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EXPERT COUNCIL ON NGO LAW
OPINION ON THE FRENCH MECHANISM FOR COMBATING
"FOREIGN INTERFERENCE"

Adopted by the Expert Council on NGO Law of the
Conference of INGOs of the Council of Europe

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This opinion examines the compatibility of the French mechanism for combating "foreign interference" with European standards protecting freedom of association and related rights. This system, which came into force in October 2025, is the result of a law of 25 July 2024 and a decree of 31 July 2025 ("the 2025 decree") implementing it.

The primary purpose is to ensure the disclosure of foreign influence activities in order to better counteract external interference in the conduct of public affairs. It involves five measures, namely: the creation of a register listing the activities of foreign entities seeking to influence public decision-making, with corresponding reporting obligations; the freezing of the assets of persons "engaging in, inciting or financing" acts of interference; the experimental deployment of an "algorithm" technique; the toughening of the criminal response; and the provision of information to Parliament, through a biannual government report assessing the threat of foreign interference.

An independent administrative authority, the High Authority for Transparency in Public Life is responsible for ensuring the implementation of the reporting obligations and for monitoring compliance.

The opinion sets out the considerations invoked in support of the creation of this mechanism, before describing its architecture, comparing it with the relevant requirements of international standards and making an overall conclusion regarding it.

The significant bureaucratic burden resulting from the new reporting requirements, the legal uncertainty associated with the vague concepts used by the legislator and the severity of the penalties incurred are found all to be factors that weaken the voluntary sector, which depends on foreign funding, particularly in the field of solidarity and the defence of fundamental rights. As a result, this initiative is likely to deter the NGOs concerned from accessing sources of funding, even though they desperately need it.

Furthermore, the opinion considers that the extension, in certain areas, of measures previously reserved for the fight against terrorism shows that the law applicable to NGOs is now subject to a logic of exception. This development is all the more troubling given that freedom of association has historically been the cornerstone of the constitutional protection of civil liberties in France. It finds that French lawmakers have overlooked the essential contribution made by NGOs to the functioning of public life and, by extension, to curbing the harmful effects of disinformation.

The opinion concludes that, at a time when France's two highest courts - in unison with the Constitutional Council - are sounding the alarm about threats to the rule of law in the country, it seems urgent to reverse the perspective and provide civil society organisations with the operational facilities and resources they need to create the conditions for a democratic revival.

A. INTRODUCTION

1. This opinion examines the compatibility of the French mechanism for combating "foreign interference" with European standards protecting freedom of association and related rights. This system, which came into force in October 2025¹, is the result of a law of 25 July 2024¹ and a decree of 31 July 2025 ("the 2025 decree") implementing it.² A second decree is still required for the application of certain provisions of the text (see below, § 33). Guidelines intended to inform those concerned about their obligations have been announced but have not yet been adopted.³ The first campaign to collect declarations began in early January 2026.⁴
2. This mechanism is of primary concern for the reporting obligations it imposes on non-governmental organisations ("NGOs") receiving foreign funding and the controls and sanctions to which it exposes them in this regard.
3. The primary purpose of the law of 25 July 2024 is to ensure the disclosure of foreign influence activities in order to better counteract external interference in the conduct of public affairs. With this in mind, the law essentially provides for five measures:
 - 1) the creation, in the name of transparency, of a register listing the activities of foreign entities seeking to influence public decision-making, with corresponding reporting obligations accompanied by criminal penalties;
 - 2) the freezing of the assets of persons "*engaging in, inciting or financing*" acts of interference;
 - 3) the experimental deployment of the "algorithm" technique, previously reserved for the fight against terrorism;⁵

¹Law No. 2024-850 of 25 July 2024 aimed at preventing foreign interference in France. It amends the law on transparency in public life (Law No. 2013-907 of 11 October 2013), adding a section on *transparency in lobbying activities carried out on behalf of a foreign principal* (Section 3 ter - Articles 18-11 to 18-18).

² Decree No. 2025-733 of 31 July 2025 on the transparency of influence activities carried out on behalf of a foreign principal. It should be noted that the Minister of Justice has issued two instructions to ensure the implementation of criminal penalties in connection with these texts: Circular from the Minister of Justice dated 8 October 2024 presenting the criminal provisions of Law No. 2024-850 of 25 July 2024, and Circular from the Minister of Justice dated 21 January 2026 on the mobilisation of the judicial authorities in the fight against foreign interference ("the circular of 21 January 2026").

³ See CNIL Deliberation No. 2025-031 of 7 May 2025 giving an opinion on a draft decree on the transparency of influence activities carried out on behalf of a foreign principal.

⁴ Opening of the reporting period for actions carried out on behalf of a foreign principal, HATVP press release, 5 January 2026.

⁵ This allows intelligence services to use automated data processing to detect connections that may constitute attempts at interference. These are "black boxes", which process all the "metadata" of telephone calls (who is calling whom, when, for how long, via which relay antennas) that pass through operators, with surveillance extended on paper in 2021 to web addresses and application browsing history. Through "*hits*", they must detect predetermined behaviours, corresponding in this case to foreign interference.

- 4) the toughening of the criminal response, through the creation of an aggravating circumstance in the event of damage to property or persons committed on behalf of or under the control of a foreign entity; and
- 5) the provision of information to Parliament, through a biannual government report assessing the threat of foreign interference.

