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**Multilateral meeting organised by  
the Council of Europe**

Third meeting  
Strasbourg, 5 July 2002

**Fundamental Principles on the Status of  
Non-governmental Organisations in Europe**

**As adopted by the participants to the multilateral meeting**

**FUNDAMENTAL PRINCIPLES ON THE STATUS OF  
NON-GOVERNMENTAL ORGANISATIONS IN EUROPE**

**Preamble**

The participants at the multilateral meetings held in Strasbourg on 19 to 20 November 2001, 20 to 22 March 2002 and 5 July 2002,

Having regard to Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms which provides that “everyone has the right to freedom of peaceful assembly and to freedom of association with others”,

Having regard to the European Convention No ETS 124 on the Recognition of the Legal Personality of International Non-Governmental Organisations and to the desirability of enlarging the number of its contracting parties,

Considering that non-governmental organisations (hereinafter NGOs) make an essential contribution to the development, realisation and continued survival of democratic societies, in particular through the promotion of public awareness and the participatory involvement of citizens in the *res publica*, and that they make an equally important contribution to the cultural life and social well-being of such societies,

Considering that NGOs make an invaluable contribution to the achievement of the aims and principles of the United Nations Charter and of the Statute of the Council of Europe,

Considering that their contributions are made through an extremely diverse body of activities which can range from acting as a vehicle for communication between different segments of society and public authorities, through the advocacy of change in law and public policy, the provision of assistance to those in need, the elaboration of technical and professional standards, the monitoring of compliance with existing obligations under national and international law, and on to the provision of a means of personal fulfilment and of pursuing, promoting and defending interests shared with others,

Considering that the existence of many NGOs is a manifestation of the right of their members to freedom of association and of their host country’s adherence to principles of democratic pluralism,

Recognising that the operation of NGOs entails responsibilities as well as rights,

Have adopted the present Fundamental Principles on the Status of Non-governmental Organisations in Europe.

## Definition

1. NGOs are essentially voluntary self-governing bodies and are not therefore subject to direction by public authorities. The terms used to describe them in national law may vary but they include associations, charities, foundations, funds, non-profit corporations, societies and trusts. They do not include bodies which act as political parties.
2. NGOs encompass bodies established by individual persons (natural and legal) and groups of such persons. They may be national or international in their composition and sphere of operation.
3. NGOs are usually membership organisations but not necessarily so.
4. NGOs do not have the primary aim of making profit. They do not distribute profits arising from their activities to their members or founders but use them for the pursuit of their objectives.
5. NGOs can be either informal bodies or organisations which have legal personality. They may enjoy different statuses under national law in order to reflect differences in the financial or other benefits which they are accorded in addition to legal personality.

## Basic principles

6. NGOs come into being through the initiative of individuals or groups of persons. The national legal and fiscal framework applicable to them should therefore permit and encourage this initiative.
7. All NGOs enjoy the right to freedom of expression.
8. NGOs with legal personality should have the same capacities as are generally enjoyed by other legal persons and be subject to the same administrative, civil and criminal law obligations and sanctions generally applicable to them.
9. Any act or omission by a governmental organ affecting an NGO should be subject to administrative review and be open to challenge in an independent and impartial court with full jurisdiction.

## Objectives

10. An NGO is free to pursue its objectives, provided that both the objectives and the means employed are lawful. These can, for instance, include research, education and advocacy on issues of public debate, regardless of whether the position taken is in accord with stated government policy.
11. An NGO may also be established to pursue, as an objective, a change in the law.
12. An NGO which supports a particular candidate or party in an election should be transparent in declaring its motivation. Any such support should also be subject

to legislation on the funding of political parties. Involvement in political activities may be a relevant consideration in any decision to grant it financial or other benefits in addition to legal personality.

13. An NGO with legal personality may engage in any lawful economic, business or commercial activities in order to support its not-for-profit activities without there being any need for special authorisation, but always subject to any licensing or regulatory requirements applicable to the activities concerned.
14. NGOs may pursue their objectives through membership of federations and confederations of NGOs.

### **Establishment**

15. Any person, be it legal or natural, national or foreign national, or group of such persons, should be free to establish an NGO.
16. Two or more persons should be able to establish a membership-based NGO. A higher number may be required where legal personality is to be acquired, but this number should not be set at a level that discourages establishment.
17. Any person should be able to establish an NGO by way of gift or bequest, the normal outcome of which is the creation of a foundation, fund or trust.

### **Content of statutes**

18. Every NGO with legal personality should have statutes. The “statutes” of the NGO shall mean the constitutive instrument or instrument of incorporation and, where they are the subject of a separate document, the statutes of the NGO. These statutes generally specify:
  - its name
  - its objectives,
  - its powers,
  - the highest governing body,
  - the frequency of meetings of this body,
  - the procedure by which such meetings are to be convened,
  - the way in which this body is to approve financial and other reports,
  - the freedom of this body to determine the administrative structure of the organisation
  - the procedure for changing the statutes and dissolving the organisation or merging it with another NGO.
19. In the case of a membership-based NGO, the highest governing body is the membership. The agreement of this body, in accordance with the procedure laid down by law and the statutes, should be required for any change in the statutes. For other NGOs the highest governing body is the one specified in the statutes.

