



Expert Council on NGO law



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CONFERENCE OF INGOs
OF THE COUNCIL OF EUROPE
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THE CONFERENCE OF INTERNATIONAL NON-GOVERNMENTAL ORGANISATIONS (INGOS)

— The Conference of International Non-Governmental Organisations (INGOs) of the Council of Europe is one of the institutions of the Council of Europe “quadrilogue”, together with the Committee of Ministers, the Parliamentary Assembly and the Congress of Local and Regional Authorities. The Conference of INGOs is naturally also in regular contact with other organs of the Council of Europe: the Secretary General, the Commissioner for Human Rights and the European Commission for Democracy through Law (“the Venice Commission”). All these entities – each with its specific mandate, its specific competences, its specific constituency, its specific outlook – are bound together by a commitment to uphold and promote the fundamental values of the Council of Europe: democracy, human rights and the rule of law.

OUR MISSION

— The Conference of INGOs works year round to foster these essential values, having specific ongoing committees and working groups engaged in the democracy and human rights areas. In January 2008 the conference created a significant new organ, the Expert Council on NGO Law, whose mandate covers the three “value areas” of the Council of Europe, with a major responsibility to be active in the area of the rule of law. The Expert Council contributes to creating an enabling environment for civil society, to strengthening civil society, and to expanding civil society as a responsible actor in promoting sound, just and sustainable civic policies and practices throughout Europe. The Expert Council essentially examines NGO law and its implementation - this latter angle is of particular significance in the real world - and promotes its compatibility with Council of Europe standards and European good practice.

OUR INSPIRATION

— The Expert Council on NGO Law draws inspiration and guidance, inter alia, from two key Council of Europe documents. Firstly, the European Convention on Human Rights, which guarantees justice to everyone on the territory of member states of the Council of Europe. Secondly, Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe. This well-constructed document does credit to the vision of the Committee of Ministers and the member states they represent, recognising and fostering as it does “the essential contribution made by non-governmental



organisations (NGOs) to the development and realisation of democracy and human rights". The Expert Council in its work constantly makes reference to CM/Rec(2007)14, and endeavours to promote the recommendation with all the groups specified in the text: NGOs, the public, parliamentarians, relevant public authorities, educational institutions, officials. It is of notable significance that the recommendation stipulates that "governmental and quasi-governmental mechanisms at all levels should ensure the effective participation of NGOs without discrimination in dialogue and consultation on public policy objectives and decisions. Such participation should ensure the free expression of the diversity of people's opinions as to the functioning of society".

OUR PRODUCTS

— In its early years the Expert Council prepared annual thematic reports, the first "Conditions for the establishment of non-governmental organisations" (OING Conf/Exp(2009)1); the second "The internal governance of non-governmental organisations" (OING Conf/Exp(2010)1); and the third "Sanctions and liability in respect of non-governmental organisations" (OING Conf/Exp(2011)1), all with illustrative country case studies. These were augmented by a report, now in its third edition, on developments in standards and case law, with reference to the decisions of the European Court of Human Rights. The information and commentary provided in these Expert Council reports have contributed not only to promoting an enabling environment for NGOs but also to a better comprehension by public authorities of the needs, aspirations, functioning and potential of NGOs as they go about their daily task of improving the human condition.

OUR TARGET AUDIENCE

— The Expert Council on NGO Law has a potentially very large and diversified audience. Within countries, NGO legislation and its implementation, as well as the broader responsibility of creating an enabling environment for NGOs, are by no means solely matters for ministries of justice or ministries of the interior. These

issues and the scope of NGO involvement in the betterment of society - explicitly recognised and valued in CM/Rec(2007)14 – are relevant to a wide range of national authorities and institutions, including of course – and very importantly – parliaments. They are naturally also highly relevant to regional and local authorities. It should be underlined that even where countries have reasonably satisfactory legislation concerning NGOs and civil society, the implementation mechanisms and procedures employed by national, regional or local officials may reveal lacunae both in training and in comprehension of the diversity and worth of NGO activities and of their contribution to society.

