empirically studied through interviews of members of Civic Chambers from ENGOs and governmental agencies. Additionally, through attending and observing an annual meeting of a regional Civic Chamber and one meeting of the ecological commission at the Federal Civic Chamber. As discussed above, the size of Russia and limited recourses for research make interviewing of ENGOs representatives from all regions impossible. Therefore, interviewing was also complemented by data on a work of other ENGOs in different regions, which was available on their websites, from the Internet, newspapers and judicial decisions.

Appendix 2 contains more detailed information on the process of interviewing and the ENGOs and the state agencies that participated in this research.

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<sup>137</sup> M. Patton, *Qualitative Evaluation and Research Methods* (Sage 2002); A. Tuckett, 'Qualitative Research Sampling the Very Real Complexities' (2004) 12(1) *Nurse Researcher*, 47.

**Data analysis.** Data analysis in this research consisted of preparing and organising the data obtained from the documents and the interviews (in forms of texts and tables),<sup>138</sup> then reducing the data into themes through the process of classification and labelling following the logic of the Adaptive theory approach.<sup>139</sup> This involved the data from the interviews being coded according to themes discussed, for example, ‘relationships with the state’, ‘comments on the new legislation’ and so on. The interviews were listed according to the time of their conduct and received an ordinal number in order to respect confidentiality of participants as required by the guidelines of the Macquarie University Human Research Ethics Committee. For example, the first interview received number one, referred to as ‘Interview 1’ and the following interview was ‘Interview 2’.

**Validity of the research.** Multiple sources of data and a combination of different methods and techniques of data collection are used in this work to assess data quality and ensure validity of the findings, namely triangulation of interviews, information and a desk-based literature review.<sup>140</sup> For example, the interviews, doctrinal approach and comparative method can be used to examine the issues of the Russian legal framework for an operation of ENGOs from the perspective of ENGO members and legal scholars and compare these changes with the same regulations in Western countries. Following the Adaptive theory approach, empirical data for this research obtained from the interviews and collected from open sources, such as the Internet, news, interviews, reports of ENGOs and other information relevant to this research was analysed, shaped and probed with empirical data in a continuous feedback loop. In the case of this thesis, the ESG framework was used to identify initial themes, and then guide the collection, summarisation and analysis of information and writing of the thesis’s chapters to test, confirm and refine its ideas and thinking. For example, as seen in Chapters 4 and 5, the initial themes, such as accountability and legitimacy, have been discussed through the study of formal legal framework for NGO operations. This led to a conclusion that the legislation setting accountability and the state control over ENGOs is restrictive and its implementation is selective in Russia. The negative impact of accountability and the state control over ENGO legitimacy and constraints for their agency is further discussed in Chapters 6 and 7 through the study of responses of ENGOs and other environmental actors and the public.

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<sup>138</sup> Creswell, see above n 113, 180.

<sup>139</sup> Layder, see above n 98, 51–79.

<sup>140</sup> Arksey and Knight, see above n 133, 21.

## ***7. Outline of the thesis***

This thesis consists of eight chapters commencing with this introduction (Chapter 1), which provides background for ENGOs' work in Russian environmental governance, aims of research, research questions and methods of this research.

Chapter 2 provides a review literature on NGOs and their roles in governance relevant to this thesis. This literature can be divided into three groups: (i) the governance literature with a focus on the roles of NGOs; (ii) the literature on civil society, which concentrates on relationships between the state, the public and civil society institutions; and (iii) the literature that studies general problems for NGOs' operation in Russia and issues of environmental governance in Russia and its actors. This chapter highlights key theoretical issues on NGOs' roles in governance discussed in the literature, namely the growing agency of NGOs and its dependence on contexts; impacts of agency of NGOs on their relationships with the state, businesses and civil society and issues of legitimacy and accountability of NGOs in new governance arrangements.

Chapter 3 sets the context for this study. It analyses the historical development of ENGOs in Russia since the emergence of the first conservation groups in the Soviet Union in order to explain specific historical features of contemporary ENGOs in Russia, conditions for their work and choices of their strategies. These key features identified include close ties with the state environmental agencies, low public support and professionalisation and expert character of their work.

Chapter 4 builds on this analysis to examine the modern legal conditions for ENGOs' work in Russia in regards to powers of ENGOs to participate in environmental governance and limitations of these powers concerning the strict state supervision over foreign-funded NGOs, undeveloped economic regulatory measures of their operation and weak law enforcement.

Chapter 5 continues the discussion looking at related trends on legal approaches to regulation of NGOs in different countries because the Russian NGO law has been evolving under the influence of the NGO law of the Western democracies. Provisions on legal accountability, transparency and certain limitation of the political rights of NGOs can be found in these laws. The chapter also compares regulatory approaches to NGOs in the Western democracies where 'soft' economic approaches are employed the governments with 'hard' administrative

regulation dominating in Russia and other Post-Soviet countries with authoritarian styles of governance.

Having examined the history ENGOs and their work in Russia and the legal framework for their operation, it is logical then to examine the strategies that ENGOs use today to influence other environmental agents to achieve environmental outcome and to become environmental agents (Chapter 6). This chapter drawn in research interviews and analyses reasons for a choice of strategies by ENGOs and discusses possible ways to enhance ENGO influence and make environmental governance more accountable.

Chapter 7 studies related issues of legitimacy and accountability of ENGOs in Russia as elements of their agency in order to understand what enables and prevents ENGOs to become authoritative and powerful actors of governance. The chapter focuses on the legitimacy deficit of ENGOs and legitimacy claims that ENGOs make to build, restore and maintain their legitimacy. The chapter analyses accountability of ENGOs considering it a tool to enhance their legitimacy.

Chapter 8 brings together all findings from the previous chapters and links them with theoretical debates on the growing role of NGOs in governance, to develop principles for agency of ENGOs in Russian environmental governance. Relying on empirical findings and normative debates in the literature, the chapter also makes a number of suggestions on the possibility to reformulate the NGO law and other laws relevant to ENGO regulations. The concluding chapter also aims to provide empirical insights on theoretical issues of agency in different contexts and the state/ENGO relationships. The chapter argues that in Russia, agency of ENGOs is limited because of the high state accountability measures towards ENGOs and weak civil society. Generally, ENGOs can be considered environmental agents only in certain areas of regulations. Their legitimacy is based mostly on environmental expertise function and community participation.

Given the limited agency of ENGOs in environmental governance, the role of the Russian state has also changed. The state has created new inclusive civic forums for non-government actors facilitating capacities of ENGOs to play mostly expert roles in decision making and implementation. However, this reconfiguration of the state power was in many ways conditional and the state intends to maintain control over all NGOs, relying on hard administrative measures. Finally, the chapter recognises limitations of this research and

suggests possible areas for further research on agency of ENGOs and its impact on their relationships with the state, the public and businesses.

## Chapter 2. NGOs, civil society and governance theories.

### 1. Introduction

In order to answer the main research question (whether ENGOs have agency in environmental governance in Russia and to develop conditions for their agency), this literature review will describe and outline key theoretical debates on the legitimacy of NGOs. It will review their role in accountability relationships and new forms of interactions with the state, business and society—due to the growing and changing roles of NGOs. This section reviews three groups of literature relevant to this thesis.

First, there has been extensive research on roles and changes of civil society and its institutions, such as NGOs conceptualising relationships between civil society and the state.<sup>1</sup> Second, this group of the literature is linked to a large and growing body of literature, which has more recently begun to investigate a shift and diffusion of powers between the state and non-state actors and changes in governance caused by broader and more active engagement of non-state actors in a process of governing.<sup>2</sup> The third group of the literature relevant to this research discusses operational issues of NGOs, including funding, legal status, tool, strategies and forms of operations in Russia and other countries.<sup>3</sup>

At the beginning, it is important to note that NGOs have been defined in different ways. Although most NGOs are formed via voluntary collective action, there has been a growing

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<sup>1</sup> For example, A. Gramsci, *Prison Notebooks*, Further Selections from the Prison Notebooks, Electric Book Company Ltd, London (1999); K. Marx, 'On the Jewish Question' (1844) <<http://people.ucalgary.ca/~uwr/courses/CCF/Marx-1844-Jewish%20Question.txt.pdf>>; Z.T. Golenkova, 'Civil Society in Russia' (1999) 40(1) *Russian Social Science Review* 4; L. Jakobson and S. Sanovich, 'The Russian Third Sector: New Driving Forces—A Rejoinder' (2011) 7(2) *Journal of Civil Society* 233; O. Alekseeva, 'Commentary on Jakobson and Sanovich: The Challenging Landscape of the Russian Third Sector' (2010) 6(3) *Journal of Civil Society* 307; A. Kochetkov, 'Gosudarstvo i Grazhdanskoe Obshchestvo v Rossii: Strategiya Vzaimodeystviya [The State and Civil Society in Russia: Strategy of Interaction]' (2014) 6(1) (13/04/2015) *Electronic Scientific Edition Almanac Space and Time*, available at <http://cyberleninka.ru/article/n/gosudarstvo-i-grazhdanskoe-obshchestvo-v-rossii-strategiya-vzaimodeystviya>, the last access on 13/03/2015.

<sup>2</sup> J. Freeman 'Collaborative Governance in the Administrative State' (1997) 45 *UCLA Law Review* 1; F. Biermann et al, 'Earth System Governance: A Research Framework' (2010) 10(4) *International Environmental Agreements: Politics, Law and Economics* 277; P. Martin et al (eds), *Environmental Governance and Sustainability* (Edward Elgar Publishing, 2012), xix; J. Dryzek et al, 'Environmental Transformation of the State: the USA, Norway, Germany and the UK' (2002) 50(4) *Political Studies* 659; J. Black, 'Constructing and Contesting Legitimacy and Accountability in Polycentric Regulatory Regimes' (2008) 2(2) *Regulation & Governance* 137; C. Scott, 'Private Regulation of the Public Sector: a Neglected Facet of Contemporary Governance' (2002) 29(1) *Journal of Law and Society* 56.

<sup>3</sup> L. Henry, *Red to Green: Environmental Activism in Post-Soviet Russia* (Cornell University Press, 2010); J. Crotty, 'Making a Difference? NGOs and Civil Society Development in Russia' (2009) 61(1) *Europe-Asia Studies* 85; N. Hall and R. Taplin, 'Revolution or Inch-by-Inch? Campaign Approaches on Climate Change by Environmental Groups' (2007) 27(1) *Environmentalist* 95.

diversity and professionalisation of NGOs,<sup>4</sup> with organisations often differing across a number of dimensions, including ideology, funding sources, their size and the policy spheres in which they operate (for example, international, national and local),<sup>5</sup> and types of strategies they employ (radical or reformists).<sup>6</sup> While some researchers eschew defining NGOs,<sup>7</sup> there are a number of broad characteristics common to these organisations. These include a perceived independence from profit-making activity and governmental control,<sup>8</sup> as well as being commonly identified as campaigning organisations with a focus on the well-being of others.<sup>9</sup> This definition reflects the most traditional form of NGO activity, namely self-organisation and activism. However, in addition, there has been a growing trend of NGO engagement in discourses in public spaces and in new public management (civil society as sub-contractors to policy makers), and corporatisation (civil society organisations collaborating with companies),<sup>10</sup> which have been examined from many different theoretical perspectives.<sup>11</sup>

## 2. *Concepts of Civil Society*

One key grouping of reviewed academic studies is the theory and literature on civil society, which sees NGOs as a vital component. ‘Civil society’ is a complex and contested topic,<sup>12</sup> encompassing all the organisations and associations that exist outside of the state (including political parties, labour unions, professional association, ethnic associations and others) and the market.<sup>13</sup>

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<sup>4</sup> R. Gray, J. Bebbington and D. Collison, 'NGOs, Civil Society and Accountability: Making the People Accountable to Capital' (2006) 19(3) *Accounting, Auditing & Accountability Journal* 319.

<sup>5</sup> F. Alcock, 'Conflicts and Coalitions within and across the ENGO Community' (2008) 8(4) *Global Environmental Politics* 66.

<sup>6</sup> Hall and Taplin, see above n 3; M. Betsill and E. Corell, 'NGO Influence in International Environmental Negotiations: a Framework for Analysis' (2001) 1(4) *Global Environmental Politics* 65; M. M. Betsill and E. Corell, *NGO Diplomacy: The Influence of Nongovernmental Organizations in International Environmental Negotiations* (The MIT Press, 2008).

<sup>7</sup> Gray, Bebbington and Collison, see above n 4, 327.

<sup>8</sup> L. Breckenridge, 'Nonprofit Environmental Organizations and the Restructuring of Institutions for Ecosystem Management' (1998) 25 *Ecology Law Quarterly* 692, 695.

<sup>9</sup> Gray, Bebbington and Collison, see above n 4, 324.

<sup>10</sup> *Ibid.*, 325.

<sup>11</sup> Betsill and E. Corell, see above n 6; J. Dryzek et al, *Green States and Social Movements: Environmentalism in the United States, United Kingdom, Germany, and Norway*. (Oxford University Press, 2003). J. Dryzek and S. Niemeyer, 'Discursive Representation' (2008) 102(4) *American Political Science Review* 481.

<sup>12</sup> K. Hochstetler, 'Civil Society and the Regulatory State of the South: A Commentary' (2012) 6 *Regulation & Governance*, 362, 363–364.

<sup>13</sup> T. Carothers and W. Barndt, 'Civil Society' (1999) *Foreign policy* 18, 19.

Following a dominant theoretical approach to the concept of civil society in the literature originally expressed by de Tocqueville,<sup>14</sup> civil society is a defensive counterbalance to the increased capabilities of the modern state. Society interacts constructively with the state, not to subvert and destroy it, but to improve its efficiency.<sup>15</sup>

However, in the communist countries, such as the USSR was, the concept of civil society was influenced by the writings of Hegel, Marx and Gramsci. Under the Marxist theory, civil society and the state are separated institutions in capitalist states and the political state stands in opposition to civil society defending interests of dominating class.<sup>16</sup> This separation between the state and civil society can be overcome by the dissolution of both the state and civil society through the socialisation of the state and society.<sup>17</sup> For Gramsci, civil society is a contested place and is a part of 'political society' and 'the State'.<sup>18</sup> In the USSR, the concept of Soviet 'real socialism' based on Marxist theories predominated for seven decades. Under the Soviet interpretation of Marxism, the state through merging of the Party and administrative apparatus became everything, civil society was primordial and all allowable associations were a part of the state and the Party.<sup>19</sup> Moreover, because Marx in his writing equated the concepts 'civil' and 'bourgeois' societies, the term 'civil society' had negative ideological connotations in the Soviet Union.<sup>20</sup> As a result of democratisation, Russia has accepted a more liberal view of civil society as independent from the state, self-governing sphere of different actors.<sup>21</sup>

In contemporary scholarship, civil society has become the comprehensive term for various ways in which people express collective wills independently of (and often in opposition to) established power, both economic and political.<sup>22</sup> At the same time, researchers stress the possibility of a more positive (rather than oppositional) relationship of partnership between

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<sup>14</sup> A. Whaites, 'Let's Get Civil Society Straight: NGOs and Political Theory' (1996) 6(3) *Development in Practice* 240

<sup>15</sup> Ibid, 240.

<sup>16</sup> Marx, see above n 1, 7, 15.

<sup>17</sup> Golenkova, see above n 1, 7.

<sup>18</sup> According to Gramsci civil society appears as an equation: 'State = political society + civil society, in other words hegemony protected by the armour of coercion', Gramsci, see above n 1, 532; C. Mercer, 'NGOs, Civil Society and Democratization: A Critical Review of the Literature' (2002) 2(1) *Progress in development studies* 5, 11.

<sup>19</sup> R.W. Cox, 'Civil Society at the Turn of the Millennium: Prospects for an Alternative World Order' (1999) 25(1) *Review of International Studies* 3, 7.

<sup>20</sup> Golenkova, see above n 1, 7; L. Jakobson et al, 'Civil Society in Modernising Russia' (The Centre for Studies of Civil Society and the Non-for-Profit Sector of the National Research University 'Higher School of Economics', 2011), 17.

<sup>21</sup> Ibid.

<sup>22</sup> Cox, see above n 19, 10.



civil society and political and economic actors.<sup>23</sup> In this view, civil society organisations have the potential to contribute to liberalisation and democratisation by engaging directly with political/state officials and economic actors in an attempt to reshape their practices and norms.<sup>24</sup> This understanding of the concept of civil society closely relates to the ESG definitions of governance and abilities of non-state actors to influence governance indirectly and directly through collaboration and engagement with state and other actors in making steering decisions.<sup>25</sup> However, there have been doubts about the ability of NGOs to contribute to civil society development in Russia due to several reasons. These doubts concern limited contacts and interactions outside organisations, insufficient funding and membership and unwillingness of organisations to extend their agenda to issues supported by the state as a result of the Soviet legacy.<sup>26</sup> The extent to which Russian ENGOs have engaged in this process is explored in the thesis in Chapters 6, 7 and 8.

### ***3. Regulatory and governance scholarship***

The debates on possibilities of new more collaborative relationships between the state and civil society actors are linked to the second grouping of literature on regulatory and governance scholarship. This scholarship emerged after the end of the Cold War as an alternative to deregulation and privatisation, as well as to socialist planning.<sup>27</sup>

In a traditional liberal view, NGOs and civil society groups play important roles in strengthening the capacity of states for good governance through providing social services, public advocacy, lobbying and challenging government decisions in courts and acting more generally as a countervailing force to the power of industry.<sup>28</sup> They also use broad-based

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<sup>23</sup> B.D. Taylor, 'Law Enforcement and Civil Society in Russia' (2006) 58(2) *Europe-Asia Studies*, 193; K. Tienhaara, A. Orsini and R. Falkner, 'Global corporations' in F. Biermann and P. Pattberg (eds), *Global Environmental Governance Reconsidered* (MIT Press, 2012) 45, 47-48; A. Nezdyurov and A. Sungurov, in L. Jakobson (ed), *Vzaimodeystviya organov vlasti i struktur grazhdanskogo obshestva: vozmozhnye modeli i ih realizatsiya v obshestvenno-politicheskoy zhizni sovremennoj Rossii* [Interaction between the Authorities and Civil Society: the Possible Models and their Implementation in Social and Political Life of Modern Russia] (Vershina, 2008) 209; A. Kochetkov, 'Gosudarstvo i Grazhdanskoe Obshchestvo v Rossii: Strategiya Vzaimodeystviya' [The State and Civil Society in Russia: Strategy of Interaction]' (2014) 6(1) (13/04/2015) *Electronic Scientific Edition Almanac Space and Time*, available at <http://cyberleninka.ru/article/n/gosudarstvo-i-grazhdanskoe-obshchestvo-v-rossii-strategiya-vzaimodeystviya>, the last access on 13/03/2015.

<sup>24</sup> Taylor, see above n 23, 211; L. Jakobson, 'Dialog Grazhdanskogo Obshestva i Vlasti: Kachestvo Interfejsa' [Dialogue between Civil Society and Power: an Interface]' in L. Jakobson (ed), *Faktory Razvitiya Grazhdanskogo Obshestva i Mekhanizmy yego Vzaimodeystviya s Gosudarstvom* [Factors for Development of Civil Society and the mechanism of its interaction with the state] (Vershina, 2008) 101, 131.

<sup>25</sup> F. Biermann et al, see above n 2, 279, 283; Teinhaara, see above n 23, 48.

<sup>26</sup> Crotty, see above n 3, 93; Henry, see above n 3; O. Yanitsky, 'The Value Shift of the Russian Greens' (2006) 15(2) *International Review of Sociology: Revue Internationale de Sociologie* 363.

<sup>27</sup> A.J. Cohen, 'Governance Legalism: Hayek and Sabel on Reason and Rules, Organization and Law' (2010) 2010 *Wisconsin Law Review* 357, 378.

<sup>28</sup> Mercer, see above n 18, 7-10.

social pressures and demands that arise in the wake of salient, high profile issues<sup>29</sup> to influence decision making.<sup>30</sup> However, NGOs typically are not seen as having any responsibilities for making steering decisions.<sup>31</sup>

Recently, there has been widespread agreement that the state, NGO's and other non-state actors are now changing the way they exercise power to achieve the ends they desire.<sup>32</sup> Consequently, civil society and other non-governmental actors have begun to play a significant role in forming state policy filling gaps in a regulatory space<sup>33</sup> taking new roles and responsibilities. Governance scholarship proposes to devolve state power to non-state actors to generate the rules and norms that will govern their own behaviours and practices.<sup>34</sup> NGOs in this scholarship have conventionally been explored through a pluralist understanding of governance that relies on and further develops interest representation theory.<sup>35</sup>

This governance scholarship explicitly or implicitly assumes that many environmental problems lay beyond the state's regulatory capacity and partnerships between the states, civil society and private actors have a great potential to improve environmental outcomes.<sup>36</sup> Accordingly, environmental governance can be defined as the interrelated formal and informal rules, rule-making systems and actor-networks at all levels of human society that are set up to steer societies towards preventing, mitigating and adapting to global and local environmental change.<sup>37</sup>

Much of these studies discuss a shift in governance from traditional regulatory models towards new governance models, which consist of increased participation of non-state actors,

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<sup>29</sup> For example, the importance of advocacy for mentally ill to ensure that their human rights are not breached is discussed in A. Dhanda, 'Rights of the Mentally Ill - A Forgotten Domain' (1986) 13(3/4) *India International Centre Quarterly* 147.

<sup>30</sup> W.T. Gormley Jr, 'Regulatory Issue Networks in a Federal System' (1986) 18(4) *Polity* 595, D. A. Farber, 'Triangulating the Future of Reinvention: Three Emerging Models of Environmental Protection' (2000) *University of Illinois Law Review* 61.

<sup>31</sup> Freeman, see above n 2, 18.

<sup>32</sup> S. Burris, M. Kempa, and C. Shearing, 'Changes in Governance: A Cross-Disciplinary Review of Current Scholarship' (2008) 41 *Akron Law Review* 1; Teinhaara, see above n 23, 49-50.

<sup>33</sup> Biermann et al, see above n 2, B.C. Karkkainen, 'Post-Sovereign Environmental Governance' (2004) 4(1) *Global Environmental Politics* 72.

<sup>34</sup> Cohen, see above n 27, 358.

<sup>35</sup> R. B. Stewart, 'The reformation of American Administrative Law' (1975) *Harvard Law Review* 1667.

<sup>36</sup> B.C. Karkkainen, 'New Governance in Legal Thought and in the World: Some Splitting as Antidote to Overzealous Lumping' (2004) 89 *Minnesota Law Review* 471, 473-475; Teinhaara, see above n 23, 49-50.

<sup>37</sup> Biermann et al, see above n 2, 279.

public/private collaboration, diversity and decentralisation,<sup>38</sup> focusing on institutional architecture and the relationships among state and non-state actors.<sup>39</sup> The forms and ways that these relationships can take have been defined differently in the literature. For example, in accordance with views of Osborne and Gaebler, governments continue to steer while the civil society plays a more active role in implementing policies.<sup>40</sup> Other theoretical scholarship assumes that governance systems comprise many more or fewer independent governors, such as ‘collaborations and partnerships’,<sup>41</sup> ‘webs’,<sup>42</sup> ‘nodes’,<sup>43</sup> and ‘networks’,<sup>44</sup> which attempt to steer different aspects of governance.<sup>45</sup> The third group of scholarship argues that the state remains a powerful actor of governance but other non-governmental stakeholders, including NGOs, join to solve complex regulatory issues. Therefore, both the state and civil society carry out steering and rowing roles in governance, particularly in regulatory areas, where the traditional state-centric approach failed.<sup>46</sup>

Through both theoretical and empirical inquiry, these new approaches to governance demonstrate the changes in a role of civil society groups in governance with an emphasis on knowledge sharing, networking and collaborating with other actors of governance rather than adversarial and oppositional forms of participation.<sup>47</sup>

While regulatory scholarship has made some significant advances in understanding the role of NGOs in these new forms of governance, the literature is largely based on research from the US,<sup>48</sup> Australia<sup>49</sup> and the EU and the United Kingdom (the UK).<sup>50</sup> This is partly because in

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<sup>38</sup> O. Lobel, 'The Renew Deal: The Fall of Regulation and the Rise of Governance in Contemporary Legal Thought' (2004) 89 *Minnesota Law Review* 342.

<sup>39</sup> O. Lobel, 'Setting the Agenda for New Governance Research' (2004) 89 *Minnesota Law Review* 498, 505-506; B.C. Karkkainen, 'Collaborative Ecosystem Governance: Scale, Complexity, and Dynamism' (2002) 21 *Virginia Environmental Law Review* 189, 238.

<sup>40</sup> D. Osborne and T. Gaebler, *Reinventing Government: How the Entrepreneurial Spirit is Transforming Government* (New York, NY: Plume 1993).

<sup>41</sup> P. Glasbergen, F. Biermann and A.P.J. Mol (eds), *Partnerships, Governance and Sustainable Development: Reflections on Theory and Practice* (Edward Elgar Publishing Limited, 2007).

<sup>42</sup> J. Braithwaite and P. Drahos, *Global Business Regulation* (Cambridge University Press, 2000).

<sup>43</sup> C. Shearing and J. Wood, 'Nodal Governance, Democracy, and the New 'Denizens'' (2003) 30 *Journal of Law and Society* 400.

<sup>44</sup> M. Castells, 'Materials for an Exploratory Theory of the Network Society' (2000) 51 *British Journal of Sociology*, 5; R. A.W. Rhodes, *Understanding Governance: Policy Networks, Governance, Reflexivity and Accountability* (Open University Press, 1997).

<sup>45</sup> Parker, C., 'Meta Regulation: Legal Accountability for Corporate Social Responsibility.' in D. Mc Barnett, A. Voiculescu and T. Campbell (eds), *New Corporate Accountability: Corporate Social Responsibility and the Law* (Cambridge University Press, 2006).

<sup>46</sup> C. Holley, N. Gunningham and C. Shearing, *The New Environmental Governance* (Earthscan, 2012).

<sup>47</sup> A. Fung and E.O. Wright, 'Countervailing Power in Empowered Participatory Governance' in A. Fung and E. O. Wright (eds), *Deepening Democracy: Institutional Innovations in Empowered Participatory Governance* (Verso, 2003) 259, 266-267.

<sup>48</sup> A. Conley and M. Moote, 'Evaluating Collaborative Natural Resource Management' (2003) 16(5) *Society and Natural Resources*, 371; Fung and Wright, see above n 47, 259.

these Western nations, post regulatory state practices<sup>51</sup> have been prominent and civil society is developed and active. Few studies on the roles of NGOs in regulation have been conducted in the non-Western context.<sup>52</sup> These studies mostly focus on networking and collaboration of NGOs in developing countries with other actors, including other NGOs, international NGOs and even foreign businesses and governments to enhance state regulatory capacities and avoid a business capture,<sup>53</sup> or to explore new regulatory mechanisms, for instance, in climate governance.<sup>54</sup> Accordingly, these studies and the ESG approach concludes that a study of regulatory practices of NGO engagement with the state agencies in the non-Western context should take into account and critically assess scale of governance in regards to specific governance features.<sup>55</sup>

ESG explores key issues of the novel role of NGOs in governance, which is discussed in the governance scholarship (see above), linking the capacities of ENGOs to influence policies and exercise power by setting their own rules to their agency.<sup>56</sup> ESG takes into account a possible impact of new governance arrangements, including networking and collaboration of state and non-state actors, on power and agency of traditional state actors and the emergence of new 'steering vs rowing' regulatory approaches.<sup>57</sup> It also considers legitimacy of non-state actors and accountability relationships in new governance arrangements as central issues of NGO effective engagement in governance.<sup>58</sup> Theoretic aspects of these issues discussed in the literature and their practical implementation are studied in Chapters 4 and 7.

**Legitimacy of NGOs.** In recent years, expanding participation of non-governmental actors in decision-making processes has caused an increased interest in the study of legitimacy beyond

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<sup>49</sup> N. Gunningham, P. Grabosky and D. Sinclair, *Smart Regulation* (Oxford University Press, 1998); P. Grabosky, 'Beyond Responsive Regulation: The Expanding Role of Non-State Actors in the Regulatory Process' (2013) 7(1) *Regulation & Governance* 114; J. Dryzek, *Deliberative Democracy and Beyond* (Oxford University Press, 2002); Holley, Gunningham and Shearing, see above n 46.

<sup>50</sup> C. Scott, 'Regulation in the Age of Governance: the Rise of the Post-Regulatory State' in Jacint Jordana and David Levi-Faur (eds), *The Politics of Regulation: Institutions and Regulatory Reforms for the Age of Governance* (Edward Elgar Publishing, 2004), 145-174; J. Scott and D.M. Trubek, 'Mind the Gap: Law and New Approaches to Governance in the European Union' (2002) 8(1) *European Law Journal*, 1.

<sup>51</sup> Scott, see above n 2.

<sup>52</sup> J. Braithwaite, 'Responsive Regulation and Developing Economies' (2006) 34(5) *World Development* 884; Hochstetler, see above n 12.

<sup>53</sup> Braithwaite, see above n 52, 892.

<sup>54</sup> E. Benecke, 'Networking for Climate Change: Agency in the Context of Renewable Energy Governance in India' (2011) 11(1) *International Environmental Agreements: Politics, Law and Economics* 23.

<sup>55</sup> Hochstetler, see above n 12, 368-69; Biermann et al, see above n 2, 279.

<sup>56</sup> Biermann et al, see above n 2, 282.

<sup>57</sup> Ibid.

<sup>58</sup> Biermann et al, above n 2, 282; Black, see above n 2; Scott see above n 50; C. Scott, 'Accountability in the Regulatory State' (2000) 27(1) *Journal of Law and Society* 38.

the state, such as legitimacy of non-state actors.<sup>59</sup> On one hand, this involvement of non-state actors gives more legitimacy for the state actors.<sup>60</sup> On the other hand, as Biermann et al. state, legitimacy of non-governmental actors itself has a complex and problematic nature, inherent to the concept of legitimacy issues, such as sources of legitimacy, legitimacy claiming and types of legitimacy. In general, governance and its institutions are considered more effective when they are legitimate.<sup>61</sup> Effectiveness has been defined as an outcome that can meet needs while making the best use of resources.<sup>62</sup> As discussed above, legitimacy is a key element for motivating actors to act in accordance with governors' purposes.

Different theoretical approaches to understanding and defining legitimacy have been developed by democratic, political,<sup>63</sup> social science (organisational and institutional)<sup>64</sup> and governmental<sup>65</sup> approaches. Generally, two main understandings of legitimacy were developed.<sup>66</sup> The first empirical or descriptive concept of legitimacy has been developed in the social sciences and states that legitimacy is granted to a system through public recognition, approval and acceptance.<sup>67</sup> Traditionally, social scientists studied moral, subjective aspects of legitimacy in terms of approval or 'sincere recognition'.<sup>68</sup> Therefore, they distinguish among three main sources for legitimacy, namely (i) a faith in a particular political or social order because it has been there for a long time (traditional legitimacy), (ii) faith in the rulers (legitimacy that is based on a charisma of leaders), (iii) or trust in its legality (legal legitimacy). At the same time, faith in political order or its approval is linked to normative assessment of this particular political order with links between descriptive concept and normative concept of legitimacy.<sup>69</sup>

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<sup>59</sup> Black, see above n 2; Scott, see above n 50, 154.

<sup>60</sup> Biermann et al, see above n 2.

<sup>61</sup> Ibid.

<sup>62</sup> M. Suchman, 'Managing Legitimacy: Strategic and Institutional Approaches' (1995) 20(3) *Academy of Management Review* 571, 574.

<sup>63</sup> J. Rawls, 'The Law of Peoples' (1993) 20 *Critical Inquiry* 36; J. Rawls, 'The Idea of Public Reason' in J. Bohman and W. Rehg (eds), *Deliberative democracy: Essays on reason and politics* (MIT Press, 1997) 108; J. Cohen (ed), *Deliberation and Democratic Legitimacy*, *Deliberative democracy: Essays on reason and politics* (MIT Press, 1997).

<sup>64</sup> M. Weber and B. Turner, *From Max Weber: Essays in Sociology* (Routledge, 1991); S. Lister, 'NGO Legitimacy Technical Issue or Social Construct?' (2003) 23(2) *Critique of Anthropology* 175; I. Attack, 'Four Criteria of Development NGO Legitimacy' (1999) 27(5) *World Development* 855.

<sup>65</sup> Biermann et al, see above n 2, Black, see above n 2; F. Biermann and A. Gupta, 'Accountability and Legitimacy in Earth System Governance: A Research Framework' (2011) 70(11) *Ecological Economics* 1856.

<sup>66</sup> W. Hinsch, 'Legitimacy and Justice' in *Political Legitimization without Morality?* (Springer, 2008) 39, 40–41.

<sup>67</sup> Weber and Turner, see above n 64, 79.

<sup>68</sup> Hinsch, see above n 66, 40.

<sup>69</sup> Ibid, 40.

Second, as Black notes, law and political science mostly focuses on a normative basis for legitimacy,<sup>70</sup> on when an organisation should be regarded as legitimate, rather than on whether it is regarded as legitimate<sup>71</sup> and sets up procedural (e.g., representativeness, values of an organisation) and substantive (effectiveness and empowerment) criteria<sup>72</sup> for recognising a system, actor or institution as legitimate. However, the normative concept of legitimacy also studies qualities or reasons that make a state, or actor, or norms legitimate,<sup>73</sup> thus the descriptive and normative concepts of legitimacy are interdependent. For example, the normative concept also recognises that regulators face a problem in securing broad public support of their activities; therefore, they seek public acceptance.<sup>74</sup>

In contrast to the pure ‘normative basis’, governance scholars presume that legitimacy of institutions and actors of governance always contains socially constructed components, which means that something is considered legitimate because people perceive it as legitimate.<sup>75</sup> As a result of this theoretical development, the governance scholarship combines descriptive understanding of legitimacy with its normative dimensions, considering legitimacy as a process.<sup>76</sup> Actors of governance are not always endowed with legitimacy from the beginning. Rather, legitimacy can be traditionally based or claimed through the different actions of actors and from different sources, or can be lost and repaired.<sup>77</sup> From this theoretical perspective, legitimacy can be defined as social credibility and acceptability of the organisation to those it seeks to govern given formally or informally through social consent.<sup>78</sup> In this scholarship, key elements of legitimacy are the acceptance, credibility and justification of authority.<sup>79</sup> Under this approach, the acceptance of NGOs and their credibility (e.g., trust in their public benefit purposes) define them as being accepted by society and recognised as authoritative actors because they are consonant with commonly shared norms, values and beliefs of public. Justification relates to the normative aspect of legitimacy—reasons that give the authority to

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<sup>70</sup> Rawls, see above n 63.

<sup>71</sup> Black, see above n 2, 144.

<sup>72</sup> Attack, see above n 64.

<sup>73</sup> Rawls, see above n 63; J. Rawls, 'Political Liberalism: Reply to Habermas' (1995) *Journal of Philosophy* 132.

<sup>74</sup> Rawls, see above n 63, 97.

<sup>75</sup> D. Brakman Reiser and C. Kelly, 'Linking NGO Accountability and the Legitimacy of Global Governance' (2011) 36 *Brooklyn Journal of International Law* 1011, 1015.

<sup>76</sup> Black, see above n 2; Biermann et al, see above n 2.

<sup>77</sup> Black, see above n 2.

<sup>78</sup> Biermann et al, see above n 2, 287; J. Freeman, 'The Private Role in Public Governance' (2000) 75 *New York University Law Review* 543, 666.

<sup>79</sup> Biermann and Gupta, see above n 65, 1858.

certain NGOs,<sup>80</sup> and reasons for justification of authority may be different depending on political regime (e.g., representativeness, justice, and others).<sup>81</sup>

Drawn on the social science understanding of legitimacy, academics have distinguished several types of legitimacy:

- cognitive legitimacy, which is based on taken-for-granted or inevitable reasons
- pragmatic legitimacy, which is based on the understanding of legitimacy communities that their interests will be pursued by an organisation
- normative or moral legitimacy, which means that the purposes of an organisation and pursued aims are viewed as 'right' and morally appropriate.<sup>82</sup>

Legitimacy can be built, claimed, lost or repaired. Therefore, NGOs have to claim their legitimacy or may perform certain actions and enter into relationships to gain their legitimacy. As a result, Black distinguishes four broad groups of legitimacy claims, such as constitutional claims; justice claims; functional or performance claims; and democratic claims.<sup>83</sup> First, NGOs gain legitimacy from claiming their legality through compliance with written norms (including law and non-legal, generally accepted norms), and conformance with legal values of procedural justice and other broadly based constitutional values. These are constitutional claims.<sup>84</sup> Second, the values and goals pursued by an organisation, including the conception of justice, constitute justice claims. For environmental NGOs, it can be protection of nature, or protection of citizens' rights for safe environment, or sustainable development. Third, NGOs can motivate other actors for compliance and change in behaviour using responsive and flexible approaches to environmental issues, implementation of expertise and knowledge and their educational function.<sup>85</sup> These are functional or performance-based legitimacy claims. Finally, democratic claims are concerned with the extent of compatibility of an organisation and a particular model of democratic governance.<sup>86</sup> Democratic legitimacy of NGO participation in the political process has been questioned in regards to their representativeness. For example, interests of narrow groups or interests of the welfare

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<sup>80</sup> C. Johnson, T. Dowd and C. Ridgeway, 'Legitimacy as a Social Process' (2006) *Annual Review of Sociology* 53, 57; Biermann and Gupta, see above n 65, 1858.

<sup>81</sup> P. Stillman, 'The Concept of Legitimacy' (1974) 7(1) *Polity* 32, 34; Rawls, see above n 63, 39; Rawls see above n 63, 148.

<sup>82</sup> Suchman, see above n 62, 577-80; Johnson, Dowd and Ridgeway, see above n 80, 57; Black, see above n 2, 144.

<sup>83</sup> Black, see above n 2.

<sup>84</sup> Black, see above n 2; Biermann et al, see above n 2.

<sup>85</sup> Biermann et al, see above n 2.

<sup>86</sup> Black, see above n 2; Biermann et al, see above n 2.

industry,<sup>87</sup> but the general view on legitimacy NGOs in the literature is that their representativeness in political process is based on their advocacy work. It is through this work that they represent the collective voice of a group of people, responding to the specific public interests and values, for example, the environmental protection.<sup>88</sup>

Moreover, legitimacy of an actor of governance depends on legitimacy communities (the state and state actors, society and business) and also varies from country to country and can be shaped by political, economic and social conditions. For example, in certain countries environmental NGOs may be accepted as lobbyists or public activists, but not accepted as agents of governance with decision-making rights in regards to environmental issues.<sup>89</sup> Issues of legitimacy of ENGO in Russia are discussed in Chapter 7.

**Accountability relationships.** As discussed above, the concept of legitimacy should be considered in conjunction with the concept of accountability. Traditionally, in administrative law, the 'principal-agent' approach to accountability of institutions of governance only focuses on their formal and procedural accountability to the three branches of government.<sup>90</sup> However, as mentioned above, the complexity of environmental governance and diversity of its actors has also led to a diffusion of power between different actors<sup>91</sup> and has raised questions: who is accountable, to whom and for what,<sup>92</sup> complicating the accountability of all actors. As a result, the traditional agent-principal accountability does not capture the complexity of relationships between state and non-state actors. Therefore, the governance theories consider contemporary accountability models of governance as 'dialectical where all actors are at once autonomous from and dependent on the other due to the complexity of governance and diversity of its actors'.<sup>93</sup> Black broadly defines accountability as a particular type of relationship between different actors in which one gives account and another has the power or authority to impose consequences as a result.<sup>94</sup> Applying this definition on accountability relationships between the state and ENGOs, the state has a power to hold NGOs to account by applying sanctions for non-compliance with NGO law and other relevant

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<sup>87</sup> S. Maddison and R. Denniss, 'Democratic Constraint and Embrace: Implications for Progressive Non-Government Advocacy Organisations in Australia' (2005) 40(3) *Australian Journal of Political Science* 373, 380–4.

<sup>88</sup> A. Ebrahim, 'Making Sense of Accountability: Conceptual Perspectives for Northern and Southern Nonprofits' (2003) 14(2) *Nonprofit Management and Leadership* 191, 206; Attack, see above n 64, 859.

<sup>89</sup> Black, see above n 2, 145.

<sup>90</sup> Freeman, see above n 78, 549.

<sup>91</sup> Scott, see above n 50, 154.

<sup>92</sup> Black, see above n 2, 148; H. Slim, 'By What Authority? The Legitimacy and Accountability of Non-Governmental Organisations' (2002) 10 *The Journal of Humanitarian Assistance*, 10.

<sup>93</sup> Black, see above n 2, 150.

<sup>94</sup> Ibid, 150.



laws. These formal and procedural mechanisms, including sanctions for non-compliance, have often been central component of accountability models.<sup>95</sup> This legal and formal aspect of accountability relationships and its impact on agency of ENGOs in Russia is explored in Chapters 4 and 5.

Yet, the interdependence and dialectical nature of the contemporary accountability model would call for new, more sophisticated accountability and transparency mechanisms, both formal and informal, arising not just from government supervision, but from independent third parties and regulated entities themselves.<sup>96</sup> Examples of these mechanisms are third party participation in investment-environment disputes involving public interests<sup>97</sup> or voluntary public environmental reporting of corporations promoted by a broad range of stakeholders including ENGOs and communities.<sup>98</sup> Participation of ENGOs in environmental governance can be considered an important part of the new complicated accountability system. For example, ENGOs' social justice advocacy function can be considered a tool of accountability in this polycentric approach to governance.<sup>99</sup> The better access to information for all stakeholders and a more institutionalised involvement of civil society representatives in intergovernmental decision making, for example, through stronger participation of all stakeholders in governmental process, can also strengthen accountability of governors.<sup>100</sup> In addition to this accountability function of ENGOs, the literature has also identified other possible tools of accountability mechanisms, such as the introduction of qualified majority-voting in global policymaking arenas or a global network of norm-generating citizen juries,<sup>101</sup> professional auditing and others. Involvedness of ENGOs in these accountability relationships is achieved mostly through their strategies (Chapter 6).

Generally, intended aims of any accountability mechanisms are to make operations of any actor, institution or governance system more transparent, responsible, legitimate and consistent with existing norms and to impose negative consequences for non-compliance.<sup>102</sup>

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<sup>95</sup> J. Dryzek and H. Stevenson, 'Global Democracy and Earth System Governance' (2011) 70 *Ecological Economics* 1865.

<sup>96</sup> Freeman, see above n 78, 549.

<sup>97</sup> K. Tienhaara, 'Third Party Participation in Investment-Environment Disputes: Recent Developments' (2007) 16(2) *Review of European Community & International Environmental Law* 230.

<sup>98</sup> K. Bubna-Litic, L. De Leeuw and I. Williamson, 'Walking the Thin Green Line: The Australian Experience of Corporate Environmental Reporting' (2001) 18(3) *Environmental and Planning Law Journal* 339, 347.

<sup>99</sup> Dryzek and Stevenson, see above n 95, 1867.

<sup>100</sup> F. Biermann et al, 'Transforming Governance and Institutions for Global Sustainability: Key Insights from the Earth System Governance Project' (2012) 4(1) *Current Opinion in Environmental Sustainability* 51, 55.

<sup>101</sup> Biermann and Gupta, see above n 65, 1863.

<sup>102</sup> Black, see above n 2; C. Holley, 'Facilitating Monitoring, Subverting Self-Interest and Limiting Discretion: Learning from New Forms of Accountability in Practice' (2010) 35 *Columbia Journal of Environmental Law* 127.

The accountability mechanisms are one of the most important means against corruption, a capture by private interests and abuse of the power.<sup>103</sup>

In regards to ENGOs, the environmental governance approaches assume that ENGOs play a significant role in accountability of environmental governance by participating in different forms of accountability, including public advocacy, legal accountability, involving stakeholders or buyers of products in accountability relationships and mutual accountability.<sup>104</sup> Inclusiveness of NGOs in a regulatory process to avoid business capture and corruption has been considered in a theoretical concept of tripartism.<sup>105</sup> Authors of the concept suggest that NGOs may be engaged in the regulatory process through open access to all the information that is available to the regulator; rights to participate in negotiations over regulatory issues with firms and state agencies; and the same standing to sue or prosecute under the regulatory statute as a regulator. All these accountability forms combine procedural and performance-based approaches and are carried out through different actions and activities of NGOs. These accountability relationships are shaped and determined by the legal framework and vary from country to country.<sup>106</sup>

A study of issues of transparency, openness and accountability is particularly important for Russia as a country with long history of centralised and unaccountable government.<sup>107</sup> In the case of Russia, the issues of accountability are especially important taking into account a high level of the state autonomy from the society and traditional culture of secrecy, non-transparency and non-responsiveness of the state policies to civil society and high accountability standards for NGOs.<sup>108</sup>

In summary, the main criticism of governance theories is that they remain mostly abstract, and idealistic.<sup>109</sup> It is also unclear how these methods will work without a safety net of traditional command and control regulation and severe financial liability. In addition, these models can be very expensive due to the high cost of gathering the information to impose

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<sup>103</sup> I. Ayres and J. Braithwaite, 'Tripartism: Regulatory Capture and Empowerment' (1991) (16) *Law and Society Inquiry* 435.

<sup>104</sup> C. Holley, *New Environmental Governance* (Doctor of Philosophy Thesis, The Australian National University, 2008), 53.

<sup>105</sup> Ayres and Braithwaite, see above n 103.

<sup>106</sup> Biermann et al, above n 2, 283.

<sup>107</sup> Crotty, see above n 3, 87-88.

<sup>108</sup> See for example a Bill signed by the President on last amendments in Law regulation NGOs related to foreign funding, *Federalnyj Zakon RF ot 20 iulya 2012 N121-FZ 'O vnesenii izmenenij v nekotorye normativnye akty RF'* [Federal Law of the RF 20 July 2012 N121-FZ 'On Introducing Amendments into Certain Legislative Acts of the RF'] (Russia).

<sup>109</sup> R.I. Steinzor, 'The Corruption of Civic Environmentalism' (2000) 30 *Environmental Law Reporter* 1, 13.

effective performance-based standards and financial support for local groups.<sup>110</sup> It should also be noted that involvement of private actors has a selective and unstable character and more regular framework to balance participation should be developed.<sup>111</sup> In particular, in non-Western contexts, such as Post-Communist Russia, with the controlling state, weak civil society and undeveloped business sector, the governance approaches should take into account the specific governance features<sup>112</sup> and be critically assessed.<sup>113</sup> Additionally, similarly to developing countries, NGOs in Russia, which actively engage with regulatory agencies, often play roles of experts and do not represent interests of societies as a whole and their participation may only serve as a means to protect their own privileges and interests.<sup>114</sup> However, the use of ESG and the governance approaches allow an embrace of the complex nature of ENGOs' roles in environmental governance as discussed in Chapter 1.

#### 4. *Environmental governance and NGOs*

The literature on NGOs is very diverse and studies the formation, nature and workings of non-governmental organisations and explores their effect upon civil society<sup>115</sup> and their interplay with the state<sup>116</sup> and international community.<sup>117</sup> Russian NGOs and their strategies have been also studied in the political and social science literature within research of democratisation of the Post-Communist countries, democracy assistance and comparative studies.<sup>118</sup>

As mentioned above, in the literature, the notion of NGO influence has commonly been explained through their activities and relationships with other actors and refers to their power to aggregate available political resources and make policy changes on all levels of governance.<sup>119</sup> Thus, strategies of NGOs have been often studied in the context of their

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<sup>110</sup> Ibid, 13.

<sup>111</sup> A. H  ritier, 'New Modes of Governance in Europe: Policy-Making without Legislating? MPI Collective Goods Preprint No. 2001/14. Available at SSRN: <http://ssrn.com/abstract=299431> or <http://dx.doi.org/10.2139/ssrn.299431>' (2001), 14.

<sup>112</sup> Biermann et al, above n 2, 283.

<sup>113</sup> Hochstetler, above n 12.

<sup>114</sup> Ibid, 368-69.

<sup>115</sup> For example, Taylor, see above n 23, Hemment, J.D., 'The Riddle of the Third Sector: Civil Society, Western Aid and NGOs in Russia' (2004) 77(2) *Anthropological Quarterly* 215.

<sup>116</sup> Dryzek et al, see above n 11; K. B  ckstrand and E. L  vbrand, 'Climate Governance beyond 2012: Competing Discourses of Green Governmentality, Ecological Modernization and Civic Environmentalism' (2007) *The Social Construction of Climate Change: Power, Knowledge, Norms, Discourses* 123.

<sup>117</sup> Betsill and Corell, see above n 6.

<sup>118</sup> S. Mendelson, 'Democracy Assistance and Political Transition in Russia: Between Success and Failure' (2001) 25(4) *International Security* 68; Hemment, see above n 115; Taylor see above n 23.

<sup>119</sup> Betsill and Corell, see above n 6; 70-73; D. Schepers, 'The Impact of NGO Network Conflict on the Corporate Social Responsibility Strategies of Multinational Corporations' (2006) 45(3) *Business & Society* 282; S. E. Mendelson and J. K. Glenn, 'Democracy Assistance and NGO Strategies in Post-Communist societies. A Model for a New Era in U.S.-Russian Civil Society Relations' (Center for Strategic and International Studies, 2009).

relationships mostly with the states, business<sup>120</sup> and between NGOs and their networks.<sup>121</sup> Recently, there has been a shift in debate on the role of NGOs and their strategies towards the study of novel, more collaborative and participatory avenues in the NGO interplay with the state and businesses. Academics observe that nowadays in the NGO-state relationships, NGOs may not only aim to oppose governmental decisions, but also to reform governments and to complement governmental functions.<sup>122</sup> However, similarly to the governance scholarship, academics doubt true collaborative relationships between the state and NGOs, because of obvious asymmetry in the power—generally, NGOs just assist in implementing the state’s policies and complement the state functions.<sup>123</sup>

Similar to the aims of NGOs in the relationships with the state, academics have identified two aims of NGOs in their interactions with business: deinstitutionalisation of unwanted behaviour and reforming of this behaviour.<sup>124</sup> Radical actions in the relationships with business may include damage strategies (e.g., negative publicity, boycott), and reformists actions, which include gain strategies (e.g., positive publicity, ‘buycott’—mobilising consumers to buy a certain product). An increasing number of collaborative efforts employed together with lobbying and advocating between NGOs and business have been indicated in the literature.<sup>125</sup> These modes of the relationships of NGOs with business are often discussed in this literature from the perspective of promoting the CSR<sup>126</sup> and socially responsible investments (SRI).<sup>127</sup> More strategies of NGOs that also contain elements of cooperation for

<sup>120</sup> In recent years studies of the relationships between NGOs and business is an emerging area of research, see for example, D. Baur and H. Schmitz, 'Corporations and NGOs: When Accountability Leads to Co-optation' (2012) 106(1) *Journal of Business Ethics* 9; W. Douma and F. Mucklow (eds), *Environmental Finance and Socially Responsible Business in Russia* (T.M.C Asser Press, 2009). T. Guay, J. Doh and G. Sinclair, 'Non-Governmental Organizations, Shareholder Activism, and Socially Responsible Investments: Ethical, Strategic, and Governance Implications' (2004) 52(1) *Journal of Business Ethics* 125; H. Teegen, J. Doh and S. Vachani, 'The Importance of Nongovernmental Organizations (NGOs) in Global Governance and Value Creation: An International Business Research Agenda' (2004) 35(6) *Journal of International Business Studies* 463.

<sup>121</sup> M. Diani, 'Social Movement Networks Virtual and Real' (2000) 3(3) *Information, Communication & Society* 386; G. Foljanty-Jost, 'NGOs in Environmental Networks in Germany and Japan: The Question of Power and influence' (2005) 8(1) *Social Science Japan Journal* 103

<sup>122</sup> Schepers, see above n 119, 285.

<sup>123</sup> J. Coston, 'A Model and Typology of Government-NGO Relationships' (1998) 27(3) *Nonprofit and Voluntary Sector Quarterly* 358, 375.

<sup>124</sup> M. van Huijstee and P. Glasbergen, 'NGOs Moving Business: An Analysis of Contrasting Strategies' (2010) 49(4) *Business & Society* 591, 594–595; Hall and Taplin, above n 3, 102.

<sup>125</sup> van Huijstee and Glasbergen see above n 124; Douma and Mucklow see above n 120.

<sup>126</sup> The CSR concept can be defined as actions that appear to further some social good, beyond the interests of the firm and that which is required by law. See at A. McWilliams and D. Siegel, 'Corporate Social Responsibility: A Theory of the Firm Perspective' (2001) 26(1) *Academy of Management Review* 117, 117; Teinhaara, see above n 23; Bubna-Litic, De Leeuw and Williamson, see above n 98.

<sup>127</sup> SRI is an investment approach that uses both financial and non-financial criteria to determine which assets to purchase. See at Guay, Doh and Sinclair, see above 120, 126. Other works on this concept include D. Schepers, 'The Impact of NGO Network Conflict on the Corporate Social Responsibility Strategies of Multinational Corporations' (2006) 45(3) *Business & Society* 282; J. Doh and T. Guay, 'Corporate Social Responsibility, Public Policy, and NGO Activism in Europe and the United States: An Institutional-Stakeholder Perspective' (2006) 43(1) *Journal of Management Studies* 47.

promoting (and more radical strategies for enforcement) include working with firms to devise labour and environmental codes of conduct,<sup>128</sup> and NGO advice/consultation for SRI funds.<sup>129</sup>

The one of the most comprehensive studies and generalisation of various strategies and tools of NGOs has been made by Hall and Taplin. Hall and Taplin distinguish four ‘themes’ or direction of activities within these two groups (i) informative and educational; (ii) political lobbying; (iii) direct (radical) and legal action; and (iv) collaboration in forms of corporate engagement, networks and partnerships.<sup>130</sup> These ‘themes’ of NGOs activities may include different methods for their implementation.

The strategies that NGOs use to influence the environmental actors and set up their own agenda are generally divided in the literature into two groups—revolutionary (radical) and reformist.<sup>131</sup> Other names for these groups used by academics are critical and liberal. Radical (revolutionary) strategies are more confrontational, employ protest tactics and pose more fundamental challenges to the state and business. Reformists (liberal) strategies aim at engagement and reforming business practices.<sup>132</sup>

The literature also indicates that NGOs, instead of favouring one type of strategy, prefer a ‘multi-strategic’ approach where different actions complement each other and a choice of actions and strategies depends on goals to be achieved.<sup>133</sup> Different NGO strategies are often complementary to each other.<sup>134</sup> This combination of strategies can be found, for example, in the funding proposal for the Australian anti-coal movement ‘Stopping the Australian Coal Export Boom’.<sup>135</sup> This campaign contains both radical and reformist strategies, such as legal challenges for the expanding coal industry and use of social license, communications strategy, exposing health impacts, research and litigations that would cause investor uncertainty and ‘disrupt and delay’ key projects and infrastructure while gradually eroding public and political support for the industry.<sup>136</sup>

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<sup>128</sup> Guay, Doh and Sinclair, see above n 120, 136.

<sup>129</sup> Ibid, 132–134.

<sup>130</sup> Hall and Taplin, above n 3, 98–100.

<sup>131</sup> Guay, Doh and Sinclair, see above n 120, 594–595; Hall and Taplin, above n 3, 96.

<sup>132</sup> P. Newell, ‘Civil Society, Corporate Accountability and the Politics of Climate Change’ (2008) 8(3) *Global Environmental Politics* 122, 141

<sup>133</sup> Hall and Taplin, above n 3, 105; Guay, Doh and Sinclair, see above n 120, 136; Scott see above n 2, 69.

<sup>134</sup> Taylor, see above n 23, 198.

<sup>135</sup> Hepburn, J. (Greenpeace Australia Pacific), B. Burton (Coalswarm), S. Hardy (Graeme Wood Foundation), ‘Stopping the Australian Coal Export Boom’. The Funding Proposal for the Australian Anti-Coal Movement.’ (2011), available at [http://www.abc.net.au/mediawatch/transcripts/1206\\_greenpeace.pdf](http://www.abc.net.au/mediawatch/transcripts/1206_greenpeace.pdf), the last access on 25/06/2014.

<sup>136</sup> B. Burton (Coalswarm) J. Hepburn (Greenpeace Australia Pacific), S. Hardy (Graeme Wood Foundation), ‘Stopping the Australian Coal Export Boom’. The funding proposal for the Australian anti-coal movement.’ (2011), 5.

NGO strategies to influence behaviour of other actors depends upon history, culture, laws and state policies of the country where NGOs operate, type of NGOs and their goals.<sup>137</sup> Strategies employed by ENGOs in Russia and their features are discussed in Chapter 6.

While ENGO in Post-Soviet countries is still an underexplored area, there is an emerging branch of literature that has begun to focus on these issues. This grouping of literature began to emerge in the 1990s and observed a positive dynamic in state policy, both in environmental regulation as a whole and in the development of the civil society regulations with the creation of legal and institutional framework for ENGOs in Russia.<sup>138</sup> The historical development and institutionalisation of Russia's nature conservation and protection movements, and the role of ENGO's in environmental governance, have been explored in works of Weiner, Yanitsky and others, focusing on state environmental policies,<sup>139</sup> often from non-legal fields.<sup>140</sup> One of the more comprehensive studies was conducted by Henry, who examined ENGOs' ability to locate resources and engage with state policies on environmental protection (to establish the foundations for future activism).<sup>141</sup> She concluded that the effectiveness of ENGOs depends on the different types of organisation, issues chosen, tactics employed, relationships developed with other actors, and the constraints in the domestic political environment.<sup>142</sup>

Henry and other researchers have also recently pointed to the emergence of new forms of governance in Russia that extend traditional state governance to cooperation with business and ENGOs. One example is in forest governance in the Russian North, where ENGOs are increasingly engaged.<sup>143</sup> Similarly, the emergence of new civil society institutions initiated by the Russian state, such as the Public Chamber and Public Councils, are considered by scholars as reflecting a shift towards the recognition of the importance of public participation in

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<sup>137</sup> Coston, see above n 123, 359; Alcock, see above n 5, 68.

<sup>138</sup> M. Brinchuk, *Environmental Law* [Ekologicheskoe pravo: uchebnik] (EKSMO, 2010), A. Firsova and R. Taplin, 'Australia and Russia: How do Their Environmental Policy Processes Differ?' (2009) (11) *Environment, Development and Sustainability: A Multidisciplinary Approach to the Theory and Practice of Sustainable Development* 407, L. Henry and V. Douhovnikoff, 'Environmental Issues in Russia' (2008) (33) *Annual Review of Environment and Resource* 437.

<sup>139</sup> A.P.J. Mol, 'Environmental Deinstitutionalization in Russia' (2009) 11(3) *Journal of Environmental Policy & Planning* 22; V. Zykov et al, *Razvitie normativno-pravovogo regulirovaniya ohrany prirody i ekologicheskoy metrologii* [A Development of Legal Regulation of Environmental Protection and Ecological Metrology] (IPK PFUR, 2005).

<sup>140</sup> For example, Crotty, see above n 3; Henry, see above n 3.

<sup>141</sup> Henry, see above n 3, 7.

<sup>142</sup> Henry, see above n 3, 181. Henry has examined Russian environmental movements and developed the organisational typology of NGOs in Russia depending on their goals, strategies, tools, memberships, funding and relationships with the government.

<sup>143</sup> S. Nysten-Haarala and J. Kotilainen, 'Institutions, Interest Groups and Governance of Natural Resources in Russia' in S. Nysten-Haarala (ed), *The Changing Governance of Renewable Natural Resources in Northwest Russia* (Ashgate, 2009), 9, 12.

governance.<sup>144</sup> However, questions remain as to whether these developments will actually empower non-government actors or are simply an attempt by the state to steer increasing ENGO and social activity towards state policy agendas.<sup>145</sup>

At the same time, a growing number of barriers to effective ENGO engagement in Russian environmental governance have been identified. Such barriers can stem from internal organisational issues (e.g., leadership and low public support),<sup>146</sup> lack of contacts and interactions with outside organisations and an unwillingness to extend their reach beyond their remit of supporting the state's regulatory agenda.<sup>147</sup> The adequacy and source of funding for such ENGOs remains significant. Financial support for ENGOs in Russia often comes from abroad; however, the use of such funding in Russia remains controversial and subject to much debate. A number of authors argue that direct influence of foreign aid and donors was often exaggerated in the literature on NGOs in Russia.<sup>148</sup> Nevertheless, as academics note, the reliance on overseas funding and methods of management has had the opposite effect to what was intended. Along with positive effects of foreign funding, such as enhancing capacity of ENGOs to operate and increasing their engagement in the international community, it has created a class of ENGO that is distanced from Russian society.<sup>149</sup> This gap has been augmented by the recent changes to the NGO law (discussed in Chapter 4) that seek to restrain the formal capacity of foreign-funded NGOs to take part in political activity. These restraints are considered<sup>150</sup> a major obstacle to the autonomous operation of NGOs in Russia, in an already vulnerable civil society context.<sup>151</sup> However, these measures were also justified in the literature as a formal legalisation of existing requirements and a use of practices from other countries.<sup>152</sup>

Thus, much work remains to be done to resolve these conflicting views on the impacts and effects of NGO law, particularly in light of recent amendments in 2012 and 2014 (discussed

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<sup>144</sup> Henry, see above n 3, 49; L. Riabova and L. Ivanova, 'Fishery Governance in Northwest Russia' in S. Nystén-Haarala (ed), *The Changing Governance of Renewable Natural Resources in Northwest Russia* (Ashgate, 2009), 77, 85.

<sup>145</sup> S. Ljubownikow, J. Crotty and P. Rodgers, 'The State and Civil society in Post-Soviet Russia: The Development of a Russian-Style Civil Society' (2013) 13(2) *Progress in Development Studies* 153, 153–166.

<sup>146</sup> Henry, see above n 3; Crotty see above n 3.

<sup>147</sup> Crotty, see above n 3, 93.

<sup>148</sup> Alekseeva, see above 1, 309; Jakobson and Sanovich, see above n 1, 234.

<sup>149</sup> Crotty, see above n 3, 85–86.

<sup>150</sup> Henry, see above n 3, 48.

<sup>151</sup> Hemment, see above n 115, 218–220; Crotty see above n 3; 88–90; J. Crotty, S.M. Hall and S. Ljubownikow, 'Post-Soviet Civil Society Development in the Russian Federation: The Impact of the NGO Law' (2014) 66(8) *Europe-Asia Studies* 1253.

<sup>152</sup> D. Javeline and S. Lindemann-Komarova, 'A Balanced Assessment of Russian Civil Society' (2010) 63(3) *Journal of International Affairs* 171, 179.



in chapter 4), which has further strengthened state control over NGOs<sup>153</sup> and in comparison with practices of NGO regulations in other countries including Western and Post-Soviet.

The issues of constraints of political activity and advocacy and legal status of NGOs in different states are also explored in the academic literature. This literature focuses on the main issues, such as economic tools, NGO regulations (e.g., taxes) and constraints for political activities for NGOs registered as charities (e.g., in Australia,<sup>154</sup> in the UK<sup>155</sup> and the US<sup>156</sup>) or NGOs with public beneficial purposes, for example France<sup>157</sup> and Germany.<sup>158</sup> Recently, academics noted a shift in the regulations of the Western countries towards more favourable and permissive regulations for NGOs in regards to their political activities, while maintaining at the same time tax benefits,<sup>159</sup> unification of regulations and broadening rights of in the EU member states.<sup>160</sup> Although, in comparison with the Western countries, considerably less research has been conducted on NGO legislation and operation in the Post-Soviet states, such as Azerbaijan, the Central Asian counties and Belarus, with strong centralised governance, a development of more restrictive regulations has been observed by researchers.<sup>161</sup> A comparison of NGO legal regulations in the Western countries and Post-Soviet countries in Chapter 5 is partly grounded on these publications.

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<sup>153</sup> Ljubownikow, Crotty and Rodgers, see above 145, 161; Crotty, Hall and Ljubownikow, see above n 151.

<sup>154</sup> J. Staples, 'NGOs out in the Cold: The Howard Government Policy towards NGOs', Discussion paper 19/6, Democratic Audit of Australia, available at <http://democratic.audit.anu.edu.au>, the last access on 16/07/2013, 7-8, J. Staples, *Non-government Organisations and the Australian Government: A Dual Strategy of Public Advocacy for NGOs* (Doctor of Philosophy Thesis, The University of New South Wales, 2012), 182-183; R. Phillips, 'The Role of Nonprofit Advocacy Organizations in Australian Democracy and Policy Governance' (2006) 17(1) *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 57; R. Phillips, 'Challenges to NGOs' Legitimacy in Policy Governance in Australia: Addressing the Neo-Liberal Critique' (Paper presented at the Contesting Citizenship and Civil Society in a Divided World, Ryerson University and York University, Toronto, Canada, 2004), 68-69, 73.

<sup>155</sup> S. Lang, *NGOs, Civil Society, and the Public Sphere* (Cambridge University Press, 2012), 106, G. Morgan, 'Purposes, Activities and Beneficiaries: Assessing the Use of Accounting Narratives as Indicators of Third Sector Performance' (2013) 10(3/4) *Qualitative Research in Accounting & Management* 6, 71.

<sup>156</sup> Lang, see above n 155, 100.

<sup>157</sup> S. Saurugger, 'Democratic 'Misfit'? Conceptions of Civil Society Participation in France and the European Union' (2007) 55(2) *Political Studies* 384, 390-391, C. Newman, 'The Status of Political Activities of Associations and Foundations' (2001) 3(3) *International Journal of Not-for-Profit Law*.

<sup>158</sup> S. Lang, 'NGOs, Local Governance, and Political Communication Processes in Germany' (2000) 17(4) *Political Communication* 383, 387; A. Dirusso, 'American Nonprofit Law in Comparative Perspective' (2011) 10 *Washington University Global Studies Law Review* 39, 46; Newman, see above n 157.

<sup>159</sup> Staples, see above n 154, 183; P. Kurti, 'In the Pay of the Piper: Governments, Not-for-Profits, and the Burden of Regulation' (The Centre for Independent Studies, Issue Analysis, 2013), 3.

<sup>160</sup> K. Whiteside, D. Boy and D. Bourg, 'France's 'Grenelle de l'environnement': Openings and Closures in Ecological Democracy' (2010) 19(3) *Environmental Politics* 449, 465; E. Bloodgood, J. Tremblay-Boire and A. Prakash, 'National Styles of NGO Regulation' (2013) *Nonprofit and Voluntary Sector Quarterly*, 18.

<sup>161</sup> R. Remézaitè, *Restrictions on the Right to Freedom of Association: Case Study of the Legal Environment of Human Rights NGOs in Azerbaijan, Belarus and the Russian Federation* (University of Oslo, 2010), 36; S.E. Mendelson and J.K. Glenn (eds), *The Power and Limits of NGOs: A Critical Look at Building Democracy in Eastern Europe and Eurasia* (Columbia University Press, 2002); I. Otto, A. Shkaruba and V. Kireyeu, 'The Rise of Multilevel Governance for Biodiversity Conservation in Belarus' (2011) 29 *Environment and Planning C: Government and Policy* 113.



In summary, most studies into NGOs have primarily focused on the nature of these actors (e.g., their organisational structure, funding, problems of leadership), but have overlooked the very processes of governing they employ (e.g., practical techniques they have been employing to bring changes) and their response to the changing conditions of environmental governance. Further, the literature, particularly in Russia, to date remains rooted in a 'traditional' state-centric approach to environmental governance, with a focus primarily on how various non-state actors influence state action. As a result, the basis on which non-state actors can be regarded as authoritative actors and interact with other stakeholders is rarely examined.

## ***5. Conclusion***

This literature review described the evolution of ideas on relationships between the state and civil society organisations and the possibility of new forms of engagement of NGOs in governance process. Key issues of the growing participation of ENGOs in environmental governance can be distinguished based on the debates in the reviewed literature: the impact of the Soviet legacy on ENGO operation and agency (Chapter 3), the restrictive and conflicting laws on NGOs and their implementation (Chapter 4), changes in strategies of ENGOs and challenges for their influence on other environmental actors and governance as a whole (Chapter 6) and raising demands for legitimacy and accountability of ENGOs as agents of environmental governance (Chapter 7). These issues are discussed and specified throughout the chapters of this dissertation.

The next chapter describes an emergence and historical development of ENGOs and environmental governance in Russia in order to link and explain contemporary issues of ENGO agency in Russia concerning NGO law and its implementation, strategies of ENGOs and their legitimacy and accountability.

### Chapter 3. History of Russian NGOs: the place and role of the Soviet public environmental groups in the Soviet Union

#### 1. Introduction

The emergence of ENGOs and development has had its own features in different countries depending on political regime, economic development and social and cultural conditions. Today, diverse ENGOs with various aims, specialisations, strategies and legal forms exist and participate in environmental governance in Russia. A model of contemporary ENGOs based on a Western liberal model of NGOs did not come in to the blank space in Russia.<sup>1</sup> The Soviet system allowed for a certain amount of public input into environmental issues, although for many years this input was minimal at the decision-making level.<sup>2</sup> Environmental public groups had existed in the USSR since the 1920s. At the beginning, these groups were founded by scientists to study and conserve natural and biological resources and had scientific and educational character.<sup>3</sup> At the end of the 1980s, these public groups became the first political opposition to the Soviet Government.<sup>4</sup> Although these organisations were public and voluntary organisations, their aims and principles of operation were different from ENGOs today. They were dependent on the Soviet authorities and had to follow the ideology of Communism. Their strategies of influence were limited; they could not be in open opposition to the state policies and had to maintain constructive relationships with the state.

Aims and capacities of Soviet groups to influence environmental decision making have changed over the years under reform of the Soviet environmental regulatory and institutional system. According to ESG, the agency of ENGOs is a process.<sup>5</sup> Therefore, a study of these changes is one of the purposes of this chapter. Examining these changes helps to understand how the historical context has shaped the current role of ENGOs in environmental governance and explains political, legal and social challenges they face today building their agency (capacities to produce environmental outcomes and in response to changes in environmental governance).<sup>6</sup>

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<sup>1</sup> L. Henry, *Red to Green: Environmental Activism in Post-Soviet Russia* (Cornell University Press, 2010), 2-3.

<sup>2</sup> M. Brinchuk, *Ekologicheskoe pravo: uchebnik [Environmental Law]* (EKSMO, 2010), 246

<sup>3</sup> V. Larin et al, *Okhrana prirody Rossii: ot Gorbacheva do Putina [Nature Protection in Russia from Gorbachev to Putin]* (KMK, Scientific Press, 2003), 36.

<sup>4</sup> E. Shvarts, 'O politicheskikh pravakh samodeyatelnykh organizatsij' ['On the Political Rights of Public Organisations'] in O. Yanitsky (ed), *Ekologiya, Demokratiya, Molodezh* (Filosofskoe obshestvo SSSR, 1990) 85.

<sup>5</sup> E. Dellas, P. Pattberg and M. Betsill, 'Agency in Earth System Governance: Refining a Research Agenda' (2011) 11 *International Environmental Agreements*, 85, 88; F. Biermann et al, 'Earth System Governance: A Research Framework' (2010) 10(4) *International Environmental Agreements: Politics, Law and Economics* 277; 283.

<sup>6</sup> Biermann et al, see above n 5.

This chapter focuses on two of the most relevant environmental protection Soviet public associations, namely the All-Russian Society for the Conservation of Nature (*Vserossiskoe obshchestvo ohrany prirody*, VOOP), founded in 1924, and the Students' Nature Protection Movement (*Druzhina ohrany prirody*, DOP), formed in 1960–1970s. Other public organisations, for example, the All-Russian Society for the Protection of Monuments of History and Culture (*Vserossiyskoye obshchestvo ohrany pamyatnikov istorii i kultury*) and the All-Russian Society Green Planting Society (*Vserossiyskoye obshchestvo ozeleneniya*), could also carry out the function of environmental protection and conservation, but these functions were additional to their main purposes. Therefore, this chapter studies operation of VOOP and DOP, key public organisations with primary functions of environmental protection and conservation in the USSR. Taking into account the interdependence of the historical development of ENGOs and state environmental governance, the establishment, work and key features of these two associations are studied in the context of different periods of development of the Soviet environmental system, from the Revolution of 1917 (when Russian was a part of the Soviet Union) to the late 1990s (in 1991 the USSR disappeared and Russia became an independent state).

Main purposes of this chapter are to discuss the main stages of the historical development of the state environmental system in Russia, the establishment and the development of ENGOs and their place and functions within the Soviet environmental system. Such a study informs how ENGO key strategies and forms of interactions between environmental groups, state bodies and society were contrasted. This chapter aims to answer following research question: **How do the historical development and the Soviet legacy influence ENGO agency in Russia?** Therefore, this chapter also partly explains a professional and expert focus of operation of contemporary ENGOs, importance of constructive relationships with the state and low public engagement with ENGOs in Russia and other weaknesses and strengths of ENGO agency in Russia, which are discussed in subsequent chapters on strategies of ENGOs and their legitimacy.

Four key arguments are advanced in the chapter. First, the development of environmental protection policy in Russia and the role of ENGOs in this process have been a part of the global process, but have been influenced directly by the Communist past of Russia, which still influences the policy of the country. Second, the development of ENGOs, their legitimacy and strategies of influence have been heavily shaped by the unique economic developments of Russia. These include the planned economy of the Soviet Union, the priority of economic development over environmental protection, the later socio-economic shocks after the

dissolution of the Soviet Union and the resources-based economy of modern Russia. Third, environmental groups emerged and operated mostly as conservation and scientific organisations of rather more of a professional than grassroots character,<sup>7</sup> with limited roles and strategies of influence. Within the principal-agent relationships, the state delegated them certain authority to perform environmental protection functions assisting the state in forming and implementing environmental policies.<sup>8</sup> Fourth, the transformation of the Soviet social movements and conservation groups in ENGOs in Russia has been shaped by foreign aid and international NGOs.

This chapter is divided into six parts. Following this introduction, the second part provides the necessary background on the structure of the Soviet system and its environmental protection system. Parts 3–5 then commence the analysis of history of Russian ENGOs and show how their historical development continues to determine their operation in modern day Russia

To enhance the robustness of the analysis, references and comparisons to the Western development of ENGOs are also made throughout Parts 3–5. This is important because of the broad similarities between Western and Russian environmental issues and state environmental policies,<sup>9</sup> as well as differences in the historical development of Western environmental groups<sup>10</sup> and their later influence and transferring their strategies and practices of management to Russian ENGOs.

Part 3 commences this analysis by exploring the role of ENGOs in the period from the Revolution of 1917 to 1960s, when there was the emergence of the first environmental norms, state institutions and first conservation groups. Part 4 investigates the period from 1960s to the beginning of 1990s, and highlights strengthening of the state environmental protection system, the emergence of public environmental debates and student environmental movements and later changes in the state policies and mass environmental movements of 1980s. Part 5 turns to the modern day, to examine the period from the beginning of 1990s to the early 2000s to discuss the establishment of the legislation on NGOs and changes in the state environmental protection under the influence of Western and international

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<sup>7</sup> D. Weiner, *A Little Corner of Freedom: Russian Nature Protection from Stalin to Gorbachëv* (University of California Press, 1999), Larin et al, see above n 3; Philip R. Pryde, *Environmental Management in the Soviet Union* (Cambridge University Press, 1991).

<sup>8</sup> Dellas, Pattberg and Betsill, above n 5, 88.

<sup>9</sup> N. Gunningham, P. Grabosky and D. Sinclair, *Smart Regulation* (Oxford University Press, 1998), 5-6; N. Gunningham and C. Holley, *Bringing the 'R' Word Back: Regulation, environment protection and NRM*, Occasional Paper (The Academy of the Social Sciences in Australia, 2010), 1

<sup>10</sup> H. van Der Heijden, 'Environmental Movements, Ecological Modernisation and Political Opportunity Structures' (1999) 8(1) *Environmental Politics* 199, 200–207.

environmental policies and NGOs. Part 6 concludes by summarising the key findings and reflecting on the interdependence and influence of these historical developments on forming more professional and expert ENGOs, rather than ENGOs of a social nature, a prevalence of administrative over economic regulatory approaches and weak law enforcement.

## ***2. The Soviet state system and the environmental protection in the USSR***

Russia was a part of the Soviet Union from 1922 to 1991, where the Communist Party was a leading regulator for all public organisations in the country. This section briefly outlines the key institutions of governance in the Soviet Union.

Before discussing the first steps in the development of the Soviet system of environmental protection, it should be noted that the Soviet Union was officially established in the 1922 and the system of government had experienced numerous changes before it was formed by 1930s as a federation of national republics, known as the Union of Soviet Socialist Republics (USSR). The Soviet system of administration and regulation was highly centralised and hierarchical. On the federal level, the industrial and agricultural development of the Soviet Union was planned by the central (union) apparatus of the state, the Central Committee of the Communist Party and the State Planning Committee, which developed five-year plans. These plans contained guidelines for the economic development and expected outcomes of all sectors of the economy for the whole country. The All Union (federal) legislation was enacted by the Supreme Soviet of the USSR. At the same time, each national republic had its own government subordinated to central bodies and legislation consistent with federal laws.<sup>11</sup> The union republics also developed and implemented central basic regulations, for example, in the environmental area, all national republics developed their own conservation measures and plans.

The USSR consisted of 15 national republics and the Russian Soviet Federative Socialist Republic (RSFSR) was the largest in the size and population. After the dissolution of the Soviet Union in 1991, the republic became an independent state—the Russian Federation (or Russia), within the boards of the RSFSR. It inherited the system of environmental regulations and institutions partly from the Soviet Union and mostly from the RSFSR. On the international arena, Russia was accepted as a legal successor of the USSR in the international

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<sup>11</sup> C. Ziegler, *Environmental Policy in the USSR* (Univ of Massachusetts Press, 1990), 91–93.

treaties and organisations (e.g., in the United Nations [UN] and its treaties).<sup>12</sup> Thus, this chapter focuses on the study of the establishment and development of system of environmental bodies, environmental legislation and environmental organisations in the RSFSR.

### ***3. The environmental protection system in the Soviet Union from 1917 to the 1960s***

This section discusses the period from the Revolution of 1917 to 1960s, when there was the emergence of the first environmental norms, state institutions and first conservation groups. In this period, the key problems concerning environmental protection, such as weak implementation of nature protection norms, extensive use of natural resources and priority of economic development over nature protection, also emerged. Generally, public participation in nature protection was limited to the engagement of scientists and public figures in scientific ecological debates. Therefore, the influence of conservation groups was limited to environmental consulting and expertise and scientific work in conservation of biological diversity. Table 1 provides a summary of the discussions and highlights the key developments in forming the system of nature protection during 1917–1960.

**Table 1. The environmental protection system in the Soviet Union from 1917 to the 1960s.**

| <b>Historical period</b> | <b>State environmental protection bodies</b>  | <b>Environmental laws</b>   | <b>Soviet environmental groups</b>  |
|--------------------------|---|---|---|
| <b>1917–1960</b>         | The sanitary control of the quality of water and air (e.g., by State Sanitary Inspection within the Ministry of Public Health)<br><br>Establishment of the state system of the natural reserves | Decrees of the Soviet Government containing basic norms on natural resource legislation | Establishment of All-Russian Society for the Conservation of Nature (VOOP), the first Soviet public organisation with largely educational and scientific functions, working with natural reserves; conducting scientific ecological debates and expertise |

<sup>12</sup> R. Rich, 'Recognition of States: The Collapse of Yugoslavia and the Soviet Union' (1993) 4 *European Journal of International Law* 36, 46; R. Mullerson, 'The Continuity and Succession of States, by Reference to the Former USSR and Yugoslavia' (1993) 42(03) *International and Comparative Law Quarterly* 473, 476–480.

### 3.1 Industrial development and establishment of the nature protection system in the Soviet Union

The centralised character of modern Russian Government can be traced for centuries from the period when the Tsars governed the country and colonisation of new territories was undertaken from a centralised system of administration.<sup>13</sup> The emergence of the first legal acts about protection of natural resources carried out primarily through the protection of property rights can be found in the first Russian Legislation, such as *Russkaya Pravda* (1016) and *Sobornoe Ulozhenie* (1649). These ancient sources of law dealt with protection of forests from illegal harvesting, they also contained punishments such as fines for illegal hunting and fishing in private property.<sup>14</sup> Although these laws were not environmental laws in contemporary understanding, they were the first written legal regulations concerning issues of nature conservation.

The October Revolution in 1917 overturned such laws with a radical transformation of the political and socio-economic system and the introduction of new principles in natural resource regulations and environmental protection. All lands and natural resources were transferred to the jurisdiction of the Soviet State, which assumed responsibility for their rational use, restoration and protection.<sup>15</sup> At that time, an institutional system of natural resource regulations was established and the Soviet Government began to develop a legislative framework for natural resource regulations in the form of basic laws—decrees. The most notable was the *Decree (Decret) on the Socialization of Land*. The new natural resource legislation was developed to regulate hunting, fishing and usage of forests, water resources and natural parks by setting rules and limits for hunting and fishing.<sup>16</sup> Distinct from private property drivers in early legislation, laws were now directed towards the management of land controlled by the state.

Around that period, two primary environmental protection functions emerged. First, a State Sanitary Inspection within the Ministry of Public Health became responsible for setting up and enforcing the water quality standards and monitoring harmful emissions.<sup>17</sup> Second, a state system of the natural reserves was established. As seen below (Section 3.2), these reserves

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<sup>13</sup> A. Firsova and R. Taplin, 'Australia and Russia: How do Their Environmental Policy Processes Differ?' (2009) (11) *Environment, Development and Sustainability: A Multidisciplinary Approach to the Theory and Practice of Sustainable Development* 407.

<sup>14</sup> Brinchuk, see above 2, 67.

<sup>15</sup> V. Zykov et al, *Razvitie normativno-pravovogo regulirovaniya ohrany prirody i ekologicheskoy metrologii* [A Development of Legal Regulation of Environmental Protection and Ecological Metrology] (IPK PFUR, 2005).

<sup>16</sup> Ibid, 136.

<sup>17</sup> Pryde, see above n 7, 80.

proved to be a central element in the formation of the first conservation groups in Russia. Initially, the natural reserves were opened to study nature and protect forests and animals from hunting and commercial exploitation.<sup>18</sup>

In the 1930s, their main purpose became consistent with the economic needs of the country, with scientists supposed to learn how to ‘master and transform nature to serve the needs of economy.’<sup>19</sup> Nevertheless, regardless of the purpose of creation, 56 national parks were established and scientific nature reserves (*zapovednik*) from 1917 to 1935<sup>20</sup> and 128 natural reserves existed by the early 1950s.<sup>21</sup> In 1926, a State Committee for the Protection of Nature under the People’s Commissariat of Education was established with power to examine all natural resource-related government decisions and to veto those excessively damaging to nature.<sup>22</sup> The state committee existed from 1926 to 1931, but it was closed after opposing economic targets of the First Five-Year Plan (1928–1932).<sup>23</sup>

The Revolution occurred before the Russian Empire had industrialised, remaining mostly agricultural country and the country was devastated by the Revolution and the Civil War (1918–1922). Therefore, a task of building new economy and industrialisation fell to the state. For the rapid building of the new economy and considering the country’s wealth in natural resources, the Soviet Government developed a utilitarian approach to nature, which means that nature was needed to be transformed, modified and improved accordingly to the governmental economic targets. Stalin’s industrialisation and collectivisation of the country were aimed at modernisation of the Soviet Union and its influence on the state of the natural environment and people’s health was not taken into consideration.<sup>24</sup> Thus, industrialisation was prioritised above other goals, particularly a development of heavy industry and massive scale projects, for example, Stalin’s Great Transformation Plan (1948).<sup>25</sup> This Plan included expansion of agricultural land development in the southern steppe and the Central Asia. Although the Plan faced lot of difficulties, including technical and financial, during its implementation, a network of irrigation canals was built in some dry areas of the southern

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<sup>18</sup> Weiner, see above n 7, 36; Ziegler see above n 11, 49.