4. An independent administrative authority, the High Authority for Transparency in Public Life ("the HATVP"),⁶ is the linchpin of the system. It is responsible for ensuring the implementation of the reporting obligations created by the law and for monitoring compliance. An *ad hoc* register has been set up for this purpose by the 2025 decree,⁷ which set its entry into force for¹October 2025. It complements the register of interest representatives, created by the "Sapin II" law and also maintained by the HATVP.⁸
5. The relevant European standards can be found in particular in the European Convention on Human Rights ("the European Convention"), the Charter of Fundamental Rights of the European Union ("the EU Charter"), the European Union's General Data Protection Regulation ("the GDPR"), Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe ("Recommendation CM/Rec(2007)14"), the Joint Guidelines on Freedom of Association of the European Commission for Democracy through Law (Venice Commission) and the OSCE Office for Democratic Institutions and Human Rights ("the Joint Guidelines"), as well as the case law of the European Court of Human Rights ("the European Court") and the Court of Justice of the European Union ("the Court of Justice").
6. This opinion sets out the considerations invoked in support of the creation of this mechanism, before describing its architecture, comparing it with the relevant requirements of international standards and making an overall conclusion regarding it.

B. CONSIDERATIONS INVOKED IN SUPPORT OF THE SYSTEM

7. According to its authors, the law of 26 July 2024 is intended to address the issues raised by parliamentary work, which highlighted France's vulnerabilities in the face of attempts by foreign powers to destabilise the country. The text thus aims to take into account the

⁶ The HATVP is responsible for receiving, checking, together with the tax authorities, and publishing the declarations of assets and declarations of interests of certain public officials. It is also responsible for ensuring that lobbyists comply with their reporting obligations. Its decision-making body is a panel of twelve members appointed for a six-year term, which is non-renewable and non-revocable, by the Council of State, the Court of Cassation, the Court of Auditors, the President of the National Assembly, the President of the Senate and the Government. The president of the High Authority is appointed by the President of the Republic after consultation with the law committees of both parliamentary assemblies. The HATVP also has around sixty employees.

⁷ The Decree was issued after consultation with the French Data Protection Authority (Commission Nationale de l'Informatique et des Libertés - CNIL) and the HATVP.

⁸ The Sapin II law requires persons who engage in lobbying activities with public officials to register in a public directory maintained by the HATVP and to declare their lobbying activities each year, under penalty of criminal sanctions. It also subjects them to ethical rules, repeated breaches of which are also subject to criminal penalties.

recommendations of a 2023 report by the Parliamentary Delegation on Intelligence,⁹ which warned of a "form of naivety and denial" affecting the state and territorial administration, academic and economic circles, and calls for the creation of an "*ad hoc* legislative mechanism to prevent foreign interference, modelled on US law" to contain what it describes as a "protean, omnipresent and enduring threat". The text also takes into account the work carried out on the subject by a National Assembly commission of inquiry,¹⁰ as well as the recommendations of a report by the Organisation for Economic Co-operation and Development ("the OECD") on strengthening the transparency and integrity of foreign influence activities in France.¹¹

8. According to the explanatory memorandum, the aim behind preventing foreign interference is to preserve confidence in institutions, the integrity of electoral processes and the ability of democratic society to debate freely without hidden manipulation. France is said to be facing a now structural threat of foreign interference. This interference is described as protean, in that it takes many forms (cyberattacks, manipulation of information, economic pressure, political influence operations), omnipresent, as it targets all sectors of society (institutions, universities, media, businesses, political parties), and enduring, as it is part of a geopolitical context marked by the rise of authoritarian powers challenging liberal democracies.
9. In this context, preserving the fundamental interests of the nation, the proper functioning of institutions and the sincerity of democratic debate was seen as requiring an "adaptation" of legal tools, as those currently in place were described as insufficient.¹² In particular, the framework resulting from the so-called "Sapin II" law, which focuses on traditional economic lobbying, was considered unsuitable when it comes to understanding the specificities of foreign influence. On the one hand, it only imperfectly covers activities carried out on behalf of foreign powers; on the other hand, it is based on restrictive criteria (main or regular activity, initiative criterion) which exclude many actions that are nevertheless likely to affect public decision-making or opinion. The law thus aims to fill a regulatory blind spot identified by the intelligence services and Parliament.

⁹ Public report on behalf of the parliamentary intelligence delegation on the activities of the parliamentary intelligence delegation for the year 2022-2023, no. 1454. The delegation comprises eight members, four senators and four deputies, and its mission is to monitor the Government's actions in the field of intelligence and to evaluate public policy in this area.

¹⁰ Report on behalf of the commission of inquiry into political, economic and financial interference by foreign powers – states, organisations, companies, interest groups, private individuals – aimed at influencing or corrupting French opinion leaders, leaders or political parties, National Assembly, 1 June 2023, No. 1311.

¹¹ OECD (2024), Strengthening the transparency and integrity of foreign influence activities in France: A tool to combat the risks of foreign interference, OECD Public Governance Reviews, OECD Publishing, Paris, <https://doi.org/10.1787/d6e6e8e9-fr>.

¹² Foreign digital interference (FDI) is defined by Decree No. 2021-922 of 13 July 2021 establishing Viginum as "operations involving, directly or indirectly, a foreign State or a foreign non-State entity, and aimed at the artificial or automated, massive and deliberate dissemination, through an online public communication service, of allegations or imputations of facts that are manifestly inaccurate or misleading and likely to undermine the fundamental interests of the Nation".

10. The legislator emphasises the need to raise awareness among elected representatives, institutions and civil society of threats that are often diffuse, evolving and difficult to grasp. The law is presented as a means of improving the information available to Parliament and the public. The periodic submission of a report on the state of threats related to foreign interference aims to prevent these issues from remaining confined to the intelligence sphere or covered by secrecy, and to enable an informed democratic debate.
11. The rapporteur cites legislation adopted by several foreign democracies (the United States, Australia, the United Kingdom and Canada).
12. Finally, the law is justified by the need to provide the intelligence services with tools adapted to the nature of the threats, in particular by extending certain technical measures (algorithmic intelligence techniques). This adaptation is presented as being strictly regulated by procedural safeguards, which are said to involve "enhanced oversight" by independent authorities and parliamentary monitoring, and as such allow for a balance between operational effectiveness and respect for fundamental rights.