### **Membership**

20. Membership of an NGO, where this is possible, must be voluntary and no person should therefore be required to join any NGO other than in the case of

bodies established by law to regulate a profession in States which treat them as NGOs.

21. National law should not unjustifiably restrict the ability of any person, natural or legal, to join membership-based NGOs. The ability of someone to join a particular NGO should be determined primarily by its statutes but should also not be influenced by any unjustified discrimination.
22. Members of an NGO should be protected from expulsion contrary to its statutes.
23. Persons belonging to an NGO should not be subject to any sanction because of their membership. However, membership of an NGO may be incompatible with a person's position or employment.

### **Legal personality**

24. Where an NGO has legal personality this should be clearly distinct from that of its members or of its founders who should, in principle, not therefore be personally liable for any debts and obligations that the NGO has incurred or undertaken.
25. The legal personality of an NGO should be terminated only pursuant to the voluntary act of its members - or in the case of a non-membership NGO, its management – in the event of bankruptcy, prolonged inactivity or misconduct. An NGO created through the merger of two or more NGOs should succeed to their rights and liabilities.

### **Acquisition of legal personality**

26. Where legal personality is not an automatic consequence of the establishment of an NGO, the rules governing the acquisition of such personality should be objectively framed and not subject to the exercise of discretion by the relevant authority.
27. National laws may disqualify persons from forming an NGO with legal personality for reasons such as a criminal conviction or bankruptcy.
28. The rules for acquiring legal personality should be published together with a guide to the process involved. This process should be easy to understand, inexpensive and expeditious. In particular an NGO should only be required to file its statutes and to identify its founders, directors, officers and legal representative and the location of its headquarters. A foundation, fund or trust may be required to prove that it has the financial means to accomplish its objectives.
29. A membership-based NGO should only seek legal personality after a resolution approving this step has been passed by a meeting which all its members had been invited to attend and it may be required to produce evidence of this.
30. Any fees that may be charged for an application for legal personality should not be set at a level that discourages applications.

31. Legal personality should only be refused where there has been a failure to submit all the clearly prescribed documents required, a name has been used that is patently misleading or is not adequately distinguishable from that of an existing natural or legal person in the country concerned or there is an objective in the statutes which is clearly incompatible with the law.
32. Any evaluation of the acceptability of the objectives of an NGO when it seeks legal personality should be well informed and respectful of the notion of political pluralism and must not be driven by prejudices.
33. The body responsible for granting legal personality need not be a court but it should preferably be independent of control by the executive branch of government. Consistency in decision-making should be ensured and all decisions should be subject to appeal.
34. The body concerned should have sufficient, appropriately qualified staff for the performance of its functions and it should ensure that appropriate guidance or assistance for an NGO seeking legal personality is available.
35. There should be a prescribed time limit for taking a decision to grant or refuse legal personality. All decisions should be communicated to the applicant and any refusal should include written reasons.
36. Decisions on qualification for financial or other benefits to be accorded to an NGO should be taken separately from those concerned with its acquisition of legal personality and preferably by a different body.
37. Without prejudice to applicability of the articles laid down in the European Convention ETS No. 124 on the recognition of the legal personality of international non-governmental organisations for those states that have ratified that convention, foreign NGOs may be required to obtain approval to operate in the host country but they should not have to establish a new and separate entity for this purpose. This would not preclude a requirement that a new and separate entity be formed where an NGO transfers its seat from one State to another.
38. The activities of NGOs at the international level should be facilitated by ratification of European Convention ETS No. 124 on the recognition of the legal personality of international non-governmental organisations.
39. Where the acquisition of legal personality is not an automatic consequence of the establishment of an NGO, it is desirable for the public to have access to a single, national registry of all NGOs with such personality.
40. An NGO whose statutes allows it to establish or accredit branches should not require any other authorisation for this purpose.
41. An NGO should not be required to renew its legal personality on a periodic basis.

42. A change in the statutes of an NGO with legal personality should require approval by a public authority only where its name or its objectives are affected. The grant of such approval should be governed by the same process as that for the initial acquisition of such personality. However, such a change should not entail an NGO being required to establish itself as a new entity.

### **Management**

43. In a membership-based NGO, the persons responsible for its management should be elected or designated by the members or by an organ statutorily delegated this task.
44. The management of a non-membership-based NGO should be determined in accordance with its statutes.
45. The bodies for management and decision-making of NGOs should be in accordance with their statutes and the law but NGOs are otherwise sovereign in determining the arrangements for pursuing their objectives. In particular, the appointment, election or replacement of officers, and the admission or exclusion of members are a matter for the NGO concerned.
46. The structures for management and decision-making should be sensitive to the different interests of members, users, beneficiaries, boards, supervisory authorities, staff and founders. Public bodies providing NGOs with financial and other benefits also have a legitimate interest in their performance.
47. Changes in an NGO's internal structure or rules should not require authorisation by a public authority. No external intervention in the running of NGOs should take place until and unless a breach of the administrative, civil or criminal law, insurance obligations, fiscal or similar regulations occurs or is thought imminent. This does not preclude the law requiring particular supervision of foundations and other institutions.
48. An NGO should observe all applicable employment standards and insurance obligations in the treatment of its staff.
49. NGOs should not be subject to any specific limitation on foreign nationals being on their board or staff.