<sup>19</sup> Pryde, see above n 7, 138.

<sup>20</sup> Zykov et al, see above n 15, 136.

<sup>21</sup> Pryde, see above n 7, 138.

<sup>22</sup> Weiner, see above n 7, 38.

<sup>23</sup> S. Krech, J. R. McNeill and C. Merchant, *Encyclopedia of World Environmental History, Volume 3* (Routledge, 2003), 1076.

<sup>24</sup> Collectivization in the USSR was carried out in the form of reforming Soviet agriculture from predominantly individual farms into a system of large state collective farms. See at Library of Congress, the Soviet Archives exhibit, available at <http://www.loc.gov/exhibits/archives/coll.html>, the last access on 29/09/2014.

<sup>25</sup> L. Henry and V. Douhovnikoff, 'Environmental Issues in Russia' (2008) (33) *Annual Review of Environment and Resource* 437, 438; Ziegler, see above n 11, 49.



steppe and the Central Asia. Finally, the Plan was abandoned with Stalin's death in 1953. Considering the scale of the project, the outcomes of the project would change not only the microclimate of targeted areas, but affect the climate of the whole country.<sup>26</sup> In addition, at the end of 1940–1950, after the Second World War, rapid restoration of the economy destroyed by the war was also an important factor for the increasing industrial productivity.

### 3.2 The first conservation groups

The history of Russian public environmental organisations began with a small group of scientists who formed a voluntary network of scientific nature reserves (*zapovednik*) and conservation groups. In 1924, these conservation groups formed the All-Russian Society for the Conservation of Nature known as VOOP (*Vserossiskoe obshestvo ohrany prirody*). There were around 15,000 members in this society by 1932. Around this time, these groups were formally recognised by the Soviet state under the Resolution 'On approval of the voluntary associations and unions'.<sup>27</sup> In addition to recognising the existing groups, this normative act established operation of public organisations in the Soviet Union including youth, scientific societies and others. By 1936, supporting regulations on Soviet public associations were established,<sup>28</sup> which put all voluntary associations (both environmental and non-environmental) under control of the authorities overseeing them.

*The Constitution of the Soviet Union 1936* (the Article 125) declared freedom of speech, freedom of the press and freedom of assembly, including the holding of mass meetings and street processions and demonstrations. The Communist party was the leading core of all organisations of the working people both public and state (Article 126 of *The Constitution of the USSR 1936*<sup>29</sup>).<sup>30</sup> In practice, in accordance with the regulations on Soviet public societies,<sup>31</sup> the work of Soviet public organisations had to be consistent with the economic and socio-cultural aims of state development and the Marxist-Leninist methodology. As a result of

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<sup>26</sup> S. Brain, 'The Great Stalin Plan for the Transformation of Nature' (2010) 15(4) *Environmental History* 670, 679.

<sup>27</sup> *Postanovlenie VCIK i SNK ot 10 iulya 1932 'Ob utverzhdenii Polozheniya o dobrovolnykh obshestvakh i souzakh'* [Resolution of the Central Executive Committee and Sovnarkom 10 July 1932 'On Approval of the Voluntary Associations and Unions'] (USSR).

<sup>28</sup> More information on the history of legal regulations on the Soviet public societies is available on <http://arran.ru/?q=ru/node/43>, the last access on 14/04/2014.

<sup>29</sup> The full text of the Article 126 of the Constitution of the USSR 1936 is available at <http://www.departments.bucknell.edu/russian/const/36cons04.html>, the last access on the 29/09/2014.

<sup>30</sup> J. W. Futrell, 'Public Participation in Soviet Environmental Policy' (1987) 5 *Pace Environmental Law Review* 487, 490.

<sup>31</sup> *Postanovlenie VCIK i SNK ot 10 iulya 1932 'Ob utverzhdenii Polozheniya o dobrovolnykh obshestvakh i souzakh'* [Resolution of the Central Executive Committee and Sovnarkom 10 July 1932 'On Approval of the Voluntary Associations and Unions'] (USSR), Article 3.

these requirements, Soviet public organisations could not be oppositional to the state and its policies.

VOOP was established mainly as a voluntary educational and scientific organisation and had to demonstrate its loyalty to the regime in order to protect its institutions and continue their activities.<sup>32</sup> In the 1920–30s, scientists involved with VOOP and their research conducted in natural reserves could, to some extent, escape the control of the Party officials. This research, but not political component of VOOP's activities, allowed environmental activists to argue with the officials against hydropower projects, collectivisation, and the plans for transformation of nature and discuss alternative plans for the economic development of the country.<sup>33</sup> Thus, activities of scientist and environmental groups and activists on environmental protection were described by Weiner 'as mean of registering opposition to aspects of industrial and agricultural policy while remaining outwardly apolitical; arguments were couched in the language of scientific ecology'.<sup>34</sup>

The second part of 1930s was marked by tightening of state control over all spheres of society and the mass Stalinist repressions of the late 1930s, which affected many scientists and public figures. Therefore, a process of transformation occurred with VOOP changing from the autonomous public organisation of independent scientists into a Soviet public society, controlled and supervised by the officials since the end of the 1930s.<sup>35</sup> This process included a decrease in funding (e.g., after the Second World War in 1946 there was no funding in the budget for environmental protection), intimidation (oppressing of prominent scientists), constraints for international scientific contacts and further inclusion of party officials into the Society's management.<sup>36</sup> At the same time, the growing industrialisation of country<sup>37</sup> and the Second World War also destroyed many achievements of conservation groups constituting VOOP.<sup>38</sup>

The restoration of the country's economy after the war and the realisation of the abovementioned Stalin's Great Transformation Plan<sup>39</sup> continued to cause environmental degradation. This led to questions about a need for a coordinated state policy in environmental

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<sup>32</sup>Weiner, see above n 7, 39.

<sup>33</sup>Ibid, 41.

<sup>34</sup>Ibid, 4.

<sup>35</sup>Ibid, 43–82; Krech, McNeill and Merchant, see above n 23, 1077.

<sup>36</sup>Weiner, see above n 7, 41–43, 48–49, 52, 54, 64.

<sup>37</sup>Henry and Douhovnikoff, see above n 25, 439; Larin et al, see above n 3, 14.

<sup>38</sup>Weiner, see above n 7, 57–60.

<sup>39</sup>Ibid, 88.

protection and resource exploitation.<sup>40</sup> This signified the beginning of central Soviet debates between technocrats (Communist Party officials, top managers and some scientists of the military-industrial complex) and independent natural scientists. The technocrats promoted the ideology of rapid industrial development because ‘the construction of the material base of a Communist society would automatically lead to an improvement in the environment’.<sup>41</sup> The natural science scientists opposed the technocrats and ‘foresaw an ecological crisis engendered by the giant technical projects under construction.’<sup>42</sup> These factors provided the impetus for a new institutional and legislative system of nature protection, which was established in 1960s, and for an emergence of nature protection movements.

#### 4. The Soviet system of the environmental protection in 1960-1990s

Table 2 contains a short overview of key developments in the environmental protection system and environmental groups of this period.

**Table 2. The Soviet system of the environmental protection in 1960–1990s**

|                        |  |   |  |
|------------------------|--|---|--|
| <b>1960–1980</b>       | The State function of nature protection and conservation was combined with natural resource management and was fragmented across the various ministries and state committees | The <i>Law on the Protection of the Nature of RSFSR (1960)</i> ; the <i>Land code of RSFSR (1972)</i> , the <i>Code of RSFSR on subsoil (1976)</i> , the <i>Forest Code of RSFSR (1978)</i> and others relevant to natural resource and environmental protection laws; participation in multilateral and bilateral agreements with other countries (e.g., on the protection and conservation of wildlife); inclusion in the United Nations Environmental Program (UNEP) | VOOP continued to operate under the state supervision; bureaucratisation of VOOP; organisation of public meetings and debates; monitoring and research; monitoring of compliance with conservation laws, control of scientific nature reserves; international collaboration.<br><br>Emergence of the Students’ Nature Protection Movement (DOP), DOP assisted the state in implementing environmental policies (work as public inspectors, fight with poaching); ecological education and research |
| <b>Reforms of 1980</b> | Establishment of the State   |   | Emergence of influential   |

<sup>40</sup> Zykov et al., see above n 15, 82.

<sup>41</sup> O. Yanitsky, 'The Shift of Environmental Debates in Russia ' (2009 ) 57(6) *Current Sociology* 747, 755.

<sup>42</sup> Ibid, 755.

|  |  |  |  |
|--|--|--|--|
|  | Committee on Environmental Protection ( <i>Goskompriroda</i> ) of RSFSR, setting up fees for the use of natural resources, environmental impact assessments, promotion of ecological education, rights to close down polluting enterprises |  | mass radical political movement, the Socio-Ecological Union (SEU); Dront, they organised mass protests against the Northern Rivers Reversal project, against the pulp mill waste in the Lake Baikal and shutting down campaigns against polluting enterprises around the country; beginning of activities of international ENGOs—Greenpeace, WWF |
|--|--|--|--|

#### 4.1 The state environmental policies in the 1960-1980s.

The 1960–1980s was a period of a gradual development of the environmental legislation and the state system of the environmental protection. As seen below, this included laws on natural resources, land and water (albeit that they were poorly enforced). The Soviet Government also introduced new extensive projects on nature transformation, such as construction of pulp and paper mills at the Lake Baikal, Khrushchev's Virgin Lands project to bring vast territories of land in Kazakhstan under cultivation.<sup>43</sup> Another plan was to divert the northward-flowing rivers of Siberia and European Russia to the south, into Kazakhstan and Central Asia, to irrigate crops, to raise the level of the Caspian Sea and Aral Sea (the Rivers' Diversion Plan was cancelled in 1986 after objections from leading scientists, writers and activists).<sup>44</sup> As explained in more detail below, this period was also marked by an emergence of public interest and debates over the environmental protection, an emergence of student nature protection movements and further bureaucratisation of VOOP.

The natural resource legislation in the first place began to develop in 1957–63 on the level of national republics. In 1960, the RSFSR enacted the *Law on the Protection of the Nature*.<sup>45</sup> This law contained provisions on the protection of lands (Article 2), subsoil (Article 3), water (Article 4), forests and other vegetation (Articles 5 and 6) and animals (Article 11). The law recognised the rights of public organisations (for example, professional unions, youth and

<sup>43</sup> Ziegler, see above n 11, 27.

<sup>44</sup> P. Micklin, 'The Vast Diversion of Soviet Rivers' (1985) 27(2) *Environment: Science and Policy for Sustainable Development* 12; Larin et al, see above n 3.

<sup>45</sup> *Zakon RSFSR ot 27 oktyabrya 1960 'Ob okhrane prirody v RSFSR'* [Law of the RSFSR 27 October 1960 'On the Protection of Nature in the RSFSR'] (USSR).

scientific organisations) to participate in the protection of the nature (Article 16, the *Law on Protection of Nature*). While establishing general norms on the protection of these natural objects, the law did not offer effective conservation and environmental protection measures.<sup>46</sup> This was largely because the environmental legislation of that period continued to refer to more ‘conservationist’ measures of preserving natural resources for future generations and on their effective exploration<sup>47</sup> rather on focusing on preventing environmental harm.

1968–1980 witnessed the further development of the codification of laws on land, water, subsoil, forestry, atmosphere and fauna in more centralised manner. A general statement about the protection and rational use of natural resources was introduced in *The Constitution of the USSR* (Article 18), adopted in 1977.<sup>48</sup> The Constitution also recognised the right of citizens to a healthy human environment (Article 42) and their obligations to protect nature and conserve its riches (Article 42). Foundations of land, water and mining laws of the USSR and the Union republics were developed on the federal level and RSFSR enacted the *Land Code of RSFSR* (1972), the *Code of RSFSR on Subsoil* (1976), the *Forest Code of RSFSR* (1978) and other relevant to natural resource and environmental protection codes and laws.<sup>49</sup> Most of this legislation contained the basic principles and rules that were ‘augmented by myriad edicts, decrees, statutes, and other subordinate legislation regulating narrower issues in greater detail’.<sup>50</sup> Soviet environmental standards and norms of industrial pollution were quite strict, however, due to a lack of enforcement mechanisms, these emission standards did not work.<sup>51</sup> In addition, in the 1970s, the nature protection measures were included in the five-year plans of economic development.<sup>52</sup> For example, the Eighth Five-Year Plan contained provisions on investments for purification measures and equipment of water and air.<sup>53</sup>

It should be noted that environmental litigation was not common for the Soviet Union. Usually, sanctions for violations of environmental standards in forms of fines on polluters were applied by departments of the state agencies responsible for use of natural resources. In 1975–77, agencies responsible for investigating land use violations considered only one-third

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<sup>46</sup> Brinchuk, see above 2, 69-70.

<sup>47</sup> Preamble of *Zakon RSFSR ot 27 oktyabrya 1960 'Ob okhrane prirody v RSFSR'* [Law of the RSFSR 27 October 1960 'On the Protection of Nature in the RSFSR'] (USSR); Ziegler see above n 11, 50.

<sup>48</sup> *Konstitutsiya Soyuza Sovetskikh Sotsialisticheskikh Respublik, 1977* [Constitution of the Union of Soviet Socialist Republics, 1977] (USSR), available in English at <http://www.constitution.org/cons/ussr77.txt>, the last access on 17/10/2014.

<sup>49</sup> Brinchuk, see above n 2, 70; Zykov et al., see above n 15, 142.

<sup>50</sup> W. E. Butler, 'Law Reform in Soviet Environmental Law' (1987) 5 *Pace Environmental Law Review* 425, 440.

<sup>51</sup> K. Harman-Stokes, 'Community Right-to-Know in the Newly Independent States of the Former Soviet Union: Ending the Culture of Secrecy Surrounding the Environmental Crisis' (1995) 15 *Virginia Environmental Law Journal* 77, 96.

<sup>52</sup> Zykov et al., see above n 15, 142.

<sup>53</sup> Weiner, see above n 7, 402.

of the cases submitted to them, and brought charges against one-third of the violators.<sup>54</sup> This also explains weak implementation of environmental laws, which raised numerous concerns in later years,<sup>55</sup> discussed in more detail in Chapters 6.

Weak enforcement of environmental regulations can be also explained by the fact that, the state function of nature protection and conservation was fragmented across the various ministries and state committees, each of which was responsible for a particular economic sector or industry, which caused a conflict of interests between environmental conservation policies and aims of economic development.<sup>56</sup> For example, the Ministry of Fisheries was responsible both for the harvesting of fish according to Plan directives and for the conservation of commercial and recreational fish stocks.<sup>57</sup> Given the priority to fulfill the requirements of the Plans to gain certain numbers of products, the implementation of the environmental protection components of the plans was relatively weak and insufficient.<sup>58</sup>

Due to this weak enforcement of environmental policies, Soviet public environmental organisations supplemented the state's function of the environmental protection. For example, members of Students' Nature Protection Movement (DOP) worked as public inspectors and in green patrols.<sup>59</sup> More examples of the attempts of environmental movements to assist the state in implementing environmental policies will be introduced below. Other deficiencies of the Soviet environmental management by the 1980s were insufficient environmental financing, as well as state ownership of all natural resources and industrial capacity. This arguably resulted in treating natural resources as free goods and a lack of economic stimulus for enterprises to use natural resources rationally and to protect the environment.<sup>60</sup>

It should be also noted that the USSR not only developed its own domestic nature protection system, but also began to participate in the international environmental cooperation in 1970s. The main areas of the international cooperation were described by Pryde.<sup>61</sup> First, the Soviet Union collaborated with the Eastern European countries, members of the Council for Mutual Economic Assistance (CMEA) under an agreement on joint cooperation on environmental

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<sup>54</sup> Ziegler, see above n 11, 100.

<sup>55</sup> L. Henry, 'Complaint-Making as Political Participation in Contemporary Russia' (2012) 45(3) *Communist and Post-Communist Studies* 243.

<sup>56</sup> Henry and Douhovnikoff, above n 25, 438.

<sup>57</sup> Pryde, see above n 7, 9.

<sup>58</sup> M. Khabibullov, 'Crisis in environmental management of the Soviet Union' (1991) 15(6) *Environmental Management* 749, 751.

<sup>59</sup> Yanitsky, see above n 41, 759.

<sup>60</sup> Brinchuk, see above 2, 70; Khabibullov, see above n 58, 750; Harman-Stokes, see above n 51, 85.

<sup>61</sup> Pryde, see above n 7.

protection. There was cooperation between these countries on air and water pollution and protection of wildlife; this cooperation was coordinated by the Joint Council for the protection of the Environment.<sup>62</sup> Given the state of water and air quality in Eastern Europe in 1980–90s this cooperation was not very effective.<sup>63</sup> Second, the USSR participated in multilateral agreements with other countries, for example, on the protection and conservation of wildlife and marine biodiversity.<sup>64</sup> Another form of international cooperation was bilateral agreements between the USSR and other countries on environmental protection, for example with the USA<sup>65</sup> and the UK;<sup>66</sup> and similar agreements were made with France<sup>67</sup> and other countries. Finally, the USSR actively participated in the United Nations Environmental Program (UNEP) and was a party of UN environmental treaties.<sup>68</sup>

In summary, in this period, the Soviet Government recognised the importance of rational use of natural resources and the environmental protection and environmental legislation was developed. It was also beginning of the international environmental cooperation. However, environmental laws were poorly implemented and enforced because of the prioritisation of extensive economic development of the country.

## 4.2 Environmental activism in the 1960s and the beginning of 1980s

In the 1960s, there was ‘a decay’ of VOOP as the relatively autonomous public society voicing independent scientific opinion.<sup>69</sup> The organisation was becoming hugely bureaucratic with branches in every city and administrative centre in the RSFSR and practically

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<sup>62</sup> Ibid, 271.

<sup>63</sup> Ibid, 271.

<sup>64</sup> For example, *Agreement on the Conservation of Polar Bears*, signed 15 November 1973, 27 UST 3918 (entered into force 5 May 1976); *Convention on the Protection of the Marine Environment of the Baltic Sea Area*, opened for signature 22 March 1974, 13 ILM 546 (entered into force 3 May 1980); *Convention for the Conservation of Salmon in the North Atlantic Ocean*, signed 2 March 1982, 1338 UNTS 33 (entered into force 1 October 1983) and others.

<sup>65</sup> *Agreement on Cooperation in the Field of Environmental Protection between the United States of America and the Union of Soviet Socialist Republics*, UNTS 846 (signed and entered into force 23 May 1972)

<sup>66</sup> *Agreement between the Government of the Union of the Soviet Socialist Republics and the Government of the United Kingdom of Great Britain and Northern Ireland about cooperation in the field of environmental protection*, (signed and entered into force 21 May 1974).

<sup>67</sup> *Agreement between the Government of the USSR and the Government of France on cooperation in the field of environmental protection* (signed and entered into force 24 March 1975).

<sup>68</sup> For example, *1969 International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties* signed 29 November 1969, 970 UNTS 211 (entered into force 6 May 1975); *Protocol to the Convention on Long-range Transboundary Air Pollution on the Reduction of Sulphur Emissions or their Transboundary Fluxes by at least 30 per cent*, opened for signatures 8 July 1985, 1480 UNTS 215 (entered into force 2 September 1987); *Convention on International Trade in Endangered Species of Wild Fauna and Flora*, 993 UNTS 243 (signed 3 March 1973, entered in force 1 July 1975).

<sup>69</sup> Weiner, see above n 7, 183–184.

subordinated to the Soviet executive authorities.<sup>70</sup> VOOP was merged with the All-Russian Society Green Planting Society<sup>71</sup> and later, in accordance with the *Law on Protection of Nature*, (Article 16) began to govern all public associations in the RSFSR, which were engaged in the protection of natural resources, including gardening, poultry farming, birdwatchers and other hobby clubs.<sup>72</sup>

VOOP was authorised to conduct public meetings and debates; to organise excursions, laboratories, congresses, field stations; to monitor environmental changes and compliance with conservation laws, and to control a network of scientific nature reserves (*zapovednik*).<sup>73</sup> Often those Soviet scientists, who worked closely with the VOOP, were formally involved in environmental decision making and legislative process through scientific consulting and debates. Most Soviet environmental groups were domestic organisations isolated from cooperation with foreign and international environmental organisations.<sup>74</sup> Participation in international environmental policies was carried out by leaders of VOOP through implementation of international environmental programmes and treaties, mostly through biodiversity and conservation research.<sup>75</sup> Later, in 1960 it entered the UN' organisation (the Union for the Conservation of Nature and Natural resources [IUCN])<sup>76</sup> and participated at the XXI General Assembly and VIII scientific and technical meeting held in September 1975 in Zaire (Africa) and a number of other international conferences and exhibitions.<sup>77</sup> Although such international cooperation was always influenced by the national political and economic interests of the USSR, including the lack of enforcement mechanisms, the positive outcome was in sharing research experience and knowledge between the Soviet and other scientists, making this exchange mainly scientific in character.<sup>78</sup>

In the 1960s, Soviet Union scientists, writers and university students increasingly became involved in debating nature protection issues. The most prominent and discussed issue during that time was the problem of Lake Baikal, which was openly discussed in the Soviet press

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<sup>70</sup> Larin et al, see above n 3, 38.

<sup>71</sup> Weiner, see above n 7, 183–184.

<sup>72</sup> *Zakon RSFSR ot 27 oktyabrya 1960 'Ob okhrane prirody v RSFSR'* [Law of the RSFSR 27 October 1960 'On the Protection of Nature in the RSFSR'] (USSR).

<sup>73</sup> Weiner in Pryde see above n 7, 248; Ziegler, see above n 11, 71.

<sup>74</sup> L. Henry, 'Between Transnationalism and State Power: The Development of Russia's Post-Soviet Environmental Movement' (2010) 19(5) *Environmental Politics* 756, 760.

<sup>75</sup> O. Yanitsky, 'The Value Shift of the Russian Greens' (2006) 15(2) *International Review of Sociology: Revue Internationale de Sociologie* 363, 371.

<sup>76</sup> Pryde, see above n 7, 273–275.

<sup>77</sup> Information on history of VOOP available at <http://www.runature.ru/text/about>, the last access on 14/08/2014.

<sup>78</sup> Pryde, see above n 7, 275–276.



between scientists, writers and public figures (See Box 1 below). As Larin et al. argue,<sup>79</sup> this can be explained by the increasing role of society during the Khrushchev Thaw,<sup>80</sup> resulting in the denunciation of Stalin's cult of personality, ideas of Marx on withering of the role of the state in the socialist/communist society<sup>81</sup> and dissolution of the boundaries between the state and civil society (Chapter 2).

### **Box 1. The Lake Baikal public protests**

In the 1960s, there were the first attempts by scientists, writers and public figures to speak openly against building polluting facilities. The aim of this movement was to protect natural ecosystems and mitigate environmental problems and risks from the proposed industrial activity. The examples of these first mass open debates and movements of Soviet citizens include citizens' rallies to halt plans for building pulp and paper plants on Lake Baikal, over pollution of the Volga River, and the construction of nuclear power plants in Ukraine and Lithuania.<sup>82</sup> The most notable public debates were over a threat of a possible industrial pollution of the Lake Baikal and the destruction of its ecosystem due to plans to build two pulps and paper (cellulose) plants. Lake Baikal is located in East Siberia and this is the world's largest body of freshwater. Its unique natural features include its size, exceptionally pure waters and very rich biodiversity. The local naturalists and later writers and scientists raised awareness of consequences for the quality of the water and wildlife from building these plants. They published articles and scientific reports in the Soviet press and openly debated with the proponents of industrial development of the Lake.<sup>83</sup> In 1960–70, the public voiced their opinion on the Lake Baikal problem, mostly in the form of letters from public representatives to newspaper editors, publishing of articles written by Russian writers and scientific reports. Although these efforts did not stop building of the plants, the Soviet Government made some efforts to protect the lake. It set up a special legal regime for the lake and the resolution on protecting Lake Baikal was adopted by the Council of Ministries (in 1969, 1971 and 1977), and the State Commission to monitor water quality in the lake was established.<sup>84</sup>

This period was also marked by an emergence of the second main environmental organisation, Students' Nature Protection Movement (*Druzhina ohrany prirody*, DOP).

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<sup>79</sup> Larin et al, see above n 3, 45.

<sup>80</sup> This is a period in the history of the USSR initiated by N. Khrushchev, a Soviet leader, after the death of Stalin in 1953 to the mid-1960s of certain liberalization of the Soviet Government's policies in regards of loosening of the state control over society and censorship.

<sup>81</sup> Weiner, see above n 7, 314.

<sup>82</sup> Harman-Stokes, see above n 51, 94, Henry, see above n 1, 37.

<sup>83</sup> Yanitsky, see above n 41, 753; Pryde, see above n 7, 84–85, 247; Ziegler, see above n 11, 55.

<sup>84</sup> Ziegler, see above n 11, 56.

Students (mainly at biological, soil and geographical departments of universities)<sup>85</sup> were organising their own voluntary environmental protection movements, which sought to assist the state in environmental laws enforcement. This included members working as public inspectors for VOOP<sup>86</sup> or those that had obtained the status of public inspectors from law enforcement agencies, such as *milicia* (police). Many others also worked with public inspections organised under the state agencies on hunting, fisheries and forestry.<sup>87</sup> DOP's volunteering inspectors played a great role in the fights against poaching;<sup>88</sup> they organised raids of public inspectors from fisheries, forest protection and other public environmental inspections and detected evidence of illegal hunting, fishing, deforestation and other environmental offences. Members of DOP also worked in area of nature conservation—they conducted research and prepared documents for opening new natural reserves and parks.<sup>89</sup> The DOP also worked with universities and schools, organising lectures and seminars on the nature protection. Given that open critique and opposition was not possible in the USSR, environmentalists involved in public organisations, such as VOOP and DOP, adopted a strategy of 'accusing a polluting industry of disregarding the general good in order to advance narrow department interests'<sup>90</sup> and/or argue that this contradicts the Marx-Leninist methods and approaches. For example, DOP lobbied interests of environmental protection through a stream of letters and publications in local newspapers, research and recommendations to the authorities.<sup>91</sup>

The movements emerged bottom up in the different parts of the country<sup>92</sup> and at the beginning, worked separately.<sup>93</sup> Box 2 provides an example on the establishment and work of the Student movement (squad) at the one of universities. In the 1970s, these squads began to communicate and plan their work through the Coordination Centre, a centralised governing body for all squads. Main directions and programmes of activities, namely 'Flora', 'Fauna', 'Reserves', 'Recreation' and 'Gunshot', aimed at protection and conservation of rare and endangered animals and plants and fighting poaching were developed in 1970–1980s by the

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<sup>85</sup> Yanitsky, see above n 75, 366.

<sup>86</sup> Yanitsky, see above n 41, 756.

<sup>87</sup> Larin et al, see above n 3, 46, 64, Yanitsky, see above n 41, 756

<sup>88</sup> In the 1970 several members of DOP were killed in clashes with poachers, the list of these members are available at <http://sopkgu.org/memorial.htm>, the last access on 22/04/2014.

<sup>89</sup> Larin et al, see above n 3, 46.

<sup>90</sup> Ziegler, see above n 8, 57; Larin et al, see above n 3, 47-49.

<sup>91</sup> Larin et al, see above n 3, 46.

<sup>92</sup> The first student environmental movement was established in Tartu, Estonia by students from Tartu State University and the Estonian Agricultural Academy and later at Moscow State University, the Leningrad Forestry Technical Academy, Leningrad, Kazan State University (KSU), Tatarstan and other cities of the USSR, Weiner, see above n 7, 312-334.

<sup>93</sup> A. Shubin, *Dissidents, Informal Groups and Freedom in the USSR* (Veche, 2008), available at <http://aleksandr-kommari.narod.ru/shubin.html>, the last access on 22/04/2014.

Centre.<sup>94</sup> In the mid-1970s, there were 39 squads with about 2,500 members in the USSR.<sup>95</sup> Financial support to DOP was provided from VOOP and Komsomol (The All-Union Leninist Young Communist League),<sup>96</sup> as supervising organisations, the university departments and trade unions.<sup>97</sup>

**Box 2. The history of the student squad at the Faculty of Biology and Soil of the Kazan State University (KSU DOP)**

The Student squad at the Faculty of Biology and Soil of Kazan State University (KSU), Tatarstan, Russia was established on 10 March 1971 and named ‘The Service on the Nature Protection’ (*Sluzhba okhrany prirody*). The structure of the organisation resembled paramilitary formation. The first commander was Yuri Kotov, who, subsequently, headed the Environmental Department of the University (1986–1994).<sup>98</sup> The daily work of DOP at the Kazan University included raids against poaching, cleaning garbage and industrial waste, lectures and seminars on environmental topics. Members of DOP worked closely with local agencies on hunting, fishing and forestry and public inspections under these organisations, with the administration of the Volga-Kama, Baikal, Badkhyz reserves and other reserves. In 1980s KSU DOP successfully participated in the protests against the construction of a nuclear power plant on the River Kama. Squad members collected signatures for the closure of the project, spoke at a rally and meetings and took part on radio and television programmes.<sup>99</sup> Today, former members of the student movement work at the Ministry of Environment Protection and Natural Resources of the Republic of Tatarstan, environmental funds and other organisations. Many current lecturers and professors at the Biology and Ecology Departments of KSU were members of the KSU DOP. The KSU DOP still operates.<sup>100</sup>

Both abovementioned environmental organisations were criticised for their work later in the literature.<sup>101</sup> The main criticism of the work of the VOOP, in 1970–1980 was its ineffectiveness and bureaucratisation; evidence of its ineffectiveness were collected by the

<sup>94</sup> Information available at <http://dop.environment.ru/docs/istdop.txt>, <http://dopmgu.ru/ddop>, the last access on 22/04/2014.

<sup>95</sup> [http://www.e-reading.ws/chapter.php/1015577/136/Shubin\\_-\\_Svoboda\\_v\\_SSSR.html](http://www.e-reading.ws/chapter.php/1015577/136/Shubin_-_Svoboda_v_SSSR.html)

<sup>96</sup> It was the youth division of the Communist Party of the Soviet Union and the official political youth organisation in the USSR.

<sup>97</sup> Shubin, see above n 93.

<sup>98</sup> Information available at the official website of the university <http://kpfu.ru/geogr/struktura/otdelenie-ekologii/kafedra-prikladnoj-ekologii65279/o-kafedre/istoriya-kafedry>, the last access on 28/04/2014.

<sup>99</sup> The full history of the organisation is available at <http://www.sopkgu.narod.ru/history.htm>, the last access on 22/04/2014.

<sup>100</sup> The official website of the organisation is <http://sopkgu.org/>, the last access on 22/04/2014.

<sup>101</sup> Weiner, see above n 7, 312–340; Larin et al, see above n 3, 40–45.

members of DOP and published in the newspaper article.<sup>102</sup> The fact that mass membership in VOOP (in 1986 there were 38 million members<sup>103</sup>) was high did not mean that all members were actively engaged with the association. The membership in VOOP was voluntary for a nominal annual fee and people were supposed to work for free in their spare time.<sup>104</sup> Some authors refer to membership in public organisations as ‘forced and assumed’,<sup>105</sup> in fact, it was mostly formal, or ‘fictive membership’.<sup>106</sup> The Soviet people were supposed to participate in governance and to be members of public associations, trade unions and other public organisations. In practice, many people just paid small fees for the membership in VOOP (or in other public associations) and this helped them to be considered active members of Soviet society, regardless of their real engagement with public associations. Therefore, this membership did not mean meaningful public participation in Soviet environmental governance and can be illustrated by an example of one of the VOOP’s regional inspections at the end of the 1980s. A charter of this inspection was not approved and the association had no legal status. Nevertheless, there were 4,800 inspectors working in this society who made only 160 protocols and acts on environmental violations during one year.<sup>107</sup>

VOOP was also criticised for high bureaucratisation of management and an excessive number of general staff, which did not make the work of this organisation effective.<sup>108</sup> The governing body (the Presidium of the Central Committee) of VOOP was composed of high Party or state officials and only two scientists were included. Other members of the association, such as prominent journalists, writers and other public figures, were not included in this governing body.<sup>109</sup>

Students’ Nature Protection Movement was a more active organisation compared to VOOP in this period. Members of DOP allowed a certain veiled critique of the state industrial projects (e.g., Lake Baikal, contractions of nuclear power station) and the work of VOOP.<sup>110</sup> However, these organisations were also alienated from ordinary people in the 1960–1970s. In their fight

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<sup>102</sup> The text of this article is available at Larin et al, see above n 3, 43–44, 42–44. Among the authors of the article are I. Chestin and E. Shvarts, director and programs director of WWF Russia.

<sup>103</sup> Larin et al, see above n 3, 43–44.

<sup>104</sup> Ibid.

<sup>105</sup> J. Crotty, ‘Making a Difference? NGOs and Civil Society Development in Russia’ (2009) 61(1) *Europe-Asia Studies* 85, 87.

<sup>106</sup> Weiner, see above n 7, 412.

<sup>107</sup> Larin et al, see above n 3, 43–44.

<sup>108</sup> A graph on dynamic of membership in another governing body from 1986 to 2001 can be found at Larin et al, 250. This graph reflects that after the dissolution of the USSR, the membership of the state officials decreased and the membership of the public increased.

<sup>109</sup> Ibid, 40.

<sup>110</sup> Larin et al, see above n 3, 40.

against poaching, the student squads could target only minor offenders and these actions were seen by ordinary people as limitations of their rights in regards to the use of forests, rivers animals and fish,<sup>111</sup> overlooking the social, political economic roots of environmental issues. These groups began to tackle social aspects of environmental issues, concerning the impact of environmental harm (e.g., industrial pollution of water and air) on the health of people in the late 1970–1980s.<sup>112</sup>

To conclude, the Soviet system did not offer the wide range of public participation activities, such as public advocacy, mass protest actions and others, encouraged, for example, in the United States.<sup>113</sup> The Soviet public organisations could not openly criticise the authorities and therefore, they used hidden criticism. The only one way for these organisations to achieve the purpose of nature conservation and protection was collaboration with state authorities of all levels of governance. Generally speaking, the main task of the Soviet environmental organisations was assistance to the state to implement environmental policies. For this purpose, they carried out educational functions, took an active part in implementation of laws—fought against poaching, illegal fishing and other illegal activities—and monitored the industrial pollution of the air, water and soil.<sup>114</sup>

Moreover, social activism of environmental groups was hampered by a lack of information on the state of environment. For example, although the State Committee on Hydro-meteorological services monitored the air pollution from the end of 1960s, these data were collected and distributed for internal use of relevant state departments. The broader public did not have access to this information as well as to information of water and soil pollution.<sup>115</sup>

In the period from the 1960s to the beginning of the 1980s, there were some positive developments in the state system of nature protection, particularly establishment of the environmental legislation in the RSFSR, containing administrative measures for environmental protection, the emergence of the student nature protection movements and the beginning of international cooperation in the environmental protection sphere. At the same time, the continued extensive industrial development, the new plans of the nature transformation and the weak enforcement of environmental protection measures resulted in further degradation of the environment, demanding changes and reform in the state

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<sup>111</sup> Weiner, see above n 7, 318.

<sup>112</sup> Weiner, see above n 7, 318, 408.

<sup>113</sup> S. Lang, *NGOs, Civil Society, and the Public Sphere* (Cambridge University Press, 2012), 134-163.

<sup>114</sup> Ziegler, see above n 11, 71; Larin et al, see above n 3; 45-48.

<sup>115</sup> Larin et al, see above n 3, 25.

environmental protection system. The increase of public debates on environmental issues and the work of the public environmental organisations also contributed to this demand.

### **4.3 Reforms and an emergence of mass environmental movements in the 1980s**

As seen above, the state environmental system did not work effectively and the Soviet environmental groups were limited in their activities. There was a need for further reform of the state environmental system and laws. The main changes in the environmental policies of that time included an establishment of the special state agency on environmental protection and introduction of the economic mechanisms in environmental regulations, which had little impact on the environmental protection, primarily due to limited commitments of the Government. In addition, state policies became more open and transparent and rights of public environmental groups were expanded. These changes helped to catalyse widespread social movements that were successful in shutting down polluting industries. However, the resultant loss of jobs and slowdown in economic growth also led to significant opposition against environmental movements.

*The reforms of the state system of the environmental protection.* Degradation of the natural environment in the USSR became obvious by the late 1980s, and even the Soviet Government acknowledged environmental problems. The beginning of the process of *Glasnost* (more openness and transparency in the State policies and the work of state bodies) in the late 1980s<sup>116</sup> revealed extensive and unsustainable use of natural resources, inefficiency of the Soviet planned economy and the almost disastrous state of the environment as a result of industrial development.<sup>117</sup> The technological disaster at the Chernobyl nuclear power plant (as discussed in Box 3) and emergence of numerous environmental movements and mass protests throughout the country provided additional impetus for reforming the state environmental protection system and regulations.<sup>118</sup>

#### **Box 3. The Chernobyl Disaster**

The explosion at the Chernobyl Nuclear Power Plant happened on Saturday 26 April 1986, and released a large amount of radioactive contamination, which affected the territory of the Soviet Union and some European countries. Measures to gain control over the situation, including fire-fighting, aid to the victims, evacuation and radiation monitoring, were taken by

<sup>116</sup> The officially declared by the M. Gorbachev, the leader of the USSR in this period.

<sup>117</sup> Harman-Stokes, see above n 51, 94, 97-98; Henry, see above n 1, 38-40.

<sup>118</sup> Pryde, see above n 7, 3-14, Harman-Stokes, see above n 51, 79, 84-93; Henry, see above n 1, 34-36; Brinchuk, see above 2, 70.

officials secretly and people initially did not have complete information about the events that were taking place. The first public announcement of the accident was only on the evening of Monday 28 April 1986 after Swedish authorities detected the release of radiation in the territory of the USSR and Western governments began to demand information on this. The full official statement from Mikhail Gorbachev, the Soviet leader, was broadcast on television on 14 May 1986. The official secrecy about the incident questioned the credibility of the Government and caused political crisis in the country.<sup>119</sup>

As a response to the obvious failure of the existing environmental management, the Soviet Government began governmental reforms. Key changes in environmental policies aimed to enhance regulatory capacity of formal institutions and introduce new economic mechanisms. First, in 1988, under the Decree 'On the fundamental restructuring of nature conservation in the country',<sup>120</sup> environmental governance was unified and the State Committee on Environmental Protection (Goskompriroda) of RSFSR was created on the basis of different ministries. Initially, the Committee had a broad range of responsibilities, such as setting up fees for the use of natural resources, conducting ecological expertise (environmental impact assessments), promotion of ecological education, and rights to close down polluting enterprises.<sup>121</sup> This establishment of the independent environmental protection state agency significantly improved the Soviet environmental management.<sup>122</sup>

Second, the Soviet Government included the economic instruments in the field of environmental management in accordance with the Decree (for example, payment for use of natural resources, fees for emissions of pollutants into the environment).<sup>123</sup> The most relevant law enacted in accordance with this Decree is the *Law on the State Enterprise in 1987*, wherein Articles 17 and 20 established that an enterprise paid from its own budget for the use of natural resources, environmental protection measures and compensation for environmental damage. It also encouraged enterprises to use more low-waste technologies to prevent

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<sup>119</sup> Harman-Stokes, see above n 51, 90-95; O. Cappelli, 'Soviet Crisis Behaviour and Information Management: The Case of Chernobyl' (1986) 2(4) *The Journal of Communist Studies and Transition Politics* 404.

<sup>120</sup> *Postanovleniye Tsentralnogo Komiteta Kommunisticheskoy Partii Sovetskogo Soyuz, Sovmina SSSR ot 07 yanvarya 1988 N 32* [Decree of the Central Committee of the Communist Party of the USSR, the Council of Ministers of the USSR of 07 January 1988 N 32] (Russia), Paragraph 6.

<sup>121</sup> Harman-Stokes, see above n 51, 99.

<sup>122</sup> Ibid, 71.

<sup>123</sup> *Postanovleniye Tsentralnogo Komiteta Kommunisticheskoy Partii Sovetskogo Soyuz, Sovmina SSSR ot 07 yanvarya 1988 N 32* [Decree of the Central Committee of the Communist Party of the USSR, the Council of Ministers of the USSR of 07 January 1988 N 32] (Russia), Paragraph 14–18.

pollution. This law became the first legislative effort to correct the end-of-pipe strategy of pollution control and reorient protection towards preventive methods.<sup>124</sup>

***Environmental mass protest movements.*** Public debate on environmentalism opened up, revealing widespread dissatisfaction with the state's environmental management.<sup>125</sup> This openness included more access to environmental information and unleashed social forces as people became concerned by the impacts of the poor state of natural environment on their health,<sup>126</sup> and led to an emergence of mass environmental protests throughout the country.<sup>127</sup> The state registration and legalisation of DOP and its departments by the authorities as independent public organisations in 1987 made possible the state registration for other environmental groups, for example, the Socio-Ecological Union (SEU), founded by the former member of DOP. SEU integrated many local environmental groups in the territory of the former Soviet Union and was the biggest umbrella type organisation of that time.<sup>128</sup>

The increase of social activities as a result of the openness led to mass environmental protests throughout the country. Environmental protest became the first instance of mass political protest that challenged the Soviet power.<sup>129</sup> However, these political protests had clearly defined nature protection objectives and were directed at environmental problems, such as air and water pollution, polluted soils and radioactive contamination in different parts of the USSR. Many mass protests of that period were coordinated by SEU and DOP. Due to long established horizontal links of DOP and SEU in all republics and regions of the USSR, organisations were able to communicate easily with each other and exchanged information and knowledge with the population. Other environmental movements of this period were the Green Movement of the USSR, Ecological Society of the USSR, the Lake Baikal Protection Society, 'Save the Volga' Committee and other regional and local groups.<sup>130</sup>

These environmental networks helped to facilitate the emergence of other socially oriented organisations<sup>131</sup> and were central to creating conditions for mass rallies across the country. As discussed below, the most prominent mass actions included mass protests against the

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<sup>124</sup> Khabibullov, see above n 58, 756–757.

<sup>125</sup> Pryde, see above n 7, 14, Henry and Douhovnikov, see above n 25.

<sup>126</sup> Weiner, see above n 7, 431.

<sup>127</sup> B. Jancar-Webster, 'Environmental Movement and Social Change in the Transition Countries' (1998) 7(1) *Environmental Politics* 69, 74

<sup>128</sup> Larin et al, see above n 3, 65.

<sup>129</sup> Yanitsky, see above n 75, 365.

<sup>130</sup> Larin et al, see above n 3, 68–69; Weiner, see above n 7, 429–430.

<sup>131</sup> For example, *Zelenyy Internatsional* (Green International), *Ekologicheskiy soyuz SSSR* (Ecological Union of the USSR) Ecological Union of the USSR, Larin et al, see above n 3, 68.



Northern Rivers Reversal project, against the continued construction of pulp mill waste in the Lake Baikal (see Box 1) and shutting down campaigns against polluting enterprises around the country. In November 1987, the Lake Baikal Protection Society organised a demonstration of hundreds of people against pulp mill wastes that threatened the lake and against the proposed effluent pipeline to the adjacent Irkut River.<sup>132</sup> DOP and SEU with other new local radical public groups organised national rallies in 100 cities on 12 February 1989, collecting 100,000 signatures against the River Diversion Plan. It was the first nationwide protest in Soviet history. These mass public actions were reported in the press and on television,<sup>133</sup> ultimately leading to the project being rejected.<sup>134</sup>

Other protests against polluting enterprises were grassroots actions to protect the local environment, to make it clean and safe.<sup>135</sup> Local environmental groups protested against construction or for the closure of the most polluting plants, for example, pharmaceuticals plants, stopping construction of nuclear reactors<sup>136</sup> and hydroelectric power stations.<sup>137</sup> These campaigns were caused by the failure of the Soviet Government to prevent and deal with technological disasters (see Box 2) and openness in environmental information and debates. Publications of reports on environmental impact assessments of industrial projects, articles discussing and explaining environmental issues raised public awareness of the harm on people's health and environment from industrial pollution.<sup>138</sup> Thus, the crisis of the power and the changes in state policy of the Soviet Union, such as openness (*glasnost*), caused the emergence of new powerful actors—environmental social movements.

Despite the initial support for these campaigns,<sup>139</sup> the consequent closure of plants and enterprises often destabilised the supply chain of raw materials and interrupted production processes at other enterprises.<sup>140</sup> Such blockages came at a difficult time, with the Soviet planned economy already on the edge of the crisis.<sup>141</sup> Indeed, it was not long before

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<sup>132</sup> Pryde, see above n 7, 250.

<sup>133</sup> Weiner, see above n 7, 434.

<sup>134</sup> Larin et al, see above n 3, 67–68, Yanitsky, see above n 41, 753.

<sup>135</sup> Yanitsky, see above n 41, 755.

<sup>136</sup> For example, DOP in Tatarstan made every effort to conserve the NPP construction on the banks of the Kama River. Squad members collected signatures for the closure of nuclear power plant, speaks at a rally on radio and television. The similar groups existed (and still continue to work) in Nizhny Novgorod and other Russian cities. Available at <http://www.sopkgu.narod.ru/history.htm>, the last access on 24/04/2014.

<sup>137</sup> Harman-Stokes, see above n 51, 102–103; Henry, see above n 1, 39. Weiner, see above n 7, 434–436.

<sup>138</sup> Larin et al, see above n 3, 59–60, 67–68.

<sup>139</sup> For example, campaigns of local environmental groups and SEU on shutting down the production of a protein vitamin concentrate for livestock using scientific research and mobilization of local public in Volgograd, Kremenchug, Kirishi, see more in Weiner, see above n 7, 435.

<sup>140</sup> Khabibullov, see above n 58, 750, 761.

<sup>141</sup> Planned economy of socialism was not flexible enough and could not satisfy public demands of goods. The state ownership of production capacity excluded any economic competition, *ibid*, 749–750. Moreover, the

opposition to environmental reforms emerged from ministries responsible for the implementation of the Five-Year Plans of economic development. Moreover, many people lost their jobs and the mass public support of ‘greens’ began to decrease.<sup>142</sup> Nevertheless, the radical environmental groups of this period challenged the traditional governance approach with the state as the only actor within a regulatory space. In the late 1980s, environmental initiatives and movements were a first form of political protest in the USSR.<sup>143</sup>

In summary, in the 1960s–1970s, centralised legal, administrative and planning institutions on environmental protection were established and operated in the USSR.<sup>144</sup> However, the state failed in its environmental protection policies due to prioritisation of economic development, inefficiency of the planned economy and its militarisation, the extensive use of natural resources, insufficient funding of environmental control and management, weak legal enforcement mechanisms, and limited and mostly decorative public participation in decision making.<sup>145</sup> Within the Soviet Plan, production goals served as main indicators of effectiveness of state enterprises and controlling ministries. Thus, the economic interests prevailed over implementation of environmental protection laws in the 1970s.<sup>146</sup> By the end of the 1980s, as a result of reforming, openness of policies and the emergence of the mass environmental movements, the Soviet Government acknowledged environmental problems in the country and their international significance and initiated reform of environmental governance. While the reforms were relatively successful in setting up effective pollution control and in closing the most polluting plants, the environmental protection enforcement also faced resistance from the production ministries.<sup>147</sup> This period was also marked by the establishment of the environmental protection agency (*Goskompriroda*) and expansion of public participation in environmental decision making. In this period, because of the increased public awareness and activism, there were changes in capacities of environmental groups and broadening of their means or strategies to influence environmental problem solving changes.

As discussed below, even despite the above progress, Russia was about to enter a new phase of environmental governance with the dissolution of the USSR in 1991. This destroyed the political and economic system of the country, opened the door to the influence of the

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dissolution of the USSR broken economic and productivity chains existed in between enterprises since many of them were now divided by national borders.

<sup>142</sup> Harman-Stokes, see above n 51, 102–103.

<sup>143</sup> Yanitsky, see above n 75, 375.

<sup>144</sup> A.P.J. Mol, 'Environmental Deinstitutionalization in Russia' (2009) 11(3) *Journal of Environmental Policy & Planning* 223, 229.

<sup>145</sup> Henry and Douhovnikoff, see above n 25, 437–439; Khabibullov, see above n 58, 750, 750–752.

<sup>146</sup> Ziegler, see above n 11, 94.

<sup>147</sup> Harman-Stokes, see above n 51, 102–103.

international community and Western states and served as another impetus for environmental reforms.

## 5. *Environmental policies and establishment of contemporary ENGOs in the 1990s to the early 2000s*

### 5.1 Environmental reforms in the beginning of the 1990s

In the beginning of the 1990s, after the collapse of the Soviet Union, Russia became an independent country. Its legal, administrative and economic reforms continued to lead to some positive changes in environmental policy.<sup>148</sup> Three key changes included giving more power to regional and local authorities to solve environmental problems through decentralisation, the introduction of new environmental laws, and the creation of a dedicated state environmental agency. However, subsequent processes of the recentralisation of power, the demolition of the independent state environmental protection agency and weakening of environmental protection regulations significantly undermined the achievements of these initial reforms. These issues are discussed below. Table 3 provides a summary of the key developments in the environmental protection in the 1990s–early 2000s.

**Table 3. The environmental protection in the 1990s–early 2000s**

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|--|--|--|---|
| <b>1990–early 2000s</b>                  | Establishment of the Ministry of the Environment in 1991 Decentralisation; regions created their own system of the regional independent ministries and committees on ecology, use and protection natural resources | The <i>Law on Environmental Protection</i> (1991); the <i>Land</i> (1991), the <i>Water</i> (1995) and other federal codes, laws and sub-normative legislation | Greenpeace Russia (1992); WWF Russia (1994); development and implementation of biodiversity programmes; work with local environmental groups            |
| <b>Reforms of the beginning of 2000s</b> | Abolishment of the State Committee on Environmental Protection and the Russian Forest Service and transferred their functions to a new Ministry of Natural Resources (MNR) in 2000                                 | The <i>Federal Law on the Environmental Protection</i> (2002); the <i>Land Code</i> (2001)   | Establishment and reforming of the NGO legislation, institutionalisation and professionalisation of environmental movements and groups in current ENGOs |

<sup>148</sup> Brinchuk, see above 2, 70.

First, decentralisation of the state caused a power shift towards the regions that received more power over the ownership and control of natural resources. This signified the development of Russia as a federalist state.

As discussed above, under the centralised command and control Soviet style of governance and planned economy, regions and local authorities had almost no authority over natural resource management and did not play a significant role in environmental policy.<sup>149</sup> Enterprises were controlled by the relevant central industrial ministries. However, after the dissolution of the USSR, in the beginning of 1990s, the RF consisted of 89 federal subjects (regions). These regions were very diverse in terms of a size, natural resources, economic development and infrastructure. This resulted in a system of ‘asymmetrical federalism’, where more industrially developed and naturally rich regions received more autonomy from the Federal Government.<sup>150</sup> This was to some extent a positive turn in the state policy, as regional and local governments and communities can be more effective actors in domestic environmental policy implementation because they are closer to the problems being managed.<sup>151</sup> In accordance with the legislature,<sup>152</sup> the environmental regulation became a joint competence between the federation and the regions. The Federal Government shared its responsibilities with regions in the sphere of elaboration and implementation of environmental programmes; establishment of the fees for pollutants discharges; allocation of permits for the use of natural resources and for waste disposal; governmental environmental impact assessment; governmental environmental control and monitoring; decision making regarding the closure of industrial enterprises damaging the environment; organisation and maintenance of nature reserves; and environmental education.<sup>153</sup> These steps were positive because more money, from the environmental fines and other payments, was accumulated in environmental funds and could be allocated on the regional level. These funds were one of the main sources for financing environmental protection, including ecological modernisation of enterprises and financial support for regional and local ENGOs.<sup>154</sup>

The regions received rights to control and inspect enterprises, enforce environmental regulations, impose limits for enterprises emissions, allocate licenses, fix rates for pollution

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<sup>149</sup> V. Kotov and E. Nikitina, 'Reorganisation of Environmental Policy in Russia: the Decade of Success and Failures in Implementation and Perspective Quests' (2002), available at <http://www.feem.it/NR/rdonlyres/59A79BBF-DE58-4819-BC3F-C0FE71384402/346/5702.pdf>, the last access on 23/03/2014, 8.

<sup>150</sup> Henry, see above n 1, 45, 64-65.

<sup>151</sup> Kotov and Nikitina, see above n 149, 9; Henry and Douhovnikoff, see above n 25, 441.

<sup>152</sup> The Constitution and the Law on the environmental protection

<sup>153</sup> *Law on Environmental Protection*, in Kotov and Nikitina, see above n 149, 9.

<sup>154</sup> Interview 15.

fees and manage local environmental funds.<sup>155</sup> The regions created their own system of the regional independent ministries and committees on ecology, use and protection of natural resources. A portion of federal staff, equipment, budget, tasks and responsibilities were transferred to regional and local administrations. These regional bodies were funded from regional budgets and regional environmental funds and varied from region to region. In most regions, federal and regional bodies worked collaboratively in the sphere of the joint powers.<sup>156</sup> At the same time, this constant reforming and transferring of powers from federal to regional level undermined the effectiveness of the state environmental protection system, both on the federal and regional level. This instability created overlapping responsibilities or, otherwise, gaps in responsibilities between federal and regional bodies and a shortage of specialists.<sup>157</sup>

Another negative effect of this decentralisation was caused by a lack of effective federal control over regional governments (for example, over-expenditure of the environmental funds). Public regional authorities attempted to control the use of natural resources<sup>158</sup> and use their finances for non-environmental purposes.<sup>159</sup> Through these means, regional political leaders and high-level bureaucrats effectively consolidated their powers at the expense of local grassroots participation in environmental activities, local communities and local administrative systems.<sup>160</sup> Further, Kotov and Nikitina note that:

in Russia, in general, economic interests usually appeared to be stronger than environmental ones, and it was clearly manifested at a local level. The local elites tried to obtain the right to deal with natural resources with a free hand, and in many regions they have succeeded in that. According to major analysts, corruption in the regional and local state authority was much more severe than in the center. Violations of environmental regulations were becoming more numerous. Officials often accepted bribes in exchange for granting timber licenses and licenses for other types of natural resources, permitting developments within conservation areas, and falsifying tender results for the use of natural resources.<sup>161</sup>

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<sup>155</sup> Kotov and Nikitina, see above n 149, 9; Henry and Douhovnikoff, see above n 25, 441.

<sup>156</sup> Mol, above n 144, 234.

<sup>157</sup> Interview 6.

<sup>158</sup> The system of non-budget environmental fund was established in 1990s to accumulate resources (payments for pollution, fines for environmental offences) for the environment protection measures. These payments were non-tax and were common form to accumulate finance in countries with transitional economies in order to adopt economy to a free market. It was three-level system of local, regional environmental funds, and the federal environmental fund on the top. Kotov and Nikitina, see above n 149, 9, 13-14.

<sup>159</sup> Ibid, 9-10.

<sup>160</sup> M. Diani, 'Social Movement Networks Virtual and Real' (2000) 3(3) *Information, Communication & Society* 386, 160.

<sup>161</sup> Kotov and Nikitina, see above n 149, 9, 10.

In addition, decentralisation had not led to effective and positive competition between the regions in regards to their economic and political development, as had been expected by reformers, but created 'centrifugal tendencies which threatened to tear the whole Federation apart'.<sup>162</sup> As discussed further below, these weaknesses catalysed a process of recentralisation and building of a new 'vertical powers' by the end of the 1990s.<sup>163</sup>

The second change in environmental regulations was the adoption of new environmental legislation. One of the first laws passed by the newly independent Russia was the *1991 Law on Environmental Protection*.<sup>164</sup> The new *Constitution of the Russian Federation* in 1993 established basic environmental rights and obligations of people (Articles 42, 43 and 58).<sup>165</sup> Other important laws on environment, such as the Land (1991), Water (1995) and other federal codes, laws and sub-normative legislation, were adopted and enacted at that time. The new environmental legislation was formed on the basis of the legislation of the Soviet Union and RSFSR. Individually and collectively, these laws provided a much stronger environmental regulatory regime than anything that had previously existed in Russia. However, considering the general economic and political crises of the 1990s and the later state policy to prioritise economic development, the enforcement of these laws were weak and problems of their implementation and enforcement will be discussed in Chapter 6 in a context of ENGO strategies.

The third significant achievement of environmental reform of the 1990s in Russia was a thorough reorganisation in the institutional arrangements of environmental management. In 1991, the State Committee on Environmental Protection (*Goskompriroda*) was promoted to the Ministry of the Environment. It had responsibilities as diverse as Mapping and Geodesy, Forestry, Natural Resources, Arctic and Antarctic Affairs, and Environmental Protection. In March 1992, this Ministry was reshaped and renamed into the Ministry of Environmental Protection and Natural Resources. The creation of this major federal environmental institution was intended to combine regulatory, licensing and control functions in environmental protection. The Committees on Geology and Nature Resource Use, Forestry, Mapping and

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<sup>162</sup> S. Nysten-Haarala and J. Kotilainen, 'Institutions, Interest Groups and Governance of Natural Resources in Russia' in S. Nysten-Haarala (ed), *The Changing Governance of Renewable Natural Resources in Northwest Russia* (Ashgate, 2009) 9, 17.

<sup>163</sup> L. Riabova and L. Ivanova, 'Fishery Governance in Northwest Russia' in S. Nysten-Haarala (ed), *The Changing Governance of Renewable Natural Resources in Northwest Russia* (Ashgate, 2009), 84.

<sup>164</sup> Henry and Douhovnikoff, see above n 25, 35.

<sup>165</sup> *Konstitutsiya Rossijskoj Federatsii, 1993* [The Constitution of the Russian Federation, 1993] (Russia).

Geodesy, and Hydro-meteorology and Environmental Monitoring became independent and influential governmental agencies under the Government of the Russian Federation.<sup>166</sup>

## 5.2 Environmental movements of the 1990s

In the 1990s, fundamental changes in state policies and regimes affected civil society concerning the professionalisation and institutionalisation of the mass environmental movements of the previous decade and tightening state control over NGOs. In the early 1990s, a large number of NGOs from the Western countries opened their branches in Russia. It was a part of the official state of ‘democratisation’ of Post-Communist Russia and building civil society;<sup>167</sup> moreover, democracy aid also included financial aid, which were vital sources for the Russian crisis economy. International environmental groups, such as the International Crane Foundation (ICF), WWF, Greenpeace, the International Fund for Animal Welfare (IFAW), the Sacred Earth Network and other organisations began their work in the USSR at the end of the 1980s in the period of openness.<sup>168</sup> These organisations still work in Russia, mostly through their Russian programmes. For example, ICF has developed ‘Russia Program’ to collaborate with bird conservationists in Russia<sup>169</sup> and IFAW has a project to save brown bears.<sup>170</sup> Greenpeace Russia and WWF Russia are the most successful and active organisations in Russia. Greenpeace’s office was opened in Russia in 1989 and its operation was funded by profit from sales of the music album ‘Greenpeace Breakthrough’, recorded by well-known Western musicians. In 1992, Greenpeace Russia was established.<sup>171</sup> WWF began to carry out its projects in Russia in 1988 and in 1994, the Russian branch of WWF was established. The work of WWF Russia office was funded by other organisations in the WWF network.<sup>172</sup> The first projects of WWF in Russia concerned the conservation of biological diversity (for example, protection of snow leopards and European Bison Conservation Program) and operation of natural reserves.<sup>173</sup> It should be noted that former members of DOP not only established Russian environmental groups but they were also involved in setting up the offices of Greenpeace Russia and WWF Russia. As a result, many professional staff members in these international ENGOs are graduates from biological departments of

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<sup>166</sup> Mol, above n 144, 239, Kotov and Nikitina, see above n 149, 9.

<sup>167</sup> J.D. Hemment, ‘The Riddle of the Third Sector: Civil Society, Western Aid and NGOs in Russia’ (2004) 77(2) *Anthropological Quarterly* 215, 218-219.

<sup>168</sup> Krech, McNeill and Merchant, see above n 23, 1078.

<sup>169</sup> Information available at <https://www.savingcranes.org/russia-program.html>, the last access on 25/04/2014.

<sup>170</sup> Information available at <http://www.ifaw.org/united-states/our-work/animal-rescue/saving-brown-bears-russia>, the last access on 25/04/2014.

<sup>171</sup> Information available at <http://www.greenpeace.org/russia/ru/about/history/>, the last access on 25/04/2014.

<sup>172</sup> Information available at <http://www.wwf.ru/about/history/15years>, <http://www.wwf.ru/about/people/person/43>, the last access on 25/04/2014.

<sup>173</sup> Information available at [http://www.wwf.ru/about/what\\_we\\_do/species/eng](http://www.wwf.ru/about/what_we_do/species/eng), the last access on 25/04/2014.

universities and former members of DOP,<sup>174</sup> for example, WWF Russia Director I. Chestin, and the Director of Conservation Policy of WWF Russia, E. Shvarts.<sup>175</sup>

These international ENGOs have begun to work with local political and social activists on various aspects of democratic institutional development<sup>176</sup> and shared their experiences. They provided support and training for the Russian grassroots environmental groups, began to conduct ecological research and organised public actions.<sup>177</sup> As a result of a decline in mass environmental activities and interests, a transition to market economy and the influence of the Western ENGOs, by the end of the 1990s, there was a transformation of the protest and mass environmental movements into a non-governmental organisation with a professional staff and volunteers. They were much more concerned with their own projects, issues of internal management of organisation, funding and membership. These organisations intended to participate in a process of shaping Russian environmental policy; activities of these organisations became more of a reformist than protest character.<sup>178</sup> Reportedly, by 1992 there were more than 840 organisations in the green movement in the RF.<sup>179</sup> Official statistics on the number of ENGOs that continued to operate does not exist, but, according to researchers, the majority of organisations (around 80 per cent) have survived or merged with other groups.<sup>180</sup> The work of several ENGOs that continue to operate, such as SEU and Dront (founded in Nizhny Novgorod in 1989), is discussed in this study (Chapters 6 and 7).

In the 1990s, the legislation establishing the legal status of NGO, their rights and responsibilities was developed. First, in 1990 the *Law of USSR on Public Associations* was enacted and officially legitimised the public associations. Later, in 1995–1996 after the dissolution of the USSR, the Russian Federation established the federal law on public associations,<sup>181</sup> the Federal law on non-commercial organisations<sup>182</sup> and a number of other laws relevant to NGO operation (commonly called ‘the NGO law’ in the literature and mass media) to regulate the non-governmental sector in accordance with new economic and

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<sup>174</sup> Interview 8.

<sup>175</sup> Information available at <http://www.wwf.ru/about/people/person/43>, <http://www.wwf.ru/about/people/person/39>, the last access on 25/04/2014.

<sup>176</sup> S. Mendelson, 'Democracy Assistance and Political Transition in Russia: Between Success and Failure' (2001) 25(4) *International Security* 68.

<sup>177</sup> L. Jakobson and S. Sanovich, 'The Russian Third Sector: New Driving Forces—A Rejoinder' (2011) 7(2) *Journal of Civil Society* 233, 234–235.

<sup>178</sup> Yanitsky, see above n 75, 377.

<sup>179</sup> Henry and Douhovnikoff, see above n 25, 450.

<sup>180</sup> I. Halii, 'Environmental Social Movement and Power: Forms of Interaction' (2008) (4) *Polis. Politicheskiye issledovaniya* 130, 132.

<sup>181</sup> *Federalnyj Zakon ot 19 maya 1995 N18-Φ3 'Ob obshchestvennykh ob'edineniyah'* [Federal Law of the RF 19.05.1995 N 82-FZ On Public Associations] (Russia), Article 5.

<sup>182</sup> *Federalnyj Zakon RF 7-FZ ot 12 yanvarya 1996 'O nekommercheskikh organizatsiyah'* [Federal Law of the RF 12 January 1996 N 7-FZ On Non-Commercial Organisations] (Russia).



political conditions. Initially, the legal regime was quite favourable for NGOs.<sup>183</sup> The laws contained moderate requirements to the state registration of organisations in order to become a legal entity and did not contain special reporting requirements for foreign-funded NGOs compared to the later amendments in these laws in 2006 and 2012.

In addition, NGOs were granted a broad range of rights to participate in environmental governance and did not contain constraints for their lawful activities, including political actions. These rights included litigation rights<sup>184</sup> and rights for open access for information (albeit, there were problems with enforcement of these laws on information because they did not contain provisions on procedures for the public request of information<sup>185</sup>). However, the provisions of the NGO law required NGOs founded before 1994 to reregister with the Federal Ministry of Justice or its branches and liquidation for any organisation that failed to meet this requirement. This was characterised by some NGOs as an obstacle to operation, but in practice, the number of NGOs did not decrease.<sup>186</sup> These changes in legal framework on NGO operation and the state structure of environmental protection bodies and their effect on ENGO activity will be discussed below in the following chapters (Chapter 4) on the legal framework for ENGO operation.

### 5.3 Environmental governance at the end of 1990–2000s

The end of the 1990s and the beginning of 2000s were marked by a turn in the state policy towards a decline of the authority of state environmental protection agencies,<sup>187</sup> which was not welcomed by ENGOs (see Box 4), weakening of environmental laws and strengthening of the state control over NGOs. The status of the former Ministry of Environmental Protection under the pressure of industrial groups was downgraded to a State Committee on Environmental Protection of the RF, falling under the MNR.<sup>188</sup> The main responsibility of this Ministry was

<sup>183</sup> Henry, see above n 1, 49.

<sup>184</sup> *Federalnyj Zakon RF 7-FZ ot 12 yanvarya 1996 'O nekommercheskih organizatsiyah'* [Federal Law of the RF 12 January 1996 N 7-FZ On Non-Commercial Organisations] (Russia), Article 12.

<sup>185</sup> The first generation of Post-Soviet laws on information and state secrets treated environmental (ecological) information as a special kind of information and did not limit access to it. Therefore, initially, environmentalists did not support the ratification of the Aarhus Convention because its provisions the national security information exclusion could potentially limit their right to information access grated the domestic legislation, T. Zakharchenko, *On the Way to Transparency: A Comparative Study on Post-Soviet States and the Aarhus Convention* (Woodrow Wilson International Center for Scholars, 2009), 9; 'Access to Environmental Information in Russia' [in Russian]. *Bellona on-line publication*. June 25, 2003. Available at

[http://www.bellona.ru/russian\\_import\\_area/international/russia/envirorights/info\\_access/30214](http://www.bellona.ru/russian_import_area/international/russia/envirorights/info_access/30214).

<sup>186</sup> R. Blitt, 'Babushka Said Two Things-It Will Either Rain or Snow; It Either Will or Will Not: An Analysis of the Provisions and Human Rights Implications of Russia's New Law on Non-Governmental Organisations as Told through Eleven Russian Proverbs' (2008) 40 *George Washington International Law Review* 1, 11.

<sup>187</sup> Henry and Douhovnikoff, above n 25, 439.

<sup>188</sup> Mol, above n 144, 230, A. Cherp and S. Golubeva, 'Environmental Assessment in the Russian Federation: Evolution through Capacity Building' (2004) 22(2) *Impact Assessment and Project Appraisal* 121, 124.

natural resource management. Finally, in 2000, the State Committee on Environmental Protection and the Russian Forest Service was abolished and their functions were transferred to a new MNR, which continues to exist today and combines the functions of management of natural resources and environmental protection.<sup>189</sup> As a result, since 2001 there has been a reduction in the number of environmental inspectors both on the federal and regional level.<sup>190</sup> Although proponents of this decision explain it by the Government efforts to reduce bureaucracy, the majority of environmentalists still see this as a step backwards in state environmental policy.<sup>191</sup> The protests (see Box 4 below) of the scientific community and leading environmentalists, ENGOs, the public and the members of the State Duma's Ecological Committee against such administrative reorganisation did not help to prevent deinstitutionalisation of environmental protection.<sup>192</sup>

#### **Box 4. The protest against the abolition of the State Committee on Environmental Protection**

Immediately after the President's decision on the abolition of the independent environmental authority, the scientific community and leading environmentalists, ENGOs, the public and members of the State Duma's ecological committee began to appeal to the President to overturn the decision. In addition, the legislative and executive bodies of 31 subjects of Russia appealed to the President and the Government to reconsider this decision. The Council of the Federation (upper chamber of the Russian Parliament) and the Committee on Ecology of the State Duma (lower chamber of the Parliament) also sent a letter to the President protesting this decision.

ENGOs were also involved by sending letters to the President and Government and organising meetings and demonstrations. SEU, Wildlife Conservation Centre, Greenpeace Russia and WWF Russia organised 'a mourning ceremony'. The ENGOs replaced the board with the name of department at the entrance to the building on imitation of a tombstone with the inscription 'the Russian Federation State Committee for Environmental Protection located here until May, 17 2000.' In June 2000, the All-Russian Emergency Nature Protection Conference was held and the Conference issued a statement to the President and the Government on the need to restore the State Committee for Environmental Protection.

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<sup>189</sup> Firsova and Taplin, above n 13, 416.

<sup>190</sup> Henry and Douhovnikoff, see above n 25, 440; K. Wernstedt, 'Environmental Protection in the Russian Federation: Lessons and Opportunities' (2002) 45(4) *Journal of Environmental Planning and Management* 493; Cherp and Golubeva, see above n 188, 125.

<sup>191</sup> Cherp and Golubeva, see above n 188, 124.

<sup>192</sup> Kotov and Nikitina, see above n 149, 8.

Due to the limited impact of the above actions, environmentalists, including ENGOs, the Green Party, environmental and political activists and scientists decided to organise the collection of signatures for a national referendum in June 2000. This referendum would impose three questions on (1) the ban on the import of nuclear waste; (2) the restoration of the State Committee for Environmental Protection; and (3) the restoration of the Forest Service. WWF Russia, Greenpeace Russia, Wildlife Conservation Centre and other ENGOs were among the organisers of the petition in support of the referendum, which was organised in accordance with the law requirements of that time—referendum should only be initiated by a group of citizens consisting of at least 100 people from 10 regions of Russia. It was necessary to collect at least two million signatures for three months since the registration of the initiative group with the Central Election Commission (CEC). In October 2000, the initiative group raised more than 2.5 million signatures in support of the referendum. However, it did not take place because the CEC rejected about 600,000 signatures as invalid. Subsequently, the Supreme Court rejected a lawsuit on the CEC decision, rejecting 600,000 signatures in March 2001.<sup>193</sup> In short, the state ignored the public protests against this reorganisation of the environmental protection system and used administrative resources to prevent an open public referendum, which was not consistent with the state policy of priority of economic development and exploration of natural resources.

In summary, 1990–2000 was a time of economic and political reforms in Russia. Initially, in the beginning of the 1990s, the system of independent environmental bodies was established and new environmental legislation was enforced. Regions received more political and economic independency in resource management and created their own systems of environmental protection bodies. While this was positive, there were perceived problems with regional control and this led to a recentralisation. The period of the late 1990s was marked by weak enforcement of environmental laws and deinstitutionalisation of environmental agencies. As a result, in 2000, the independent state environmental protection bodies were abolished and the functions of the environmental protection and natural resource management were combined in the MNR, similar to the Soviet Union practices. It was also a period when foreign and international groups opened their offices and funded environmental programmes in Russia. The decrease of environmental activism led to institutionalisation and professionalisation of domestic environmental movements. The NGO legislation was developed and enforced.

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<sup>193</sup> Larin et al, see above n 3, 286–292.

## 6. Conclusion

The study of the history of the state environmental protection system in the Soviet Union and RSFSR (later in Russia) has shown that, in general, the establishment and development of the state environmental regulations in the USSR, like in the Western countries, involved similar stages: recognition of the environmental issues and emergence of the first regulatory and institutional instruments, a state interventionist/regulatory period of using ‘direct’ or ‘command and control’ mechanisms; and a neo-liberal shift towards economic instruments in environmental regulations in the Western countries in the late 1980s and early 1990s.<sup>194</sup> However, in the USSR this development was formed and shaped by different political regimes, planned economy, state ownership of resources and a closed and state-controlled society with limited rights to participate in governance.

The establishment of the nature protection legislation and later the state nature protection bodies was an important step in recognising environmental problems in the Soviet Union. At the same time, the development and implementation was often determined by industrial interests. Therefore, despite the existence of the legislation on the environmental protection and high polluting standards, the enforcement of environmental regulations was poor and the state environmental protection function was weak in the Soviet Union.

The study has demonstrated that, from the historical perspective, Russian ENGOs emerged and developed differently compared with Western ENGOs. The environmental groups and movements in the Western countries (such as the Western European countries, the USA and Australia) have grown into a network of professionalised membership organisations from grassroots organisations defending the social rights of people to health and safe environments<sup>195</sup> and existed in the pluralistic political system. These groups opposed the state policies using different tools, including radical tools (protests, demonstrations and litigations) as well as research and lobbying.<sup>196</sup>

In contrast, the first conservation groups were established as scientific environmental groups working in the area of conservation of biological diversity, conducting research and leading scientific environmental debates with proponents of unlimited industrial development. Although the great role of scientists and public figures in the environmental debates was

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<sup>194</sup> Gunningham, Grabosky and Sinclair, see above n 9, 5-6; Gunningham and Holley, see above n 9, 1.

<sup>195</sup> van Der Heijden, see above n 10, 200–207.

<sup>196</sup> Futrell, see above n 30.

recognised, such debates were symbolic in practice, since natural scientists could only discuss these issues while actual decisions were always taken by party and state officials.<sup>197</sup> Later, VOOP's organisations were bureaucratised and controlled by the Communist Party. The more active student movement (DOP) defended public interests of the nature protection and complemented (to some extent substituted, for example, in fighting poaching) the functions of state environmental bodies, mostly through performing educational, scientific expertise functions and assisting the state enforcement bodies in the fight against ecological offences. At the same time, the movement was also marginalised from the broad public, consisting of students from natural science university departments.<sup>198</sup> Given the Soviet one-party political regime, the Soviet environmental voluntary associations could not be in opposition to the state, could not use the standard tools of Western ENGOs, such as mass public protest actions, litigations and other forms of public advocacy, and had to collaborate with the state in order to be recognised as legitimate actors of environmental protection. As a result, and considering the state ownership for all natural resources and enterprises, Soviet public associations were entirely dependent on financial and material support from the State and were not independent voluntary organisations. Public participation in forming state policies in the USSR had a tokenistic character in order to foster public support for the state policies.<sup>199</sup> Therefore, the state channelled the public activities through officially approved public organisations. The official ideology of the transformation of nature towards the needs of the economic development and demands of people also created barriers for Soviet people actively participating in environmental protection.

The increase in the environmental activism and assistance of the Western countries at the end of the 1980s–early 1990s enhanced the environmental protection capacities of both state and non-state actors for a short period and gave an impetus for the development of the environmental, legal and institutional framework and broader public participation in governance. At the end of the 1980s and the beginning of the 1990s, the environmental movement gained a mass and social character, and began to use radical tools (protests, rallies and litigations),<sup>200</sup> typical for Western environmental movements. However, the economic crisis of the 1990s and the subsequent priority of economic development overshadowed the purposes of environmental protection and resulted in the weakening of the state

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<sup>197</sup> Yanitsky, see above n 41, 755

<sup>198</sup> Ziegler, see above n 11, 45–77.

<sup>199</sup> Futrell, see above n 30, 491.

<sup>200</sup> Zakharchenko, see above n 185, 8; A. Bolotova, M. Tsyachnyuk and D. Vorob'yov, 'Analiz i klassifikatsiya ekologicheskikh nepravitel'stvennykh organizatsiy Sankt-Peterburga [Analysis and Classification of Environmental Non-Governmental Organisations in St. Petersburg]', available at [http://www.indepsocres.spb.ru/sbornik6/6\\_bolot.htm](http://www.indepsocres.spb.ru/sbornik6/6_bolot.htm), the last access on 25/04/2014.

environmental protection function and low public participation. The environmental movements lost their social support from the Soviet 'middle class'. People lost their main incomes (i.e., a guaranteed state salary), and their priorities began to change and NGO activity based mostly on the enthusiasm of people could not exist anymore.<sup>201</sup> The state support of official environmental groups, such as VOOP and DOP, was minimal. New Russian environmental groups faced problems with funding, staff shortages and professional management skills. Since then, environmental groups have started to operate mostly as professional non-governmental non-profit organisations, with professional staff, minimal state funding, and often supported by international aid programmes and grants.<sup>202</sup>

To conclude, as shown by this chapter, the agency of ENGOs in Russia has been changing over time, depending on governance institutions and political context.<sup>203</sup> Their capacities to influence environmental decision making have evolved from pure scientific consulting and education to assisting the state in law enforcement and complementing its environmental functions. Openness on the policies and further democratisation of the country from the end of the 1980s led to the increase in their capacities and means to exercise power (strategies). It was also demonstrated that the active public support and high interest to environmental problems could enhance capacities of environmental groups, making them legitimate actors of environmental governance at the end of the 1980s.

Therefore, a certain mode of the 'agent- principal' relationships<sup>204</sup> between the state, society and environmental groups in environmental governance formed during mostly 70 years of the authoritative single party Soviet system. It was also influenced by the ideas of Marxism on the roles of the state and civil society (discussed in Chapter 2). As a result, the work of Soviet environmental groups featured great scientific and educational components in their operation, collaboration with the state, certain isolation of ENGOs from the people and low social support of their activities, particularly in defending the social rights of people (with the exception of the period of mass environmental movements at the end of the 1980s). This experience still influences the state policy towards NGOs and shapes their strategies (discussed in Chapter 6). In addition, given that the current political regime has an authoritative character with the state centred and hierarchical manner of governance, some parallels can be drawn between the past and contemporary environmental organisations, in

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<sup>201</sup> Larin et al, see above n 3, 240–241.

<sup>202</sup> Jakobson and Sanovich, above n 177, 234–235.

<sup>203</sup> Dellas, Pattberg and Betsill, above n 5, 89, 92; Biermann et al, above n 5, 283.

<sup>204</sup> Dellas, Pattberg and Betsill, above n 5, 88.

terms of legal conditions for their agency (Chapter 4), relationships with the state and strategies (Chapter 6).

The next chapter considers these issues by examining laws regulating NGOs, ways of their implementation and responses of ENGOs to the recent changes in these laws.

## Chapter 4. Legal framework for operation of NGOs in Russia

### 1. Introduction

This chapter will study the legal framework for ENGO operation in modern Russia. The legal regulations of NGOs set the rules that shape the relationships between ENGOs and other actors in environmental governance. The impact that laws and other legislation on NGOs can have and the manner in which the legal reforms have affected these entities is important in considering the issue of the legal conditions for capacities of ENGOs to achieve environmental outcomes and respond to environmental changes.<sup>1</sup>

This chapter aims to introduce key legal regulations on NGO operation in Russia, focusing on the latest amendments to NGO law in 2009–2014. It will study the most notable issues arising from these amendments in order to contribute to addressing the following research question: **What are the legal conditions for ENGO agency?** In order to answer this question, there is a need to explore whether the recent accountability measures have marginalised, constrained or limited ENGOs in Russia. The chapter also provides possible ways to change the NGO law to enhance agency of ENGOs. Although this chapter refers to the political, social and economic contexts that shape changes in the legislation and its implementation, the political justifications for recent changes in the NGO law have not been fully explored as they are not within the scope of the thesis.

The Russian legal system belongs to the civil law system. The main norms regulating ENGO operations and their rights and responsibilities can be found in special legislation for NGOs (e.g., laws on public associations, non-commercial organisations and other laws) and environmental laws. The legislation on NGO operation and environmental protection is a joint responsibility of the federal and regional bodies of legislative power (discussed in more detail below). However, the legal provisions concerning key areas of ENGOs operation are contained in federal laws. Therefore, the chapter concentrates on relevant federal laws focusing mainly on the issues of foreign funding, reporting and the state control over NGOs, particularly foreign-funded NGOs, since the recent changes in the laws were undertaken in regards to these issues. Other laws and subordinated legislation, such as regional laws, resolutions and decisions of the relevant bodies of executive power and judicial decisions relevant to regulating NGO operation, are also considered.

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<sup>1</sup> F. Biermann et al, 'Earth System Governance: A Research Framework' (2010) 10(4) *International Environmental Agreements: Politics, Law and Economics* 277, 283.



This chapter is divided into five parts, including this introduction, a general description of the Russian legal system and the sources of laws, the main legislation containing norms relevant to NGO operation and international laws as sources of legal regulation. The fourth part will provide a more detailed review on NGO legal regulation and issues concerning the last changes in the NGO law. It will focus on positive changes in domestic NGO law, including the introduction of simplified reporting, more state support for socially-oriented NGOs, and the introduction of some economic tools, such as taxes encouraging the public support of NGOs and issues of their enforcement. This part will also discuss negative changes in NGO law concerning the increased state control over NGOs, the introduction of the term ‘foreign agents’ (for politically active and foreign-funded NGOs) and its negative connotation and the vague definitions of political activities of NGOs. Finally, the chapter will conclude on main issues of the legal regulations of ENGOs operation in Russia, such as insufficient legal mechanisms for enforcement of economic regulations for NGOs, the excessive state control over their activities and selective implementation of controlling measures. The conclusion will also discuss possible ways to solve these issues, including the need to introduce rather hard administrative mechanisms in the NGO law, to clarify the legal definitions of ‘political activities’ of NGO and to exclude the term ‘foreign agents’.

## ***2. Overview of legal regulations for NGO operation in Russia***

This section generally describes the legal system in Russia and introduces laws relevant to the regulation of NGOs. The key points of this section are:

- NGO law is mainly developed and enacted on the Federal level.
- Regional governments can establish their own laws and regulations concerning regional funding and support for NGOs.
- Norms regulating ENGO in Russia can be also found in the Constitution, civil, tax, environmental international, federal, regional and local laws and regulations.

***Russian legal system.*** Traditionally, to civil law system countries, laws are a primary source for legal regulation in Russia. The legal system is based on the hierarchy of laws. In the other words, the Russian legal system has a hierarchal character with the Constitution on the top of the hierarchical pyramid.<sup>2</sup> The next level of the legal system are the laws—constitutional federal, federal, law of the subjects of the RF (regions) and local laws adopted by the

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<sup>2</sup> *Konstitutsiya Rossijskoj Federatsii, 1993* [Constitution of the Russian Federation, 1993] (Russia), Article 15.

legislative bodies of the state, regions and local administrations respectively. The constitutional federal laws and federal laws have greater legal force and laws of subjects must not contradict them.<sup>3</sup> Laws are specified and detailed in legislative acts of the executive branch, namely the President and various ministries, committees and other executive bodies of the state, regions and local administration.<sup>4</sup>

Although the legislation is the primary source for regulation of NGOs, in recent years, the role of the judicial decisions has increased. Formally, the judicial decisions are not sources of the legislation, but the explanations and summarising of the judicial practice by the Constitutional Court of RF, the Plenum or by the Presidium of the Supreme Courts of the RF and the Supreme Arbitration (Commercial) Court of the RF, have binding power for courts of the lower level. The Supreme Courts<sup>5</sup> have been making further efforts to increase the role of the decisions of higher courts in judicial decisions. They have also acted to move the Russian judicial system away from selective and inconsistent implementation of legislation and towards case law<sup>6</sup> by making joint decisions of the Plenums of the both Supreme courts on a judicial practice. This has been done to ensure the uniform understanding and implementation of the legislation by all courts of the RF.<sup>7</sup> Given the fact that the judicial practice has not become a particular significant source for NGOs' regulation, only a number of select decisions of the higher courts will be analysed below.<sup>8</sup> These decisions were selected in the Courts' database, relying on criteria on relevancy for a discussed issue, for example, litigating against the Governmental decisions or protecting citizens' rights.