C. ARCHITECTURE OF THE SYSTEM

1. Scope of the obligation to register in the foreign influence register
13. The newly created reporting requirements are based on the concepts of "foreign principal" and "influence operations".¹³ The first is broadly defined and refers to States, foreign public entities, and private legal entities controlled or financed mainly by a foreign power (outside the European Union). The second concept takes into account actions intended to influence local or national public policy, European policy or French foreign policy.¹⁴
14. Under the terms of the law, the entities in whose interest the activities are carried out are:
 - 1 Foreign powers, excluding Member States of the European Union;*
 - 2 Legal entities that are directly or indirectly directed or controlled by a foreign power (...) or that are more than half-financed by [it];*
 - 3 Foreign political parties and groups [outside the EU].*
15. The *influence activities* in question consist, for persons/entities linked to a foreign principal, in carrying out,

¹³ Article 18-11 of the law of 2013.

¹⁴ Certain procedures are explicitly excluded from the scope of the reporting obligation (administrative appeals, procedures required by law, public procurement, contractual exchanges).

for the purpose of promoting the latter's interests", and in such a way as to "influence public decision-making, in particular the content of a law, a regulatory act or an individual decision, or the conduct of national and [international] public policies (...)" ¹⁵:

- i. communicating with public decision-makers or political figures, elected officials or their collaborators¹⁶, commonly referred to as "target persons", whether or not they are the initiators of the interaction;
- ii. carrying out communication operations aimed at the public;
- iii. raising funds or making payments without consideration.

16. The 2025 decree defines *actions aimed at the public* in particularly broad terms. According to the text, this includes simply "*disseminating messages or content on the internet or other media*" or carrying out "*campaigns... interviews or surveys*".¹⁷ Equally comprehensive is "*communication*" with decision-makers, which includes "*interactions on social media*", "*awareness-raising activities*" and "*commercial initiatives*".¹⁸
17. These activities are taken into account when they are carried out directly or indirectly, "*on the orders, at the request or under the direction or control*"¹⁹ of a foreign principal, including through one or more third parties.
18. When interacting with "target" individuals, persons subject to reporting requirements must disclose "the interests or entities they represent".²⁰
19. It should be noted that foreign entities acting directly in France are subject to a specific regime.²¹

¹⁵ Article 18-11, I of the amended law of 11 October 2013, resulting from Article 1^{er} of the law of 2024. Certain foreign legal entities (controlled/financed mainly by a foreign power outside the EU, etc.) are concerned, regardless of any intention to influence public decision-making, as soon as they carry out one of the triggering acts (communication to the public, collection/payment of funds, etc.).

¹⁶ The following persons, among others, are designated as stakeholders in the interactions taken into account: members of the Government and members of their cabinets; members of Parliament and their staff and Parliamentary administration officials; former Presidents of the Republic, former members of the Government or Parliament, within five years of the end of their term of office or the termination of their functions; staff of the President of the Republic; senior civil servants (those appointed by the Council of Ministers); presidents and members of local authority assemblies; mayors and deputy mayors of municipalities with more than 20,000 inhabitants; civil servants subject to a declaration of assets; political party leaders; persons who have declared their candidacy for presidential, legislative, senatorial or European elections.

¹⁷ *Ibid.*

¹⁸ Appendix to Decree No. 2025-733 of 31 July 2025, cited above.

¹⁹ According to the HATVP, "control derives from rights, contracts or other means which, alone or in combination and taking into account the factual or legal circumstances, confer the possibility of exercising a decisive influence over the activity of an undertaking or body."

²⁰ Article 18-14, 1° of the amended Law No. 2013-907 of 11 October 2013.

²¹ Political parties and groups, legal entities directed or controlled by a foreign power or financed for more than half by it, outside the EU, are treated separately. In their case, it is not necessary for the actions to be intended to influence French public decision-making.

2. Declaration regime

20. The 2025 decree organises the *ad hoc* register intended to ensure transparency regarding foreign influence. The text provides for particularly detailed reporting requirements, including the provision of (i) extensive identification details of the persons involved (civil status, company name, etc.)²², including third parties²³ (ii) operational and financial information²⁴ and (iii) information on the influence activities themselves.²⁵
21. Declarations are made via a specific online service, with the mandatory designation of an operational contact for legal entities. These declarations must be accompanied by supporting documents. This information must be communicated to the HATVP on a quarterly basis.
22. The directory is accessible online and the information it contains is published for a period of five years from the date it is posted online. Certain sensitive data is not made public.²⁶
23. The reporting obligation is only lifted by express decision of the HATVP, which may be taken *ex officio* or at the request of the person concerned. In this context, the HATVP may request any document it deems necessary. If the HATVP does not respond within two months, the request is deemed to have been rejected.
24. Information relating to lobbying activities remains public for a period of five years from the date of publication, notwithstanding any finding by the HATVP that such lobbying activities have ceased. The length of time for which data is retained is not specified.

²² Declarants are required to provide the following information: - full identity (including date and place of birth for natural persons);-legal structure, addresses, directors, chain of control;- identification of current or past links with the foreign principal/foreign powers concerned. The transparency obligation extends to managers, persons responsible for influence activities, and any controlling entities (within the meaning of merger control and capital control law). The register also covers: intermediaries (natural or legal persons); and foreign principals, understood broadly (States, foreign public entities, private legal persons controlled or financed mainly by a foreign power).

²³ In particular, the intermediary or intermediaries between the person exercising an influence activity and their foreign principal; recipients of payments without consideration.

²⁴ The following specific information must be provided: -the number of persons involved in influence activities;-the turnover generated by these activities;-a breakdown by foreign principal;-the amount of expenditure incurred.