### **Property and fund raising**

50. NGOs may solicit and receive funding - cash or in-kind donations - from another country, multilateral agencies or an institutional or individual donor, subject to generally applicable foreign exchange and customs laws.
51. NGOs with legal personality should have access to banking facilities.
52. NGOs with legal personality should be able to sue for redress of harm caused to their property.

53. In order to ensure the proper management of their assets, NGOs should preferably act on independent advice when selling or acquiring any land, premises or other major assets.
54. Property acquired by an NGO on a tax-exempt basis should not be applied for a non-exempt purpose.
55. An NGO may designate a successor to receive its assets, in the event of its termination, but only after its liabilities have been cleared and any rights of donors to repayment have been honoured. Such a successor should normally be an NGO with compatible objectives, but the State should be the successor where either the objectives, or the activities and means used by the NGO to achieve those objectives are found to be unlawful. In the former case and in the event of no successor being designated, the property should be transferred to another NGO or legal person that most nearly conforms to its objectives or should be applied towards them by the State.
56. The funds of an NGO can be used to pay its staff. All staff and volunteers acting on behalf of an NGO can also be reimbursed for reasonable expenses which they have thereby incurred.

#### **Public support**

57. There should be clear, objective standards for any eligibility of NGOs for any form of public support, such as cash and exemption from income and other taxes or duties on membership fees, funds and goods received from donors or governmental and international agencies, income from investments, rent, royalties, economic activities and property transactions, as well as incentives for donations through income tax deductions or credits.
58. In granting such support, relevant considerations may be the nature of activity that the NGO undertakes and whether or not it exists for the benefit of its membership or for the benefit of the public (or a section of this). Such support may also be contingent on an NGO having a particular status and be linked to specific requirements for financial reporting and disclosure.
59. A material change in the statutes or activities of an NGO may lead to the alteration or termination of public support.

#### **Transparency and accountability**

60. NGOs should submit an annual report to their members or directors on their accounts and activities. These reports can also be required to be submitted to a designated supervising body where any taxation privileges or other public support has been granted to the NGOs concerned.
61. NGOs should make a sufficiently detailed report to donors requesting it on use made of donations to demonstrate fulfilment of any condition which was attached to them.
62. Relevant books, records and activities of NGOs may, where specified by law or by contract, be subject to inspection by a supervising agency. NGOs can also



be required to make known the percentage of their funds used for fundraising purposes.

63. All reporting and inspection shall be subject to a duty to respect the legitimate privacy of donors, beneficiaries and staff, as well as the right to protect legitimate business confidentiality.
64. NGOs should generally have their accounts audited by an institution or person independent of their management.
65. Foreign NGOs should be subject to these reporting and inspection requirements only in respect of their activities in the host country.

### **Supervision**

66. NGOs may be regulated in order to secure the rights of others, including members and other NGOs, but they should enjoy the benefit of the presumption that any activity is lawful in the absence of contrary evidence.
67. NGOs should not be subject to any power to search their premises and seize documents and other material there without objective grounds for taking such measures and prior judicial authorisation.
68. Administrative, civil and/or criminal proceedings may be an appropriate response where there are reasonable grounds to believe an NGO with legal personality has not observed the requirements concerning acquisition of such personality.
69. NGOs should generally be able to request suspension of administrative action requiring that they stop particular activities. A refusal of the request of suspension should be subject to prompt judicial challenge.
70. In most instances the appropriate sanction against an NGO will merely be the requirement to rectify its affairs and/or the imposition of an administrative, civil or criminal penalty on it and/or any individuals directly responsible. Penalties shall be based on the law in force and observe the principle of proportionality.
71. In exceptional circumstances and only with compelling evidence, the conduct of an NGO may warrant its dissolution.

### **Liability**

72. The officers, directors and staff of an NGO with legal personality should not in principle be personally liable for its debts, liabilities and obligations.
73. The officers, directors and staff of an NGO with legal personality may be liable to it and third parties for misconduct or neglect of duties.

### **Relations with governmental bodies**

74. Competent and responsible NGO input to the process of public policy formulation enhances the applicability of legislation and the seriousness of

governmental decision-making. NGOs should therefore be encouraged to participate in governmental and quasi-governmental mechanisms for dialogue, consultation and exchange, with the objective of searching for solutions to society's needs. This participation is distinct from and does not replace the role of political parties.

75. Such participation should not guarantee nor preclude government subsidies, contracts or donations to individual NGOs or groups thereof.
76. Consultation should not be seen by governments as a vehicle to co-opt NGOs into accepting their priorities nor by NGOs as an inducement to abandon or compromise their goals and principles.
77. Governmental bodies can work with NGOs to achieve public policy objectives, but should not attempt to take them over or make them work under their control.
78. NGOs should also be consulted during the drafting of primary and secondary legislation which affects their status, financing or spheres of operation.