***The NGO legislation.*** Rights of NGOs to participate in environmental governance and their capacities to contribute in the shaping and implementation of environmental policies at all levels of governance from international to local has been recognised in international law and

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<sup>3</sup> W. E. Butler, *Russian Law: Second Edition* (Oxford University Press, 2003), 91.

<sup>4</sup> Ibid, 87–88.

<sup>5</sup> These Supreme Court have been merging together in a course of court system reforming.

<sup>6</sup> In his speech on the Third Senate Reading in the Constitutional court of RF, the Chairman of the Supreme Commercial Court of the RF said that the judicial system in Russia was moving towards the transition to the case law, and he believed it was the right direction. However, there have been a number academics and practical lawyers who disagree with such categorical statement. They argue that this contradicts the doctrine of the separate powers and the Russian Law doctrine. See <http://pravo.ru/review/view/26629/>. The more discussions of a role of precedent in the Russian law, for example, Environmental law, can be found in the PhD dissertation of V. Nikishin, *Sudebnyj precedent kak istochnik ekologicheskogo prava Evropejskogo soyuza i Rossii: sravnitel'no-pravovoj analiz*. [Case Law as a source of Environmental law of the European Union and Russia: a Comparative Legal Analysis] (Kandidat yuridicheskikh nauk [Doctor in Law] Thesis, The Institute of State and Law of the Russian Academy of Science, 2011).

<sup>7</sup> This information has been obtained from the official web-site of the Supreme Arbitration (Commercial) Court the RF <http://www.arbitr.ru/eng/sac/>, the last access on 2/12/2014.

<sup>8</sup> For example, *Postanovlenie Prezidiuma Vysshego Arbitrazhnogo Suda Rossijskoj Federatsii ot 28 iulya 2011 N 2902/11* [Resolution of the Presidium of the Supreme Arbitration Court of the Russian Federation 28 July 2011 N 2902/11] (Russia) on a taxation of foreign grant and donations for non-commercial organisations.

international statements.<sup>9</sup> International law is one of the sources for Russian domestic legislation and Russia has incorporated international norms in its domestic legislation. For example, fundamental rights, such as the freedom of associations<sup>10</sup> and rights to information<sup>11</sup> enshrined in international law have been incorporated in Russian Law. *The Constitution of the Russian Federation*<sup>12</sup> contains articles:

- on the rights of the citizens for freedom of associations (Article 30)
- the right to assemble peacefully, without weapons, hold rallies, meetings and demonstrations, marches and pickets (Article 31)
- the right of the citizens to favourable environmental, reliable information about their state and for a restitution of damage inflicted on his/her health and property by ecological transgressions (Article 42)

All these constitutional norms have a general character and they are specified in laws and codes.

Jurisdiction over NGOs is far from straightforward. Protection of the rights and freedoms of citizens is the joint jurisdiction of the Russian Federation and its subjects.<sup>13</sup> However, considering the centralisation of the power in Russia on the federal level and the principle of hierarchy of laws, the operation of NGOs and their rights and responsibilities to participate in environmental governance is mainly regulated by federal laws. The legal status of NGOs in Russia, their definitions, aims and forms of activity, rights and responsibilities and possible legal forms are established in Federal laws and subordinated legislation, for example, Decrees, Orders, Rules, Intrusions and other legislation of executive bodies. The legislation, which sets the rules and procedures for NGOs' operations, includes the *Federal Law on Public Associations*,<sup>14</sup> *Federal Law on Non-Commercial Organisations*,<sup>15</sup> the *Civil Code*,<sup>16</sup>

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<sup>9</sup> *Agenda 21: Programme of Action for Sustainable Development*, U.N. GAOR, 46th Sess., Agenda Item 21, UN Doc A/Conf.151/26 (14 June 1992), available at <http://www.unep.org/Documents/Multilingual/Default.asp?DocumentID=52&ArticleID=75&l=en>; 1992 *Rio Declaration on Environment and Development*, 31 ILM 874 (1992) (signed and entered into force 14 June 1992), principle 10, available at <http://www.unep.org/Documents/Multilingual/Default.asp?documentid=78&articleid=1163>, the last access at 29/04/2014.

<sup>10</sup> The Universal Declaration of Human Rights, 1948, Article 19, 20, The International Covenant on Civil and Political Rights and Freedoms, 1966, Article 20, *Convention on Fundamental Rights and Freedoms*, opened for signature 4 November 1950, CETS No 005 (entered into force on 3 September 1953), Article 11.

<sup>11</sup> The Universal Declaration of Human Rights, 1948, Article 19.

<sup>12</sup> *Konstitutsiya Rossijskoj Federatsii, 1993* [Constitution of the Russian Federation, 1993] (Russia).

<sup>13</sup> *Konstitutsiya Rossijskoj Federatsii, 1993* [Constitution of the Russian Federation, 1993] (Russia), Article 72, 76.

<sup>14</sup> *Federalnyj Zakon ot 19 maya 1995 N18-Φ3 "Ob obshchestvennyh ob'edineniyah"* [Federal Law 19.05.1995 N 82-FZ On Public Associations] (Russia).

<sup>15</sup> *Federalnyj Zakon RF 7-FZ ot 12 yanvarya 1996 "O nekommercheskih organizatsiyah"* [Federal Law of the RF 12 January 1996 N 7-FZ On Non-Commercial Organisations] (Russia).

<sup>16</sup> *Grazhdanskiy Kodeks RF, chast 1, 1994* [Civil Code, Part 1, 1994] (Russia).

the *Administrative Code*,<sup>17</sup> the *Federal Law on Meetings, Rallies, Demonstrations, Marches and Pickets*,<sup>18</sup> the *Tax Code*,<sup>19</sup> the *Federal Law on Charitable Activities*<sup>20</sup> and other normative acts, such as the *Order of the President of the Russian Federation* (2013 N 115-p). 'On provision in the 2013 state support for non-governmental organisations implementing social projects and participating in the development of civil society.'<sup>21</sup> These and other laws are commonly referred as 'the NGO law' in English by the media and foreign and international researches.

The regions of the federation also have rights to enact their own legislation on NGOs. At the regional level, the Constitutions and charter of the regions recognises and guarantees the provisions of the Federal Constitution on freedoms and rights of associations and citizens.<sup>22</sup> The regions of Russia usually regulate such specific issues as local tax regulations for NGOs or regional support of socially-oriented NGOs and vary from region to region depending on regional budget. Examples of such regulations are the Law of Moscow on the interaction of public authorities in Moscow with non-commercial organisations<sup>23</sup> and the Law of the Nizhny Novgorod region on 7 May 2009 (N 52-Z), 'On state support of socially-oriented non-commercial organisations in the Nizhny Novgorod region'.<sup>24</sup> These provisions of regional legislations on NGO rights largely duplicate the federal legislation; however, each region develops and establishes their procedures and bodies for interactions between the regional authorities and ENGOs for their cooperation, supported by regional budgets.

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<sup>17</sup> *Kodeks Rossiyskoj Federatsii ob administrativnykh pravonarusheniyah, 2001* [Code of the Russian Federation on Administrative Violations, 2001] (Russia).

<sup>18</sup> *Federalnyj Zakon RF ot 19 iyunya 2004 N 54-FZ "O sobraniyah, mitingah, demonstratsiyah, shestviyah i piketirovaniyah"* [Federal Law 19 June 2004, N 54-FZ "On Meetings, Rallies, Demonstrations, Marches and Pickets"] (Russia).

<sup>19</sup> *Nalogovyy Kodeks Rossiyskoj Federatsii, Chast 2, 2000* [Tax Code of the Russian Federation, Part 2, 2000] (Russia).

<sup>20</sup> *Federalnyj Zakon RF ot 11 avgusta 1995 N 135-FZ "O blagotvoritelnoj dejatel'nosti i blagotvoritelnykh organizatsiyah"* [Federal Law of the RF 11 August 1995 N 135-FZ "On Charity and Charitable Organisations"] (Russia).

<sup>21</sup> *Rasporyazhenie Prezidenta RF ot 29 marta 2013 N 115-rp* [Order of the President of the RF 29 March 2013 N 115-rp] (Russia).

<sup>22</sup> For example, Articles 12, 30, 31 of the *Constitution of the Republic of Mari El*, Articles 12, 35, 36 of the *Constitution of the Republic of Bashkortostan*, Article 7 of the *Charter of Nizhny Novgorod*, Articles 4, 69 of the *Charter of Moscow*.

<sup>23</sup> *Zakon Moskvy ot 12 iulya 2006 N 38 "O vzaimodeystvii organov gosudarstvennoj vlasti goroda Moskvy s negosudarstvennymi nekommercheskimi organizatsiyami"* [Law of Moscow 12 July 2006 N 38 'On Interactions of Public Authorities in Moscow with Non-Commercial Organisations'] (Russia).

<sup>24</sup> This Law of Nizhny Novgorod region sets up the rights of NGOs to participate and assist the state bodies in the organisation, protection and operation of protected areas carry out public control and conduct other activities related to the work of reserves. Forms and procedures of the state support are detailed in regional sub-normative acts. The legislation on the natural resources management and environmental protection are also the joint jurisdiction of the RF and the subjects of the RF. Therefore, this legislation also may contain some norms regulation NGOs activities.

**Environmental laws.** Domestic environmental legislation and international environmental law are also sources of law for regulating ENGOs. These laws, including the *Federal law on the Environmental Protection*,<sup>25</sup> the *Land Code*,<sup>26</sup> the *Forest Code*,<sup>27</sup> the *Law on the Natural Protected Areas*,<sup>28</sup> the *Law on Environmental Expertise (EIA)*<sup>29</sup> and others establish the rights of NGOs to participate in nature protection activities. For example, through cooperation with the state, litigations, public hearings, monitoring the state of nature and implementation of laws and other procedures for this participation, including public hearings, and public environmental expertise (EIA). The implementation of these rights by ENGOs and its issues will be discussed in Chapter 6.

In general, operation of ENGOs in Russia is regulated by administrative, civil, tax and environmental laws at all level of governance—international, domestic and regional—and sub-regulations of the relevant state, federal, regional and local bodies. The key laws on NGO operation in Russia are discussed in more detail in the next sections.

### **3. International law as a source of legal regulations for NGOs**

Like domestic law, international laws can create or hamper opportunities for ENGOs' activity in environmental governance, enhancing or limiting their agency. This section provides examples of influence of international laws on domestic legislation and a lack of legal mechanisms for enforcement of the international norms.

Over the past 40 years, the role of NGOs in international environmental treaties has evolved from assistance and observation, for example in the 1973 Convention on International Trade in Endangered Species,<sup>30</sup> to provisions on more active collaboration with states, for example, in the sphere of biodiversity,<sup>31</sup> or in solving climate change issues at different levels from negotiations to implementation. Recently, NGOs have also begun to participate as third

<sup>25</sup> Federalnyj Zakon RF ot 10 yanvarya 2002 N 7-FZ 'Ob ohrane okruzhayushej sredy' [The Federal Law of the RF 10 January 2002 N 7-FZ 'On the Environmental Protection'] (Russia), Articles 12, 68.

<sup>26</sup> *Zemelnyj Kodeks Rossijskoj Federatsii, 2001* [Land Code of the RF, 2001] (Russia), Articles 1, Part 4, Article 31, Part 3, Article 72, Part 3.

<sup>27</sup> *Lesnoj Kodeks Rossijskoj Federatsii, 2006* [Forest Code of the RF, 2006] (Russia), Article 1 (7)

<sup>28</sup> *Federalnyj Zakon RF ot 14 marta 1995 N 33-FZ 'Ob osobo ohranyaemyh prirodnyh territoriyah'* [Federal Law of the RF 14 March 1995 N 33-FZ from On Specially Protected Natural Areas] (Russia), Article 5.

<sup>29</sup> *Federalnyj Zakon RF ot 23 noyabrya 1995 N 174-FZ 'Ob ekologicheskoy ekspertize'* [Federal Law of the RF 23 November 1995 N 174-FZ 'On Ecological Expertise'] (Russia), Article 1, Articles 19–25.

<sup>30</sup> More on the history of a development of provisions on the NGO's role in international treaties can be found K. Raustiala, 'States, NGOs, and International Environmental Institutions' (1997) 41(4) *International Studies Quarterly* 719, 722-724.

<sup>31</sup> *Convention on Biological Diversity*, signed 5 July 1992, 1760 UNTS 79 (entered into force 29 December 1993), Preamble.

parties in investor–State disputes increasing transparency of international arbitral processes.<sup>32</sup> This shift can have important implications in Russia because norms and principles of international treaties ratified by Russia are also a source of law in Russia, as mentioned above. According to the Constitution of the RF, the universally-recognised norms of international law and international treaties in which the Russian Federation (sometimes as a successor of the Soviet Union) participates are a part of the Russian legal system. An international treaty or agreement of the Russian Federation is applied if it contains other rules than those envisaged by domestic legislation.<sup>33</sup>

Certainly, the Russian Government has ratified a number of treaties that have created opportunities for NGO engagement in environmental governance. Agenda 21 recognises the vital role of NGOs in shaping and implementing participatory democracy<sup>34</sup> and can serve an impetus for legal and institutional framework for NGO participation in environmental governance. It recommends national governments to (i) consider the rights and responsibilities of these organisations; (ii) efficiently channel integrated non-governmental inputs to the governmental policy development process; and (iii) facilitate non-governmental coordination in implementing national policies at the programme level and develop mechanisms to allow NGOs to play their partnership role in the process of environmental and sustainable development.<sup>35</sup> The Russian Government has taken a number of steps to integrate these recommendations at the national level in regards to the establishment of participatory forums and public discussions of the laws. However, these forums remain ineffective and discussed in more details in Chapter 6.

Another example comes from the sphere of climate change regulation. The ratification of the UN FCCC and the Kyoto Protocol<sup>36</sup> was a major step in forming Russian domestic climate policy and accepting a threat of climate change. General provisions of the UN FCCC and the Kyoto Protocol required an establishment of domestic institutions and legislation.<sup>37</sup> As a

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<sup>32</sup> K. Tienhaara, 'Third Party Participation in Investment-Environment Disputes: Recent Developments' (2007) 16(2) *Review of European Community & International Environmental Law* 230, 233.

<sup>33</sup> *Konstitutsiya Rossijskoj Federatsii*, 1993 [Constitution of the Russian Federation, 1993] (Russia), Article 1

<sup>34</sup> *Agenda 21: Programme of Action for Sustainable Development*, U.N. GAOR, 46th Sess., Agenda Item 21, UN Doc A/Conf.151/26 (14 June 1992), Section 27.1.

<sup>35</sup> *Ibid*, Article 27.5.

<sup>36</sup> It should be noted that the process of ratification of the Kyoto protocol took several years from signing the protocol in 1997 and its ratification in 2004 and enormous contributions to the ratification were made by WWF and Greenpeace and their branches in Russia.

<sup>37</sup> Article 4 of the UNFCCC: which states 'All parties ... formulate, implement, publish and regularly update national ... programs containing measures to mitigate climate change and measures to facilitate adequate adaptation to climate change.'

result, the Climate Doctrine of the RF,<sup>38</sup> which contains the main principles and ways of implementation of climate policy in Russia, both on the national and international level, was enacted in 2009. Although the Climate Doctrine establishes the principle of the openness of discussion and public participation in these discussions,<sup>39</sup> implementation of the Climate Doctrine provisions on NGO participation is problematic because it does not contain specific mechanisms of this participation.

A major gap exists in Russian law when it comes to the Aarhus Convention,<sup>40</sup> which is the major international treaty on the rights of NGOs to participate in environmental decision making. The Aarhus Convention establishes minimum standards regarding environmental democracy in three key areas: access to information, public participation and access to justice.<sup>41</sup> The Convention requires the Parties to make the necessary provisions in domestic legislation to provide effective implementation of these rights, which can enhance the capacity of ENGOs. Indeed, Articles 6, 7 and 8 of the Convention encourage parties to develop mechanisms for greater ENGO engagement in decision making around plans, programmes and policies and legally-binding rules.

The Aarhus Convention has not yet been ratified by Russia. It has been announced several times<sup>42</sup> that the MNR is working on documentation for the ratification and harmonisation of the domestic laws to comply with the Convention,<sup>43</sup> but the process is very slow and when the Convention will be ratified is still unclear. Although this has been mooted, there has been little progress to date on the ratification of the Convention, which demonstrates that the current government has no desire to ratify the Convention.

The domestic legislation already contains a range of rights to receive information and to take legal actions,<sup>44</sup> however, due to a lack of legal mechanisms, enforcement of these rights is

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<sup>38</sup> *Rasporyazhenie Prezidenta RF ot 17 dekabrya 2009 N 861-rp* [Order of the President of the RF 17 December 2009 N 861-rp] (Russia).

<sup>39</sup> *Ibid*, par. 11.

<sup>40</sup> *Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters*, opened for signature 25 June 1998, 2161 UNTS 447 (entered into force 30 October 2001).

<sup>41</sup> T. O'Brien, 'Shifting Views of Environmental NGOs in Spain and Romania' (2009) 9(1-2) *Southeast European and Black Sea Studies* 143, 146–147.

<sup>42</sup> Available at [http://www.mnr.gov.ru/news/detail.php?ID=127881&sphrase\\_id=326083](http://www.mnr.gov.ru/news/detail.php?ID=127881&sphrase_id=326083), [http://www.mnr.gov.ru/activities/detail.php?ID=134408&sphrase\\_id=540781](http://www.mnr.gov.ru/activities/detail.php?ID=134408&sphrase_id=540781), the last access on 10/02/2015.

<sup>43</sup> *Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters*, opened for signature 25 June 1998, 2161 UNTS 447 (entered into force 30 October 2001, Article 3, Part 1).

<sup>44</sup> *Federalnyj Zakon RF ot 10 yanvarya 2002 N 7-FZ 'Ob ohrane okruzhayushej sredy'* [Federal Law of the RF 10 January 2002 N 7-FZ 'On the Environmental Protection'] (Russia), Article 12.

weak. Moreover, the ratification would induce private businesses to disclose information on their current and planning industrial and business activities that may affect the environment. That is, an enactment of this law would require mandatory publication in open sources (such as the Internet) of business plans that would affect the environment. In addition, businesses would be required to respond to NGOs' inquiries on these activities. Now businesses do not have to provide this information. Initially, ENGOs did not support the ratification of the Convention, fearing that provisions of the Convention on rights of national states to limit access to certain information (Article 12 of the Convention) would limit their rights, because the Russian domestic legislation gave them more rights.<sup>45</sup> However, later domestic legislation on information also restricted these rights<sup>46</sup> (as discussed in more detail in Chapter 6). In addition, traditionally weak enforcement of domestic laws (discussed in Chapter 3) has changed this position of ENGOs. Nowadays, ENGOs in Russia lobby for the ratification of the Convention<sup>47</sup> in order to improve access to environmental information and implementation of their legal rights. Further discussion on the ratification of the Convention is in Chapter 5.

To conclude, although international norms are recognised in Russian legislation and a number of their recommendations have been introduced in Russia, enforcement of their provisions on NGO rights and responsibilities remains poor. Often, domestic legislation often only declares the international norms, but does not create effective legal mechanisms for their implementation. Further, implementation of these rights is hampered by domestic laws, discussed below and there is a need to better enforcement of international norm in the domestic legislation to ensure the full legal capacity of NGO to act established by these international norms.<sup>48</sup> The Aarhus Convention, a major Convention on the rights of NGOs, free access to ecological information and to justice, has not been ratified.

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<sup>45</sup> Zakharchenko, T., *On the Way to Transparency: A Comparative Study on Post-Soviet States and the Aarhus Convention* (Woodrow Wilson International Center for Scholars, 2009), 25.

<sup>46</sup> *Federalnyj Zakon RF ot 27 iulya 2006 N 149-FZ 'Ob informatsii, informatsionnyh tekhnologiyah i o zashhite informatsii'* [Federal Law 27 July 2006 N 149-FZ 'On Information, Information Technologies and Protection of Information'] (Russia).

<sup>47</sup> For example, WWF Russia promotes the ratification, see at [http://www.wwf.ru/about/what\\_we\\_do/law](http://www.wwf.ru/about/what_we_do/law), WWF has published a booklet explaining key provisions of the Convention, available at <http://www.wwf.ru/resources/publ/book/854>, the last access on 13/05/2014.

<sup>48</sup> For more discussions on the issues of the manner in which domestic law and international law see A. Dhanda, 'Legal Capacity in the Disability Rights Convention: Stranglehold of the Past or Lodestar for the Future' (2006) 34 *Syracuse Journal of International Law and Commerce* 429.



## 4. Reforms of laws regulating NGOs

### 4.1 General provisions of the NGO law

This section of the chapter provides more a detailed discussion of laws regulating NGOs in Russia. The legal status of non-governmental organisation, their freedoms, rights and duties, procedures for foundations, activities, reorganisation, liquidation of non-commercial organisations, property use and management of organisations, their possible organisational forms and possible forms of government support and rights of state bodies supervising NGOs can be found in various laws and sub-legislation. This chapter will focus on key laws relevant to the regulation of NGOs:

- the *Law on Public Associations*<sup>49</sup>
- the *Law on Non-Commercial Organisations*<sup>50</sup>
- the *Civil Code*<sup>51</sup>

This part of the thesis demonstrates the complexity of the legal regulation of NGOs, the diversity of the legal forms of NGOs and the manner in which state bodies can exercise control over NGOs.

According to Russian law, a broad name for a non-profit, non-governmental organisation is a public organisation (association). These organisations are mainly regulated by the *Law on Public Associations* and the *Law on Non-Commercial Organisations*. Provisions of these laws complement each other and refer to each other, which can make regulations confusing (e.g., in regards to legal definitions of public organisations).

The main features of NGOs are defined by the *Law on Public Associations* and the *Law on Non-Commercial Organisations*. Under the *Law on Non-commercial Organisations* (Article 2), receiving profit is a not a main purpose of activity of non-commercial organisations (NCOs). Income from their business activities are not distributed among the participants. NCOs are established to achieve social, charitable, cultural, educational, scientific and management purposes, in order to protect public health, the development of physical culture and sports, meet the spiritual and non-material needs of citizens, protection of rights and legitimate interests of citizens and organisations, settling disputes and conflicts, legal

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<sup>49</sup> *Federalnyj Zakon ot 19 maya 1995 N18-Φ3 'Ob obshchestvennyh ob'edineniyah'* [Federal Law of the RF 19.05.1995 N 82-FZ On Public Associations] (Russia).

<sup>50</sup> *Federalnyj Zakon RF 7-FZ ot 12 yanvarya 1996 'O nekommercheskih organizatsiyah'* [Federal Law of the RF 12 January 1996 N 7-FZ On Non-Commercial Organisations] (Russia)

<sup>51</sup> *Grazhdanskiy Kodeks RF, chast 1, 1994* [Civil Code of the RF, Part 1, 1994] (Russia).

assistance, as well as for other purposes, aimed at achieving public benefit. Therefore, NCOs have a broad definition and public organisations (associations) are one of the forms of NCO. Non-governmental public organisations (NPOs) are specified by the *Law on Public Associations* (Article 5) as voluntary, self-governed, non-profit organisations, created on the initiative of citizens and united by common interests to pursue common goals. These definitions are unclear and overlapping, and therefore, as mentioned in Chapter 1, the common name for these organisations used in this thesis is NGOs, or ENGOs for environmental groups.

Implementation of citizens' rights to organise, establish and manage public organisations, as well as general provisions on reorganisation and liquidation of public associations, is regulated by the *Law on Public Associations* (Article 3). Public associations can be established and operate without registration with the competent governmental body.<sup>52</sup> However, registration in the Ministry of Justice's records is mandatory in order to receive a legal capability. Without registration, public associations cannot own property or represent themselves in court cases or have other rights to operate normally and achieve the goals of their foundation.<sup>53</sup> Thus, a majority of groups are commonly registered as legal entities with the Ministry of Justice or its regional branches in accordance with the *Law on Public Associations* and the *Law on Non-Commercial Organisations*. These laws determine legal status, a procedure for registration of organisations, rules on the establishment, operation, reorganisation and liquidation, rights and responsibilities of founders (participants), management framework and possible forms of state support of NCOs, including public associations registered as legal entities in further detail.<sup>54</sup> In summary, for public associations registered as legal entities, norms of both the *Law on Public Associations* and the *Law on Non-Commercial Organisations* are applied.

Public associations can be organised in different legal forms depending on their purposes. The *Law on Non-Commercial Organisations* (Article 2, Part 3) provides a broad range of legal forms for NCOs, such as public or religious organisations (associations), non-commercial partnerships, institutions, autonomous NCOs, social, charitable and other foundations, associations and unions, as well as other forms in accordance with other laws. The *Law on*

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<sup>52</sup> *Federalnyj Zakon ot 19 maya 1995 N18-Φ3 'Ob obshchestvennykh ob'edineniyah'* [Federal Law of RF 19.05.1995 N 82-FZ On Public Associations] (Russia), Article 3, Paragraph 4.

<sup>53</sup> L. Henry, *Red to Green: Environmental Activism in Post-Soviet Russia* (Cornell University Press, 2010), 47-48.

<sup>54</sup> *The Civil Code of the RF* also contains general provision on establishment, operation, organisation and liquidation, management of non-commercial organisations.

*Public Associations* provides the following legal forms for public organisations:<sup>55</sup> public organisation, public movement, public foundation, public institution, amateur organisation (*organ obshchestvennoi samodeiatelnosti*) and political party.<sup>56</sup> Most domestic environmental organisations are registered as public associations,<sup>57</sup> foundations<sup>58</sup> and institutions.<sup>59</sup>

In general, these different forms of NGOs can be distinguished depending on membership/non-membership status, governance of organisations, property rights of their founders over the assets of organisations, and liability of their founders. Table 4 provides an overview of common characteristics of different NGO forms. Each ENGO can select the most suitable legal form for its work considering purposes of organisation, membership size, abilities of NGOs to manage internal governance (e.g., internal management is more complicated in Funds), scale of activities and founders (e.g., branches of international NGOs). Founders of the organisation and members can change their organisational form over time, depending on what is most suitable for their changing purpose and conditions (e.g., size of the organisation, financial and material resources). For example, Dront has existed in various organisational forms, including as an institution (*uchrezhdenie*) and association. In 2012, it was again in a process of changing its organisational form to simplify its accounting reports for the Tax Office.<sup>60</sup> These changes have to be registered with the regional branch of the Ministry of Justice.

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<sup>55</sup> Although political parties are legally defined as public associations their main purposes are political activities through shaping and expression of a political will of citizens, participation in political actions, and representation interests of citizens in government and their activities are regulated by a special legislation. As their purposes are different from socially beneficial public purposes of NGO and they are not in the scope of this study. *Federalnyj Zakon RF ot 11 iulya 2001 N 95-FZ 'O politicheskikh partiya'* [Federal Law of the RF of 11 July 2001 N 95-FZ 'On Political Parties'] (Russia), Article 3.

<sup>56</sup> *Federalnyj Zakon ot 19 maya 1995 N18-Φ3 'Ob obshchestvennykh ob'edineniyakh'* [Federal Law of the RF 19.05.1995 N 82-FZ On Public Associations] (Russia), Article 7.

<sup>57</sup> *Federalnyj Zakon RF 7-FZ ot 12 yanvarya 1996 'O nekommercheskikh organizatsiyakh'* [Federal Law of the RF 12 January 1996 N 7-FZ On Non-Commercial Organisations] (Russia), Article 17. A legal status of these type of organisations is also defined in *the Civil Code*, article 117, *the Law on Public Associations*, Article 8.

<sup>58</sup> *Ibid*, Article 7. A legal status of these types of organisations is also defined in *the Civil Code*, article 118(1), *the Law on Public Associations*, Article 10.

<sup>59</sup> *Ibid*, Article 11. A legal status of these types of organisations is also defined in *the Civil Code*, Article 120, *the Law on Public Associations*, Article 35.

<sup>60</sup> Interview 11.

**Table 4. Legal forms of NGOs in Russia**

| <b>Form of NGO</b>   | <b>Definition and purpose of organisation</b>   | <b>Management bodies</b>   | <b>Examples of ENGOS</b>  |
|--|---|--|---|
| <b>Public association</b><br>(organisation)<br>(Article 8 of the <i>Law on Public Associations</i> , Article 6 of the <i>Law on Non-Commercial Organisations</i> )   | Joint activity to protect common interests and achieve the statutory goals  | The highest governing body—a congress (conference) or general meeting of members. A permanent governing body—is the Board elected and by a congress (meeting) and accountable to it?   | ‘Environmental Center Dront’), ‘Environmental Watch on North Caucasus’ (Ekovahta); ‘Pink Dandelion’; ‘Green League’; ‘International Socio-Ecological Union’ (SEU); Bellona (St. Petersburg Public Organisation Environmental Rights Center ‘Bellona’) |
| <b>Public movement</b><br>(Article 9 of the <i>Law on Public Associations</i> )  | Non-membership mass public association, pursuing social, political, and other social purposes, supported by the participants of the public movement | As above   | Movement to defence Khimkinsky Forest: ‘Save Utrish!’ movement (not registered as a legal entities <sup>61</sup> ); Local public ecological movement ‘Green Belokuriha’   |
| <b>Public institution (uchrezhdenie)</b><br>(Article 11 of the <i>Law on Public Associations</i> )   | The purpose is providing specific types of services that meet the interests of the parties and the relevant statutory goals of the association      | Governance of public institution and its property is exercised persons appointed the founder(s)  | Dront (registered as Nizhny Novgorod regional public institution ‘Ecological Center’ ‘Dront’ Nizhny Novgorod Branch of the Socio-Ecological Union <sup>62</sup> )   |
| <b>Public fund</b><br>(Article 10 the <i>Law on Public Associations</i> , the <i>Civil Code</i> Articles 118–119),<br><b>Non-commercial, charitable fund</b><br>(Article 7 of the <i>Law on Non-Commercial Organisations</i> ) | It is established on a basis of voluntary contributions, for public benefit purposes  | A governing body is formed by the founders and/or participants or decision of the founders of public fund, taken as a recommendation or personal appointments, either by election participants at the congress (conference) or meeting; a board of Trustees supervises the operation of the fund | Kaliningrad regional public fund ‘Social Ecology’; Charitable Foundation ‘Ecological Initiative’; WWF Russia (non-commercial fund)  |
| <b>Unions (associations) of public associations</b><br>(Article 13 of the <i>Law on Public</i>   | These are voluntary association of commercial or non-profit organisations to coordinate activities and to represent and protect                     | The highest governing body—a congress (conference) or general meeting of members   | Association of public environmental organisations of Khanty-Mansiysk Autonomous Okrug - Ugra ‘Ugra Environmental  |

<sup>61</sup> The Information portal of the Ministry of Justice of Russia does not contain information about any registered public movement on the date 04/05/2014. This means that they operate without the state registration. See <http://unro.minjust.ru/NKOs.aspx>, the last access on 04/05/2014.

<sup>62</sup> Available at: <http://unro.minjust.ru/NKOs.aspx>, the last access on 04/05/2014.

| <i>Associations)</i>  | their common interests   |   | Consortium <sup>7</sup>  |
|---|--|---|--|
| <b>Foreign non-commercial non-governmental organisation</b><br>(Article 2, Part 4 of the <i>Law on Non-Commercial Organisations</i> ) | Such an organisation does not have profit as the main objective of the activity and income is not distributed among the participants. This organisation is established outside the territory of the Russian Federation in accordance with the laws of a foreign country. Founders (participants) are not state bodies. The state registration is mandatory in the form of a branch of foreign organisation | In accordance with charter of organisations | Greenpeace Russia (branch of the international non-governmental non-commercial organisation 'Greenpeace Council' — Greenpeace); Baikal Center of Environmental and Civil Initiatives (Branch 'Earth Island Institute' [USA]) |

NGOs in Russian are also classified by the Law depending on a scale of their operation on international All-Russian, interregional, regional and local public associations.<sup>63</sup>

Internal management of different types of organisations, property rights of founders and their liability are also regulated by the laws on public associations and NCOs, as well as the Civil Code. These procedures of internal management are carried out by members of organisations and were indicated by ENGO respondents as internal issues that could be usually solved by members.<sup>64</sup> Therefore, internal management of ENGOs is not the focus of this study.<sup>65</sup>

A broad range of legal and financial controlling mechanisms of NGO is established by Articles 29 and 38 of the *Law on Public Associations* and Article 32 of the *Law on Non-Commercial Organisations*. The Ministry of Justice is a main state supervisory body on NGO activity and it has a broadrange of controlling mechanisms: to demand the documents relevant to management and operation of NGO; to send representatives to an organisation's events and activities; to carry out inspections of NGOs; to review the compliance of organisations with their purposes and others. Other state bodies, such as the Prosecutor's Office, the Inspections of Federal Tax Service, the Fire Inspections and other state law enforcement bodies also have rights to supervise conformity of NGOs with the legislation.

<sup>63</sup> *Federalnyj Zakon ot 19 maya 1995 N18-Φ3 'Ob obshchestvennyh ob'edineniyah'* [Federal Law of the RF 19.05.1995 N 82-FZ On Public Associations] (Russia), Article 14, 21, 47.

<sup>64</sup> Interview 1, 3, 6, 8.

<sup>65</sup> Researchers note that internal organisational management is one of relative strengths of civil society in Russia. L. Jakobson et al, 'Civil Society in Modernising Russia' (The Centre for Studies of Civil Society and the Non-for-Profit Sector of the National Research University 'Higher School of Economics', 2011), 25.

The Laws also establish grounds, terms and procedures on unscheduled inspections to control compliance of the organisations with the legislations.<sup>66</sup>

These measures also include duties of NGOs to report on their activities and finances to the state controlling bodies, such as the Ministry of Justice and its regional branches and to the Inspections of Federal Tax Service.<sup>67</sup> Measures on transparency of NGOs' activities, funding and members also impose duties on NGOs and controlling bodies to make this information available through the Internet.<sup>68</sup>

Thus, the NGO law establishes the main key areas of regulation of NGO activity, including definition of NGOs; establishment, state registration, reorganisation and liquidation of NGOs; legal forms, internal management and business activities; rights, duties and responsibilities of NGOs; and the state support and oversight. The *Law on Public Associations* and the *Law on Non-Commercial Organisations* have a similar scope of regulation and while the *Law on Non-Commercial Organisations* has broadened the list of the legal forms of NGOs and contains more detailed provisions on NGO reporting, state support and oversight, provisions of these laws often overlap and refer to each other's provisions. For example, there is overlap in regulating public associations (organisations) with foreign funding (Article 29 of the *Law on Public Associations*). Table 5 briefly describes the main areas in regulating NGOs and key laws that contain relevant provisions.

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<sup>66</sup> *Federalnyj Zakon ot 19 maya 1995 N18-Φ3 'Ob obshestvennyh ob'edineniyah'* [Federal Law of the RF 19.05.1995 N 82-FZ On Public Associations] (Russia), Article 29(6), *Federalnyj Zakon RF 7-FZ ot 12 yanvarya 1996 'O nekommercheskih organizatsiyah'* [Federal Law of the RF 12 January 1996 N 7-FZ On Non-Commercial Organisations] (Russia), Article 32 (4.1).

<sup>67</sup> *Federalnyj Zakon ot 19 maya 1995 N18-Φ3 'Ob obshestvennyh ob'edineniyah'* [Federal Law of the RF 19.05.1995 N 82-FZ On Public Associations] (Russia), Article 29, *Federalnyj Zakon RF 7-FZ ot 12 yanvarya 1996 'O nekommercheskih organizatsiyah'* [Federal Law of the RF 12 January 1996 N 7-FZ On Non-Commercial Organisations] (Russia), Article 32 (1).

<sup>68</sup> *Federalnyj Zakon ot 19 maya 1995 N18-Φ3 'Ob obshestvennyh ob'edineniyah'* [Federal Law of the RF 19.05.1995 N 82-FZ On Public Associations] (Russia), Article 29, 38; *Federalnyj Zakon RF 7-FZ ot 12 yanvarya 1996 'O nekommercheskih organizatsiyah'* [Federal Law of the RF 12 January 1996 N 7-FZ On Non-Commercial Organisations] (Russia), Article 32 (4).

**Table 5. NGOs: summary of legal regulations**

| Key areas in regulating operation of NGOs                                 | Key laws  |
|---|---|
| Definition of NGOs and general provisions                                 | The <i>Law on Public Associations</i> (Articles 1–5); the <i>Law on Non-Commercial Organisations</i> (Articles 1–5);  |
| Establishment, state registration, reorganisation and liquidation of NGOs | The <i>Law on Public Associations</i> (Articles 6, 15–26); the <i>Law on Non-commercial organisations</i> (Articles 13–23.1); the <i>Federal Law on Charitable Activities</i> (Article 9), the <i>Civil Code</i> (Articles 51–65); <i>Federal Law of 08/08/2001 N 129-FZ</i> ‘On state registration of legal entities and individual entrepreneurs’ |
| Legal forms, internal management and business activities                  | The <i>Law on Public Associations</i> (Articles 7–15, 30–37); the <i>Law on Non-Commercial Organisations</i> (Articles 6–12, 24–30.1); the <i>Federal Law on Charitable Activities</i> (Article 8–17), the <i>Civil Code</i> (Articles 50, 116–123)   |
| Rights, duties and responsibilities of NGOs                               | The <i>Law on Public Associations</i> (Articles 27–29, 39–47), the <i>Law on Non-Commercial Organisations</i> (Article 33), the <i>Administrative Code</i> (Article 19.7.5–2), environmental laws (relevant articles on rights of NGOs), the Law on meetings, rallies, demonstrations, marches and pickets  |
| State support and oversight   | The <i>Law on Public Associations</i> (Articles 17, 29, 38), the <i>Law on Non-Commercial Organisations</i> (Articles 31–31), the <i>Federal law on Charitable Activities</i> (Article 18–22)   |

The NGO legislation is still under reform. There have been a number of amendments to NGO law that have expanded the power of the state bodies to control NGOs, particularly foreign NGOs and NGOs with foreign funding in 2006–2014. Although these measures are supposed to make NGO management, activities and funding more accountable and transparent, researchers characterise these tools as ‘highly intrusive’ without appropriate procedural protections to prevent the state authorities from interfering in the internal operations of NGOs.<sup>69</sup> These issues are discussed below regarding the recent reforms of the NGO law.

<sup>69</sup> ‘NGO law Monitor: Russia’ (International Center for Not-for-Profit Law (ICNL), 2013).

The last reforms of NGO law and other relevant laws, which began in 2006, have had an enormous impact on the ways NGOs function. By focusing on amendments of 2009, 2010 and 2012, the positive and negative aspects of these amendments and main issues of the implementation of the new provisions, this chapter evaluates the way in which the state has influenced the operations of ENGOs. Recent positive changes in NGO law include simplification of reporting for domestic NGOs without funding from abroad and the state support of NGOs. Other changes, which the findings suggest are having a negative impact on ENGOs' agency, concern onerous reporting burdens for foreign-funded NGOs, attempts to undermine the legitimacy of foreign NGOs through labelling them 'foreign agents' and restricting organisation of public actions.

## **4.2 Positive changes for NGOs in the legislation**

***Reporting of domestic NGOs.*** Recently, there have been legislative changes on weakening of reporting for small domestic NGOs. These include simplification of formal reporting for NGOs, which have to meet the following criteria: the founders (participants, members) are not foreigners and/or stateless persons; the organisation did not receive property and money from foreign sources for the year; the amount of property and money received by the organisation during the year is not over three million rubles (approximately US\$88,700). These NGOs do not have to submit full reports on their activities, members and funding, but have to inform the Ministry of Justice that they continue to exist and are active. This form of reporting saves time and money, which are notoriously scarce for NGOs. More recently, the Ministry of Justice has prepared new electronic reporting forms for all NGOs, which also have substantially simplified the reporting process.<sup>70</sup>

Generally, simplified reporting and the state support of ENGOs enhance their capacities to produce environmental outcomes. However, despite this positive effect and considering a weak state society and controlling state, a danger of non-transparency of small domestic ENGOs and their capture by the state and private interest may arise.

***Public purpose status.*** The Russian law institution of 'socially-oriented NGOs' carrying out activities on solving social problems and developing civil society in Russia has been created similarly to charities or public purposes NGOs in Western countries. These amendments are aimed to demonstrate liberalisation of NGO legislation and to develop domestic NGOs to create a new group of NGOs that will be able to carry out the state functions of addressing

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<sup>70</sup> Ibid.



social problems, and to give more legitimacy to the state bodies. These NGOs have state support and tax benefits. The most common state support for this type of NGO includes grants and other financial and material support and social service delivery in forms of contracts to perform public beneficial works and activities. This support has increased in recent years.<sup>71</sup> The increase of state support for NGOs is also important for their operation, taking into account the low social trust and charitable culture in Russia, which was demonstrated by surveys conducted on the state of civil society in Russia<sup>72</sup> (discussed in more detail in Chapter 7).

In recent years, the roles of NGOs have expanded, as well as understanding of their roles in governance. Now, NGOs, as mentioned above, combine different functions. These functions include public advocacy, political lobbying and delivering social services in areas of governance where the state bodies have failed in their functions or their performance is ineffective and unsatisfactory. In Western countries, there is a special class of NGOs with public benefits purposes that have special legal status, receive state support (e.g., social contracts) and tax benefits (discussed in more detail in Chapter 5). In Russia, from the historical perspective (as discussed in Chapter 3) constructive relationships with the state bodies in the area of the environmental protection were the traditional mode of behaviour for the Soviet environmental groups from their emergence in the 1920s to the end of the 1980s. In the 1990s–beginning of the 2000s, the state funding of NGOs was minimal due to economic and political crises. Failure of the state to provide effective social policies has induced the Government to reconsider its policy towards NGOs and to create a special class of NGOs that would be able to deliver these social services to people by closely collaborating with the state authorities and receiving tax and other benefits from the state.

Therefore, similar to the institution of NGOs with public benefit purposes, the amendments in the *Law on Non-Commercial Organisations* have introduced a class of NGOs identified as having ‘socially-oriented’ purposes.<sup>73</sup> Under this law, the state supports ‘socially-oriented’ NGOs, which engage in activities aimed at solving social problems, the development of civil society and other activities, including social support and protection of citizens; assisting citizens to overcome the effects of natural disasters, environmental, technological and other disasters, and to prevent accidents; aid and support to victims of natural, technological and

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<sup>71</sup> J. Crotty, S.M. Hall and S. Ljubownikow, 'Post-Soviet Civil Society Development in the Russian Federation: The Impact of the NGO Law' (2014) 66(8) *Europe-Asia Studies* 1253, 1257.

<sup>72</sup> 'Report on the State of Civil Society in the Russian Federation 2009' (Civic Chamber of the Russian Federation, 2010).

<sup>73</sup> *Federalnyj Zakon RF 7-FZ ot 12 yanvarya 1996 'O nekommercheskih organizatsiyah'* [Federal Law of the RF 12 January 1996 N 7-FZ On Non-Commercial Organisations] (Russia), Article 31.1.

other disasters, social, national and religious conflicts, refugees and internally displaced persons; protection of the environment and animals; charity activity and others.<sup>74</sup> Accordingly, NGOs with the purpose of environmental protection and the protection of animals are legally recognised as ‘socially-oriented’ NGOs. On the regional level, relevant legislation on ‘socially-oriented’ NGOs has also been enacted.<sup>75</sup> The legislation on socially-oriented NGOs does not set any barriers for NGOs engaged in political activities or for NGOs with foreign funding for recognising them as ‘socially-oriented NGOs’.

The law sets up the two main types of state support<sup>76</sup> for these organisations. First is financial assistance (e.g., grants for NGOs), and a use of NGOs in providing social service delivery and works and services for state needs (social contracts). Second, is providing for these NGOs beneficial tax regimes.

Indeed, since 2011, funding for NGOs has actually increased from 3.9 billion to 11 billion rubles.<sup>77</sup> However, despite the increase of state funding in recent years, these grants are not available for all NGOs, and are often short-term and allocated for current projects<sup>78</sup> and would not be able to fully substitute foreign support. Respondents from ENGOs also pointed out difficulties in the implementation of provisions of NGO law on state support, particularly in the form of grants, citing corruption of organisers and a lack of transparency in the selection procedure.<sup>79</sup> As a result of the state capture, a class of ENGOs dependent on the state and helping the state to fulfill its environmental protection commitments can be expanded to legitimise the state.<sup>80</sup> These ENGOs, being a part of the state apparatus, have no incentive to extend their activities beyond the state’s regulatory agenda (in the literature they named as

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<sup>74</sup> Ibid, Articles 2, Section 2.1; 31.1, Section 1.

<sup>75</sup> For example, *Zakon Moskvy ot 12 iulya 2006 N 38 'O vzaimodejstvii organov gosudarstvennoj vlasti goroda Moskvy s negosudarstvennymi nekommercheskimi organizatsiyami'* [Law of Moscow 12 July 2006 N 38 'On Interactions of Public Authorities in Moscow with Non-Commercial Organisations'] (Russia); Resolution of the Government of Moscow of 19.02.2013 N 82-PP 'On Approval of the Procedure for granting subsidies from the budget of the city of Moscow socially oriented non-profit organisations'; *Zakon Nizhegorodskoj oblasti ot 07 maya 2009 N 52-Z* [Law of Nizhny Novgorod region 7 May 2009 N 52-Z] (Russia), and the Ministry of regional politics developed competitive selection procedure for socially-oriented non-profit organisations for grants from the regional budget, available at <http://government-nnov.ru/?id=140930>, the last access on 08/05/2014; similar laws and sub-laws have been enacted by other regions.

<sup>76</sup> For example, *Federalnyj Zakon RF 7-FZ ot 12 yanvarya 1996 'O nekommercheskih organizatsiyah'* [Federal Law of the RF 12 January 1996 N 7-FZ On Non-Commercial Organisations] (Russia), Articles 31.1, 31.3; *Zakon Moskvy ot 12 iulya 2006 N 38 'O vzaimodejstvii organov gosudarstvennoj vlasti goroda Moskvy s negosudarstvennymi nekommercheskimi organizatsiyami'* [Law of Moscow 12 July 2006 N 38 'On Interactions of Public Authorities in Moscow with Non-Commercial Organisations'] (Russia); *Nalogovyj Kodeks Rossijskoj Federatsii, Chast 2, 2000* [Tax Code of the Russian Federation, Part 2, 2000] (Russia), Article 251, Part 1.

<sup>77</sup> Tumanov G., 'Rossiya teryayet nekommercheskuyu sostavlyayushuyu [Russia loses non-commercial component]', *Kommersant* 4 December 2014, available at <http://kommersant.ru/doc/2624863>, the last access 4/12/2014.

<sup>78</sup> Ibid.

<sup>79</sup> Interview 6, 24, see also Crotty, Hall and Ljubownikow, see above n 71, 1260–1261.

<sup>80</sup> Crotty, Hall and Ljubownikow, see above n 71, 1267.

‘state affiliates’<sup>81</sup>). These difficulties may undermine the autonomy of small domestic ENGOs with state funding of their projects. Moreover, respondents from ENGOs said that the environmental protection is not on the agenda of authorities and the Government is more inclined to finance human rights groups to channel their activities.<sup>82</sup>

Second, as suggested by international practice, NGOs should be exempt from income tax on money or other material support received from donors or governments. Additionally, individuals and business entities should be entitled to income tax deductions for their donations to NGOs.<sup>83</sup> In Russia, the state has established a system of tax exemptions for NGOs and tax exemptions for donors supporting socially-oriented NGOs.<sup>84</sup> In order to access the benefits of the ‘socially-oriented’ status, environmental NGOs must be registered with the Ministry of Justice<sup>85</sup> and listed as socially-oriented NGOs.<sup>86</sup> Registration of an organisation as a charity or socially-oriented NGO does not give tax exceptions automatically; tax benefits have to be specified in tax laws, including regional laws.

Although the amendments in NGO law declare tax exemptions for financial support of socially-oriented NGOs (Article 31.1, Part 3 [2]), the *Tax Code* does not contain provisions for any federal tax deductions for companies and businesspersons registered as legal entities. This is because some changes to the *Tax Code* were made to introduce tax deductions for donations made by individuals, not businesses, to charitable and socially-oriented NGOs.<sup>87</sup> Therefore, the legal mechanisms of implementation of tax benefits for socially-oriented NGOs have not been fully developed yet. Thus, in its current form, tax law does not encourage Russian companies and firms to make grants and donations to NGOs.<sup>88</sup>

In 2011, amendments to the *Tax Code* established a more favourable tax regime for charities and socially-oriented NGOs.<sup>89</sup> NGOs no longer have to pay profit tax or value added tax

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<sup>81</sup> L. Henry, see above n 53, 138–137.

<sup>82</sup> Interview 3, 11, 24.

<sup>83</sup> C. J. Alberty, ‘Survey & (and) Critique of Russian Law & (and) Its Effect on NGOs’ (2004) 2 *International Journal of Civil Society Law* 12, 23–24.

<sup>84</sup> *Federalnyj Zakon RF 7-FZ ot 12 yanvarya 1996 ‘O nekommercheskih organizatsiyah’* [Federal Law of the RF 12 January 1996 N 7-FZ On Non-Commercial Organisations] (Russia), Article 31.1, Section 3.

<sup>85</sup> *Ibid*, Article 3.

<sup>86</sup> *Ibid*, Article 31.2.

<sup>87</sup> *Federalnyj Zakon RF ot 18 iulya 2011 N 235-FZ ‘O vnesenii izmenenij v chast vtoruyu Nalogovogo Kodeksa RF v chastii sovershenstvovaniya nalogooblozheniya nekommercheskih organizatsij i blagotvoritelnoj deyatelnosti’* [Federal Law of the RF 18 July 2011 N 235-FZ ‘On Amendments to the Tax Code of the RF in Terms of Improving the Taxation of Non-Profit Organisations and Charitable Activities’] (Russia).

<sup>88</sup> *Nalogovyj Kodeks Rossijskoj Federatsii, Chast 2, 2000* [Tax Code of the Russian Federation, Part 2, 2000] (Russia), Article 251, Part 1 (42, 43).

<sup>89</sup> *Federalnyj Zakon RF ot 18 iulya 2011 N 235-FZ ‘O vnesenii izmenenij v chast vtoruyu Nalogovogo Kodeksa RF v chastii sovershenstvovaniya nalogooblozheniya nekommercheskih organizatsij i blagotvoritelnoj*

(VAT) on the value of in-kind contributions (services or property rights) they receive.<sup>90</sup> NGOs also do not have to pay taxes on income received from their business activities and from grants, donations and other contributions.<sup>91</sup>

Although, in general, receiving donations both from domestic and foreign sources is tax free for NGOs, there was inconsistency in the taxation of foreign donations and grants. Grants received from international or foreign sources should be subject to Russia's 20 per cent corporate income tax.<sup>92</sup> However, there is a list of international and foreign organisations that can make tax-exempt grants to Russian citizens or NCOs.<sup>93</sup> This list contains a number of international organisations approved by the Russian Government (e.g., the United Nations Environment Program).<sup>94</sup> Grants from foreign organisations not included on the list are considered taxable income for Russian recipients, unless they can be qualified as donations under Russian law.<sup>95</sup> Therefore, this list is also considered by international observers as a legal barrier to foreign funding, which can affect the amount of foreign grants.<sup>96</sup>

In summary, the institution of 'socially-oriented NGOs' remains undeveloped and state support for ENGOs is very limited. Taxes as an economic tool for regulating NGOs has not used by the Russian Government in full yet. The tax exemptions can be used by the state as effective mechanisms to encourage business and individuals to make grants and donations as demonstrated by the experience of other countries, where civil society organisations are strong and active (Chapter 5). Through financial support of NGO operation, in the form of

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*deyatelnosti*' [Federal Law of the RF 18 July 2011 N 235-FZ 'On Amendments to the Tax Code of the RF in Terms of Improving the Taxation of Non-Profit Organisations and Charitable Activities'] (Russia); *Federalnyj Zakon RF ot 21 noyabrya 2011 N 328-FZ 'O vnesenii izmenenij v otdelnye zakonodatelnye akty RF v chasti formirovaniya i ispolzovaniya tselevogo kapitala nekommercheskih organizatsij*' [Federal Law of the RF 21 November 2011 N 328-FZ 'On Amendments to Certain Legislative Acts of the RF Regarding the Formation and Use of Endowment Non-Commercial Organisations'] (Russia).

<sup>90</sup> Report 'NGO Law Monitor: Russia', available at <http://www.icnl.org/research/monitor/russia.html>; the last access on 10/09/2014; *Federalnyj Zakon RF ot 18 iulya 2011 N 235-FZ 'O vnesenii izmenenij v chast vtoruyu Nalogovogo Kodeksa RF v chasti sovershenstvovaniya nalogooblozheniya nekommercheskih organizatsij i blagotvoritelnoj deyatelnosti*' [Federal Law of the RF 18 July 2011 N 235-FZ 'On Amendments to the Tax Code of the RF in Terms of Improving the Taxation of Non-Profit Organisations and Charitable Activities'] (Russia).

<sup>91</sup> *Nalogovyy Kodeks Rossiyskoj Federatsii, Chast 2, 2000* [Tax Code of the Russian Federation, Part 2, 2000] (Russia), Article 251, Part 2. The Supreme Arbitration (Commercial) Court of the Russian Federation unified implementation of the tax law in regards to private donations received by Russian NGOs from foreign donors. (see *Postanovlenie Prezidiuma Vysshego Arbitrazhnogo Suda Rossijskoj Federatsii ot 28 iulya 2011 N 2902/11* [Resolution of the Presidium of the Supreme Arbitration Court of the Russian Federation 28 July 2011 N 2902/11] (Russia)).

<sup>92</sup> *Nalogovyy Kodeks Rossiyskoj Federatsii, Chast 2, 2000* [Tax Code of the Russian Federation, Part 2, 2000] (Russia), Article 251, Part 2 and Article 284.

<sup>93</sup> 'Report on the Development of Civil Society in Russia' (The Foundation for Civil Society Development, 2014), available at <http://www.usig.org/countryinfo/russia.asp>, the last access on 2/12/2014.

<sup>94</sup> A full list of organisations can be found in *Postanovlenie Pravitelstva RF ot 28 iunya 2008 N 485* [Resolution of the Government of the RF 28 June 2008 N485] (Russia).

<sup>95</sup> 'Report on the Development of Civil Society in Russia', see above n 93.

<sup>96</sup> Ibid.

donations, business and individuals not only give NGOs more independence from the state, but also demonstrate their support for their work, making environmental groups legitimate actors of environmental governance.

### 4.3 The NGO law: legal barriers for ENGO operation

As discussed in Chapters 1 and 3, in the beginning of the 2000s, initially favourable reforms to NGO legislation were initiated. The most notable and discussed changes were introduced in 2006<sup>97</sup> and 2012–14.<sup>98</sup> In general, these amendments mostly concern activity of NGOs that receive foreign funding. They aim to increase the state control over the political activity of civil society in Russia by making it more accountable to the state. Since 2005, the activity of foreign-funded NGOs has been closely monitored by the Government as a response to ‘the coloured revolutions’ in the former Soviet Republics, discussed in Chapter 1. The Russian Government subsequently viewed NGOs as a possible threat to political stability in Russia and strengthened state control over NGO activity through NGO law. Indeed, the intention of the NGO law amendments was to limit foreign interference in internal Russian affairs.<sup>99</sup> However, the drafters of the 2012 amendments pointed out that the NGO law was aimed at ‘ensuring transparency’ and would ‘by no means interfere with [NGO] activities’.<sup>100</sup> Further, despite some controversy over the changes to the NGO law in 2012, governmental officials rightly acknowledge that very similar regulations concerning NGO registration procedures and financial controls exist in developed democracies,<sup>101</sup> for example, the *Foreign Agents Registration Act* (FARA) in the USA<sup>102</sup> (discussed in more detail in Chapter 5).

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<sup>97</sup> *Federalnyj Zakon ot 10 yanvarya 2006 N18-FZ ‘O vnesenii izmenenij v nekotorye normativnye akty Rossijskoj Federatsii’* [Federal Law of the RF 10 January 2006 N18-ФЗ ‘On introducing amendments into Certain Legislative Acts of the Russian Federation’] (Russia).

<sup>98</sup> *Federalnyj Zakon RF ot 20 iulya 2012 N 121-FZ O vnesenii izmenenij v nekotorye zakonodatelnye akty RF po regulirovaniju deyatelnosti nekommercheskih organizatsij vypolnyaushih funktsii inostrannyh agentov* [Federal Law of the RF 20 July 2012 N 121-FZ ‘On Introducing Amendments to Certain Legislative Acts of the RF Regarding the Regulation of Activities of Non-Commercial Organisations Performing the Function of Foreign Agents] (Russia).

<sup>99</sup> The interview to the German ARD, 05/04/2013, available at <http://eng.news.kremlin.ru/news/5216>; BBC Russian, ‘Putin reminded the FSB about ‘foreign interests’ of NGO’, 14/02/2013, available at [http://www.bbc.co.uk/russian/russia/2013/02/130214\\_putin\\_speech\\_fsb\\_ngo.shtml](http://www.bbc.co.uk/russian/russia/2013/02/130214_putin_speech_fsb_ngo.shtml), the last access on 2/12/2014.

<sup>100</sup> ‘Russia: Reject Proposed Changes to Rules on Foreign-Funded NGOs’ (Human Rights Watch 2012).

<sup>101</sup> Open letter of Russian Minister of Foreign Affairs Sergey Lavrov. 18/01/2006, available at [http://www.mid.ru/bdomp/brp\\_4.nsf/e78a48070f128a7b43256999005bcbb3/2950a6a45eccca71c32570fb0028f609!OpenDocument](http://www.mid.ru/bdomp/brp_4.nsf/e78a48070f128a7b43256999005bcbb3/2950a6a45eccca71c32570fb0028f609!OpenDocument); the same arguments have been used by the President Putin and the Prime-Minister Medvedev in their interviews and publications, for example, the interview of the President to the German ARD, 05/04/2013, available at <http://eng.news.kremlin.ru/news/5216>; the interview of the Russian Prime Minister Dmitry Medvedev to agency ‘Agence France-Presse’ and the newspaper ‘Le Figaro’, 26/11/2012, available at <http://government.ru/news/5919>, the last access on 2/12/2014.

<sup>102</sup> FARA 22 USC § 611.

**The establishment and state registration of NGOs.** The first most discussed amendments in NGO law (amendments to the *Law on Public Associations* [Article 21] and the introduction of Articles 13.1 and 13.2 to the *Law on Non-Commercial Organisations*), characterised as ‘tightening’ by the NGO activists, mass media and researchers, were enforced in January 2006. They introduced a procedure of the state registration of NGOs, a list of mandatory documents for the registration and required all new domestic NGOs and existing foreign NGOs operating in Russia to register with the Federal Registration Service under the Ministry of Justice. Failure of foreign NGOs to register within six months from publication of these amendments (the deadline was extended to October 2008) suspended the organisation’s ability to operate legally in Russia.<sup>103</sup> Another barrier has been placed to potentially limit rights of foreigners or stateless persons to establish NGOs or to be a member of NGOs<sup>104</sup> since foreign nationals or stateless persons whose stay is deemed ‘undesirable’<sup>105</sup> cannot found NGOs or participate in them.<sup>106</sup>

**NGO reporting requirements.** NGO law reforms also expanded government authority to audit and require more complicated reporting from Russian branches of foreign NGOs and foreign-funded domestic NGOs, in comparison to domestic NGOs without foreign funding, foreign members and/or founders.<sup>107</sup> The Ministry of Justice has developed official reporting forms,<sup>108</sup> which must include information on the amount of international and foreign funding including money, property and other assets from international and foreign organisations, foreign citizens and stateless persons and the purposes of their use and their actual

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<sup>103</sup> *Federalnyj Zakon ot 10 yanvarya 2006 N18-FZ ‘O vnesenii izmenenij v nekotorye normativnye akty Rossijskoj Federatsii’* [Federal Law of the RF 10 January 2006 N18-Φ3 ‘On introducing amendments into Certain Legislative Acts of the Russian Federation’] (Russia), Article 6, Part 5.

<sup>104</sup> J. Crotty, ‘Making a Difference? NGOs and Civil Society Development in Russia’ (2009) 61(1) *Europe-Asia Studies* 85.

<sup>105</sup> Foreign nationals or stateless persons must be legally residing in the Russian Federation to found or participate in NGOs in Russia. Foreign citizens and stateless persons are recognized legally domiciled in Russia, if they have a valid residence permit or temporary residence permit or visa, or other information provided by the federal law or international treaty of the Russian Federation, documents confirming the right of a foreign citizen to stay (reside) in Russia. In accordance with Article 2 of the *Federal Law of 25 July 2002 N 115-FZ ‘On the Legal Status of Foreign Citizens in the Russian Federation’* foreign citizen is an individual who is not a citizen of the Russian Federation and have proof of citizenship (nationality) of a foreign state, a stateless person - an individual who is not a citizen of the RF and has no evidence of citizenship (nationality) of a foreign state.

<sup>106</sup> Other prohibitions to be a founder/member of NGO listed by the Law are without reference to nationality of the person or organisation. This provisions aim to prevent criminal activities, such as a money laundering, terrorist financing, extremist activity, *Federalnyj Zakon RF 7-FZ ot 12 yanvarya 1996 ‘O nekommercheskih organizatsiyah’* [Federal Law of the RF 12 January 1996 N 7-FZ On Non-Commercial Organisations] (Russia), Article 15 (1.2).

<sup>107</sup> *Federalnyj Zakon RF 7-FZ ot 12 yanvarya 1996 ‘O nekommercheskih organizatsiyah’* [Federal Law of the RF 12 January 1996 N 7-FZ On Non-Commercial Organisations] (Russia), Article 32.

<sup>108</sup> These forms are available at official web-site of the Ministry of Justice of RF, <http://minjust.ru/ru/node/1543>, the last access on 2/12/2014.

expenditure.<sup>109</sup> These NGOs also have to maintain separate accounting records of income received from foreign sources and other types of income.<sup>110</sup>

*The Law on Non-Commercial Organisations* established a special legal regime for foreign NGOs registered in Russia, defining them as NCOs established outside the territory of Russia in accordance with the laws of a foreign country.<sup>111</sup> In accordance with the Law, the international and foreign NGOs exercise their activities in the territory of Russia through their structural subdivisions (branches, affiliates and representative offices) and these offices must be registered with the Federal Ministry of Justice.<sup>112</sup> Foreign NGOs must undergo an annual independent audit by a Russian auditing company and submit the audit report to the Ministry of Justice. Foreign NGOs have to report to the Ministry of Justice on received funding quarterly, on their activity, programmes and expenditure of received funding annually. The Ministry must post these reports on the finances and activities of foreign organisations operating in Russia on its website and/or provide them to the media. Greenpeace Russia is an example of an ENGO that is registered as a branch of a foreign NGO.

The most severe reporting requirements have been imposed on foreign-funded domestic NGOs engaged in political activities. Their regular reporting obligations include (i) reports on activities and their management every six months; (ii) information on the amount of received financing, the purposes of income spending and the disposition of property quarterly; and (iii) audit reports by Russian auditors annually. If the received financing equals or exceeds RUB 200,000, it is subject to control by the Federal Service for Financial Monitoring. Reaction of ENGOs on this increase in accountability measures will be discussed below.

**Labelling.** The third barrier was introduced in amendments to the NGO law in 2012, which requires all NGOs to register with the Ministry of Justice in a special register prior to receipt of funding from any foreign sources if they intend to conduct political activities. These NGOs are labelled as ‘NGOs carrying functions of a foreign agent’ and must include this label (to mean classification or categorisation) in their official information on their activities. This defines political activity of NGOs as organisation and participation in political activities in order to (i) influence state decisions and (ii) to shape public opinion for such purposes. Forty

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<sup>109</sup> *Prikaz Ministerstva Justitsii RF ot 29 marta 2010 N 72* [Order of the Ministry of Justice of the RF 29 March 2010 № 72] (Russia); *Postanovlenie Pravitelstva RF ot 15 aprelya 2006 N 212* [Resolution of the Government of the RF 15 April 2006 N 212] (Russia).

<sup>110</sup> *Federalnyj Zakon RF 7-FZ ot 12 yanvarya 1996 ‘O nekommercheskih organizatsiyah’* [Federal law of the RF 12 January 1996 N 7-FZ On Non-Commercial Organisations] (Russia), Article 32 (1).

<sup>111</sup> *Ibid*, Article 2, Part 4.

<sup>112</sup> *Ibid*, Article 2, Part 5.



non-government NGOs (including seven environmental NGOs) issued a statement in July 2012 protesting the first bill amending regulations of NGO operation.<sup>113</sup> Although this protest was unsuccessful, it spurred subsequent amendments clarifying a number of activities, including that ‘the protection of plants and animals’, was not a ‘political activity’ for the purposes of being defined as a foreign agent<sup>114</sup> and formally environmental NGOs do not have to register as foreign agents.<sup>115</sup> A lack of commitment of NGOs to register themselves as ‘foreign agents’ and uncertainty in law enforcement have caused other changes in NGO law. These new amendments have broadened the power of the Ministry of Justice and entitled the Ministry and its regional offices to register NGOs as ‘foreign agents’ if they fall under the definitions established by the laws and did not apply for the registrations themselves.<sup>116</sup> NGO law is still evolving and the latest amendments have established a procedure of excluding NGOs from the register of ‘foreign agents’ when these NGOs refuse foreign funding.<sup>117</sup> Furthermore, the last amendments made in the legislation<sup>118</sup> in May 2015 allowing prosecutors in consulting with the Ministry of Foreign Affairs to ban ‘undesirable’ foreign and international organisations from operating in Russia will directly affect the ability of international and foreign NGOs to work in Russia.

***Organisation of non-violent public actions.*** These changes introduced the fourth barrier to rights of NGOs to organise non-violent public actions, guaranteed by the Constitution. The changes were made to the *Code on Administrative Violations* and the *Federal Law ‘On Assemblies, Meetings, Demonstrations, Marches and Picketing’* in June 2012. The existing fines for violating rules on the participation in and organisation of public protests for

<sup>113</sup> NGOs issue statement on the bill requiring them to register as ‘foreign agents’, 10/07/2012, Bellona, translated by C. Digges. Available at: [http://www.bellona.org/articles/articles\\_2012/NGOs\\_statement](http://www.bellona.org/articles/articles_2012/NGOs_statement), the last access on 2/12/2014.

<sup>114</sup> Other exclusions include activities of NGOs in the area of science, culture, art, health care, prevention and health protection, social support and protection, protection of motherhood and childhood, social support disabled people, promoting a healthy lifestyle, physical culture and sports, charity, as well as activities to promote philanthropy and volunteerism, *Federalnyj Zakon RF 7-FZ ot 12 yanvarya 1996 ‘O nekommercheskih organizatsiyah’* [Federal Law of the RF 12 January 1996 N 7-FZ On Non-Commercial Organisations] (Russia), Article 2, Part 6.

<sup>115</sup> The issues of implementation of these changes are discussed below in a separate section. The main concern of advocacy groups and human rights activists, is that the label ‘foreign agent’ in Russian language has a negative connotation associating with spying for foreign countries and further undermines the already low public trust in activities of NGOs which will be discussed in the chapter 7 on legitimacy of Russian ENGOs.

<sup>116</sup> *Federalnyj Zakon RF ot 4 iunya 2014 N 147-FZ ‘O vnesenii izmeneniy v stat’yu 32 Federalnogo zakona ‘O nekommercheskih organizatsiyah’* [Federal Law of the RF 4 June 2014 N 147-FZ ‘On Amending Article 32 of the Federal Law ‘On Non-Commercial Organisations’] (Russia).

<sup>117</sup> *Federalnyj zakon RF ot 8 marta 2015 N 43-FZ “O vnesenii izmenenij v stat’i 27 i 38 Federalnogo zakona “Ob obshchestvennykh ob’yedineniyah” i stat’yu 32 Federalnogo zakona RF “O nekommercheskih organizatsiyah”* [Federal Law of the RF 8 March 2015 N 43-FZ “On Amendments to Articles 27 and 38 of the Federal Law” On Public Associations” and Article 32 of the Federal Law “On Non-Commercial Organisations”] (2015).

<sup>118</sup> *Federalnyj Zakon RF ot 28 dekabrya 2012 N 272-FZ ‘O merah vozdeystviya na lits, prichastnyh k narusheniyam osnovopolagayushchih prav i svobod cheloveka, prav i svobod grazhdan RF’* [The Federal Law of the RF 28 December 2012 N 272-FZ ‘On measures against persons involved in violations of fundamental human rights and freedoms, rights and freedoms of Russian citizens’].



individuals and organisations (e.g., organisation of public actions without permission from relevant authorities) were increased. For example, fines for breaching provisions on holding public assemblies were increased by 300 for organisations, and the new penalty for violating the established procedure of meetings, rallies, demonstrations, marches and pickets, and causing damage to health or property, rose from 500,000 rubles (approximately USA\$15,000)<sup>119</sup> to one million rubles (approximately USA\$30,000) for organisations (legal entities).<sup>120</sup> However, the Constitution Court found that these fines contradicted the Constitution because courts cannot impose administrative punishment below the lower limit of the relevant administrative sanctions. As a result, courts cannot take into account the nature of the offence, the offender's financial situation, as well as other essentials for individualisation of responsibility circumstances, thereby ensuring the appointment of fair and equitable punishments.<sup>121</sup>

***Debates over the reforms.*** As discussed in Chapter 2, there have been supportive arguments for the position of the state authorities on the increase of controlling measures towards politically active NGOs with foreign funding. Javeline and Lindemann-Komarova argue that in practice, the number of audits of Russian NGOs has always been very high and the law merely legalised it. Moreover, foreign funding for NGOs has never been welcome, for example in the USA.<sup>122</sup> Finally, the Government's initiative was similar to the regulation exerted by some other countries.<sup>123</sup>

This increase in accountability measures for foreign-funded NGOs has been also justified because these amendments were aimed to restrict the activity of advocacy groups that 'threaten[ed] the sovereignty of Russia, its national independence, territorial integrity, unity or originality, its cultural heritage or national interests'.<sup>124</sup> An ideological justification of these measures is a concept of sovereign democracy, which was adopted by the ruling party United Russia (*Edinaya Rossiya*) as a substantive foundation of its programme in 2006.<sup>125</sup> This concept highlighted the independence of Russia from the Western countries, emphasising that Russia, unlike other Post-Communist countries, was not guided by the West. Instead, the

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<sup>119</sup> The exchange rate for both examples was calculated for December 2012, the year of the introduction of these amendments.

<sup>120</sup> *Kodeks Rossijskoj Federatsii ob administrativnykh pravonarusheniyah* [Code of the Russian Federation on Administrative Violations] (Russia), Article 20.2.2, Part 2.

<sup>121</sup> *Postanovleniye Konstitutsionnogo Suda RF ot 14 fevralya 2013 N 4-P* [Decision of the Constitutional Court of the RF of 14 February 2013 N 4-P].

<sup>122</sup> D. Javeline and S. Lindemann-Komarova, 'A Balanced Assessment of Russian Civil Society' (2010) 63(3) *Journal of International Affairs* 171, 179.

<sup>123</sup> Henry, see above n 53, 46.

<sup>124</sup> Crotty, see above n 104.

<sup>125</sup> D. Orlov, 'The New Russian Age and Sovereign Democracy' (2008) 46(5) *Russian Politics and Law* 72, 76.

sources of legitimacy of the state power were found inside the country. According to this concept, from the historical perspective, Russia has unique historical development and has developed its own democratic values. Thus, it could be argued that Russia's democracy should not necessarily correspond to Western standards of democracy.<sup>126</sup>

In a practical sense, these measures can be explained by the fact that Russia is very rich in natural resources and the Government takes these measures to protect the country's resources. The increase of accountability of foreign-funded NGOs is also explained by the threat of terrorism and state security measures. Nevertheless, NGOs are tolerated even by Post-Soviet states with even stronger authoritarian government policies than Russia. For example, in Belarus they are considered to be a necessary component of open democratic society and a tool to improve the image of these countries on the international arena in foreign politics.<sup>127</sup>

Despite these justifications of tightening control over NGOs, these amendments have received negative reactions from ENGOs, particularly on the issue of increased state control. In part, this is because ENGOs remain dependent on foreign funding. During the interviews, the respondents from ENGOs did not identify the limitation on the rights of foreign and stateless persons to be founders of NGOs as a problem they had faced in practice.

The increase in state accountability measures affected foreign NGOs, foreign-funded NGOs and the most severe measures were designed for NGOs carrying out functions of 'foreign agents'. As stated by respondents from the bigger professional environmental groups, the last increase in accountability measures was not unexpected, considering the shift in state policy towards foreign funding from 2006.<sup>128</sup>

In general, respondents from these ENGOs noted that they are able to cope with these requirements and have enough resources to hire professional accountants.<sup>129</sup> 'Financial reporting is not a big problem for us. We already do lots of reporting to our donors and have accountants as staff members.'<sup>130</sup> As the same respondents stated, these accountability requirements would affect small domestic groups that occasionally receive foreign and international grants.<sup>131</sup>

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<sup>126</sup> N. Popescu, 'Russia's Soft Power Ambitions' (2006) (1-12) *CEPS Policy Briefs* 1, 1.

<sup>127</sup> I. Otto, A. Shkaruba and V. Kireyeu, 'The Rise of Multilevel Governance for Biodiversity Conservation in Belarus' (2011) 29 *Environment and Planning C: Government and Policy* 113, 123.

<sup>128</sup> Interview 1, 8.

<sup>129</sup> Interview 3, 6.

<sup>130</sup> Interview 1, 2, 6.

<sup>131</sup> Interview 1, 2, 6.

The most controversial change was the amendment labelling politically active NGOs as ‘foreign agents’ and the interpretation of the term ‘political activity’. There were diverse views expressed. Some ENGO respondents viewed the exception of ‘protection of animals and plants’ from political activities as positive, suggesting ‘the law does not regulate our activities anymore’.<sup>132</sup> However, others commented that ENGOs would be able to find a way to work within the system: ‘don’t criticise the state and talk about issues and solutions’.<sup>133</sup> The majority maintained that ‘of course, we still fall under the scope of this regulation—we are politically active after all’.<sup>134</sup> Indeed, nearly all interviewees viewed the NGO law as an overreach, describing it as ‘weird and restrictive’, and suggesting the vagueness of the terms ‘protection of plants and animals’ and ‘political activities’ left significant scope for ENGOs to fall under the Law.<sup>135</sup> This was particularly the case for most of the big and medium environmental ENGOs, such as WWF, Bellona and Dront, who consider many of their activities and campaigns as overtly political. Moreover, none of the ENGOs interviewed were solely engaged in the protection of plants and animals, with most participating across a spectrum of environmental issues, including nuclear power projects and the protection of all kingdoms of nature (i.e., fungi and bacteria, which do not belong to the kingdom of plants and animals).<sup>136</sup> In short, most ENGOs were skeptical that the ‘plants and animals’ exception would help them avoid the operation of the new law.<sup>137</sup>

These concerns on interpretation of ‘political activities’, depending on the interests and will of the state, were also voiced by legal experts.<sup>138</sup> The broad definition of ‘political activities’ of NGOs in the NGO law allows for the qualification of any activity of ENGOs included in their charters, for example, conferences, rallies, demonstration and other forms of public advocacy.

The amendments in the *Administrative Code* and the *Law on Meetings* were introduced after the increase on the mass public activities in December 2011–January 2012 as measures to protect the society from radicalism, as claimed by the president.<sup>139</sup> However, according to

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<sup>132</sup> Interview 1.

<sup>133</sup> Interview 18.

<sup>134</sup> Interview 6.

<sup>135</sup> Interview 5, 11.

<sup>136</sup> Interview 5.

<sup>137</sup> Interview 5, 6 and 11.

<sup>138</sup> See, for example, ‘A political and legal expertise of applicability of the notion ‘political activities’ to the functioning public organisations in the RF’, available in Russian at <http://publications.hse.ru/books/77595671>, the last access on 27/10/2014. This expertise was conducted by N. Belyaeva for the Council of Human Rights at the President of Russia in 2012. She was one of the authors of the Law on Public associations.

<sup>139</sup> M. Bennetts ‘Putin Approves Huge Rise in Protest Fines’, published by RIA Novosti on 08/06/2012, available at <http://en.ria.ru/russia/20120608/173920982.html>, the last access on 06/05/2014.

respondents from ENGOs,<sup>140</sup> the new procedures for organising public events have become more complicated and huge fines can have an intimidating effect on organisers of public actions.

**Enforcement of the NGO law.** Based on the findings, this skepticism appears to have been warranted. Indeed, the Russian Government recently demonstrated its commitment to the enforcement of last changes in NGO law, with the Ministry of Justice developing guidelines and forms for reporting of NGOs acting as ‘foreign agents’.<sup>141</sup> Further, authorities have conducted searches in the offices of NGOs, mostly human rights organisations, but also ENGOs such as Bellona. The searches of Bellona, conducted in March 2013, suggest that although ‘protection of animals and plants’ is not regarded as political activity under the NGO law, the activity of ENGOs with foreign funding continues to be a focus of state enforcement authorities. As a result of these inspections, the Prosecutor General stated that 22 NGOs out of the 2,226 that were investigated fall under the abovementioned legislation on ‘organisations performing functions of foreign agents’ as they continue to receive foreign funding, are engaged in political activities but operate without registration as ‘foreign agents’.<sup>142</sup> The General Prosecutor did not provide the names of these 22 organisations, but in April of 2013, Greenpeace published a list of 11 ENGOs that received notices of violation of the Laws or admonitions from prosecutors for not registering as foreign agents.<sup>143</sup> Later in 2013, the number of NGOs that received notices and warnings from the Prosecutor’s offices increased. These NGOs, including environmental NGOs, with the support of international and domestic NGOs, filed lawsuits against the Prosecutor’s decisions in courts of different regions. Finally, in case of Muraviovka Park of Sustainable Development, the Supreme Court of Amur region cancelled the previous judicial decisions and declared illegal the warning of the prosecutor to register as a foreign agent. The court ruled that the purposes of the NGO were to influence on the state policies in the area of the protection animals and plants, but

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<sup>140</sup> Interviews 6, 9, 11, 14.

<sup>141</sup> *Prikaz Ministerstva Justitsii RF ot 16 aprelya 2013 N50* [Order of the Ministry of Justice of the RF 16 April 2013 N50] (Russia).

<sup>142</sup> The President demanded from Prosecutor General’s Office to review the situation with the implementation of the law on NGOs, 09.07.2013, available at <http://www.itar-tass.com/c1/801307.html>, the statement of Prosecutor General of the RF Yu. Chayka at a meeting of the Federation Council of Federal Assembly of Russia, 10.07.2013, available at <http://genproc.gov.ru/smi/news/genproc/news-83567>, the last access on 2/12/2014.

<sup>143</sup> Greenpeace Russia’s statement on the recognition of environmental organisations ‘foreign agents’, 30.04.2013 available at <http://bellona.org/news/russian-human-rights-issues/russian-ngo-law/2013-05-russian-government-crackdown-on-ngos-trains-its-sights-on-environmental-groups>; [http://www.greenpeace.org/russia/ru/news/2013/30-04-Environmentalists\\_called\\_foreign\\_agents/](http://www.greenpeace.org/russia/ru/news/2013/30-04-Environmentalists_called_foreign_agents/), the last access on 27/10/2014; interview 23., C. Digges, 20.03.2013, Update: Raid on Bellona’s St. Petersburg offices casts uncertain shadow over organisation’s future available at [http://www.bellona.org/articles/articles\\_2013/bellona\\_ngo\\_raid](http://www.bellona.org/articles/articles_2013/bellona_ngo_raid), the last access on 27/10/2014.

these activities could not be regarded as political in accordance with paragraph 3, part 6, Article 2 of the *Law on Non Commercial Organisations*.<sup>144</sup>

These possibilities of the broad interpretation of the NGO law for foreign agents and the court decision in favour of ENGOs induced Russia's Ombudsman on Human Rights and NGOs, including environmental groups Amur Environmental Club 'Ulukitkan' (*Blagoveshchensk*) and Muraviovka Park of Sustainable Land Use (Amur Region), to file complaints with the Constitutional Court on the basis of non-compliance of these provision with the Constitution. In short, the court ruled that the Law is consistent with the Constitution and does not limit the rights of NGOs. The official position that the term 'foreign agent' cannot be associated with espionage and treason is supported by the decision of the Constitutional Court. In this decision, the court did not find any legal grounds for such negative connotations. However, the Court decided that the fines for non-compliance with the requirement to register as foreign agents (from 300,000 rubles to 500,000 rubles) should be lowered.<sup>145</sup> The term 'political activity' was not specially defined by the court and the judges agreed with the provisions of the NGO law by stating that this is an activity with a purpose of influencing the country's politics or public. The judges also concluded that NGOs that criticise the authorities and do not have purposes to carry out 'political activities' should not be labelled as 'foreign agents.' Personal participation of members of NGO in political activities on their own initiative also excludes the organisation from 'the foreign agent' regulations.<sup>146</sup> Although these provisions do not contain clear definitions between political and non-political activities, they have been referred to in the media as 'some clarification' of the term 'political activities'. Generally, the decision was considered by Western observers as 'deeply disappointing',<sup>147</sup> and 'opening door to new wave of prosecutions' against human rights organisations.<sup>148</sup> The Russian activists consider this decision a 'predictable compromise'<sup>149</sup> that has narrowed down implementation of the 'foreign agent' regulation. More optimistic expectations of this

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<sup>144</sup> The decision of the court is available at [http://www.muraviovpark.ru/chr/2014\\_CourtRuling.pdf](http://www.muraviovpark.ru/chr/2014_CourtRuling.pdf), the last access on 27/10/2014.

<sup>145</sup> *Postanovlenie Konstitutsionnogo Suda RF ot 08 aprelya 2014 N 10-P* [Decision of the Constitutional Court of the RF 08 April 2014 N 10-P].

<sup>146</sup> Ibid.

<sup>147</sup> 'Russia: Constitutional Court Upholds 'Foreign Agents' Law', published on 09/04/2014, available at <http://www.hrw.org/news/2014/04/08/russia-constitutional-court-upholds-foreign-agents-law>; 'Russian Constitutional Court Ruling on Foreign Agent Law Opens Door to New Wave of Prosecution', published on 17/04/2014, available at <http://www.frontlinedefenders.org/node/25724>; 'Russia's Highest Court Upholds Foreign Agent Law', published on 09/04/2014, available at <http://en.ria.ru/russia/20140408/189106189/Russias-Highest-Court-Upholds-Foreign-Agent-Law.html> the last access on 08/05/2014.

<sup>148</sup> 'Russian Constitutional Court Ruling on Foreign Agent Law Opens Door to New Wave of Prosecution', published on 17/04/2014, <http://www.frontlinedefenders.org/node/25724>, the last access on 8/05/2014.

<sup>149</sup> 'The Constitutional Court Make Life Easier for 'Foreign Agents'', published on 8/04/2014, available at [http://www.bbc.co.uk/russian/russia/2014/04/140408\\_ngo\\_constitutional\\_verdict.shtml](http://www.bbc.co.uk/russian/russia/2014/04/140408_ngo_constitutional_verdict.shtml), the last access on 8/05/2014.

decision, in regards to ENGOs, have been voiced by an activist from a human rights NGO. He suggested that once the Constitutional Court used the decision of the Amur Regional Court, which ruled that ‘protection of animals and plants’ should not be considered ‘political activities’, this decision should be considered as guidance for other courts in similar cases. In this judicial decision, the regional court decided that the collection of signatures and lobbying to ban spring hunting cannot be considered political activity.<sup>150</sup> Given the attempts of the judicial system to unify the law’s implementation, this position may have some positive effect for ENGOs in regards to their rights to receive funding from abroad and not to register as foreign agents.