²⁵ the public figures contacted (name, position, date); the policies or decisions targeted; the objectives pursued; the types of influence activities, defined very broadly in the appendix (meetings, campaigns, events, publications, social networks, petitions, etc.); the information and documents communicated or disseminated; the beneficiaries of the payments, with detailed identification.

²⁶ Dates of birth, supporting documents, specific content of communications, details of operational contacts not involved in the influence.

3. Control, verification and administrative and criminal enforcement procedures
 - a. On-site control and verification procedures by the HATVP
25. The 2025 decree establishes a set of control, coercive administrative measures and verification procedures under the authority of the HATVP.
26. The HATVP may be contacted by any person who wishes to report a situation that may fall within the scope of the system. It may also be contacted by "target" persons for the purpose of determining the classification to be given to a potential communication, in which case the HATVP must give its opinion within two months.²⁷
27. The decree also grants the HATVP extensive powers of on-site verification. When it considers that there are *"serious reasons to believe that a person falls within the scope of the reporting obligations"*, it may refer the matter to a judge²⁸ in order to obtain authorisation to carry out checks on that person's business premises.²⁹ On-site inspections are carried out in the presence of a police officer and the occupant of the premises or their representative. In this context, the HATVP's agents may require the disclosure of any document, object or information medium useful for verifying compliance with reporting obligations and obtain copies of such documents, objects or media, regardless of their nature or format.³⁰
28. Appeals may be lodged against the order authorising the visit and against the conduct of the verification operations, but such appeals shall not have suspensive effect.
29. When it finds a breach of the reporting obligations, the HATVP notifies the person concerned of the alleged breaches, thereby initiating an adversarial phase³¹. If the situation is not rectified, the HATVP may issue a formal notice to comply with the applicable obligations³². If the breach persists, it may impose a coercive fine³³. The decree also confers on the HATVP extensive powers to publicise information.

²⁷ From receipt of the required information from the natural or legal person concerned.

²⁸ Judge of liberties and detention of the Paris Judicial Court.

²⁹ The judge's order, issued within 48 hours, specifies the address of the premises concerned, the identity of the authorised agents and the time slots for the visit.

³⁰ A report is drawn up on the spot, describing the course of the operations and listing the documents copied.

³¹ During which the person concerned has one month to submit their observations or comply.

³² The formal notice shall set out the obligations in question, explicitly inform the person concerned of the possibility of a penalty payment being imposed and invite them to submit further comments within two months.

³³ The penalty payment is then assessed, taking into account the behaviour of the person concerned and the circumstances of the case.

b. The parallel route of criminal investigations

30. As failure to declare is a criminal offence,³⁴ it may be subject to investigation and criminal prosecution, regardless of any action taken by the HATVP. The circular of 21 January 2026 calls on prosecutors to "mobilise as much as necessary" the new offence. Given the severity of the penalties incurred, it will even be possible for investigative services to use certain particularly intrusive techniques such as requisitions for the purpose of obtaining connection data,³⁵ searches of premises without consent,³⁶ or geolocation measures.³⁷

c. Administrative coercive measures and criminal prosecution

31. Although foreign interference is not established as a separate offence in criminal law, failure by a person required to declare their influence activities to disclose such information, either on their own initiative or at the request of the HATVP, is punishable by three years' imprisonment and a fine of €45,000 (€225,000 and a ban on receiving public aid for legal persons).³⁸ The severity of the penalty has been deliberately determined³⁹ to allow for the expulsion of the foreign national, regardless of their particular family situation, state of health or length of legal residence in France.⁴⁰

32. The law also provides for additional penalties for legal persons: exclusion from public procurement contracts, prohibition on issuing cheques, publication or dissemination of the conviction, and prohibition on receiving public assistance.

4. Other measures provided for by the 2024 law

a. Declaration of donations and payments from foreign sources

33. Specific reporting obligations are imposed on non-profit organisations that have received donations with the issuance of a tax receipt and that carry out analyses or expert assessments on any subject related to national public policy or foreign policy.⁴¹ This provision primarily targets think tanks, regardless of their status, but also applies to many associations. These institutions and organisations are now required to submit to the HATVP a list of donations and payments received from any foreign power or foreign legal entity outside the EU. The rules governing these obligations are still to be set out in a decree.

³⁴ See below.

³⁵ Collection of identification, traffic and location data, as provided for in Article 60-1-2 of the Code of Criminal Procedure.

³⁶ Article 76, paragraph 4 of the Code of Criminal Procedure.

³⁷ Article 230-32 of the Code of Criminal Procedure.

³⁸ Article 18-16 of Law No. 2013-907 of 11 October 2013.

³⁹ See National Assembly Report No. 2343, p. 59.

⁴⁰ L. 631-2 of the Code on the Entry and Stay of Foreigners and the Right of Asylum.

⁴¹ Article 3 of the Law of 25 July 2024.

b. Freezing of assets

34. The law of 25 July 2024 extends the procedure for freezing assets, previously limited to the fight against terrorism, to foreign interference. It thus gives the Minister for the Economy and the Minister of the Interior the possibility of jointly deciding to freeze, for a renewable period of six months, the funds and economic resources of natural or legal persons or any other entity that commits, attempts to commit, facilitates or finances acts of "interference"⁴², incite or participate in such acts.⁴³ The corresponding decisions are subject to appeal before the Paris Administrative Court.

c. Algorithmic technique⁴⁴

35. The law authorises the intelligence services, on an experimental basis until July 2028, to use automated data processing (a technique known as "algorithm") to detect connections that may reveal foreign interference. Until now, this technique has been reserved for the fight against terrorism.

d. Increased penalties

36. The law increases the maximum penalties when a crime or offence is committed "for the purpose of serving the interests of a foreign power, a foreign company, a foreign organisation or under foreign control".

