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(Final version)

New restrictions on NGO activities in Council of Europe member States

Contents	Page
A. Draft Resolution	2
B. Draft Recommendation	6

A. Draft Resolution

1. The Parliamentary Assembly recalls its Resolution 2096 (2016) and Recommendation 2086 (2016) on “How can inappropriate restrictions on NGO activities in Europe be prevented?”, its previous Resolutions 1660 (2009), 1891 (2012) and 2095 (2016) and Recommendation 2095 (2016) 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”.
2. The Assembly reiterates the importance of non-governmental organisations (NGOs) for the development and realisation of democracy, the rule of law and human rights, in particular through the promotion of public awareness, participation in public life and by securing the transparency and accountability of public authorities and contributing to the cultural life and social well-being of democratic societies. It pays tribute to all NGOs, whose work has strengthened human rights, democracy and the rule of law in the member States of the Council of Europe.
3. The Assembly recalls that by adhering to the European Convention on Human Rights (ETS No. 5), the member States of the Council of Europe have agreed to ensure, without discrimination, respect for freedom of assembly and association as well as the freedom of expression, which are inextricably linked to one another and are vital to the proper functioning of civil society. Any restriction of the above rights shall be “prescribed by law”, “necessary in a democratic society” and proportionate to the envisaged legitimate aim.
4. The Assembly notes with concern that in several Council of Europe member States the space for civil society has been shrinking over the last few years, especially in respect of NGOs working in the area of human rights. This has been mainly due to: restrictive laws and regulations concerning registration requirements or funding; administrative harassment; smear campaigns against certain groups; and threats and intimidation against NGO leaders and activists.
5. The Assembly recalls its Resolution 2184 (2017) on the functioning of democratic institutions in Azerbaijan and Resolution 2185 (2017) “Azerbaijan’s Chairmanship of the Council of Europe: what follow-up on respect for human rights?” and condemns the lack of a conducive environment for the activities of NGOs and reprisals against civil society activists in Azerbaijan. It calls on Azerbaijan to amend its legislation on NGOs in accordance with the case law of the European Court of Human Rights and the recommendations of the European Commission for Democracy through Law (Venice Commission) (Opinions Nos. 636/2011 and 787/2014).
6. Recalling its Resolution 2162 (2017) “Alarming developments in Hungary: draft NGO law restricting civil society and possible closure of the European Central University”, the Assembly expresses concern about the entry into force of the Law on the transparency of

Amendment 3
Tabled by Ms Thórhildur Sunna
ÆVARSDÓTTIR, Mr Boriss CILEVIČS, Lord

organisations receiving support from abroad and calls on Hungary to repeal those of its provisions that are not in line with the Venice Commission's recommendations (Opinion No. 889/2017). It is also alarmed by the proposed "Stop-Soros" package of laws, which would restrict the freedoms of NGOs working for refugees' and migrants' rights and their members, and calls on Hungary to refrain from its adoption.

7. The Assembly remains concerned about the implementation of the so-called "foreign agents law" and the "law on undesirable organisations", which has led to the closure of dozens of domestic NGOs that received foreign funding and major international and foreign NGOs that worked in the Russian Federation. The Assembly reiterates its calls on the Russian Federation to amend the legislation on NGOs in accordance with the Venice Commission Opinions Nos. 716/2013 and 717/2013.

8. Recalling its Resolutions 2156 (2017) on the functioning of democratic institutions in Turkey and 2209 (2018) "State of emergency: proportionality issues under Article 15 of the European Convention on Human Rights", the Assembly is particularly worried about the high number of associations and foundations (nearly 1 600) closed on the basis of state of emergency measures. It calls on Turkey to lift the state of emergency as soon as possible and to ensure that the closed NGOs dispose of an effective remedy against the decision concerning their definitive closure and to reconsider the necessity and proportionality of the measures restricting the freedom of association, assembly and expression, in light of the case law of the European Court of Human Rights and the recommendations of the Venice Commission (Opinion No. 865/2016).

**Donald ANDERSON, Mr Martin WHITFIELD,
Mr Vernon COAKER**

In the draft resolution, paragraph 6, replace the second sentence with the following new sentence: "It is also alarmed by the adoption by the Hungarian Parliament of the "Stop-Soros" package of laws, which restricts the freedoms of NGOs working for refugees' and migrants' rights and their members, and calls on Hungary to revise it in accordance with the Opinion of the Venice Commission and the OSCE Office for Democratic Institutions adopted on 22 June 2018."

Amendment 7

Tabled by Mr Boriss CILEVIČS, Ms Thórhildur Sunna ÆVARSDÓTTIR, Ms Kerstin LUNDGREN, Ms Marianne MIKKO, Mr Frank SCHWABE

In the draft resolution, paragraph 7, replace the words: "major international and foreign NGOs that worked in the Russian Federation. The Assembly reiterates its calls on the Russian Federation to amend the legislation on NGOs in accordance with the Venice Commission Opinions Nos. 716/2013 and 717/2013." with the following words: "termination of operations of the major international and foreign donor organisations that supported the activities of Russian NGOs. The Assembly reiterates its calls on the Russian Federation to amend the legislation on NGOs in accordance with the Venice Commission Opinions Nos. 716/2013, 717/2013 and 814/2015."