Currently, more ENGOs have been registered by the Ministry of Justice in the ‘foreign agents’ register after broadening the Ministry’s power in 2014 to register NGOs as ‘foreign agents’ without their consent, if the Ministry finds that NGO is engaged in political activity and receive foreign funding.<sup>151</sup> Examples of these ENGOs include Kaliningrad regional ENGO *‘Ekozashchita!—Zhensovet’* (‘Ecodefence—Women's council’), fighting against the construction of the Baltic Nuclear Power Plant in Kaliningrad region, Murmansk regional public ecological organisation ‘Bellona-Murmansk’ and others.<sup>152</sup> NGO Dront was also registered as a ‘foreign agent’ in 25 May 2015 and intent to appeal this decision of the Ministry of Justice in courts.<sup>153</sup> According to the records in the Register of NGOs performing functions of a foreign agent, these ENGOs among aims of their activities have aims to influence decision making of the state bodies and their political activities include carrying out public events and shaping public opinion.<sup>154</sup> Further enforcement of the law in regards to environmental groups still remains unclear as these decisions are appealed, but it is obvious that the current legislation gives an opportunity to the state for broad interpretation of the term ‘political activities’ and selective implementation of the NGO law towards ENGOs. As one respondent explained, the likely strategy for many ENGOs would be ‘softly softly ... probe, step back and see what happens, then probe again. That’s the only way to figure out how the law works’.<sup>155</sup> As another respondent from a small regional ENGO stated, the unfortunate

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<sup>150</sup> ‘The Constitution Found a Place for Foreign Agents’, published on 9/04/2014, available at <http://rbcdaily.ru/politics/562949991106423>, the last access on 8/05/2014.

<sup>151</sup> *Federalnyj Zakon RF ot 4 iyunya 2014 N 147-FZ "O vnesenii izmeneniy v stat'yu 32 Federalnogo zakona 'O nekommercheskih organizatsiyah'"* [Federal Law of the RF of 4 June 2014 N 147-FZ "On Amending Article 32 of the Federal Law 'On Non-Commercial Organizations'] (Russia).

<sup>152</sup> Information available at <http://unro.minjust.ru/NKOForeignAgent.aspx>, the last access on 28/05/2015.

<sup>153</sup> Information available at <http://www.dront.ru/>, <http://www.interfax.ru/russia/443973>, the last access on 28/05/2015.

<sup>154</sup> Information available at <http://unro.minjust.ru/NKOForeignAgent.aspx>, the last access on 28/05/2015.

<sup>155</sup> Interview 18.

consequence is that ‘these laws can be used to prohibit any NGO. Under this law it will be possible to close any objectionable NGO’.<sup>156</sup>

Another example of an attempt of authorities to close independent and oppositional ENGOs is demonstrated by a decision of the Supreme Court of the Republic of Adygea from 24 October 2014 on the liquidation of Environmental Watch on the Northern Caucasus (Ekovahta). The decision satisfied a claim of the local branch of the Ministry of Justice on the liquidation of the ENGOs.<sup>157</sup> Ekovahta actively works in the Northern Caucasus and Krasnodar regions, which are close to the resorts of Black Sea (e.g., Sochi) and have unique national natural reserves and parks. This ENGO monitors and protects national natural reserves from residential developments and it is actively opposed to the construction of facilities for the Sochi Olympic Games 2014 (see Chapter 6). As representatives from the ENGOs said, the judicial decision was taken on very vague ground. That is, that the organisation did not provide certain documents for inspectors from the Ministry, and did not have representative offices in six other regions where it works and was guilty of other violations of federal law. The procedural laws were also violated as the ENGO did not have representatives at court hearings because it was not aware of the trial.<sup>158</sup> However, this decision has been reversed by the Supreme Court of Russia after an appeal by Ekovahta.<sup>159</sup> This example indicates that supervising state bodies can take actions to eliminate independent and active domestic ENGOs, even those without foreign funding.

Nevertheless, ENGOs were affected by this increase in legal accountability. These amendments and their broad implementation by the Prosecutor’s Office have demonstrated that the Russian Government considers NGOs with foreign funding as a threat to stability. Unsurprisingly, the simplified form of the mandatory accountability to the state is the most widespread among the Russian ENGOs. The records of the Ministry of Justice contain information that ENGOs<sup>160</sup> have started to refuse foreign funding to use this simplified accountability in 2012–2013, in order to avoid excessive reporting and other controlling

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<sup>156</sup> Interview 11.

<sup>157</sup> A copy of the decision can be found on the web-site of Ekovahta at <http://ewnc.org/node/16397>, the last access on 26/02/2015.

<sup>158</sup> Information is available at <http://www.ewnc.org/node/17395>; C. Digges, ‘Russian Eco Group That Detailed Sochi Olympic Destruction and Corruption Faces Disbandment’, published at <http://bellona.org/news/russian-human-rights-issues/russian-ngo-law/2014-12-russian-eco-group-detailed-sochi-olympic-destruction-corruption-faces-disbandment>, the last access on 26/02/2015.

<sup>159</sup> Information is available at <http://www.ewnc.org/node/17395>, <http://www.ewnc.org/node/18025>, the last access on 26/05/2015.

<sup>160</sup> Interview 13, [http://unro.minjust.ru/NKOREports.aspx?request\\_type=nko](http://unro.minjust.ru/NKOREports.aspx?request_type=nko), the last access on 29/10/2014.



measures set up by the NGO law for ENGOs with foreign funding.<sup>161</sup> Another possible result of the tightening state control and accountability measures may include attempts by NGOs to avoid these regulations through registration as commercial organisations or to find other ways to receive funding from abroad and not to fall under the ‘foreign agent’ regulations. In order to avoid this, there is a need to clarify the provisions of laws concerning ‘political activities’ and ‘foreign agents’ and to unify its implementation in regards to environmental groups, or, ideally, to repeal these regulations. The abolition of this law is very unlikely considering the abovementioned broadening of the power of the Ministry of Justice to register NGOs as ‘foreign agents’.<sup>162</sup>

Another possible danger of the increase in accountability measures for ENGOs funded from abroad includes a possible decrease in autonomous and capable domestic ENGOs.<sup>163</sup> Given this factor and the low public activity and interest in environmental issues, these ENGOs may become targets of the state capture, particular small poorly-resourced organisations on the regional and local level. As discussed above, there is a possibility that the state will select and support the most appropriate ENGO to counterbalance the regulated actors for participation in the decision-making process.<sup>164</sup> In the case of Russian governance, less independent and objective ENGOs may be selected.<sup>165</sup>

In summary, since 2005 Russian NGO law has undergone a period of reform. Despite the positive changes in NGO law, the reforms have also tightened the regulation on operation of branches of foreign NGOs and NGOs receiving funding from abroad. The main barriers for operation of these NGOs include limits on the rights of foreigners and stateless persons to establish NGOs, labelling politically active NGOs as NGOs carrying out functions of ‘foreign agents’ and increasing reporting and accountability to the state. Despite the claims of authorities that these changes in NGO law would only increase accountability of NGOs and make their funding, purposes and work more transparent, enforcement of these amendments and implementation has faced lots of difficulties in practice. It has also prompted a mixed reaction from the NGO community. Although aiming mostly at politically active human

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<sup>161</sup> Interviews 13, 26.

<sup>162</sup> *Federalnyj Zakon RF ot 4 iunya 2014 N 147-FZ ‘O vnesenii izmeneniy v stat’yu 32 Federalnogo zakona ‘O nekommercheskih organizatsiyah’* [Federal Law of the RF 4 June 2014 N 147-FZ ‘On Amending Article 32 of the Federal Law ‘On Non-Commercial Organisations’] (Russia).

<sup>163</sup> Crotty, Hall and Ljubownikow, see above n 71, 1267; Henry, see above n 53.

<sup>164</sup> I. Ayres and J. Braithwaite, ‘Tripartism: Regulatory Capture and Empowerment’ (1991) (16) *Law and Society Inquiry* 435, 441.

<sup>165</sup> S. Ljubownikow, J. Crotty and P. Rodgers, ‘The State and Civil society in Post-Soviet Russia: The Development of a Russian-Style Civil Society’ (2013) 13(2) *Progress in Development Studies* 153; Crotty, Hall and Lubownikow, see above n 71.



rights organisations, these reforms have also affected environmental groups, particularly small regional groups with foreign funding. The unclear definitions of 'political activities' have allowed law enforcement bodies to issue notices and warnings to these environmental groups to register as foreign agents and, in accordance with the recent changes, gave the power to the Ministry of Justice to register organisations without application. The last decision of the Constitutional Court has reaffirmed the controlling position of the state towards foreign-funded NGOs. In addition, the latest changes in the NGOs legislation in 2015 will further limit the work of international groups in Russia.

## **5. Conclusion**

This chapter has demonstrated that domestic legislation is the main source of authority for NGO operation in Russia. It consists of a system of federal and regional laws and subordinated legislation of the President, federal and regional bodies of executive power. The judicial decisions are supposed to unify implementation of the NGO law throughout the Russian Federation. However, the last judicial decisions have demonstrated inconsistency in the implementation of the law on registration as foreign agents, and continued revisions of these decisions by higher courts.

The international norms and principles also shape the domestic legislation. The role of international norms is increasingly forming the domestic legislation on NGOs, but has varied in degree depending on field regulation. Russian domestic NGO regulation could not escape this participatory regulatory development. However, despite the priority of international over domestic norms declared by the Constitution of RF, in practice the domestic legislation places obstacles for implementing international norms<sup>166</sup> due to the unbinding power of recommendations. As demonstrated by the example of climate change regulations, the international norms can give an impetus for the development of domestic climate legislation. However, domestic legislation often just incorporates international norms and fails to introduce legal mechanisms for their effective enforcement. Russian legislation in the area of freedom of associations, free access to information on the state of environment, public participation and other human rights associated with NGOs' activity have decorative character. The ratification of the Aarhus Convention would potentially improve the Russian legislation on NGOs in accordance with world standards due to mandatory inclusion of the Convention's norms in the domestic legislation.

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<sup>166</sup>J. Kortelainen, 'Boundaries of Transnational Forest Governance in Russia' (2012) 27(2) *Scandinavian Journal of Forest Research* 221, 222; L. Henry, 'Between Transnationalism and State Power: The Development of Russia's Post-Soviet Environmental Movement' (2010) 19(5) *Environmental Politics* 756, 761.

Findings demonstrated that the legal framework on NGOs' operation is still under development. This development has both positive and negative sides influencing the operation of ENGOs. A positive shift in the state policies concerns the introduction of the legislation on more direct engagement of NGOs with the state authorities in solving social issues, including environmental issues. This is achieved using 'soft' economic regulations and the establishment of a new class of 'socially-oriented' NGOs supported by the state. However, these changes have not been enforced effectively. Indeed, the recent amendments in Federal tax laws have provided more tax benefits for NGOs, but these tax regulatory tools require further legal development in granting more tax benefits for companies and individuals offering financial support to the non-profit sector. This follows the experience of countries with strong non-profit sectors. These soft regulatory tools would create more possibilities for diversity in NGO funding and strengthen domestic NGOs. Another positive change in NGO law is the introduction of simplified reporting for small domestic groups, which would allow them to focus on their primary environmental purposes, but may reduce their accountability to the public (discussed in the Chapter 7).

The most notable trend in reforming NGO law is the increase in state administrative control over NGOs.<sup>167</sup> Considering the reliance on the foreign funding as one of the features of the non-profit sector in Russia, the main controlling measures are aimed towards politically active NGOs with foreign funding. Although the state has recognised NGOs, as well as foreign NGOs and NGOs with foreign funding, as legitimate actors of governance, and does not directly discriminate against their activities in the area of environmental protection, the existing vague definitions of 'political activity', the label of 'foreign agents' and excessive reporting requirements indirectly limit their capacities and undermine their informal legitimacy. The latest changes on the legislation in 2015 concerning the ban to 'undesirable' international and foreign NGOs will affect their work in Russia.

The increase in complications of reporting for foreign and foreign-funded domestic NGOs is not the main concern for big international ENGOs because reporting for these ENGOs had met these requirements long before the enforcement of the laws. However, for smaller domestic groups occasionally receiving foreign funding, it would become a burdensome requirement. Therefore, the tightening state control and accountability measures may induce

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<sup>167</sup> Crotty, Hall and Lubownikow, see above n 71.

NGOs to avoid these regulations<sup>168</sup> through registration as commercial organisations, or by finding alternative funding from abroad to avoid falling under ‘foreign agent’ regulations.

Findings demonstrated that the expanding controlling power of law enforcement bodies over NGO operation is the major concern of ENGOs.<sup>169</sup> Although ENGOs are not supposed to fall under regulations on the ‘NGOs carrying out functions of the foreign agents’ the inspections in March 2012 resulted in requirements for a number ENGOs to register as ‘foreign agents’,<sup>170</sup> their registration as foreign agents by the Ministry of Justice and continued litigations with the Prosecutor’s offices the Ministry against these decisions. This was possible due to the vague definitions of ‘political activities’, their broad interpretation and selective implementation by the law enforcement bodies.

Ideally, considering difficulties in defining ‘political activities’, as this is a very broad concept and any activity of NGO may be qualified as political depending on situation and context, these regulations should be repealed. However, the abolition of this law is very unlikely, as demonstrated by legal broadening of the power of the Ministry of Justice to register NGOs as ‘foreign agents’ if they meet the law requirements and did not register themselves<sup>171</sup> and the amendments affecting the work of international and foreign NGOs in Russia.<sup>172</sup> In addition, the recent amendments to NGO law on the procedure for excluding NGOs from the register of NGOs acting as a foreign agent<sup>173</sup> have confirmed that the Government intends to carry on with this terminology. Accordingly, in order to avoid this inconsistency in law enforcement, there is a need to clarify provisions of laws concerning ‘political activities’ and ‘foreign agents’ and to unify their implementation to exclude activities of environmental groups from these regulations.

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<sup>168</sup> J. Black, ‘Constructing and Contesting Legitimacy and Accountability in Polycentric Regulatory Regimes’ (2008) 2(2) *Regulation & Governance* 137, 155.

<sup>169</sup> *Federalnyj Zakon RF 7-FZ ot 12 yanvarya 1996 ‘O nekommercheskih organizatsiyah’* [Federal law of the RF 12 January 1996 N 7-FZ On Non-Commercial Organisations] (Russia), Article 32.

<sup>170</sup> A list of organisations that have received notices of violation from prosecutors for not registering as foreign agents can be found at <http://bellona.org/news/russian-human-rights-issues/russian-ngo-law/2013-05-russian-government-crackdown-on-ngos-trains-its-sights-on-environmental-groups>; [http://www.greenpeace.org/russia/ru/news/2013/30-04-Environmentalists\\_called\\_foreign\\_agents/](http://www.greenpeace.org/russia/ru/news/2013/30-04-Environmentalists_called_foreign_agents/), the last access on 2/12/2014.

<sup>171</sup> *Federalnyj Zakon RF ot 4 iunya 2014 N 147-FZ ‘O vnesenii izmeneniy v stat’yu 32 Federalnogo zakona ‘O nekommercheskih organizatsiyah’* [Federal Law of the RF 4 June 2014 N 147-FZ ‘On Amending Article 32 of the Federal Law ‘On Non-Commercial Organisations’] (Russia).

<sup>172</sup> *Federalnyj Zakon RF ot 28 dekabrya 2012 N 272-FZ ‘O merah vozdeystviya na lits, prichastnyh k narusheniyam osnovopolagayushchih prav i svobod cheloveka, prav i svobod grazhdan RF’* [The Federal Law of the RF 28 December 2012 N 272-FZ ‘On measures against persons involved in violations of fundamental human rights and freedoms, rights and freedoms of Russian citizens’] amended on 23 May 2015.

<sup>173</sup> *Federalnyj zakon RF ot 8 marta 2015 N 43-FZ ‘O vnesenii izmeneniy v stat’i 27 i 38 Federalnogo zakona ‘Ob obshchestvennykh ob’yedineniyah’ i stat’yu 32 Federalnogo zakona RF ‘O nekommercheskih organizatsiyah’* [Federal Law of the RF 8 March 2015 N 43-FZ ‘On Amendments to Articles 27 and 38 of the Federal Law “On Public Associations” and Article 32 of the Federal Law “On Non-Commercial Organisations”] (Russia).

Another possible danger of the increase in accountability measures for ENGOs funded from abroad may include a decrease in autonomous and capable domestic ENGOs.<sup>174</sup> Given this factor, the low public activity and interest in environmental issues, and the traditionally strong state power, domestic ENGOs may become targets of the state capture<sup>175</sup> through selecting and funding less independent and objective ENGOs for collaboration.<sup>176</sup> The transparent and competitive procedures for grant applications, social services delivery and other collaborative NGO-state programmes would reduce the possibility of the state capture.

To conclude, the NGO law allows ENGOs to choose appropriate legal forms, depending on purposes of their operation, funding, the state registration requirements and internal management. In general, the state has recognised ENGOs as legitimate actors of environmental governance and empowered ENGOs with a broad range of rights as actors of environmental governance. In practice, from a perspective of the NGO law, the agency of ENGOs to produce environmental outcomes and respond changes in governance<sup>177</sup> through using new participatory avenues are limited by selective and inconsistent implementation of administrative controlling measures and ineffective use of soft regulatory tools, such as taxes and weak enforcement of rights of ENGOs.

The increase of the state administrative control in the NGO law discussed in this chapter is often justified by state officials by a need to ensure transparency of NGOs and the existence of similar accountability and reporting requirements in the legislation of other countries, including the EU countries, the USA and others. The next chapter will explore key provisions of NGO legislation of several countries, including Western and Post-Soviet states for better understanding of the development of NGO legislations in different jurisdictions—and to test whether this justification holds merit.

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<sup>174</sup> Henry, see above n 53.

<sup>175</sup> Ayres and Braithwaite, see above n 164, 441.

<sup>176</sup> Ljubownikow, Crotty and Rodgers, see above n 165; Crotty, see above n 104.

<sup>177</sup> Biermann et al, see above n 1, 283.

## Chapter 5. Legal regulations on NGO operation: comparative study.

### 1. Introduction

In the previous chapter, the latest amendments in the Russian NGO law and issues of their implementation were discussed. As mentioned above, there have been statements by Russian politicians justifying the increase in accountability and control measures over activities of NGOs. In particular, these accountability measures have been defended on the grounds that it is based on the practice of Western counterparts. In particular, the FARA (USA) has been cited in support.<sup>1</sup> Further, the global scale of environmental transformation and expanding of roles of non-state actors<sup>2</sup> has also caused reform of domestic legislations for NGOs all around the globe. This chapter compares the NGO legislation and its implementation in comparable countries with the aim of assessing the Russian approach in reforming and implementing NGO law.<sup>3</sup> Russia and 14 other Post-Soviet states after the dissolution of the Soviet Union have inherited the Soviet legislation, political institutions and experienced political and economic transformation. Therefore, in order to make the study of the development of the NGO law in Russia more complete, this chapter studies this development in other former Soviet states to identify common patterns and differences in the changes in NGO legislation in political and historical contexts different from Western democracies.

In order to compare the NGO legislation and its implementation, the laws and the relevant literature concerning these issues will be analysed. Considering a diversity of legal regulation in different countries, this research had to be narrowed down to study key approaches on legal regulation of NGOs relevant to those discussed in Chapter 4. Two groups of countries have been chosen for this study. First, the legislation of countries with long democratic traditions and active civil society that served as legal models for the establishment of the Russian NGO law will be explored. The second group of countries consists of the Post-Soviet countries, with similar issues to Russia on agency of NGOs.

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<sup>1</sup> For example, the President's interview to the German ARD at <http://eng.news.kremlin.ru/news/5216>, the last access on 27/05/2014.

<sup>2</sup> F. Biermann et al, 'Earth System Governance: A Research Framework' (2010) 10(4) *International Environmental Agreements: Politics, Law and Economics* 277, 279.

<sup>3</sup> For example, the President's interview to the German ARD at <http://eng.news.kremlin.ru/news/5216>, the last access on 27/05/2014; the open letter of Russian Minister of Foreign Affairs Sergey Lavrov, 18/01/2006, available at

[http://www.mid.ru/bdomp/brp\\_4.nsf/e78a48070f128a7b43256999005bcbb3/2950a6a45eccca71c32570fb0028f609!OpenDocument](http://www.mid.ru/bdomp/brp_4.nsf/e78a48070f128a7b43256999005bcbb3/2950a6a45eccca71c32570fb0028f609!OpenDocument), the last access on 27/05/2014; N. Abdullaev, 'How Russia's NGO law Stacks Up', *The Moscow Times* (Moscow), 15 February 2006 at <http://www.themoscowtimes.com/news/article/how-russias-ngo-law-stacks-up/206795.html>, the last access on 27/05/2014.

The study of legal regulation of NGOs in the USA, the UK, and Australia will provide greater understanding of approaches in regulating NGOs in the common law countries. In addition, the study of NGO legal regulations will assess whether, and to what extent, the provisions of the Russia NGO law on 'foreign agents' NGOs are based on FARA (the USA). The Russian legal system belongs to the civil law system; therefore, this chapter includes a study of NGO legal regulations in Western civil law countries. Considering research of NGO legislations in all civil law countries would be impossible within only one chapter, Germany and France are chosen as countries in which legislation has largely influenced the Russian legislation for more than a century.<sup>4</sup> Further, like Russia, both countries, particularly France, are characterised as countries with traditionally strong roles of states in governance process.<sup>5</sup> However, recently, Europeanisation of policies in these countries has led to loosening state control over civil society control and NGOs-state relationships have been transformed to allow more inclusive participation of NGOs in policymaking.<sup>6</sup>

A comparative study on the changes in NGO legal regulation would be incomplete without an overview of the trends in forming NGO law in former Soviet republics that faced similar political, economic, legal and institutional problems to Russia after the dissolution of the USSR in 1991. This study will focus mostly on the countries with authoritarian styles of governance and selective law enforcement, such as Belarus, Azerbaijan, Tadzhikistan, Uzbekistan and Turkmenistan.<sup>7</sup> The NGO law of the other Post-Soviet countries is out of the scope of this study because the Baltic republics, including Latvia, Lithuania and Estonia, are members of the EU and their legal systems have been changed accordingly to the EU requirements.<sup>8</sup> Ukraine has developed NGO law in compliance with the principles of the EU,<sup>9</sup> but currently its political situation and laws are unstable and under radical reform<sup>10</sup> because of the last political crisis and the recent change of the Government in 2014.

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<sup>4</sup> W. E. Butler, *Russian Law: Second Edition* (Oxford University Press, 2003), 4, 30–31.

<sup>5</sup> D. McCauley, 'Europeanisation as Resource Empowerment for NGOs' (2008) 9(3) *Perspectives on European Politics and Society* 265, 269; J. Dryzek et al, *Green States and Social Movements: Environmentalism in the United States, United Kingdom, Germany, and Norway*. (Oxford University Press, 2003), 10; T. Carothers and W. Barndt, 'Civil Society' (1999) *Foreign Policy* 18, 23.

<sup>6</sup> McCauley, see above n 5, 270.

<sup>7</sup> S.E. Mendelson and J.K. Glenn (eds), *The Power and Limits of NGOs: A Critical Look at Building Democracy in Eastern Europe and Eurasia* (Columbia University Press, 2002).

<sup>8</sup> T. Börzel and A. Buzogány, 'Governing EU Accession in Transition Countries: The Role of Non-State Actors' (2010) 45(1) *Acta Politica* 158.

<sup>9</sup> See at <http://www.icnl.org/news/2012/22-Mar.html>, the last access on 22/05/2014.

<sup>10</sup> The political crisis in Ukraine has caused the anti-government Euromaidan protests in November 2013 and subsequent impeachment of President V. Yanukovich in February 2014, see more information BBC website, for example, 'Ukraine crisis: Yatsenyuk is PM-designate, Kiev Maidan told', published 26/02/2014, at <http://www.bbc.com/news/world-europe-26359150>, the last access on 22/05/2014.

This comparison is done only on a general level and it explores two main approaches in laws towards regulating NGOs: administrative or ‘hard’, through the direct state control over NGOs (inspections of controlling bodies, barriers for foreign funding and others) and economic ‘soft’ regulations through tax benefits and other forms of state support. The chapter focuses on key issues of the NGO legislation in Russia discussed in the previous chapter, including a public beneficial status of NGOs, the use of soft economic measurers (taxes, state supports) as regulatory tools and issues of political activity of NGOs. The detailed comparative study of legal regulation of NGO is outside the scope of this research. This chapter includes sections on each country highlighting the key issues identified above.

This chapter aims to answer a following research question: **How do NGO law and its implementation differ across political domains and how does this influence their agency?** The findings of the previous chapter have demonstrated that the recent changes in the NGO law, which increased legal accountability of NGOs to the state, had a negative impact on their agency. Nevertheless, laws in other countries also contain the norms controlling operation of civil society institutions. This chapter aims to study and compare the regulatory approaches to operations of NGOs employed by governments in different countries, in regards to enhancing or constraining the agency of NGOs. Additionally, this analysis will allow examination of whether the drafting of the laws or their implementation are the problems from this comparative perspective.

The chapter is divided into four parts. The first part is the introduction. The second part discusses the NGO legislation of the common law countries, including Australia, the UK and the USA and NGO law in France and Germany, the civil laws countries. The legislation of the Post-Soviet countries, such as Azerbaijan, the Central Asia countries and Belarus, is examined in the third part of the chapter. The final part concludes that equivalent accountability and state control measures can be found in the legislation of both Western and non-Western countries. While in Western countries, this control is carried out mostly through soft economic approaches to NGO regulations, in countries with more authoritarian styles of governance, ‘hard’ administrative control prevails. Vague definitions in NGO law give more opportunities for selective and weak implementation of laws and reinforce powers of controlling bodies, weakening the agency of NGOs.

## 2. Western NGO legislation

### 2.1 Common law countries

In common law countries, NGOs play an active part in designing public policies carrying out various functions from radical advocacy to delivering public services. The NGOs oriented in their activities towards public benefit purposes, including environmental NGOs, are commonly recognised by authorities, laws and public as charities and have some privileges, such as tax exemption status. Although the regulation of NGOs has a long history,<sup>11</sup> the intention to encourage increased NGO activity can be traced in the UK, Australia and the USA over the last few decades. These states have developed new legal frameworks that consider changes in the roles of NGOs using mainly 'soft' regulatory approaches.

In these countries, NGOs can be registered as charity organisations. This legal status brings both benefits and limitations for an organisation. Main benefits include legal protection for charitable gifts (which often makes it easier to attract funding by way of donations, legacies and grants) and a favourable tax regime for charities. Limitations may consist of strict requirements on the use of charitable funds. As a result, their operation requires more comprehensive accounting and reporting requirements compared to voluntary organisations in the broader sector, more scrutiny from the state controlling bodies<sup>12</sup> and sometimes legal requirements on avoiding engagement in political activities or vague definitions of political activity in order to maintain the charity status and get tax benefits.<sup>13</sup>

#### 2.1.1 Australia

In Australia, this status is set by *Australian Charities and Not-for-Profits Commission Act 2012*, and the *Charities Act 2013*.<sup>14</sup> Traditionally, the Australian Government was keen to facilitate services delivered by NGOs, mostly in spheres of social policy where the governmental regulations were weak or traditionally taken by charities and NGOs.<sup>15</sup> However, in the 2000s, there was a trend in the official policy to undermine the legitimacy of non-for-

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<sup>11</sup> For example, in the UK and Australia, the NGOs activities were regulated by common law tradition based on Elizabeth's charity act of 1640 and courts decisions, M. Turnour and M. McGregor-Lowndes, 'Wrong Way go back! Rediscovering the Path for Charity Law Reform' (2012) 35(3) *University of New South Wales Law Journal* 810, 812–813.

<sup>12</sup> G. Morgan, 'Purposes, Activities and Beneficiaries: Assessing the Use of Accounting Narratives as Indicators of Third Sector Performance' (2013) 10(3/4) *Qualitative Research in Accounting & Management* 6, 7.

<sup>13</sup> S. Lang, *NGOs, Civil Society, and the Public Sphere* (Cambridge University Press, 2012); G. Morgan, 'Public Benefit and Charitable Status: Assessing a 20-year Process of Reforming the Primary Legal Framework for Voluntary Activity in the UK' (2012) 3(1) *Voluntary Sector Review* 67, 71.

<sup>14</sup> For example, *Australian Charities and Not-for-profits Commission Act (N 168) 2012* (Cth), *Charities Act (N 100) 2013* (Cth).

<sup>15</sup> S. Maddison, 'Lessons to be Learned: Reviving Advocacy Organisations after the Neo-Con Men' (2009) 1(2) *Cosmopolitan Civil Societies: An Interdisciplinary Journal* 18, 23.



profit organisations by naming them as non-democratic and non-accountable and to discredit their role in political decision making, establishing a 'Government Non-Government Organisation'.<sup>16</sup>

The key features of NGO advocacy are their engagement and participation in democratic policy governance, use of democracy mechanisms such as the media, professional lobbyists, policy targeting, and struggles over power, and so on.<sup>17</sup> In addition to these political measures, the Government introduced a number of financial mechanisms, such as defunding and taxation of NGOs and charities.<sup>18</sup> Research of NGOs conducted by Australian academics demonstrated that in the 1990–2000s, governmental funding was limited for NGOs because of their public advocacy. For example, state funding for environmental NGOs was cut because of their opposition to weakening of environmental regulations and money was given to groups that were not involved in public advocacy.<sup>19</sup>

First, as a result, this threat of defunding, first, forced some specific social advocacy groups to amalgamate with non-specific groups, which weakened these specific public advocacy groups. Second, as Staples argues purchaser-provider contracts with governmental bodies replaced core funding of organisations for providing informed advice for the government. Core funding allowed peak NGOs to assist a range of NGOs working in a similar area with information relevant to their advocacy and to determine their positions on advocacy questions. Conversely, the contracts required the delivery of specific outcomes directly related to government policy and objectives, limiting the capacity of NGOs to advocate.<sup>20</sup> Moreover, these contracts allow the Government to include confidentiality clauses with requirements that the organisation not speak to the media without obtaining the approval of the appropriate department or minister.<sup>21</sup>

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<sup>16</sup> J. Staples, *Non-government Organisations and the Australian Government: A Dual Strategy of Public Advocacy for NGOs* (Doctor of Philosophy Thesis, The University of New South Wales, 2012), 182–183.

<sup>17</sup> Ibid, 73.

<sup>18</sup> J. Staples, 'NGOs out in the cold: The Howard Government policy towards NGOs', Discussion paper 19/6, Democratic Audit of Australia, available at <http://democratic.audit.anu.edu.au>, the last access on 16/07/2013', 7-8.

<sup>19</sup> An overview of this research can be found in the Staples's discussion paper Ibid, 8-9. She explains these processes with the public choice theory which was a part of neo-liberal philosophy of the Howard Government. In accordance to this NGOs were supposed to fill in the gaps in the governmental policy but were criticised for their attempts to have any influence on the policy.

<sup>20</sup> Ibid, 7-8.

<sup>21</sup> S. Wright, G. Marston and C. McDonald, 'The Role of Non-profit Organizations in the Mixed Economy of Welfare to Work in the UK and Australia' (2011) 45(3) *Social Policy & Administration* 299, 309; Staples, see above n 18, 10.

The legislator also made a number of attempts to constrain public advocacy by restricting the ability of NGOs to receive tax deductibility if they engaged in public advocacy in the *Charities Bill 2003*, which was not enacted.<sup>22</sup> The introduction of the *Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2005* has also demonstrated the intent of the Government to closely monitor and to license ‘advocacy NGOs’ on an annual basis, as it required disclosure of material that has no relationship to politics or to elections.<sup>23</sup> However most of these constraints were removed by government and judicial acts.<sup>24</sup> Further, the High Court of Australia clarified and strengthened the right of NGOs to advocate publicly in Australia by ‘finding that there is no general doctrine in Australia to exclude political objects from charitable purposes (*Aid/Watch Incorporated v Commissioner of Taxation 2010*)’.<sup>25</sup> The Australian Taxation Office (ATO) has responded with guidelines that reinforce the right of charity NGOs to advocate and receive tax benefits.<sup>26</sup>

As a result of recent reforms, Australia’s first charity regulator, the Australian Charities and Not-for-Profits Commission (ACNC), with primary aims to support and promote Australian non-profit sector and to reduce corporate and financial reporting was established in 2012.<sup>27</sup> However, the Australian Government is currently considering the abolition of the ACNC<sup>28</sup> as a part of a deregulation agenda to remove unnecessary regulation, reduce the role of the Government’s oversight of the charity sector and to enhance self-regulation of the non-for-profit sector.<sup>29</sup> Reportedly, some charities lobbied for this abolition, but a majority of the civil sector has opposed this decision, supporting the work of the ACNC as a regulatory system.<sup>30</sup> Representatives from the non-profit sector argue that a return of ‘the key role of determining charitable status to the ATO, would re-create a conflict of interest’.<sup>31</sup>

A new tax and regulatory regime for the Australian not-for-profit sector was also introduced.<sup>32</sup> The most recent regulations include: *Non-for-Profit Sector Freedom to Advocate Act 2013 (Cth)*,<sup>33</sup> and the *Charities Act 2013 (Cth)*.<sup>34</sup> The *Charities Act* defines charity organisations as

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<sup>22</sup> Staples, see above n 16, 81.

<sup>23</sup> Ibid, 160.

<sup>24</sup> Wright, Marston and McDonald, see above n 21, 309.

<sup>25</sup> Staples, see above n 16, 183.

<sup>26</sup> Ibid, 182-183; P. Kurti, ‘In the Pay of the Piper: Governments, Not-for-Profits, and the Burden of Regulation’ (The Centre for Independent Studies, Issue Analysis, 2013), 8–9.

<sup>27</sup> *Australian Charities and Not-for-profits Commission Act (N 168) 2012 (Cth)*.

<sup>28</sup> *Australian Charities and Not-for-profits Commission (Repeal) (No. 1) Bill 2014 (Cth)*, 2.

<sup>29</sup> Explanatory Memorandum, Australian Charities and Not-for-profits Commission (Repeal) (No. 1) Bill 2014 (Cth), 1.

<sup>30</sup> Department of Parliamentary Services (Cth), *Bills Digest*, No 68 of 2013-2014, 12 May 2014, 4–5.

<sup>31</sup> Ibid, 6.

<sup>32</sup> Kurti, see above n 26, 3.

<sup>33</sup> *Non-for-profit Sector Freedom to Advocate Act 2013 (N 56) 2013 (Cth)*.

not-for-profit entities, all of the purposes of which are charitable purposes that are for the public benefit or purposes that are incidental or ancillary to purposes of the entity that is not an individual, a political party or a government entity.<sup>35</sup> The purpose of advancing the natural environment is defined by the act as a charitable purpose.<sup>36</sup> Disqualifying purpose means: (a) the purpose of engaging in, or promoting, activities that are unlawful or contrary to public policy; (b) the purpose of promoting or opposing a political party or a candidate for political office.<sup>37</sup> This means that NGOs are allowed to be engaged in to public advocacy as long as their activities are lawful and not purely political.

In accordance with the *Australian Charities and Not-for-profits Commission Act 2012*, the registration would be mandatory for an entity to receive Commonwealth tax concessions and obtain other unspecified benefits and concessions currently available to non-for-profit organisations. Reporting is mandatory for registered NGOs and exists in a form of an annual information statement to the commissioner. These reporting requirements aim to make NGOs more accountable to the public and a use of their charity funds more transparent. Generally, NGOs often criticise additional reporting requirements as regulatory or administrative burdens, which increases costs of NGO operation.<sup>38</sup> At the same time, this is not a new requirement because registered charities already have to submit financial reports to the ATO and the Government made some significant revisions that included allowing the ACNC to accept financial reports already provided by registered charities to agencies such as the ATO during the transitional period up to 2015.<sup>39</sup> These new regulations do not include any provisions that link tax exemptions or other favourable for NGOs tax regimes to freedom to speech or advocacy.<sup>40</sup> However, recently, the current Australian Government has questioned tax deductibility status of more than 100 ENGOS initiating a parliamentary inquiry into the Register of Environmental Organisations.<sup>41</sup> According to the governmental officials, ENGOS often engage in political activities rather than ‘on-ground environmental works’ that contradicts their tax deductibility status.<sup>42</sup> Given that activities of many environmental groups goes beyond environmental work and protesting and lobbying can be regarded as political

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<sup>34</sup> *Charities Act (N 100) 2013* (Cth).

<sup>35</sup> *Charities Act (N 100) 2013* (Cth), division 5.

<sup>36</sup> *Ibid*, s 12 (1j).

<sup>37</sup> *Ibid*, s 11.

<sup>38</sup> Kurti, see above n 26, 35.

<sup>39</sup> *Ibid*, 13.

<sup>40</sup> *Ibid*, 9.

<sup>41</sup> Information is available at

[http://www.aph.gov.au/Parliamentary\\_Business/Committees/House/Environment/REO/Terms\\_of\\_Reference](http://www.aph.gov.au/Parliamentary_Business/Committees/House/Environment/REO/Terms_of_Reference), the last access on 25/05/2015.

<sup>42</sup> Information is available at <http://www.abc.net.au/news/2015-04-10/environment-groups-could-lose-tax-concession-status/6384554>, the last access on 25/05/2015

activities in a context of bringing changes in environmental policies, a large number of groups can lose their tax deductibility.<sup>43</sup> Therefore, this inquiry aims can weaken Australian environmental movement.<sup>44</sup>

In regards of environmental litigation, Australian NGOs have the right of public standing under the *Environment Protection and Biodiversity Conservation Act*.<sup>45</sup> However, they should meet following criteria: to be established or registered in Australia; an organisation has to be engaged in environmental protection, conservation or research for two years before the decision and at the time of the decision.<sup>46</sup>

The Australian system of NGO regulation is still under reform. Despite the differences between the political regimes, legal systems and the roles of NGOs in Australia and Russia, a number of common legal norms can be found in the legislation of both countries. For example, legislations of these countries contain provisions on a special class of NGOs with a more beneficial status (charities in Australia, socially-oriented NGOs in Russia) in terms of their tax exemptions, state funding and that environmental protection is considered as the public beneficial purpose. Similarly, the legislations set up reporting requirements to make NGOs more transparent and accountable, provisions on the state registration as entities and distinguish NGOs from political parties, and organisations with pure political purposes.

At the same time, unlike Australia, the Russian legislators use more administrative approaches and establish tougher accountability requirements for foreign-funded NGOs. Further, in recent years the NGO legislation has tightened and the state control over NGO operation has extensively increased. It should be noted that definitions of political activities remains too broad and vague that gives the states opportunities to use the law against politically active ENGOS both in Australia in Russia. Although economic regulations are set by the Russian NGO law, they have not been effectively enforced, as demonstrated in the previous chapter. In contrast, the Australian Government employs mainly ‘soft’ economic regulatory tools, such as tax deductibility and state funding in the form of social contracts. The Russian Government prefers to take more ‘hard’ controlling and punitive regulatory approaches to NGO operation, through inspections of law enforcement bodies. Compared to Australia, Russia does not establish special criteria for NGO public standing, but

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<sup>43</sup> Ibid.

<sup>44</sup> Staples, see above n 16; Staples, see above n 18.

<sup>45</sup> *Environment Protection and Biodiversity Conservation Act (No 91) 1999* (Cth), s 487.

<sup>46</sup> Ibid.

environmental litigating is not a common strategy for Russian NGOs.<sup>47</sup> In general, the Australian NGO law is less controlling and more favourable to the agency of NGOs compared to the Russian NGO law, and encourages financial support of NGOs by businesses and the public.

### 2.1.2 The UK

In the UK, charity law remains the primary legal framework for voluntary activity. Similar to Australia, charity law has been through a very extensive process of reform in 1992–2012. As a result, the 2006 and 2011 *Charity Acts* have been introduced and the UK Charities Commission for England and Wales has been established. The Charity Commission is a special independent public regulator for the operation of charities. The Commission ensures charities' compliance with laws and their public beneficial purposes. Charities have to register with Commission to submit their reports and the Commission has power to identify and investigate misconduct or mismanagement in the administration of charities through a statutory inquiry.<sup>48</sup>

Within existing legal framework, a charity organisation must be established for charitable purposes only, which are for the public benefit. The 2006 *Charity Act* offered no definition of the term 'public benefit', relying on practices found in case law and it was unclear whether political activities or advocacy were acceptable activities for charitable NGOs. This uncertainty resulted 'in NGOs treading very cautiously around political issues in public.'<sup>49</sup> The difficulty of understanding the 2006 *Charity Act* led to an adoption of a new consolidation Charity Act in 2011, replacing most of the previous *Charities Acts* of 1958, 1993 and 2006. The 2011 Act has systematised the regulations, but being a consolidation Act, it could not change or expand definitions of charities. It states that a charity is an institution established for exclusively charitable purposes with no explicit link to activities.<sup>50</sup> As a result, the 2008 Guidance of the UK Charities Commission is applied to clarify 'political activity' and recognise campaigning and political activity of NGOs as 'legitimate and valuable activities for charities to undertake', however 'only in the context of supporting the delivery

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<sup>47</sup> See Chapter 6.

<sup>48</sup> *Charities Act 2011* (UK) c 25, p 2, p 4–6, p 8 s 163, more on the work of the Commission is available at <http://www.charitycommission.gov.uk/detailed-guidance/protecting-your-charity/statutory-inquiries-into-charities-guidance-for-charities-and-their-advisers-cc46/>, the last access on 19/05/2014.

<sup>49</sup> Lang, see above n 13, 106, Morgan, see above n 12, 71.

<sup>50</sup> Morgan, see above n 12, 86.

of its charitable purposes'.<sup>51</sup> The Guidance interprets advocacy of NGOs as acceptable political activity for NGOs in the context of supporting the delivery of its charitable purposes and gives detailed explanation of political campaigning and political activity.<sup>52</sup> The advancement of environmental protection or improvement falls under the description of charitable purposes.<sup>53</sup> The changes in the NGO regulation concerning their public benefits in the UK are considered improvements. However, interpretation and implementation of these new provisions is still developing.<sup>54</sup>

Reporting requirements for charities in the UK depend on the size and type of organisations. Charities are subjects of accountability report requirements, such as annual financial reporting.<sup>55</sup> In accordance to the *Charities Act 2011* (s.163), all registered charities with an annual gross income in excess of £25,000 must prepare a Trustees' Annual Report and submit it to the Commission. In this report, charities describe their activities undertaken in order to fulfill their charitable purposes over the past year.<sup>56</sup> These reporting requirements better explain or contextualise financial matters, thereby facilitating greater accountability through a qualitative narrative. It should be noted that for charities with a bigger annual gross income, these requirements are more demanding compared to low-income charities.<sup>57</sup>

In the UK, like Australia, new regulations aim to clarify meaning of charitable purposes and there is a turn in the regulation to recognise campaigning and political activity of NGOs as consistent with charitable status. Therefore, environmental NGOs embrace the benefits, such as tax beneficial regimes, and limitations of charitable status,<sup>58</sup> which includes mandatory reporting and oversight of their activities by a special regulatory body. Although implementation on new regulations faces certain difficulties in practice,<sup>59</sup> compared to Russia's state controlling measures, the UK Government applies more favourable treatment to NGOs, relying on 'soft' economic regulatory tools, consultations between charities and the regulatory bodies and the publishing of guidance for charities.

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<sup>51</sup> Speaking out guidance on campaigning and political activity by charities (CC9), Charity Commission, 2008, 3, available at <http://www.charitycommission.gov.uk/detailed-guidance/managing-your-charity/speaking-out-guidance-on-campaigning-and-political-activity-by-charities-cc9/#11>, the last access on 19/05/2014.

<sup>52</sup> See more at: <http://www.charitycommission.gov.uk/detailed-guidance/managing-your-charity/speaking-out-guidance-on-campaigning-and-political-activity-by-charities-cc9/#2>, the last access on 19/05/2014.

<sup>53</sup> *Charities Act 2011* (UK) c 25, c 1, s 3.

<sup>54</sup> Morgan, see above n 12, 87.

<sup>55</sup> *Charities Act 2011* (UK) c 25, p 8.

<sup>56</sup> Morgan, see above n 12, 82.

<sup>57</sup> *Charities Act 2011* (UK) c 25, p 8, s 133, see analysis of accountability requirements in O. Breen, 'The Disclosure Panacea: A Comparative Perspective on Charity Financial Reporting' (2013) 24(3) *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 852, 865.

<sup>58</sup> Morgan, see above n 12, 85.

<sup>59</sup> *Ibid*, 80-84.

### 2.1.3 The USA

In the USA, governmental management of NGOs' operation has some common characteristics with the UK and Australia. In order to get Federal tax exemption under the *1986 Internal Revenue Code* (IRC),<sup>60</sup> NGOs have to be registered as charity organisations. The purpose of charity organisations are charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals. The IRC also includes a more narrow explanation of the term 'charitable', which means relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science and others.<sup>61</sup>

Compared to Australia and UK regulation, the charitable status in the USA imposes more restrictions on the activities of NGOs in terms of their political activity, such as restrictions on lobbying<sup>62</sup> legislative bodies at all levels of government and prohibition of political campaigning.<sup>63</sup> In order to be engaged in substantial lobbying and other advocacy activities, NGOs need to form separate organisations. These lobbying organisations are tax exempt, but cannot receive tax-deductible contributions. Mostly large professional NGOs can arrange and manage this type of the dual construction of their activity.<sup>64</sup> Interestingly, due to the definition of lobbying as attempting to influence legislation, NGOs' interactions with executive and judicial branches of power are not considered lobbying; NGOs can be engaged with governmental agencies and courts to advance public interests without considering these activities political.<sup>65</sup> However, US-based NGOs that hold tax-exempt status must not be involved substantially with propaganda or otherwise attempt to influence legislation.<sup>66</sup>

Annual financial reporting to the IRS and filing of annual reports to the state in which NGOs are registered is another requirement for maintaining charitable status.<sup>67</sup> As some authors

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<sup>60</sup> *Internal Revenue Code*, 26 USC, § 501c3.

<sup>61</sup> *Ibid*, § 501c3.

<sup>62</sup> Available at <http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/The-Restriction-of-Political-Campaign-Intervention-by-Section-501%28c%29%283%29-Tax-Exempt-Organizations>, the last access on 19/05/2014.

<sup>63</sup> Available at <http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/The-Restriction-of-Political-Campaign-Intervention-by-Section-501%28c%29%283%29-Tax-Exempt-Organizations>, the last access on 19/05/2014.

<sup>64</sup> Lang, see above n 13, 100.

<sup>65</sup> *Ibid*, 102-103.

<sup>66</sup> S. Stroup and A. Murdie, 'There's no Place Like Home: Explaining International NGO Advocacy' (2012) 7(4) *The Review of International Organizations* 425, 431.

<sup>67</sup> Xu Jun and D. Smith, 'Relations between the Government and Nonprofit Organizations in China and the USA: An Overview' (Paper presented at the ICPM-2012. Crisis Management in the Time of Changing World, 2012), 109.

note, the events of 11 September 2001 and subsequent ‘Patriot Acts’ passed by the US Congress have made IRS registration more restrictive. As a result, a number of registered NGOs were removed from the list of registered NGOs for failure to file annual expenditure reports to the IRS for more than three years.<sup>68</sup>

As mentioned above, the Russian authorities often reference the USA context, in particular the FARA,<sup>69</sup> in order to justify the restrictive measures towards NGOs with foreign funding.<sup>70</sup> In the USA, this Act requires persons acting as agents of foreign principals and undertaking political activity to make a periodic public disclosure of their relationship with the foreign principal, as well as activities, receipts and disbursements in support of those activities and to register with the United States Department of Justice.<sup>71</sup> These measures ensure that the US Government and the American people are informed of sources of information and activities of persons who attempt to influence US public opinion, policy and laws.<sup>72</sup> The Act also enhances transparency on the sources of income of powerful lobbies. The term ‘political activities’ means any activity that the person engaging in any way may influence any agency or official of the US Government with reference to formulating, adopting or changing the domestic or foreign policies of the USA or with reference to the political or public interests, policies, or relations of a foreign government or a foreign political party. FARA provides some exemptions from this act for foreign government officials, diplomatic and consular, for private and non-political activities (a commercial exemption); and for religious, scholastic or scientific pursuits and gives the Attorney General the discretion to exempt any agent from the requirements of FARA.<sup>73</sup>

Generally, the NGO legislation in the USA, similar to other common law countries discussed above, applies soft regulatory mechanisms for regulating NGOs, establishing tax exemptions for NGOs registered as charities and limiting political activities of charities. From the perspective of defining political activities, the US legislation is more restrictive than the Australian and UK regulations.

In comparison to Russian NGO law, it is possible to conclude that the recent amendments in the Russian NGO law concerning foreign-funded NGOs engaged in political activities have been loosely based on FARA. Russian legislators borrowed terminology from the Act literally

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<sup>68</sup> Ibid, 106.

<sup>69</sup> *Foreign Agents Registration Act*, 22 USC § 611.

<sup>70</sup> For example, the President’s interview to the German ARD at <http://eng.news.kremlin.ru/news/5216>, the last access on 27/05/2014.

<sup>71</sup> *Foreign Agents Registration Act*, 22 USC § 611.

<sup>72</sup> See FARA’s official web-site, available at <http://www.fara.gov/fara-faq.html#2>, the last access on 19/05/2014.

<sup>73</sup> *Foreign Agents Registration Act*, 22 USC § 611a-c.



translating terms ‘foreign agents’ and ‘political activity’ and the idea to organise a register for these kinds of organisations under the Ministry of Justice. Another parallel that can be drawn between these two legislations is an attempt to exclude some types of NGO activity from ‘political activity’. In similar ways, the definitions of these exclusions are quite broad and vague and may be interpreted in different ways in both the Russian and the US laws.

However, despite the formal resemblance of these laws, the scope of these regulations is different. The essential feature of American political culture is the existence of various lobbying groups—professional political organisations aiming to influence domestic and foreign policies of the USA. Theoretically, NGOs funded by a foreign principal can be held to account under FARA but this has been extremely rare in practice.<sup>74</sup> A current list of registered foreign agents contains the names of public relations firms, state corporations, paid lobbyists for foreign governments and actual non-diplomatic offices of foreign governments in the US.<sup>75</sup> Thus, this Act is a mostly of anti-lobbying character aimed against activities of professional foreign lobby groups<sup>76</sup> rather than against civil society organisations. As discussed in Chapter 4, this is not the case with the Russian NGO law, which has increasingly been used to take tight control over foreign-funded NGOs operating in Russia.

Table 6 provides a comparison of the legal regulations of NGOs in the abovementioned countries belonging to the common law system and Russia on key issues.

**Table 6. A comparison of NGO law in the common law countries and Russia**

| Country          | State registration                                     | Charitable/public purpose status | Barriers for political activities and public advocacy                      | Reporting requirements | Barriers for foreign funding | Barriers for foreigners |
|------------------|--|----------------------------------|--|------------------------|------------------------------|-------------------------|
| <b>Australia</b> | Mandatory for charitable status and other legal rights | Tax benefits and state support   | No, but political activities should be consistent with charitable purposes | Yes                    | No                           | No                      |

<sup>74</sup> I. Burke, 'Foreign agents' under Russia's NGO law and its US doppelganger', published on 27/07/2012, available at [http://rapsinews.com/legislation\\_publication/20120727/263954264.html](http://rapsinews.com/legislation_publication/20120727/263954264.html), the last access on 27/05/2014.

<sup>75</sup> See the the Foreign Agents Registration Act at <http://www.fara.gov/quick-search.html>, the last access on 19/05/2014.

<sup>76</sup> United States Mission to the OSCE Statement on Russian Law on Foreign Agents, available at <http://iipdigital.usembassy.gov/st/english/texttrans/2012/07/201207058510.html#axzz2c00vDwnw>, the last access on 19/05/2014.

|                |   |                                   |  |     |   |   |
|----------------|---|-----------------------------------|--|-----|---|---|
| <b>The UK</b>  | Mandatory for charitable status and other legal rights                    | Tax benefits and state support    | No, but political activities should be consistent with charitable purposes         | Yes | No  | No  |
| <b>The USA</b> | Mandatory for charitable status and other legal rights                    | Tax benefits                      | A restriction to lobby legislative bodies and prohibition of political campaigning | Yes | No  | No  |
| <b>Russia</b>  | Mandatory to receive more legal rights and foreign and international NGOs | Some tax exemption, state support | No for lawful activities, excessive penalties for violations of laws on assemblies | Yes | Strict state control over foreign-funded NGOs | Only legally domiciled foreigners can be founders of NGOs |

## 2.2 Civil law countries: Germany and France

In Europe, NGO law is also under reconsideration in order to adjust the domestic regulations to legal standards of the EU. As mentioned previously, the Russian legal system has been largely influenced by the legal systems of France and Germany. For example, similarly to France and Germany, general provision on NGOs contained in the Civil Codes of these countries (more detailed regulation can be found in special laws regulating NGOs and the Tax Codes of France, Germany), Russia has regulations concerning tax exemption and privileges for NGOs. Therefore, a comparative study of the NGO law in France and Germany will provide a deeper understanding on recent trends in changing of the legal framework on NGO operation in these civil law countries. The trends have been caused by Europeanisation and implementation of the principles of public participation in regards to better involvement of civil society and more active communication between governance institutions and the general public, through networks, grassroots organisations and national, regional and local authorities.<sup>77</sup>

<sup>77</sup> White Paper on European Governance. COM(2001) 428 final (2001/C 287/01) available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52001DC0428&rid=2>, the last access on 2/11.2014.

## 2.2.1 France

In France, non-for-profit organisations are regulated by the Act of 1901<sup>78</sup> and other laws,<sup>79</sup> which establish two main categories of non-profit organisations: associations<sup>80</sup> and foundations.<sup>81</sup> Associations can be formed freely; they do not even need to be declared (similar procedure to the state registration) and can operate without any legal form.<sup>82</sup> However, only the declared associations are considered legal entities with rights to go to court, own property and so on.<sup>83</sup> Certain procedures, such as publicising information concerning their title, aims, registered office and details of persons responsible for their management, are established by the Law to receive the status of declared association.<sup>84</sup> Regulation and registration of foundations, which must be public benefit, or corporate organisations is more complicated as establishment of a public purpose NGO requires a detailed registration procedure.<sup>85</sup> The French laws do not contain any special regulatory provisions for foreign participation, membership or establishment of NGOs and all NGOs are treated equally.<sup>86</sup> Special financial reporting is compulsory only for NGOs receiving public benefits (associations and foundations).<sup>87</sup>

In the case of environmental NGOs, only approved (or ‘declared’) organisations are entitled to present collective interests in the courts. This approval is granted to associations by the Minister of the Environment or the prefecture upon the fulfillment of certain criteria, such as

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<sup>78</sup> *Loi du 1 juillet 1901 relative au contrat d'association* [Law of July 1, 1901 relating to the contract of association] (France), JO, 1 July 1901.

<sup>79</sup> For example, *Loi n° 87-571 du 23 juillet 1987* [Law N 87-571 of 23 July 23 1987] (France), JO, 24 July 1987; *Loi n° 90-559 du 4 juillet 1990 créant les fondations d'entreprise et modifiant les dispositions de la loi n° 87-571 du 23 juillet 1987 sur le développement du mécénat relatives aux fondations* [Law No. 90-559 of July 4, 1990 *Creating Corporate Foundations and Modifying the Content of Law No. 87-571 on the Development of Philanthropy*] see more on <http://www.cof.org/content/france#Types>, the last access 03/11/2014.

<sup>80</sup> *Loi du 1 juillet 1901 relative au contrat d'association* [Law of July 1, 1901 relating to the contract of association] (France), JO, 1 July 1901; A. Dirusso, 'American Nonprofit Law in Comparative Perspective' (2011) 10 *Washington University Global Studies Law Review* 39, 44.

<sup>81</sup> *Loi n° 87-571 du 23 juillet 1987* [Law N 87-571 of 23 July 23 1987] (France), JO, 24 July 1987 and other laws.

<sup>82</sup> *Loi du 1 juillet 1901 relative au contrat d'association* [Law of July 1, 1901 relating to the contract of association] (France), JO, 1 July 1901, Article 2.

<sup>83</sup> N. Mayer, 'Democracy in France: Do Associations Matter' (2003) *Generating Social Capital* 43, 47.

<sup>84</sup> *Loi du 1 juillet 1901 relative au contrat d'association* [Law of July 1, 1901 relating to the contract of association] (France), JO, 1 July 1901, article 5; the Environmental code also granted special rights for ENGOs to bring claims for civil reparation before criminal jurisdictions, see more in D. Papadopoulou, 'The Role of French Environmental Associations in Civil Liability for Environmental Harm: Courtesy of Erika' (2009) 21(1) *Journal of Environmental Law* 87, 92.

<sup>85</sup> 'Analysis of the Chart Prepared by the Ministry of Foreign Affairs of the Russian Federation Comparing Several Countries' Laws Regulating NGOs' (The International Center for Not-for-Profit Law, 2006); 'France' (The Council on Foundations, 2014), available at [http://www.cof.org/content/france#\\_end3](http://www.cof.org/content/france#_end3), the last access 03/11/2014.

<sup>86</sup> *European Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations*, signed 24 April 1986, CETS No 124 (entered into force 1 January 1991), Article 3; Report of the ICNP see above n 85.

<sup>87</sup> Report of the International Center for Not-for-Profit Law, see above n 85.

being declared for at least three years, exercising activities according to their statute in certain fields related to environmental protection, or working primarily towards the protection of the environment, while having environmental protection as a main activity, as well as sufficient organisational guarantees.<sup>88</sup> As a result, the number of the approved ‘associations’ is much smaller compared to the declared environmental associations.<sup>89</sup>

Generally, NGOs actively participate in French policymaking, but only non-violent and representative groups can be included in this process. This can be explained by the state’s intention to exclude groups engaged in violence from being involved governance. NGOs representativeness is decided based on the government’s interpretation and not on legal grounds.<sup>90</sup> At the same time, the state establishes very strong and dense relationships with a number of associations, which makes it sometimes difficult to differentiate between public and private interests.<sup>91</sup> The process of Europeanisation has also empowered NGOs and defines NGO-state relationships through the development of European environmental programmes expanding the resources of domestic groups.<sup>92</sup>

French tax law is also a legal source for regulation of NGOs. Public purposes are defined by the *Tax Code* and this status gives tax privileges for NGOs<sup>93</sup> that serve public interest. For example, these NGOs can receive a reduced rate of VAT, and partial and tax exemption is available for taxpayers, both legal entities and individuals, who make donations to these NGOs.<sup>94</sup> The definition of ‘public benefit organisations’ in the civil law countries is close to the term ‘charity’ in common law tradition. However, the literal translation of charity is narrow and defines organisations providing basic needs to the needy and poor<sup>95</sup> and environmental NGOs are considered public benefits organisations. As mentioned above, the law does not specify that a public benefit organisation may not engage in political activities, but a decision by the Council of State, which may act as a Supreme Court for administrative justice, clarifies that organisations with a primarily political purpose—such as engaging primarily in political advocacy—cannot be recognised as public benefit organisations.<sup>96</sup>

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<sup>88</sup> This is similar in Australia under *Environment Protection and Biodiversity Conservation Act (No 91) 1999* (Cth), s 487.

<sup>89</sup> Papadopoulou, see above n 84, 92–94.

<sup>90</sup> S. Saurugger, 'Democratic 'Misfit'? Conceptions of Civil Society Participation in France and the European Union' (2007) 55(2) *Political Studies* 384, 390–391.

<sup>91</sup> *Ibid.*, 390.

<sup>92</sup> McCauley, see above n 5, 279.

<sup>93</sup> *Code General Des Impôts* [General Tax Code] (France), Articles 200 and 238bis.

<sup>94</sup> *Ibid.*

<sup>95</sup> C. Newman, 'The Status of Political Activities of Associations and Foundations' (2001) 3(3) *International Journal of Not-for-Profit Law*, [http://www.icnl.org/research/journal/vol3iss3/cr\\_9.htm](http://www.icnl.org/research/journal/vol3iss3/cr_9.htm), the last access on 03/11/2014.

<sup>96</sup> *Ibid.*

In recent years, participation of NGOs in environmental decision making has extended to certain deliberative and advisory bodies of the French state under the policy of ‘ecological democracy’ and under the participatory shifts in environmental governance occurring across the EU.<sup>97</sup> In France, NGOs became a part of environmental governance processes through deliberative debates with the state and businesses, such as Grenelle de l’environnement, voicing, deliberating and negotiating environmental issues and using discursive power to shape environmental legislation.<sup>98</sup>

In summary, operation of French NGOs is regulated by special legislation, which includes the *Law on Associations* and tax laws. Similar to the common law countries, France uses a soft regulatory approach for NGOs, which means that NGOs must serve a public benefit purpose, which includes the promotion of the environmental protection, to receive tax exemptions.<sup>99</sup> Unlike the Russian situation, the *Law on Associations* does not contain special regulatory provisions for NGO political activities, and primary political activities of NGOs (e.g., a support of political parties) cannot be qualified as publically beneficial.<sup>100</sup> There are also no special provisions for foreign-funded NGOs.

### 2.2.2 Germany

Compared to France, Germany is a less centralised country and relationships between the state, business and NGOs constitute a so-called corporatist or ‘social partner’ system, where the state establishes effective communication with environmental movements and provides public space for development of ‘green public sphere’.<sup>101</sup> As a result of ecological modernisations, electoral success of the Green Party and active role of ecological research institutes, NGOs are much more involved in institutional bargaining processes than in confrontation with business and the state.<sup>102</sup> The experience of NGOs is widely used in legislative process. The non-for-profit sector is dominated by NGOs that are actively engaged

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<sup>97</sup> McCauley, see above n 5.

<sup>98</sup> K. Whiteside, D. Boy and D. Bourg, ‘France’s ‘Grenelle de l’environnement’: Openings and Closures in Ecological Democracy’ (2010) 19(3) *Environmental Politics* 449, 465.

<sup>99</sup> *Code General Des Impots* [General Tax Code] (France).

<sup>100</sup> ‘Political Activities of NGOs: International Law and Best Practices’ (International Center for Not-for-Profit Law, 2009), available at [http://www.icnl.org/research/journal/vol12iss1/special\\_1.htm](http://www.icnl.org/research/journal/vol12iss1/special_1.htm), the last access on 21/05/2014.

<sup>101</sup> J. Dryzek et al, ‘Environmental Transformation of the State: the USA, Norway, Germany and the UK’ (2002) 50(4) *Political Studies* 659, 674.

<sup>102</sup> S. Lang, ‘NGOs, Local Governance, and Political Communication Processes in Germany’ (2000) 17(4) *Political Communication* 383, 387; Dryzek et al, see above n 101, 674–675.

with business and the state and may operate as hybrid organisations rather than operate independently.<sup>103</sup>

Like France, Germany is a civil law country and there is a comprehensive legal framework for not-for-profit organisations (associations, foundations and limited liability companies) that are generally engaged in public benefit activities that the common law refers to as charity. The main regulations are established by the *German Civil Code*<sup>104</sup> and other laws.<sup>105</sup> The legislation does not contain special regulations for foreign NGOs, which are entitled to national treatment and not limited in their rights.

Similar to other countries, German tax law allows individual and corporate income tax deductions for contributions to certain public benefit organisations.<sup>106</sup> Like the French tax regulations, the term ‘public benefit’ used in the *Fiscal Code of Germany* defines the broader range of purposes including environmental protection and conservation<sup>107</sup> while the term ‘charitable’ in the *Fiscal Code* (s.53) permits a fairly limited group of purposes. For example, this group includes organisations that care for the sick, the handicapped, the homeless and so on.<sup>108</sup> Public purpose organisations receive tax benefits if their activity is consistent with the *German Constitution* and laws<sup>109</sup> and international norms.<sup>110</sup> Tax benefit NGOs must not support political parties directly or indirectly.<sup>111</sup> In practice, regulations on political activities of NGOs are quite unrestrictive and considerable purpose-related advocacy, lobbying and influencing public opinion are permitted.<sup>112</sup>

Under domestic law, NGOs do not have legal standing in the German administrative court. German law allows only for an individual right of action in case administrative measures affect the rights of the claimant. The right of environmental NGOs to bring collective actions into the court has been granted by the Aarhus Convention<sup>113</sup> and the *Environmental Impact*

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<sup>103</sup> I. Bode, 'Disorganized Welfare mixes: Voluntary Agencies and New Governance Regimes in Western Europe' (2006) 16(4) *Journal of European Social Policy* 346, 348.

<sup>104</sup> *Bürgerliches Gesetzbuch* [German Federal Civil Code] (Germany) 1 January 1900, BGB, Second Title, Legal Entities, Chapters I (associations), II (foundations) and III (public law juridical entities).

<sup>105</sup> *Vereinsgesetz* [Law on Associations of 5 August 1964], (Germany), 5 August 1964, BGBl. I S., 1964, 593.

<sup>106</sup> Dirusso, see above n 80, 46.

<sup>107</sup> *Abgabenordnung* [Fiscal Code of Germany] (Germany), s 52.

<sup>108</sup> *Abgabenordnung* [Fiscal Code of Germany] (Germany).

<sup>109</sup> *Vereinsgesetz* [Law on Associations of 5 August 1964], (Germany), 5 August 1964, BGBl. I S., 1964, 593.

<sup>110</sup> *Abgabenordnung* [Fiscal Code of Germany] (Germany), s 51.

<sup>111</sup> *Ibid*, s 55(1).

<sup>112</sup> Newman, see above n 95.

<sup>113</sup> *Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters*, opened for signature 25 June 1998, 2161 UNTS 447 (entered into force 30 October 2001).

*Assessment (EIA) Directive (85/337/EEC)*.<sup>114</sup> The national legislation cannot deprive organisations of ‘access to justice’.

German laws have established a similar system to other Western countries’ legal regimes for NGOs, granting tax privileges for NGOs pursuing public benefits purposes and limitations for political activities of public benefits NGOs. At the same time, environmental groups have the right to participate in framing and debating environmental policy, including commenting on existing or proposed legislation and criticising the state policy. Moreover, the electoral success of the Green Party in Germany has provided ENGOs with a wide range of rights and allowed the development of a consultative approach among the environmental community, scientists, businesses and government (partly).<sup>115</sup> Compared to Russia, the German legislation is more favourable for NGO agency in terms of a lack of any additional accountability and administrative requirements for foreign-funded and foreign NGOs. Key issues for NGO law in France and Germany are indicated in Table 7, and compared to the Russian NGO law.

**Table 7. A comparison of NGO law in the civil law countries and Russia**

| Country        | State registration  | Charitable/<br>public<br>purpose<br>status | Barriers for<br>political<br>activities and<br>public<br>advocacy                  | Reporting<br>requirements | Barriers<br>for foreign<br>funding            | Barriers<br>for<br>foreigners                             |
|----------------|---|--|--|---------------------------|---|---|
| <b>France</b>  | Mandatory for charitable status and other legal rights                    | Tax benefits and state support             | No   | Yes                       | No  | No  |
| <b>Germany</b> | Mandatory for charitable status and other legal rights                    | Tax benefits and state support             | No. Tax-exempted organisations may not directly support political parties          | Yes                       | No  | No  |
| <b>Russia</b>  | Mandatory to receive more legal rights and foreign and international NGOs | Some tax exemption, state support          | No for lawful activities, excessive penalties for violations of laws on assemblies | Yes                       | Strict state control over foreign-funded NGOs | Only legally domiciled foreigners can be founders of NGOs |

<sup>114</sup> Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment [1985] OJ L 175/0040.

<sup>115</sup> M. Schreurs, *Environmental Politics in Japan, Germany, and the United States* (Cambridge University Press, 2002), 88, 243, 245.

## 2.3 Summary

The main debates on the charity law reforms in Western countries focus on defining what constitutes a charity and public benefit purposes<sup>116</sup> for tax beneficial regimes for NGOs, usually in forms of income tax exemption and/or tax deductibility for donations. In most cases, new regulations clarified the meaning of charitable purpose; the kinds of NGOs activities falling under the tax-exempt regime and at what point NGOs breach their stated purpose.<sup>117</sup>

In general, in most countries, NGOs with purposes of the protection of the environment fall under the definition of charity in common law countries, and public benefit organisations in civil law countries. Given that in the majority of national legislations, charity status is closely associated with tax relief for NGOs, the main debates on types of NGO activity focus on their strategies and tools to achieve their purposes. Although the demarcation line between charitable and political activity in forms of public advocacy and lobbying remains vague in the USA, generally advocacy and lobbying of environmental NGOs are not restricted and are understood as charitable activity.<sup>118</sup> Comparative research on the American and European non-for-profit regulations has demonstrated that the focus of the US legislation lays on the relationships between the nonprofits and donors or leaders, while the relationships between the NGOs and the state is the main focus of European legal regulations. Another feature of US law is regulation of charities mostly through tax law.<sup>119</sup> In contrast, in the other common law countries including Australia and the UK, the special regulations for NGOs have been enacted in recent years, although tax laws and case law remain a part of NGO legislation. In the civil law countries, NGO operation is regulated by special laws (e.g., French law on associations), the civil codes and tax laws.

Despite the earlier attempts of the states to gain more control over civil society organisations, quite favourable legal framework for NGOs' agency has been established in Australia and the UK. The previous laws and judicial decisions have been summarised and unified. In comparison with the USA, France and Germany, the UK and Australian law for NGOs

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<sup>116</sup> Turnour and McGregor-Lowndes, see above n 11, 811.

<sup>117</sup> Lang, see above n 13, 386.

<sup>118</sup> However, some authors consider this development of charity legislation as a wrong path for the charity reform. A return to common law precedents and principals would suite better for charity reform due to flexibility for common law. At the same time the courts should continue to develop the doctrine of charitable purpose by returning to the fundamentals and rediscovering the jurisprudence underpinning Pemsel's Case. With the courts' reluctance for a radical shift in reforming, the legislature may initiate a new jurisprudence. Turnour and McGregor-Lowndes, see above n 11, 812. 845.

<sup>119</sup> Dirusso, see above n 80, 75, 77.



contain less vague definitions of charities and public purposes, grounds for tax exemption, and more permissive regulations concerning the right of NGOs to advocate and give more explicit definition of political activities for NGOs that intend to keep their charitable status for tax benefit purposes. As a result of their membership in the EU, domestic laws in Germany, France and other state members of the EU, have been forced to change to comply with the EU legal standards for broad NGO participation in the governance process, within the country and on the level of European politics.<sup>120</sup>

Similar to Russia, certain restrictions for primary political activities of NGOs pursuing public benefits are established by the governments in Australia, the UK, the USA, Germany and France. However, in contrast to Russia, the Western governments use more flexible regulations to control political activities of NGOs through taxes. In Russia, a class of social-oriented NGOs with public beneficial purposes has been established relatively recently, and the use of tax mechanisms as regulatory tools is still undeveloped. The Russian Government's regulatory measures have more punitive and administrative characteristics and the vague definition of political activities give opportunities for their selective implementation as discussed in the previous chapter. Another difference of the Russian NGOs laws is that the laws contain special provisions for regulation of foreign and funded from abroad NGOs. This can be explained by the heavy reliance of NGOs in Russia on Western funding.

It should be noted that the Russian legislation, as with the French and German laws, gives NGOs legal rights to participate in environmental governance through cooperation with the state. The right of NGOs to represent public interests in the courts is even more liberal compared to France or Australia, and is not limited by any conditions, such as the duration of the activity of organisations, their size or others. Moreover, this right was granted to European NGOs under influence of international norms, particularly the Aarhus Convention, and conformity to policy of the EU. However, compared to Western countries, implementation of this right in Russia is low in practice due to lack of resources and relevant litigation experience of Russian NGOs along with insufficiency of judicial practice on implementation of environmental laws (discussed in Chapter 6).

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<sup>120</sup> E. Bloodgood, J. Tremblay-Boire and A. Prakash, 'National Styles of NGO Regulation' (2013) *Nonprofit and Voluntary Sector Quarterly*, 18.

### 3. *The Post-Soviet countries*

After the collapse of the Soviet Union in 1991, all fifteen former Soviet republics have begun to form their own legal system. The process of creation of the new legal regulations occurred in a similar way to Russia. In short, the former Soviet Republics were open to changes and democratic ideas. Thus, as a result of democratisation and the transition to the market economy, the new legal system combined the old Soviet legal norms adapted to the new circumstances and new laws in the areas that were not regulated by the Soviet law. The relevant legislative acts were also adopted for regulating operation of public organisations and movements that emerged in the end of 1980 as a result of new policies of the Soviet Union (discussed in Chapter 3). These laws are commonly called 'Laws on Public Associations' and detailed in other laws (e.g., Administrative Codes, Laws on the Environmental Protection and sub-normative acts). The constitutions of these countries also contain provisions on freedom of associations, freedom of speech and others. In the area of international regulations of NGOs activities, all Post-Soviet states, except for the Russian Federation, Georgia and Uzbekistan, have ratified the Aarhus convention, which grants a broad range of rights for participation of NGOs in environmental governance, emphasising open access to information and environmental justice.

Similarly to Russia, foreign and international financial funding and other aid flowed to the new independent countries to support the development and capacity building of NGOs in accordance with Western neo-liberal ideology that initially influenced the development of a legal framework for NGOs.<sup>121</sup> Today, foreign aid continues to remain a key resource for NGOs in the Post-Soviet countries, due to low charitable culture and difficult economic situations.<sup>122</sup> Shifts in the state policies (as a result of democratisation) towards developing civil society and NGOs were quite common, not only for Russia (as described above) but for all these states.

This chapter focuses on other Post-Soviet countries, such as Belarus, Azerbaijan and the Central Asian countries, including Tadjikistan, Turkmenistan and Uzbekistan. These countries have developed quite restrictive regulations on NGO activity concerning foreign funding and political activities of NGOs. These legislative constraints and their extent vary

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<sup>121</sup> Mendelson and Glenn, see above n 7.

<sup>122</sup> F. Adamson, 'International Democracy Assistance in Uzbekistan and Kyrgyzstan: Building Civil Society from the Outside?' in S.E. Mendelson and J.K. Glenn (eds), *The Power and Limits of NGOs* (Columbia University Press 2002) 177; I. Otto, A. Shkaruba and V. Kireyeu, 'The Rise of Multilevel Governance for Biodiversity Conservation in Belarus' (2011) 29 *Environment and Planning C: Government and Policy* 113.

from country to country depending on the political regime. However, similar to Russia's response to the 'coloured revolutions', most of the governments introduced new controlling measures towards foreign funding for NGOs, including environmental, to avoid the influence of foreign governments on internal policies (both Western and Russian) and to protect current governments and their leaders. These measures have had a significant impact on NGO activities on already weak and undeveloped civil society. The short overview of NGO law in these countries shows that, similar to Russia, many Post-Soviet countries adopted NGO law that contain provision on excessive reporting requirements for foreign and funded from abroad NGOs. Weak and selective law implementation and abuse of power by controlling bodies are also common issues for these Post-Soviet countries. The non-transparent and complicated procedures of the state registration of NGOs can be also found in the legislations of these countries.

### 3.1 Azerbaijan

In Azerbaijan, the latest *Law on Non-Governmental Organisations* (Public associations and Foundations) establishes different legal regimes for foreign-funded NGOs, NGOs established by foreign governments and foreign legal entities and individuals and domestic NGOs.<sup>123</sup> For example, Article 9.2 of the Law requires a permanent residency status for foreign or stateless NGO's founders.<sup>124</sup> The requirement for these types of NGOs to be registered based on international agreements concluded between the organisation and the state authority does not include any detailed specification of such agreements and provides the competent authority with a broad discretion to interpret it and to define the conditions of such agreements.<sup>125</sup> Major changes to Azerbaijani NGO law in 2009 (e.g., Article 4 of the *Law of Azerbaijan Republic on Grants*, the *Law on Nongovernmental Organisations*, and the *Code of Administrative Offenses*) have empowered competent state authorities with a right to control foreign funding for NGOs through a mandatory requirement to make a grant agreement (a contract) with a donor and register it with the Ministry of Justice,<sup>126</sup> which serves as a legal ground to receive and utilise funding. Although there have been no refusals to register NGO grant agreements, NGO activists see this requirement as a bureaucratic burden for their

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<sup>123</sup> Report of Human Right Watch, 'Tightening the Screws: Azerbaijan's Crackdown on Civil Society and Dissent' (Human Rights Watch, 2013).

<sup>124</sup> Ibid.

<sup>125</sup> R. Remézaitè, *Restrictions on the Right to Freedom of Association: Case Study of the Legal Environment of Human Rights NGOs in Azerbaijan, Belarus and the Russian Federation* (University of Oslo, 2010), 36.

<sup>126</sup> Report of Human Right Watch, 'Tightening the Screws: Azerbaijan's Crackdown on Civil Society and Dissent' (Human Rights Watch, 2013).

activity.<sup>127</sup> Fines for receiving grants without formal grant agreements or receiving donations in cash were increased in 2013 and 2014<sup>128</sup> to 2,500–3,000 AZN (approximately US\$3,200–US\$4,100) for the NGO and 1,000–2,000 AZN (approximately US\$1,250–US\$2,500) for individuals—directors of national and foreign NGOs.<sup>129</sup> Powers of courts and controlling bodies were expanded in regards to controlling and closing down NGOs and reporting requirements on grants and donations were increased.<sup>130</sup> The Government justifies the amendments and accountability requirements by a need to ensure better transparency and accountability for NGO activities.<sup>131</sup>

Another barrier NGOs face in operating effectively is a barrier to assembly. This involves a complicated legal procedure to receive permissions to organise public protests, rallies and others and excessive administrative and criminal penalties for unauthorised actions. The reports contain facts on refusal of authorities to give permissions for opposition protests,<sup>132</sup> on violence against peaceful anti-corruption protestors,<sup>133</sup> organisers, and participants and unfair trials against activists, for example, the arrest and criminal investigation of A. Mammadli, chairman of the Election Monitoring and Democracy Studies Centre, a leading independent election monitoring group in Azerbaijan.

Theoretically, the *Azerbaijani Tax Code* provides an opportunity to use taxes as a regulatory tool for charitable NGOs, but in practice, a procedure for obtaining charitable status has not been established and it is unclear how NGOs can claim tax benefits mentioned in the *Tax Code*.<sup>134</sup> Therefore, although the soft mechanisms for regulating NGOs are established by the legislation, they not effectively enforced.

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<sup>127</sup> Ibid, 59.

<sup>128</sup> 'NGO law Monitor: Azerbaijan' (The International Center for Not-for-Profit Law, 2014); 'NGO law Monitor: Uzbekistan' (The International Center for Not-for-Profit Law, 2014), available at <http://www.icnl.org/research/monitor/azerbaijan.html>, the last access on 22/05/2014.

<sup>129</sup> 'Council of Europe should condemn repressive NGO legislation in Azerbaijan', available at <http://www.civicsolidarity.org/article/892/council-europe-should-condemn-repressive-ngo-legislation-azerbaijan>, , available at <http://www.icnl.org/research/monitor/azerbaijan.html>, the last access on 04/11/2014; Report of Human Right Watch, see above n 127.

<sup>130</sup> Statement of Eastern Partnership Civil Society Forum on NGO law amendments in Azerbaijan, Brussels, 31 January 2014, available at [http://eap-csf.eu/assets/files/EAPCSF\\_statement\\_NGO-legislation-azerbaijan-31jan2014.pdf](http://eap-csf.eu/assets/files/EAPCSF_statement_NGO-legislation-azerbaijan-31jan2014.pdf).

<sup>131</sup> Report of Human Right Watch, see above n 127, 60.

<sup>132</sup> Ibid, 69.

<sup>133</sup> Statement of the Steering Committee of the World Movement for Democracy, available at <http://www.wmd.org/about/statements/legislative-amendments-threaten-ngos-azerbaijan>, the last access on 04/11/2014; A. Roth and S. Sultanova, 'Officials in Azerbaijan Claim to Restore Order to Rioting City', *The New York Times* 25 January 2013, [http://www.nytimes.com/2013/01/26/world/asia/officials-in-azerbaijan-claim-to-restore-order-to-rioting-city.html?\\_r=1&](http://www.nytimes.com/2013/01/26/world/asia/officials-in-azerbaijan-claim-to-restore-order-to-rioting-city.html?_r=1&), the last access on 04/11/2014.

<sup>134</sup> Information is available at <http://www.icnl.org/research/monitor/azerbaijan.html>, the last access on 27/05/2014.

Unlike Western countries in recent years, reforming of NGO legislation is heading towards increase of the state control and implementation of punitive measures from controlling bodies. Thus, the 'hard' administrative regulatory approach for regulating NGOs prevails in Azerbaijan. Although the state works with some NGOs and the Azerbaijan Council on State Support to NGOs has provided financial assistance for NGOs, the state remains 'hostile towards those working on human rights, election monitoring, good governance, or anti-corruption and those that are openly critical of the authorities'.<sup>135</sup> Similarly to Russia, Azerbaijan has increased control and accountability measures for foreign and foreign-funded NGOs to limit a scope of their activities.

### 3.2 The Central Asian countries

The Central Asian Post-Soviet countries, such as Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan, are often characterised as 'unintegrated states'.<sup>136</sup> Despite Western countries' efforts to promote the democratisation of these region, political culture and institutional framework in these countries remains different from Western democratic standards.<sup>137</sup> This can be explained by their geographical location, historical, cultural factors and low level of economic development. Taking into account these factors, the political development of the Central Asian countries has been influenced by not only Western models of political development, but also by Turkey, Iran, Russia, China and other Eastern Asian states.<sup>138</sup> The most liberal legal norms for NGOs have been established in Kyrgyzstan.<sup>139</sup> Among the Central Asian countries, Uzbekistan and Turkmenistan had the most authoritative regime unfavourable for NGOs, and this part of the chapter will focus mainly on the NGO legislation in these two countries. Nevertheless, the right of freedom association and other human rights are declared by the Constitutions of all Central Asian states.<sup>140</sup> At the same time, implementing regulations and implementation practice is different from the declared democratic values.<sup>141</sup>

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<sup>135</sup> Report of Human Right Watch, see above n 127, 56.

<sup>136</sup> S.E. Mendelson and J.K. Glenn, 'Introduction: Transnational Networks and NGOs in Postcommunist societies' in S.E. Mendelson and J.K. Glenn (eds), *The Power and Limits of NGOs: A Critical Look at Building Democracy in Eastern Europe and Eurasia* (Columbia University Press 2002) 1.

<sup>137</sup> C. Buxton, 'NGO Networks in Central Asia and Global Civil Society: Potentials and Limitations' (2009) 28(1) *Central Asian Survey* 43, 45–47.

<sup>138</sup> Adamson, see above n 122, 177, 181–182.

<sup>139</sup> Ibid, 182; R. Hayman et al, 'Legal Frameworks and Political Space for Non-Governmental Organisations: An Overview of Six Countries' (European Association of Development. Research and Trainign Institutes, 2013), 19–22.

<sup>140</sup> For example, the Constitution of the Republic of Uzbekistan (Articles 30–34), the Constitution of Tajikistan (Articles 5, 8, 28–30), the Constitution of Turkmenistan (Articles 28–30).

<sup>141</sup> Adamson, see above n 122, 182.

