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Speech by Anna Rurka, President of the Conference of INGOs at the consultative meeting on “Shrinking space for civil society: its impact on young people and their organisations”, European Youth Centre Strasbourg, 7 November 2018

Dear organisers, participants and colleagues,

Young people and their involvement in democracy is a subject of political debate on civil politics. This debate could lead to recognising that young people are not just a particular social group but are also agents of change, be it social, economic or political changes and are able to make a political judgement. This vision and reflection is an evidence of a slow but sure change in attitudes in society towards politics. Yes of course, opponents to a democratic, open to all, involvement in politics will infantilise young people making their voice inferior or even illegitimate. This tendency needs to be overcome if we want to have a vibrant and politically engaged generation, engaged in public space, resistant to propaganda.

There are many experts in this room so I will not repeat the elements of analysis that we already know. However, let me underline some dimensions of the phenomenon which seem to me to be the most sensitive and the most important to discuss today and tomorrow. I agree that we should react on a case by case, country by country basis, but we have sufficient knowledge to identify certain transversal aspects of the problem.

According to Eurobarometer¹, in 12 out of 28 European countries more than 50% of the population is not satisfied with the way that democracy works in their country. The current figures on the state of democracy attest that we need to go beyond making recommendations and undertake concrete actions. Sure, shrinking civic space is a sign of the crises facing liberal democracy, but this specific problem needs a specific answer. Liberal democracy is a construction and is progressively developed in the member States. It has several components and each one needs a specific action and instrument to be protected or to be secured. If we want to provide an efficient answer

¹ Eurobarometer standard 451 (2016) – Public Opinion in the European Union, p. 127.

we need to react at an early stage of the problem. Concerning the subject of our concern today, acting early means observing the interaction between negative labelling of NGOs and the restrictive steps taken by the state and undertaking action as soon as the labelling starts.

What is alarming today is the fact that the state no longer needs a specific law, such as the “foreign agent” law adopted in the Russian Federation, to weaken NGOs in the public space. The labelling occurs through the rhetoric used, sometimes even through specific campaigns targeting certain national or international NGOs by name. The objective of that is the de-legitimisation of these NGOs which are most often human rights organisations. In the public eye, the speculations relating to foreign funding are associated with treason against the nation. At the same time new NGOs or coalitions are being established with the support of state actors. The independent NGOs in receipt of public grants are gradually being replaced by new organisations grants.

As ICNL underlined during the Open Government Partnership Summit in Georgia, the authoritarian playbook is composed by “VACUUM”: V victory, A amass power, C control critics, U underscore legitimacy, U undermine democratic norms, M maintain power. The “antidote” to that is a “people playbook”, composed by “PEOPLE”: P participate, E engage locally, O organise coalitions, P promote democratic norms, L listen, E - envision the future.

As Antoine Buyse, one of our experts underlined in his article “civic space is never a given, but is created in the interactions between CSOs and others. They thus have agency themselves to shape civic space, as the whole notion of a zone of action beyond the state implies”².

The starting point of all action should always be the analysis of existing and guaranteed freedoms and rights, both at the national and international level. The right to freedom of association and assembly, to freedom of expression and participation, and to freedom of movement are essential for democracy. These rights are protected by the International Covenant on Civil and Political Rights (ICCPR), by the Charter of Fundamental Rights of EU and by the Council of Europe with its panel of instruments which legally protect these rights and underline their importance.

We know that these rights can be restricted when “necessary in a democratic society in the interests of national security or public safety, public order, in the name of protection of public health or the protection of the rights and freedoms of others”. However today, the threats and tensions come from the fact that the many restrictions do not respect the principle of proportionality and do not pursue a

² Antoine Buyse (2018) Squeezing civic space: restrictions on civil society organizations and the linkages with human rights, *The International Journal of Human Rights*, 22:8, 966-988, DOI: 0.1080/13642987.2018.1492916

legitimate aim. The only compass we have regarding restrictions on rights is the European Convention on Human rights³⁴, articles 17 and 18.

Restrictions concern first and foremost advocacy oriented NGOs, critical towards the public authorities. Service provider NGOs are much less touched as in most cases they do not express criticism through fear of losing essential funding, their only resource to support their clients who are very often marginalised persons. However, in this area we also see some changes. Organisations which provide services and which do not match the political narrative promoted by government (such as organisations working in the areas of child abuse or violence against women) no longer receive public funding.

The restrictive laws and regulations which have an impact on the functioning and work of NGOs are written in a vague way, using imprecise terms, which leads to misinterpretation and arbitrary application. The known example is the application of the “terrorism” label or accusation. In the absence of an international definition of terrorism, such use totally depends on the political context, especially when the national remedies protecting human rights are weak or non-existent. Such regulations and practice are a cause of the “chilling effect”.

When NGOs’ campaigns are viewed as having an influence on an election, the NGOs are very often categorised as political. In almost all European countries, CSOs have the right to criticise or endorse state officials and candidates running for political office. The Expert Council on NGO Law of the Conference of INGOs highlights the importance of political activities and political engagement as a democratic right of the citizen. This is also the way to promote the core values of “democracy, human rights and the rule of law.” We should not forget that in article 13 of the Recommendation 2007(14) on the legal status of non-governmental organisations (NGOs), the Committee of Ministers of Council of Europe underlined that “NGOs should be free to support a particular candidate or party in an election or a referendum provided that they are transparent in declaring their motivation. Any such support should also be subject to legislation on the funding of elections and political parties.” It is intrinsically clear that these regulatory measures should respect the principle of proportionality and be set up to pursue a legitimate aim.

The Conference of INGOs’ experience regarding shrinking civic space has two sources: the opinions and studies of our Expert Council on NGO Law and our fact finding visits to the member States which focus on NGO participation in the decision-making process. We should look more at the consequences of the restrictions to really take the measure of the problem. The most important ones are as follows:

³ ARTICLE 17 Prohibition of abuse of rights: nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

⁴ ARTICLE 18 Limitation on use of restrictions on rights: The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.

- A weaker engagement of NGOs in public life and debate, caused by the ineffectiveness of participatory mechanisms and self-censorship or a lack of action by NGOs, because of the risks involved;
- The prevention of NGOs from carrying out activities in the heart of local communities because of the labels attached to them;
- The smallest NGOs disappearing as they are unable to cope with the pressure and restrictions;
- The division between the organisations considered as acting “in public interest” and illegal “foreign agents” polarises society and prompts organisations that wish to benefit from state funding to follow the political line promoted by those in power;
- The severing of ties between national NGOs and international NGOs, of which they are members.

To varying degrees, the overall picture is that civil society no longer feels protected by national institutions. We therefore need to provide reassurance that the Council of Europe is speaking on its behalf and is doing what it can to protect fundamental rights and freedoms. In response to the proposal for action put forward by the Secretary General in his report and the PACE Recommendation 2134 (2018) condemning new restriction on NGO activities and aiming to help member States strengthen the guarantees relating to the freedom of assembly and association, the Conference of INGOs is working on a specific constructive response to the shrinking civic space in member States which will combine NGO experience, Council of Europe legal standards and political dialogue.

It should be our common concern. We should do more joint statements and common action with the Advisory Council on Youth and other bodies and organs and reinforce the coordination and dialogue within the Council of Europe to adjust our political agendas to match common priorities. I hope that civic space will become one of these priorities.

Thank you very much for your attention.