D. ASSESSMENT OF THE SYSTEM

37. NGOs that are directly or indirectly funded by a foreign State (outside the European Union) are likely to be affected by the reporting requirements introduced by the law of 25 July 2025 for entirely routine activities such as advocacy, raising public awareness, communication for their own purposes, and collecting donations from individuals.⁴⁵
38. The legislative provisions at issue, which significantly hinder the activities or functioning of associations—whether by effectively creating obstacles to their access to financial resources from foreign sources, by subjecting them to declaratory and disclosure obligations liable to portray them negatively, or by exposing them to a risk of sanctions—constitute interferences with the right to freedom of association, as guaranteed by Article

⁴² "an act committed directly or indirectly at the request or on behalf of a foreign power and having the purpose or effect, by any means, including the communication of false or inaccurate information, of undermining the fundamental interests of the Nation, the functioning or integrity of its essential infrastructure or the regular functioning regular functioning of its democratic institutions".

⁴³ New article L. 562-1 1° bis of the Monetary and Financial Code.

⁴⁴ It was this aspect that drew the most objections during the parliamentary debate.

⁴⁵ This gives rise to a grant agreement that determines the conditions of the action and the terms and conditions for monitoring it by the grantor.

11 of the European Convention.⁴⁶ Furthermore, where the authorities' intervention against an association is motivated, at least in part, by the opinions or statements of the association or its members, Article 11 of the European Convention must be read in conjunction with Article 10 (freedom of expression). The protection of opinions and the freedom to express them is one of the objectives of freedom of association.

39. On-site visits or searches carried out at the home and the seizure of property constitute an interference with their right to respect for their private life and home within the meaning of Article 8(1) of the European Convention⁴⁷. Similarly, searches and seizures carried out on the premises of organisations constitute an interference with their right to respect for their home and correspondence.⁴⁸ The publication of personal data by public authorities, including for purposes of public interest, is likely to constitute an interference with the exercise by the person concerned of their right to respect for their private life.⁴⁹
40. The freezing of an NGO's bank accounts deprives it of the possibility of using or disposing of its funds and therefore amounts to control over the use of its property within the meaning of the second paragraph of Article 1 of Protocol No. 1 to the European Convention.⁵⁰
41. Given the importance that the Council of Experts attaches to the quality of the preparatory work preceding the adoption of measures interfering with the exercise of freedom of association and the rights associated with it, this opinion will first examine this aspect (1), before assessing the requirement relating to the quality of the legal basis (2), and then that concerning the necessity of the measures introduced in a democratic society (3).

1. Quality of preparatory work

42. As this is a general measure, the quality of the parliamentary and judicial review of the necessity of the measure at national level is of particular importance in this regard, including with regard to the application of the relevant margin of appreciation.⁵¹ It is necessary to examine whether the legislature has adequately balanced the competing interests at stake.⁵²

⁴⁶ See CJEU- *Commission v Hungary* (Transparency of associations) C-78/18, §114, and the case law of the ECtHR mentioned.

⁴⁷ *Avaz Zeynalov v. Azerbaijan*, no. 37816/12, at para. 78, 22 April 2021, and additional references.

⁴⁸ *Association for European Integration and Human Rights and Ekimdzhiev v. Bulgaria*, no. 62540/00, 28 June 2007, at para. 60.).

⁴⁹ See, e.g., *L.B. v. Hungary* [GC] no. 36345/16, 9 March 2023.

⁵⁰ *Anti-Corruption Foundation (FBK) and Others v. Russia*, no. 13505/20, 16 December 2025.

⁵¹ Which is pertinent as to whether the measures can be regarded as necessary in a democratic society, see *Animal Defenders International v. the United Kingdom* [GC], no. 48876/08, 22 April 2013.

⁵² *L.B. v. Hungary* [GC] no. 36345/16, 9 March 2023.

43. In addition, both Recommendation CM/Rec(2007)1448 and the Joint Guidelines underscore that any regulation interfering with freedom of association should be adopted through a democratic, participatory, and transparent process.
44. In the present case, the Council is struck by the speed, not to say the expeditious manner, with which the French Parliament undertook to introduce measures that are highly sensitive from the point of view of the exercise of fundamental public freedoms.⁵³ As the Government had initiated the fast-track procedure for this text, it was only read once in the National Assembly and the Senate. The initiator of the text cited the American and European elections in support of his request to initiate the emergency procedure.⁵⁴ These arguments are unconvincing in view of the issues at stake in the text.⁵⁵
45. This rush to legislate has resulted in poorly substantiated preparatory work. In particular, the initiative is justified by the alleged shortcomings of French law in this area compared to other major democracies.⁵⁶ It must be noted that these reports present a truncated view of foreign systems of foreign funding registers, omitting the criticisms levelled at them. Above all, they completely ignore tools of this type that have been examined by the courts in Strasbourg and Luxembourg, namely the register of foreign agents established in the Russian Federation⁵⁷ and the system provided for in Hungary *by the Transparency Act*⁵⁸ (nor, for that matter, the one challenged by the Commission in its infringement proceedings against that country⁵⁹). This omission has resulted in the requirements set out by European judges being overlooked in discussions, as they are only implicitly and very partially taken into account through the exclusion of foreign mandates originating in the EU from the provisions.

⁵³ As the text was a parliamentary initiative, it was not preceded by an impact assessment or an opinion from the Council of State.

⁵⁴ AFP, 11 March 2024, "Text against foreign interference: Houlié (Renaissance) calls for fast-track review".