In these countries, the public organisations must register with the Ministry of Justice, requirements and procedures for NGO registration are more complicated and demanding than the registration requirements for commercial organisations.<sup>142</sup> For example, in Turkmenistan, unregistered activity of NGOs is forbidden by Article 17 of the *Law on Public Associations*. Restrictions and punishments (fines) for unregistered associations are imposed by NGO legislation.<sup>143</sup> Similar requirements for the mandatory registration can be found in the legislation of Uzbekistan.<sup>144</sup> Generally, all requirements for the NGO registration are listed in the laws; however, as it follows from NGO monitoring law reports, the state authorities (the Ministries of Justice) delay the registration, requiring additional documentation and often refuse in registration on different grounds.<sup>145</sup>

The excessive government supervision is one of the main features of the NGO law in these countries and the states use the compulsory state registration as a controlling tool for both domestic and international NGOs.<sup>146</sup> The NGO law in these countries also limits the rights of foreigners and stateless persons to found public associations. For example, in the Republic of Tajikistan, only foreign nationals and stateless persons who are legally domiciled or have permanent residence may be founders, members or participants in public associations.<sup>147</sup> The reporting of NGOs to a controlling body is very complicated and detailed and includes both reporting on activities and financial reporting. For example, in Uzbekistan, according to Article 33 of the Law on NGOs, NGOs must maintain records of the results of their activities, and must submit reports to the registration authorities (Ministry of Justice and its departments), to the statistical authorities and to the tax authorities.<sup>148</sup>

Soft law in a form of beneficial tax regimes for NGOs cannot be regarded as an influential tool for regulating of NGOs activity in these countries. In Tajikistan and Turkmenistan, tax laws do not establish special tax regimes for public benefit or charitable NGOs, but the Government may provide favourable tax policy for NGOs. For example, NGOs that provide assistance to disabled persons and conduct educational activities can be exempted from some

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<sup>142</sup> Information available at <http://www.icnl.org/research/monitor/uzbekistan.html>, the last access on 27/05/2014.

<sup>143</sup> The Resolution of the President of Turkmenistan 6547 'On Registration of Public Associations' (January 14, 2004); the Resolution of the President of Turkmenistan 7197 (April 22, 2005); and Article 204–201 of the Administrative Code of Turkmenistan. Information available at <http://www.icnl.org/research/monitor/turkmenistan.html>, the last access on 27/05/2014.

<sup>144</sup> Law of the Republic of Uzbekistan N ZRU-96 of 02.05.2007 'On charity'; Law of the Republic of Uzbekistan N 763-I of 14.04.1999 'On non-governmental non-profit organisations', see more at <http://www.icnl.org/research/monitor/uzbekistan.html>, the last access on 04/11/2014.

<sup>145</sup> Information available at <http://www.icnl.org/research/monitor/uzbekistan.html>, the last access on 23/05/2014.

<sup>146</sup> Information available at <http://www.icnl.org/research/monitor/tajikistan.html>, the last access on 27/05/2014.

<sup>147</sup> *Law of the Tajikistan republic 'On Public Associations' (2008)*, Article 17, available in Russian at <http://www.icnl.org/research/library/files/Tajikistan/public.pdf>, the last access on 27/05/2014.

<sup>148</sup> Information available at <http://www.icnl.org/research/monitor/uzbekistan.html>, the last access on 27/05/2014.

taxes.<sup>149</sup> In Uzbekistan, all registered NGOs do not pay certain taxes, such as corporate income tax, except NGOs involved in commercial activities (Article 126 of the *Tax Code*), VAT, with some exceptions (Article 197 of the *Tax Code*), and others.<sup>150</sup>

Comprehensive state control over foreign funding of NGOs is established by the laws in Uzbekistan and Turkmenistan. Generally, the laws of these states require state registration with the Ministry of Justice for all types of foreign aid and this registration or approval of the state to receive foreign aid allows NGOs to receive and use money from grants.<sup>151</sup> In Uzbekistan, the money from foreign donors has to be transferred through certain banks specified by the state.<sup>152</sup>

Recently, there have been attempts by these states to facilitate activities of NGOs and the governments of these countries have increased state support and funding of civil society organisations. In 2012–2014, a number of changes in NGO regulations reducing registration fees and simplifying registration procedures were introduced. New laws on NGOs were enacted in Turkmenistan in May 2014,<sup>153</sup> and amendments were made to relevant laws in Kyrgyzstan in 2012, which should supposedly limit the power of controlling bodies and improve the legal regulations in terms of simplifying registration procedures.<sup>154</sup> However, these reforms have not changed the hostile attitude of the state towards independent NGOs.<sup>155</sup> In practice, the states continue to ignore the laws, and use their selective implementation to limit capacities of NGOs to bring about changes in state policies. The states remain the most powerful actors and NGOs' influence on policies is very limited, which can also be explained by historical legacies of authoritative powers in these countries.<sup>156</sup>

Compared to Russian NGO law, these countries have established even more severe and state controlling regulations for NGOs, thus limiting their agency, especially foreign-funded and

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<sup>149</sup> Information available at <http://www.icnl.org/research/monitor/turkmenistan.html>, the last access on 27/05/2014.

<sup>150</sup> *Nalogovyy kodeks Uzbekistana, 2008* [Tax Code of Uzbekistan, 2008] (Uzbekistan), available at [http://fmc.uz/legisl.php?id=k\\_nal](http://fmc.uz/legisl.php?id=k_nal), the last access on 2/12/2014.

<sup>151</sup> Information available at <http://www.icnl.org/research/monitor/uzbekistan.html>, the last access on 27/05/2014.

<sup>152</sup> Information available at <http://www.icnl.org/research/monitor/uzbekistan.html>, <http://www.icnl.org/research/monitor/turkmenistan.html>, the last access on 27/05/2014.

<sup>153</sup> *Zakon Turkmenistana 'Ob obshchestvennykh ob'edineniyah' ot 3 maya 2014* [Law of Turkmenistan on Public Associations of 3 May 2014] (Turkmenistan), available at <http://www.turkmenistan.gov.tm/?id=6444>, the last access on 2/12/2014.

<sup>154</sup> Hayman et al, n 139, 21.

<sup>155</sup> Adamson, see above n 122, 182; Buxton, see above n 137, 46.

<sup>156</sup> S.E. Mendelson, 'Conclusion: The Power and Limits of Transnational Democracy Networks in Postcommunist Societies' in S.E. Mendelson and J.K. Glenn (eds), *The Power and Limits of NGOs: A Critical Look at Building Democracy in Eastern Europe and Eurasia* (Columbia University Press, 2002) 232, 243.

oppositional NGOs by relying on the 'hard' administrative approach. This can be explained by a traditionally authoritarian manner of government in these countries and attempts of the current governments to stay in power through eliminating a possible domestic opposition and competition and limiting political influence from other countries.

### 3.3 Belarus

The political regime in Belarus has often been described as authoritarian and legal regulations of NGOs as restrictive. Unlike Russia, or Western countries, where public organisations can operate without the state registration and this only limits their capacities, for example, in terms of property rights, or receiving tax, in Belarus non-registered NGOs are prohibited by law.<sup>157</sup> A mandatory registration of NGOs with the Ministry of Justice and the unclear grounds for refusal of registration, such as incorrigible violations of requirements for registration, non-compliance of relevant documents with laws, enables the state authorities to refuse registration and to use these refusals to control the emergence of independent NGOs in the country.<sup>158</sup> Moreover, criminal sanctions for individuals engaged in activities of non-registered organisations in forms of a fine or imprisonment for up to two years are set by the *Criminal Code*.<sup>159</sup> Foreign citizens cannot be founders of public associations, with the exception of international public associations established in Belarus.<sup>160</sup> The legal base for public participation and obtaining environmental information is granted by the Aarhus Convention ratified in 2000 by Belarus. Although there have recently been few public environmental protests in Belarus, in many cases public actions are hard to initiate, because of complicated organisational procedures and heavy penalties for organisation of unapproved public actions, and low public activity.<sup>161</sup> Forced the closure or self-liquidation of hundreds of NGOs in 2003–2004 finally weakened the civil sector in Belarus.<sup>162</sup>

Belarusian law does not recognise concepts such as 'socially-oriented,' 'charitable' or 'public benefit' organisations. However, tax benefit status can be given by the Government to specifically designated organisations. For example, *Presidential Decree N497* of 3 November 2011 on *Supporting Physical Culture and Sports Organisations* lists a number of such

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<sup>157</sup> Law of the Republic of Belarus On Public Associations of October 4, 1994, N3254-XII, article 7, available at [http://www.minjust.by/ru/site\\_menu/about/struktura/obschestv/registr/obedin](http://www.minjust.by/ru/site_menu/about/struktura/obschestv/registr/obedin), the last access on 04/11/2014.

<sup>158</sup> Remézaitè, see above n 125, 28.

<sup>159</sup> The Criminal Code of the Republic of Belarus, article 193.1, available in Russia at [http://etalonline.by/?type=text&regnum=HK9900275#innerNavigate\\_1588](http://etalonline.by/?type=text&regnum=HK9900275#innerNavigate_1588), the last access on 27/05/2014; *ibid*, 30.

<sup>160</sup> Law of the Republic of Belarus On Public Associations of October 4, 1994, N3254-XII article 8

<sup>161</sup> Otto, Shkaruba and Kireyeu, see above 122, 122.

<sup>162</sup> V. Silitski, 'Preempting Democracy: The Case of Belarus' (2005) 16(4) *Journal of Democracy* 83, 91.



organisations that are entitled to government support, including tax benefits.<sup>163</sup> The access to foreign funding is controlled by the state; funding from abroad must be registered with government bodies, which have authority to refuse the registration. Further, it is forbidden to use such foreign aid without registration. For example, environmental programmes are financially supported by a number of international funds, such as the World Bank, funds of UN conventions and others. The international assistance should be registered by the government and the funds are distributed among a limited number of NGOs that are loyal to the government.<sup>164</sup> In addition, in 2011, Belarus adopted amendments to relevant legislation on NGO operation, including criminal responsibility for violating the procedure for receiving foreign grants.<sup>165</sup>

Although the Belarusian state, like the Central Asian states, has established tight regulations for NGOs, relying on including legal barriers for foreign funding and for public advocacy, foreign-funded NGOs and international environmental programmes more actively work in Belarus particularly, in spheres of biodiversity and national parks development.<sup>166</sup> This can be partly explained by the influence of European and international environmental programmes, which often require mandatory public participation in decision making.<sup>167</sup> Similar to Russia, NGOs often cooperate and maintain constructive relationships with the relevant state bodies and agencies in implementation of environmental programmes in order to receive better and more effective outcomes from these programmes.<sup>168</sup>

### 3.4 Summary

NGOs exist and operate in the Post-Soviet countries. Their operation is regulated by the special laws on public associations and other relevant legislation. Tax laws contain almost no provisions on tax exemptions for NGOs or they have a tokenistic character and are not implemented in practice. Therefore, tax law is not a significant legal source for regulating NGOs. Public advocacy and an open critique of the governments in these countries are restricted by administrative codes and laws, although freedom of speech is established by the Constitutions of these countries. In most cases, human rights NGOs are the main targets of harassment from the state bodies. However, any NGO, including environmental, can fall under suppression from the state. Usually, NGOs with a potential to be politically active and

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<sup>163</sup> Information available at <http://www.icnl.org/research/monitor/belarus.html>, the last access on 27/05/2014.

<sup>164</sup> Otto, Shkaruba and Kireyeu, see above n 122, 125.

<sup>165</sup> Report <http://www.icnl.org/research/monitor/belarus.html>, the last access on 27/05/2014.

<sup>166</sup> Otto, Shkaruba and Kireyeu, see above n 122.

<sup>167</sup> Ibid, 129.

<sup>168</sup> Ibid, 125.

publicly advocate are eliminated at the stage of compulsory state registration. For registered NGOs, the system of administrative or even criminal sanctions from large fines to imprisonment has been established.<sup>169</sup> In addition, illegal actions of the state law enforcement authorities against political activists and NGOs have been reported.<sup>170</sup> Recently these states have increased state support and funding for domestic NGOs, trying to channel public activity and create NGOs dependent on the state. All these ‘hard’ regulatory approaches constrain agency of ENGOs, controlling and limiting their capacities, weakening the agency of domestic NGOs and eliminating independent groups. Table 8 summaries the key issues of NGO law in the Post-Soviet countries and Russia.

**Table 8. A comparison of NGO law in the Post-Soviet countries and Russia**

| Country                        | State registration  | Charitable/public purpose status  | Barriers for political activities and public advocacy  | Reporting requirements | Barriers for foreign funding                   | Barriers for foreigners   |
|--------------------------------|---|-----------------------------------|--|------------------------|--|---|
| <b>Azerbaijan</b>              | Mandatory to receive more legal rights                                    | Unclear regulations               | No. Excessive penalties for violations on laws on assemblies   | Yes                    | Mandatory state registration of foreign grants | No  |
| <b>Central Asian Countries</b> | Mandatory   | Some tax exemption                | No for lawful acuities, excessive penalties for violations of laws on assemblies   | Yes                    | Mandatory state registration of foreign grants | It varies. Foreigners cannot be founders or only legally domiciled foreigners   |
| <b>Belarus</b>                 | Mandatory to receive more legal rights and foreign and international NGOs | No                                | Excessive administrative and criminal penalties for organisation of assemblies and other public actions without permission | Yes                    | Mandatory state registration of foreign grants | Foreigners cannot be founders, with exception to branches of international NGOs |
| <b>Russia</b>                  | Mandatory to receive more legal rights and foreign and international NGOs | Some tax exemption, state support | No for lawful activities, excessive penalties for violations of laws on assemblies   | Yes                    | Strict state control over foreign-funded NGOs  | Only legally domiciled foreigners can be founders of NGOs                       |

<sup>169</sup> Criminal Code of the Republic of Belarus, article 193.1

<sup>170</sup> Information available at <http://www.icnl.org/research/monitor/belarus.html>, <http://www.icnl.org/research/monitor/uzbekistan.html>, the last access on 27/05/2014.

#### **4. Conclusion**

This comparative study of the NGO legal regulations in several countries with different legal systems, political regimes, economic development and historical background has demonstrated that the state is an active regulator of civil society. The NGO legislation in all countries contains a number of legal restrictions for NGOs' political activities and legal requirements, to hold them responsible and accountable for their work and to ensure compliance of NGOs with their public beneficial purposes and laws.

Broadening engagement of NGOs in governance in the discussed Western countries has called for more accountability in their actions and imposed a number of legislative restriction and state controlling measures. These measures include requirements for the state registration of NGOs in order to receive tax benefits, financial reporting and reporting on activities of NGOs, restriction for collaboration with the state for NGOs who use violence actions. The more restrictive NGO legislation in regards to political activities of charitable NGOs is in the USA. Although these measures can be characterised as restrictive, they can be also regarded as signs of growing demands of the state, donors and society for more accountable and transparent NGO funding and operation due to increasing participation of NGOs in governance processes. At the same time, the recent reforms in NGO law have enhanced capacities of NGOs and facilitated more collaborative relationships between states and NGOs. For example, in Australia, the UK, France and Germany, legal reforms have clarified compatibility of NGO political activities and public advocacy with their tax beneficial status. As a result of Europeanisation and the ratification of the Aarhus Convention in Germany and France, the environmental NGOs were enabled to present collective interests in the courts. Moreover, examples of Germany and France have demonstrated a possibility of inclusiveness of NGOs in decision-making processes in countries with a traditionally strong state.<sup>171</sup> This development is mostly common for the Western NGO law. However, some researchers still argue that even if the political activity of NGOs has been accepted by the NGO law in the Western countries, 'the gray areas and unclear margins' still make public advocacy a potentially hazardous activity for NGOs.<sup>172</sup>

In the Post-Soviet countries with authoritarian styles of governance, such as Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan Uzbekistan and Belarus, the NGO law remain more controlling for NGOs. This can partly be explained by the historical legacy of the Communist regime, current political regimes, and local political and organisational

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<sup>171</sup> Dryzek et al, see above n 101, McCauley, see above n 5.

<sup>172</sup> Lang, see above n 13, 107.

culture.<sup>173</sup> Initially, the disintegration of the Soviet Union and democratisation supported by the Western governments provided the impetus for a democratic development in the Post-Soviet countries.<sup>174</sup> Accordingly, a broad range of democratic rights associated with NGOs' activities, including the freedom of associations, freedom of speech and others were set up in the Constitutions and in the general provisions of the laws of all Post-Soviet countries. However, in practice, implementation of these laws is weak; the laws have mostly decorative character, as legislators did not create enforcement mechanisms for implementation of these rights. Moreover, more specific provisions of NGO law place legal constraints for NGOs' operation through the mandatory state registration of NGOs with complicated procedures and prohibition of unregistered NGOs, the control of foreign funding and limitation of the rights of foreigners to establish NGOs, and the excessive and unclear reporting demands. The complicated, restrictive and unclear NGO law and its selective implementation allow the authorities to interpret the law in accordance with their goals and NGOs can be easily manipulated and closed down if they become too radical and oppositional.<sup>175</sup>

Similar to Russia, in the less integrated to Europe states, such as Belarus and the Central Asian countries, the process of tightening of NGO legislation has been caused by the recent 'coloured revolutions' in Ukraine, Central Asia and Georgia, which were sponsored by foreign aid, often through NGOs. As a result, activity of NGOs as new democratic institutions remains very fragile, unbalanced and alien to the already existing political and legal systems, considering also the cultural features of these states. Therefore, the states, despite attempts to engage NGOs in environmental governance, take countervailing measures to limit and control the agency of NGOs.

The most restrictive regulations in terms of legal framework and law implementation practices exist in the Central Asian States, due to the long existing traditions of authoritarian regimes from Eastern despotism and Soviet times to the recent authoritarian regimes. The authoritarian regime in the Belarus republic is also responsible for the restrictive domestic NGO law. However, a turn towards multilevel and actor diverse governance has been noted in environmental governance, particular in biodiversity and nature conservation, in the areas of international collaboration.<sup>176</sup>

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<sup>173</sup> Mendelson and Glenn, see above n 136.

<sup>174</sup> Adamson, see above n 122, 177–178.

<sup>175</sup> Otto, Shkaruba and Kireyeu, see above n 122, 123.

<sup>176</sup> Ibid.

In conclusion, common key issues in the legislation on NGOs in the discussed Western (where the NGO concept came from) and Post-Soviet countries usually concern political activities and public advocacy of NGOs. As it follows from the short overview of the main NGO regulations, the states generally use two kinds of approaches to regulate NGOs operation in terms of their political activities: ‘hard laws’, which include more direct legal/political mechanisms (registration, inspections, barriers for foreign funding etc.) and more flexible ‘soft laws’, such as public benefit (charity) status and taxes. Hard laws cause marginalisation and weakening of NGOs from the public by reducing their agency through questioning their legitimacy or giving more restrictive power to controlling bodies or using the mandatory registration and reporting to the state authorities. More flexible financial measures can be associated with a certain restriction of advocacy and direct political activities for NGOs under the threat of beneficial tax status termination and limitation of state support with NGOs.

The character and extent of these measures depend on the political regime, development of economic regulations and the historical legacy of the states. For the Western countries, the use of the financial measures is a more common regulatory tool and the restrictions for political activities apply generally in a context of tax exemptions for NGOs and their donors, because tax regulations serve not only as regulations for NGOs, but also as a key motivator for donations.<sup>177</sup> The NGO law of the Post-Soviet nations with authoritarian regimes set up more direct administrative measures of political character. Unlike the Western countries, the tax law does not play a significant role in NGO regulations in Russia and in the discussed above Post-Soviet countries. Another feature of the NGO law in the Post-Soviet countries is increase of the control over foreign-funded NGOs. This can be explained by the fact that, unlike the Western countries, domestic civil society in these countries is weak and undeveloped. Independent NGOs are still a relatively new concept and people do not support and trust these organisations. NGOs largely rely on funding from abroad and therefore, the governments in these Post-Soviet countries often consider NGOs as agents of influence on domestic policies, representing interests of their donors.

This comparative study has demonstrated that the introduction of new accountability measures in the Russian NGO law finds some parity in Western laws, where similar attempts have been made to ensure transparency and accountability in NGO operation. Indeed, Western NGO law also contain a number of similar registration and reporting requirements

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<sup>177</sup> Dirusso, see above n 80, 79.

for NGOs and limitations for political activities. However, in Russia, purposes of the last amendments in the NGO law and a manner of their implementations more likely indicate attempts of the state to increase control over NGOs, rather than to ensure their transparency.

Unlike the general character of accountability requirements in the Western regulations, the NGO law in Russia is aimed against specific group of NGOs: foreign and foreign-funded groups. Different to the Western countries where the states use more flexible tax mechanisms regulating NGOs operation and political activities, the Russian state uses more direct 'hard laws', such as labelling politically active NGOs with funding from abroad as 'foreign agents', financial reporting measures and introducing more severe regulations concerning organisations of public protesting events, such as demonstrations, meetings and others. In addition, in Russia, the vague language of NGO law gives more power to the state for their selective implementation and abuse of power. Therefore, a possibility of a broad and restrictive interpretation<sup>178</sup> of the NGO law is possible for environmental NGOs (Chapter 4). It is obvious that states would continue to control NGOs and their sources of funding on the grounds of transparency of NGOs, the state security and the international threat of terrorism. However, these administrative control measures should be transparent, apply equally to all NGOs and not discriminate against foreign-funded NGOs as in the discussed Post-Soviet countries. The legal definition of political activities and restriction for charitable/public purpose NGOs to be engaged in political activities remains a problem for all abovementioned countries. However, in Russia and the discussed Post-Soviet countries, this issue is linked to foreign funding and regulated through hard restricting and controlling laws, which constrain the development of civil society in these countries.

Robust and active civil society organisations in the Western countries have demonstrated that soft regulations can be more effective mechanisms for regulating NGOs and less harmful for their agency. Therefore, a better establishment of soft regulations in tax laws and effective enforcement of existed tax regulations would enhance their agency since they would encourage the public and businesses to support ENGOs and make ENGOs less dependent on foreign funding. Considering the current authoritarian style of governance in Russia, the traditional prevalence of the 'hard' administrative approach<sup>179</sup> in legal regulation since the times of the Soviet Union (Chapter 3), these 'hard' regulations will continue to dominate in the Russian NGO law. A similar conclusion can be drawn from the discussed Post-Soviet

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<sup>178</sup> J. Crotty, S.M. Hall and S. Ljubownikow, 'Post-Soviet Civil Society Development in the Russian Federation: The Impact of the NGO Law' (2014) 66(8) *Europe-Asia Studies* 1253.

<sup>179</sup> Here the term 'hard' approaches refer to administrative measures and soft approaches refer to the use of economic incentives such as taxes and procurement priorities.

countries. Authoritarian governments of these countries and the historical legacy creates good conditions for development and implementation of these ‘hard laws’ regulating NGOs.

The next chapter will discuss how, and through what strategies, ENGOs in Russia can influence environmental governance and enhance ENGO agency.

## Chapter 6. Russian environmental non-governmental organisations: Strategies of influence

### 1. Introduction

This chapter explores strategies in forms of different activities, main directions, plans, mechanisms and tools employed by ENGOs in Russia to become influential environmental agents who can bring about changes in behaviour of other environmental actors and make steering decisions.<sup>1</sup> Strategies can be also regarded as means of ENGOs to exercise their agency.<sup>2</sup> While Chapter 3 outlined historical conditions that still influence the work of ENGOs and Chapter 4 examined the legal challenges for ENGOs operating in Russia, this chapter explores strategies, methods and ways of influence used by ENGOs to achieve their goals. It provides new empirical insights on ways of influence that ENGOs use in their relationships with other environmental actors in Russia. The discussion is set in the context of the ongoing influence of the Soviet legacy and recent changes, including the increased control over their activities, the emergence on new participatory avenues and the international support of ENGOs.

This study of ENGO strategies of influence is loosely based on Hall and Taplin's categorisation of NGO strategies and directions (or 'themes' of their activities)<sup>3</sup> typical for contemporary NGOs and on the ESG approach<sup>4</sup> (Chapters 1 and 2). The traditional approach in the literature presumes that NGOs themselves have no direct ability to change policy and they indirectly influence policy change by lobbying, campaigning, negotiating and collaborating with other actors of governance.<sup>5</sup> From the broader perspective expressed in the ESG scholarship, NGOs are considered independent, authoritative actors (or agents) of environmental governance, able to shape environmental governance not only indirectly by influencing behaviour of other actors towards desirable environmental outcomes, but also directly by setting up their own rules.<sup>6</sup> This chapter does not aim to assess the most successful

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<sup>1</sup> F. Biermann et al, 'Earth System Governance: A Research Framework' (2010) 10(4) *International Environmental Agreements: Politics, Law and Economics* 277.

<sup>2</sup> E. Dellas, P. Pattberg and M. Betsill, 'Agency in Earth System Governance: Refining a Research Agenda' (2011) 11 *International Environmental Agreements*, 85, 92.

<sup>3</sup> N. Hall and R. Taplin, 'Revolution or Inch-by-Inch? Campaign Approaches on Climate Change by Environmental Groups' (2007) 27(1) *Environmentalist* 95.

<sup>4</sup> Biermann et al, see above n 1.

<sup>5</sup> D. Schepers, 'The Impact of NGO Network Conflict on the Corporate Social Responsibility Strategies of Multinational Corporations' (2006) 45(3) *Business & Society* 282, 283; L. Ford, 'Challenging Global Environmental Governance: Social Movement Agency and Global Civil Society' (2003) 3(2) *Global Environmental Politics* 120, 125.

<sup>6</sup> Biermann et al, see above n 1, 282–283; Dellas, Pattberg and Betsill, see above n 2; C. Okereke, H. Bulkeley and H. Schroeder, 'Conceptualizing Climate Governance beyond the International Regime' (2009) 9(1) *Global Environmental Politics* 58.



and effective strategies<sup>7</sup> of ENGOs in Russia. That would require consideration of numerous variables, such as how much resources (financial, material and time costs) were used to reach the aims, whether the aims of a campaign or other activity were fully achieved (given that demands of ENGO campaigns and projects may be exaggerated to trade off with other actors of the governance), and a measurement of environmental outcomes.<sup>8</sup> Further, in Russia the assessment of ENGO effectiveness and their strategies is complicated by diversity of ENGOs' goals and the relatively short existence and operation of contemporary ENGOs as campaigning organisations, formally independent from the state ideology.

This chapter focuses on the strategies that ENGOs can use to influence environmental governance and enhance their agency in Russia by addressing the following research questions: **What strategies employed by ENGOs would/can enhance their agency?**

The chapter is divided into four parts, starting with the introduction. The second part will describe the legal base for strategies of ENGOs in Russia. The third part will focus on the main strategies of influence ENGOs in Russia and key methods employed within them. This part of the chapter will explore two main strategies: revolutionary strategies, which consist of raising public awareness, ecological education, direct actions and legal actions; and reformist strategies, which include expertise and collaboration with the state, ENGOs and business. The fourth part will conclude that ENGOs in Russia employ and combine different strategies. It will show that while the raising of public awareness, ecological education and direct actions are the most common radical strategies for ENGOs in Russia, legal actions, particular environmental litigations, remain undeveloped. This part of the chapter will also demonstrate that the reformist strategies in forms of collaboration with the state and environmental expertise are traditional and relatively effective strategies for ENGOs in Russia. It will also conclude that the strong regulatory role of the state, the priority of economic interests, the low public interest in environmental issues and limited resources of ENGOs in Russia are the main challenges for ENGOs to become agents of governance.

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<sup>7</sup> N. Hall and R. Taplin, 'Room for Climate Advocates in a Coal-Focused Economy? NGO Influence on Australian Climate Policy' (2008) 43(3) *Australian Journal of Social Issues* (Australian Council of Social Service) 364.

<sup>8</sup> Improvements of the air and water quality in Russia after the dissolution of the USSR cannot be taken as indicators of effectiveness of environmental protection sector including the work of ENGOs. These improvements are largely results of the economic and industrial crisis and recession in the Post-Soviet Russia rather than achievements of ENGOs operation. L. Henry, *Red to Green: Environmental Activism in Post-Soviet Russia* (Cornell University Press, 2010), 178–179.

## 2. The legal grounds for ENGO strategies

Laws are mechanisms that enable society to exercise its formal power in environmental governance both through citizens and ENGOs as civil society institutions.<sup>9</sup> Implementation of ENGOs' rights established by laws makes the state and businesses more accountable for their environmental performance. Therefore, ENGOs develop and build their strategies within their legal rights for participation in environmental regulations provided by Russian legislation. Norms regulating NGOs' activity in environmental governance are established by NGO law and environmental legislation, for example, the *Federal Law on Environmental Protection*,<sup>10</sup> the *Forest Code*,<sup>11</sup> the *Land Code*,<sup>12</sup> the *Federal Law on Ecological Expertise*,<sup>13</sup> the regions' legislation and others. All this legislation contains more detailed provisions on regulating NGOs' activity in certain areas of environmental governance.

The main rights of NGOs are set up by the *Federal Law on Environmental Protection*.<sup>14</sup> Compared to citizens' rights to participate in environmental governance,<sup>15</sup> the Law entitles NGOs to a broader set of rights in regards to relationships with the state bodies.<sup>16</sup> Therefore, citizens can exercise their rights to participate in environmental governance individually or through establishment or engagement with NGOs.<sup>17</sup> NGOs are entitled to develop natural protection programmes, to advocate and organise public actions to draw attention to environmental issues, to receive information on the state of environment from governmental agencies and authorities and others.<sup>18</sup> The rights of NGOs to organise public campaigning, such as rallies, pickets, demonstrations, and others and sanctions for their violations, are detailed in the federal laws (see Chapter 4).

NGOs also have rights to provide assistance to the state and participate in environmental decision making on the federal, regional and local level. This law also establishes the rights of NGOs to apply to bodies of state power of all levels with applications, claims and suggestions

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<sup>9</sup> P. Martin and M. Shephard, 'What Is Meant by the Social Licence?' in J. Williams and P. Martin (eds), *Defending the Social Licence of Farming: Issues, Challenges and New Directions for Agriculture* (CSIRO Publishing, 2011) 3, 4-5.

<sup>10</sup> Federalnyj Zakon RF ot 10 yanvarya 2002 N 7-FZ 'Ob ohrane okruzhayushej sredy' [The Federal Law of the RF 10 January 2002 N 7-FZ 'On the Environmental Protection'] (Russia), Articles 11-12.

<sup>11</sup> *Lesnoj Kodeks Rossijskoj Federatsii, 2006* [Forest Code of the Russian Federation, 2006] (Russia).

<sup>12</sup> *Zemelnyj Kodeks Rossijskoj Federatsii, 2001* [Land Code of the Russian Federation, 2001] (Russia).

<sup>13</sup> *Federalnyj Zakon RF ot 23 noyabrya 1995 N 174-FZ 'Ob ekologicheskoy ekspertize'* [Federal Law of the RF 23 November 1995 N 174-FZ On Ecological Expertise] (Russia).

<sup>14</sup> Federalnyj Zakon RF ot 10 yanvarya 2002 N 7-FZ 'Ob ohrane okruzhayushej sredy' [The Federal Law of the RF 10 January 2002 N 7-FZ 'On the Environmental Protection'] (Russia).

<sup>15</sup> Ibid, Article 11, Part 2.

<sup>16</sup> Ibid, Article 12, Part 1.

<sup>17</sup> Ibid, Article 11, Part 2, Paragraph 1.

<sup>18</sup> Ibid, Article 12, Part 1, Paragraphs 1-6.

on issues related to environmental protection.<sup>19</sup> The law provides NGOs with the rights to complain to relevant bodies and to bring a lawsuit to courts (public standing) against decisions on design, location, construction, and operation of facilities and on other activities that could have a negative impact on the environment.<sup>20</sup> NGOs have rights to organise and conduct public hearings on any economic or other activities that could affect the environment and citizens,<sup>21</sup> and to organise and conduct public (independent from the state) ecological expertise and they can recommend their representatives to participate in the state ecological expertise (EIA).<sup>22</sup> Accordingly, state bodies and officials of all levels should assist citizens, public and other non-profit associations to exercise their rights in the area of environmental protection.<sup>23</sup>

In summary, this short overview of the provisions of the *Federal Law on Environmental Protection* has demonstrated that the law outlines a wide range of legal rights for NGOs to participate in environmental governance. The main issues arise from implementation of these rights and will be discussed in more detail in this chapter.

### 3. *Russians ENGOS: strategies of influence*

This part of the chapter explores revolutionary and reformist strategies employed by Russian ENGOS to achieve their goal of environmental protection and influencing behaviour of other environmental actors. As discussed in Chapter 1, this study is based on research interviews conducted in 2012–2014 with ENGO members and state officials and on information available from open sources. It focuses mainly on the work of different domestic ENGOS (Dront, Ekovahta, Green League and Khimkinsky Forest) and international groups (WWF Russia, Greenpeace Russia and Bellona). The choice of these ENGOS is explained in the methodology of this thesis (Chapter 1 and Appendix 2).

In comparison with the Soviet public organisations, Russian ENGOS have more legal and political opportunities to participate in environmental governance. Accordingly, a broader range of tools and mechanisms are available for ENGOS to employ. Today, educational, expert and scientific activities, assistance to the state functions performed by the Soviet

<sup>19</sup> Ibid, Article 12, Part 1, Paragraph 7.

<sup>20</sup> Ibid, Article 12, Part 1, Paragraph 12.

<sup>21</sup> Ibid, Article 12, Part 1, Paragraph 8.

<sup>22</sup> More details and procedure can be found in the *Federalnyj Zakon RF ot 23 noyabrya 1995 N 174-FZ 'Ob ekologicheskoy ekspertize'* [Federal Law of the RF 23 November 1995 N 174-FZ On Ecological Expertise] (Russia); more discussion on this topic is on p. 189

<sup>23</sup> *Federalnyj Zakon RF ot 10 yanvarya 2002 N 7-FZ 'Ob ohrane okruzhayushej sredy'* [The Federal Law of the RF 10 January 2002 N 7-FZ 'On the Environmental Protection'] (Russia), Article 13.

conservation groups and protest actions of the Soviet environmental movements during 1980–1990, have been complemented by litigation, and new forms of collaboration with the state, business and other NGOs.

ENGOS strategies will not always be clear cut (e.g., raising public awareness can be carried out through engagement with media and direct action, such as public demonstration). Strategies may fall into multiple categories or change over time (e.g., ENGO can resist enactment of certain environmental legislation through public protests and litigation; this resistance may evolve into expert consulting of legislators). However, for heuristic purposes, this chapter divides them into two categories, loosely based on the division of ENGOS' ways of influence into radical and reformist and Hall and Tuplin's classification of directions adjusted to the aims of this chapter. Revolutionary strategies employ protest tactics and pose more fundamental challenges to the state and business. They include raising public awareness, ecological education, direct actions and legal actions. Scientific expertise and collaboration (with state, ENGOS and business) constitute ENGO reformist ways of influence, aiming to engage and reform.<sup>24</sup> Various methods and actions undertaken by ENGOS in Russia within these types of activities are summarised in Table 9 and explored in the next parts of the chapter.

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<sup>24</sup> Hall and Taplin, see above n 3.

**Table 9. ENGOs in Russia: ways of influence**

| Direction of activity | Strategy             | Methods/tools   | Example of ENGO activity in Russia   |
|-----------------------|----------------------|---|--|
| Revolutionary         | Raising awareness    | Media (television, radio, newspapers), official websites; social networks | Greenpeace Russia—radio programme campaign ‘Save the Arctic’; Dront—publishing articles in the local newspapers, publishing their own ecological newspapers ‘Bereginya’; Greenpeace, WWF, Dront, Green League—publishing reports and handbooks   |
|                       | Education            | School camps, collaboration with schools and universities; others         | Greenpeace—specialised courses for volunteer firefighters; Dront—summer holiday camps, providing learning materials to schools   |
|                       | Direct action        | Rallies, meetings, demonstrations, others                                 | Campaigns to save Khimkimsky Forest; public actions of Greenpeace within ‘Save the Arctic’ campaign  |
|                       | Legal action         | Complaints procedure; litigations   | Complaints on violations of laws to the Prosecutor’s office and environmental protection bodies: Ekovahta during constructions for Sochi Olympics; WWF Russia—drilling on the shelf of the Sea of Okhotsk. Litigations: Greenpeace—against governmental decisions concerning national reserves |
| Reformist             | Scientific expertise | Research; publications; ecological conferences                            | WWF—research on biodiversity and publishing reports and articles, journals. Dront—research on biodiversity   |
|                       | Collaboration        | With state: Participation; delegation of responsibilities                 | Participation in the Civic Chambers and Public Councils Greenpeace, WWF, Dront, ‘Rozovyj oduvanchik’<br><br>Delegation of responsibilities, maintaining natural reserves —Greenpeace, WWF, Dront; Ecological monitoring and control—Greenpeace, WWF, Dront, Green League                       |
|                       |                      | With ENGOs: Networking; joint projects                                    | Networking on the regional level—Green League, Dront; On the national level—WWF, Greenpeace with Ekovahta, Dront; joint projects; WWF, Greenpeace, Khimkimsky forest and others; joint biodiversity conservation projects of WWF and local groups  |

|  |  |  |   |
|--|--|--|---|
|  |  | With Business:<br>Certification; green<br>business | Promotion of corporate social responsibility (CSR)—Greenpeace, WWF, Green League; Greenpeace—project ‘Green office’; WWF and local groups certification of forest companies |
|--|--|--|---|

### 3.1 Revolutionary (Radical) actions

Revolutionary actions aim to bring about fundamental changes in environmental policies, values and their perception by the state and society and they are often carried out through public advocacy activities.<sup>25</sup> This section will discuss four main directions of revolutionary activities: raising public awareness, ecological education, direct and legal actions. It will also discuss the successes and challenges of the means employed and actions undertaken by ENGOs.

#### 3.1.1 Raising public awareness

This direction of activity is characterised as ‘revolutionary’ because it aims to radically change norms and beliefs of the public. Examples of this activity include a disclosure of information and media engagement. Raising public awareness involves different forms of communicating to public through informative and educational actions, public hearings and the ‘translating’ of scientific information.<sup>26</sup> It is often is a part of big ENGOs’ projects. Methods and forms of ENGO activities on raising public awareness are discussed below.

***Public access to ecological information.*** In Russia, this ENGO activity takes different forms. Historically, given a traditionally closed governance culture,<sup>27</sup> this function of ENGOs was one of the most important. The open public access to relevant environmental information makes environmental governance and its actors more accountable and it is a necessary condition for effective public participation in environmental governance. Disclosure of ecological information by the state and businesses would also serve as an important

<sup>25</sup> Ibid.

<sup>26</sup> Ibid, 102-103; N. Gunningham, 'Environment Law, Regulation and Governance: Shifting Architectures' (2009) 21(2) *Journal of environmental Law* 179, 198.

<sup>27</sup> V. Larin et al, *Okhrana prirody Rossii: ot Gorbacheva do Putina [Nature Protection in Russia from Gorbachev to Putin]* (KMK, Scientific Press, 2003); O. Yanitsky, 'The Value Shift of the Russian Greens' (2006) 15(2) *International Review of Sociology: Revue Internationale de Sociologie* 363.

mechanism to slow down and prevent further degradation of the environment.<sup>28</sup> Generally, knowledge of environmentally harmful industrial activities and information on damage already sustained would mobilise citizens and give more power and legitimacy for environmental organisations to bring changes.

The main challenges for this strategy still lay in the traditional culture of secrecy of information, including the information on the state of the environment, as discussed in Chapter 3. Major environmental disasters were the result of industrial accidents on the classified plants, for example, the radioactive leak at 'Mayak' around Chelyabinsk in 1956 and the Chernobyl disaster,<sup>29</sup> and information about these accidents automatically became classified. The most significant impact on this secrecy culture was the Chernobyl disaster.<sup>30</sup> Finally, citizens' rights to receive and apply for information on the state of environment were incorporated in environmental legislation in 1991.<sup>31</sup> As discussed in this chapter, the rights of public to receive and distribute information on the state of the environment and other ecological information are established by the environmental laws and the legislation on information.<sup>32</sup> Access to this information can be limited only by federal law.<sup>33</sup> However, implementation of these rights may face difficulties concerning distribution of ecological information relevant to 'classified information'. For example, Nikitin, a scientist and environmental activist was accused of treason for publishing classified information on radioactive waste.<sup>34</sup> As noted by an ENGO representative, another difficulty has a technical character—the state monitoring services may not have relevant data due to limited resources, qualified specialists and a lack of equipment.<sup>35</sup>

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<sup>28</sup> K. Harman-Stokes, 'Community Right-to-Know in the Newly Independent States of the Former Soviet Union: Ending the Culture of Secrecy Surrounding the Environmental Crisis' (1995) 15 *Virginia Environmental Law Journal* 77, 83.

<sup>29</sup> See in Chapter 3, Box 1.

<sup>30</sup> See more in Chapter 3, Box 1.

<sup>31</sup> *Zakon RSFSR ot 19 dekabrya 1991 N 2060-1 'Ob ohrane okruzhayushej prirodnoj sredy'* [RSFSR Law 19 December 1991, N 2060-1 'On the Environmental Protection'] (USSR).

<sup>32</sup> *Konstitutsiya Rossijskoj Federatsii, 1993* [Constitution of the Russian Federation, 1993] (Russia), article 29, 42; *Federalnyj Zakon RF ot 10 yanvarya 2002 N 7-FZ 'Ob ohrane okruzhayushej sredy'* [The Federal Law of the RF 10 January 2002 N 7-FZ 'On the Environmental Protection'] (Russia), Article 11, 12; *Federalnyj Zakon RF ot 27 iulya 2006 N 149-FZ 'Ob informatsii, informatsionnyh tehnologiyah i o zashhite informatsii'* [Federal Law of the RF 27 July 2006 N 149-FZ 'On Information, Information Technologies and Protection of Information'] (Russia).

<sup>33</sup> *Federalnyj Zakon RF ot 27 iulya 2006 N 149-FZ 'Ob informatsii, informatsionnyh tehnologiyah i o zashhite informatsii'* [Federal Law of the RF 27 July 2006 N 149-FZ 'On Information, Information Technologies and Protection of Information'] (Russia). For example, the Law of the Russian Federation from 21th of July 1993, N 5485-1 'On State Secrets', the Federal Law from 29th of July 2004 N 98-FZ 'On Commercial Secrets' can limit public access to certain information.

<sup>34</sup> Bellona's Nikitin marks 10 years of freedom after defeating the FSB, published by Bellona on 13/09/2010, available at <http://bellona.org/news/russian-human-rights-issues/nikitin-case/2010-09-bellonas-nikitin-marks-10-years-of-freedom-after-defeating-the-fsb>, the last access on 06/11/2014.

<sup>35</sup> Interview 6.

**Media engagement.** Engagement of ENGOs with media is important for raising public awareness on ecological problems and can take the form of publishing articles, interviews and comments of members of organisations on environmental topics in the newspapers and magazines.<sup>36</sup> Regional organisations work closely with local populations and play a significant role in relationships with local communities. They raise awareness of people on the state of the environment and distribute relevant information. Usually they do it through media, including television and social media, publishing articles in local newspapers, publishing their own ecological newspapers and organising public actions. Dront has been publishing and distributing a monthly ecological newspaper, 'Bereginya', since 1990 and free online access has been available since 2005.<sup>37</sup> The ENGO continues to publish this newspaper in a paper form to expand its readership, because not 'everyone has access to the Internet; people still read newspapers in small towns and villages. Judging from the letters and responses to articles, the newspaper has new readers, including youth.'<sup>38</sup> The newspaper's articles often focus on issues concerning environment, environmental policies of the government (both federal and local) across many regions and a critique of these policies.<sup>39</sup> The newspaper is distributed in 65 regions of Russia. Authors of these publications are trying to convey scientific, ecological and legal information concerning environmental issues in plain language for their readers to explain how and why certain environmental issues may influence people's lives. One example includes an article on the changes in national parks and natural reserves legislation, and explanations of how the changes would weaken protection and conservation measures in the local natural reserve 'Kerzhinsky'.<sup>40</sup> Another offers an explanation about the effectiveness of felling diseased trees by a forestry specialist,<sup>41</sup> and a third describes materials used on a possible construction of a nuclear power station in Vladimir Region.<sup>42</sup>

The development of digital technologies has expanded the means available to ENGOs to inform the public and raise public awareness. A great number of ENGOs have their own websites where they publish information on ecological issues. WWF Russia, Greenpeace Russia, Dront, Green League and others have web pages with news archives to inform the

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<sup>36</sup> A list of publications in newspapers which mention activity WWF Russia and its position, explanation and statements can be found on [http://www.wwf.ru/resources/news/press\\_about](http://www.wwf.ru/resources/news/press_about), the last access on 21/03/2014.

<sup>37</sup> See at <http://dront.ru/bereginya/>; the last access on 04/04/2014.

<sup>38</sup> Interview 12.

<sup>39</sup> For example, violations of environmental legislation in the Northern Caucasus related to the construction of facilities for the Olympics, Interview 11.

<sup>40</sup> 'Perevesti nelzya sohranit [*Transfer can not be Saved*]', *Bereginya* (Nizhny Novgorod), 2 February 2014.

<sup>41</sup> V. Temnuhin, 'Is it Necessary to Cut down Trees?', *Bereginya* (Nizhny Novgorod), 2th of February 2014.

<sup>42</sup> I. Vinokurov, 'Nam nuzhen takoj 'optimizm' [We Do Not Need This Kind of 'Optimism']', *Bereginya* 3 March 2013.



public on the latest events relevant to environmental topics, from global climate change issues to local ecological problems. New technologies have allowed Greenpeace Russia to create its own video channel on YouTube and audio programme on PodFM.ru.<sup>43</sup> These organisations also have accounts on social networks as Facebook, Twitter, VKontakte and others. Youth and smaller local environmental movements do not always have their own websites due to limited resources and only have accounts in social networks that allow them to interact with people, particularly ‘young ones’.<sup>44</sup>

Big internationally-based ENGOs carry out activities on raising public awareness as a part of their bigger projects. ENGOs continue draw public attention for climate related issues, such as information campaigns in mass media and the Internet. For example, a number of websites, such as ‘You-Turn the Earth!’ and ‘Save the Arctic’,<sup>45</sup> have been created by Greenpeace as a part of its climate campaign to inform people on climate issues.

***Direct communication to the public.*** Another way to educate and inform the public does not have direct characteristics, and is carried out through engagement with community and businesses. This may include the work of ENGOs on explaining the responsibility of businesses and citizens for climate change and promoting higher standards of energy efficiency, the corporate social responsibility (CSR) concept among Russian business and the organising of dialogue between citizens, business and authorities.<sup>46</sup> For example, Greenpeace has opened the special programme ‘Green office’ and developed recommendations for firms on how to make the office more energy effective.<sup>47</sup>

In raising public awareness, ENGOs may use different tools from more radical action (campaigning, rallies and other public actions) to more informative action (publishing books, recommendations, reports, and newspapers, and development, promotion and direct involvement in the educational programmes). Publishing of reports on the state of the environment is another form of activity that also aims to raise public awareness and highlight environmental problems. ENGO Dront has published a number of booklets that help local people to dispose of mercury-containing waste (e.g., energy-saving lamps), or provide advice

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<sup>43</sup> Information is available at <https://www.youtube.com/user/GreenpeaceRussia/videos>; <http://www.greenpeace.org/russia/ru/multimedia/podcasts/>, last access on 21/03/2014.

<sup>44</sup> Interview 14, 15, 20.

<sup>45</sup> Information is available at <http://savethearctic.org/>, last access on 21/03/2014.

<sup>46</sup> A.O. Kokorin, et al, 'Measures to Reduce Emissions of Greenhouse Gases in Russia and Priorities of Russian NGOs' (WWF Russia, 2012).

<sup>47</sup> Information is available at <http://www.greenpeace.org/russia/ru/campaigns/green-office/>, the last access 04/04/2014.

on how to protect the local environment (e.g., how to plant trees, or to save the city from dumps and other ‘green problems’).<sup>48</sup> Usually release of these publications is limited and they are distributed free of charge to schools and other organisation. ENGOs also provide free online access to these booklets, which has the advantage of easy access for the broader public.

Public hearings on environmental issues are also a way to raise public awareness. The environmental legislation entitles ENGOs to organise and hold mandatory public hearings on the design, placement of objects, economic and other activities that could harm the environment, or endanger the life, health and property of citizens.<sup>49</sup> Dront, with other local ENGOs, organised a number of these public hearings in regions that will be affected by the raising of the level of the Cheboksary Dam and in 2012, this issue was the subject of a public hearing at the Federal Civic Chamber. Representatives from RusHydro (constructing company), local authorities, ENGOs and academics discussed the project and its possible outcomes.<sup>50</sup> A final decision on this project has not yet been determined and ecological, engineering, technical and economic expert assessments are still being conducted by relevant state environmental agencies and by ENGOs. ENGOs actively participate in public hearing on changes in urban planning<sup>51</sup> that may affect urban parks and recreational zones. These hearings are required by law and serve as the tool to inform public on proposed industrial activities.

To conclude, raising public awareness remains one of the most important ENGO strategies to achieve their goals of environmental protection. ENGOs inform public on the state of the environment, its quality and safety, global and local environmental issues and possible solutions through publishing and distribution of relevant information in mass media, ecological newspapers and the Internet, and organisation of public hearings. While bigger international ENGOs work mostly with global issues distributing information on climate change, sustainable development, energy efficiency and others, domestic regional groups operate on regional or local level. In recent years, the development of digital technologies has given more opportunities for all ENGOs to distribute and share ecological information at a minimal cost. Therefore, raising public awareness through distribution of ecological information is one of the main and productive ways to increase the public interest in

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<sup>48</sup> Available at <http://dront.ru/publications/>, <http://dront.ru/news/1080/>, the last access on 20/03.2014.

<sup>49</sup> Federalnyj Zakon RF ot 10 yanvarya 2002 N 7-FZ ‘Ob ohrane okruzhayushej sredy’ [The Federal Law of the RF 10 January 2002 N 7-FZ ‘On the Environmental Protection’] (Russia), Article 12 (1).

<sup>50</sup> Interview 9, 11. The information and documents on these hearings are also available at <http://www.dront.ru/news/740/>, the last access on 20/03/2014.

<sup>51</sup> *Gradostroitelnyj Kodeks Rossiyskoj Federatsii, 2004* [Urban Planning Code of the Russian Federation, 2004], Article 28.

environmental issues and public support of ENGOs. Broadly speaking, almost all activities and methods of ENGOs, such as the provision of ecological education, expertise, protests and direct actions, contain elements of ‘raising awareness’ on ecological issues and enhance the effectiveness of other methods and tools. The main challenges of ENGOs in this work are insufficient information on the state of the environment due to technical reasons, such as the vastness of the country’s territory, which complicates ecological monitoring, and a lack of necessary equipment and experts. A possible way to improve access to information and, as a result, to enhance capacities of ENGOs on its distribution is the ratification of the Aarhus Convention (discussed in Chapter 4).

Today, ENGOs do not employ this strategy effectively. International ENGOs focus mostly on media engagement but their direct communication with lay people is insufficient and their big scale climate change or biodiversity projects are not in the scope of the everyday life of people. Domestic ENGOs are closer to local people and play important role in raising public awareness of local environmental problems. However, these groups are limited in resources to organise media campaigns to draw people’s attention. Small environmental local groups can be too weak to obtain and distribute ecological information and they can influence only a limited circle of people through digital networks. There is a need for more joint efforts of all ENGOs through networking and mutual support for the collection, distribution and popularisation of ecological information to develop and encourage ecological values in society.

### **3.1.2 Ecological education**

The activities of ENGOs to inform the public on environmental issues are closely linked to their efforts to promote ecological education. This is an important strategy of ENGOs, carried out in a different way by both domestic and international ENGOs through schools, universities and broader engagement with communities.

As discussed in Chapter 3, the first Soviet public organisations were established by natural scientists and their activities had largely scientific and educational character.<sup>52</sup> This involvement of academics has continued as demonstrated by the great number of scientists and students from biological, ecological and geographical fields who are actively engaged in

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<sup>52</sup> D. Weiner, *A Little Corner of Freedom: Russian Nature Protection from Stalin to Gorbachëv* (University of California Press, 1999); Larin et al, see above n 27.

the work of ENGOs, including WWF Russia, Greenpeace Russia, Dront, Green League Russia and others.<sup>53</sup>

A number of Russian ENGOs continue this tradition and closely work with other educational institutions, particularly with schools promoting knowledge about nature and understanding the importance of protection and prevention of harm to the environment. For example, Dront works with schools in the Nizhny Novgorod region and focuses on promoting ecological values among children. The ENGO collaborates with teachers<sup>54</sup> by providing learning materials for lessons on ecology, for example, booklets and newspapers.<sup>55</sup> Educational projects also include drawing competitions for children on environmental topics, for example, ‘Your city should be clean!’ in 2004, ‘Save water!’ among others.<sup>56</sup>

Respondents from regional ENGOs mentioned their active role in organising environmental camps during summer school holidays for children in their regions where they educate children on the protection and rational use of the nature.<sup>57</sup> Due to the involvement of students and academics from universities, a wider section of society/audience can expand their knowledge of ecology—schoolchildren and students learn to collect biological information and carry out research in changes in the diversity of plant and animal species due to changes in local ecology.<sup>58</sup> Reportedly, these camps are popular with people; develop ecological knowledge and culture, involving not only children but also their parents in the nature protection, and help to recruit new members for ENGOs.<sup>59</sup> This strategy of ENGOs enhanced their influence by educating people on ecology, changing the behaviour of people, and developing and increasing people’s interest and willingness to participate in environmental governance individually or through ENGOs (donations, volunteerism).

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<sup>53</sup> As it was discussed in chapter 2 about WWF Russia staff, A. Kayumov, a head of Dront, is a biologist as well as S. Semak, a head of Green League Samara, See more at <http://dront.ru/about/people/>, the last access at 20/06/2014, Interviews 11, 23.

<sup>54</sup> Teaching students to develop environmentally-friendly values, knowledge and behaviours, ecological thinking, providing an understanding of the relationship between the natural, social, economic and political events and their impact on quality of life and the quality of its environment are included into the Federal state educational standard of school education, available at <http://минобрнауки.пф/%D0%B4%D0%BE%D0%BA%D1%83%D0%BC%D0%B5%D0%BD%D1%82%D1%8B/938>, the last access on 21/03/2014.

<sup>55</sup> Interview 11.

<sup>56</sup> Interview 10, 11, 13. The list of different drawing and photo competitions on environmental topic is available at <http://www.dront.ru/competition/>.

<sup>57</sup> Interviews 9, 10, 11, 20, 24. More information of these camps is available on <http://dront.ru/jungle/>, the last access on 20/06/2014.

<sup>58</sup> Interviews 9, 14.

<sup>59</sup> Interviews 8, 9.

ENGOS make other attempts to develop and revive a charitable culture in the society and to involve the public in volunteering through education. Green League promotes a development of public environmental control in the regions. The organisation has elaborated on its message in a 'Handbook for public environmental inspector', which also aims to develop ecological culture and volunteerism through involvement of people in the monitoring and control of emissions from local plants, level of pollution and others.<sup>60</sup> In addition, many ENGO projects contain educational components. Greenpeace Russia, within its project for the conservation and protection of forests, has organised specialised courses for volunteer firefighters and has issued recommendations 'how to fight wildfires'.<sup>61</sup> WWF Russia and Greenpeace Russia also involve university students from natural science faculties in their research in biodiversity and work in natural reserves.<sup>62</sup>

Respondents from ENGOS pointed out that local authorities and sometimes local businesses support various educational projects of ENGOS,<sup>63</sup> for example, ecological competitions for students or drawing competitions for younger children on environmental protection themes. However, this funding remains insufficient and educational activities often depend on the enthusiasm of ENGO members, volunteers, school teachers and academics.<sup>64</sup>

### 3.1.3 Direct actions

Direct actions of ENGOS often are part of public campaigning and aim to mobilise public support against, for example, a governmental decision, a company's policy or certain industrial activity (e.g., high profile 'naming and shaming' campaigns, consumer boycotts).<sup>65</sup> ENGOS also use public interest litigation and the threat of litigation and lobbying for legislative reform, as a means to enforce existing norms or to develop new standards or to push businesses to improve their environmental management and practices.<sup>66</sup> Direct actions employed by Russian ENGOS, ways of using them and barriers that may prevent the use of these tools are discussed below.

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<sup>60</sup> More information is available at <http://green-union.org/node/480>; the last access on 20/03/2014.

<sup>61</sup> Interview 6, more information and the recommendations are available at <http://www.greenpeace.org/russia/ru/campaigns/forests/fires/>, the last access on 20/03/2014.

<sup>62</sup> Interviews 4, 6, 8.

<sup>63</sup> Interviews 9, 10, 13.

<sup>64</sup> Interviews 9, 10, 24.

<sup>65</sup> Examples of the power of NGOs in changing environmental practices through activism in Australia can be found in K. Bubna-Litic, 'Climate Change and Corporate Social Responsibility: The Intersection of Corporate and Environmental Law' (2007) 24(4) *Environmental and Planning Law Journal* 253, 262-264.

<sup>66</sup> C. Scott, 'Private Regulation of the Public Sector: a Neglected Facet of Contemporary Governance' (2002) 29(1) *Journal of Law and Society* 56, 67; Bubna-Litic, see above n 65, 280; K. Bubna-Litic, 'Environmental Reporting as a Communications Tool: a Question of Enforcement?' (2008) 20(1) *Journal of Environmental Law* 69, 71.

Despite the tightening of the legislation on organising public actions, such as rallies, demonstrations and others, direct action ENGOs continue to use these direct methods of influence; however, outcomes of these actions may differ from expected ones. Moreover, the ability of the state to curb such actions also serves as an intimidation factor for these activities.

As discussed in Chapter 3, public actions became a popular strategy of mass environmental movements at the end of the 1980s, when Soviet citizens organised rallies, pickets and demonstrations against the construction of nuclear power plants, chemical plants and other polluting industries. However, at the end of the 1990s, there was professionalisation and institutionalisation of these mass movements into smaller groups. A strong decline in public mobilisation and radical activity occurred in Russia during the first decade of the 2000s.<sup>67</sup> Mass actions no longer were the primary means for ENGOs. Rather, they become a part of ENGOs' strategies along with others. However, in 2010–2011, there has been an increase in civil and political activity among Russian citizens and a number of mass protests occurred in December 2011 throughout the country.<sup>68</sup>

In the sphere of the environmental protection, a notable increase in public activity has been observed since 2010. A target audience of these public campaigns includes the public, the government and its bodies, companies and the international community. For example, ENGOs also adopted their strategies and began to use single pickets as 'organising of a picket with one participant does not require special permission from authorities.'<sup>69</sup>

One example was mass numerous public meetings and rallies of local citizens headed by a local environmental movement 'Khimkinsky Forest'<sup>70</sup> against a decision of the Russian Government to build a federal highway through the Khimkinsky Forest, which would destroy the forest. The main purpose of these actions was not only to raise public awareness on this issue, but also to gain public support against the construction of this highway. Joint efforts of

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<sup>67</sup> L. Henry, 'Complaint-Making as Political Participation in Contemporary Russia' (2012) 45(3) *Communist and Post-Communist Studies* 243, 243.

<sup>68</sup> 'Report on the State of Civil Society in the Russian Federation 2011' (Civic Chamber of the Russian Federation, 2012), 6-10.

<sup>69</sup> Interview 14. Indeed, permission from authorities for a single picketing is not required. However, it should be taken into account that minimum distance between persons engaged in such picketing cannot be more than fifty meters. Several single pickets united by the same idea and organizing body can be recognized as the same public event by a court decision. In this case it would be consider as illegal mass public action which had required obtaining permission from the authorities. (*Federalnyj Zakon RF ot 19 iunya 2004 N 54-FZ 'O sobraniyah, mitingah, demonstratsiyah, shestviyah i piketirovaniyah'* [Federal Law of the RF 19 June 2004, N 54-FZ 'On Meetings, Rallies, Demonstrations, Marches and Pickets'] (Russia), Article 7 (1.1).

<sup>70</sup> The movement 'Khimkinsky Forest' was named after the forest that they protect. A forest in Russian language is *les*.

‘Khimkinsky Forest’ and other ENGOs in this instance were successful in drawing attention to the problem through mass media and raising a local conflict to the federal level.<sup>71</sup> While this helped the coalition to negotiate on the new road, success has been slow. Reportedly, there was a lot of fierce violence from the police and the local authorities against activists and supporters of the movement.<sup>72</sup> The most notable was an attack against M. Beketov, the editor of local opposition newspaper ‘Khimkinskaya Pravda’ in November 2008. He was severely beaten by unidentified persons and was seriously injured. He died of complications due to these injuries in 2013. E. Chirikova, the leader of the movement, was accused of abuse of her children and the authorities attempted to initiate the procedure for termination of parental rights. However, this attempt was unsuccessful due to public petitions to the relevant authority to support Chirikova, publicity of the case and a lack of evidence.<sup>73</sup>

Mass protest activity during December-February of 2010–2011, was followed by declining engagement in 2012–2013. Ultimately, the campaign appears to have fallen short of its goal to stop the construction of the highway. Respondents suggested this was less a failure in the campaign strategy and more because the economic and social importance of the project, which meant the Government was always going to proceed with its development. In addition, an intimidation factor was another reason for declining campaigning as people began to fear for their safety and safety of their families or possible unjustified arrests, administrative or criminal prosecution, as it happened with leaders of the movement. These factors lead to a distinct change in the strategies of the organisation. The Khimkinsky Forest movement, together with French NGOs, initiated legal action in Nanterre, France against a French company involved in the road construction project.<sup>74</sup>

Another example of the escalation of non-violent protests into violence is a campaign the ‘Save Khoper’.<sup>75</sup> Organised against a development of copper-nickel mining in Voronezh region, this ongoing campaign has seen violent confrontations between environmental

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<sup>71</sup> K. Hochstetler, ‘Civil Society and the Regulatory State of the South: A Commentary’ (2012) 6(3) *Regulation & Governance* 362, 367.

<sup>72</sup> Numerous police’s attacks on activists, arrests of the activists and threats were filmed and recorded by the activists and independent journalists. More information is available at [http://www.ecmo.ru/main/abuse\\_en/](http://www.ecmo.ru/main/abuse_en/), the last access on 06/11/2014.

<sup>73</sup> A. Evans Jr, ‘Protests and Civil Society in Russia: The Struggle for the Khimki Forest’ (2012) 45(3) *Communist and Post-Communist Studies* 233, 234-235; more information is available at [http://www.ecmo.ru/main/abuse\\_en/](http://www.ecmo.ru/main/abuse_en/) the last access on 06/11/2014.

<sup>74</sup> G. Tumanov, I. Buranov and A. Miklashevskaya, ‘Kommersant’, *The highway from Moscow to St. Petersburg was brought to France* (Moscow), 23/06 2013, available at <http://www.kommersant.ru/doc/2219249?themeid=1209>, the last access at 24/08/2014.

<sup>75</sup> Danger of mining in Khoper, «Save Khoper» Movement on the Problem of Copper-Nickel Mining. Available at: [http://savekhover.ru/?page\\_id=1699](http://savekhover.ru/?page_id=1699), the last access at 24/08/2014.



activists and mining companies.<sup>76</sup> Another example of confrontation reported by one respondent involved Ekovahta (a campaigning environmental organisation in the North Caucasus). This ecological group, with the support of Greenpeace and other ENGOs, have also organised a campaign for saving Utrish—a national reserve in Northern Caucasus—from residential building projects, which drew attention of the public and authorities. Ekovahta activists organised public meetings and pickets in different regions of Russia.<sup>77</sup> This resulted in a state-backed criminal prosecution of the activists and according to respondents, the trial was both unfair and politically motivated.<sup>78</sup>

The most high profile environmental public direct actions organised by international ENGOs was a part the of Greenpeace campaigns ‘Save the Arctic!’ In order to attract public attention and call two oil companies to account, ENGOs organised public campaigns. For example, Greenpeace activists dressed as polar bears chained themselves to oil barrels branded Statoil and Rosneft in front of the Statoil office in Moscow, protesting against oil drilling in the Russian Arctic.<sup>79</sup> They also use ‘naming and shaming strategy’, constantly criticising Statoil, Rosneft and Gazprom in media.<sup>80</sup> It should be noted that consumer boycotts are not common actions for Russian ENGOs, considering low public interest in the environmental protection. ‘Shaming and naming’ strategies are more common actions, however, also may be ineffective taking into account the novelty of the concept of CSR and the priority of economic development in Russia. This was demonstrated by the unsuccessful attempts of Greenpeace of naming and shaming gas companies Statoil and Gazprom as ‘dirty companies’ in regards to their methods of gas extraction in the Arctic.<sup>81</sup>

The attempts of activists from the Greenpeace International ship Arctic Sunrise to stop drilling by climbing on the Gazprom oil rig, Prirazlomnaya, in the Russian Arctic in 2013, as well as the subsequent arrest of the activists<sup>82</sup> and accusations of piracy,<sup>83</sup> have caused a lot of

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<sup>76</sup> To date the campaign has not achieved its goals. This campaign is still continues and is supported by other ENGOs from different regions (including Khimkinsky Forest). The violent actions between ecologists and company security workers and riots happened on June, 22, 2013 on the mining site are under criminal investigation by the State Investigation Committee (available at <http://savekhoper.ru/>, the last access at 24/08/2014).

<sup>77</sup> The list of these radical actions is available at <http://www.ewnc.org/utrish/actions>, the last access on 02/04/2014.

<sup>78</sup> Interview 16.

<sup>79</sup> See at <http://www.greenpeace.org/russia/en/news/25-04-Statoil-and-Rosneft-take-bears-hostages/>, the last access on 04/04/2014.

<sup>80</sup> See, for example, at [http://www.greenpeace.org/russia/en/news/22-01-2014\\_Gazprom\\_spill\\_Tomsk/](http://www.greenpeace.org/russia/en/news/22-01-2014_Gazprom_spill_Tomsk/), <http://www.savethearctic.org/>, the last access on 04/04/2014.

<sup>81</sup> Ibid.

<sup>82</sup> Information is available at <http://www.greenpeace.org/international/en/campaigns/climate-change/arctic-impacts/free-our-activists/>, the last access on 04/04/2014.



publicity in Russia and around the world. Solidarity protests demanding the release of 30 activists imprisoned in Russia were organised in 45 countries, including Russia. On 25 December 2013 after 100 days of imprisonment, legal proceedings against the activists were dropped in accordance with an amnesty declared by the State Duma.<sup>84</sup>

Thus, it is difficult to assess the success of this action. As respondents from ENGOs noted, one of aims of this campaign—to draw public attention to the problem a lack of safe technologies of gas drilling in the Arctic—was achieved.<sup>85</sup> However, gas and oil drilling will be continued despite concerns of the safety of the project.

Public opinion surveys confirm information from the interviews<sup>86</sup> that this action of Greenpeace has caused huge debate (more than 60 per cent of Russian people knew about it) in Russian society over environmental and safety aspects of drilling in the Arctic and on adequacy of the Russian authorities' measures against the peaceful protest. Most respondents believed that the measures of the Russian authorities were adequate to the situation (60 per cent). Seventeen per cent of the respondents considered these measures 'too harsh' and eight per cent too soft.<sup>87</sup> Reportedly, the Russian authorities and oil companies also questioned goals of the protest and organised their own information campaign in mass media accusing Greenpeace and foreign governments of conspiracy against Russia as an attempt to deprive Russia of valuable natural resources and territories.<sup>88</sup>

As a result, 42 per cent of respondents tended to evaluate this action as a conspiracy of foreign governments using the name of Greenpeace. A lower number of the respondents called the incident a public relations (PR) action of Greenpeace (27 per cent) and 20 per cent of respondents considered it an attempt to save the Arctic. The results of an opinion poll conducted in social media networks indicated that respondents in the social networks have different opinions on this action. Only 19 per cent consider it as a conspiracy of foreign states,

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<sup>83</sup> Information is available at [http://www.bellona.org/articles/articles\\_2013/arctic\\_sunrise\\_arrival](http://www.bellona.org/articles/articles_2013/arctic_sunrise_arrival), the last access on 04/04/2014.

<sup>84</sup> Information is available at <http://www.greenpeace.org/international/en/press/releases/Good-news-on-Christmas-Day-for-Arctic-301/>, the last access on 04/04/2014.

<sup>85</sup> Interviews 20, 23.

<sup>86</sup> Interviews 20, 23, 24.

<sup>87</sup> 'Action of Greenpeace ': An Assessment of Population and Internet Community', press release № 2440, Russian Public Opinion Research Center (VCIOM), 2013, available at <http://wciom.ru/index.php?id=236&uid=114579>, the last access on 26/03/2014.

<sup>88</sup> Interview 23. For example, 'The founder of Greenpeace: the organisation is fooling people', published on 08/10/2014, at <http://www.russia.ru/news/politics/2013/10/8/17415.html>, the last access on 26/03/2014.

39 per cent called it an attempt to save the Arctic and but 36 per cent deemed it a PR action of Greenpeace.<sup>89</sup> Other opinion polls also demonstrated similar results.<sup>90</sup>

Direct actions are often parts of bigger campaigns of ENGOs. Although accusations of ENGOs in Russia using violent methods in direct actions (e.g., Khimkinsky Forest movement activists against the police), or illegal methods (e.g., Greenpeace was accused of piracy) influence legitimacy of ENGOs and can undermine effectiveness of their actions, ENGOs continue to employ these methods. These actions usually give a lot of publicity to ENGOs and sometimes an opportunity to negotiate problems with the state bodies and business.<sup>91</sup> Therefore, more confrontational ENGOs, such as Greenpeace and Ekovahta continue to use this strategy<sup>92</sup> while the more constructive WWF prefers to use direct actions when other strategies do not work out.<sup>93</sup>

As a part of bigger campaigns, direct and often radical actions of ENGOs aim to mobilise people to lobbying against or for governmental policies and industrial activities. The findings demonstrated that this aim of mobilisation of people can be achieved for a short time and is usually successful in drawing the public attention, rather than in achieving the final purposes of preventing, changing or terminating a policy or activity. Usually, the state, through the law enforcement bodies and controlled media, manages to restrain public action organised by ENGOs. In addition, tightening of the legislation on organisation of public meetings has also complicated organisation of public actions.<sup>94</sup> Nevertheless, ENGOs continue to use these public actions as a part of bigger campaigns and strategies in combination with other tools of influence.<sup>95</sup>

### 3.1.4 Legal actions

As discussed in Chapter 4, the Russian legislation recognised legal rights of ENGOs to present public interest issues concerning nature protection to governmental bodies, agencies

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<sup>89</sup> 'Action of Greenpeace ': An Assessment of Population and Internet Community', press release № 2440, Russian Public Opinion Research Center (VCIOM), 2013, the last access on 28/10/2014, available at <http://wciom.ru/index.php?id=459&uid=114579>, the last access on 26/03/2014.

<sup>90</sup> 'Arrest and Prosecution of Activists 'of Greenpeace' in Views of Russians', press release, Levada Analytical Center (Levada Center), 11/11/2013, available at <http://www.levada.ru/11-11-2013/arest-i-obvineniya-aktivistov-grinpis-v-predstavleniyakh-rossiyan>, the last access on 26/03/2014.

<sup>91</sup> Interviews 16, 20.

<sup>92</sup> Interview 6.

<sup>93</sup> Interview 1.

<sup>94</sup> Interview 8.

<sup>95</sup> Interviews 4, 6.

and courts. There are two main types of legal actions taken by ENGOs in Russia, namely complaint procedures and litigation.

**Complaints procedures.** Complaints procedures are regarded as a type of ENGO political participation in contemporary Russia.<sup>96</sup> However, it is also a strategy employed by ENGOs to hold other environmental actors, such as businesses and relevant state agencies, accountable for activities that may negatively affect the environment. In accordance with the legislation,<sup>97</sup> citizens and public organisations can submit their complaints to a range of government bodies, including the State Duma, Civic Chamber,<sup>98</sup> the Ministry of the Natural Resources and Environmental Protection (MNR) and environmental prosecutor's offices.<sup>99</sup> The legislation also establishes a duty of state officials to give timely, informed and reasonable responses, their decisions and responses can be appealed to courts.<sup>100</sup> Under this law, the authorities must reply within one month to the individual or collective citizens' and/or organisations' appeals and complaints.<sup>101</sup>

ENGOs can lodge a complaint as an organisation (a legal entity) or initiate citizens to make an individual or collective complaint.<sup>102</sup> The respondents from ENGOs indicated that they bring complaints and appeal to relevant agencies quite frequently.<sup>103</sup> 'We always complain on violations of environmental laws to the (regional) Ministry of Ecology and the environmental

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<sup>96</sup> Henry, see above n 8, 246.

<sup>97</sup> *Federalnyj Zakon RF ot 10 yanvarya 2002 N 7-FZ 'Ob ohrane okruzhayushej sredy'* [The Federal Law of the RF 10 January 2002 N 7-FZ 'On the Environmental Protection'] (Russia), Article 12.

<sup>98</sup> In non-environmental issues, they can also complain to the President's Council on Human Rights and the Prosecutor General's office and regional and municipal agencies responsible for particular services

<sup>99</sup> Henry, see above n 8, 246. In addition, ENGOs can also complain to special environmental protection agencies both at federal and regional level. The system of environmental protection agencies has a complicated structure and is still under reform. For example, a number of the subjects of the Federation have established their own system of the nature protection bodies, another group of region has territorial departments of the Federal Ministry of Natural Resources and Environmental protection.

<sup>100</sup> *Federalnyj Zakon RF ot 10 yanvarya 2002 N 7-FZ 'Ob ohrane okruzhayushej sredy'* [The Federal Law of the RF 10 January 2002 N 7-FZ 'On the Environmental Protection'] (Russia), section 1 Article 12; *Federalnyj Zakon ot 2 maya 2006 N 59-FZ 'O poryadke rassmotrenia obrashenij grazhdan Rossijskoj Federatsii'* [Federal Law N 59-FZ 2 May 2002 On a Procedure of Consideration of Citizens' Applications of RF] (Russia).

<sup>101</sup> *Federalnyj Zakon ot 2 maya 2006 N 59-FZ 'O poryadke rassmotrenia obrashenij grazhdan Rossijskoj Federatsii'* [Federal Law of the RF 2 May 2002 N 59-FZ 'On a Procedure of Consideration of Citizens' Applications of the RF'] (Russia), Article 12.

<sup>102</sup> The initiations of citizens' complaint by ENGO or sending individual complaint from a member of ENGOs was a response to a gap in the legislation - the law did not set up this one month's duty of the state bodies to respond on complaints of organisations (legal entities). As a result, the state agencies could ignore organisations' complaints. Thus, in practice, ENGOs had to adopt their strategies by initiating citizens' applications and complaints in order to receive a response from the state agencies. The Constitutional court of the Russian Federation has acknowledged the inconsistency of these provisions of the Law with the Constitutions due to uncertainty of the normative content, ambiguous interpretation in practice and, therefore, unjustified implementation. (*Postanovlenie Konstitutsionnogo Suda RF ot 18 iulya 2012 N 19-P* [Decision of the Constitutional Court of the RF 18 July 2012, N 19-P] (Russia)). In 2013 the Law was amended in accordance to the Court's decision and state agencies now must to respond to NGOs in written form during one month.

<sup>103</sup> Interview 6, 11, 16, 24.

prosecutors regardless of possible negative/positive outcomes. Anyway they have to investigate and give us a response'.<sup>104</sup> As respondents from ENGOs indicated, responses from the state agencies were also often vague and formal in character and complaints could be endlessly readdressed to other agencies.<sup>105</sup> For example, Rostekhnadzor (Environmental, Industrial and Nuclear Supervision Service under MNR) could not arrange the inspection as a response to Ekovahta's complaint on a pipeline construction in the riverbed of Mzimba River, because 'it was not possible to determine this object, since an address, name of the developer of the object is not specified in the complaint'.<sup>106</sup> Dront sends numerous complaints to the local authorities on various issues concerning urban ecology. Despite the fact that the authorities formally give 'timely' responses, their content often has a formal character 'just to write something'.<sup>107</sup> As a result, the majority of responses on complaints and requests of ENGOs does not always provide clear, reasonable and full answers to environmental problems raised by the ENGOs.<sup>108</sup>

Respondents also pointed to a number of instances where environmental agencies downplayed or ignored ENGO complaints about possible environmental damage from industrial activity. For example, the Federal Agency on Supervision of Nature did not stop the illegal activity of exploratory drilling on the shelf of the Sea of Okhotsk, despite an initial negative environmental review<sup>109</sup> and complaints from WWF on violations of environmental laws. Rather, following business lobbying for permission to drill, the agency accused WWF of publishing incorrect information and reportedly tried to protect the company. As a result of the state's inaction, the Kolskaya floating oil platform sank in the Sea of Okhotsk on 18 December 2011 and 53 people died.<sup>110</sup> Ekovahta in the North Caucasus, together with other environmental groups, filed numerous complaints to local environmental agencies and Prosecutors' offices on corruption and violation of environmental laws during the preparation for the 2014 Winter Olympics.<sup>111</sup> A review of documents published on the websites of ENGOs demonstrated that in majority of cases the Prosecutors could not find any violations of environmental laws, largely because of special legislation enacted for the construction of

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<sup>104</sup> Interview 11.

<sup>105</sup> Interview 11, 16.

<sup>106</sup> A copy of this official letter from the Prosecutor's office is available at: <http://www.ewnc.org/node/7520>, the last access on 26/03/2014.

<sup>107</sup> Interview 11.

<sup>108</sup> Interview 10, 11.

<sup>109</sup> The state ecological expertise (environmental assessment) is mandatory for this activity under the law (*Federalnyj zakon ot 23.11.1995 N 174-FZ 'Ob jekologicheskoy ekspertize'* (The Federal Law of the RF 23 November 1995 N 174-FZ 'On Ecological Expertise')).

<sup>110</sup> 'Gazprom' has declared 2013 as the Year of Ecology on the eve of the anniversary of the death of 'Kolskaya', 12/18/2012, WWF, available at: 'blog WWF on itar-tass.com', <http://www.itar-tass.com/c9/603107.html>.

<sup>111</sup> Available at <http://www.ewnc.org/node/7523>, the last access on 27/03/2014.

the Olympic objects.<sup>112</sup> Prosecutors' inspections could find a small number of minor violations of the environmental legislation on specially protected areas in the Northern Caucasus national parks and reserves<sup>113</sup> and evidences of illegal construction projects that had not conducted mandatory consultations or EIAs.<sup>114</sup> Administrative fines or just warnings about these violations of environmental laws were the most common punishment for construction companies.

Nevertheless, despite the often formal and unmotivated approach of the state bodies to ENGOs' complaints, in some cases, ENGOs could achieve their purposes and complaints were a useful strategy. For example, WWF Russia initiated citizens' complaints on a road construction project on the territory of a proposed specially protected natural area—the Federal National Park 'Khibiny' in 2012.<sup>115</sup> The decision taken on the issue of the road construction was a compromise decision to move the road to another place adopted by the working group, which consisted of representative from WWF Russia, the Ministry and the constructing company.<sup>116</sup> In March 2014, ENGOs had some success in protecting the National Park Utrish (the Northern Caucasus region) in response to their complaints to the Prosecutor's office, which finally conducted a supervisory inspection in connection with the illegal construction of houses in the territory of the reserve. This inspection revealed violations of laws, and led to a prosecutor's lawsuit to stop and demolish the illegally built construction.<sup>117</sup> Recently, ENGOs further developed this strategy. For example, Russian Green League has established a system of public ecological inspection in several regions of the country to collect and report on violations of environmental norms to relevant state bodies using their right to complain on a more regular and systematic basis.<sup>118</sup>

In conclusion, complaints are a familiar mode of action for citizens and NGOs and remain a popular strategy since Soviet times, because of a simple lodgement process—it is free and

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<sup>112</sup> See for example, a list of correspondence with the Prosecutors 2011 which consist of 21 responses on Ekovahta's complaints. In only two cases the Prosecutors could find violations of laws and initiated administrative and criminal proceedings. In other cases the Procurators could not find any violations of laws (6) or redirected complaints (9), the last responses were on possibilities to access and see inspections' documents. Available at <http://www.ewnc.org/node/7523>, the last access on 27/03/2014.

<sup>113</sup> Information is available at <http://www.ewnc.org/node/5656>, the last access on 27/03/2014.

<sup>114</sup> Information is available at <http://www.ewnc.org/node/7678>, the last access on 27/03/2014.

<sup>115</sup> Interview 7, the response is available at: <http://www.mnr.gov.ru/activities/detail.php?ID=129359>, the last access on 27/03/2014.

<sup>116</sup> 'Khibiny saved', published on 21/05/2013 at <http://www.wwf.ru/resources/news/article/11247>, the last access on 27/03/2014.

<sup>117</sup> Information is available at [http://www.prokuratura-krasnodar.ru/index.php?option=com\\_content&view=article&id=6541:-----lr&catid=1:latest-news&Itemid=253](http://www.prokuratura-krasnodar.ru/index.php?option=com_content&view=article&id=6541:-----lr&catid=1:latest-news&Itemid=253), the last access at 05/04/2014.

<sup>118</sup> News for this project can be found at <http://green-union.org/node/413>, the last access on 16/04/2015.

informal.<sup>119</sup> This strategy allows ENGOs to save resources by involving the state agencies, which carry out function of the nature protection (e.g., Rostekhnadzor, the Prosecutor's offices), in solving environmental issues. It grants more processional and material recourses to conduct relevant inspections, expertise and initiate litigations. Effectiveness of this strategy is limited by the formal approach of the state agencies, which may be explained by the priority of economic development and combination of the nature protection functions and natural resource management within the same state body (the Ministry of the Natural Resources and Ecology).

***Environmental litigation.*** In accordance with the law, NGOs can bring an action in court for compensation for damage to the environment<sup>120</sup> and appeal against decisions of the state bodies, including their responses to a complaint<sup>121</sup> on environmental issues. ENGOs initiate litigations on ecological issues in the courts of the RF, both in courts with general jurisdiction and commercial courts, depending on the dispute. The Commercial Courts settle disputes arising from economic activity involving organisations and individuals registered as 'individual entrepreneurs'. The courts with general jurisdiction deal with other disputes, including the protection of public interests.<sup>122</sup>

There have been a number of successful litigations initiated by ENGOs against decisions of relevant state environmental agencies. For example, in 2013 the Supreme Court of the Russian Federation supported Greenpeace Russia's lawsuit. As a result, the decision of MNR to remove (exclude) a site for economic activities (gold mining) from the national conservation park in the Komi Republic in 2013 was declared as illegal.<sup>123</sup> This decision of the Supreme Court concluded 'more than 3-years fight of Greenpeace and other environmental organisations for restoration of the first Russian World Natural Heritage property Virgin Komi Forests'.<sup>124</sup> In 2014, Greenpeace appealed and won another lawsuit against provision

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<sup>119</sup> L. Henry, 'Redefining Citizenship in Russia' (2009) 56(6) *Problems of Post-Communism* 51, 62-63.

<sup>120</sup> *Federalnyj Zakon RF ot 10 yanvarya 2002 N 7-FZ 'Ob ohrane okruzhayushej sredy'* [The Federal Law of the RF 10 January 2002 N 7-FZ 'On the Environmental Protection'] (Russia), Article, 12.

<sup>121</sup> *Federalnyj Zakon ot 2 maya 2006 N 59-FZ 'O poryadke rassmotrenia obrashenij grazhdan Rossijskoj Federatsii'* [Federal Law of RF 2 May 2002 N 59-FZ 'On a Procedure of Consideration of Citizens' Applications of the RF'] (Russia), Article 5 (4).

<sup>122</sup> The jurisdiction of both courts is established by the Criminal and Civil Procedure Codes of the RF.

<sup>123</sup> *Reshenie Verhovnogo Suda RF ot 21 agusta 2013, N AKPI13-642* [Decision of the Supreme Court of the RF, 21 August 2013, N-642 AKPI13].

