



Resolution 2096 (2016)¹

How can inappropriate restrictions on NGO activities in Europe be prevented?

Parliamentary Assembly

1. The Parliamentary Assembly recalls the importance of the role of a dynamic civil society for the good functioning of democracy and pays tribute to all the non-governmental organisations (NGOs) whose work has strengthened human rights, democracy and the rule of law in their States.
2. The Assembly stresses that all States Parties to the European Convention on Human Rights (ETS No. 5) have agreed to ensure respect for freedoms of assembly and association and of expression and information, and thus to create a favourable environment for the exercise of those freedoms, guided by the case law of the European Court of Human Rights, Committee of Ministers Recommendation CM/Rec(2007)14 on the legal status of non-governmental organisations in Europe and the Joint guidelines on freedom of association adopted in December 2014 by the European Commission for Democracy through Law (Venice Commission) and the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe.
3. The Assembly reaffirms its previous [Resolutions 1660 \(2009\)](#) and [1891 \(2012\)](#) on the situation of human rights defenders in Council of Europe member States, as well as [Resolution 2060 \(2015\)](#), [Recommendation 2073 \(2015\)](#), [Resolution 1729 \(2010\)](#) and [Recommendation 1916 \(2010\)](#) on the protection of whistle-blowers.
4. The Assembly notes that in certain Council of Europe member States the situation of civil society has dramatically deteriorated over the last few years, in particular following the adoption of restrictive laws and regulations, some of which have been strongly criticised by the Venice Commission, the Council of Europe Commissioner for Human Rights and the Conference of International Non-governmental Organisations. In certain member States, NGOs encounter various impediments to their registration, operating and financing. In others, despite an appropriate legal framework, certain NGOs such as human rights defenders and watchdog organisations are stigmatised. The Assembly is particularly worried about the restrictions affecting civil society in Azerbaijan and the Russian Federation and about the situation in annexed Crimea and other territories outside the control of State authorities.
5. As regards the situation of civil society in Azerbaijan, the Assembly recalls its [Resolution 2062 \(2015\)](#) on the functioning of democratic institutions in Azerbaijan and condemns once again the deterioration of the working conditions of NGOs and human rights activists following changes to the legislation on NGOs that impose inappropriate restrictions on their activities. The Assembly calls on Azerbaijan to amend its legislation on NGOs in accordance with the recommendations of the Venice Commission (Opinions Nos. 636/2011 and 787/2014) and to fully and promptly implement judgments of the European Court of Human Rights, in particular those finding violations of the freedoms of association, assembly and expression. The Assembly expresses its serious concern over the continuing deterioration of the human rights situation in Azerbaijan, and calls on Council of Europe member States to attach special importance to human rights and fundamental freedoms in the context of bilateral co-operation.

1. *Assembly debate* on 28 January 2016 (8th Sitting) (see [Doc. 13940](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Yves Cruchten). *Text adopted by the Assembly* on 28 January 2016 (8th Sitting). See [Recommendation 2086 \(2016\)](#).



6. The Assembly also expresses strong concern about the so-called “foreign agents law” modifying the Russian legislation on non-commercial organisations, to the effect that NGOs receiving foreign funding are obliged to register as “foreign agents”. It notes that dozens of NGOs have been unilaterally registered as foreign agents by the Minister of Justice and that even the laureate of the Assembly’s 2011 Human Rights Prize, the Nizhny Novgorod Committee against Torture, was recently forced to close down for this reason. The Assembly is also worried about the adoption, in May 2015, of the law on undesirable organisations, the implementation of which may lead to the closure of major international and foreign NGOs working in the Russian Federation. The Assembly calls on Russia to amend the legislation on NGOs in accordance with the Venice Commission’s Opinions Nos. 716/2013 and 717/2013 and calls on the authorities to implement the remaining provisions of this legislation in accordance with the international standards on the right to freedom of association and other relevant human rights.

7. The Assembly therefore calls on member States to:

7.1. fully implement Committee of Ministers Recommendation CM/Rec(2007)14;

7.2. review existing legislation with a view to bringing it into conformity with international human rights instruments regarding the rights to freedom of association, assembly and expression, by making use of the expertise of the Council of Europe, and in particular of the Venice Commission;

7.3. refrain from adopting any new laws which would result in inappropriate restrictions on NGOs;

7.4. ensure that NGOs are effectively involved in the consultation process concerning new legislation which concerns them and other issues of particular importance to society;

7.5. ensure an enabling environment for NGOs, in particular by refraining from any harassment (judicial, administrative or tax) and smear campaigns;

7.6. sign and/or ratify the European Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations (ETS No. 124), if this has not yet been done.

8. The Assembly, mindful of the precarious situation of civil society in the Council of Europe area, resolves to remain seized of the matter and to continue to give it priority, in view of the urgent need to monitor respect for freedom of association, of assembly and of expression.