⁵⁵ According to the predictable course of the legislative process – even an accelerated one – and the adoption of the implementing texts, it was not intended to come into force before the European elections in June 2024. The same applies to the US elections, whose connection with the regular functioning of French institutions seems, at the very least, remote. The provisions relating to the core of the law, those governing the register, did not come into force until¹October 2025. Those relating to *think tanks* and similar organisations are still awaiting an implementing decree. Similarly, the report to Parliament provided for in Article 4 of the law, which was due on¹July 2025, has not been produced.

⁵⁶ See the Senate Report: "In the United States, the *Foreign Agents Registration Act* ("FARA") provides for a specific register in which agents working on behalf of a foreign principal must register. Other states, such as the United Kingdom, Australia and Canada, have adopted or are in the process of adopting similar tools. [The proposed law] therefore aims to fill this gap in the French legal framework".

⁵⁷ See *Ecodefence and Others v. Russia*, no. 9988/13, 14 June 2022, at paras. 15-40 and *Kobaliya and Others v. Russia*, no. 39446/16, 22 October 2024, at paras.18-37.

⁵⁸ C-78/18, *Commission v Hungary (Transparency of associations)*, 18 June 2020.

⁵⁹ Case C-829/24 by which the European Commission asks the CJEU to declare that Hungary has failed to fulfil its obligations under EU law in several respects by adopting, on 12 December 2023, the Law No LXXXVIII of 2023 on the protection of national sovereignty.

46. Furthermore, the lack of any real balancing of interests is illustrated by the choice of interlocutors selected to advise Parliament during the preparatory work. Without even mentioning consultation with the Economic, Social and Environmental Council (“CESE”) or the National Consultative Commission on Human Rights (“CNCDH”), it is striking to note that civil society was kept at arm's length from the drafting of the law. The only people from civil society who were heard were representatives of the National Bar Council (“CNB”), due to issues specifically affecting the legal profession, and a group of lobbying consultants. At the same time, the National Assembly's Law Commission heard from representatives of the British and American authorities, including the head of the FARA unit at the *Department of Justice's National Security Division*.⁶⁰ It is noteworthy that, in its determination to counter attempts to manipulate the public, Parliament referred primarily to the intelligence services and the HATVP, without seeking the analysis of social scientists or even opinion pollsters. The result is an essentially police-based understanding of the phenomena involved in the construction of collective representations.
47. This undoubtedly explains the laconic nature of the exchanges devoted to the text's impact on the functioning of NGOs.⁶¹ The fears briefly expressed on this point in the National Assembly's Law Commission, which formed the basis for a request to exclude human rights NGOs from the scope of the law, were dismissed on the grounds that they fell within the remit of interest representatives.⁶² There was no substantial argument that the legal framework for NGOs had contributed to the phenomenon of foreign interference as described. The contribution of NGOs to public debate and, consequently, their role in limiting the impact of disinformation campaigns on democratic life was not mentioned at all. On the contrary, on the rare occasions when the subject of NGOs was raised, it was in negative or even derogatory terms, illustrating a climate that was not favourable to them.⁶³
48. Although concerns have been raised on several occasions about the HATVP's ability to cope with the workload generated by this new task, the legislator has clearly failed to grasp the implications of the text in terms of the operational constraints on NGOs.
49. Finally, the problems raised by the law have not, to date, been examined in terms of the constitutionality of laws. The Constitutional Council, which has been referred to twice by parliamentarians, has not examined the text, having twice declared the referrals inadmissible. On the first occasion, it noted that the referral had been received after the dissolution of the National Assembly.⁶⁴ The second time, it held that

⁶⁰ Report on the bill proposed by Mr Sacha Houlié and several of his colleagues aimed at preventing foreign interference in France (2150), No. 2343, tabled on Wednesday 13 March 2024.

⁶¹ The algorithm technique was the focus of objections to the text.

⁶² Minutes of the Law Commission meeting of 14 March, No. 58, pp. 14.

⁶³ See Senate, Official Analytical Reports of 22 May 2024.

⁶⁴ Decision 2024-870 DC of 10 July 2024.

once the Council has issued a decision [in the context of a priori review of laws], it cannot be referred to on this basis for a new appeal against the same text".⁶⁵

2. Condition relating to the legal basis

50. In order for the interference in question to have a sufficient legal basis, the law must define with sufficient clarity the scope of the decision-making power conferred on the authorities and the procedures for its exercise, in order to prevent any arbitrariness.⁶⁶ It is not sufficient for provisions to be included in legislation in order for them to be considered "provided for by law": they must also be precisely worded as to the scope of the powers conferred, i.e. they must not leave room for unlimited discretionary power allowing arbitrary interference with rights and freedoms. In the present case, vagueness pervades all the key concepts of the mechanism.
51. Firstly, it was observed that, although it is a central element of the mechanism, the concept of "foreign power" was *"unclear, capable of covering a wide range of realities, from the State in the strict sense to more diffuse entities or interests, without the law specifying the criteria for identifying them."*⁶⁷
52. With regard to the identification of "foreign principals", the question arises as to the scope of *"legal persons that are directly or indirectly directed or controlled by a foreign power (...) or that are financed for more than half by such a foreign power"*. At what point should an entity be considered to be under the *indirect control* of a State, given that this is a separate hypothesis from that of majority financing? Furthermore, if the measure is intended to target the foreign power behind the scenes, beyond the intermediaries that may stand between it and the representative of foreign interests, what value should be given to the criterion of more than 50% state funding as set out above? Is a foundation receiving 20% of its budget from a non-EU state not *ultimately* an "intermediary" of that state within the meaning of Article 1¹ of the aforementioned decree of 31 July?
53. Secondly, the question of the meaning and scope of the condition relating to *"the promotion of the interests"* of the foreign principal is crucial in assessing the weight of the obligations incumbent on NGOs receiving foreign funding. Should all actions carried out under the direction or control of a foreign principal be regarded as serving the interests of the latter? Is funding provided by a State, for example for a solidarity initiative, not always linked to the promotion of its interests, whether in terms of its representation of social justice or the priorities that should be those of public action, or even its visibility (and therefore its influence) at the international level?