<sup>124</sup> More information at: <http://www.greenpeace.org/russia/en/news/02-september-komizolotocourt/>, the last access on 30/03/2014.

on the possibility of certain economic activities the Charter of the same national park, approved by MNR.<sup>125</sup>

Another case won by Greenpeace Russia was a judicial decision on reversing the *Resolution of the Government of the Russian Federation from 15/09/2003 N 571* 'On Sochi republican State Nature Reserve', which downgraded the legal status of a part of territory of the Sochi National Park in 2004. The downgrade could make possible some economic activities in this part of the national park.<sup>126</sup> However, the legal battles over territories of national park Utrish around Sochi in Northern Caucasus continue, involving both international and domestic ENGOs. Greenpeace made attempts to challenge the decision of the Federal Government from 08/06/2006 № 357 on the Federal Target Programme 'Development of Sochi as a mountain resort' as it was not consistent with the current law 'On Environmental Expertise (EIA)'. However, the court dismissed the claim of Greenpeace.<sup>127</sup> Ekovahta on the Northern Caucasus had to litigate at all levels of the commercial courts to receive final judiciary decisions of the Supreme Commercial Court, which annulled the decision of the State EIA on the construction of forest fire roads as it was not consistent with the law 'On Environmental Expertise (EIA)'.<sup>128</sup> The building of this so-called fire road was actually needed to begin a construction of residences for the governmental officials in the territory of this specially protected area. This judicial process took almost two years, including a revision of the first decision, subsequent appeals and new court hearings.

Bringing actions to the courts was characterised by ENGOs representatives<sup>129</sup> as 'time consuming', and unsuccessful due to 'a lack of independency of courts' and the priority of economics. Judicial decisions 'can be influence by the authorities accordingly to the current economic interests'. A litigation, which involved several cases, over construction of the facilities for the Olympic Games 2014 was not successful for the ENGO. For example, Ekovahta also lost a case against the decision of local authorities to give permission to the

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<sup>125</sup> *Reshenie Verhovnogo Suda RF ot 1 oktyabrya 2014 N 953 AKPI14* [Decision of the Supreme Court of the RF, 1 October 2014 N 953 AKPI14].

<sup>126</sup> *Reshenie Verhovnogo Suda RF ot 22 yanvary 2004 N-642 AKPI1322* [Decision of the Supreme Court of the RF January 2014, N N-642 AKPI13].

<sup>127</sup> *Reshenie Verhovnogo Suda RF ot 21 marta 2007, N GKPI06-1521* [Decision of the Supreme Court of the RF, 21 March 2007, N GKPI06-1521].

<sup>128</sup> *Reshenie Vysshego Arbitrazhnogo Suda RF, 11 yanvary 2012, N A-32-30501/2010* [Decision of the Supreme Commercial Court of the RF, 11 January 2012 N A-32-30501/2010].

<sup>129</sup> Interview 1 and 16.



Russian Railway Company to remove rare and endangered plants during the Olympic facilities construction.<sup>130</sup>

There have been also a number of public interest cases against the construction and building on the territory of the parks and recreation zones inside the cities. In Moscow and Moscow oblast, a number of cases against urban development plans, which violate the right of citizens to healthy environment and cause a negative impact on environment from economic and other activities, were initiated by the Society for the Protection of Consumer Rights and Environmental Protection (PRINTSIP). There are examples both of successful lawsuits of this NGO resolved in accordance with NGO claims<sup>131</sup> and there are also a number of failed lawsuits.<sup>132</sup>

The second type of cases for compensation on the damage to environment are generally initiated by the Prosecutor or Rosprirodnadzor as they are usually complicated, time consuming and require participation of specialist experts and use of special damage assessment methodologies. Therefore, ENGOs often seek legal and procedural support of Prosecutors and relevant state agencies by making complaints to these state bodies.<sup>133</sup>

ENGOs are also engaged with local people assisting them to sue enterprises and authorities for compensation. For example, ENGOs Greenpeace, Bellona and Ecozaschita have supported local people in Chelyabinskaya oblast who have been exposed to radioactive contamination because of production of nuclear materials by the enterprise Mayak.<sup>134</sup> In this case, implementation of the legislation developed for compensations and social support faced challenges on the local level, for example, not all affected people were eligible for the compensations. These ENGOs have conducted research, provided legal support for individual

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<sup>130</sup> *Postanovleniye Vysshego Arbitrazhnogo Suda RF ot 23 yanvarya 2012 N 09AP-33804/2011-AK* [Decision of the Supreme Commercial Court of the RF, 23 January 2012 N 09AP-33804/2011-AK];

<sup>131</sup> *Opredelenie Verhovnogo Suda RF ot 25 dekabrya 2013 N 4-APG13-16* [Decision of the Supreme Court of the RF, 25 December 2013, N 4-APG13-16].

<sup>132</sup> *Opredelenie Verhovnogo Suda RF ot 3 aprelya 2013, N 5-13-APG13* [Decision of the Supreme Court of the RF of 3 April 2013, N 5-13-APG13]; *Opredelenie Verhovnogo Suda RF ot 17 iulya 2013 N 4-APG13-5* [Decision of the Supreme Court of the RF, 17 July 2013 N 4-APG13-5].

<sup>133</sup> A. Smirnov, 'Rivers have been poisoned and environmentalists have been beaten in Pervouralsk' available at [http://www.bellona.ru/articles\\_ru/articles\\_2013/1375878908.92](http://www.bellona.ru/articles_ru/articles_2013/1375878908.92); the last access on 31/03/2014.

<sup>134</sup> 'In 1957 an explosion involving a tank with radioactive waste threw some 20 million curies of radiation into the atmosphere, making the accident one of the worst radiation catastrophes on the former USSR territory. Additional contamination of the Techa occurred as a result of discharges of radioactive waste into the area's Lakes Karachai, Kyzyltash, and Tatysh.' Report from recent expedition to radioactive 'hot spot' shows data still scant on area's contamination, published by Bellona, 10/07/2013, at <http://bellona.org/news/nuclear-issues/nuclear-russia/2013-07-report-from-recent-expedition-to-radioactive-hot-spot-shows-data-still-scant-on-areas-contamination>, the last access on 31/03/2014.



lawsuits, and one ENGO, Ecozaschita, filed a joint lawsuit together with 23 people.<sup>135</sup> These litigations, particularly on the local level, continue.<sup>136</sup>

The official data on a number of lawsuits and complaints environmental issues lodged by NGOs are unavailable from the official websites of the Russian courts. The respondents from ENGOs confirm that the number of lawsuits by ENGOs is very low. They report that it does not correspond to the number of violations of environmental laws and rights of people to safe and healthy environments in a large country like Russia, with a population of slightly over 143 million people.<sup>137</sup> In general, a low effectiveness of cases against the legality of normative acts of ministries is demonstrated by fact that in 2007 only around 30 per cent of this type of lawsuit were in favour of the complainant and against the governmental decisions.<sup>138</sup> As it follows from data of the Supreme Court, which considers cases involving decisions of the federal MNR and appeals on decisions of lower courts relevant to environmental laws, a number of these types of appeals of ENGOs has increased in recent years, but remains very low. From 2007–2014, there were 21 lawsuits all together and seven of them were brought by ENGOs since 2011 (three of the seven were brought by Greenpeace Russia). Three ENGO complaints were successful, one partially successful, and three were denied.<sup>139</sup>

The abovementioned examples have confirmed that environmental litigating is a very lengthy process (e.g., litigations around the reserve ‘Utrish’, condensations for environmental damage) as they require environmental research, expertise and assessments. Respondents from ENGOs, particularly smaller domestic groups, also pointed out their limited resources to hire professional lawyers and to conduct relevant ecological expertise.<sup>140</sup> The lack of independency of courts<sup>141</sup> and the prevalence of economic interests often predetermine the decisions of the courts on environmental cases.

In other words, insufficient use of rights to defend interests in the courts by ENGOs can be explained by normative weakness of the judiciary institution, such as lengthy court

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<sup>135</sup> V. Sliviyak ‘Environmentalists and people affected by radiation sue ‘Rosatom’ and the Government of the Russian Federation’, 02/10/2010, available at <http://www.bellona.ru/weblog/1286015295.23>.

<sup>136</sup> Ibid.

<sup>137</sup> Interviews 7 and 11. In accordance with data of the Federal State Statistics Service in 2013 [http://www.gks.ru/bgd/regl/b13\\_12/IssWWW.exe/stg/d01/5-01.htm](http://www.gks.ru/bgd/regl/b13_12/IssWWW.exe/stg/d01/5-01.htm), the last access on 22/06/2014.

<sup>138</sup> P. Solomon, ‘Assessing the Courts in Russia: Parameters of Progress under Putin’ (2008) 16(1) *Demokratizatsiya: The Journal of Post-Soviet Democratization* 63, 69.

<sup>139</sup> This information is available at [http://www.supcourt.ru/vs\\_cases6\\_npa.php?autor=1050021](http://www.supcourt.ru/vs_cases6_npa.php?autor=1050021), the last access on 07/11/2014.

<sup>140</sup> Interview 24.

<sup>141</sup> ‘Global Corruption Report 2007:Corruption and Judicial Systems’ (Transparency International, 2007), 31-35.

proceedings, complicated court procedural regulations, which require involvement of professionals and the lack of independent courts, which are still under pressure from the authorities.<sup>142</sup> The findings have demonstrated that environmental litigation initiated by ENGOs is slowly increasing.

In summary, the revolutionary strategies, such as raising public awareness, ecological education, direct actions and legal challenges, are the mostly commonly used revolutionary strategies of ENGOs in Russia and they are carried out through different activities. This can be explained by different factors. Raising public awareness and ecological education are traditional strategies for ENGOs in Russia. Direct public actions (rallies, demonstrations and others) were successful strategies in regards to achieving goals of actions at the end of the 1980s. However, today their effectiveness is limited by restrictive legal regulation (Chapter 3), the intimidation factor and can be manipulated by the state. Findings demonstrate that the range of direct actions of ENGOs in Russia is not diverse. Direct actions against companies that violate environmental laws, such as consumer boycotts, shaming and naming and others causing investor uncertainty, are not common and effective methods for ENGOs. This can be explained by the low public interest in environmental issues, undeveloped market economy focusing on the export of raw materials and predominant role of the state. Complaints to relevant state bodies are the most used legal activity by domestic ENGOs, which allows them to save effort and resources in opposing environmentally harmful policies of the state bodies and businesses due to relatively simple procedures. Environmental litigation is not commonly employed strategy for all ENGOs. Being a new strategy for ENGOs in Russia that are traditionally more focused on research, expertise and education, this strategy has just slowly started to develop.

It can be concluded that while revolutionary strategies of ENGOs play an important role in informing people in Russia on environmental issues, the ENGOs are capable of mobilising the public only for short periods. These strategies have achieved very limited success in holding the government more accountable and in defending environmental rights of people. Capacities of ENGOs to exercise agency through revolutionary strategies are limited by both internal (e.g., a lack of financial and professional resources) and external (e.g., weak enforcement of environmental laws, corrupted courts and low public interest in environmental issues) factors.

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<sup>142</sup> A.P. Anisimov A.P. (ed), *Nauchno-prakticheskiy kommentariy k Federalnomu zakonu "Ob okhrane okruzhayushchey sredy"* [Scientific and Practical Commentary to the Federal Law "On the Environmental Protection"] (Delovoy dvor, 2007), 105.

### 3.2 Reformist strategies

Reformist strategies aim on collaborative and participation with other environmental actors. Collaboration and cooperation with other environmental actors can be in the form of NGOs' participation in policymaking, (e.g., their involvement in planning, research, programme/project design and consulting) and implementation (e.g., monitoring, reporting and certification).<sup>143</sup> Political lobbying in the form of influencing politicians and state officials is also used by ENGOs in pursuing their goals as opposed to lobbying economic interests by businesses. Russian legislation does not contain the term 'lobbying'. In the absence of legal instruments and traditions for political lobbying, Russian ENGOs can pursue and press the government through official participatory avenues (e.g., the Public Councils, public expertise of laws) and informal contacts with the state officials or using direct strategies, such as campaigning in media, a threat of direct actions and others.<sup>144</sup>

This part discusses ways to influence environmental governance by providing scientific expertise when called upon as a means of informing the public and providing support for the claims made by ENGOs. It also discusses using collaboration and cooperation with the state, businesses and other ENGOs as a constructive way to shape forming environmental policies and their implementation. Collaboration with the state emerged in the USSR and it is still commonly used by ENGOs in Russia. These strategies have taken various forms, including new types of participatory institutions and give ENGOs opportunities to be engaged in forming the state policies directly.

#### 3.2.1 Scientific expertise.

Environmental problems have a very complicated character, often relying on science to provide required evidence for establishing connections between cause and effects and changing and adapting environmental policies. ENGOs are in a unique position because they claim to offer knowledge and expertise that can influence environmental decision making<sup>145</sup> by providing evidence and advocating a position with the state and public. In Russia, providing expert knowledge on environmentally related issues has been an essential feature of the ENGO work since the times of the USSR (Chapter 3). Today, the scientific component in

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<sup>143</sup> J. Coston, 'A Model and Typology of Government-NGO Relationships' (1998) 27(3) *Nonprofit and Voluntary Sector Quarterly* 358, 375.

<sup>144</sup> Interview 1, 18, 24.

<sup>145</sup> R. Duffy, 'Global Environmental Governance and North-South Dynamics: the Gase of the CITES' (2013) 31(2) *Environment and Planning C: Government and Policy* 222, 227.

the work of many ENGOs remains one of their traditional strengths in Russia.<sup>146</sup> These strategies can be considered independent, but often they are carried out by ENGOs in combination with other strategies or in collaboration with the state and other ENGOs.

***Providing evidence in decision making and environmental law enforcement.*** The research conducted by ENGOs often consists of monitoring of a state of environment, collecting data and writing reports. These data and expert reports can serve as grounds for an introduction of new environmental policies or changes in existing ones. On a regional scale, well-established domestic ENGOs conduct research on different topics, generally concerning ecological issues. For example, the Ornithological laboratory (a subdivision ENGO Dront) has carried out research about the dangers of various areas of high voltage power lines for wildlife, particularly birds.<sup>147</sup> The Nizhny Novgorod Society for the Conservation of Amphibians and Reptiles is working on recommendations for the protection of rare species of amphibians and reptiles,<sup>148</sup> which, for example, would serve as a basis for the introduction of new conservation policies.

Green League experts work in public inspection, monitoring emissions of local enterprises, making relevant measurements, collecting and analysing the data.<sup>149</sup> This information can be used to impose fines on polluting enterprises that exceed emission standards as well as for making decisions on closing, moving or modernisation of these enterprises.<sup>150</sup>

On a bigger scale, WWF Russia performs research on climate issues. Greenpeace Russia and WWF Russia played a great role in proving information on anthropogenic causes of climate change. Scientific evidences on the influence of human activity on current changes in the earth's climate system<sup>151</sup> have formed the basis for the development of climate change policies at the international level. In Russia, the ideas about human influence on changes in climate were criticised by leading academic experts. Indeed, a report of the Russian Academy of Sciences on climate change concluded that the Kyoto Protocol 'lacks scientific validity and

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<sup>146</sup> K. Wernstedt, 'Environmental Protection in the Russian Federation: Lessons and Opportunities' (2002) 45(4) *Journal of Environmental Planning and Management* 493, 508.

<sup>147</sup> Information available at <http://dront.ru/orni-lab/>, last access on 25/03/2014.

<sup>148</sup> Information is available at <http://dront.ru/nooar/>, the last access on 25/03/2014.

<sup>149</sup> For example, Green League in Krasnoyarsk monitors work of the local Cement work <http://green-union.org/node/590>, Green League in Samara has collected evidence of agricultural lands pollution by industrial waste, <http://www.green-union.org/node/603>, the last access on 25/03/2014.

<sup>150</sup> Interview 23.

<sup>151</sup> P. Pattberg and J. Strippel, 'Beyond the Public and Private Divide: Remapping Transnational Climate Governance in the 21st Century' (2008) 8(4) *International Environmental Agreements: Politics, Law and Economics* 367, 368.

would not be effective' and would damage the economy of the country.<sup>152</sup> Therefore, the link between climate change and anthropogenic causes of climate change were considered unproven.<sup>153</sup> In order to provide scientific evidence in the decision making process, WWF Russia prepared more than 100 scientific reports on human-made causes of climate change and its negative consequences for country population and economy.<sup>154</sup>

Greenpeace Russia conducted a joint research project with the organisation 'Transparent World' to provide evidence on irresponsible oil exploration and its degradation of natural landscapes in Western Siberia. Experts from these organisations have compared the dynamics of oil spills and its influence on the natural landscapes using satellite images for the last 10–20 years of oil exploitation in these areas. These results potentially may be used to influence the decisions of relevant state agencies<sup>155</sup> on the development of new deposits or to increase efficiency of existing deposits and industrial facilities and to promote development of alternative energy sources.<sup>156</sup>

Other examples of scientific expertise of ENGOs come from the biodiversity and nature conservation areas. WWF Russia experts and other specialists worked on the international project in the sphere of biodiversity and conservation of the Caucasus Region in collaboration with other ENGOs, research centres and international and foreign foundations.<sup>157</sup> Research conducted by WWF Russia experts includes publications and reports on the main areas of their work—biodiversity and conservation in different regions of Russia and Central Asian Republics and protection of forests,<sup>158</sup> climate change<sup>159</sup> and others. Taking into account that strategies of WWF Russia have predominantly been constructive, this research can be conducted in collaboration with the state environmental bodies or contain strategies and plans

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<sup>152</sup> L. Henry and L. Sundstrom, 'Russia and the Kyoto Protocol: Seeking an Alignment of Interests and Image' (2007) 7(4) *Global Environmental Politics* 47, 50.

<sup>153</sup> Ibid, 50.

<sup>154</sup> Henry, see above n 8, 52.

<sup>155</sup> The Federal Subsoil Resources Management Agency and its territorial departments are responsible for this activity <http://www.mnr.gov.ru/english/fsrma.php>, the last access on 25/03/2014.

<sup>156</sup> Interview 7, more information on project in available at <http://www.greenpeace.org/russia/ru/campaigns/protect-the-arctic/land-degradation/>, the last access on 24/03/2014.

<sup>157</sup> Interview 2; More information on the project in the Ecoregion Conservation Plan for Caucasus, 2012 revised and updated edition, available at [http://awsassets.panda.org/downloads/ecp\\_2012.pdf](http://awsassets.panda.org/downloads/ecp_2012.pdf); last access on 25/03/2014.

<sup>158</sup> For example, A. Zagidullina N. Glushkovskaya, V. Korepanov, V. Kotkova, E. Kushnevskaya, D. Mirin, A. Stolpovskiy, B. Filippov, *Landscape and Biological Diversity on the Watershed between the Northern Dvina and Pinega Rivers* (WWF Russia, 2013); 'Altai-Sayan Ecoregion Conservation Strategy', 2013, available at <http://www.wwf.ru/resources/publ/book/eng/843>, the last access on 25/03/2014 and others.

<sup>159</sup> For example, 'Adaptation to Climate Change in River Basins of Dauria: Ecology and Water Management' (WWF Russia, 2012), available at <http://www.wwf.ru/resources/publ/book/eng/782>, the last access on 25/03/2014.

for collaboration. Collaboration of ENGOs and the state through research will be also discussed below.

***Advocating position with the state and the public.*** Respondents from both internationally-based and domestic ENGOs mentioned their involvedness as experts in the development of environmental legislation and policy on the federal and local levels. For example, in area of protection of water and forests,<sup>160</sup> biodiversity<sup>161</sup> and climate change regulations.<sup>162</sup>

This strategy often relied on the abovementioned evidence and data collected by ENGOs. The example of climate change regulations demonstrates how ENGOs can combine these methods in influencing policy change. First, ENGOs collected data on human causes of climate change. Later, using this data, they began to advocate their position, pushing the state to develop climate change policies and promoting the ratification of the Kyoto protocol. In their reports, ENGOs emphasised that the ratification of the Protocol and implementation of its mechanisms on emissions trading could be beneficial for the Russian economy, explaining its ecological and legal implications. Using their climate expertise, WWF Russia and Greenpeace succeeded in lobbying for ratification of the Kyoto Protocol and development of the Climate Doctrine of Russia.<sup>163</sup> However, a failure of implementation of the Kyoto Protocol projects and the recent withdrawal of Russia from the second period of commitment to the Kyoto Protocol has demonstrated the weaknesses of ENGO lobbying through expertise, compared to economic interests of the business and the state. The Kyoto economic mechanisms have not started to work properly in Russia due to undeveloped markets, lack of commitment to JI projects from business and state bodies, corruption and low interest public in climate change issues.<sup>164</sup> Further, without participation of China, the USA and India in the Kyoto Protocol as key polluters and the main buyers of quotas, the Kyoto protocol is not financially beneficial for businesses in Russia.<sup>165</sup>

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<sup>160</sup> Interviews 1, 4, 5, 6, 11.

<sup>161</sup> Interviews 5, 6, 11.

<sup>162</sup> Interview 1.

<sup>163</sup> Although scientific research and lobbying the ratification of the Kyoto protocol of ENGOs proved to be successful strategy, but interests rooted in economic, energy and international policies as well appear to have played a significant role in Russia's ratification of the Kyoto Protocol. Henry, see above n 8; V. Kotov, *Policy in Transition: New Framework for Russia's Climate Policy* (Fondazione Eni Enrico Mattei, 2002), 2.

<sup>164</sup> Kotov, see above n 163, M. Rakkolainen and M. Tennberg, 'Adaptation in Russian Climate Governance' in *Governing the Uncertain* (Springer, 2012) 39, 50; Henry, see above n 8, 40.

<sup>165</sup> Statement of the adviser to the president of the Russian Federation, Special Representative of the present of the Russian Federation of climate change, available at [http://unfccc.int/files/meetings/durban\\_nov\\_2011/statements/application/pdf/111208\\_cop17\\_hls\\_russia.pdf](http://unfccc.int/files/meetings/durban_nov_2011/statements/application/pdf/111208_cop17_hls_russia.pdf), the last access on 29/04/2012).

This strategy has a great potential for ENGO agency as ENGOs have a right to conduct their own (public) ecological expertise,<sup>166</sup> but the public EIA becomes legally binding only after a special approval by the state agency, Rostekhnadzor.<sup>167</sup> Currently, this legislation on public ecological expertise is undeveloped and poorly enforced, which can constrain these expert strategies of ENGOs, in particular when it contradicts the interests of economic development. It was demonstrated in the example of the Cheboksary Dam, when results of independent public ecological expertise of the project documentation were not officially approved. However, Rostekhnadzor responded that this public EIA could not be approved due to a lack of relevant administrative procedure.<sup>168</sup>

It is evident that in Russia, ENGOs very productively work in the sphere of ecological expertise. ENGOs continue traditions of the first Soviet environmental groups on independent ecological expertise, networking with the scientific community and conducting ecological research. ENGOs conduct scientific and expert activities in the forms of scientific and economic research on ecological issues, and consult on environmental laws and other relevant issues. Effectiveness of this strategy can be also explained by the fact that many ENGOs members have degrees in natural science, publish their research papers in academic journals and work as academics in universities and other educational centres.<sup>169</sup> Although this study has demonstrated that research and expertise of ENGOs can have certain impacts on state policies (e.g., in biodiversity, environmental conservation and climate change), this strategy becomes ineffective when it contradicts economic interests.

### 3.2.2 Strategies of collaboration

Recently, as discussed in the literature review, more collaborative and cooperative relationships between NGOs, states and businesses have developed and started to partly replace more confrontational and adversarial ones in the Western countries.<sup>170</sup> In Russia, as shown in Chapter 3, collaboration with the state in the spheres of research, education and implementation of the state environmental policies has been the traditional mode of relationship between the environmental groups and the state. Today, ENGOs in Russia still actively employ collaborative strategies with the state through traditional ways of influence

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<sup>166</sup> *Federalnyj Zakon RF ot 23 noyabrya 1995 N 174-FZ 'Ob ekologicheskoy ekspertize'* [Federal Law of the RF 23 November 1995 N 174-FZ On Ecological Expertise] (Russia), Article 25.

<sup>167</sup> Ibid.

<sup>168</sup> Information is available at <http://dront.ru/news/1023/>, the last access on 25/03/2014.

<sup>169</sup> See for example, profiles of WWF Russia members at <http://www.wwf.ru/about/people/alphabet/tab63>, a list members of Dront <http://dront.ru/about/people/>, a profile of the head of the Russian Green League Sergey Simak, at <http://green-union.org/node/343>, the last access on 25/03/2014.

<sup>170</sup> Hall and Taplin, see above n 3.



and new participatory avenues. ENGOs also collaborate with each other enhancing their capacities. Recently, ENGOs in Russia have begun to develop collaborative strategies with businesses. These three main directions of collaborative strategies—with the state, ENGOs and business—are discussed below.

***Collaboration with the state.*** Collaboration with the state has taken two main forms: participation of ENGOs in public forums and special (civic) institutions, and delegation of policy responsibilities to ENGOs, including implementation of environmental policies.

**Participation in public institutions.** ENGO respondents were in favour of the participatory opportunities given by new forums, such as the Civil Chambers (federal and regional),<sup>171</sup> Public Councils under the Ministries and Agencies and their regional departments.<sup>172</sup> These institutions were established in the beginning of the 2000s to facilitate input and coordination of citizens, NGOs, and authorities of all levels on socially important issues. The Federal Civil Chamber is elected every three years. It consists of 168 members, including 40 members appointed by the President of Russia, 85 representatives from regional Civic Chambers and 43 representatives from Russian NGOs.<sup>173</sup> The Chamber aims to support domestic civil society and to involve citizens and NGOs in implementing state policies; reviewing proposed legislation concerning state social policy, the constitutional rights of citizens and public security; and holding state bodies accountable. In order to perform these functions the members of the Civic Chamber form various working groups (e.g. the Commission on Ecology and Environment) which organise public hearings, round tables and meetings to discuss important social, political and economic issues concerning the country's and civil society's development.<sup>174</sup> The Chamber publishes annual reports on the state of civil society in Russia summarising and reflecting structural and behavioural changes in Russian civil society, main directions, problems and achievements concerning social, political and other constitutional rights of citizens. However, all decisions of the Chamber, including the review of the draft legislation, have only the power of recommendations.<sup>175</sup>

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<sup>171</sup> Federalnyj zakon ot 04.04.2005 N 32-FZ 'Ob Obshhestvennoj palate Rossijskoj Federatsii' [Federal Law 4 April 2005 N 32-FZ 'On the Civic Chamber of the Russian Federation'] (Russia).

<sup>172</sup> Ukaz Prezidenta Rossijskoj Federatsii ot 04 avgusta 2006 N 842 'O poryadke obrazovaniya obshhestvennyh sovetov pri federalnyh ministerstvah' [Decree of the President of the Russian Federation 4 August 2006 N 842 'On a Procedure for the Formation of Public Councils at the Federal Ministries'] (Russia).

<sup>173</sup> Federalnyj zakon ot 04.04.2005 N 32-FZ 'Ob Obshhestvennoj palate Rossijskoj Federatsii' [Federal Law 4 April 2005 N 32-FZ 'On the Civic Chamber of the Russian Federation'] (Russia), Article 8.

<sup>174</sup> Information on the Federal Civic Chamber can be found at <https://www.oprf.ru/about/>, the last access on 26/11/2015.

<sup>175</sup> Federalnyj zakon ot 04.04.2005 N 32-FZ 'Ob Obshhestvennoj palate Rossijskoj Federatsii' [Federal Law 4 April 2005 N 32-FZ 'On the Civic Chamber of the Russian Federation'] (Russia), Article 17, 19.



Public Councils were established and their members were elected by the state ministries and agencies on both federal and regional levels. Recently, there have been changes in forming these bodies to make them more accountable and transparent. According to a new legislation,<sup>176</sup> candidates for members of the Public Council are nominated by NGOs; the Civic Chambers must be engaged in a process of establishing of the Public Council, appointing 75% of the candidates, other candidates are appointed by the Expert Council under the Government. In September 2015, MNR has begun to establish its Public Council under the new rules, which now includes more representatives from NGOs including Greenpeace and WWF Russia.<sup>177</sup>

Findings indicate that ENGOs had actively used these public arenas to pursue stronger environmental protection. Participation took a variety of paths. Attendance at public consultation/decision making forums provided one pathway to advocate on key environmental issues, such as raising the water level in the Cheboksary Water Reservoir and the intended development of the copper-nickel minefields in the Voronezh Region. Another pathway was through gaining membership in more selective government councils. Examples include membership of Greenpeace Russia's position on the Presidential Council for Civil Society and Human Rights<sup>178</sup> and the Public Councils under the MNR.<sup>179</sup> Similarly, at the regional and local levels, respondents reported taking part in various committees, hearings and public discussions conducted by local Civic Chambers and Public Councils and becoming elected members in these bodies.<sup>180</sup>

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<sup>176</sup> *Standart deyatel'nosti obshchestvennykh sovetov pri federal'nykh organakh ispolnitel'noy vlasti (Tipovoe polozenie)(utv. protokolom zasedaniya Pravitel'stvennoy komissii po koordinatsii deyatel'nosti otkrytogo pravitel'stva ot 29maya 2014 N 4)* [Standard Regulations for Activities of Public Councils under the Federal Executive Authorities](approved by Minutes of the Meeting of the Government Commission for the Coordination of Open Government 29 May 2014 N 4)].

<sup>177</sup> The list of members is available at: <http://www.mnr.gov.ru/activities/list.php?part=1236>, the last access on 26/11/2015.

<sup>178</sup> The list of members is available at: [http://www.president-sovet.ru/composition/?PAGEN\\_1=3](http://www.president-sovet.ru/composition/?PAGEN_1=3), the last access on 08/11/2014.

<sup>179</sup> Generally, representatives of ENGOs at these councils under the state bodies attend meetings, participate in discussions, voice their positions on discussed issues and give their recommendations. Decisions on discussed issues are made by a majority vote and they are not binding for the relevant state body. See, for example, the provision on the Public Council under the MNR of the Russian Federation, available at [http://www.mnr.gov.ru/activities/list.php?part=1235&phrase\\_id=323510](http://www.mnr.gov.ru/activities/list.php?part=1235&phrase_id=323510), the last access on 08/11/2014.

<sup>180</sup> Interview 11, 20, 24 the Public Council on environmental issues at the Governor of Nizhny Novgorod region <http://www.government-nnov.ru/?id=96916>, or an example decisions of the Civic Chamber of Nizhegorodsky Region on waste management in Nizhny Novgorod at <http://www.palata-nn.ru/activity/results/0/17>, the last access on 08/11/2014.

Although the operation of these forums is still being refined,<sup>181</sup> ENGOs suggested that these formal deliberative spaces had occasionally enabled them to draw attention to weaknesses in environmental regulation and encourage better implementation by government officials.<sup>182</sup> For example, one ENGO reported how they had used a Public Council meeting to convince the MNR to successfully change and strengthen rules on hunting enforcement.<sup>183</sup> While such outcomes and new channels for voicing concerns are clearly a positive development, instances of success were reportedly rare. Indeed, the majority of respondents suggested ENGOs did not have a big influence on outcomes. In most cases, respondents described the forums as too ‘formal’, ‘bureaucratic’ and ‘slow’,<sup>184</sup> with state authorities dominating agendas because the Public Councils remained consultative in nature, and had no express power to bind government decision making.<sup>185</sup> The respondents from the state agencies also admitted that these councils have been established from ‘above’ as a legal requirement and are not very effective,<sup>186</sup> but ‘often their work depends on personal qualities of the Council’s members—active representatives from the public and ENGOs may engage mass media and trace implementation of Council’s decisions engaging media and making Council’s work more effective’.<sup>187</sup> The new rules of the election of the Councils’ members and their work can potentially improve the work of these bodies as it gives more opportunities for NGOs to be appointed as a member of the Public Councils.

ENGOs also reported actively using the right to be engaged in forming environmental legislation through participation in public discussions of draft bills and other legislative acts of the state agencies.<sup>188</sup> For example, discussions on a draft Forest Code and draft Water regulations were subject to public hearings, where ENGOs participated.<sup>189</sup> A number of ENGOs, including Greenpeace Russia and WWF Russia, prepared their comments and suggestions on proposed drafts of the Forest Policy of the RF.<sup>190</sup> Although, MNR reviewed its

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<sup>181</sup> The last amendments in the Decree of the President on a procedure for the formation of public councils at the federal ministries were introduced in 20.05.2013. They had mostly procedural character and the Councils did not receive more power or influence.

<sup>182</sup> Interview 1, 6, 11.

<sup>183</sup> Interview 6.

<sup>184</sup> Interviews 11, 20 and 24.

<sup>185</sup> E. Mamonova, ‘*Sovetniki rabotajut za ‘korochki’. Struktura bolshinstva obshhestvennyh sovetov formalna.*’ (The Structure of Most Public Councils Is Formal), *Rossijskaja Gazeta* (Moscow), July, 24 2012; V. Putin, ‘*Demokratija i kachestvo gosudarstva.*’ (Democracy and the Quality of Government), *Kommersant* (Moscow), February, 6 2012.

<sup>186</sup> Interviews 19, 21, 22 and 26.

<sup>187</sup> Interview 11.

<sup>188</sup> See: *Postanovlenie Pravitelstva Rossijskoj Federatsii ot 22 fevralya 2012 N 159* [Resolution of the Government of the Russian Federation 22 February 2012 N 159] (Russia).

<sup>189</sup> Interview 5, 13.

<sup>190</sup> Information on discussions about the Forest Policy of the Russian Federation is available at [http://www.wwf.ru/about/what\\_we\\_do/forests/forest\\_politics](http://www.wwf.ru/about/what_we_do/forests/forest_politics), the last access on 08/11/2014.

comments and presented a new draft in response, the impact of the ENGOs inputs was reportedly difficult to determine,<sup>191</sup> as feedback to participants from these discussions occurred only at a general level. Dront (through its subdivision, 'Help the River') also participated in public discussions on the draft Water Code and prepared an expert report. However, it reportedly had little impact on the final decision taken on the federal level. Although certain steps to streamline the regulation of public participation in the discussion of the bills<sup>192</sup> have been taken at the present time, they did not provide a detailed description of the procedure and feedback mechanisms.

Involvement of ENGOs with the Civic Chamber<sup>193</sup> gives them an opportunity to participate in public expertise<sup>194</sup> of environmental laws and influence a conclusion of this expertise.<sup>195</sup> These conclusions should be subject to obligatory consideration by the legislative bodies, but have only a recommendatory character.<sup>196</sup> Further, this participatory shift in governance is more commonly regarded as an attempt by the state to channel social activity towards the state goals and mostly have a decorative character in order to give social legitimacy to the decisions of the state bodies.<sup>197</sup> The larger ENGOs reportedly saw these forums as largely impotent, and had begun to disengage from involvement. For example, WWF Russia and Greenpeace left the Public Council of the Federal Service for Supervision of Natural Resources in 2008.<sup>198</sup>

**Delegation of policy responsibility** can be regarded as a strategy to influence implementation of environmental policies. Many ENGOs reported collaborating with government agencies to implement and enforce environmental laws.<sup>199</sup> This collaboration allows ENGOs to fill shortages in environmental state specialists. This shortage arose from the abolition of the Ministry of Environmental Protection in 2000. The restructuring of this Ministry led to a decline in the state environmental protection functions, produced a lack of experienced staff

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<sup>191</sup> Interview 5.

<sup>192</sup> *Postanovlenie Pravitelstva Rossijskoj Federatsii ot 22 fevralya 2012 N 159* [Resolution of the Government of the RF of 22 February 2012 N 159] (Russia).

<sup>193</sup> The Civic Chamber may involve in its work representatives from ENGOs, which are not members of the Chamber, *Federalnyj Zakon RF ot 04 aprelya 2005 N 32-FZ 'Ob Obshestvennoj palate Rossijskoj Federatsii'* [Federal Law the RF 4 April 2005 N 32-FZ 'On the Civic Chamber of the Russian Federation'] (Russia), Article, 10.

<sup>194</sup> *Ibid*, Article 18.

<sup>195</sup> Interview 23.

<sup>196</sup> *Federalnyj Zakon RF ot 04 aprelya 2005 N 32-FZ 'Ob Obshestvennoj palate Rossijskoj Federatsii'* [Federal Law the RF 4 April 2005 N 32-FZ 'On the Civic Chamber of the Russian Federation'] (Russia), Article 19.

<sup>197</sup> S. Ljubownikow, J. Crotty and P. W Rodgers, 'The State and Civil Society in Post-Soviet Russia: The Development of a Russian-Style Civil Society' (2013) 13(2) *Progress in Development Studies* 153.

<sup>198</sup> The exit of WWF and Greenpeace from Public council under *Rosprirodnadzor*. Available at: <http://www.wwf.ru/about/positions/sovet>, the last access on 23/04/2014.

<sup>199</sup> Interviews 1, 6 and 11.

and led to a sharp deterioration in environmental protection services in a number of regions.<sup>200</sup>

Respondents suggested the resulting partnerships between government and ENGOs had been successful.<sup>201</sup> On the regional level, for example, ENGO Dront has been actively cooperating with the Ministry of Ecology of the Nizhny Novgorod region in the area of biodiversity and nature conservation. Despite the absence of a federal strategy for the conservation of biodiversity, the regional government has developed a regional biodiversity strategy for Nizhny Novgorod. In the absence of relevant government expertise, the regional Ministry of Ecology entrusted Dront to examine the territory for future natural reserves, to find and describe objects of conservation, including plants and animals. Dront subsequently took on a major role in coordinating activities under the strategy, including contributing to successful conservation of wildlife and updating and publishing the list of endangered animals and plants on government and public registers.<sup>202</sup>

Another example of state and ENGO collaboration was reported in the area of a work of national parks and reserves. Under Russian law, national parks, protected territories and reserves are owned by the federal or regional governments and operated by their institutions.<sup>203</sup> However, in practice, big environmental ENGOs are often more capable than state bodies in creating and maintaining nature reserves and national parks, because they have greater willingness, experience and resources (including foreign financial support) to hire specialists, consult scientists, work with local people and attract volunteers. Therefore, this collaboration allows the government to reduce governmental costs and efforts of conservation and restoration of natural resources through combining public and private funding and expertise.<sup>204</sup> For example, as a result of the abovementioned research of WWF Russia in Northern Caucasus, the Conservation Plan for this region has been developed. This Plan is a base for constructive collaboration with the governments of the countries in the Caucasus

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<sup>200</sup> M. Tokunaga, 'Environmental Governance in Russia: The Closed Pathway to Ecological Modernization' (2010) 42 *Environment and Planning A* 1686, 1700.

<sup>201</sup> Another respondent reported the state actively involved NGOs as expert partners in environmental planning processes. There are examples of successful engagement in forest regulations regarding the protection from fires. Regional ENGOs collaborate with a regional state agency in the water protection area and with education state bodies in the area of environmental education.

<sup>202</sup> Interview 11.

<sup>203</sup> *Federalnyj zakon ot 14.03.1995 N 33-FZ 'Ob osobo ohranyaemyh prirodnih territoriyah'* [The Federal Law 14 March 1995 N 33-FZ 'On Specially Protected Natural Areas'] (Russia).

<sup>204</sup> P. Martin, J. Williams and A. Kennedy, 'Creating Next Generation Rural Landscape Governance: The Challenge for Environmental Law Scholarship' in P. Martin et al (eds), *Environmental Governance and Sustainability* (Edward Elgar Publishing, 2012) 46, 65.

Region—Armenia, Azerbaijan, Georgia, Russia and Turkey.<sup>205</sup> ‘WWF Russia cooperates with different governmental agencies and NGOs. Among government structures, WWF works with regional and district governments, including forest departments, regional departments of Rosprirodnadzor, tourism and enterprise departments, directorates of regional protected areas, regional universities and different research centres. Regional and federal protected areas are one of the most important partners of WWF in Altai-Sayan Ecoregion.’<sup>206</sup> Therefore, according to respondents, state agencies were increasingly expecting ENGOs to take on many of their traditional roles for nature conservation.<sup>207</sup> One ENGO respondent explained: ‘we do all the necessary preparatory arrangements for the organisations of a new protected area. And when everything is ready then here comes the state to open the reserve or national park’.<sup>208</sup> In short, ENGOs remain a vital actor in Russian nature protection, and in many cases, advance and do the work of government.<sup>209</sup>

Another avenue for collaboration with the state bodies is public ecological control, which is an important tool, carried out by ENGOs, in preventing violations of environmental law.<sup>210</sup> ENGO Russian Green League is actively engaged in public control by establishing a system of public inspections in different regions. However, ENGOs carrying out functions of public control on violation of environmental laws are only entitled to identify environmental violation, but not to punish violators. Therefore, ENGO cooperation with the state and regional/local authorities makes implementation of public control possible and effective. For example, the environmental agencies do not have a sufficient number of employees that would identify environmental violations in the region, so the network of public inspectors in regions detecting and collecting information about violation of environmental norms and pollution standards would substitute the state environmental control.<sup>211</sup>

<sup>205</sup> The Ecoregion Conservation Plan for Caucasus, 2012 revised and updated edition, available at [http://awsassets.panda.org/downloads/ecp\\_2012.pdf](http://awsassets.panda.org/downloads/ecp_2012.pdf); the last access on 25/03/2014.

<sup>206</sup> ‘Altai-Sayan Ecoregion Conservation Strategy’, 2013, available at <http://www.wwf.ru/resources/publ/book/eng/843>, the last access on 25/03/2014, 87.

<sup>207</sup> Recognising this fact, Article 5 of the Law on specially protected natural areas enables NGOs to assist the state authorities in the creation and operation of protected areas.

<sup>208</sup> Interview 6.

<sup>209</sup> Hochstetler, see above n 71.

<sup>210</sup> Federalnyj Zakon RF ot 10 yanvarya 2002 N 7-FZ ‘Ob ohrane okruzhayushej sredy’ [The Federal Law of the RF 10 January 2002 N 7-FZ ‘On the Environmental Protection’] (Russia), Article 68; *Federalnyj Zakon RF ot 4 maya 1999 N 96-FZ ‘Ob ohrane atmosfernogo vozdukhha’* [Federal Law of the RF of 4 May 1999 N 96-FZ ‘On the Air Protection’] (Russia), Article 26, *Zemelnyj Kodeks Rossijskoj Federatsii, 2001* [Land Code of the Russian Federation, 2001] (Russia), Article 72 (3) and others.

<sup>211</sup> Interview 24; ‘Green League held a seminar on the organisation of public environmental control in the Irkutsk region’, published by Russian Green League available at <http://green-union.org/node/641>, the last accesses on 31/03/2012.

Constructive relationships between ENGOs and the state through collaboration are considered by ENGOs<sup>212</sup> as one of the most effective strategies in influencing state environmental policies in Russia. ENGOs actively use the relatively new participatory governance avenues, attempting to be involved and influence environmental decision making. However, participation of ENGOs, as assessed by the respondents from ENGOs, remains ineffective and often decorative. Another direction of ENGOs' activities, the delegation of state responsibilities, mostly influences policy implementation. Therefore, the study of ENGO collaborative ways of influencing the state demonstrates that ENGOs have more success in assisting the state agencies and complementing their functions rather than acting as environmental agents developing their own environmental policies.

***Collaboration between ENGOs.*** Studies of NGOs in Russia conducted during the 1990s—early 2000s pointed to unproductive competition between ENGOs.<sup>213</sup> A respondent put it: 'ENGO dynamics are similar to any other country, it depends on the individuals—some collaborate, some compete'.<sup>214</sup> Another respondent from an ENGO admitted that 'environmental organisations in Russia are very fragmented ... and everyone considers himself as the best ecologist, who is better than others.'<sup>215</sup> However, there was also evidence of expanding networking and collaboration among ENGOs, which has been caused mainly by differences in capacities between international and domestic ENGOs in the legal regulations of their activities and a scale of their influence.

Collaborative strategies between ENGOs include the mobilisation of multiple ENGO resources to address common issues and goals and to support each other's campaigns, which may also include revolutionary strategies. Collaboration of ENGOs using more reformist strategies includes participation of ENGOs in joint projects, which increases their capacities to influence other environmental actors. Smaller environmental groups were reportedly encouraged to take part in various projects of bigger ENGOs.<sup>216</sup>

Other types of collaboration include aims of regional ENGOs to consolidate their efforts through the establishment of networks of environmental groups in different regions of Russia, such as Russian Green League. Another form of collaboration includes the joining of

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<sup>212</sup> For example, Interviews 1, 4, 6, 11, 18, 24.

<sup>213</sup> J. Crotty, 'Making a Difference? NGOs and Civil Society Development in Russia' (2009) 61(1) *Europe-Asia Studies* 85, 95.

<sup>214</sup> Interview 18.

<sup>215</sup> Interview 24.

<sup>216</sup> Interview 11, 16.

interregional associations, such as SEU, operating on principles of horizontal networking, equality of members, sharing of knowledge and resources and becoming a part of new virtual environmental networks using social networks Vkontakte, Facebook and Twitter.<sup>217</sup>

Collaborative reformist strategies undertaken by various ENGOs allow both international and domestic groups to overcome challenges caused by restrictive state policies, insufficient funding and to enhance engagements with local communities. International ENGOs continue to play an important role in working to build the capacity of local ENGOs, and this support has strengthened domestic ENGOs to bring actions at federal and even international levels. At the same time, collaboration of international ENGOs with domestic groups gives them more legitimacy within Russian society, particularly on the local level (as discussed in Chapter 7). The findings also suggest that ‘issue’ coalitions remain an important strategy to gain attention on environmental problems. In short, environmental ENGOs are increasingly seeking to work together to achieve mutually beneficial outcomes.

***ENGOS and businesses collaboration.*** Respondents from ENGOs pointed out that Russian businesses were still largely uninterested in supporting environmental protection activities and ENGOs.<sup>218</sup> A business representative gave a similar response, emphasising that majority of big companies have developed their own ecology departments and programmes.<sup>219</sup> In an effort to foster more productive relationships with businesses, ENGOs were reportedly implementing strategies aimed at promoting ecological values, sustainability and ecologically responsible behaviour.<sup>220</sup>

As in other parts of the world, this has included local ENGOs, WWF Russia and Greenpeace promoting Forest Stewardship standards for forest management in Russia.<sup>221</sup> Greenpeace has also opened the special programme ‘Green office’ to assist firms to make their offices more

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<sup>217</sup> Interview 15, 16, 20.

<sup>218</sup> Interview 6, 11, 25.

<sup>219</sup> Interview 27.

<sup>220</sup> Ibid, 270.

<sup>221</sup> The most common examples of cooperation between business and NGOs usually are from the forest regulations. The Forest Stewardship Council (FSC) standards of forest management for timber companies in Russia have been developed by local Russian NGOs, WWF Russia and Greenpeace. These NGOs have been also promoted voluntary certification among Russian timber business and the ideas of environmentally responsible businesses. Available at: <http://globalforestcoalition.org/2235-media-release-international-environmental-organisations-condemn-ikeas-logging-of-old-growth-forests-in-russia>; the last access on 03/04/2014. S. Nysten-Haarala and J. Kotilainen, 'Institutions, Interest Groups and Governance of Natural Resources in Russia' in S. Nysten-Haarala (ed), *The Changing Governance of Renewable Natural Resources in Northwest Russia* (Ashgate, 2009) 9.



energy and resource efficient.<sup>222</sup> Perhaps most importantly, respondents reported that businesses are being encouraged to enhance the capacity of ENGOs by providing new sources of financial support. For example, WWF took the initiative in encouraging a number of companies, including Russian companies, to sponsor nature reserves and national parks in 2012.<sup>223</sup> At the local level, ENGOs attempt to involve local businesses in funding educational ecological educational events, cleanups and other environmental initiatives.<sup>224</sup> ENGO efforts to influence business through collaboration remain at an early stage and time is arguably needed for more sustainable and widespread change in Russian business practices.

To conclude, the reformist strategies, such as environmental expertise and collaboration, are familiar and effective strategies for ENGOs in Russia, where ability to maintain constructive relationships with the state is an important condition for their normal operation, as one of the respondents from ENGOs noted.<sup>225</sup> These strategies are interconnected and often carried out through joint research projects, networking and consulting. Findings demonstrated that monitoring, research and consulting of ENGOs are often supported by the state and conducted in cooperation with state environmental agencies. The state's natural reserves are at the centre of this collaboration.

While ENGOs develop their collaborative strategies in three directions with the state, other ENGOs and businesses, they mainly focus on collaboration with the state as a key environmental regulator. ENGOs have expanded networking and collaborate with other ENGOs to enhance their influencing capacities. Examples of the use of reformist avenues with businesses by ENGOs are still very rare.

#### **4. Conclusion**

This chapter studied the strategies ENGOs use to become influential actors of environmental governance, how they respond to changes in governance and what may limit their strategies. The study has shown that the Russian legislation establishes a broad range of rights for ENGOs to participate in environmental governance. In comparison with the Soviet Union, Russian legislation has entitled ENGOs not only to consult, educate on ecological issues and,

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<sup>222</sup> Information about this project and about companies participating in it is available at <http://www.greenpeace.org/russia/ru/campaigns/green-office/>; the last access on 03/04/2014.

<sup>223</sup> 13 new projects to save endangered species, 20/03/2012, M. Vinokuruva, V. Krever. Available at: <http://www.wwf.ru/resources/news/article/9294>, Yu. Kalinicheva, 'Annual Report WWF Russia 2012' (WWF Russia, 2013); [http://www.wwf.ru/about/what\\_we\\_do/reserves/nationalparks/eng](http://www.wwf.ru/about/what_we_do/reserves/nationalparks/eng); the last access on 03/04/2014.

<sup>224</sup> Interviews 9, 20, 24.

<sup>225</sup> Interview 18.



to some extent, control implementation of environmental laws, but also to employ direct actions, to litigate and to participate in forming environmental policies. This is done through participatory public institutions and collaboration and generally, ENGOs use these new legal opportunities to exercise their agency with different extents of success.

Two groups of strategies were analysed in this chapter—revolutionary and reformists. Among the revolutionary group of strategies, the most common and successful are direct actions and public campaigning, raising public awareness, ecological education and complaints procedures. Environmental litigation is the less common strategy for ENGOs. The reformists' strategies, including environmental expertise and collaboration with the state, remain traditional and successful strategies of ENGOs in Russia. As it follows from this research, ENGOs expanded their collaboration with each other, but new collaborative strategies with business are the weakest way of influence.

The results of this study on revolutionary strategies indicate that a scale of action and internal resources plays a great role for agency of ENGOs. For instance, communication of ENGOs, their engagement with public and their educational work are the most notable on the regional/local level, where domestic ENGOs interact directly with local communities on environmental issues concerning people. However, resources of domestic ENGOs for these activities are limited and state support is not sufficient. Complaints procedures traditionally allow ENGOs to avoid costly and time consuming litigation through making state environmental agencies initiate inspection and investigation of contested activity.<sup>226</sup>

The study demonstrates that mass actions and public campaigning of ENGOs often have a limited success in Russia. Findings confirmed that international ENGOs can use public campaigning more effectively compared to domestic ENGOs because they are capable of consolidation with other ENGOs to make the campaign international, involving their offices in other countries and appealing to the international community. Despite the evident increase of civil activity, the outcomes of the public action, as demonstrated in the study, are not always favourable to ENGOs. The effectiveness of this strategy is constrained by the restrictive legislation (discussed in Chapter 4) and intimidation factor as a result of tough state responses of public protests and low public environmental interest and support.

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<sup>226</sup> Henry, see above n 8, 62–63.

Raising public awareness and informing people on industrial activities harmful for the natural environment and health of people, and other relevant information remain the most important strategies of ENGOs considering weak enforcement of rights to public access to this information (Chapter 4). Currently, the internationally-based ENGOs in Russia have more tools to attract media attention given their financial abilities and international reputation. At the same time, the development of new digital technologies and social media has expanded abilities of ENGOs, including small environmental groups, to distribute information and communicate with the public directly ‘without editorial or governmental mediation.’<sup>227</sup> Success of this strategy is limited by insufficient information on the state of environment and formal approach of the state bodies in providing public access to available information.

Environmental litigating is not a common activity for ENGOs in Russia. This strategy is the most effective in the countries with high levels of legal culture, independent courts and mechanisms for effective law enforcement. The above study of judicial decisions and responses of the state controlling bodies has demonstrated that in cases of projects significant for country’s reputation and economy (e.g., the Sochi Olympic Games, oil and gas exploration), the complaint, appeals and lawsuits of ENGOs are more likely to be dismissed than upheld. In addition, small environmental groups do not always have the resources to hire a professional and knowledgeable lawyer and insufficient knowledge of environmental laws and particularly procedural is another reason for a possible failure at the courts.

Among collaborative strategies, scientific expertise is considered one of the traditional strengths of the environmental NGO sector in Russia<sup>228</sup> and gives ENGOs more legitimacy and power to influence environmental policies. Traditional for ENGOs, scientific and research work is still one of the most effective strategies to use for scientific evidence for shaping and changing environmental policies, for example in the sphere of climate change. The study of ENGOs research activities has demonstrated that their research work in conservation and biodiversity has resulted in the development of new state nature conservation plans and the strengthening of measures for the protection of rare and endangered species.

The study has also revealed that ENGOs are keen to participate in the new civil society institutions initiated by the Russian state, such as the Civic Chamber and Public Councils, and public discussions of environmental bills to work with and influence the state official directly.

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<sup>227</sup> P. Grabosky, 'Beyond Responsive Regulation: The Expanding Role of Non-State Actors in the Regulatory Process' (2013) 7(1) *Regulation & Governance* 114, 114.

<sup>228</sup> Wernstedt, see above n 146, 508.

However, questions remain as to whether these developments will actually empower non-government actors or are simply an attempt by the state to steer increasing ENGO and social activity towards state policy agendas.<sup>229</sup> Considering the traditionally strong state and relatively weak civil society in Russia (discussed in Chapters 1 and 7). Possible dangers of these insider strategies may be cooptation of ENGOs by the state agencies and selectiveness in appointing ENGOs (or their members) in these Councils when only ‘cooperative’ ENGOs may be chosen. Thus, ENGOs view such forums in their current form as tokenistic and lacking legitimacy, but continue to engage with them.

Taken together, these findings suggest that although ENGOs managed to expand their strategies to enhance their agency, there is a need for greater development of both revolutionary and reformist strategies. For example, further development of domestic ENGOs’ educational projects would require support of international ENGOs. However, bigger international groups were far less likely to engage in ecological education; this strategy is indirectly carried out through their bigger projects, for example, biodiversity projects, climate change, energy effectiveness and other projects. More generally, for both international and domestic ENGOs, there is arguably room for greater use of this successful education strategy. It is clear that Russian society has limited ecological involvement (as discussed in Chapter 1). Accordingly, greater ecological education not only for children and students, but also for all age groups would broaden engagement of citizens in environmental protection activities, enhance ecological culture in society and, as a result, potentially increase effectiveness of ENGO operation in Russia.

Although direct actions do not always achieve claimed purposes of campaigning (e.g., to stop construction of a highway or gas drilling in the Arctic), they remain the most effective strategy of drawing attention of the mass media and public and raising environmental debates in society. A wider coalition of domestic and international ENGOs in employing this strategy would enhance capacities of domestic groups and the involvement of domestic groups would diffuse foreign government interference claims. There is also a need for more active participation of ENGOs in environmental litigation, as implementation of environmental laws is still under development. Therefore, ENGOs can shape implementation of environmental laws through this strategy. In this case, international groups, as more active and successful litigators, can assist domestic ENGOs through legal training and sharing of knowledge.

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<sup>229</sup> Ljubownikow, Crotty and Rodgers, see above n 197.

In general, further development of cooperation and networking between different types of ENGOs would also increase capacities of domestic groups to influence environmental policies and their implementations. Involvement of international ENGOs in solving regional/local issues and joint projects with domestic groups would increase acceptance of international ENGOs by Russian society because the citizens are unsure of international ENGO motives. They suspect them of promoting the interests of their donors rather than Russia's environmental interests,<sup>230</sup> as demonstrated by the opinion polls on Greenpeace activists' arrest and piracy charges. Therefore, both internationally-based and domestic ENGOs would mutually benefit from networking and cooperation.

In regards to informing the public on environmental issues, environmental litigations and participation in environmental decision making, broader incorporation and implementation of international law norms may enhance abilities of ENGOs. For example, the ratification of the Aarhus Convention<sup>231</sup> would induce the state to create legal mechanisms to provide better public access to information on decisions to be passed. This would give more opportunities for ENGOs to intervene in regulatory processes at the stages when the changes are more likely to occur. In addition, ENGOs should be more actively involved with the Civic Chambers and Public Councils in terms of raising environmental issues and tracking their solutions. A better disclosure of ecological information can be also achieved through combination of different strategies including promoting the SRC concept and voluntary environmental reporting for businesses and more radical strategies of ENGOs including direct actions litigation for its enforcement.<sup>232</sup> This, together with changes in relevant legislation on giving more power to these institutions (discussed in Chapter 4), would enhance effectiveness of these institutions.

In regards to domestic ENGOs, there is a need for development of more constructive strategies with Russian domestic businesses through negotiating and consulting on environmental issues and encouraging businesses to be environmentally responsible (e.g., green certification, advertising 'green businesses'), which would mutually enhance agency of both actor and improve environmental outcomes.<sup>233</sup>

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<sup>230</sup> Interview 6; Crotty, see above n 221, 91.

<sup>231</sup> The United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, 25 June 1998 Aarhus (Denmark), in force 30 Oct. 2001, articles 6, 7 and 8.

<sup>232</sup> Bubna-Litic, see above n 66, 71.

<sup>233</sup> K. Tienhaara, A. Orsini and R. Falkner, 'Global corporations' in F. Biermann and P. Pattberg (eds), *Global Environmental Governance Reconsidered* (MIT Press, 2012) 45.

The findings have demonstrated that there is no single unique successful and effective ENGO strategy for ENGOs in Russia. Similar to ENGOs in other countries, ENGOs combine different strategies, both revolutionary and reformists, within the campaigning approach<sup>234</sup> of influence. In practice, the choice of strategy depends on the issue raised, scale of actions, goals of campaign and resources and methods of influence available and a type of ENGOs. This choice, usually discussed and deliberated by NGO members, in each case and chosen strategy may be shaped in process and dependent on circumstances.<sup>235</sup> Reformative strategies with the state and business are considered in the literature as means to replace adversarialism and confrontation with cooperation.<sup>236</sup> Their success depends upon responsiveness of the state institutions and policies.<sup>237</sup> In Russia, given the strong state and authoritarian style of governance and a possibility of selective and informal repressions against NGOs and their activists,<sup>238</sup> ENGOs have to employ reformists' strategies, which are an important condition for their normal operation. Therefore, collaborative strategies with the state are likely to be the best strategy for ENGOs in Russia, provided that ENGOs are also engaged in public criticisms of the state policies and employ direct actions. As indicated by the respondents from ENGOs, this is the most common strategy for many ENGOs.<sup>239</sup> More confrontational ENGOs, such as Greenpeace, and campaigning organisations such as Ekovahta, prefer to use first direct actions to attract attention to the issue and later to negotiate. More constructive ENGOs, such as WWF, first make attempts to negotiate and use direct actions in case of failure of more constructive strategies.

To conclude, findings on ENGOs' strategies indicated that ENGOs in Russia use various strategies, and combine and adopt them to become more influential actors of environmental governance and make environmental governance more accountable. However, ENGOs' ability and indirect power to influence is limited by the strong state that prioritises economic development over environmental protection, by underdeveloped institutions of judicial protection of environmental rights and still low civil activity.

The next chapter will continue this discussion on enhancing the agency of ENGOs through their legitimacy claims.

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<sup>234</sup> Hall and Taplin, see above n 3.

<sup>235</sup> Interviews 4, 11.

<sup>236</sup> Gunningham, see above n 26, 196-197; P. Glasbergen, F. Biermann and A.P.J. Mol (eds), *Partnerships, Governance and Sustainable Development: Reflections on Theory and Practice* (Edward Elgar Publishing Limited, 2007). Nysten-Haarala and Kotilainen, see above n 221.

<sup>237</sup> Yanitsky, see above n 27, 364.

<sup>238</sup> Coston, see above n 143, 365.

<sup>239</sup> Interviews 1, 6, 11, 23.

## Chapter 7. Legitimacy of ENGOs in Russia

### 1. Introduction

This thesis studies agency of ENGOs in regards to their capacities to produce environmental outcomes. In doing so, ENGOs have to influence or change the behaviour of other actors/agents by attempting to impose norms through implementation of hard law (statutes, treaties and regulations) or soft law (guides, best practices and voluntary codes of conduct) on all levels of governance.<sup>1</sup> Further, considering their growing role in governance, ENGOs also attempt to participate in governance as regulators setting their own rules and standards. Therefore, legitimacy of NGOs is a critical element in NGO agency as it motivates other actors to comply with norms imposed by NGOs.<sup>2</sup> Additionally, governance and its actors are considered more effective when they are legitimate and accountable,<sup>3</sup> so there is a need to further explore the legitimacy and accountability of ENGOs.<sup>4</sup>

The complicated nature of the legitimacy and accountability of NGOs, in the context of their expanding and new roles in governance, was discussed in the literature review (Chapter 2). The governance scholarship understands legitimacy as social credibility and acceptability given formally (e.g., by governments or their agencies ['from above']) or informally<sup>5</sup> (by society).<sup>6</sup> Transparency and accountability are important tools to ensure the legitimacy of NGOs.<sup>7</sup> Black broadly defines accountability as a particular type of relationship between different actors in which one gives account and another has the power or authority to impose consequences as a result.<sup>8</sup>

However, as discussed in Chapters 1 and 2, legitimacy is not a mandatory factor to influence other actors and their compliance. For example, the capacity to influence and motivate actors can be based on the power of coercion and sanctions applied in case of non-compliance. ENGOs rarely, if ever, have this power, thus their legitimacy in terms of the ability to

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<sup>1</sup> D. Brakman Reiser and C. Kelly, 'Linking NGO Accountability and the Legitimacy of Global Governance' (2011) 36 *Brooklyn Journal of International Law* 1011, 1013.

<sup>2</sup> F. Biermann et al, 'Earth System Governance: A Research Framework' (2010) 10(4) *International Environmental Agreements: Politics, Law and Economics* 277; Brakman Reiser and Kelly, see above n 1, 1014.

<sup>3</sup> Biermann et al, see above n 2, 286.

<sup>4</sup> Ibid, 286.

<sup>5</sup> Ibid, 287; J. Freeman, 'The Private Role in Public Governance' (2000) 75 *New York University Law Review* 543, 666.

<sup>6</sup> Biermann et al, see above n 2, 283, Black illustrates such legitimacy by an example of The Forest Stewardship Council that is seen as legitimate by a number of market actors in the forestry and chemical industries respectively, but it has no legal basis, J. Black, 'Constructing and Contesting Legitimacy and Accountability in Polycentric Regulatory Regimes' (2008) 2(2) *Regulation & Governance* 137, 155.

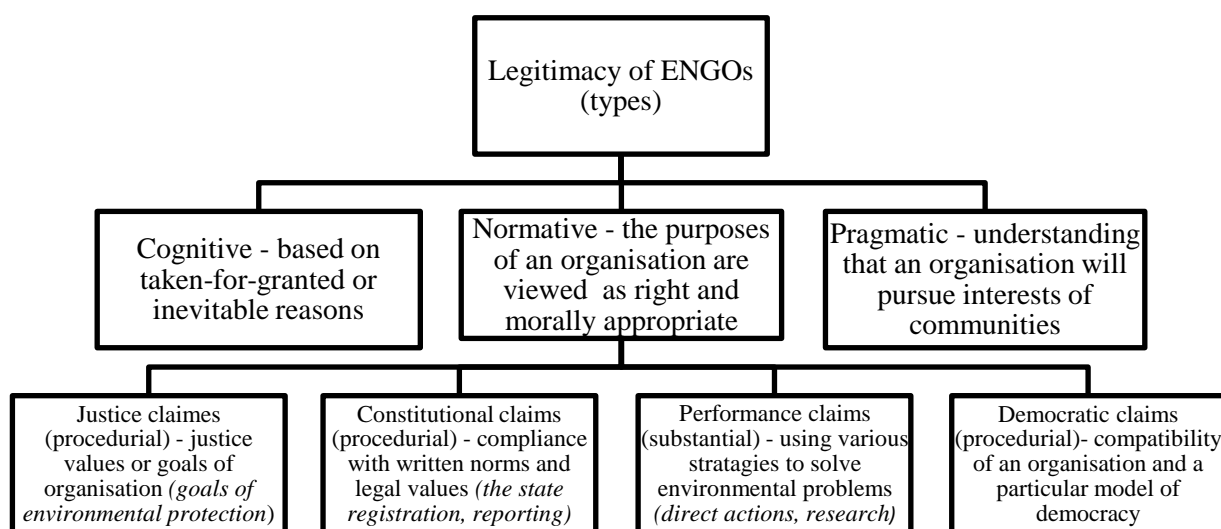
<sup>7</sup> Biermann et al, see above n 2, 287–288.

<sup>8</sup> Black, see above n 6, 150.

motivate other actors will often need to be based on other reasons. The aims of this chapter are to explore issues of legitimacy of ENGOs, from the perspective of the acceptance of their agency in forming environmental policy and its implementation by other actors of governance, namely the state and business, and by citizens and society in Russia. In addition, the aim is to study the role of different forms of accountability (discussed in Chapters 1 and 2) for legitimacy of ENGOs in Russia.

This chapter answers following research question: **Are ENGOs in Russia legitimate actors of environmental governance in Russia?**

This chapter studies the legitimacy of ENGOs in regards to reasons for acceptance of their power and authority, and types of legitimacy (briefly discussing pragmatic and cognitive legitimacy of ENGOs). It focuses on the most relevant aspects of normative legitimacy of ENGOs, which is ‘based on assessments that this is the “right thing to do”’<sup>9</sup> and can be claimed, built or repaired. These brief definitions of legitimacy types and claims are introduced in Figure 1.



**Figure 1: Legitimacy of ENGOs**

The main theoretical debates and developments on issues of legitimacy were discussed in Chapter 2. Assuming the legitimacy is regarded as a process and, therefore, it can be built, claimed or lost and repaired.<sup>10</sup> This means that NGOs can claim their legitimacy or perform certain actions, or enter into relationships to gain their acceptance as legitimate actors. This

<sup>9</sup> P. Stillman, 'The Concept of Legitimacy' (1974) 7(1) *Polity* 32; M. Suchman, 'Managing Legitimacy: Strategic and Institutional Approaches' (1995) 20(3) *Academy of Management Review* 571; Black, see above n 6, 146–147.

<sup>10</sup> Black, see above n 6, 144.

chapter explores three of the most relevant legitimacy claims for ENGOs: constitutional claims, justice claims and performance claims<sup>11</sup> (discussed in Chapter 2), focusing on constitutional and performance (or functional) claims.<sup>12</sup>

This chapter explores how ENGOs in Russia claim and build their legitimacy for different legitimacy communities, focusing on mostly the state and society, which are currently the most important legitimacy communities for ENGOs in Russia. Moreover, as it follows from the literature, legitimacy claims have changed over time as the political context and social conditions in the country have changed. Thus, this dynamic is also taken into consideration as well as tradeoffs between gaining legitimacy for different legitimacy communities (the state, businesses, local communities and others).

The governance scholarship often studies accountability and legitimacy as separate complicated concepts that are interdependent with transparency and effectiveness.<sup>13</sup> Given the dialectical nature of the role of NGOs in accountability relationships as being accountable for their performance and holding other actors accountable (Chapter 2),<sup>14</sup> this chapter focuses on accountability of ENGOs for their activities as a means to ensure their legitimacy.<sup>15</sup> Their accountability is carried out through a mix of formal and informal mechanisms.<sup>16</sup> These include compliance with state formal accountability requirements (procedural accountability), upward accountability to ENGOs donors and informal accountability to ENGO beneficiaries and society through voluntary reporting on activities and their outcomes (performance accountability<sup>17</sup>), disclosure of information and transparency.<sup>18</sup> This ‘downward accountability’ of ENGO has a potential to enhance social legitimacy of ENGOs by strengthening ties with the community.<sup>19</sup> The formal or legal aspect of ENGO accountability was discussed in Chapter 4 and this chapter focuses on a study of the impact of formal and informal accountability of ENGOs on their legitimacy.

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<sup>11</sup> Ibid, 144.

<sup>12</sup> Ibid.

<sup>13</sup> Biermann et al, see above n 2, 277-78; Black, see above n 6, 149–150.

<sup>14</sup> Ibid, 150.

<sup>15</sup> Black, see above n 6; Biermann et al, see above n 2, 287.

<sup>16</sup> Freeman, see above n 5, 549.

<sup>17</sup> C. Holley, 'Facilitating Monitoring, Subverting Self-Interest and Limiting Discretion: Learning from New Forms of Accountability in Practice' (2010) 35 *Columbia Journal of Environmental Law* 127, 142.

<sup>18</sup> J. Dryzek and H. Stevenson, 'Global Democracy and Earth System Governance' (2011) 70 *Ecological Economics* 1865, 1867, 1867; Biermann et al, see above n 2, 55.

<sup>19</sup> I. Attack, 'Four Criteria of Development NGO Legitimacy' (1999) 27(5) *World Development* 855, 861; J. Unerman and B. O'Dwyer, 'NGO Accountability and Sustainability Issues in the Changing Global Environment' (2010) 12(4) *Public Management Review* 475, 476.



This part of the chapter is organised in six parts. First is the introduction to the chapter. The next part will describe the sources and current state of the social acceptance and credibility of ENGOs in Russia, revealing low social trust and support for these organisations. The third and fourth parts will separately explore legitimacy of internationally recognised ENGOs and domestic ENGOs to demonstrate clearly the distinctive challenges and features of legitimacy of these two broad categories of ENGOs in Russia. The third part will demonstrate that international ENGOs have secured their legitimacy as environmental experts and professionals due to their international resources and reputation. These strong legitimacy claims simultaneously undermine their legitimacy for broader society. The fifth part will show that legitimacy of domestic regional ENGOs is rooted in their closer relationships with local communities and authorities, environmental expertise and local knowledge and promoting ecological education. Legitimacy of these ENGOs is limited due to their insufficient funding, relatively low activity on representing social rights of people and weak transparency<sup>20</sup> and accountability. Finally, part six will conclude the chapter and offer recommendations for overcoming ENGO legitimacy deficits. These recommendations include mainly a broader engagement with society, improving transparency and accountability of regional domestic ENGOs, building legitimacy with businesses and further development of networking and constrictive relationships with the state through the new participatory avenues.

## ***2. Legitimacy of NGOs in Russia***

Given that ENGOs are non-governmental institutions representing and defending interests of society, this part of the thesis gives an overview of how ENGOs are perceived by Russian people—whether ENGOs are considered legitimate actors by the state and society and what factors influence this perception. The study finds that the social trust and engagement with ENGOs remains very low, which can be explained by the low interest to environmental issues, low charity culture and problematic funding.

As discussed in Chapter 3, public environmental organisations are not completely new institutions for Russia and their legitimacy has evolved and changed since the 1920s, when the first public conservation groups were established. Although contemporary ENGOs are more independent from the state and have different legal status (see Chapter 4), certain continuity in the activities of these and previous environmental organisations can be traced, as discussed in Chapters 3 and 6. Therefore, this long history of existence and formal recognition

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<sup>20</sup> L. Jakobson et al, 'Civil Society in Modernising Russia' (The Centre for Studies of Civil Society and the Non-for-Profit Sector of the National Research University 'Higher School of Economics', 2011), 25–26.

still serves as a source for ENGO acceptance for the state and society in certain roles, including ecological expertise, education and fulfilling some controlling and law enforcement functions delegated by state bodies.<sup>21</sup> The legitimacy of the Soviet groups as influential political actors reached its peak in the late 1980s, when the decline of the legitimacy of the Soviet state and the Chernobyl disaster created opportunities for the Soviet environmental groups to expand their public profile by tapping into increasing social environmental movements (Chapter 3). These movements began to increase normative (morally justified) purposes of these organisations and claim pragmatic legitimacy in regards to the ability to defend and represent the interests and rights of people for safe and healthy environment. They carried out it through their successful campaigns in closing harmful industries and the involvement of scientists and experts (Chapter 3). These changes in types of legitimacy from ENGO roles experts and 'state helpers' to more active positions of advocates of social rights can be explained by the changes in the Soviet political system, which allowed more democratic freedoms.

However, changes in political regimes and economy may also lead to a decline in all types of legitimacy. The economic and political crisis at the end of the 1990s changed public priorities. Despite further development and establishment of legal regulations for NGOs, their credibility and acceptance as influential environmental actors with the state and society started to decline. This eroded their legitimacy, particularly pragmatic and normative, as organisations that are able to defend social rights. The ENGOs were no longer seen as defenders of public interests of environmental protection. Rather, their activities were deemed an obstacle to economic development by the state and society.<sup>22</sup> Three factors have contributed to this declining legitimacy: low interest in environmental issues, minimal public engagement as a result of low volunteering culture, and funding connected to foreign (rather than domestic) sources. These are discussed below.

Statements of ENGO members<sup>23</sup> on the low interest in environmental issues and minimal public engagement with ENGOs are confirmed by data from the Reports of the Civic Chamber in 2010–2013.<sup>24</sup> Although the Report of Civic Chamber of the Russia reveals that the

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<sup>21</sup> For example, consulting, fighting against poaching. More examples can be found in the Chapter 3 on the history of Russian ENGOs.

<sup>22</sup> O. Yanitsky, 'The Value Shift of the Russian Greens' (2006) 15(2) *International Review of Sociology: Revue Internationale de Sociologie* 363, 369–370.

<sup>23</sup> Interviews 2, 3, 6, 11, 24.

<sup>24</sup> 'Report on the State of Civil Society in the Russian Federation 2009' (Civic Chamber of the Russian Federation, 2010); 'Report on the State of Civil Society in the Russian Federation 2010' (Civic Chamber of the Russian Federation, 2011); 'Report on the State of Civil Society in the Russian Federation 2011' (Civic Chamber of the Russian Federation, 2012).

Russian people are becoming more active and are demanding for changes in the public, political and social/economic spheres,<sup>25</sup> this activity and these demands are rarely in the area of the environment.<sup>26</sup> The data from the interviews also indicate the low interest of the Russian population in environmental protection. As one of respondents said, 'People are not interested much in ecology, they have started to make donations but primarily for children's charities'.<sup>27</sup> Therefore, normative and pragmatic-based legitimacy of ENGOs in Russia remains limited. In 2010, the key focuses of NGOs' activities are concentrated on social policy, welfare, education, science and charity. The organisations that are most well known to Russians include trade unions (48 per cent), partnerships of gardeners or suburban residents (46 per cent), veteran associations (44 per cent), consumer right protection associations and associations of disabled (43 per cent and 42 per cent respectively), religious communes (34 per cent), environmental organisations (27 per cent) and charities (collection of money and things for homeless and orphanages) (23 per cent). About 21 per cent of respondents admitted not knowing or having heard of any of the above organisations and initiatives.<sup>28</sup>

The minimal public engagement with NGOs remains one the most significant challenges for ENGOs in Russia.<sup>29</sup> In 2009, only 1.13 per cent of the economically active Russian population was employed by NGOs on a full or part-time basis. This is very low compared with other countries, for example to 4.6 per cent in Australia, 5.8 per cent in the USA, 5.9 per cent in France, 3.7 per cent in Germany. The level of charity institutionalisation and trust in NGOs is still low.<sup>30</sup> This low permanent involvedness or even 'nonparticipation' of citizens can be explained by past experiences and mistrust of communist organisations in the USSR, the forced volunteering and mandatory membership of state run Soviet public organisations,<sup>31</sup> and Post-Communist disappointment in old ideals and new values.<sup>32</sup> In addition to these historical factors, the low engagement with NGOs can be explained by insufficiency of NGO activities, a lack of personal experience of involvement with NGOs, doubts in the altruism of others and suspicions that organisations may have corruptive contacts with public officials.<sup>33</sup> As a result,

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<sup>25</sup> 'Report on the State of Civil Society in the Russian Federation 2011' see above n 24, 6–10.

<sup>26</sup> 'People become more active', Civic Chamber of the Russian Federation, 14/12/2013, available at [http://www.oprf.ru/en/print\\_danas/20104](http://www.oprf.ru/en/print_danas/20104).

<sup>27</sup> Interview 3.

<sup>28</sup> 'Report on the State of Civil Society in the Russian Federation 2010', see above n 24, 18–19.

<sup>29</sup> V. Shlapentokh, 'Trust in Public Institutions in Russia: The Lowest in the World' (2006) 39(2) *Communist and Post-Communist Studies* 153; Jakobson et al, above n 20, 21.

<sup>30</sup> 'Report on the State of Civil Society in the Russian Federation 2009', see above n 24, 19–20.

<sup>31</sup> J. Crotty, 'Making a Difference? NGOs and Civil Society Development in Russia' (2009) 61(1) *Europe-Asia Studies* 85, 87–88.

<sup>32</sup> M. Howard, 'Postcommunist Civil Society in Comparative Perspective' (2002) 10(3) *Demokratizatsiya* 285, 293–295, J. Crotty, 'Managing Civil Society: Democratisation and the Environmental movement in a Russian Region' (2003) 36(4) *Communist and Post-Communist Studies* 489, 490.

<sup>33</sup> 'Report on the State of Civil Society in the Russian Federation 2009', 19–20.

low charitable and volunteering culture and low trust in NGOs, particularly foreign NGOs, has been formed over the two last decades, as identified by ENGO members.<sup>34</sup> These factors also influence acceptance of ENGOs as legitimate actors on governance, limiting or even reducing their normative and pragmatic legitimacy.

The problem of insufficient funding of ENGO work also reduces their legitimacy. The studies of Russian NGOs conducted in the 1990s, and more recent studies, have demonstrated low state financial support of non-governmental sectors, which led to reliance of NGOs on foreign funding.<sup>35</sup> Similarly, respondents from foreign internationally-based ENGOs noted that they rely on foreign funding, 'do not apply for grants of the Russian Government and donations from Russian people and business are minimal'.<sup>36</sup> As a result, foreign financial and material support jeopardises connection of NGOs to community and their acceptance as legitimate actors,<sup>37</sup> (normative legitimacy) because 'people perceive us as organisations defending interests of foreign companies and states'.<sup>38</sup>

The current political ideology of sovereign democracy (discussed in Chapter 1), the NGO law and its implementation have also undermined legitimacy of NGOs for society, authorities and business. In general, the current Government does not want independent political actors criticising state environmental policies and challenging the economic development. Politically active NGOs with foreign funding represent a major threat, as confirmed by the last amendments in the NGO law. As discussed in Chapter 4, the state increased control over these NGOs through introducing more complicated accountability measures and labelling NGOs as 'foreign agents'. Moreover, this labelling of NGOs further undermines their legitimacy in terms of their broader acceptance by other actors of environmental governance. As a result, people doubt purposes of ENGOs, suspecting them of representing the interests of foreign governments or businesses.<sup>39</sup>

In summary, from the historical perspective, ENGO legitimacy in Russia has changed over years. In Soviet times, legitimacy of the first environmental groups had mostly normative

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<sup>34</sup> Interview 2, 3, 6.

<sup>35</sup> J.D. Hemment, 'The Riddle of the Third Sector: Civil Society, Western Aid and NGOs in Russia' (2004) 77(2) *Anthropological Quarterly* 215; Crotty, see above n 31; A. Kochetkov, 'Gosudarstvo i Grazhdanskoe Obshchestvo v Rossii: Strategiya Vzaimodeystviya [The State and Civil Society in Russia: Strategy of Interaction]' (2014) 6(1) (13/04/2015) *Electronic Scientific Edition Almanac Space and Time*.

<sup>36</sup> Interview 3.

<sup>37</sup> L. Henry, *Red to Green: Environmental Activism in Post-Soviet Russia* (Cornell University Press, 2010), 3

<sup>38</sup> Interview 6, 23.

<sup>39</sup> Interview 6; see also results of the public opinion polls in Report on the State of Civil Society in the Russian Federation 2009', 19–20.

character (e.g., noble purposes of environmental protection and conservation, scientific expertise). Later in the 1980s, they had some pragmatic elements of defending people's rights for healthy and safe environments. Therefore, environmental protection groups have become a part of society since the Soviet times, being accepted as inevitable organisations (cognitive legitimacy), for example, for cleaning up parks or educating people on ecology. The peak of ENGO legitimacy was in the late 1980s; they had a political authority and people perceived them as influential political actors and supported their activities.

Today, opinion polls and data from the interviews demonstrated that ENGOs are known to the public (cognitive legitimacy). However, social trust and engagement with ENGOs in Russia remains very low. Moreover, considering that ENGOs, in their work, rely on principles of volunteering and they do not have power of coercion, they need not only social trust and acceptance, but also active public support of ENGO activities.<sup>40</sup> As it follows from the data of the opinion polls and the interviews, participation of people in ENGOs' work, in the form of donations and engagement with their activities, is poor. Therefore, it can be concluded that low social acceptance and public support limits the agency of ENGOs. The main factors that undermine legitimacy of ENGOs, and accordingly their agency in Russia, include low interest in environmental issues, low public participation and trust in NGOs (especially foreign-funded NGOs) and the efforts of the state to undermine legitimacy of NGOs with foreign funding. In order to overcome this legitimacy crisis, ENGOs should repair or build their normative and pragmatic legitimacy to different communities to motivate other actors for compliance with environmental norms and values.<sup>41</sup> ENGOs construct their legitimacy through constitutional, justice and performance-based legitimacy claims.<sup>42</sup> They are also able to enhance it through transparency and accountability on their funding and performance outcomes. Further, performance accountability links normative and pragmatic legitimacy of ENGOs, increasing understanding of their roles as environmental governors and abilities to represent and defend the interests of other environmental actors and society.<sup>43</sup>

The next part of the chapter studies ways through which ENGOs claim their legitimacy for different legitimacy communities (the state, society and business). These claims may vary depending on an organisation, but in accordance with different legal requirements and capacities of ENGOs in Russia, mainly differs between two main types of ENGOs: big internationally recognised organisations and smaller domestic and local ENGOs. Despite the

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<sup>40</sup> Black, see above n 6, 148.

<sup>41</sup> Ibid, 148.

<sup>42</sup> Ibid, 144.

<sup>43</sup> Biermann et al, see above n 2, 286; Black, see above n 6, 149.

abovementioned common challenges for their operation, these types of ENGOs feature different strengths and weaknesses in claiming their legitimacy, as discussed below.

### ***3. Large internationally recognised ENGOs in Russia***

In accordance with the methodology of this thesis (Chapter 1), a broader meaning of international ENGOs is applied to a group of internationally recognised and influential ENGOs that has offices in different countries and do not depend on domestic funding. Names of these organisations are associated with their foreign or international headquarters, even though a group is registered as a Russian domestic organisation. Examples of these NGOs are WWF Russia, Greenpeace Russia and Bellona. These ENGOs are registered with the Ministry of Justice as offices of foreign organisations (Greenpeace Russia) or national (domestic) organisations (WWF Russia) and formally recognised by the state authorities as legitimate actors of environmental governance. Legitimacy of the internationally-based ENGOs depends upon level of their actions, types of actors and community that they intend to influence. Their autonomy and independence from the Russian state, adequate funding for their projects and international reputation have played a positive role for legitimacy of these ENGOs in Russia. Key challenges for their legitimacy include the NGO law on foreign-funded NGOs and its implementation, low public support and their marginalisation from Russian society. These ENGOs claim legitimacy through constitutional, justice and performance claims.

