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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

In co-operation with

OSCE/ODIHR

and

**THE PRESIDENCY OF IRELAND OF THE COMMITTEE OF MINISTERS
OF THE COUNCIL OF EUROPE**

International round table

**CIVIL SOCIETY:
EMPOWERMENT AND ACCOUNTABILITY**

**Council of Europe, Strasbourg
Tuesday, 13 September 2022**

(Hybrid format)

**Ms Marija PEJČINOVIĆ BURIĆ
Secretary General of the Council of Europe**

OPENING SPEECH

Remarks by the Secretary General, Council of Europe

It is a pleasure to open this round table on an issue of constant importance to the Council of Europe and one that is on our minds now for very particular reasons. Following the expulsion of the Russian Federation from our Organisation and the suspension of all technical cooperation with Belarus, we remain concerned nonetheless about the freedom and well-being of civil society actors from those countries.

This a reflection of our own values and our support for those who share them but whose governments do not, and it is for this reason that we are considering how we might maintain a relationship with relevant NGOs and other organisations. In doing so, we will make a clear distinction between the situations in each country.

Prioritise partners' safety and ensure that whoever we cooperate with are clearly committed to upholding human rights, democracy and the rule of law, including respect for the independence, sovereignty and territorial integrity of our member states. This approach reflects the broader importance that the Council of Europe attaches to civil society throughout the entirety of our common legal space.

Article 11 of the European Convention on Human Rights outlines the right to freedom of assembly and association. This is legal obligation in every one of the 46 Council of Europe member states that has ratified the Convention and, until later this week, it remains a legal obligation on Russia's actions too, under the terms of the Convention. Freedom of assembly and association is essential to democratic life. It is the means by which to work with one another and enhance our societies, adding colour to civic life and improving the decisions of those in power.

Over the years, the European Court of Human Rights has issued judgments that have protected civil society from unlawful government restrictions and helped to define the space in which it can operate. This is true for domestic civil society. And also true for transnational NGOs which have increased in number over recent decades.

But the Council of Europe has not left it to the Court alone to assert civil society's role. Other tools have been put to use too: our Convention on the Recognition of the Legal Personality of International NGOs; a 2007 Recommendation to our member states encouraging governments to enhance the role of civil society in political decision-making and the work of our Venice Commission, emphasising the importance of consultation during the law-making process, and civil society's role in the election of independent constitutional bodies.

The Venice Commission's jurisprudence guides governments on the principles of participation, including the timing and means by which they should engage civil society on legislative proposals. These issues are also addressed in our Conference of INGO's Code of Practice for Civil Participation and in our Expert Council on NGO Law 2015 report on regulating NGOs' political activity.

Yes, there are often difficult questions about who represents civil society and who does not and how to make sure that dialogue is not dominated by NGOs that are government-organised or unrepresentative of broader civil society thinking.

But the tools that the Council of Europe has developed are the best means by which to approach these and other problems.

Of course, some of the very biggest challenges stem from the treatment of NGOs that receive foreign funding. In a number of our member states, we have seen the introduction, use and misuse of legislation restricting the activities of civil society organisations that get money in this way. This is deeply worrying. There are circumstances in which some restrictions can be justified.

For example, where an NGO is in fact supporting a political party or is lobbying politicians. And there must be room to consider nuance.

But NGOs carrying out normal activities – including those with political overtones – should not face excessive restrictions just because some of their money comes from abroad. They should not be subject to burdensome reporting or complex registration or auditing requirements. Nor should they be blacklisted or ostracised. Yet there are plenty examples of this kind of practice! often the use of “foreign agent” laws which are themselves a clear warning sign of democratic backsliding. Their strong, stigmatising effect, along with heavy fines, have proven tragically effective at silencing important civil society voices.

Laws aimed at countering the finance of terrorism have been misused for the same ends. The Financial Action Task Force – here today – and our own MONEYVAL, are overseeing the implementation of important standards for countering money laundering and the financing of terrorism. It is good that governments take the legislative steps necessary to protect NGOs from being used for these kinds of crime.

But it is not just for governments to then abuse those laws to crack down on legitimate NGOs carrying out their proper work. So, the Financial Action Task Force was right to launch a project last year on mitigating the unintended consequences of its globally-applied standards, including the undue targeting of NGOs helping to close off the excuses made by some governments.

More broadly, governments should stick to the Council of Europe’s standards when considering how to treat NGOs with foreign funding. The related judgments of the Court, including the recent landmark judgment *Ecodefence and others v. Russia*. The extensive jurisprudence of the Venice Commission and the joint guidelines of the Commission and the OSCE ODIHR on Freedom of Association.

But are we doing enough? Does the answer to these problems lie in the application of our current standards? Is there more that should be done? Now is a good moment to pose these questions. Healthy democracies have strong civil societies, this is what we must always work towards.

I wish you every success in your reflections on the best way forward.