⁶⁵ Decision 2024-871 DC of 24 July 2024.

⁶⁶ See *Ivashchenko v. Russia*, no. 61064/10, § 73, 13 February 2018.

⁶⁷ G. Beaussonie and M. Segonds, *Regarding Law No. 2024-850 of 25 July 2024 aimed at preventing foreign interference in France*, *Revue de science criminelle et de droit pénal comparé* 2024/4 No. 4, Dalloz, pp. 857-870.

54. In this regard, the law sets out a distinct final criterion: the activities in question are those carried out on behalf of a foreign principal *for the purpose of promoting its interests* (by influencing public decision-making). Parliamentary debates do not help to dispel the vagueness of the law with regard to the legal articulation of the various conditions set out.⁶⁸
55. An inductive interpretation seems to have prevailed, with the existence of a foreign mandate within the meaning of the law being regarded as implying *ipso facto* the promotion of the interests of the foreign entity concerned. The High Authority⁶⁹ itself has, to date, failed to refer to the criterion of promoting the interests of the principal in any of its online publications on the subject.⁷⁰ The two circulars from the Minister of Justice on this subject make no mention of it either.⁷¹
56. In any event, even if the criterion of *promoting the interests of the principal* has independent legal significance, there is no provision specifying its scope. At what point do actions carried out under the direction or control of the foreign principal cease to be considered benign and start to be regarded as promoting its interests?
57. With regard to the "act of interference"⁷², which now makes it possible, alongside terrorism, to freeze the funds and resources of those guilty of such acts, there is a similar lac of definition from two points of view.
58. Firstly, while the Criminal Code defines *attacks on the fundamental interests of the Nation*, French law does not specify what constitutes attacks *"on the functioning or integrity of essential infrastructure" or on "the regular functioning of democratic institutions"*.
59. Secondly, the degree of connection between the act and the foreign power is open to question. One author, while noting that *"interference remains too broadly defined"*, considers that these provisions *"refer to action by a foreign power to 'undermine [legally protected interests]'"*.⁷³ However, a literal interpretation of the text – which refers to the "effects" of the actions in question, regardless of their "purpose" – tends to retain the act

⁶⁸ Parliamentary debates briefly addressed the questions of whether the condition of "promoting foreign interests" was superfluous or, on the contrary, too restrictive in view of the objectives of the law, and explicitly answered in the negative (Senate, session of 24 May 2024). However, the discussion on this point was brief and did little to clarify the legal relationship between the various concepts.

⁶⁹ The High Authority is responsible, under the aforementioned decree of 31 July 2025, for providing information on their obligations to those subject to these measures.

⁷⁰ <https://www.hatvp.fr/repertoire-de-linfluence-etrangere>.

⁷¹ Circulars from the Minister of Justice dated 8 October 2024 and 21 January 2026, cited above.

⁷² "actions committed directly or indirectly at the request or on behalf of a foreign power and having the purpose or effect, by any means, including the communication of false or inaccurate information, of undermining the fundamental interests of the Nation, the functioning or integrity of its essential infrastructure or the regular functioning of its democratic institutions".

⁷³ Combating foreign interference in the democratic system: A comparative analysis of French and Hungarian law, Fannie Duverger, RDLF 2025 chron. no. 28.

of interference even in the absence of fraudulent intent on the part of its author and, consequently, without it being necessary to establish such intent on the part of the foreign power. In support of this broad interpretation, it should be noted that the actions referred to are those committed not only "at the request" but also "on behalf of" the foreign power, or that the triggering event may consist of the mere dissemination of "inaccurate information", suggesting that a particularly broad or even tenuous causal link is sufficient to trigger the mechanism.

60. If such an interpretation were to prevail, the administration might be tempted to apply the text to the publication of information or opinions, refuted by the public authorities, which, even in the absence of any form of incitement, lead to peaceful demonstrations but paralyse, for example, a railway station or prevent access to the National Assembly. This applies in particular to contemporary forms of collective movements, such as a hashtag going viral on social media and thus escaping the control of its author. In view of the breadth of the definition, the authorities may be tempted to resort to this mechanism to neutralise an association in circumstances where its dissolution could not be lawfully ordered.⁷⁴
 61. Ultimately, the French legislature's decision to combat "without naivety" a phenomenon presented as "protean" and "hybrid" has resulted in a legal construct that largely follows a hypothetical logic, based on vague definitions intended to cover a wide range of activities, generally harmless (and completely mundane from the point of view of NGOs), with the idea that the harmful nature of these activities could only be revealed through the prism of foreignness.
 62. The result is a system based, as a whole, on largely unpredictable standards, creating a situation of major legal uncertainty for any organisation receiving extra-EU funding.
3. Necessity in a democratic society
63. In order to determine whether the measures in question can be considered necessary in a democratic society, their impact on the exercise of freedom of association and other relevant rights must be assessed to determine whether they are proportionate to the legitimate aim pursued and whether the reasons given by the national authorities to justify them are 'relevant and sufficient'.
 64. According to the French Constitutional Council, improving the transparency of relations between interest representatives and public authorities is a goal of general interest.⁷⁵ The

⁷⁴ On the basis of Article L.212-1 of the Internal Security Code. According to case law, this requires incitement, through words or actions, explicitly or implicitly, to engage in armed demonstrations or violent acts against persons or property, likely to seriously disturb public order.

⁷⁵ Decision No. 2016-741 DC of 8 December 2016, *Law on transparency, the fight against corruption and the modernisation of economic life*, §44.

