Parliamentary Assembly
Assemblée parlementaire
https://pace.coe.int

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 14206
23 November 2016

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

Reply to Recommendation[1]: Recommendation 2086 (2016)
Committee of Ministers

1. The Committee of Ministers has carefully considered Parliamentary Assembly Recommendation 2086 (2016) entitled "How can inappropriate restrictions on NGO activities in Europe be prevented?", which it has forwarded to the European Committee on Legal Co-operation (CDCJ) and the Conference of INGOs for information and any comments.

2. The Committee shares the Assembly's view that international non-governmental organisations (INGOs) are one of the key components of an open and democratic society enabling civil society to take part in the decision-making process. NGOs make an essential contribution to the defence of human rights and to the strengthening of democracy and the rule of law. The Committee of Ministers reasserts the particular importance of ensuring NGOs' freedom of action, in accordance with the rights to freedom of expression and association, as provided for by Articles 10 and 11 of the European Convention on Human Rights, which are among the fundamental values of the Council of Europe. It recalls that the exercise of these rights cannot be subject to restrictions other than those provided for in paragraph 2 of Articles 10 and 11.

3. The Committee of Ministers strongly encourages member States to fully implement Recommendation CM/Rec(2007)14 on the legal status of non-governmental organisations in Europe. It also calls on member States to ensure the existence of an environment that is favourable to NGOs and to refrain from taking any measures which place inappropriate restrictions on the establishment, functioning and financing of NGOs. With regard to the carrying out of a study to take stock of implementation of Recommendation CM/Rec(2007)14, the Committee of Ministers points out that such a study had been embarked upon in 2010 by the European Committee on Legal Co-operation (CDCJ). It expresses its regret that only a small number of member States took part in this study but welcomes the fact that those who did take part have adopted positive measures to bring their legislation in line with the recommendation. The Committee of Ministers notes that the CDCJ plans to undertake a new review of the implementation of Recommendation CM/Rec(2007)14.

4. With regard to the Assembly's call for a revision of Recommendation CM/Rec(2007)14 in order to adapt it to the new threats facing NGOs, the Committee considers that the said recommendation clearly sets out the minimum standards for the protection of NGOs which, if they are complied with, offer a means of effectively combating inappropriate restrictions on NGO activities in Europe. It therefore believes that priority should be given to the implementation in practice of the provisions contained in the recommendation, and strict compliance with Articles 10 and 11 of the European Convention on Human Rights, before considering a possible revision. In this connection, it points out that following the thematic debate on the freedom of assembly and association which it held on 7 October 2015 (see paragraph 6 below), it encouraged "member States to review their domestic legislation and practice regarding freedom of assembly and association in order to ensure that they meet the requirements posed by Article 11 of the European Convention on Human Rights and other relevant Council of Europe instruments with due regard to the conclusions and recommendations of its monitoring bodies". It further points out that in his report on "The state of democracy, human rights and the rule of law: a security imperative for Europe", which he presented at the 126th Session

1. Adopted at the 1271st meeting of the Ministers' Deputies (16 November 2016).

of the Committee of Ministers (Sofia, 18 May 2016), the Secretary General called for a study on the standards applying to foreign funding of NGOs in the member States. This initiative, and any follow-up, will be subject to discussion in the Committee of Ministers.

5. With regard to the thematic debate on the role and functioning of NGOs in the Council of Europe, held by the Ministers' Deputies at their 1202nd meeting (10 June 2014), it should be pointed out that, following this debate, the Rapporteur Group on Democracy (GR-DEM) had been tasked with considering the general proposals concerning strengthening interaction with NGOs. Following its consideration, the GR-DEM concluded that it was possible to strengthen the role of NGOs in the Council of Europe in full compliance with the rules in force. Accordingly, the President of the Conference of INGOs presents an annual report to the Ministers' Deputies. Moreover, a representative of the Conference is invited to participate in the GR-DEM before and after the Plenary Session of the Conference in order to present the activities and proposals of the Conference. The Committee of Ministers is ready to pursue the exchanges with the representatives of civil society, including at the level of its various rapporteur groups, in accordance with the applicable rules. It should also be noted that, following the thematic debate, the Conference of INGOs regularly invites the Permanent Representatives to the plenary meetings of the Conference of INGOs and to the various events it organises. Lastly, it should be pointed out that on 6 July 2016, the Committee of Ministers adopted a new Resolution on the participatory status of international non-governmental organisations with the Council of Europe. The main purpose of this new resolution is to define more clearly the criteria for obtaining participatory status in order to ensure more effective co-operation between the Council of Europe and NGOs.

6. Finally, the Committee of Ministers points out that it held another thematic debate at its 1237th meeting (7 October 2015), entitled "Freedom of assembly and association: current challenges and the response from the Council of Europe", with the participation of the Commissioner for Human Rights, Mr Nils Muižnieks. During this debate, member States expressed different opinions on the establishment of a new mechanism aimed at strengthening the protection of human rights defenders. Following the debate, the Ministers' Deputies called on the Secretary General to study the feasibility of a mechanism for protecting human rights defenders, taking account of the financial implications in the Programme and Budget and the need to avoid any duplication with existing initiatives, in order to submit operational proposals in this regard. The Secretary General will shortly be putting forward such proposals. The Committee of Ministers will keep the Parliamentary Assembly informed of any follow-up action that could be taken.