FOR AN ENABLING NGO LEGISLATION

■ In recent years, in the light of an increasing tendency in some countries to restrict, to stifle, to denigrate or even to “outlaw” civil society activities - often on spurious grounds and in contradiction of international commitments freely undertaken by the states concerned – the Expert Council has issued several reports on NGO legislation and its implementation in Azerbaijan and in the Russian Federation. These reports have paralleled identical or quasi-identical opinions issued by the Venice Commission and the Commissioner for Human Rights. These subjects remain pending and will require the attention of the entire Council of Europe in the foreseeable future if compatibility with international standards is to be restored. The same considerations apply to Belarus, which is not yet a member of the Council of Europe, where the Expert Council and the entire Conference of INGOs participate in the Council of Europe’s endeavours to assist Belarus to ultimately meet the Council of Europe’s standards and thus be eligible for membership.

IN SUPPORT OF AN OPEN CIVIC SPACE

■ In response to measures to curtail civil society in several countries, in particular by decrying or mislabelling “political activities”, the Expert Council has issued a report – now in its third edition – on regulating political activities of NGOs. Some recent legislation implies that political activities are reprehensible or contrary to the interest of the state, a misrepresentation that runs counter to good sense and to the right of citizens to social involvement. CM/Rec(2007)14 itself states that: “ NGOs should be free to undertake research, education and advocacy on issues of public debate regardless of whether the position taken is in accord with government policy or requires a change in the law.” The relevant Expert Council report illustrates the variety of citizen engagement in public policy formulation throughout Europe, itself an intrinsic element of the functioning of democracy. The Expert Council worked with the Parliamentary Assembly to draw up its Recommendation 2086(2016) “How can inappropriate restrictions on NGO activities in Europe be prevented?”

EXTERNAL CO-OPERATION

On behalf of the Conference of INGOs, the Expert Council on NGO Law maintains relations in its areas of competence with bodies outside the Council of Europe. These include notably:

- ▶ the OSCE Office for Democratic Institutions and Human Rights (ODIHR), which is particularly active in defending and promoting freedom of association, of opinion and of expression;
- ▶ the United Nations Office of the High Commissioner for Human Rights (UNHCR), including the relevant special rapporteurs. The Expert Council draws attention to the great synergy between the Council of Europe's standards and conventions and those under the aegis of the United Nations.

OUR ROLE IN STANDARD SETTING

Within the Council of Europe, the Conference of INGOs is represented in the diverse intergovernmental committees, where policy reports and decisions are prepared for submission to the Committee of Ministers or other authorities. This promotes democratic involvement and good practice. The Expert Council on NGO Law represents the conference in the European Committee on Legal Co-operation (CDCJ), responsible for drafting many conventions and instruments (including, of course, CM/Rec(2007)14). Two CDCJ topics that have particularly engaged the Expert Council are recommendations on whistleblowing and on lobbying, with their obvious implications for the work and methodologies of NGOs. More broadly, within the Council of Europe mechanisms the Expert Council is engaged with a wide range of "in-house" entities to consider the need for an advisory watchdog or alert function, to anticipate or track threats to civil society and to envisage comprehensive responses or palliative actions.

OUR PLACE WITHIN THE CONFERENCE OF INGOs

In structural terms, the Expert Council on NGO Law is responsible to the Plenary of the Conference of INGOs, which appoints the president of the Expert Council. The Bureau of the Conference appoints up to 15 members of the Expert Council (currently 11 places are filled) who are persons with, inter alia, legal expertise, wide NGO experience and knowledge of European standards and good practice. The reports, recommendations and proposals of the Expert Council are presented to the Conference of INGOs, which decides on the follow up to be given. The Conference also ensures the dissemination of the reports and monitors implementation of action taken.



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The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, 28 of which are members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.



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