The constitutional claim is carried out through compliance with requirements of Russian NGO law and compliance with other laws that have a positive impact on their legitimacy for the state and positive-neutral for society and businesses. Respondents from ENGOs did not indicate possible problems of compliance or non-compliance with the law requirements of the state registration and reporting requirements, as these groups are able to hire professionals for any legal or financial issues.<sup>44</sup> However, possible issues of non-compliance with the state registration requirements may arise from vague definitions of the NGO law on ‘political activities’<sup>45</sup> and ‘NGOs carrying out functions of foreign agents’. Currently, Greenpeace, as a branch of a foreign organisation, does not fall under this law and, to date, implementation of the NGO law remains unclear. WWF Russia and Bellona have not been required to register as ‘foreign agents’.

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<sup>44</sup> Interview 1, 6.

<sup>45</sup> Interview 5, 6.

Transparency and accountability in funding, because of compliance with the NGO law reporting requirements, have had dual impacts on their legitimacy for all communities. On the one hand, open access to information on funding and spending makes NGOs accountable to the state and society. On the other hand, the fact that almost all funding of these ENGOs comes from abroad<sup>46</sup> allows to the state to manipulate public opinion and limit legitimacy of these ENGOs among the public, state agencies and businesses by accusing them in mass media of representing commercial and political interests of their Western donors. Given the current low trust and support for ENGOs<sup>47</sup> and the traditionally strong state, these accusations may negatively influence the credibility of and trust in ENGOs, which is still forming in Russia.

Independence of these ENGOs from the Russian Government, the noble purposes and values of environmental protection helps them to develop normative legitimacy through justice claims. However, given the low interest in environmental issues, this claim has rather a neutral effect on their legitimacy. There have been attempts of these ENGOs to gain greater acceptance from Russian society. For example, Greenpeace does not accept any donations from governments, corporations or political parties<sup>48</sup> and through this justice claim, attempts to demonstrate the justice and noble values of environmental protection and their independence from their donors. WWF Russia is registered as a Russian national organisation, not as a branch or office of WWF, and this fact is often emphasised by the ENGO in their documents and website.<sup>49</sup>

Performance claims of ENGOs have the most positives impact on their legitimacy, for all legitimacy communities, and have a great potential to develop their pragmatic legitimacy. The performance-based legitimacy of ENGOs is often associated with customary roles of ENGOs.<sup>50</sup> For example, for WWF this can be the protection of wild animals and work in biodiversity conservation. Greenpeace is actively campaigning against harmful, or potentially harmful, for nature industrial activities. As outlined in Chapter 6, due to their capacities and international reputation and collaboration, international ENGOs rather than domestic groups

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<sup>46</sup> This information is available from annual reports of WWF Russia and Greenpeace Russia. The Annual Reports of WWF Russia are available at <http://www.wwf.ru/resources/publ/report>, the Annual Reports of Greenpeace Russia are at <http://join.greenpeace.ru/reports.phtml>, the last access on 12/06/2014.

<sup>47</sup> 'Report on the Development of Civil Society in Russia' (The Foundation for Civil Society Development, 2013).

<sup>48</sup> Interview 6; see also <http://www.greenpeace.org/russia/en/about/>, the last access on 12/06/2014.

<sup>49</sup> Information available at <http://www.wwf.ru/about/history>. Opening national offices or adopting an existing organization as a national organisation in any country in the world (WWF Statutes, Article 13, available at [http://wwf.panda.org/who\\_we\\_are/organization/statutes/](http://wwf.panda.org/who_we_are/organization/statutes/)) is a common approach for WWF in all countries, and WWF have national offices in more than 20 countries. The last access to the Internet sources is on 5/06/2014.

<sup>50</sup> Black, see above n 6, 145.

are more likely to be regarded as legitimate actors on the international level, for example, as a part of climate change negotiations or as international experts and members of international public-private bodies.<sup>51</sup> Similarly, international ENGOs may effectively build their legitimacy for Russian businesses willing to work on the international level through establishing voluntary certification schemes (e.g., in the timber industry and fishing) as part of promoting the concepts of environmental and CSR. ENGOs can also be regarded as fully legitimate actors by all environmental actors in certain roles, for example, as ecological experts by the state and society and in certain areas of nature protection, such as biodiversity and the maintenance of the natural protected areas.

Another way for international ENGOs to develop normative legitimacy for the state bodies, society and business through performance claims is using collaborative strategies with the state (Chapter 6). Given the traditionally strong state power in Russia, the state continues to be perceived as the most legitimate regulator. Therefore, constructive relationships between ENGOs and the state give both the state and ENGO legitimacy among the broader public. As a respondent from an international ENGO commented, ‘a success of organisation in countries with strong state power largely depends on constructive relationships with the state.’<sup>52</sup> As discussed in Chapter 6, this happens through the delegation of state responsibilities and engagement with the state bodies through the Civic Chambers, Public Councils and other public participatory bodies. For example, even more radical in their action, Greenpeace Russia manages to engage with the state through participation in the Public councils (e.g., the Presidential Council for Civil Society and Human Rights<sup>53</sup> and the Public Councils under the MNR<sup>54</sup>) and public discussions of drafts of environmental laws. In Russia, this involvement of ENGOs with the state bodies, to some extent, demonstrates a state support of ENGOs. This association with the state bodies may strengthen legitimacy of non-state actors for the public, state officials and business. However, considering that Russian society is nonhomogeneous, liberal groups can associate this collaboration as a sign of collaboration with corrupted state and business.

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<sup>51</sup> *United Nations Framework Convention on Climate Change*, opened for signature 9 May 1992, 1771 UNTS, 107 (entered into force 24 March 1994), Articles 4, 6, 7.

<sup>52</sup> Interview 18.

<sup>53</sup> The list of members is available at: [http://www.president-sovet.ru/composition/?PAGEN\\_1=3](http://www.president-sovet.ru/composition/?PAGEN_1=3), the last access on 12/06/2014.

<sup>54</sup> Generally, representatives of ENGOs at these councils under the state bodies attend meetings, participate in discussions, voice their positions on discussed issues and give their recommendations. Decisions on discussed issues are made by a majority vote and they are not binding for the relevant state body. See, for example, the provision on the Public Council under the MNR of the Russian Federation, available at [http://www.mnr.gov.ru/activities/list.php?part=1235&sphrase\\_id=323510](http://www.mnr.gov.ru/activities/list.php?part=1235&sphrase_id=323510), the last access on 12/06/2014.



These legitimacy claims of ENGOs have not proved to be very successful, mainly because of the latest efforts of the Government to undermine legitimacy of these ENGOs through introduction of new accountability measures and state control over foreign NGOs (discussed in Chapter 4). The introduction of the term ‘foreign agents’, the vague criteria for ‘political activities’ of NGOs, resulting in labelling of ENGOs as ‘foreign agents’ and the new term ‘undesirable organisations’ can further decrease the acceptance of these ENGOs among Russian citizens, considering the negative connotations of the phrase ‘foreign agents’. The inspections of ENGOs in March 2013 by state controlling bodies have demonstrated the vulnerability of environmental NGOs to these regulations. The reaction of the Russian public to this state policy aiming to control foreign-funded NGOs is mixed. Research conducted by the Zircon Research Group in 2012 on the inclusion of more restrictive measures in the NGO law, particularly for NGOs with foreign funding, has demonstrated that public awareness on the essence and meaning of the amendments to the law is rather low. Sixty-eight per cent of respondents did not know about it, 21 per cent ‘heard something’: only seven per cent definitely know about it. The phrase ‘foreign agent’ provoked a negative emotional reaction in 39 per cent of respondents and 42 per cent had a neutral reaction. About 41 per cent agreed that an NGO with foreign funding should be under special supervision of the state and about the same number agree that ‘it does not matter whether the activities of NGOs funded exclusively from Russian, or also from foreign sources, the main thing that it was intended to benefit people and society’.<sup>55</sup> This research concluded that the current image of NGOs in Russia deteriorated in comparison with 2004, and this is partly consistent with the abovementioned statement that international ENGOs are ‘already foreign spies for many of people’.<sup>56</sup> Nevertheless, public opinion on the work of international ENGOs in Russia is still forming.

Other examples of how the state manipulates the legitimacy of ENGOs include the arrest of Greenpeace International activists and accusation of piracy<sup>57</sup> (discussed in Chapter 6 on ENGO strategies), which raised questions regarding Greenpeace’s compliance with the Criminal Code.<sup>58</sup> Therefore, it questioned the constitutional legitimacy of Greenpeace from

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<sup>55</sup> Moysov V. and L. Shubina, ‘Public Attitude to NGOs Following the Tightening of Legislation Concerning ‘Foreign Agents’ (Zircon Research group, 2012), 5, available at [http://www.zircon.ru/publications/sotsiologiya-sotsialnoy-sfery-i-grazhdanskogo-obshchestva/?SHOWALL\\_1=1](http://www.zircon.ru/publications/sotsiologiya-sotsialnoy-sfery-i-grazhdanskogo-obshchestva/?SHOWALL_1=1), the last access on 4/12/2014.

<sup>56</sup> Interview 6.

<sup>57</sup> Information available at [http://www.bellona.org/articles/articles\\_2013/arctic\\_sunrise\\_arrival](http://www.bellona.org/articles/articles_2013/arctic_sunrise_arrival), the last access on 4/12/2014.

<sup>58</sup> According to the Criminal Code of the Russian Federation, article 227, piracy as ‘an assault on a sea-going ship or a river boat with the aim of capturing other people’s property, committed with the use of violence or with the threat of its use’. Greenpeace’s actions were requalified as hooliganism ‘Part 2 of Article 213 of the *Criminal Code* (hooliganism is severe violation of public order, expressing clear disrespect for society, committed with

the perspective of the legality of its action. Data from opinion polls on this action of Greenpeace indicate that in this case, Greenpeace was perceived by the majority of the public as an organisation defending foreign interests.<sup>59</sup> The statements of the Russian president, such as the interview with the German ARD (the largest broadcasting company in Germany),<sup>60</sup> continue to create the image of foreign-funded NGOs as agents of Western countries with an aim to interfere in the internal affairs of Russia and to influence its political and economic development. Such statements and the changes in the NGO law have weakened attempts of ENGOs to build their legitimacy for all actors of governance and further decrease their acceptance and credibility among other actors of environmental governance, particularly their pragmatic legitimacy for Russian society.

In summary, international ENGOs in Russia are formally recognised as legitimate actors of environmental governance. International ENGOs in Russia mostly claim their legitimacy for different communities through performance claims, acting as ecological experts and professional groups on all levels of environmental governance and using different legitimacy claims for different legitimacy communities, such as the state, society and businesses. Ecological expertise, professionalism, international networking, independence from the Russian state and sufficient funding of their work are their key legitimacy strengths.

However, in practice, general factors, such as low public participation and low interest in environmental issues in Russia, limit their legitimacy. More specifically, certain marginalisation of these ENGOs from society due to the professional and expert character of their activities, and international or national scale of their activities, has also had a negative impact on legitimacy claims of international ENGOs. This is because of the NGO law and the state policy towards foreign NGOs and foreign-funded NGOs, which causes a deficit of normative and pragmatic legitimacy for the broader public.

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objects, which are used as weapons by organized group associated with resistance to authority), available at <http://www.sledcom.ru/actual/361187>.

<sup>59</sup> 'Action of Greenpeace': assessment of population and internet community', press release № 2440, Russian Public Opinion Research Center (VCIOM), 28/10/2013, available at <http://wciom.ru/index.php?id=459&uid=114579>, the last access on 26/03/2014.

<sup>60</sup> The interview to the German ARD, 05/04/2013, available at <http://eng.news.kremlin.ru/news/5216>; BBC Russian, 'Putin reminded the FSB about 'foreign interests' of NGO', 14/02/2013, available at [http://www.bbc.co.uk/russian/russia/2013/02/130214\\_putin\\_speech\\_fsb\\_ngo.shtml](http://www.bbc.co.uk/russian/russia/2013/02/130214_putin_speech_fsb_ngo.shtml), the last access on 05/06/2014.

#### 4. *Russian domestic ENGOS*

Domestic Russian ENGOS are different in size, purposes and goals of their operations. Unlike international ENGOS, domestic ENGOS mostly operate on the regional or local scale and maintain a closer relationship with local authorities and people. Local knowledge and experience are their strongest sides in claiming authority to solve environmental problems. Therefore, regional or local environmental problems, capacities of ENGOS to solve them and relationships between ENGOS and regional or local authorities determine legitimacy claims of domestic ENGOS. Legitimacy claims of ENGOS may vary from region to region.<sup>61</sup> The relatively long existence of some domestic ENGOS, for example, the more than 20 years of operation of Dront in Nizhny Novgorod or of Social Ecological Union (SUE), is a source for their cognitive legitimacy. This part of the chapter explores how domestic ENGOS claim their legitimacy and the challenges they face in developing their legitimacy through constitutional, justice and performance claims.

Domestic ENGOS operate in accordance with NGOs laws (e.g., registered organisations provide reports on their activities or use simplified forms of reporting), building and maintaining their legitimacy for all actors through constitutional claims. Similar to the international ENGOS, the increase of state control and accountability requirements for foreign funding can have negative impacts on legitimacy of domestic ENGOS. Although respondents from ENGOS did not mention any difficulties with compulsory reporting to state controlling bodies, many of them recently have begun to use simplified reporting set up by the NGO law for small domestic NGOs without funding from abroad.<sup>62</sup>

Justice legitimacy claims of domestic ENGOS are usually expressed in terms of consolidating the public beneficial purposes of NGOs in charters of organisations. Recently, some ENGOS have begun to emphasise their social purposes of the protection of social rights of citizens in order to gain more social legitimacy. For example, Green League has emphasised a social rather than political orientation of organisation's activity, in terms of protecting social and environmental rights and interests of people<sup>63</sup> and a focus on solving local problems,<sup>64</sup> in order to gain acceptance among local people.

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<sup>61</sup> Interview 26.

<sup>62</sup> Interview 11, data from the official website of the Ministry of Justice, at <http://unro.minjust.ru/NKOReports.aspx>, the last access on 8/10/2014.

<sup>63</sup> Information is available at <http://green-union.org/node/512#overlay-context=node/513>; <http://green-union.org/node/599>, the last access on 8/10/2014

<sup>64</sup> Interview 11, 20.

Performance-based legitimacy claims of domestic ENGOs for different legitimacy communities can be carried out through different activities, including cooperation with the state, environmental monitoring and research, networking, public advocacy and ecological education. Taking into account insufficient funding and low public support, domestic groups are more dependent on regional state authorities (e.g., regional departments of federal MNR, regional and local ecological bodies). Therefore, collaboration with regional and local state authorities is important claims for legitimacy of these ENGOs and their acceptance by the state, environmental agencies and local businesses. Environmental expertise and knowledge allow professional ENGOs, such as Dront, Green league and Ekovahta, to be involved in the creation and implementation of local environmental programmes in the area of biodiversity and nature conservation.<sup>65</sup> This collaboration and expert role of ENGOs have a positive impact for ENGOs' legitimacy for the local authorities, as demonstrated by the examples from their collaborative work with the state agencies in biodiversity (discussed in Chapter 6), but are mostly unknown by the public.

ENGOS can also claim legitimacy for all environmental actors through collaboration with the state bodies and businesses through the regional Civic Chambers and Public Councils and participation in public discussions on draft environmental laws (discussed in Chapter 6).

Active participation of ENGOs in monitoring and prevention of violations of environmental laws during residential building and construction of urban and industrial developments has had positive impacts on their legitimacy in the broader communities, particularly among local residents. Public advocacy of domestic ENGOs includes actions aiming to raise public awareness, organisation of public hearings and representation of the rights of local residents in courts and other state bodies.<sup>66</sup> For example, in the beginning of 2014, Green League in Samara organised public meetings against construction and development in 'green zones' of the city. Activists have argued that public hearings on the development of these zones were falsified by the local administration and were required to discuss this situation in the Regional Public Chamber.<sup>67</sup> Similarly, in regards to acceptance by local communities, Dront conducts protests against building and construction in these zones, educational activities, organises public hearings and collaborates with state bodies through the Public councils.<sup>68</sup> As follows from the interviews with representatives from ENGOs and businesses, domestic ENGOs

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<sup>65</sup> Interview 11.

<sup>66</sup> In these performances legitimacy claims ENGOs can be organisational leader NIMBY ('not in my back yard') movements of residential opposition to economic development in city's green zones or near residential buildings.

<sup>67</sup> Information is available at <http://green-union.org/node/595>, the last access on 4/12/2014.

<sup>68</sup> Interview 10, 11.

receive minimal support from local businesses and build their legitimacy mostly through direct actions opposing violations of the environmental law. Their collaboration is rare and major examples discussed in the literature<sup>69</sup> involve international ENGOs and businesses.

An emergence of networks of ENGOs, such as Green League, Ekovahta, umbrella type organisations, such as Dront, and collaboration with international ENGOs have also served as another way for ENGOs to claim and strengthen legitimacy for all different environmental actors in Russia. The examples of Khimkinsky Forest defenders' actions, which were supported by other ENGOs including international and 'Save Hoper' and 'Save Utrish' actions throughout the country, have demonstrated that the state authorities from local to federal level have to take into account ENGO collaborative efforts and increased authority of ENGOs for state and public.

This expanded network of ENGOs can be regarded as a positive development for the legitimacy of regional environmental groups as it gives them more publicity. However, as respondents from state bodies noted, on a local level, some ENGOs' leaders, particularly from small environmental groups, seek 'cheap popularity' and prefer to support campaigns of ENGOs from other regions, overlooking local environmental problems, such as, for example, violation of environmental laws during urban development.<sup>70</sup> This also allows local activists to attempt to claim legitimacy as independent advocacy organisations, not entering into conflict with local authorities on local environmental problems. This kind of attempt to claim social legitimacy is not widespread and largely unsuccessful and more common for small local recently established environmental groups. Generally, it does make these groups more legitimate for the state bodies or local communities that are not interested in these actions.<sup>71</sup>

Collaboration with international ENGOs and participation in international projects plays a positive role for legitimacy of domestic ENGOs. It makes them more independent from the local authorities and more authoritative and legitimate because of expanding their capacities because of financial and professional support of international ENGOs.

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<sup>69</sup> W. Douma and F. Mucklow (eds), *Environmental, Finance and Socially Responsible Business in Russia* (T.M.C Asser Press, 2009); S. Nysten-Haarala and J. Kotilainen, 'Institutions, Interest Groups and Governance of Natural Resources in Russia' in S. Nysten-Haarala (ed), *The Changing Governance of Renewable Natural Resources in Northwest Russia* (Ashgate, 2009) 9.

<sup>70</sup> Interview 19, 21.

<sup>71</sup> Interviews 20, 21.

Respondents from domestic ENGOs indicated that promotion of ecological education for the public is one of the most important activities.<sup>72</sup> Collaboration with schools, universities, involvement of students in environmental research, monitoring, and organisation of ecological holiday camps (discussed in Chapter 6) are very important activities of ENGOs to claim social legitimacy through ecological education. The local state bodies also recognise ENGOs as legitimate actors in the area of ecological education and support their programs financially.<sup>73</sup>

Legitimacy of domestic groups depends also on personal qualities of their leaders and their relationships with the state authorities, urgency and scale of environmental issues and therefore may vary from region to region. Respondents from ENGOs and the state environmental officials pointed out that strong and active leaders and members of ENGOs, and their personal contacts, play a positive role in recognising ENGOs as authoritative actors of environmental governance by the state; for example, in collaborative environmental programmes, in making the Public Councils under local environmental bodies more effective.<sup>74</sup>

However, in developing and claiming legitimacy for all environmental actors, domestic ENGOs face many challenges. Acceptance of domestic ENGOs as authoritative legitimate actors by the local authorities remains limited. Traditionally, they were accepted by the state educational and research organisations, which assist the regional bodies in implementing environmental policies and educational programmes and seek collaboration with ENGOs possibly only to fill gaps in the environmental governance. As outlined in Chapter 6, although the domestic groups are more engaged with local communities in solving local issues, in many cases their public advocacy (in terms of representing and defending social rights of people for healthy and safe environments) in relevant state bodies remains undeveloped and undermines their legitimacy for the public.

There has been similar resistance of the state and local authorities to legitimacy claims of regional domestic groups. Smaller local groups were even more vulnerable to the attempts of the state law enforcement bodies to enforce the new provisions of the NGO law and cause doubts in purposes of domestic ENGOs, accusing them in representing the interests of foreign businesses (in cases of international collaboration and foreign funding of their projects

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<sup>72</sup> Interviews 9, 10, 11, 15, 20, 23.

<sup>73</sup> Interview 9, 11, 14, 15.

<sup>74</sup> Interview 9, 11, 21, 24.

[Chapter 4]). For example, international collaboration and foreign grants of domestic ENGOs (e.g., Muraviovka Park)<sup>75</sup> were the reason Prosecutor's Office inspections to investigate their compliance with NGO law. This has negatively influenced their legitimacy, as it raised doubts of the public in the purposes of these ENGOs. Public advocacy of ENGOs against planned economic and industrial development can be considered as a threat to economic interests and the local authorities may use intimidation factors to decrease public activity. For example, authorities may organise searches in the premises of ENGOs,<sup>76</sup> or use violent actions against public protests, for example, the case of the Khimkinsky Forest movement. Arrests and criminal prosecution of the environmental activists from Ekovahta on Northern Caucasus who advocated against illegal construction of residential buildings and facilities for the Sochi Olympics in 2014 in natural protection areas,<sup>77</sup> as well as the recent attempt to liquidate this ENGO, are other examples of politically motivated prosecution (Chapters 4 and 6).

It is difficult to assess the impact of these actions by state law enforcement bodies on legitimacy claims from the perspective of normative legitimacy for diverse social groups with different views on civil activism. Any conflict with state law enforcement bodies can add more legitimacy to ENGOs (just because they are harassed by the state) from parts of society that are oppositional to the current government. At the same time, ENGOs' conflicts with the state agencies can reduce support to these ENGOs from citizens more loyal to the government.<sup>78</sup> The intimidation factor also undermines legitimacy of ENGOs through reducing their support from the public. However, taking into account the centralisation and hierarchy of Russian governance, searches and inspection of ENGOs can be considered a warning signal for state and local environmental officials for non-cooperation with ENGOs<sup>79</sup> and undermine legitimacy of more independent ENGOs.

Another challenge for regional and local ENGO legitimacy is that state environmental officials often do not accept ENGOs, particularly small local organisations, as authoritative actors of governance due to the limited capacities of these ENGOs. A respondent from a state environmental agency commented on the attempts of a small local environmental group to

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<sup>75</sup> Information on this ENGO can be found at <http://www.muraviovkapark.ru/engIndex.html>, the last access on 12/10/2014. This ENGO was requested to register as 'foreign agent' due to their international funding from the International Crain Foundation by the Prosecutor's office. Recently, the Supreme Court has found this requirement of the Prosecutor's office is as illegal. More details are in Chapter 4.

<sup>76</sup> For example, in 2010, searches in the office of Dront and seizure of documents and computers were conducted by law enforcement bodies on grounds to find classified information. This information was not found and the documents and computers were returned to the owner. Interview 11.

<sup>77</sup> Information available at <http://ewnc.org/node/11417>, <http://ewnc.org/node/13497>, the last access on 12/10/2014.

<sup>78</sup> Interview 6.

<sup>79</sup> Interview 11, 20.

discuss current environmental issues with him: ‘Who are they? What can they do especially in these situations when even the state agencies do not have enough resources, for example, to conduct environmental impact assessment?’<sup>80</sup> The same state officials noted that more capable international ENGOs are not able to be involved in solving every environmental local problem considering the sheer number of these problems and the size of the country. Therefore, performance legitimacy claims of small domestic ENGOs are challenged by their limited capacities.

In addition to the challenges for ENGO legitimacy placed by the state and the limited capacities of regional/local groups, the activities of domestic ENGOs are often not known by the broader public, as demonstrated by the abovementioned opinion polls. The accountability measures established by the legislation to the smaller domestic ENGOs without funding from abroad are less demanding—these ENGOs use simplified reporting forms and can be regarded a positive change in the legislation. As a result, domestic ENGOs, for example, Ekovahta on Northern Caucasus, ‘Rozovyy Oduvanchik’, and Russian Green League, do not provide full detailed reports on their activities in terms of their performance accountability in one consolidated document. This information has to be sought in open sources, such as the Internet, their websites, newspapers and publications. Information on their funding and expenditure is difficult to find and analyse in open sources.

Therefore, it can be concluded that compared to international ENGOs operating in Russia, domestic ENGOs are less transparent in their activities and funding<sup>81</sup> and accountability to the public. This undeveloped downward accountability can be explained by a lack of professional capacities and financial resources to publish and distribute relevant information on their operation and low culture of social accountability to the public. The negative effects of foreign funding for legitimacy of the international ENGOs (discussed above) and the increase of formal accountability reporting to the state (discussed in Chapter 4) also induce regional domestic ENGOs to avoid full disclosure of information on their funding and use simplified reporting. Nevertheless, more transparency in their activities and better downward accountability on the funding and projects of Russian domestic ENGOs (in the forms of better explanations of their achievements in accordance with their missions and goals, publishing information on financial accountability, and connection with beneficiaries in open sources, such as the Internet and media) would increase their social legitimacy. Additionally, it would

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<sup>80</sup> Interview 21.

<sup>81</sup> Jakobson et al, above n 20, 25–26.



give them more credibility as environmental governors. This kind of training can be provided by bigger ENGOs, both international and domestic.

In summary, the cognitive legitimacy of domestic ENGOs is less problematic than for international ENGOs as they are closer to local communities through engagement with local environmental issues. These ENGOs are recognised as lawful actors of governance by the state bodies and society because of the existence of relevant legal regulations. Their work as local environmental experts and the emergence of public participatory bodies (e.g., Public Councils and Civic Chambers) allow them to maintain their legitimacy for all actors of governance, but particularly for the state. Strengths of legitimacy of regional and local ENGOs is their ability to be closer engaged with local authorities and communities in solving local environmental issues through ecological education, collaboration with local environmental agencies and departments, raising public awareness and mobilisation of people.

However, normative legitimacy of these groups for all legitimacy communities is challenged because of the constraints placed by local state authorities, limited capacities of domestic groups (insufficient funding, lack of staff and experts), insufficient information on their activities and performance accountability. The low social component of their work in terms of more active representation of the rights of local communities and weak performance accountability also have negative effects on their pragmatic legitimacy. Other common problems causing legitimacy deficit of ENGOs in Russia include low interest in environmental issues, undeveloped charitable and volunteering cultures and the predominance of the state as a key regulator. This forces ENGOs to maintain constructive relationships with regional authorities to be accepted as legitimate environmental actors.

## ***5. Conclusion***

This chapter has explored legitimacy of ENGOs through acceptance by the state, society and businesses, their capacities to achieve environmental outcomes and to motivate their compliance with environmental values. It can be concluded that legitimacy of ENGOs remains limited for all legitimacy communities in Russia because ENGOs can be recognised as legitimate actors only in certain areas of environmental protection by a limited number of environmental actors. The existence of public environmental organisations since Soviet times and current political regime, which formally recognises political pluralism, serves as a source for cognitive and normative legitimacy of ENGOs. ENGOs continue to maintain their

authority as legitimate actors in the area of environmental expertise, research and education for all legitimacy communities, but particularly for the state. This chapter has again demonstrated that the predominant regulatory role of the state, low public participation and low interest in environmental problems are the main challenges for ENGOs in Russia. As a result, ENGOs have to develop their legitimacy to create the motivation for compliance for different environmental actors in various areas of environmental governance. Acceptance of ENGO authority by the state and the public would enhance the agency of ENGOs in regards to strengthening their capacities to bring changes in the behaviour of other environmental actors towards aims of environmental protection. It would also make operation of ENGOs more effective in terms of environmental outcomes and resources used by an organisation.<sup>82</sup>

Considering legitimacy of two types of ENGOs in Russia, it can be noted that the main strengths and, at the same time, challenges for legitimacy of international ENGOs are their international reputation and foreign sources of funding which allows international ENGOs to act professionally environmental groups in the area of environmental research and expertise and public advocacy. These makes them independent actors from the Russia state actors and gives them more capacities and trust as they can bring a real change in behaviours of other actors in terms of positive environmental outcome. On the other hand, foreign funding and international networking also distances international ENGOs from the Russian society raising suspicions that they are pursuing the interests of foreign donors and may complicate their collaboration with the state bodies as ‘the state bodies would not collaborate with foreign agents’.<sup>83</sup>

Domestic ENGO are legitimate actor on the domestic and local level possessing local knowledge and expertise. Similarly, to the international ENGOs, strengths of legitimacy of bigger professional regional ENGOs lay in the areas of environmental expertise and raising public awareness on regional/local level. Another strong legitimacy claim has been made by these ENGOs in the ecological education. However, on the federal level, their capacities are limited and their efforts can stay unnoticed. Due to insufficient funding and low public support domestic ENGOs also network with international ENGOs and apply for foreign funding. As a result, both positive and negative sequences from foreign funding and collaborating can be applied on legitimacy of domestic ENGOs in a similar way with the international ENGOs. In other words, international ENGOs can be considered as more expert and professional organisations working at the bigger scale while the regional Russian ENGOs

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<sup>82</sup> Attack, see above n 19, 860.

<sup>83</sup> Interview 6.

work as local environmental experts in the sphere of the conservation of biodiversity and ecological education. Recently regional groups have started to emphasise their goals for protection of environmental and social rights and solving of current regional and local environmental issues,<sup>84</sup> however this grassroots component of their work remains low<sup>85</sup> and there is a need for its further development. Therefore, due to low pragmatic legitimacy in regards of the local public support and engagement with ENGOs, acceptance of these ENGOs by regional governments plays more important role than to international groups and they have to maintain their legitimacy through constructive relationships with the regional authorities in order to operate effectively.

In general, environmental expertise and knowledge, ecological education, to some extent constructive relationships with local authorities and raising public awareness can be regarded as strong sides of domestic ENGO legitimacy in Russia. The main weaknesses in terms of legitimacy of domestic ENGOs in Russia include insufficient funding and low public support. A lack of broad public support can be explained by the prioritising of the expert functions over representing and defending rights of people on the safe and healthy environment by domestic professional ENGOs, insufficient funding and undeveloped performance accountability of all domestic groups. Small numbers of constructive interactions with businesses are also signs of a lack of ENGO legitimacy for businesses in Russia.

Given the Russian political, social and economic context, both types of ENGOs have been trying to build their legitimacy and overcome legitimacy deficit through claiming their legitimacy through constitutional, justice, and performance claims. Their constitutional claim is expressed through compliance with the legal requirements on registration and reporting to the state controlling bodies in order to gain rights of legal entities. This legal validity makes ENGOs legitimate actors with a broad range of rights and responsibilities in the relationships with the state and business and gives them more credibility in the society (constitutional claim). However, ENGOs may use different types of revolutionary strategies to draw attention of people to environmental issues and their activities do not always comply with the law, which can accordingly bring the attention of the mass media. Through this kind of activities, ENGOs can demonstrate their independence from the state and business and gain more legitimacy among certain members of community (e.g. people in opposition to the government or negatively affected by industrial development local communities). However,

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<sup>84</sup> Interview 26

<sup>85</sup> O. Alekseeva, 'Commentary on Jakobson and Sanovich: The Challenging Landscape of the Russian Third Sector' (2010) 6(3) *Journal of Civil Society* 307, 311.

currently, non-compliance ENGOs with the law requirements undermines public acceptance and trust in ENGO purposes in Russia. In addition, violent confrontation with state law enforcement bodies may work as the intimidation factor causing decrease in the public support for ENGOs, as demonstrated by examples of actions of Khimkinsky Forest movement and Greenpeace in the Russian Arctic.

ENGOs in Russia similar with ENGOs everywhere in the world base their normative legitimacy through justice claims declaring the protection of the nature and biodiversity, defending rights of people on environmental and health safety and promoting sustainable development as main purposes of their existence and operation.

The most common way for ENGOs to develop their legitimacy is claiming their authority through performing a range of function aimed to certain group of actors, for example, environmental expertise for the state, direct and legal actions and ecological education for the public environmental certification of products for businesses. Therefore, in a process of building their legitimacy ENGOs can be recognised as legitimate by one group of actors and sacrifices it for another. For example, collaboration with the state gives more legitimacy for ENGOs as strengths and confirms their abilities to act as environmental experts. At the same time, this 'given from above legitimacy' may cause suspicions in corruption and undermine credibility of NGOs as autonomous actors in the eyes of the numerous groups oppositional to current political regime. There are always tradeoffs between legitimacy claims for different communities. Radically oriented ENGOs may enter in constructive relationships with the state (e.g. to become a member of a Public Council under the state agency relevant to ecology), more collaborative ENGOs may organise direct actions (e.g. against construction of polluting plant) or support protests of other ENGOs.

In order to overcome this problem ENGOs, particularly, domestic groups should enhance their downward accountability by making information on their activities and their outcomes more transparent and accessible following the practices of international groups. The study of information on activities and reports of international and regional domestic ENGOs demonstrated that international ENGOs are more transparent and accountable in their funding and activities. Although, as discussed above, foreign funding have both negative and positive impacts for their legitimacy these ENGOs are less vulnerable to accusation in non-compliance with the NGO law reporting requirements. The transition to simplified reporting undertaken by many regional domestic ENGOs (see chapter 4) have increased their capacities to carry out their primary functions of environmental protection, but worsen their performance and

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financial accountability for society. Improving performance accountability in terms of better access for the public on their activities can also enhance their normative and pragmatic legitimacy making their values and outcomes of activities more understandable and, therefore, accepted by the public.

Further, both international and domestic ENGOs should make more effort to gain trust and support from local communities through focusing on solving local issues, becoming more socially oriented (e.g., representing and defending the rights of people to healthy and safe environments), meeting needs and expectations of people using different strategies, such as raising public awareness on environmental issues, ecological education, legal aid on environmental issues and defending of public interests in state bodies and courts. This would become a key factor in avoiding capture by the state and maintaining their autonomy.<sup>86</sup> The latest development of the digital communications can help ENGOs to promote their purposes and environmental outcomes of their work. Further consolidation and networking of ENGOs may play a crucial role in ‘repairing’<sup>87</sup> their legitimacy and increasing social trust in ENGOs, as it would enhance capacities of small domestic groups.

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<sup>86</sup> Henry, see above n 37.

<sup>87</sup> Black, see above n 6.

## Chapter 8. Towards effective ENGO participation in Russia

### 1. Overview of the chapters

Changes in the roles of ENGOs in governance and their broadening engagement with the state and business have raised theoretical debates on ENGO agency, including their capacities and legitimacy to carry out more governance functions. This thesis explored changes in the roles of ENGOs and implications of these changes for environmental governance in contexts different from Western democracies' political domains, particularly Russia, which features strong centralised governance and weak civil society.<sup>1</sup> This thesis revealed that ENGOs have expanded their roles in environmental governance in Russia. However, this broader role of ENGOs in environmental governance has also been hampered by increased accountability measures and state control.

The study relied on the ESG theoretical approach, which studies changes in the agency beyond the state (capacity to excise power and to make steering decisions) and of the state.<sup>2</sup> It focuses on changes in ENGOs' agency, in their legitimacy, accountability and capacities to exercise agency in environmental governance in Russia. This chapter briefly summarises the previous chapters before drawing together findings to identify principles for enhancing ENGOs' agency as environmental governors.<sup>3</sup> In doing so, this chapter answers the research question: *do ENGOs have agency in environmental governance in Russia and what are the conditions for their agency?* The chapter then reflects on the thesis findings and its implications for theory in understanding the relationship between all environmental actors, namely ENGOs, the state and businesses and the changing agency of states and ENGOs.

This thesis has analysed, across five chapters, the operation of ENGOs and how they adjust their work in the context of continued changes in governance and legal regulations in Russia. Analysis drew on various perspectives, including ENGOs' historical development (Chapter 3), the impact of changes in the legal framework for NGOs in Russia (Chapter 4), comparisons with other countries (Chapter 5), strategies of influence on relationships with

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<sup>1</sup> L. Henry, *Red to Green: Environmental Activism in Post-Soviet Russia* (Cornell University Press, 2010), 22, 43–45; J. Crotty, 'Making a Difference? NGOs and Civil Society Development in Russia' (2009) 61(1) *Europe-Asia Studies* 85, 87.

<sup>2</sup> F. Biermann et al, 'Earth System Governance: A Research Framework' (2010) 10(4) *International Environmental Agreements: Politics, Law and Economics* 277; E. Dellas, P. Pattberg and M. Betsill, 'Agency in Earth System Governance: Refining a Research Agenda' (2011) 11(1) *International Environmental Agreements: Politics, Law and Economics* 85.

<sup>3</sup> Biermann et al, see above n 2; M. M. Betsill and E. Corell, *NGO Diplomacy: The Influence of Nongovernmental Organizations in International Environmental Negotiations* (The MIT Press, 2008).

other environmental actors (Chapter 6), and ENGO legitimacy and accountability in the light of the recent increase in state control and accountability measures (Chapter 7).

The analysis of ENGOs in Russia commenced in Chapter 3 by exploring the history of their emergence as scientific conservation groups, further development and interactions with the state and society in the Soviet Union and, later in Russia, as an independent state. The historical study in Chapter 3 revealed that contemporary ENGOs operate in different legal and institutional arrangements (with broader rights, funding and management) to their Soviet predecessors. However, the Soviet legacy still influences the role of ENGOs and shapes their strategies and relationships with the state and business and partly explains an ecologically-professional rather than grassroots character of some contemporary ENGOs, traditional collaboration with the state, marginalisation of ENGOs from the public and the rare use of environmental litigation, particularly in defending social rights of people.

Chapter 4 outlined key issues of the NGO law in Russia. It showed that ENGOs with funding from abroad are the main targets of expanding state accountability control in Russia. The vague legal definitions of ‘political activity’ bestow law enforcement bodies with extensive governmental control over all NGOs, and enable selective implementation against ‘undesirable’ groups. This demonstrated that despite the introduction of certain legislative participatory mechanisms and weakening reporting requirements for domestic ENGOs, the state intends to strengthen control over NGOs.<sup>4</sup>

Nevertheless, as the comparative study of comparable accountability requirements and some limitations of political activities in the NGOs laws of the Western countries, Russia and Post-Soviet countries (Chapter 5) showed, the Russian Government’s direct reference to Western laws in regards to NGO accountability and certain limitations of their political activities holds some weight. However, Russian changes in legislation are more closely related to similar provisions in the NGO law in other Post-Soviet countries.

The regulatory approaches used by the discussed Post-Soviet countries, including Russia and the Western countries, were different. The Western countries used ‘soft’ economic approaches, not providing tax benefits and other state support for political active NGOs. Although the definition of political activities remains a highly debated issue, public advocacy

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<sup>4</sup> J. Crotty, S.M. Hall and S. Ljubownikow, 'Post-Soviet Civil Society Development in the Russian Federation: The Impact of the NGO Law' (2014) 66(8) *Europe-Asia Studies* 1253.

of NGOs and participation in policy implementation are not considered political activities, unlike more direct involvement, for instance, direct NGO support of political parties.

In contrast, in Russia, the state regulates NGO operation using a 'hard' administrative approach, creating a special legal regime for foreign-funded NGOs through additional, complicated accountability procedures for public actions, strict sanctions for their violation, and other measures (e.g., selective registration of NGOs, mandatory registration of foreign grants in other Post-Soviet countries). This 'hard' regulatory approach was evidenced in NGO regulations of other Post-Soviet countries, such as Azerbaijan, Turkmenistan, Uzbekistan, Kazakhstan and Belarus. This can be partly explained by the local political and organisational culture, the historical legacy of the Communist regime and current authoritarian governments.<sup>5</sup> The existing complicated, restrictive and unclear laws for NGO and their selective implementation allow the authorities to interpret the law in accordance with their goals and NGOs can be easily manipulated and closed down if they become too radical and oppositional.<sup>6</sup> The use of soft economic tools remains limited in Russia and the other Post-Soviet countries.

The study of strategies employed by ENGOs to become environmental agents (Chapter 6) confirmed that ENGOs changed mostly externally in regards to their numbers, organisational forms, funding and legal ability to employ a broader range of strategies.<sup>7</sup> Unlike Western democracies, where reformative strategies with the state and business are considered a means to supplement adversarialism with cooperation,<sup>8</sup> in Russia these strategies are traditional methods and necessary conditions for normal ENGO operation. The current political regime, the history, the undeveloped and resourced-based economy, the NGO law and the weak judicial system explains the limited range of strategies employed by ENGOs, including public actions, and litigation and strategies aimed at direct interactions with businesses (e.g., negative publicity, green certification). The findings demonstrated that positive developments were occurring in networking and cooperation strategies between ENGOs. This was shown to be a strategy that has broadened their capacities and strengthened other their strategies,

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<sup>5</sup> S.E. Mendelson and J.K. Glenn (eds), *The Power and Limits of NGOs: A Critical Look at Building Democracy in Eastern Europe and Eurasia* (Columbia University Press, 2002)

<sup>6</sup> I. Otto, A. Shkaruba and V. Kireyev, 'The Rise of Multilevel Governance for Biodiversity Conservation in Belarus' (2011) 29 *Environment and Planning C: Government and Policy* 113, 123.

<sup>7</sup> Henry, see above n 1.

<sup>8</sup> N. Gunningham, 'Environment Law, Regulation and Governance: Shifting Architectures' (2009) 21(2) *Journal of Environmental Law* 179, 196–197; P. Glasbergen, F. Biermann and A.P.J. Mol (eds), *Partnerships, Governance and Sustainable Development: Reflections on Theory and Practice* (Edward Elgar Publishing Limited, 2007). S. Nysten-Haarala and J. Kotilainen, 'Institutions, Interest Groups and Governance of Natural Resources in Russia' in S. Nysten-Haarala (ed), *The Changing Governance of Renewable Natural Resources in Northwest Russia* (Ashgate, 2009) 9.



including both revolutionary (e.g., litigation, public protests and other direct actions) and reformist (e.g., ecological research, collaboration with the state and other NGOs).

Agency of ENGOs can be enhanced if they are perceived as legitimate actors of governance by other actors. In the absence of the power of coercion and limited resources, ENGOs have to develop their legitimacy to create the motivation for compliance for diverse environmental actors to achieve environmental outcomes. The results of Chapter 7 showed that, in general, legitimacy of ENGOs remains limited in Russia. The findings from this study suggest that the low public environmental interest in, and support of ENGOs, the predominant role of the state and the limited resources of ENGOs are main obstacles for their legitimacy. The state also creates negative impacts for the legitimacy of foreign-funded ENGO by accusing them of a betrayal of national interests and representing the interests of foreign states and businesses.

At the same time, ENGOs continue to make attempts to claim their legitimacy for different legitimacy communities. Commonly, ENGOs combine different legitimacy claims to embrace broader legitimacy communities and to maintain normal relationships with the state. However, ENGOs can be recognised as legitimate by one group of actors and sacrifice their legitimacy for another. Therefore, there are always tradeoffs between legitimacy claims for different communities.<sup>9</sup> Internationally-based groups build their legitimacy relying on their international networking and funding, which increases their capacities and maintains their independence from the Russian state. However, foreign funding is also a reason for their isolation from the Russian public, which doubts the aims of these ENGOs. Domestic ENGOs are more dependent on regional state authorities, but their proximity to local environmental problems and closer engagements with local communities are the main sources for claiming legitimacy. Legitimacy of ENGOs can be also enhanced through transparency of their activities and better accountability to the public.<sup>10</sup> In general, international ENGOs in Russia are more accountable for their funding, spending and outcomes of their work.

In summary, the main factors that still shape conditions of ENGO engagement in environmental governance include the Soviet legacy, the strong state control over NGOs, influence of international and Western policies and legislation, the priority of economic development over the environmental protection and weak civil society in Russia.

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<sup>9</sup> J. Black, 'Constructing and Contesting Legitimacy and Accountability in Polycentric Regulatory Regimes' (2008) 2(2) *Regulation & Governance* 137, 157.

<sup>10</sup> Ibid.

Given all challenges of operation of ENGOs, the next section of this chapter will introduce principles for ENGOs' agency in environmental governance and recommendations on their establishment. The third section of this chapter will discuss implications of the findings on theoretical debates arising from further engagement of ENGOs in environmental governance. The main purpose of this section is to determine issues of ENGO agency and insights on the roles of ENGOs in countries different from Anglo American and European jurisdictions. Finally, there will be general concluding remarks, including limitations of this study and main possible areas for future research.

## ***2. Principles for ENGO agency in Russia***

According to the ESG theoretical approach, environmental issues and norms are overarching and crosscutting.<sup>11</sup> This research on ENGOs in Russia argues that today, due to their expanded roles, ENGOs face similar challenges in different countries, which include increase in accountability demands, restrictions of political activities, limited resources and legitimacy deficit. However, in Russia these challenges take extreme forms, which can be explained by the dominating role of the state and authoritarian style of governance, weak public support of NGOs and the priority of economic development. Therefore, the study of issues of ENGOs' operation in Russia and consideration of the interactions<sup>12</sup> between these issues (e.g., between legitimacy and accountability relationships, independence and collaboration) has contributed to our understanding of common and potentially generalisable issues and principles arising from engagement ENGOs in environmental governance.

The main principles that would help to foster ENGOs' agency in Russia include (i) legal frameworks that enhance capacities of ENGOs to exercise power; (ii) preference of 'soft' mechanisms over 'hard' administrative in regulating ENGOs; (iii) greater and more diverse sources of funding; (iv) transparency and accountability of ENGOs directly to civil society; (v) increased collaboration and networking of ENGOs; and (vi) enhancing public awareness about environmental problems and the role of ENGOs.

While many of these principles overlap, they are all central to enhancing the agency of ENGOs. The following discussion outlines each of these principles in more detail.

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<sup>11</sup> Biermann et al, see above n 2, 282.

<sup>12</sup> Ibid, 291.

***1. Legal frameworks that enhance capacities of ENGOs to exercise power.*** One of the main principles for ENGO operation is explicit legal regulations that meet necessary accountability requirements in a way that enables ENGOs to exercise power as environmental governors. As seen all the chapters, the Russian NGO law acts to constrain heavily the capacity of ENGOs by controlling their funding and activities (Chapter 4), constraining their strategies (Chapter 6), and undermining their legitimacy and increasing the reporting burdens of foreign-funded ENGOs (Chapter 7). Each of these issues arose from the Russian state's attempt to secure greater control over ENGOs and ensure their accountability. However, the net effect of this was to constrain drastically the capacity of ENGOs to exercise agency as environmental governors.

Given this, enhancing ENGOs' agency will require more balanced legal frameworks that can still ensure accountability, while ensuring a sufficient scope for ENGOs to exercise their power/capacity. Ensuring this scope requires attention to a suite of specific issues within NGO legal frameworks. First, findings from this study suggest that a better legal framework for ENGO operation would recognise and support the non-commercial and non-governmental nature of these organisations. The importance of this was clearly demonstrated in Chapter 4, where it was argued that laws only provide limited tax benefits to ENGOs (e.g., tax laws do not contain provisions on federal tax deductions for companies and businessmen registered as legal entities for donations to NGOs), which constrained funding and public support. Recognition needs to be given to the non-commercial character of ENGOs, including ensuring that NGO law impart economic benefits that assist NGOs. This could include the types of benefits for volunteers and businesses in Western countries (discussed in Chapter 5) that assist ENGOs to receive greater participation and support. Further, these benefits must be integrated across all relevant legal regimes (e.g., NGO, tax and volunteering), otherwise they are unlikely to be effectively implemented or enforced (as seen in Chapter 4).

Second, legal frameworks must contain specific (rather than general) definitions about regulated ENGO activities and funding. Regulating ENGOs through classifying their activities as 'political' or 'foreign' can impose higher reporting requirements, state oversight and accountability. Such measures are often considered essential parts of NGO legislation, not least because they ensure transparency and public accountability. However, imprecise and broad definitions can also be exploited by enforcement bodies to control NGO activities and generally undermine ENGOs' legitimacy. As noted in Chapter 4, the use of broad classifications such as 'foreign agent' and 'political activities' gave broad scope to law enforcement bodies to wield extensive control over ENGOs' activities. This included

enforcement agencies taking selective action against a wide range of ‘undesirable’ ENGOs to impose burdensome reporting requirements. Similarly, in Chapter 6, it was noted that even if agencies did not go to such extremes, the broad definitions in the NGO law weakened ENGO legitimacy by stigmatising foreign funding sources.

Preventing these problems requires clear and more constrained definitions of terms such as ‘political activities’. An illustration of the type of clarity and specificity needed was given in Chapter 5, through its analysis of Australian and UK laws, where only direct forms of NGO engagement in politics, such as financial support of political parties or professional legislative lobbying, are considered ‘political activities’.

Third, legal frameworks must establish rights of access to information and public participation in environmental decision making and procedures for enforcement of these rights in a simple and straightforward way. Again, the need for these rights was evidenced by the failure of current Russian legislative frameworks to enable their realisation. For instance, as outlined in Chapter 6, the rights of NGOs to participate in environmental decision making were severely constrained by the lack of formal procedures for recognising results of public environmental expertise conducted by ENGOs. Open access to all relevant environmental protection information is a key condition for ENGO agency. This is because it can enhance their capacities to conduct ecological research and environmental monitoring, to raise public awareness, represent and defend the interests of the public and to fulfill other functions in order to achieve their goals. One way to overcome these challenges and improve legal frameworks would be to ratify the Aarhus Convention,<sup>13</sup> as it contains provisions on mandatory inclusion of relevant norms and procedures on the rights of access to information and public participation in legislation.

While these three key areas are fundamental to empowering ENGOs as environmental agents, they are also central to achieving many of the other principles discussed below, not least because they form the overarching legal architecture for ENGO agency. Further recommendations on reforming NGO law in regards to better inclusion of ‘soft’ regulations, improving grant regulations and encouraging volunteering are discussed below.

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<sup>13</sup> The The United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, 25 June 1998 Aarhus (Denmark), in force 30 October 2001.

**2. Preference of soft economic regulations over hard administrative tools in regulation ENGOs.** The next step in reforming the NGO law should be better use and enforcement of the indirect ‘soft’ economic regulations of NGOs, such as tax tools, common for the Western countries. Findings indicate that Russian legislators have attempted to include economic mechanisms in the regulation of ENGOs through the inclusion of tax privileges for NGOs in tax laws and the establishment of ‘socially-oriented’ NGOs. This is similar to the Western practices on ‘charities’ or ‘public beneficial organisations’, with an additional support of the state through the system of grants and tax benefits. Potentially, this would create conditions for using ‘soft’ regulations and would enhance realisation of the principles of diverse funding and would foster more effective work of ENGOs.

The first steps have been done by enforcement of the law on volunteering (e.g., tax benefits, additional days off or a paid leave for volunteering) and increase in state funding. However, even more legislative and law enforcement efforts promoting volunteering, supporting of civil initiatives should be undertaken by the state and ENGOs.

**3. Greater and more diverse sources of funding.** This is another important principle for ENGO agency. Sufficient funding is a fundamental principle for ENGO operation and achievement of their purposes. Further, sources of funding should be diverse in order to enhance legitimacy of ENGOs as well as limit risks of state and business capture.

The importance of sufficient levels of funding was implied across many of the chapters by the evident inadequacy of available monetary support for ENGOs. For instance, state support to domestic ENGOs was found to be very limited (see Chapter 4), which reduced the effectiveness of their strategies of influence (as discussed in Chapter 6), and in turn negatively affected their legitimacy (as discussed in Chapter 7). Of course, the need for more funding for ENGOs is widely recognised in the literature.<sup>14</sup> However, the findings suggest that without it, ENGOs will at best remain weak environmental governors, exercising agency in only selected areas (e.g., biodiversity), with limited broader strategies of influence and legitimacy.

While there is a need for greater funding, enhancing ENGOs’ agency also depends on funding being obtained from diverse sources. In part, this is for pragmatic reasons. As discussed in Chapter 4, domestic funding is often too small and too difficult to obtain, so there is a need

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<sup>14</sup> Henry, see above n 1, 56–58, 134.

for drawing in vital funding from other sources.<sup>15</sup> Beyond practical reasons, there is also a need for diverse funding to avoid reliance on a single funder, which can quickly undermine the legitimacy of ENGOs. For example, as discussed in Chapters 4 and 7, Greenpeace Russia and WWF Russia are fully funded from abroad. This makes them independent from the state, but distances them from the Russian society because they may be considered as organisations representing interests of the foreign states (Chapter 7). A similar challenge to legitimacy was also evidenced in Chapters 5 and 7, however here it was a growing reliance on *state* funding. While difficult to obtain, the foreign agent classification under the NGO law is increasingly driving ENGOs to rely solely on state funding sources.<sup>16</sup> Of course, different ENGOs may use different ways to demonstrate their independence from the state or businesses, for example, opposing and demonstrating their disagreement with certain state policies through mass media and public actions, such as demonstrations, rallies, through refusing of donations, or demonstrating transparency of their funding and spending and others. However, the findings from Chapters 4 and 7 demonstrated that considering the recent increase of state control over foreign-funded NGOs, increases in state funding and control suggest state capture is a main threat to autonomy of domestic ENGOs.<sup>17</sup>

By diversifying funding, such risks can be diffused. However, a challenge for diversification is that legal frameworks (like those in Russia) can discourage such diversification, by stigmatising foreign funding sources, and not encouraging public or business donations. Overcoming this challenge will accordingly require implementing the recommendations outlined under the other principles (principle 1, 2 and 6). Even so, ENGOs should, as a matter of principle and practice, develop strategies to rely on diverse financial sources, including state funding, but also generate their own income (through publishing ecological newspapers or working as ecological experts<sup>18</sup>), accessing private donations, which are extremely limited in Russia, and seeking out foreign funding.

In order to strengthen the principle of the greater and more diverse forms of funding, there is also a need to reform provisions of the NGO law on ‘foreign agents’ as discussed above. Otherwise, the extensive accountability requirements for NGOs with foreign funds and a chance to be registered as NGOs—‘foreign agents’—with questionable legitimacy would cause a possibility of avoidance by domestic NGOs to report on foreign funds (e.g., receiving

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<sup>15</sup> Interview 9, 11.

<sup>16</sup> Albeit that some are finding creative ways around this problem, such as hiding foreign income. See Chapter 4.

<sup>17</sup> Currently, reliance on private interests is less likely as result of mostly confrontational relationships between businesses and ENGOs and low businesses support of ENGO sector (Chapter 7).

<sup>18</sup> Interview 12.

a foreign support in cash or through establishment of special commercial firms for financing NGOs or creating other illegal ways). It would also cause tightening of the state control and sanctions for this, as demonstrated by the last changes in NGO law in Azerbaijan (Chapter 5).

**4. *Transparency and accountability directly to civil society.*** Although the agency of ENGOs is constrained by state laws and actions, ENGOs can also undermine their own agency through being non-transparent in their actions and funding sources. This was primarily an issue for smaller domestic ENGOs,<sup>19</sup> as seen in Chapter 4, while their simplified reporting allowed them to focus on more their primary goals. This also meant that their activities and funding sources were not always publically available. Further, their websites, with few exceptions (e.g., Dront), contain no or only partial information on their projects, outcomes of these projects and funding/spending. It also means that public access to and awareness of the work of ENGOs is very low, which can limit accountability.<sup>20</sup> Together, these issues also negatively influence the legitimacy of smaller domestic ENGOs, by making them vulnerable to possible doubts about their motivations, goals and interests.

Of course, there are notable risks associated with greater transparency in contexts such as Russia. As discussed in Chapter 7, disclosure of information on funding can allow the state to manipulate the legitimacy of NGOs by casting doubt about their purpose. However, the benefits of transparency arguably outweigh these risks, because with greater transparency and accountability, ENGOs will arguably be able to demonstrate to civil society the outcomes and actions that they have contributed to environmental protection. Doing so is vital in contexts such as Russia where public support for ENGOs is low and there is a need to build broader legitimacy with civil society (Chapter 7). Without this, a core component of ENGOs agency will remain starved.

**5. *Increased collaboration and networking of ENGOs.*** There is no doubt that independence and direct and legal actions are important tools for ENGOs in achieving their goals and securing their autonomy. At the same time, collaboration and networking offer new opportunities to obtain more resources and influence environmental policies and outcomes. As seen in Chapters 6 and 7, ENGOs have attempted to develop collaborative relationships with state, businesses, other ENGOs and non-governmental actors in forming environmental policies, their implementation and control over this implementation. Indeed, despite a range of adversarial relationships existing between the state and ENGOs (see Chapter 6), successful

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<sup>19</sup> Certainly, internationally-based ENGOs appear more likely to distribute information on their activities, funding and spending. However, even smaller domestic groups are less transparent.

<sup>20</sup> 'Report on the State of Civil Society in the Russian Federation 2010' (Civic Chamber of the Russian Federation, 2011), 6–10.

collaboration is common between these two actors in many instances. The history of consulting, educational and research-based Soviet environmental groups, combined with the predominance of state power, has produced a number of constructive relationships between the state and ENGOs. For instance, as discussed in Chapter 6, ENGOs fill gaps in environmental governance in Russia thorough supplementing state environmental protection functions (e.g., additional research and monitoring, conducting public EIA and others) or even fulfilling these functions (e.g., certification in forestry and fishery industries).

However, there is still significant room to improve, including enhancing the independence and capacity of state environmental agencies, as well as enhancing collaboration on joint environmental programmes and partnerships (as discussed in Chapter 6). In addition, there are two more fundamental areas for improving collaboration, namely relationships between ENGOs and business, and international and domestic ENGOs. In terms of the former, collaborative relationships with businesses as another important non-state environmental actor<sup>21</sup> through product certification, positive publicity, promoting the concept of CSR offer significant untapped opportunities for ENGOs to make businesses more environmentally responsible<sup>22</sup> (as discussed in Chapters 6 and 7). In terms of the latter, there is also room to expand collaborative relationships between ENGOs. Certainly, these relationships are increasingly replacing previous adversarial ones and enhancing capacities of international and domestic ENGOs. However, as argued in Chapters 6 and 7, there is a need for greater levels of cooperation. Some useful models of these types of collaboration, and the resourcing and legitimacy benefits that can be achieved, were identified in Chapter 6. This included smaller domestic groups participating in projects of bigger international ENGOs, such as Greenpeace and WWF Russia. Bigger groups provide financial and professional support for domestic groups, including legal and professional training.<sup>23</sup> As follows from Chapters 6 and 7, collaboration with other actors (e.g. local authorities) is the most cost-effective and productive when different ENGOs and other actors pursue the same purposes and combine their recourses and efforts to achieve them.

The recent development of digital communication technologies has provided ENGOs with more opportunities for rapid and timely exchange of information between each other and other environmental actors, which would improve their communication, collaboration, and

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<sup>21</sup> K. Tienhaara, A. Orsini and R. Falkner, 'Global corporations' in F. Biermann and P. Pattberg (eds), *Global Environmental Governance Reconsidered* (MIT Press, 2012) 45.

<sup>22</sup> K. Bubna-Litic, 'Climate Change and Corporate Social Responsibility: The Intersection of Corporate and Environmental Law' (2007) 24(4) *Environmental and Planning Law Journal* 253, 280.

<sup>23</sup> Interviews 6, 23.



networking. Findings demonstrated that in Russia, digital technologies and social media play a great role in ENGO operation considering the vast size of country and diversity of environmental problems. Technology has improved their networking and collaboration, particularly between international and domestic ENGOs and ENGOs in different regions of Russia (Chapter 6).

A better implementation of this principle would enhance principles 4 and 6 through helping ENGOs to be more directly transparent and accountable to civil society and raise interest in environmental problems.

Finally, perhaps one of the most promising avenues for enhancing collaborative relationships between all actors (ENGOs to ENGOs and other NGOs, ENGOs to business and ENGOs to state) is public forums (Civic Chambers and Public Councils). Although they were found to be largely tokenistic and consultative in nature, these forums hold significant promise in creating sustained opportunities for dialogue between diverse actors, and for raising the profile of environmental issues. Such benefits have a great potential for enhancing ENGO agency. However, achieving this will require institutional reform, outlined in Chapter 4, including greater power to make binding decisions in these collaborative institutions, and the provision of detailed feedback. Moreover, ENGOs will also need to enhance the work of these institutions through more active engagement in meetings and control for implementation of their decisions. This would improve the principle of collaboration.

#### ***6. Enhancing public awareness about environmental problems and the role of ENGOs.***

ENGOs cannot rely on the power of coercion (as with state actors) and are not able to financially motivate other actors to participate in their projects and programmes (as with businesses).<sup>24</sup> ENGO authority and capacities to influence behaviour of other environmental actors are mainly grounded on public interest in environmental issues, awareness of their importance and willingness of other actors to support ENGOs and be involved in environmental protection. Therefore, authority of ENGOs depends on their knowledge, experience, reputation and abilities to represent and defend public environmental interests. Without acceptance and active public support, ENGOs cannot be considered authoritative actors of governance.<sup>25</sup>

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<sup>24</sup> Black, see above n 9, 146–147.

<sup>25</sup> Ibid, 147.

In Russia, the most well-known strength of ENGOs is their scientific and expertise functions,<sup>26</sup> which have been traditionally carried out since the emergence of the first environmental groups in the USSR (see Chapter 3). However, as described in Chapters 6 and 7, there is an ongoing lack of public interest in environment issues, which has negatively affected ENGOs. Indeed, data from the recent reports demonstrated that the public was not interested enough to be engaged in environmental governance either directly or indirectly through the support of ENGOs or their activities.<sup>27</sup> This undermines legitimacy and limits capacities of ENGOs.

Resolving this challenge is unlikely to be something that ENGOs can take on alone. For example, as discussed above, a number of legislative measures are needed to encourage people and businesses to volunteer and support ENGOs activities. Even so, given the centrality of public awareness to their agency, ENGOs can and should aim to play a significant role in advancing knowledge about environmental problems and the role of ENGOs. This could include further development of educational programmes on ecology (e.g., Dront's activities on school ecological education), developing projects and programmes of social character aimed at involving people in public ecological control (e.g., Green League) and representing and defending public interests in the courts and state bodies. As seen in Chapter 6, the latter poses significant difficulties because ENGOs in Russia are mostly focused on environmental research rather than environmental litigation. However, ENGOs can and should develop closer ties with society by responding to people's needs for safe and healthy environments, through representing and defending their rights and fighting against violations of these rights in courts and other state bodies. To do this, greater collaboration (see principle 5 above) is needed between ENGOs, such as legal training offered by Greenpeace (see Chapter 6). As demonstrated by the experience of other countries,<sup>28</sup> participation of ENGOs in environmental litigation would increase a number of judicial decisions on environmental cases, improving and shaping environmental law implementation, and would better develop ENGO agency.

To conclude, all these abovementioned principles for agency of ENGOs and recommendation are overlapping, interdependent and work together. The legal frameworks that enhance capacities of ENGOs to exercise power and better enforcement of their rights, set up by the laws, would include other principles, such as preference of 'soft' mechanisms over 'hard'

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<sup>26</sup> K. Wernstedt, 'Environmental Protection in the Russian Federation: Lessons and Opportunities' (2002) 45(4) *Journal of Environmental Planning and Management* 493, 508.

<sup>27</sup> 'Doklad o sostoyanii grazhdanskogo obshchestva v Rossiyskoy Federatsii za 2013 god [Report on the State of Civil Society in the Russian Federation 2013]' (Civic Chamber of the Russian Federation, 2013), 8, 10, 111.

<sup>28</sup> Bubna-Litic, see above n 22, 280.

administration in regulating ENGOs, greater and more diverse sources of funding, transparency and accountability of ENGOs directly to civil society, increased collaboration and networking of ENGOs and enhanced public awareness of environmental problems and the role of ENGOs. However, enforcement of these principles in Russia is weak and faces many difficulties. It should be also noted that these principles of ENGO agency can be also applied to ENGOs for improving their work in other above discussed Post-Soviet countries.

### ***3. ENGOs in Russia: empirical insights and theoretical contribution***

This section, relying on the findings, contributes to our understanding of theoretical issues of agency of ENGOs in governance debating in the literature.<sup>29</sup> This thesis identifies two key contributions to these issues. The first confirms and develops assumption on dependence of agency of ENGOs on a context.<sup>30</sup> The second contribution concerns theoretical issues: whether and how power of the state can be configured when non-state actors become agents of governance.<sup>31</sup>

The first contribution to theory relates to ongoing question about how and to what extent agency differs from culture to culture, and context to context. The answer remains unclear, although there have been studies on agency beyond the state in different contexts, particularly in the context of Western countries. The ways in which public, private, and civil society actors can gain authority to act and consent to govern have been also explored in the context of renewable energy governance in India,<sup>32</sup> carbon governance in Chile<sup>33</sup> and other developing countries.<sup>34</sup> There is still a need to examine more contexts and countries, particularly the Post-Soviet context.

While this thesis did not compare ENGOs in different cultures *per se*, its detailed qualitative, historical and comparative research was able to provide new insights on the agency of ENGOs in the Russian and Post-Soviet context. This examination has helped shed light on an understudied context that can help future comparisons of how conditions for ENGO agency differ in different contexts. In this regard, the thesis has shown that ENGOs' agency in such contexts is limited by a strong state and weak civil society. The thesis findings confirm that

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<sup>29</sup> Biermann et al, above n 2; Dellas, Pattberg and Betsill, see above 2.

<sup>30</sup> Biermann et al, above n 2, 283; Dellas, Pattberg and Betsill, above n 2, 92.

<sup>31</sup> Biermann et al, above n 2, 283.

<sup>32</sup> E. Benecke, 'Networking for Climate Change: Agency in the Context of Renewable Energy Governance in India' (2011) 11(1) *International Environmental Agreements: Politics, Law and Economics* 23.

<sup>33</sup> T. Rindeljäll, E. Lund and J. Strippel, 'Wine, Fruit, and Emission Reductions: the CDM as Development Strategy in Chile' (2011) 11(1) *International Environmental Agreements: Politics, Law and Economics* 7.

<sup>34</sup> H. Fuhr and M. Lederer, 'Varieties of Carbon Governance in Newly Industrializing Countries' (2009) 18(4) *The Journal of Environment & Development* 327.

ENGOS can be considered environmental agents in the Russian polity in certain areas of regulations (e.g., biodiversity) where they possess legitimacy through expertise and community participation (Chapters 7 and 8).<sup>35</sup>

Nevertheless, ENGOS seek different ways to claim their legitimacy to steer and influence the actions of others. For example, they use ‘traditional’ actions of protest and lobbying against the Khimkinsky Forest highway, which sought to block policy decisions and actions of the Russian state.<sup>36</sup> Additionally, they attempt to make up for state omissions and weakness through litigation (Greenpeace Russia against MNR) and participate in public expertise of environmental laws (Greenpeace Russia, WWF Russia, Dront) (Chapter 7).<sup>37</sup>

As a result, the state explicitly recognised the authority, capacity and legitimacy of ENGOS as environmental agents and created new participatory forums to facilitate capacities of ENGOS as environmental experts. Similarly, ENGOS have stepped in as decision makers and implementers of national parks policy due to their expertise and capacity to respond to state omission.<sup>38</sup> Here, rather than actively seeking to block or undermine the state, ENGOS collaboratively work with governmental agencies strengthening the state environmental protection function by filling gaps in environmental governance<sup>39</sup> and making it more effective and responsible (Chapter 6).<sup>40</sup>

Although ENGOS clearly continue to shape decisions and actions over environmental issues in Russia, their agency is both threatened and limited by state policy and accountability measures. The NGO law and the recent attempt of its enforcement are evidence of the state response to growing agency of ENGOS as a result of the state’s belief that ENGOS can undermine formal political structure and challenge the state agency.<sup>41</sup> This increase in the state control is carried out through ‘hard’ administrative regulations, which can potentially weaken capacities of ENGOS by blocking access to foreign funding and constrain ENGO work through threats of inspections and excessive reporting. These laws stand as the biggest constraints to ENGOS’ agency. Another example of how the state can maintain control over

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<sup>35</sup> Dellas Pattberg and Betsill, see above n 2.

<sup>36</sup> K. Hochstetler, ‘Civil Society and the Regulatory State of the South: A Commentary’ (2012) 6 *Regulation & Governance*, 362, 367–368.

<sup>37</sup> Ibid.

<sup>38</sup> Dellas, Pattberg and Betsill, see above n 2, 93; Hochstetler, see above n 36, 364–369.

<sup>39</sup> Hochstetler, see above n 36, 366.

<sup>40</sup> P. Martin, J. Williams and A. Kennedy, ‘Creating Next Generation Rural Landscape Governance: The Challenge for Environmental Law Scholarship’ in P. Martin et al (eds), *Environmental Governance and Sustainability* (Edward Elgar Publishing, 2012) 46, 56–61.

<sup>41</sup> Hochstetler, see above n 36.

ENGOS follows the history of Russian ENGOS and the current situation in Russia and the Post-Soviet countries. In these cases, the state empowers ENGOS with a broad range of rights to participate in environmental governance but does not create legal mechanisms for enforcement of these rights (Chapters 4 and 6).

These abovementioned issues of ENGOS' operation in Russia are, to different extents, common for other Post-Soviet countries with authoritarian styles of governance. Generally, in countries with more authoritarian regimes, the state control over all NGOs is stronger. However, given the international character of environmental problems, roles of ENGOS on the international level,<sup>42</sup> and insufficient domestic funding for the environmental protection and for implementing international treaties and programmes on domestic level, the international and foreign ENGOS, projects and grants will not be completely prohibited or closed.<sup>43</sup> However, further increases of state control are more likely to occur.

Indeed, the findings demonstrated that the agency of ENGOS varies depending on the area of environmental governance, historical periods and political, legal and economic contexts, which can constrain or enhance the agency of ENGOS.

The finding of ENGOS as limited agents of environmental governance, leads to a second distinct but related issue of theoretical debates, namely how is the role of states reconfigured as non-state actors become agents.<sup>44</sup> As discussed in Chapter 2, there is little agreement on how and in what ways relationships between governments and civil society are in fact occurring.<sup>45</sup> For some, like Osborne and Gaebler, the state should primarily steer (goal setting), while civil society rows (implementation).<sup>46</sup> Others claim the state is 'progressive', involving an active state that shares both steering and rowing with civil society.<sup>47</sup> A third group identify a 'hollowing out of the state' where steering occurs through networks<sup>48</sup> or taking on the form of 'nodes'.<sup>49</sup>

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<sup>42</sup> Betsill and Corell, see above n 3.

<sup>43</sup> Otto, Shkaruba and Kireyeu, see above n 6.

<sup>44</sup> Biermann et al, above n 2, 283; Dellas, Pattberg and Betsill, above n 2, 91.

<sup>45</sup> C. Holley, N. Gunningham and C. Shearing, *The New Environmental Governance* (Earthscan, 2012).

<sup>46</sup> D. Osborne and T. Gaebler, *Reinventing Government: How the Entrepreneurial Spirit is Transforming Government* (New York, NY: Plume 1993).

<sup>47</sup> Holley, Gunningham and Shearing, above n 45.

<sup>48</sup> R.A.W. Rhodes, *Understanding Governance: Policy Networks, Governance, Reflexivity and Accountability* (Open University Press, 1997).

<sup>49</sup> C. Shearing and J. Wood, 'Nodal Governance, Democracy, and the New 'Denizens' (2003) 30 *Journal of Law and Society* 400.

This thesis finds that as ENGOs have achieved limited agency in environmental governance (as independent from the state environmental agents), there has been a related reconfiguration in the role of the Russian state. This was demonstrated by the state bringing in non-government actors through new inclusive civic forums, a broadening of collaboration to new implementation roles (Chapter 7), and the growing influence of ENGOs in environmental decision making. Through these mechanisms, ENGOs have taken on both steering and rowing roles. Certainly, some of these reconfigure roles are tokenistic (see Chapter 7), while others have seen ENGOs play strong roles in decision making and implementation (see Chapter 7, the discussion on forming of the climate change policy, on the work of ENGOs in conservation and biodiversity). At the same time, the state continues to steer environmental policy by establishing environmental policies and laws, as well as implement actions through setting and enforcing environmental standards, selecting state and non-state actors to work with and regulating their work.

In this sense, the thesis's findings resonate with ideas of states and non-government actors both steering and rowing<sup>50</sup> (rather than with the concept of hollowing out of states). However, the findings also suggest that such reconfiguration does not represent a complete break with traditional roles of state control. In many ways, this reconfiguration in the Russian context appeared conditional. As seen in Chapters 3 and 4, the broadening power of non-state actors was accompanied by more powerful state control over NGOs, which can be disguised as requirements of transparency, democracy and accountability. In doing so, the Russian state employed hard administrative approaches to control NGOs, particularly those who took actions or input into decisions that were not aligned with dominant state economic policy (Chapters 3 and 7). This suggested the reconfigured state remains strong, and that this strength can be both one that is used to give greater decision making and implementation power, but also take it away. This tendency of states to want to maintain control in reconfigured governance systems has been recognised in a number of theories.<sup>51</sup> However, often this control is exercised through softer forms (e.g., setting agendas and limiting consultation). What this study has shown, and what has been considered less in theory, is that such attempts at maintaining power or control can also take on much harder or menacing roles, in the form of threats to shut down ENGOs or inspect records.

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<sup>50</sup> Holley, Gunningham and Shearing, above n 45.

<sup>51</sup> N. Rose and P. Miller, 'Political Power Beyond the State: Problematics of Government' (1992) 43(2) *British Journal of Sociology* 173.

#### ***4. Further research***

To conclude, the thesis draws on its empirical research to shed some important light on ENGOs' role in environmental governance in non-Anglo American and non-European geographies. Key issues in this research include better understanding of the changing nature of authority in environmental governance; whether ENGOs can be considered 'environmental governors/agents' with legitimacy and capacity to 'steer' decisions and implement actions; and the ways in which different agents constrain or enhance each other's agency. The findings provide a number of initial insights on these issues to reveal a complex and dynamic relationship between ENGOs and other environmental governors, both complementary and conflicting.

While the thesis's empirical, historical and comparative study into Russian ENGOs has offered a range of insights into these issues, further research is still needed to expand the understanding of agency in environmental governance. Based on this study, three main areas of further research are needed. First, although the study has examined a range of different ENGOs, it recognises that its findings are limited to the ENGOs studied and period during which the research was conducted. This snapshot has revealed a number important insights into the agency of ENGOs in environmental governance, there is a need to test and confirm its findings through further examination of a wider range of ENGOs (e.g., from a broader mix of Russian regions), across an extended period of time. As discussed throughout the thesis, the relationships between ENGOs, civil society and the state are fluid. With the NGO law and the role of civic forums (e.g., Civic Chambers, Public Councils) maturing, there is a need for more longitudinal studies to understand the full impacts of this instrument on a broad range of ENGOs and their agency in Russia.

A second set of research issues that is needed emerged from the thesis analysis of ENGOs and their strategies as a means to exercise agency. While the thesis examined ENGOs' strategies in relation to communities and the state, it was not able to examine the relationship between ENGOs and businesses (in part, because these relationships remained at an early stage). It also did not examine whether strategies of ENGOS varied across different areas. Although the thesis examined ENGO strategies in areas such as biodiversity and expert roles of ENGOs in environmental decision making, it did not examine whether and how strategies operated in controversial areas, such as in nuclear power and toxic waste, and climate change (which are emerging or re-reemerging as key environmental issues).

Third, this thesis has adopted the concept of agency to examine the role of ENGOs in environmental governance. This has a number of benefits for the understanding of the context-dependent character of agency and means to exercise it. However, further work may be needed to refine the concept of agency. Much of the thesis findings suggest ENGOs have limited agency, at least gauged in the sense of their capacity and legitimacy to produce environmental outcomes and influence other environmental actors. However, the term ‘agency’ is widely used across the social sciences and humanities and could be defined differently (e.g., the capacity to act versus effectiveness in shaping outcomes).<sup>52</sup> Further work is needed to unpack fully the notion of agency to assist with both descriptive understandings of what ENGOs do in environmental governance as well as normative theories of how ENGOs can better improve environmental governance.

In summary, this thesis has provided some timely insights with regard to the role of ENGOs in environmental governance and their interaction with state and other environmental actors. It has advanced our understanding of the operation, strengths and challenges of ENGOs as environmental governors in Russia. However, it must be recognised that the conclusions and implications in this thesis are limited to the interviews and ENGOs from which they were drawn. Further, the role of ENGOs and state is constantly changing and shaping through ongoing interaction of numerous non-government and government actors.<sup>53</sup> While the comparative and empirical analysis of multiple ENGOs has allowed the thesis to explore a range of issues in practice, further interviews with government, business and other ENGOs are still important to test and confirm whether, or to what extent, its findings and implications hold for both Russian and broader contexts.

Nevertheless, ENGOs have a huge potential as environmental governors in Russia playing positive roles in forming and implementing environmental policies, in preventing environmental harm and in adapting to environmental change. Considering the size of Russia and the trans-boundary character of environmental issues, many of the environmental challenges confronting Russia will increasingly lie beyond the state. ENGOs in Russia will accordingly be needed to continue to play a key role in solving these complex environmental issues and contribute to decisions of emerging global environmental problems, including climate change and sustainable development. While ENGOs still face lot of challenges in playing this role, not least a controlling state and unsupportive civil society, there have been some positive indicators of expanding their roles in environmental governance in Russia.

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<sup>52</sup> Dellas, Pattberg and Betsill, above n 2, 94–95.

<sup>53</sup> Hochstetler, see above n 36.



There is still a hope that ENGOs as well as the Russian state will be able to learn lessons from their own successes and failures, from the experience of other countries and to respond to changes in environmental governance, enhancing each other's agency and making environmental governance more democratic and effective.