Amendment 1

Tabled by Mr Akif Çağatay KILIÇ, Mr Samad SEYIDOV, Ms Ganira PASHAYEVA, Mr Mustafa YENEROĞLU, Mr Yasin AKTAY, Mr Yıldırım Tuğrul TÜRKEŞ

In the draft resolution, delete paragraph 8.

Amendment 2

Tabled by Mr Akif Çağatay KILIÇ, Mr Samad SEYIDOV, Ms Ganira PASHAYEVA, Mr Mustafa YENEROĞLU, Mr Yasin AKTAY, Mr Yıldırım Tuğrul TÜRKEŞ

In the draft resolution, after paragraph 8, insert the following paragraph:

"The Assembly takes note of the establishment of the Inquiry Commission on State of Emergency Measures in Turkey and welcomes the re-opening of NGOs, foundations and other legal entities through the State of Emergency decrees and administrative decisions during this period. The Assembly expects the Commission

9. The Assembly calls on Romania and Ukraine to reject the recently proposed draft laws imposing additional financial reporting obligations on NGOs unless they are amended according to the recommendations of the Venice Commission and the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) (see, respectively, Opinions Nos. 914/2017 and 912/2018) and to submit them to broad public consultations. It also calls on Ukraine to repeal as soon as possible the e-declaration requirements for anti-corruption activists introduced by Law No. 1975-VIII of 23 March 2017.
10. The Assembly calls on all member States to:
 - 10.1. fully implement Committee of Ministers Recommendation CM/Rec(2007)14 on the legal status of non-governmental organisations in Europe;
 - 10.2. review and repeal or amend legislation that impedes the free and independent work of NGOs and ensure that this legislation is in 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 and the Conference of International Non-Governmental Organisations;
 - 10.3. refrain from adopting new laws which would result in unnecessary and disproportionate restrictions or financial burdens on NGO activities;
 - 10.4. ensure that NGOs can seek, receive and use transparent funding and other resources, whether domestic or foreign, without discrimination or undue impediments;
 - 10.5. ensure that NGOs are effectively involved in the consultation process concerning new legislation which concerns them and other issues of particular importance to society, such as the protection of human rights;
 - 10.6. ensure an enabling environment for civil society, in particular by refraining from any harassment (judicial, administrative or tax-related), negative public discourse, smear campaigns against NGOs and intimidation of civil society activists.

to expedite action to conclude on pending applications made before it."

Amendment 5

Tabled by Mr Stefan SCHENNACH, Ms Rósa Björk BRYNJÓLFSDÓTTIR, Mr Jonas GUNNARSSON, Lord George FOULKES, Ms Tineke STRIK

In the draft resolution, paragraph 10.2, replace the words: "by making use of the expertise of the Council of Europe, and in particular of the Venice Commission and" with the following words: "(including the Joint Venice Commission/ OSCE ODIHR Guidelines on Freedom of Association and on Freedom of Peaceful Assembly), by making use of the Council of Europe, and in particular of the Venice Commission and the Expert Council on NGO Law of"

Amendment 4

Tabled by Mr Stefan SCHENNACH, Ms Rósa Björk BRYNJÓLFSDÓTTIR, Mr Jonas GUNNARSSON, Lord George FOULKES, Ms Tineke STRIK

In the draft resolution, after paragraph 10.6, insert the following paragraph:

"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."*

11. The Assembly, mindful of the shrinking space of civil society in many member States of the Council of the Europe, resolves to remain seized of the matter.

B. Draft Recommendation

1. Referring to its Resolution ... (2018) on new restrictions on NGO activities in Council of Europe member States, the Parliamentary Assembly recommends that the Committee of Ministers:
 - 1.1. call again on member States of the Council of Europe to implement its Recommendation CM/Rec(2007)14 on the legal status of non-governmental organisations in Europe and continue to take stock of progress made to this end;
 - 1.2. continue its thematic debates on the “role and functioning of NGOs in the Council of Europe” and its exchanges with the Conference of International Non-Governmental Organisations (INGOs) on a regular basis;
 - 1.3. strengthen its interaction with civil society representatives through a more developed framework for dialogue with them, including the holding of regular meetings open to the public;
 - 1.4. continue to promote European and international standards relevant for the creation and maintenance of a safe and enabling environment for civil society as well as to exchange good practices in this area;
 - 1.5. in this respect, continue to strengthen synergies, within the Council of Europe, between all the stakeholders concerned, in particular the Secretary General, the Commissioner for Human Rights, the Conference of INGOs and the Assembly;
 - 1.6. establish a mechanism aimed at receiving, analysing and reacting to alerts on possible new restrictions on the right to freedom of association in Council of Europe member States.

Amendment 6

Tabled by Mr Stefan SCHENNACH, Ms Rósa Björk BRYNJÓLFSDÓTTIR, Mr Jonas GUNNARSSON, Lord George FOULKES, Mr Boriss CILEVIČS

In the draft recommendation, after paragraph 1.6, insert the following paragraph:

"develop and adopt guidelines on foreign funding of NGOs in the member States (on the basis of a study currently finalised by the Venice Commission), as proposed in the 2016 annual report by the Secretary General."