## References

### A Articles/Books/Reports

- Abdullaev, N., 'How Russia's NGO Law Stacks Up', *The Moscow Times* (Moscow), 15 February 2006
- Adams, M., 'Dimensions of Distinctiveness in Comparative Law' in M. van Hoecke (ed), *Methodologies of Legal Research* (Hart Publishing, 2011) vol 9, 236
- Adamson, F., 'International Democracy Assistance in Uzbekistan and Kyrgyzstan: Building Civil Society from the Outside?' in S.E. Mendelson and J.K. Glenn (eds), *The Power and Limits of NGOs* (Columbia University Press 2002) 177
- 'Adaptation to Climate Change in River Basins of Dauria: Ecology and Water Management' (WWF Russia, 2012)
- Albertie, C. J., 'Survey & (and) Critique of Russian Law & (and) Its Effect on NGOs' (2004) 2 *International Journal of Civil Society Law* 12
- Alcock, F., 'Conflicts and Coalitions within and across the ENGO Community' (2008) 8(4) *Global Environmental Politics* 66
- Alekseeva, O., 'Commentary on Jakobson and Sanovich: The Challenging Landscape of the Russian Third Sector' (2010) 6(3) *Journal of Civil Society* 307
- 'Altai-Sayan Ecoregion Conservation Strategy', 2013, available at <http://www.wwf.ru/resources/publ/book/eng/843>, the last access on 25/03/2014
- Amin, S. H., *Research Methods in Law* (Royston, 1992)
- 'Analysis of the Chart Prepared by the Ministry of Foreign Affairs of the Russian Federation Comparing Several Countries' Laws Regulating NGOs' (The International Center for Not-for-Profit Law, 2006)
- Anisimov A.P. (ed), *Nauchno-prakticheskiy kommentariy k Federalnomu zakonu 'Ob okhrane okruzhayushchey sredy'* [Scientific and Practical Commentary to the Federal Law 'On the Environmental Protection'] (Delovoy dvor, 2007)
- Arksey, H. and P.T. Knight, *Interviewing for Social Scientists* (Sage, 1999)
- Atack, I., 'Four Criteria of Development NGO Legitimacy' (1999) 27(5) *World Development* 855
- Ayres, I. and J. Braithwaite, 'Tripartism: Regulatory Capture and Empowerment' (1991) (16) *Law and Society Inquiry* 435

- Bäckstrand, K. and E. Lövbrand, 'Climate Governance beyond 2012: Competing Discourses of Green Governmentality, Ecological Modernization and Civic Environmentalism' (2007) *The Social Construction of Climate Change: Power, Knowledge, Norms, Discourses* 123
- Baur, D. and H. Schmitz, 'Corporations and NGOs: When Accountability Leads to Co-optation' (2012) 106(1) *Journal of Business Ethics* 9
- Bell, J., 'Legal Research and Comparative Law' in M. van Hoecke (ed), *Methodologies of Legal Research* (Hart Publishing, 2011) vol 9, 158
- Benecke, E., 'Networking for Climate Change: Agency in the Context of Renewable Energy Governance in India' (2011) 11(1) *International Environmental Agreements: Politics, Law and Economics* 23
- Betsill, M. and E. Corell, 'NGO Influence in International Environmental Negotiations: a Framework for Analysis' (2001) 1(4) *Global Environmental Politics* 65
- Betsill, M. M. and E. Corell, *NGO Diplomacy: The Influence of Nongovernmental Organizations in International Environmental Negotiations* (The MIT Press, 2008)
- Biermann, F. et al, 'Transforming Governance and Institutions for Global Sustainability: Key Insights from the Earth System Governance Project' (2012) 4(1) *Current Opinion in Environmental Sustainability* 51
- Biermann, F. et al, 'Earth System Governance: A Research Framework' (2010) 10(4) *International Environmental Agreements: Politics, Law and Economics* 277
- Biermann, F. and A. Gupta, 'Accountability and Legitimacy in Earth System Governance: A Research Framework' (2011) 70(11) *Ecological Economics* 1856
- Black, J., 'Constructing and Contesting Legitimacy and Accountability in Polycentric Regulatory Regimes' (2008) 2(2) *Regulation & Governance* 137
- Blitt, R., 'Babushka Said Two Things-It Will Either Rain or Snow; It Either Will or Will Not: An Analysis of the Provisions and Human Rights Implications of Russia's New Law on Non-Governmental Organizations as Told through Eleven Russian Proverbs' (2008) 40 *George Washington International Law Review* 1
- Bloodgood, E., J. Tremblay-Boire and A. Prakash, 'National Styles of NGO Regulation' (2013) *Nonprofit and Voluntary Sector Quarterly*
- Bode, I., 'Disorganized Welfare mixes: Voluntary Agencies and New Governance Regimes in Western Europe' (2006) 16(4) *Journal of European Social Policy* 346

- Bolotova, A., M. Tysyachnyuk and D. Vorob'yov, 'Analiz i klassifikatsiya ekologicheskikh nepravitel'stvennykh organizatsiy Sankt-Peterburga [Analysis and Classification of Environmental Non-Governmental Organisations in St. Petersburg]'
- Börzel, T. and A. Buzogány, 'Governing EU Accession in Transition Countries: The Role of Non-State Actors' (2010) 45(1) *Acta Politica* 158
- Brain, S., 'The Great Stalin Plan for the Transformation of Nature' (2010) 15(4) *Environmental History* 670
- Braithwaite, J., *Regulatory Capitalism: How It Works, Ideas for Making It Work Better* (Edward Elgar Publishing, 2008)
- Braithwaite, J., 'Responsive Regulation and Developing Economies' (2006) 34(5) *World Development* 884
- Braithwaite, J. and P. Drahos, *Global Business Regulation* (Cambridge University Press, 2000)
- Brakman Reiser, D. and C. Kelly, 'Linking NGO Accountability and the Legitimacy of Global Governance' (2011) 36 *Brooklyn Journal of International Law* 1011
- Breen, O., 'The Disclosure Panacea: A Comparative Perspective on Charity Financial Reporting' (2013) 24(3) *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 852
- Brinchuk, M., *Ekologicheskoe pravo: uchebnik [Environmental Law]* (EKSMO, 2010)
- Bubna-Litic, K., 'Environmental Reporting as a Communications Tool: a Question of Enforcement?' (2008) 20(1) *Journal of Environmental Law* 69
- Bubna-Litic, K., 'Climate Change and Corporate Social Responsibility: The Intersection of Corporate and Environmental Law' (2007) 24(4) *Environmental and Planning Law Journal* 253
- Bubna-Litic, K., L. De Leeuw and I. Williamson, 'Walking the Thin Green Line: The Australian Experience of Corporate Environmental Reporting' (2001) 18(3) *Environmental and Planning Law Journal* 339
- Burris, S., M. Kempa and C. Shearing, 'Changes in Governance: a Cross-Disciplinary Review of Current Scholarship' (2008) 41 *Akron Law Review* 1
- Butler, W. E., 'Law Reform in Soviet Environmental Law' (1987) 5 *Pace Environmental Law Review* 425
- Butler, W. E., *Russian Law: Second Edition* (Oxford University Press, 2003)

- Buxton, C., 'NGO Networks in Central Asia and Global Civil Society: Potentials and Limitations' (2009) 28(1) *Central Asian Survey* 43
- Cappelli, O., 'Soviet Crisis Behaviour and Information Management: The Case of Chernobyl' (1986) 2(4) *The Journal of Communist Studies and Transition Politics* 404
- Carothers, T. and W. Barndt, 'Civil Society' (1999) *Foreign policy* 18
- Cherp, A. and S. Golubeva, 'Environmental Assessment in the Russian Federation: Evolution through Capacity Building' (2004) 22(2) *Impact Assessment and Project Appraisal* 121
- Cohen, A.J., 'Governance Legalism: Hayek and Sabel on Reason and Rules, Organization and Law' (2010) 2010 *Wisconsin Law Review* 357
- Cohen, J., Deliberation and Democratic Legitimacy, in J. Bohman and W. Rehg (eds), *Deliberative Democracy: Essays on Reason and Politics* (MIT Press, 1997) 108
- Conley, A. and M. Moote, 'Evaluating Collaborative Natural Resource Management' (2003) 16(5) *Society and Natural Resources* 371
- Coston, J., 'A Model and Typology of Government-NGO Relationships' (1998) 27(3) *Nonprofit and Voluntary Sector Quarterly* 358
- Cox, R.W., 'Civil Society at the Turn of the Millennium: Prospects for an Alternative World Order' (1999) 25(1) *Review of International Studies* 3
- Creswell, J.W., *Qualitative Inquiry and Research Design: Choosing among Five Approaches* (SAGE Publications, Incorporated, 2012)
- Creswell, J.W., *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches* (Sage Publications, Incorporated, 2008)
- Crotty, J., 'Making a difference? NGOs and Civil Society Development in Russia' (2009) 61(1) *Europe-Asia Studies* 85
- Crotty, J., 'Managing Civil Society: Democratisation and the Environmental movement in a Russian Region' (2003) 36(4) *Communist and Post-Communist Studies* 489
- Crotty, J., S.M. Hall and S. Ljubownikow, 'Post-Soviet Civil Society Development in the Russian Federation: The Impact of the NGO Law' (2014) 66(8) *Europe-Asia Studies* 1253
- Crotty, J. and P. Rodgers, 'The Continuing Reorganization of Russia's Environmental Bureaucracy' (2012) 59(4) *Problems of Post-Communism* 15

della Porta, D. and M. Keating, 'How Many Approaches in the Social Sciences? An Epistemological Introduction' in D. della Porta and M. Keating (eds), *Approaches and Methodologies in the Social Science* (Cambridge University Press, 2008)

Dellas, E., P. Pattberg and M. Betsill, 'Agency in Earth System Governance: Refining a Research Agenda' (2011) 11(1) *International Environmental Agreements: Politics, Law and Economics* 85

Dhanda, A., 'Rights of the Mentally Ill - A Forgotten Domain' (1986) 13(3/4) *India International Centre Quarterly* 147

Dhanda, A., 'Legal Capacity in the Disability Rights Convention: Stranglehold of the Past or Lodestar for the Future' (2006) 34 *Syracuse Journal of International Law and Commerce* 429

Diamond, L., 'Thinking about Hybrid Regimes' (2002) 13(2) *Journal of Democracy* 21

Diani, M., 'Social Movement Networks Virtual and Real' (2000) 3(3) *Information, Communication & Society* 386

Dirusso, A., 'American Nonprofit Law in Comparative Perspective' (2011) 10 *Washington University Global Studies Law Review* 39

Doh, J. and T. Guay, 'Corporate Social Responsibility, Public Policy, and NGO Activism in Europe and the United States: An Institutional-Stakeholder Perspective' (2006) 43(1) *Journal of Management Studies* 47

'Doklad o sostoyanii grazhdanskogo obshchestva v Rossiyskoy Federatsii za 2013 god [Report on the State of Civil Society in the Russian Federation 2013]' (Civic Chamber of the Russian Federation, 2013)

Douma, W. and F. Mucklow (eds), *Environmental Finance and Socially Responsible Business in Russia* (T.M.C Asser Press, 2009)

Dryzek, J. et al, *Green States and Social Movements: Environmentalism in the United States, United Kingdom, Germany, and Norway*. (Oxford University Press, 2003)

Dryzek, J. et al, 'Environmental Transformation of the State: the USA, Norway, Germany and the UK' (2002) 50(4) *Political Studies* 659

Dryzek, J. and S. Niemeyer, 'Discursive Representation' (2008) 102(4) *American Political Science Review* 481

Dryzek, J. and H. Stevenson, 'Global Democracy and Earth System Governance' (2011) 70 *Ecological Economics* 1865

- Duffy, R., 'Global Environmental Governance and North–South Dynamics: the Gase of the CITES' (2013) 31(2) *Environment and Planning C: Government and Policy* 222
- Ebrahim, A., 'Making Sense of Accountability: Conceptual Perspectives for Northern and Southern Nonprofits' (2003) 14(2) *Nonprofit Management and Leadership* 191
- Evans Jr, A., 'Protests and Civil Society in Russia: The Struggle for the Khimki Forest' (2012) 45(3) *Communist and Post-Communist Studies* 233
- Farber, D. A., 'Triangulating the Future of Reinvention: Three Emerging Models of Environmental Protection' (2000) *University of Illinois Law Review* 61
- Firsova, A. and R. Taplin, 'Australia and Russia: How do Their Environmental Policy Processes Differ?' (2009) (11) *Environment, Development and Sustainability: A Multidisciplinary Approach to the Theory and Practice of Sustainable Development* 407
- Foljanty-Jost, G., 'NGOs in Environmental Networks in Germany and Japan: The Question of Power and influence' (2005) 8(1) *Social Science Japan Journal* 103
- Ford, L., 'Challenging Global Environmental Governance: Social Movement Agency and Global Civil Society' (2003) 3(2) *Global Environmental Politics* 120
- 'France' (The Council on Foundations, 2014)
- Freeman, J., 'The Private Role in Public Governance' (2000) 75 *New York University Law Review* 543
- Fung, A., 'Varieties of Participation in Complex Governance' (2006) 66(1) *Public Administration Review* 66
- Fung, A. and O.W. Wright, 'Thinking about Empowered Participatory Governance ' in A. Fung and O.W. Wright (eds), *Deepening democracy: Institutional innovations in empowered participatory governance* (Verso, 2003)
- Fuhr, H. and M. Lederer, 'Varieties of Carbon Governance in Newly Industrializing Countries' (2009) 18(4) *Journal of Environment & Development* 327
- Futrell, J. W., 'Public Participation in Soviet Environmental Policy' (1987) 5 *Pace Environmental Law Review* 487
- Gamson, W., *The Strategy of Social Protest* (Belmont, CA: Wadsworth, 1990)
- Glasbergen, P., F. Biermann and A.P.J. Mol (eds), *Partnerships, Governance and Sustainable Development: Reflections on Theory and Practice* (Edward Elgar Publishing Limited, 2007)

- 'Global Corruption Report 2007:Corruption and Judicial Systems' (Transparency International, 2007)
- Glushkovskaya, N, A. Zagidullina, V. Korepanov, V. Kotkova, E. Kushnevsкая, D. Mirin, A. Stolpovskiy, B. Filippov, *Landscape and Biological Diversity on the Watershed between the Northern Dvina and Pinega Rivers* (WWF Russia, 2013)
- Golenkova, Z.T., 'Civil Society in Russia' (1999) 40(1) *Russian Social Science Review* 4
- Gormley Jr, W. T., 'Policy, Politics and Public Utility Regulation' (1983) *American Journal of Political Science* 86
- Grabosky, P., 'Beyond Responsive Regulation: The Expanding Role of Non-State Actors in the Regulatory Process' (2013) 7(1) *Regulation & Governance* 114
- Gramsci, A., *Prison Notebooks*, Further Selections from the Prison Notebooks, Electric Book Company Ltd, London (1999)
- Gray, R., J. Bebbington and D. Collison, 'NGOs, Civil Society and Accountability: Making the People Accountable to Capital' (2006) 19(3) *Accounting, Auditing & Accountability Journal* 319
- Guay, T., J. Doh and G. Sinclair, 'Non-Governmental Organizations, Shareholder Activism, and Socially Responsible Investments: Ethical, Strategic, and Governance Implications' (2004) 52(1) *Journal of Business Ethics* 125
- Gunningham, N., 'Environment Law, Regulation and Governance: Shifting Architectures' (2009) 21(2) *Journal of environmental law* 179
- Gunningham, N., P. Grabosky and D. Sinclair, *Smart Regulation* (Oxford University Press, 1998)
- Gunningham, N. and C. Holley, *Bringing the 'R' Word Back: Regulation, Environment Protection and NRM*, Occasional Paper (The Academy of the Social Sciences in Australia, 2010)
- Habermas, J., 'Reconciliation through the Public Use of Reason: Remarks on John Rawls's Political Liberalism' (1995) *Journal of Philosophy* 109
- Halii, I., 'Environmental Social Movement and Power: Forms of Interaction' (2008 ) (4) *Polis. Politicheskiye Issledovaniya* 130
- Hall, N. and R. Taplin, 'Revolution or Inch-by-Inch? Campaign Approaches on Climate Change by Environmental Groups' (2007) 27(1) *Environmentalist* 95



- Hall, N. and R. Taplin, 'Room for Climate Advocates in a Coal-Focused Economy? NGO Influence on Australian Climate Policy' (2008) 43(3) *Australian Journal of Social Issues* (Australian Council of Social Service)
- Halpin, T., 'A Blast from the Past as Russia Vilifies US', *The Times* 14 July 2012
- Harman-Stokes, K., 'Community Right-to-Know in the Newly Independent States of the Former Soviet Union: Ending the Culture of Secrecy Surrounding the Environmental Crisis' (1995) 15 *Virginia Environmental Law Journal* 77
- Hayman, R. et al, 'Legal Frameworks and Political Space for Non-Governmental Organisations: An Overview of Six Countries' (European Association of Development, Research and Training Institutes, 2013)
- Hemment, J.D., 'The Riddle of the Third Sector: Civil Society, Western Aid and NGOs in Russia' (2004) 77(2) *Anthropological Quarterly* 215
- Henry, L., 'Between Transnationalism and State Power: The Development of Russia's Post-Soviet Environmental Movement' (2010) 19(5) *Environmental Politics* 756
- Henry, L., 'Complaint-Making as Political Participation in Contemporary Russia' (2012) 45(3) *Communist and Post-Communist Studies* 243
- Henry, L., 'The Greening of Grassroots Democracy? The Russian Environmental Movement, Foreign Aid, and Democratization' (2001) *Berkeley Program in Eurasian and East European Studies. UC Berkeley: Berkeley Program in Soviet and Post-Soviet Studies*
- Henry, L., *Red to Green: Environmental Activism in Post-Soviet Russia* (Cornell University Press, 2010)
- Henry, L., 'Redefining Citizenship in Russia' (2009) 56(6) *Problems of Post-Communism* 51
- Henry, L. and V. Douhovnikoff, 'Environmental Issues in Russia' (2008) (33) *Annual Review of Environment and Resource* 437
- Henry, L. and L. Sundstrom, 'Russia and the Kyoto Protocol: Seeking an Alignment of Interests and Image' (2007) 7(4) *Global Environmental Politics* 47
- Hepburn, J., (Greenpeace Australia Pacific), B. Burton (Coalswarm), S. Hardy (Graeme Wood Foundation), 'Stopping the Australian Coal Export Boom'. The funding proposal for the Australian anti-coal movement.' (2011)
- Héritier, A., 'New Modes of Governance in Europe: Policy-Making without Legislating? MPI Collective Goods Preprint No. 2001/14. Available at SSRN: <http://ssrn.com/abstract=299431> or <http://dx.doi.org/10.2139/ssrn.299431>' (2001)

- Hinsch, W., 'Legitimacy and Justice' in *Political Legitimization without Morality?* (Springer, 2008) 39
- Hochstetler, K., 'Civil Society and the Regulatory State of the South: A Commentary' (2012) 6(3) *Regulation & Governance* 362
- Holley, C., 'Facilitating Monitoring, Subverting Self-Interest and Limiting Discretion: Learning from New Forms of Accountability in Practice' (2010) 35 *Columbia Journal of Environmental Law* 127
- Holley, C., N. Gunningham and C. Shearing, *The New Environmental Governance* (Earthscan, 2012)
- Hønneland, G. and J. Jørgensen, 'Federal Environmental Governance and the Russian North' (2005) 29(1) *Polar Geography* 27
- Howard, M., 'Postcommunist Civil Society in Comparative Perspective' (2002) 10(3) *Demokratizatsiya* 285
- Hutchinson, T., 'Developing Legal Research Skills: Expanding the Paradigm' (2008) 32 *Melbourne University Law Review* 1065
- Jancar-Webster, B., 'Environmental Movement and Social change in the Transition Countries' (1998) 7(1) *Environmental Politics* 69
- Javeline, D. and S. Lindemann-Komarova, 'A Balanced Assessment of Russian Civil Society' (2010) 63(3) *Journal of International Affairs* 171
- Johnson, C., T. Dowd and C. Ridgeway, 'Legitimacy as a Social Process' (2006) *Annual Review of Sociology* 53
- Karhu, J., 'How to Make Comparable Things: Legal Engineering at the Service of Comparative Law' (2004) *Epistemology and Methodology of Comparative Law* 79
- Karkkainen, B.C., 'Collaborative Ecosystem Governance: Scale, Complexity, and Dynamism' (2002) 21 *Virginia Environmental Law Review* 189
- Karkkainen, B.C., 'New Governance in Legal Thought and in the World: Some Splitting as Antidote to Overzealous Lumping' (2004) 89 *Minnesota Law Review* 471
- Karkkainen, B.C., 'Post-Sovereign Environmental Governance' (2004) 4(1) *Global Environmental Politics* 72
- Karkkainen, B.C., A. Fung and C.F. Sabel, 'After Backyard Environmentalism' (2000) 44(4) *American Behavioral Scientist* 692

- Khabibullov, M., 'Crisis in Environmental Management of the Soviet Union' (1991) 15(6) *Environmental Management* 749
- Kokorin, A.O et al, 'Measures to Reduce Emissions of Greenhouse Gases in Russia and Priorities of Russian NGOs' (WWF Russia, 2012)
- Kortelainen, J., 'Boundaries of Transnational Forest Governance in Russia' (2012) 27(2) *Scandinavian Journal of Forest Research* 221
- Kotov, V., *Policy in Transition: New Framework for Russia's Climate Policy* (Fondazione Eni Enrico Mattei, 2002)
- Krech, S., J. R. McNeill and C. Merchant, *Encyclopedia of World Environmental History, Volume 3* (Routledge, 2003)
- Kupina, N., 'Ideologem: 'Foreign Agent': 3 Days in July 2012' (2012) 3(41) *Political Linguistics* 43
- Kurti, P., 'In the Pay of the Piper: Governments, Not-for-Profits, and the Burden of Regulation' (The Centre for Independent Studies, Issue Analysis, 2013)
- Lang, S., *NGOs, Civil Society, and the Public Sphere* (Cambridge University Press, 2012)
- Lang, S., 'NGOs, Local Governance, and Political Communication Processes in Germany' (2000) 17(4) *Political Communication* 383
- Larin, V. et al, *Okhrana prirody Rossii: ot Gorbacheva do Putina [Nature Protection in Russia from Gorbachev to Putin]* (KMK, Scientific Press, 2003)
- Layder, D., *Sociological Practice: Linking Theory and Social Research* (Sage Publications Ltd, 1998)
- Levine, M. E. and J. L. Forrence, 'Regulatory Capture, Public Interest, and the Public Agenda: Toward a Synthesis' (1990) 6 *Journal of Law, Economics, & Organization* 167
- Levitsky, S. and L. Way, 'The Rise of Competitive Authoritarianism' (2002) 13(2) *Journal of Democracy* 51
- Lister, S., 'NGO Legitimacy Technical Issue or Social Construct?' (2003) 23(2) *Critique of Anthropology* 175
- Ljubownikow, S. and J. Crotty, 'Civil Society in a Transitional Context: The Response of Health and Educational NGOs to Legislative Changes in Russia's Industrialized Regions' (2013) *Nonprofit and Voluntary Sector Quarterly*

- Ljubownikow, S., J. Crotty and P. Rodgers, 'The State and Civil Society in Post-Soviet Russia: The Development of a Russian-Style Civil Society' (2013) 13(2) *Progress in Development Studies* 153
- Lobel, O., 'The Renew Deal: The Fall of Regulation and the Rise of Governance in Contemporary Legal Thought' (2004) 89 *Minnesota Law Review* 342
- Maddison, S., 'Lessons to be Learned: Reviving Advocacy Organisations after the Neo-Con Men' (2009) 1(2) *Cosmopolitan Civil Societies: An Interdisciplinary Journal* 18
- Maddison, S. and R. Denniss, 'Democratic Constraint and Embrace: Implications for Progressive Non-Government Advocacy Organisations in Australia' (2005) 40(3) *Australian Journal of Political Science* 373
- Makkai, T. and J. Braithwaite, 'In and out of the Revolving door: Making Sense of Regulatory Capture' (1992) 12 *Journal of Public Policy* 61
- Mamonova, E., 'Sovetniki rabotajut za 'korochki'. Struktura bolshinstva obshhestvennykh sovetov formalna. [The Structure of Most Public Councils is Formal]', *Rossijskaja Gazeta* (Moscow), 24 July 2012
- Margerum, R., 'A Typology of Collaboration Efforts in Environmental Management' (2008) 41(4) *Environmental Management* 487
- Markovits, I., 'Exporting Law Reform-But Will it Travel' (2004) 37 *Cornell International Law Journal* 95
- Marshall, C. and G. Rossman, *Designing Qualitative research* (Sage Publications, 1999)
- Martin, P. et al (eds), *Environmental Governance and Sustainability* (Edward Elgar Publishing, 2012)
- Martin, P. and M. Shepherd, 'What Is Meant by the Social Licence?' in J. Williams and P. Martin (eds), *Defending the Social Licence of Farming: Issues, Challenges and New Directions for Agriculture* (CSIRO Publishing, 2011) 3
- Martin, P., J. Williams and A. Kennedy, 'Creating Next Generation Rural Landscape Governance: The Challenge for Environmental Law Scholarship' in P. Martin et al (eds), *Environmental Governance and Sustainability* (Edward Elgar Publishing, 2012) 46
- Martens, K., 'Mission Impossible? Defining Nongovernmental Organizations' (2002) 13(3) *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 271
- Marx, K., 'On the Jewish question' (1844)  
<<http://people.ualgary.ca/~uwr/courses/CCF/Marx-1844-Jewish%20Question.txt.pdf>>

- Mayer, N., 'Democracy in France: Do Associations Matter' (2003) *Generating social capital* 43
- McCauley, D., 'Europeanisation as Resource Empowerment for NGOs' (2008) 9(3) *Perspectives on European Politics and Society* 265
- McConville, M. and W.H. Chui (eds), *Research Methods for Law* (Edinburgh University Press, 2007)
- McWilliams, A. and D. Siegel, 'Corporate Social Responsibility: A Theory of the Firm Perspective' (2001) 26(1) *Academy of Management Review* 117
- Mendelson, S., 'Democracy Assistance and Political Transition in Russia: Between Success and Failure' (2001) 25(4) *International Security* 68
- Mendelson, S.E., 'Conclusion: The Power and Limits of Transnational Democracy Networks in Postcommunist Societies' in S.E. Mendelson and J.K. Glenn (eds), *The Power and Limits of NGOs: A Critical Look at Building Democracy in Eastern Europe and Eurasia* (Columbia University Press, 2002) 232
- Mendelson, S.E., 'From Assistance to Engagement: A Model for a New Era in U.S.- Russian Civil Society Relations' (The Center for Strategic and International Studies (CSIS), 2009)
- Mendelson, S.E. and J.K. Glenn, 'Introduction: Transnational Networks and NGOs in Postcommunist societies' in S.E. Mendelson and J.K. Glenn (eds), *The Power and Limits of NGOs: A Critical Look at Building Democracy in Eastern Europe and Eurasia* (Columbia University Press 2002) 1
- Mendelson, S.E. and J.K. Glenn (eds), *The Power and Limits of NGOs: A Critical Look at Building Democracy in Eastern Europe and Eurasia* (Columbia University Press, 2002)
- Mendelson, S. E. and J. K. Glenn, 'Democracy Assistance and NGO Strategies in Post-Communist Societies. A Model for a New Era in U.S.-Russian Civil Society Relations' (Center for Strategic and International Studies, 2009)
- Mercer, C., 'NGOs, Civil Society and Democratization: A Critical Review of the Literature' (2002) 2(1) *Progress in development studies* 5
- Micklin, P., 'The Vast Diversion of Soviet Rivers' (1985) 27(2) *Environment: Science and Policy for Sustainable Development* 12
- Mol, A.P.J., 'Environmental Deinstitutionalization in Russia' (2009) 11(3) *Journal of Environmental Policy & Planning* 223

Morgan, G., 'Public Benefit and Charitable Status: Assessing a 20-year Process of Reforming the Primary Legal Framework for Voluntary Activity in the UK' (2012) 3(1) *Voluntary Sector Review* 67

Morgan, G., 'Purposes, Activities and Beneficiaries: Assessing the Use of Accounting Narratives as Indicators of Third Sector Performance' (2013) 10(3/4) *Qualitative Research in Accounting & Management* 6

Moysov, V., and L. Shubina, 'Public Attitude to NGOs Following the Tightening of Legislation Concerning 'Foreign Agents' (Zircon Research Group, 2012)

Mullerson, R., 'The Continuity and Succession of States, by Reference to the former USSR and Yugoslavia' (1993) 42(03) *International and Comparative Law Quarterly* 473

Müntel, G., 'Closing the Gap to Europe? An Assessment of Change and Adaptation of Environmental Governance in the Russian Exclave of Kaliningrad' (2006) 12(2) *Contemporary Politics* 139

Newell, P., 'Civil Society, Corporate Accountability and the Politics of Climate Change' (2008) 8(3) *Global Environmental Politics* 122

Newman, C., 'The Status of Political Activities of Associations and Foundations' (2001) 3(3) *International Journal of Not-for-Profit Law*

'NGO Law Monitor: Azerbaijan' (The International Center for Not-for-Profit Law, 2014)

'NGO Law Monitor: Russia' (International Center for Not-for-Profit Law (ICNL), 2013)

'NGO Law Monitor: Uzbekistan' (The International Center for Not-for-Profit Law, 2014)

Nysten-Haarala, S. and J. Kotilainen, 'Institutions, Interest Groups and Governance of Natural Resources in Russia' in S. Nysten-Haarala (ed), *The Changing Governance of Renewable Natural Resources in Northwest Russia* (Ashgate, 2009) 9

O'Brien, T., 'Shifting Views of Environmental NGOs in Spain and Romania' (2009) 9(1-2) *Southeast European and Black Sea Studies* 143

Okereke, C., H. Bulkeley and H. Schroeder, 'Conceptualizing Climate Governance beyond the International Regime' (2009) 9(1) *Global Environmental Politics* 58

Oldfield, J.D., *Russian Nature: Exploring the Environmental Consequences of Societal Change* (Ashgate, 2005)

Orlov, D., 'The New Russian Age and Sovereign Democracy' (2008) 46(5) *Russian Politics and Law* 72

- Otto, I., A. Shkaruba and V. Kireyeu, 'The Rise of Multilevel Governance for Biodiversity Conservation in Belarus' (2011) 29 *Environment and Planning C: Government and Policy* 113
- Papadopoulou, D., 'The Role of French Environmental Associations in Civil Liability for Environmental Harm: Courtesy of Erika' (2009) 21(1) *Journal of Environmental Law* 87
- Parker, C., 'Meta Regulation: Legal Accountability for Corporate Social Responsibility.' in D. Mc Barnett, A. Voiculescu and T. Campbell (eds), *New Corporate Accountability: Corporate Social Responsibility and the Law* (Cambridge University Press, 2006)
- Pattberg, P. and J. Stripple, 'Beyond the Public and Private Divide: Remapping Transnational Climate Governance in the 21st Century' (2008) 8(4) *International Environmental Agreements: Politics, Law and Economics* 367
- 'Perevesti nelzya sohranit [*Transfer can not be Saved*]', *Bereginya* (Nizhny Novgorod), 2 February 2014
- Phillips, R., 'The Role of Nonprofit Advocacy Organizations in Australian Democracy and Policy Governance' (2006) 17(1) *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 57
- 'Political Activities of NGOs: International Law and Best Practices ' (International Center for Not-for-Profit Law, 2009)
- Popescu, N., 'Russia's Soft Power Ambitions' (2006) (1-12) *CEPS Policy Briefs* 1
- Powell, L., 'Western and Russian Environmental NGOs: a Greener Russia' in S.E. Mendelson and J.K. Glenn (eds), *The Power and Limits of NGOs: A Critical Look at Building Democracy in Eastern Europe and Eurasia* (Columbia University Press, 2002) 126
- Pryde, P. R., *Environmental Management in the Soviet Union* (Cambridge University Press, 1991)
- Putin, V., 'Demokratija i kachestvo gosudarstva. [*Democracy and the Quality of Government*]', *Kommersant* (Moscow), 6 February 2012
- Rakkolainen, M. and M. Tennberg, 'Adaptation in Russian Climate Governance' in *Governing the Uncertain* (Springer, 2012) 39
- Raustiala, K., 'States, NGOs, and International Environmental Institutions' (1997) 41(4) *International Studies Quarterly* 719
- Rawls, J. 'The Idea of Public Reason' in J. Bohman and W. Rehg (eds), *Deliberative Democracy: Essays on Reason and Politics* (MIT Press, 1997) 108

- Rawls, J., 'The Law of Peoples' (1993) 20 *Critical Inquiry* 36
- Rawls, J., *Political Liberalism* (Columbia University Press, 1993)
- Rawls, J., 'Political Liberalism: Reply to Habermas' (1995) *Journal of Philosophy* 132
- 'Report on the Development of Civil Society in Russia' (The Foundation for Civil Society Development, 2014)
- 'Report on the State of Civil Society in the Russian Federation 2009' (Civic Chamber of the Russian Federation, 2010)
- 'Report on the State of Civil Society in the Russian Federation 2010' (Civic Chamber of the Russian Federation, 2011)
- 'Report on the State of Civil Society in the Russian Federation 2011' (Civic Chamber of the Russian Federation, 2012)
- Rhodes, R. A.W., *Understanding Governance: Policy Networks, Governance, Reflexivity and Accountability* (Open University Press, 1997)
- Riabova, L. and L. Ivanova, 'Fishery Governance in Northwest Russia' in S. Nystén-Haarala (ed), *The Changing Governance of Renewable Natural Resources in Northwest Russia* (Ashgate, 2009)
- Rich, R., 'Recognition of States: The Collapse of Yugoslavia and the Soviet Union' (1993) 4 *European Journal of International Law* 36
- Richter, J., 'The Ministry of Civil Society?' (2009) 56(6) *Problems of Post-Communism* 7
- Rindefjäll, T., E. Lund and J. Strippel, 'Wine, Fruit, and Emission Reductions: the CDM as Development Strategy in Chile' (2011) 11(1) *International Environmental Agreements: Politics, Law and Economics* 7
- Rose, N. and P. Miller, 'Political Power Beyond the State: Problematics of Government' (1992) 43(2) *British Journal of Sociology* 173
- Roth, A. and S. Sultanova, 'Officials in Azerbaijan Claim to Restore Order to Rioting City', *The New York Times* 25 January 2013
- 'Russia: Reject Proposed Changes to Rules on Foreign-Funded NGOs' (Human Rights Watch 2012)
- Sabel, C.F. and J. Zeitlin, 'Learning from Difference: The New Architecture of Experimentalist Governance in the EU' (2008) 14(3) *European Law Journal* 271



- Sakwa, R., *The Crisis of Russian Democracy: the Dual State, Factionalism and the Medvedev Succession* (Cambridge University Press, 2010)
- Saurugger, S., 'Democratic 'Misfit'? Conceptions of Civil Society Participation in France and the European Union' (2007) 55(2) *Political Studies* 384
- Schepers, D., 'The Impact of NGO Network Conflict on the Corporate Social Responsibility Strategies of Multinational Corporations' (2006) 45(3) *Business & Society* 282
- Schreurs, M., *Environmental Politics in Japan, Germany, and the United States* (Cambridge University Press, 2002)
- Scott, C., 'Accountability in the Regulatory State' (2000) 27(1) *Journal of Law and Society* 38
- Scott, C., 'Private Regulation of the Public Sector: a Neglected Facet of Contemporary Governance' (2002) 29(1) *Journal of Law and Society* 56
- Scott, C., 'Regulation in the Age of Governance: the Rise of the Post-Regulatory State ' in J. Jordana and D. Levi-Faur (eds), *The Politics of Regulation: Institutions and Regulatory Reforms for the Age of Governance* (Edward Elgar Publishing, 2004) 145
- Scott, J. and D.M. Trubek, 'Mind the Gap: Law and New Approaches to Governance in the European Union' (2002) 8(1) *European Law Journal* 1
- Shapiro, S., 'Agency Theory' (2005) 31 *Annual Review of Sociology* 263
- Shlapentokh, V., 'Trust in Public Institutions in Russia: The Lowest in the World' (2006) 39(2) *Communist and Post-Communist Studies* 153
- Shubin, A., *Dissidents, Informal Groups and Freedom in the USSR* (Veche, 2008)
- Shvarts, E., 'O politicheskikh pravakh samodeyatelnykh organizatsij [On the Political Rights of Public Organisations]' in O. Yanitsky (ed), *Ekologiya, Demokratiya, Molodezh* (Filosofskoe obshchestvo SSSR, 1990) 85
- Shvarts, E. and I. Prochozova, 'Soviet Greens: Who are They?' in B. Jancar-Webster (ed), *Environmental Action in Eastern Europe: Responses to Crisis* (1992) 176
- Silitski, V., 'Preempting Democracy: The Case of Belarus' (2005) 16(4) *Journal of Democracy* 83
- Simon, K., 'The Status of Political Activities of Associations and Foundations' (2001) 3(3) *International Journal of Not-for-Profit Law*
- Slim, H., 'By What Authority? The Legitimacy and Accountability of Non-Governmental Organisations' (2002) 10 *The Journal of Humanitarian Assistance*

- Sofronova E., C. Holley and V. Nagarajan, 'Environmental Non-Governmental Organizations and Russian Environmental Governance: Accountability, Participation and Collaboration' (2014) 3(02) *Transnational Environmental Law* 341
- Solomon, P., 'Assessing the Courts in Russia: Parameters of Progress under Putin' (2008) 16(1) *Demokratizatsiya: The Journal of Post-Soviet Democratization* 63
- Staples, J., 'NGOs out in the cold: The Howard Government Policy towards NGOs, Discussion Paper 19/6, Democratic Audit of Australia, available at <http://democratic.audit.anu.edu.au>, the last access on 16/07/2013'
- Steinzor, R.I., 'The Corruption of Civic Environmentalism' (2000) 30 *Environmental Law Reporter* 1
- Stewart, R. B., 'The Reformation of American Administrative Law' (1975) *Harvard Law Review* 1667
- Stillman, P., 'The Concept of Legitimacy' (1974) 7(1) *Polity* 32
- Stoker, G., 'Governance as Theory: Five Propositions' (1998) 50(155) *International Social Science Journal* 17
- Stroup, S. and A. Murdie, 'There's no Place Like Home: Explaining International NGO Advocacy' (2012) 7(4) *The Review of International Organizations* 425
- Stubbs, P., 'Stretching Concepts Too Far? Multi-Level Governance, Policy Transfer and the Politics of Scale in South East Europe' (2005) 6(2) *Southeast European Politics* 66
- Suchman, M., 'Managing Legitimacy: Strategic and Institutional Approaches' (1995) 20(3) *Academy of Management Review* 571
- Sundstrom, L., 'Commentary on Jakobson and Sanovich: What Does This Really Mean for Russian Politics and Society?' (2011) 7(2) *Journal of Civil Society* 229
- Taylor, B.D., 'Law Enforcement and Civil Society in Russia' (2006) 58(2) *Europe-Asia Studies* 193
- Teegen, H., J. Doh and S. Vachani, 'The Importance of Nongovernmental Organizations (NGOs) in Global Governance and Value Creation: An International Business Research Agenda' (2004) 35(6) *Journal of International Business Studies* 463
- Temnuhin, V., 'Is it Necessary to Cut down Trees?', *Bereginya* (Nizhny Novgorod ), 2th of February 2014

- Thornton, D., R. A. Kagan and N. Gunningham, 'Compliance Costs, Regulation, and Environmental Performance: Controlling Truck Emissions in the US' (2008) 2(3) *Regulation & Governance* 275
- Tienhaara, K., 'Third Party Participation in Investment-Environment Disputes: Recent Developments' (2007) 16(2) *Review of European Community & International Environmental Law* 230
- Tienhaara, K., A. Orsini and R. Falkner, 'Global corporations' in F. Biermann and P. Pattberg (eds), *Global Environmental Governance Reconsidered* (MIT Press, 2012) 45
- 'Tightening the Screws: Azerbaijan's Crackdown on Civil Society and Dissent' (Human Rights Watch, 2013)
- Tokunaga, M., 'Environmental Governance in Russia: The Closed Pathway to Ecological Modernization' (2010) 42 *Environment and Planning A* 1686
- Tumanov, G., 'Rossiya teryayet nekommercheskuyu sostavlyayushuyu [Russia Loses Noncommercial Component]', *Kommersant* 4 December 2014
- Turnour, M. and M. McGregor-Lowndes, 'Wrong Way go back! Rediscovering the Path for Charity Law Reform' (2012) 35(3) *University of New South Wales Law Journal* 810
- Unerman, J. and B. O'Dwyer, 'NGO Accountability and Sustainability Issues in the Changing Global Environment' (2010) 12(4) *Public Management Review* 475
- van Der Heijden, H., 'Environmental Movements, Ecological Modernisation and Political Opportunity Structures' (1999) 8(1) *Environmental Politics* 199
- van Hoecke, M., 'Deep Level Comparative Law' in M. van Hoecke (ed), *Epistemology and Methodology of Comparative Law* (Oxford and Portland Oregon 2004) 165
- van Huijstee, M. and P. Glasbergen, 'NGOs Moving Business: An Analysis of Contrasting Strategies' (2010) 49(4) *Business & Society* 591
- Vinokurov, I., 'Nam nuzhen takoj 'optimizm' [We do not Need This Kind of 'Optimism']', *Bereginya* 3 March 2013
- Weber, M. and B. Turner, *From Max Weber: Essays in Sociology* (Routledge, 1991)
- Wegren, S. and A. Konitzer, 'Prospects for Managed Democracy in Russia' (2007) 59(6) *Europe-Asia Studies* 1025
- Weiner, D., *A Little Corner of Freedom: Russian Nature Protection from Stalin to Gorbachëv* (University of California Press, 1999)

- Wernstedt, K., 'Environmental Protection in the Russian Federation: Lessons and Opportunities' (2002) 45(4) *Journal of Environmental Planning and Management* 493
- Whaites, A., 'Let's Get Civil Society Straight: NGOs and Political Theory' (1996) 6(3) *Development in Practice* 240
- Whiteside, K., D. Boy and D. Bourg, 'France's 'Grenelle de l'environnement': Openings and Closures in Ecological Democracy' (2010) 19(3) *Environmental Politics* 449
- Wintgens, L., 'Legisprudence and Comparative Law' in M. van Hoecke (ed), *Epistemology and Methodology of Comparative Law* (Oxford and Portland Oregon 2004) 299
- Wright, S., G. Marston and C. McDonald, 'The Role of Non-profit Organizations in the Mixed Economy of Welfare to Work in the UK and Australia' (2011) 45(3) *Social Policy & Administration* 299
- Yanitsky, O., 'The Shift of Environmental Debates in Russia' (2009 ) 57(6) *Current Sociology* 747
- Yanitsky, O., 'The Value Shift of the Russian Greens' (2006) 15(2) *International Review of Sociology: Revue Internationale de Sociologie* 363
- Yin, R.K., *Case Study Research: Design and Methods* (Sage publications, 2009)
- Zaharchenko, T. and G. Goldenman, 'Accountability in Governance: The Challenge of Implementing the Aarhus Convention in Eastern Europe and Central Asia' (2004) 4(3) *International Environmental Agreements* 229
- Zakharchenko, T., *On the Way to Transparency: A Comparative Study on Post-Soviet States and the Aarhus Convention* (Woodrow Wilson International Center for Scholars, 2009)
- Ziegler, C., *Environmental Policy in the USSR* (Univ of Massachusetts Press, 1990)
- Zykov, V. et al, *Razvitie normativno-pravovogo regulirovaniya ohrany prirody i ekologicheskoy metrologii* [A development of Legal Regulation of Environmental Protection and Ecological Metrology] (IPK PFUR, 2005)

## **B Cases**

*Opredelenie Verhovnogo Suda RF ot 3 aprelya 2013, N 5-13-APG13* [Decision of the Supreme Court of the RF, 3 April 2013, N 5-13-APG13]

*Opredelenie Verhovnogo Suda RF ot 17 iulya 2013 N 4-APG13-5* [Decision of the Supreme Court of the RF, 17 July 2013 N 4-APG13-5]

*Opredelenie Verhovnogo Suda RF ot 25 dekabrya 2013 N 4-APG13-16* [Decision of the Supreme Court of the RF, 25 December 2013, N 4-APG13-16]

*Postanovlenie Konstitutsionnogo Suda RF ot 18 iulya 2012 N 19-P* [Decision of the Constitutional Court of the RF, 18 July 2012, N 19-P] (Russia)

*Postanovleniye Konstitutsionnogo Suda RF ot 14 fevralya 2013 N 4-P* [Decision of the Constitutional Court of the RF 14 February 2013 N 4-P]

*Postanovlenie Konstitutsionnogo Suda RF ot 08 aprelya 2014 N 10-P* [Decision of the Constitutional Court of the RF 08 April 2014 N 10-P]

*Postanovlenie Prezidiuma Vysshego Arbitrazhnogo Suda Rossijskoj Federatsii ot 28 iulya 2011 N 2902/11* [Resolution of the Presidium of the Supreme Arbitration Court of the Russian Federation 28 July 2011 N 2902/11] (Russia)

*Postanovleniye Vysshego Arbitrazhnogo Suda RF ot 23 yanvarya 2012 N 09AP-33804/2011-AK* [Decision of the Supreme Commercial Court of the RF 23 January 2012 N 09AP-33804/2011-AK]

*Reshenie Verhovnogo Suda RF ot 22 January 2014, N-642 AKPII3* [Decision of the Supreme Court of the RF, 22 January 2004 N-642 AKPII3]

*Reshenie Verhovnogo Suda RF ot 1 oktyabrya 2014 N 953 AKPII4* [Decision of the Supreme Court of the RF of 1 October 2014 N 953 AKPII4]

*Reshenie Verhovnogo Suda RF ot 21 agusta 2013, N AKPII3-642* [Decision of the Supreme Court of the RF from 21 August 2013, N-642 AKPII3]

*Reshenie Verhovnogo Suda RF ot 21 marta 2007, N GKPI06-1521* [Decision of the Supreme Court of the RF of 21 March 2007, N GKPI06-1521]

*Reshenie Vysshego Arbitrazhnogo Suda RF, 11 yanvarya 2012, N A-32-30501/2010* [Decision of the Supreme Commercial Court of the RF, 11 January 2012 N A-32-30501/2010]

## **C Legislation**

*Abgabenordnung* [Fiscal Code of Germany] (Germany)

*Arbitrazhnyj Protssessualnyj Kodeks RF, 2002* [Commercial Procedure Code of the RF, 2002] (Russia)

*Australian Charities and Not-for-profits Commission (Repeal) (No. 1) Bill 2014* (Cth)

*Australian Charities and Not-for-profits Commission Act (N 168) 2012* (Cth)

*Bürgerliches Gesetzbuch* [German Federal Civil Code] (Germany) 1 January 1900, BGB

*Charities Act 2011* (UK) c 25

*Charities Act (N 100) 2013* (Cth)

*Code General Des Impots* [General Tax Code] (France)

*Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment* [1985] OJ L 175/0040

*Environment Protection and Biodiversity Conservation Act (No 91) 1999* (Cth)

*Federalnyj Zakon ot 10 yanvarya 2006 N18-FZ 'O vnesenii izmenenij v nekotorye normativnye akty Rossijskoj Federatsii'* [Federal Law of the RF 10 January 2006 N18-Φ3 'On introducing amendments into Certain Legislative Acts of the Russian Federation'] (Russia)

*Federalnyj Zakon ot 19 maya 1995 N18-Φ3 'Ob obshchestvennyh ob'edineniyah'* [Federal Law of the RF 19.05.1995 N 82-FZ On Public Associations] (Russia)

*Federalnyj Zakon RF 7-FZ ot 12 yanvarya 1996 'O nekommercheskih organizatsiyah'* [Federal Law of the RF 12 January 1996 N 7-FZ On Non-Commercial Organisations] (Russia)

*Federalnyj Zakon RF ot 04 aprelya 2005 N 32-FZ 'Ob Obshestvennoj palate Rossijskoj Federatsii'* [Federal Law the RF 4 April 2005 N 32-FZ 'On the Civic Chamber of the Russian Federation'] (Russia)

*Federalnyj Zakon RF ot 4 iunya 2014 N 147-FZ 'O vnesenii izmeneniy v stat'yu 32 Federalnogo zakona 'O nekommercheskih organizatsiyah'* [Federal Law of the RF 4 June 2014 N 147-FZ 'On Amending Article 32 of the Federal Law 'On Non-Commercial Organisations'] (Russia)

*Federalnyj Zakon RF ot 28 dekabrya 2012 N 272-FZ 'O merah vozdeystviya na lits, prichastnyh k narusheniyam osnovopolagayushchih prav i svobod cheloveka, prav i svobod grazhdan RF'* [The Federal Law of the RF 28 December 2012 N 272-FZ 'On measures against persons involved in violations of fundamental human rights and freedoms, rights and freedoms of Russian citizens'].

*Federalnyj zakon RF ot 8 marta 2015 N 43-FZ 'O vnesenii izmenenij v stat'i 27 i 38 Federalnogo zakona 'Ob obshchestvennyh ob'yedineniyah' i stat'yu 32 Federalnogo zakona RF 'O nekommercheskih organizatsiyah'* [Federal Law of the RF 8 March 2015 N 43-FZ 'On

Amendments to Articles 27 and 38 of the Federal Law ‘On Public Associations’ and Article 32 of the Federal Law ‘On Non-Commercial Organisations’] (2015)

*Federalnyj Zakon RF ot 4 maya 1999 N 96-FZ ‘Ob ohrane atmosfernogo vozdukha’* [Federal Law of the RF 4 May 1999 N 96-FZ ‘On the Air Protection’] (Russia)

*Federalnyj Zakon RF ot 10 yanvarya 2002 N 7-FZ ‘Ob ohrane okruzhayushej sredy’* [Federal Law of the RF 10 January 2002 N 7-FZ ‘On the Environmental Protection’] (Russia)

*Federalnyj Zakon RF ot 11iulya 2001 N 95-FZ ‘O politicheskikh partiya’* [Federal Law of the RF 11 July 2001 N 95-FZ ‘On Political Parties’] (Russia)

*Federalnyj Zakon RF ot 14 marta 1995 N 33-FZ ‘Ob osobo ohranyaemyh prirodnyh territoriyah’* [Federal Law of the RF 14 March 1995 N 33-FZ On Specially Protected Natural Areas] (Russia)

*Federalnyj Zakon RF ot 19 iunya 2004 N 54-FZ ‘O sobraniyah, mitingah, demonstratsiyah, shestviyah i piketirovaniyah’* [Federal Law 19 June 2004, N 54-FZ ‘On Meetings, Rallies, Demonstrations, Marches and Pickets’] (Russia)

*Federalnyj Zakon RF ot 20 iulya 2012 N121-FZ ‘O vnesenii izmenenij v nekotorye normativnye akty RF’* [Federal Law of the RF 20 July 2012 N121-FZ ‘On Introducing Amendments into Certain Legislative Acts of the RF’] (Russia)

*Federalnyj Zakon RF ot 27 iulya 2006 N 149-FZ ‘Ob informatsii, informatsionnyh tehnologiyah i o zashhite informatsii’* [Federal Law of the RF 27 July 2006 N 149-FZ ‘On Information, Information Technologies and Protection of Information’] (Russia)

*Federalnyj Zakon ot 2 maya 2006 N 59-FZ ‘O poryadke rassmotrenia obrashenij grazhdan Rossijskoj Federatsii* [Federal Law of RF 2 May 2002 N 59-FZ ‘On a Procedure of Consideration of Citizens' Applications’] (Russia)

*Federalnyj Zakon RF ot 18 iulya 2011 N 235-FZ ‘O vnesenii izmenenij v chast vtoruyu Nalogovogo Kodeksa RF v chasti sovershenstvovaniya nalogooblozheniya nekommercheskih organizatsij i blagotvoritelnoj deyatelnosti’* [Federal Law of PF 18 July 2011 N 235-FZ ‘On Amendments to the Tax Code of the RF in Terms of Improving the Taxation of Non-Profit Organisations and Charitable Activities’] (Russia)

*Federalnyj Zakon RF ot 20 iulya 2012 N 121-FZ O vnesenii izmenenij v nekotorye zakonodatelnye akty RF po regulirovaniyu deyatelnosti nekommercheskih organizatsij vpolnyaushih funktsii inostrannyh agentov* [Federal Law of the RF 20 July 2012 N 121-FZ ‘On Introducing Amendments to Certain Legislative Acts of the RF Regarding the Regulation

of Activities of Non-Commercial Organisations Performing the Function of Foreign Agents] (Russia)

*Federalnyj Zakon RF ot 21 noyabrya 2011 N 328-FZ ‘O vnesenii izmenenij v otdelnye zakonodatelnye akty RF v chasti formirovaniya i ispolzovanija tselevogo kapitala nekommercheskih organizatsij’* [Federal Law of the RF 21 November 2011 N 328-FZ ‘On Amendments to Certain Legislative Acts of the RF Regarding the Formation and Use of Endowment Non-Commercial Organisations’] (Russia)

*Federalnyj Zakon RF ot 23 noyabrya 1995 N 174-FZ ‘Ob ekologicheskoy ekspertize’* [Federal Law of the RF 23 November 1995 N 174-FZ On Ecological Expertise] (Russia)

*Foreign Agents Registration Act, 22 USC § 611*

*Gradostroitelnyj Kodeks Rossijskoj Federatsii, 2004* [Urban Planning Code of the Russian Federation, 2004]

*Grazhdanskiy Kodeks RF, chast 1, 1994* [Civil Code, Part 1, 1994] (Russia)

*Internal Revenue Code, 26 USC*

*Kodeks Rossijskoj Federatsii ob administrativnykh pravonarusheniyah, 2001* [Code of the Russian Federation on Administrative Violations, 2001] (Russia)

*Konstitutsiya Respubliki Mariy El, 1995* [Constitution of the Republic of Mari El, 1995] (Russia)

*Konstitutsiya Rossijskoj Federatsii, 1993* [Constitution of the Russian Federation, 1993] (Russia)

*Konstitutsiya Soyuzo Sovetskikh Sotsialisticheskikh Respublik, 1936* [Constitution of the Union of Soviet Socialist Republics, 1936] (USSR)

*Konstitutsiya Soyuzo Sovetskikh Sotsialisticheskikh Respublik, 1977* [Constitution of the Union of Soviet Socialist Republics, 1977] (USSR)

*Law of the Tajikistan republic ‘On Public Associations’, 2008 (Tajikistan)*

*Lesnoj Kodeks Rossijskoj Federatsii, 2006* [Forest Code of the Russian Federation, 2006] (Russia)

*Loi du 1 juillet 1901 relative au contrat d'association* [Law of July 1, 1901 relating to the contract of association ] (France), JO, 1 July 1901

*Loi n° 87-571 du 23 juillet 1987* [Law N 87-571 of 23 July 23 1987] (France), JO, 24 July 1987



*Loi n° 90-559 du 4 juillet 1990 créant les fondations d'entreprise et modifiant les dispositions de la loi n° 87-571 du 23 juillet 1987 sur le développement du mécénat relatives aux fondations* [Law No. 90-559 of 4 July 1990 Creating Corporate Foundations and Modifying the Content of Law N. 87-571 on the Development of Philanthropy]

*Nalogovyj Kodeks Rossiyskoj Federatsii, Chast 2, 2000* [Tax Code of the Russian Federation, Part 2, 2000] (Russia)

*Nalogovyy kodeks Uzbekistana, 2008* [Tax Code of Uzbekistan, 2008] (Uzbekistan)

*Non-for-profit Sector Freedom to Advocate Act 2013 (N 56) 2013* (Cth)

*Postanovlenie Pravitelstva RF ot 15 aprelya 2006 N 212* [Resolution of the Government of the RF 15 April 2006 N 212] (Russia)

*Postanovlenie Pravitelstva RF ot 28 iunya 2008 N 485* [Resolution of the Government of the RF 28 June 2008 N485] (Russia)

*Postanovlenie VCIK i SNK ot 10 iulya 1932 'Ob utverzhdenii Polozheniya o dobrovolnyh obshchestvah i souzah'* [Resolution of the Central Executive Committee and Sovnarkom 10 July 1932 'On Approval of the Voluntary Associations and Unions'] (USSR)

*Postanovleniye Tsentralnogo Komiteta Kommunisticheskoy Partii Sovetskogo Soyuza, Sovmina SSSR ot 07 yanvarya 1988 N 32* [Decree of the Central Committee of the Communist Party of the USSR, the Council of Ministers of the USSR 07 January 1988 N 32] (Russia)

*Postanovlenie Pravitelstva Rossijskoj Federatsii ot 22 fevralya 2012 N 159* [Resolution of the Government of the RF 22 February 2012 N 159] (Russia)

*Prikaz Ministerstva Justitsii RF ot 29 marta 2010 N 72* [Order of the Ministry of Justice of the RF 29 March 2010 № 72 'On Approval of Reporting Non-Commercial organisations'] (Russia)

*Prikaz Ministerstva Justitsii RF ot 16 aprelya 2013 N50* [Order of the Ministry of Justice of the RF 16 April 2013 N50] (Russia)

*Rasporyazhenie Prezidenta RF ot 17 dekabrya 2009 N 861-rp* [Order of the President of the RF 17 December 2009 N 861-rp] (Russia)

*Rasporyazhenie Prezidenta RF ot 29 marta 2013 N 115-rp* [Order of the President of the RF 29 March 2013 N 115-rp] (Russia)

*Standart deyatelnosti obshchestvennykh sovetov pri federalnykh organakh ispolnitelnoy vlasti (Tipovoe polozhenie)(utv. protokolom zasedaniya Pravitelstvennoy komissii po koordinatsii*

*deyatelnosti otkrytogo pravitelstva ot 29maya 2014 N 4*) [Standard Regulations for Activities of Public Councils under the Federal Executive Authorities"(approved by Minutes of the Meeting of the Government Commission for the Coordination of Open Government 29 May 2014 N 4)]

*Ukaz Prezidenta RF ot 4 avgusta 2006 N 842 'O poryadke obrazovaniya obshchestvennykh sovetov pri federalnykh ministerstvakh'* [Decree of the President of the RF 4 August 2006 N 842 'On a Procedure for the Formation of Public Councils at the Federal Ministries'] (Russia)

*Vereinsgesetz* [Law on Associations of 5 August 1964], 5 August 1964, BGBl. I S., 1964, 593(Germany)

*White Paper on European Governance. COM(2001) 428 final (2001/C 287/01)* available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52001DC0428&rid=2>, the last access on 2/11.2014

*Zakon Moskvy ot 12 iulya 2006 N 38 'O vzaimodejstvii organov gosudarstvennoj vlasti goroda Moskvy s negosudarstvennymi nekommercheskimi organizatsiyami'* [Law of Moscow 12 July 2006 N 38 'On Interactions of Public Authorities in Moscow with Non-Commercial Organisations'] (Russia)

*Zakon Nizhegorodskoj oblasti ot 07maya 2009 N 52-Z* [Law of Nizhny Novgorod region 07 May 2009 N 52-Z] (Russia)

*Zakon RSFSR ot 19 dekabrya 1991 N 2060-1 'Ob ohrane okruzhayushej prirodnoj sredy'* [RSFSR Law 19 December 1991, N 2060-1 'On the Environmental Protection'] (USSR)

*Zakon RSFSR ot 27 oktyabrya 1960 'Ob okhrane prirody v RSFSR'* [Law of the RSFSR 27 October 1960 'On the Protection of Nature in the RSFSR'] (USSR)

*Zakon Turkmenistana 'Ob obshchestvennykh ob'edineniyah' ot 3 maya 2014* [Law of Turkmenistan on Public Associations of 3 May 2014] (Turkmenistan)

*Zemelnyj Kodeks Rossijskoj Federatsii, 2001* [Land Code of the Russian Federation, 2001] (Russia)

## **D Treaties**

*1969 International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties* signed 29 November 1969, 970 UNTS 211 (entered into force 6 May 1975)

*1992 Rio Declaration on Environment and Development*, 31 ILM 874 (1992) (signed and entered into force 14 June 1992)

*Agenda 21: Programme of Action for Sustainable Development*, U.N. GAOR, 46th Sess., Agenda Item 21, UN Doc A/Conf.151/26 (14 June 1992)

*Agreement between the Government of the Union of the Soviet Socialist Republics and the Government of the United Kingdom of Great Britain and Northern Ireland about cooperation in the field of environmental protection*, (signed and entered into force 21 May 1974)

*Agreement between the Government of the USSR and the Government of France on cooperation in the field of environmental protection* (signed and entered into force 24 March 1975)

*Agreement on Cooperation in the Field of Environmental Protection between the United States of America and the Union of Soviet Socialist Republics*, UNTS 846 (signed and entered into force 23 May 1972)

*Agreement on the Conservation of Polar Bears*, signed 15 November 1973, 27 UST 3918 (entered into force 5 May 1976)

*Convention for the Conservation of Salmon in the North Atlantic Ocean*, signed 2 March 1982, 1338 UNTS 33 (entered into force 1 October 1983)

*Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters*, opened for signature 25 June 1998, 2161 UNTS 447 (entered into force 30 October 2001)

*Convention on Biological Diversity*, signed 5 July 1992, 1760 UNTS 79 (entered into force 29 December 1993)

*Convention on Fundamental Rights and Freedoms*, opened for signature 4 November 1950, CETS No 005 (entered into force on 3 September 1953)

*Convention on International Trade in Endangered Species of Wild Fauna and Flora*, 993 UNTS 243 (signed 3 March 1973, entered in force 1 July 1975)

*Convention on the Protection of the Marine Environment of the Baltic Sea Area*, opened for signature 22 March 1974, 13 ILM 546 (entered into force 3 May 1980)

*European Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations*, signed 24 April 1986, CETS No 124 (entered into force 1 January 1991)

*Protocol to the Convention on Long-range Transboundary Air Pollution on the Reduction of Sulphur Emissions or their Transboundary Fluxes by at least 30 per cent*, opened for signatures 8 July 1985, 1480 UNTS 215 (entered into force 2 September 1987)

*United Nations Framework Convention on Climate Change*, opened for signature 9 May 1992, 1771 UNTS, 107 (entered into force 24 March 1994)

*Universal Declaration of Human Rights*, GA Res 217A (III), UN GAOR, 3<sup>rd</sup> sess, 183 plen mtg, UN Doc A/810 (10 December 1948)

## **E Other**

'Action of Greenpeace': assessment of population and internet community, press release № 2440' Russian Public Opinion Research Center (VCIOM), 2013

'Arrest and prosecution of activists 'of Greenpeace' in views of Russians', press release, Levada Analytical Center (Levada Center), 2013, available at <http://www.levada.ru/11-11-2013/arest-i-obvineniya-aktivistov-grinpis-v-predstavleniyakh-rossiyan>, the last access on 26/03/2014

'Bellona's Nikitin marks 10 years of freedom after defeating the FSB', published by Bellona on 13/09/2010, available at <http://bellona.org/news/russian-human-rights-issues/nikitin-case/2010-09-bellonas-nikitin-marks-10-years-of-freedom-after-defeating-the-fsb>, the last access on 06/11/2014

Burke, I., 'Foreign agents' under Russia's NGO Law and its US doppelganger', published on 27/07/2012, available at [http://rapsinews.com/legislation\\_publication/20120727/263954264.html](http://rapsinews.com/legislation_publication/20120727/263954264.html), the last access on 27/05/2014

'Council of Europe Should Condemn Repressive NGO Legislation in Azerbaijan' (The Civic Solidarity Platform, 2014) <http://www.civicsolidarity.org/article/892/council-europe-should-condemn-repressive-ngo-legislation-azerbaijan>

Department of Parliamentary Services (Cth), *Bills Digest*, No 68 of 2013-2014, 12 May 2014

Digges, C. 'Raid on Bellona's St. Petersburg offices casts uncertain shadow over organization's future' available at [http://www.bellona.org/articles/articles\\_2013/bellona\\_ngo\\_raid](http://www.bellona.org/articles/articles_2013/bellona_ngo_raid)

Explanatory Memorandum, Australian Charities and Not-for-profits Commission (Repeal) (No. 1) Bill 2014 (Cth)

- Holley, C., *New Environmental Governance* (Doctor of Philosophy Thesis, The Australian National University, 2008)
- Jun, Xu and D. Smith, 'Relations between the Government and Nonprofit Organizations in China and the USA: An Overview' (Paper presented at the ICPM-2012. Crisis Management in the Time of Changing World, 2012)
- V. Kotov and E. Nikitina, 'Reorganisation of Environmental Policy in Russia: the Decade of Success and Failures in Implementation and Perspective Quests' (2002), available at <http://www.feem.it/NR/rdonlyres/59A79BBF-DE58-4819-BC3F-C0FE71384402/346/5702.pdf>, the last access on 23/03/2014
- Nikishin, V., *Sudebnyj precedent kak istochnik ekologicheskogo prava Evropejskogo soyuza i Rossii: sravnitel'no-pravovoj analiz*. [Case Law as a source of Environmental law of the European Union and Russia: a Comparative Legal Analysis] (Kandidat juridicheskikh nauk [Doctor in Law] Thesis, The Institute of State and Law of the Russian Academy of Science, 2011)
- Phillips, R., 'Challenges to NGOs' Legitimacy in Policy Governance in Australia: Addressing the Neo-Liberal Critique' (Paper presented at the Contesting Citizenship and Civil Society in a Divided World, Ryerson University and York University, Toronto, Canada, 2004)
- 'Politico-legal expertise of applicability of the notion 'political activities' to the functioning public organizations in the Russian Federation', available in Russian at <http://publications.hse.ru/books/77595671>, the last access on 27/10/2014
- 'Putin reminded the FSB about 'foreign interests' of NGO', 14/02/2013, available at [http://www.bbc.co.uk/russian/russia/2013/02/130214\\_putin\\_speech\\_fsb\\_ngo.shtml](http://www.bbc.co.uk/russian/russia/2013/02/130214_putin_speech_fsb_ngo.shtml)
- Statement of Eastern Partnership Civil Society Forum on NGO law amendments in Azerbaijan, Brussels, 31 January 2014
- Statement of the adviser to the president of the Russian Federation, Special Representative of the president of the Russian Federation of climate change; 2011. [http://unfccc.int/files/meetings/durban\\_nov\\_2011/statements/application/pdf/111208\\_cop17\\_hls\\_russia.pdf](http://unfccc.int/files/meetings/durban_nov_2011/statements/application/pdf/111208_cop17_hls_russia.pdf) (last access: April 29, 2012)
- '*Rekomendatsii Soveta pri Prezidente RF po razvitiyu grazhdanskogo obshchestva i pravam cheloveka po rezul'tatam spetsialnogo zasedaniya na temu 'Proverki NKO: zatrachennyye resursy i poluchennyye rezul'taty'* [Recommendations of the Council under the President of the RF for the development of civil society and human rights as a result of the special session on

'Inspections of NGOs: the resources expended and results']' (Council under the President of the RF 2013)

Remézaitè, R., *Restrictions on the Right to Freedom of Association: Case Study of the Legal Environment of Human Rights NGOs in Azerbaijan, Belarus and the Russian Federation* (University of Oslo, 2010)

'Russian constitutional court ruling on foreign agent law opens door to new wave of prosecution', published on 17/04/2014, available at <http://www.frontlinedefenders.org/node/25724>; the last access on 08/05/2014

'Russia's Highest Court upholds foreign agent law', published on 09/04/2014, available at <http://en.ria.ru/russia/20140408/189106189/Russias-Highest-Court-Upholds-Foreign-Agent-Law.html> the last access on 08/05/2014

Sliviyak, V., 'Environmentalists and people affected by radiation sue 'Rosatom' and the Government of the Russian Federation', 02/10/2010, available at <http://www.bellona.ru/weblog/1286015295.23>

Smirnov, A., 'Rivers have been poisoned and environmentalists have been beaten in Pervouralsk' available at [http://www.bellona.ru/articles\\_ru/articles\\_2013/1375878908.92](http://www.bellona.ru/articles_ru/articles_2013/1375878908.92); the last access on 31/03/2014

Staples, J., *Non-government Organisations and the Australian Government: A Dual Strategy of Public Advocacy for NGOs* (Doctor of Philosophy Thesis, The University of New South Wales, 2012)

The interview of the president of the RF to the German ARD, 05/04/2013, available at <http://eng.news.kremlin.ru/news/5216>

The interview of the Russian Prime Minister D. Medvedev to agency 'Agence France-Presse' and the newspaper 'Le Figaro', 26/11/2012, available at <http://government.ru/news/5919>

The interview of the Russian Prime Minister Dmitry Medvedev to agency 'Agence France-Presse' and the newspaper 'Le Figaro', 26/11/2012, available at <http://government.ru/news/5919>

'The Constitutional Court make life easier for 'foreign agents'', published on 08/04/2014, available at [http://www.bbc.co.uk/russian/russia/2014/04/140408\\_ngo\\_constitutional\\_verdict.shtml](http://www.bbc.co.uk/russian/russia/2014/04/140408_ngo_constitutional_verdict.shtml), the last access on 08/05/2014

‘The Constitution found a place for foreign agents’, published on 09/04/2014, available at <http://rbcdaily.ru/politics/562949991106423>, the last access on 08/05/2014

Tumanov, G., I. Buranov and A. Miklashevskaya, 'Trassu Moskva—Peterburg doveli do Frantsii [The highway from Moscow to St. Petersburg was brought to France]', *Kommersant* (Moscow ), 23 June 2013, available at <http://www.kommersant.ru/doc/2219249?themeid=1209>, the last access at 24/08/2014

‘Ukraine crisis: Yatsenyuk is PM-designate, Kiev Maidan told’, published 26/02/2014, at <http://www.bbc.com/news/world-europe-26359150>, the last access on 22/05/2014

## **Appendix 1: Interview protocol**

List of questions for members and volunteers of NGOs, governmental officials and representatives from businesses. The questions are translated in Russian and translation of each question is placed in brackets after the question. *(Список вопросов для членов и волонтеров НПО и представителей власти)*

The following is a comprehensive list of all the possible questions that may be addressed. It is expected that in a one hour interview the conversation will lead to a number of these questions to be focused upon. *(Ниже приведен полный список всех возможных вопросов, которые могут быть заданы. В зависимости от развития беседы, разговор будет сфокусирован на определенной группе вопросов).*

### **Opening question**

#### ***(Вводный вопрос)***

What are main aims of organisation/state agency? *(Основные цели деятельности организации/ государственного органа)*

### **Structure of organisation and decision making process *(Структура организации и процесс принятия решения)***

What is a general structure of your organisation/state agency? *(Какова общая структура вашей организации/государственного органа?)*

How does the organisational decision making process operate (e.g deciding what issues you support or actions you take)? Does it differ between issues? *(Как работает процесс принятия решений (например, принятие решения о том, какие задачи и акции Вы поддерживаете и принимаете)? Это зависит от проблемы?)*

### **General success and failures of organization *(Общие успехи и неудачи организации)***

What are some of the main successes or failures of the organisation? *(Какие основные успехи и неудачи организации?)*

- What factors may have contributed to these successes or failures? *(Какие факторы, возможно, способствовали этим успехам/неудачам?)*
- What were outcomes for the environment and community? *(Каковы были последствия для охраны окружающей среды и общества?)*

What are the main challenges for operation of the organisation and factors enabling its capacities to influence outcomes from its work?*(Каковы основные проблемы для работы*



*организации и факторы, улучшающие ее возможности влиять на результат ее работы?)*

- laws? (законы?)
- funding? (финансирование?)
- relationships with people/community? (отношения с людьми/обществом?)
- organisational issues? (организационные вопросы?)
- a sufficient or insufficient governmental or legal support? (достаточная или недостаточная государственная и правовая поддержка?)
- relationships with partners? (отношения с партнерами?)

Who are the main actors what the organisation was capable to influence? *(Основные субъекты правоотношений, на которых организация смогла повлиять?)*

How do you decide which actors to target? What influences your decision to target one set of actors over another? *(Как вы принимаете решение на каких именно субъектов воздействовать? Что влияет на ваше решение воздействовать именно на эту группу субъектов, а не на другую?)*

What are the main ways and strategies the organisation seeks to leverage change in these actors behaviour regarding environmental issues? *(Какие основные рычаги воздействия организация использует, чтобы изменить поведение этих субъектов относительно вопросов защиты окружающей среды?)*

What are the barriers or keys to ensuring that you can exercise these strategies over a particular set of actors? *(Что мешает или, наоборот, какие подходы обеспечивают возможность с помощью этих рычагов воздействовать именно на эту группу субъектов?)*

In an ideal world, what would allow your organisation to achieve your desired amount of change in behaviour regarding environmental issues? *(В идеале, что позволит вашей организации достигнуть желаемого количества изменений в деятельности по проблемам охраны окружающей среды?)*

**Relationships with government authorities (if NGO interviewee)** *(Отношения с органами государственной власти (если собеседник НКО))*

How would you characterise your organisation's relationship with government? (eg cooperative, adversarial, dependent)? *(Как бы вы охарактеризовали отношения вашей организации с органами власти и управления? (например, взаимодействие, состязательность, зависимость?)*

What strategies does your organisation use to influence governmental policy and business in the environmental issues? *(Какие стратегии ваша организация использует, чтобы влиять на политику государства и деятельность бизнеса в сфере экологии?)*

- collaborations *(сотрудничество)*
- protests *(протесты)*
- litigations *(судебные процессы)*
- complaints to the Procurator Office or other special agencies of environmental protection *(заявления в прокуратуру или в природоохранные органы)*
- other ways *(иные способы)*

Are these strategies effective? Why/why not? *(Являются ли эти стратегии эффективными? Почему/почему нет?)*

Do these strategies differ between local, national or international government arrangements? *(Различаются ли эти стратегии на местном, национальном или международном уровне?)*

Does the organisation feel like it can meaningfully input into the development of environmental policy? Why/why not? *(Есть ли у вашей организации ощущение, что она может внести вклад в развитие регулирования/политики в области экологии? Почему/Почему нет?)*

What are some of the main positive outcomes from relationships with government for the environment and community? *(Какие основные положительные результаты достигнуты для окружающей среды и общества от взаимоотношений с правительством?)*

What are some of the main weaknesses of the organisation's relationship with government? *(Что является основными недостатками в отношениях организации с правительством?)*

**Relationships with other NGOs (if NGO interviewee)** *(Отношения с другими неправительственными организациями (если собеседник НКО))*

Does your organisation collaborate with other NGOs either local, national or international? Why/why not? When is such cooperation likely to succeed? *(Сотрудничает ли ваша организация с другими неправительственными организациями как на местном, так и на национальном или международном уровне? Почему/ Почему нет? Когда подобного рода сотрудничество может быть успешным?)*

Does the organisation take parts and organize collective actions with other NGOs? Why/why not? When is such cooperation likely to succeed? *(Организует ли ваша организация совместные акции с другими неправительственными организациями и/или принимает в них участие? Почему/ Почему нет? Когда подобного рода сотрудничество может быть успешным?)*

Do these relationships produce good outcomes for the environment? Why/why not? *(Дают ли эти отношения хорошие результаты для экологии? Почему/Почему нет?)*

Has there been any sharing of learning or experience between your organisation and other environmental NGOs? *(Имеет ли место обмен опытом или учеба между вашей организацией и другими экологическими НКО?)*

**Relationships with business (for NGO interviewees and governmental officials)**  
***(Отношения с бизнесом (для членов и волонтеров НКО и представителей власти)***

What kind of relationship does your organisation/state agency have with business structures? *(Какого рода отношения у вашей организации с бизнес-структурами?)*

Does your organisation/state agency collaborate with the private sector either local, national or international? Why/why not? When is such cooperation likely to succeed? *(Сотрудничает ли ваша организация с частным сектором (компаниями) на местном, национальном или международном уровне? Почему/ Почему нет? Когда подобного рода сотрудничество может быть успешным?)*

Does the organisation specifically target the private sector for negative campaigns/litigation? Why/why not? When is such action likely to succeed? *(Использует ли ваша организация частный сектор в качестве цели для негативных кампаний или объекта судебных разбирательств? Почему/ Почему нет? Когда подобного рода акции могут быть успешными?)*

Do these relationships produce good outcomes for the environment? Why/why not? *(Дают ли эти отношения хорошие результаты для природоохраны? Почему/Почему нет?)*

Has there been any sharing of learning or experience between your organisation and business? *(Имеет ли место обмен опытом между вашей организацией и бизнесом или совместная учеба?)*

**Relationships with community (for NGO interviewees, governmental officials and representatives from businesses)** ***Отношения с общественностью (для членов НКО, представителей власти и бизнеса)***

How does your organisation/state agency/company interact with the public? Is this successful? Why/ why not? *(Как ваша организация взаимодействует с общественностью? Успешно? Почему/Почему нет?)*

Have there been educational, learning and recreational actions organized by your organisation for community? *(Проводила ли ваша организация образовательные, познавательные и рекреационные мероприятий для населения?)*

Do these interactions with the public produce good outcomes for the environment? Why/why not? *(Дают ли эти отношения позитивные результаты для природоохраны? Почему/Почему нет?)*

## Appendix 2: Participants in this study

Nineteen interviews were conducted with members of Russian domestic and international environmental NGOs. The NGOs were selected to capture variance in an organisational status and level of action (internationally based, domestic and local), a size of NGOs (large, medium, small), a diversity in their strategies and tools (for example, collaborations with government agencies, campaigns with other NGOs), focus of their activity (single and multiply issued) and a background through website searches on the Internet. Considering a vast size of Russia, diversity of its more than eighty regions and ecological problems in these regions and limited resources for this study it would be impossible to embrace all existing ENGOS in the regions of Russia.<sup>54</sup>

The first group, comprising of WWF Russia and Greenpeace Russia, are branches of international environmental NGOs and can be categorized as large international ENGOS. With a significant number of members and offices in Russia, they are predominantly foreign-funded and operate on all levels of governance (federal, regional and local). However, due to their international reputation, status and resources, they focus mostly on big projects, lobbying and interacting with Federal Government bodies. The second group, comprising *Dront*, *Ekologicheskaya vahta po Severnomu Kavkazu* (Ekovahta) (Ecological Watch in North Caucasus), *Druzhina Okhrani Prirodi* (Nature Protection Squad) and a regional youth movement *Izmenim mir* (Change the world), *Zelenaya Liga Samara* (Green League) and *Rozovyj Oduvanchik* (Pink Dandelion) are regional and local organisations. These organisation focus on regional and local environmental issues and generally interact with regional and local governmental bodies. While some are medium-sized with 20 to 50 permanent members, others are smaller (5 to 20 members). They have access to limited resources, often relying on funding from international ENGOS or pooling resources among small/medium organisation. Although they are less successful players at the federal level, they can become involved at the federal level when local environmental issues escalate (as

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<sup>54</sup> The total number of ENGOS in Russia is difficult to estimate. According to the Ministry of Justice, in December 2012, the total number of registered non-commercial organisations (NCO) was approximately 400,000 with 319 branches and representative offices of foreign NCOs. This includes religious organisations, state public-private associations, political parties and others. In contrast, the Civic (Public) Chamber estimated the overall number of registered NGOs at 115,657. The Federal Statistics Service reports 108,736 NGOs. The number of environmental NGOs is even more difficult to estimate, because the official database of the Ministry of Justice does not contain this information. To trace ENGOS, we used organisation the term 'эколог' as a filter (this is a root from Russian adjective 'экологические' (ecological); we opted for the root instead of the whole word to make the search more effective). As a result, we identified 1,651 organisations. This number does not include environmental organisations that do not have 'ecology' or 'ecological' in their names. Neither does it account for a large number of non-registered environmental movements and groups involved in environmental protection.

demonstrated by the preparations for the Sochi Winter Olympics 2014). In such cases, local ENGOs represent their regions in addressing environmental issues at the federal level, armed with local knowledge and their local reputation. This may result in an involvement in international projects on a local scale (as demonstrated by the preparations for the Sochi Winter Olympics 2014). Generally however, local and regional ENGOs operate on a smaller scale, mobilizing public rallies or organising events such as local environmental clean-ups.

In addition, two experts in Australia (one from EDO NSW and WWF Australia) who had experience working with international ENGOs and/or in Post-Communist countries were also included in this research in order to enhance the comparative element of this thesis. In total, representatives from 10 ENGOs were interviewed, which include 2 international groups, 5 regional groups (two of them were a part of interregional networks), 2 students' movements (see Tables 10-12).

**Table 10. Types of ENGOs studied in the thesis**

| Feature             | Type of ENGO                            | Example  |
|---------------------|---|--|
| Scale of activities | Internationally based groups            | WWF Russia, WWF International, Green Peace Russia, Greenpeace International, Bellona, Socially Economic Union                                    |
|                     | Interregional (national) networks       | All Russian society on the nature protection (VOOP), Russian Green League, Ekovahta  |
|                     | Regional groups                         | <i>Dront</i> , Green League Samara, <i>Ekovahta</i> on Northern Caucasus, Khimkinsky Forest <i>Izmenin mir</i> , <i>Rozovy oduvanchik</i>        |
| Origin              | International                           | WWF Russia, WWF International, Green Peace Russia, Greenpeace International, Bellona   |
|                     | Russia                                  | Socially Economic Union, <i>Dront</i> , Green League Samara, <i>Ekovahta</i> on Northern Caucasus, <i>Izmenin mir</i> , <i>Rozovy oduvanchik</i> |
| Age group           | Youth (student) environmental movements | <i>Izmenim mir</i> , <i>Druzhina ohrany prirody (DOP)</i>  |
| Type of action      | More radical                            | Greenpeace Russia, <i>Ekovahta</i> on the Northern Caucasus, Khimkinsky Forest   |
|                     | More collaborative                      | WWF Russia, <i>Dront</i> , Green League Samara   |

**Table 11. Major ENGOs studied in the thesis**

| ENGO                                | Year of foundation | Number of members | Key focus areas  | Examples of campaigns/projects  |
|-------------------------------------|--------------------|-------------------|--|---|
| WWF Russia                          | 1994               | 140               | Nature and biodiversity conservation, sustainable use of natural resources. Main programmes: the Forest Programme, the Marine Programme, the Climate Change Programme, Work with Protected Areas, Endangered Species Conservation, the Programme on the ecological policies of the oil and gas sector, Conservation Policy.                              | FSC-campaign in Russia; WWF Russia's Earth Hour campaign; fundraising campaigns on saving dangerous species (e.g. save the tiger, snow leopard), campaign against poaching polar bears, campaign on supplementary feeding of wild animals.<br><br>Development of nature conservation strategies and networks of nature protected areas (Econets); the Altai-Sayain Ecoregion (ASER) Conservation Strategy; 'A New Future for the Russian Arctic'. |
| Greenpeace Russia                   | 1992               | 77                | Campaigns to change attitudes and behaviour, to protect and conserve the environment and to promote peace. Main directions: climate change and energy; protection of oceans, forests, and the animals, plants and people that depend on them; creating a toxic free future; calling for the elimination of all nuclear weapons; sustainable agriculture. | 'Save the Arctic!' campaign; project for the revival of the forest; 'Nuclear Free Future' project; project 'Russian Rives' – 'Clean Neva', Water Patrol' and others; 'Green Office' project; information campaign on certification of GMO products; Lake Baikal campaign.   |
| Dront                               | 1989               | N/A               | Regional environmental problems concerning the Volga river; hydro-power plants; nuclear power plants; protection of biodiversity; ecological education expertise; coordination of regional and local NGOs.   | 'Help the River!' movement and campaign; 'Feed the birds!'; the programme on birds' protection; organisation of summer ecological camps for children.   |
| <i>Zelenaya Liga</i> (Green league) | 2012               | N/A               | Interregional and regional environmental problems concerning pollution; public ecological control; protection social rights of citizens; coordination of regional offices.   | The promotion of the programme 'Public ecological control' and creation of public ecological inspections; the programme 'Formation of ecological culture'; regional campaigns for protection of parks; 'ecological expertise', 'animals in cities'; legal support of ecological rights of citizens.   |
| <i>Ekologiches</i>                  | 1997               | N/A               | Environmental problems   | Campaign for compliance   |

|  |  |  |   |  |
|--|--|--|---|--|
| <i>kaya vahta po Severnomu Kavkazu (Ekovahta)</i> (Ecological Watch in North Caucasus) |  |  | concerning the North Caucasus region; protection of the unique environment of the region and natural parks from the industrial and building development; coordination of ecological regional and local movements; ecological monitoring and research. | with environmental requirements in preparation for the 2014 Sochi Olympics; 'Save Utrish!' campaign; campaign for the protection of the delta of the Kuban River; advocacy campaigns to protect environmental activists; advocacy campaigns to protect ecological rights of residents of cities such as Sochi, Tuapse. |
|--|--|--|---|--|

**Table 12. Participants**

| ENGOS                  |  |                 | State (regional bodies) |        |                             | Business                     |
|------------------------|--|-----------------|-------------------------|--------|-----------------------------|------------------------------|
|                        | International groups (in Russia and Australia) | Regional groups | Subsoil                 | Forest | Natural resource management | Large industrial company - 1 |
| Number of participants | 9  | 12              | 1                       | 1      | 2                           |                              |
| 21                     |  |                 | 4                       |        |                             | 1                            |
| Total 26               |  |                 |                         |        |                             |                              |

The interview process was divided into two parts. The first round of interviews with ENGO members was conducted in September 2012 and January 2013 (comprising 18 numbers of interviews). The main data concerning the ENGOS operation in Russia, their challenges and opportunities as well as empirical insights on the new NGO Law enacted in July 2012 were obtained from these interviews. The second round of interviews was in December 2013-January 2014 and it involved interviewing of representatives from the state bodies relevant to the nature protection, ENGOS and business on the latest ENGO activities and events with their participation. This second round of the interviews (comprising 8 numbers of interviews) was conducted considering data from the previous interviews, other relevant data from open sources and documentary research. This second round of interviews allowed to obtain more empirical data on issues of implementation of the NGO Law and its influence on the work of ENGOS in Russia and the work of new participatory bodies, such as the Civil Chambers and Public Councils.



### **Appendix 3: Ethics Committee's approval of this project**

**Ethics Secretariat <ethics.secretariat@mq.edu.au>**

**4/26/12**

Dear Dr Nagarajan

Re: "Climate governance and NGOs in Russia" (Ethics Ref: 5201200095)

Thank you for your recent correspondence. Your response has addressed the issues raised by the Human Research Ethics Committee and you may now commence your research.

The following personnel are authorised to conduct this research:

Chief Investigator- Dr Vijaya Nagarajan

Co-Investigator- Dr Cameron Holley and Mrs Ekaterina Sofronova

**NB. STUDENTS: IT IS YOUR RESPONSIBILITY TO KEEP A COPY OF THIS APPROVAL EMAIL TO SUBMIT WITH YOUR THESIS.**

Please note the following standard requirements of approval:

1. The approval of this project is conditional upon your continuing compliance with the National Statement on Ethical Conduct in Human Research (2007).
2. Approval will be for a period of five (5) years subject to the provision of annual reports. Your first progress report is due on 26 April 2013.

If you complete the work earlier than you had planned you must submit a Final Report as soon as the work is completed. If the project has been discontinued or not commenced for any reason, you are also required to submit a Final Report for the project.

Progress reports and Final Reports are available at the following website:

[http://www.research.mq.edu.au/for/researchers/how\\_to\\_obtain\\_ethics\\_approval/human\\_research\\_ethics/forms](http://www.research.mq.edu.au/for/researchers/how_to_obtain_ethics_approval/human_research_ethics/forms)

3. If the project has run for more than five (5) years you cannot renew approval for the project. You will need to complete and submit a Final Report and submit a new application for the project. (The five year limit on renewal of approvals allows the Committee to fully re-review research in an environment where legislation, guidelines and requirements are continually changing, for example, new child protection and privacy laws).

4. All amendments to the project must be reviewed and approved by the Committee before implementation. Please complete and submit a Request for Amendment Form available at the following website:

[http://www.research.mq.edu.au/for/researchers/how\\_to\\_obtain\\_ethics\\_approval/human\\_research\\_ethics/forms](http://www.research.mq.edu.au/for/researchers/how_to_obtain_ethics_approval/human_research_ethics/forms)

5. Please notify the Committee immediately in the event of any adverse effects on participants or of any unforeseen events that affect the continued ethical acceptability of the project.
6. At all times you are responsible for the ethical conduct of your research in accordance with the guidelines established by the University.

This information is available at the following websites:

<http://www.mq.edu.au/policy/>

[http://www.research.mq.edu.au/for/researchers/how\\_to\\_obtain\\_ethics\\_approval/human\\_research\\_ethics/policy](http://www.research.mq.edu.au/for/researchers/how_to_obtain_ethics_approval/human_research_ethics/policy)

If you will be applying for or have applied for internal or external funding for the above project it is your responsibility to provide the Macquarie University's Research Grants Management Assistant with a copy of this email as soon as possible. Internal and External funding agencies will not be informed that you have final approval for your project and funds will not be released until the Research Grants Management Assistant has received a copy of this email.

Please retain a copy of this email as this is your official notification of final ethics approval.

Yours sincerely

Dr Karolyn White

Director of Research Ethics

Chair, Human Research Ethics Committee

**Ethics Secretariat <ethics.secretariat@mq.edu.au> (sent by fran.thorp@mq.edu.au)**

**5/6/13**

Dear Ekaterina

Thank you for your email and response. The following amendment has been approved:

1. A change in the title of the project to "Environmental governance and NGOs in Russia".
2. An expansion in the focus of the research to include environmental governance and to better address the aims of the research.
3. Interviews with members of two Australian NGOs: The CEO of WWF and Senior Legal Officers in the Environmental Defender's Office. The method for recruiting participants is unchanged and as previously approved. .

Please do not hesitate to contact me if you have any questions.

Regards

Fran

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