Strasbourg Court accepts in principle that the objective of improving transparency in the financing of civil society organisations may correspond to the legitimate aim of protecting public order as provided for in Article 11(2) of the European Convention.⁷⁶

65. However, to quote the Court of Justice:

the objective of increasing the transparency of the funding of associations, however legitimate it may be, cannot justify legislation (...) based on a presumption of principle and without distinction that any financial assistance paid by a natural or legal person established in another Member State or in a third country and any civil society organisation receiving such financial assistance are, in themselves, likely to jeopardise the political and economic interests [of the country concerned] and the functioning of its institutions without interference.⁷⁷

66. Although the French system is not entirely comparable to the one at issue in this case, it nevertheless shares certain characteristics with it, which inevitably place it among the unfortunate instruments which, by:

aiming [...] to counter possible illegitimate interference, can only have the opposite and undesirable effect of reducing the capacity of civil society associations to play their vital role in ensuring transparency and democracy.⁷⁸

67. To justify the introduction of such a measure in France, parliamentarians essentially cited the inadequacy of existing tools, primarily the register of interest representatives established by the Sapin II law, to address the risks of democratic destabilisation from abroad. However, the Sapin II register has been described as "*among the most rigorous within the OECD*"⁷⁹.

68. This observation of inadequacy, first made by the Parliamentary Intelligence Delegation and then repeated in the same terms during the drafting of the law, is based on two considerations. Firstly, it was argued that this tool is unsuitable because its purpose is traditional economic lobbying. This assertion needs to be seriously qualified, since the scope of the Sapin II law largely covers entities unrelated to economic lobbying, including many NGOs.⁸⁰ Secondly, it was argued that the inadequacy of the pre-existing tools was

⁷⁶ *Ecodefence and Others v. Russia*, at para. 122.

⁷⁷ *Commission v Hungary (Transparency of associations)*, cited above, at para. 86

⁷⁸ Joint Statement on the Protection of the Right to Freedom of Association in Light of Laws on "Foreign Agents" and "Foreign Influence", signed by the United Nations Special Rapporteur on the rights to peaceful assembly and association, the Special Rapporteur on freedom of expression of the IACHR, the Commissioner Rapporteur for Human Rights Defenders of the IACHR, the Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa of the ACHPR, the Representative of Indonesia to the ASEAN Intergovernmental Commission on Human Rights and the OSCE Office for Democratic Institutions and Human Rights.

⁷⁹ Conclusions of Public Rapporteur Nicolas AGNOUX in the *Institut Montaigne* Section case before the administrative supreme court (Conseil d'Etat, Sect., 14 October 2024, nos. 472123, 475251, 487972).

⁸⁰ Ibid. "NGOs represent 22% of the entities registered according to the 2023 activity report published by the HATVP. Those registered include, for example: Amnesty International, Greenpeace France, Les Amis de la Terre, WWF France, Transparency International, and Secours Catholique."

demonstrated by comparison with those provided for in the legislation of other countries, primarily the United States and the United Kingdom. In this regard, the Expert Council has already had occasion to point out in relation to Georgia that:

the fact that the law is equivalent to the US FARA law is not in itself a sufficient reason to consider that its provisions are necessary in a democratic society, especially since it has not been assessed in terms of its compliance with the rights guaranteed by the ECHR.⁸¹

69. Secondly, the argument based on the inadequacy of the existing measures, as summarised above, must also be assessed in light of the expected benefits of the new measures. There are three such benefits: to enable:

a clear distinction to be made between the issues of economic lobbying and foreign influence", "attracting a larger number of agents of influence to the new register than those covered by the existing register", and finally sending "a strong political signal in a geopolitical context marked by the resurgence of foreign interference."⁸²

Given that the threat to be combated is conceived as "diffuse" and "evolving," in short, rather elusive, the expected gains from the new system appear too meagre to justify additional restrictions on the exercise of freedom of association and related rights and freedoms.

70. With regard to NGOs specifically, as indicated above⁸³ (§46), the legislature has not seriously demonstrated the inadequacy of the existing legal framework concerning them, let alone the repercussions of such a normative deficiency from the point of view of the phenomenon being combated. It cannot therefore be considered to have provided "relevant and sufficient" reasons justifying the creation of the register.⁸⁴
71. The price to be paid by the voluntary sector seems all the heavier given that the legislature's approach was to take the model of the Sapin II law register and significantly tighten each of its parameters. It thus duplicated the reporting obligations by considerably extending their scope and intensifying the associated controls, while significantly increasing the penalties attached to them.
72. As stated *above* (§§ 53-55), the extent of the constraints imposed on NGOs will depend largely on the meaning and scope given to the criterion relating to the "promotion of the interests" of the foreign principal. In any event, as recognised by the National Commission for Data Protection and Liberties (CNIL), which was consulted for its opinion in connection with the adoption of the aforementioned decree of 31 July 2025, "*the scope of application*

⁸¹ CONF/EXP(2025)5, para. 128.

⁸² Report of the Parliamentary Intelligence Delegation, op. cit., p.; Report on behalf of the Law Commission on the proposed *law to prevent foreign interference in France* (No. 2150).

⁸³ At para. 46.

⁸⁴ See *Ecodefence and Others. v. Russia*, at para.72.

of the newly created register is potentially very broad".⁸⁵ Thus, the reporting obligations relating to foreign influence do not include any trigger threshold, applying from the first public message, the first interaction with a "target person" or the first collection or delivery of funds without consideration. In other words, the potential influence of the activity in question is not taken into account, and even the most insignificant action is sufficient to trigger the reporting obligation. Nor is the statutory purpose of the entity concerned taken into account. The system adopted therefore differs fundamentally from that applicable to the register of interest representatives, which only covers entities for whom interest-representation activities constitute either a "main activity" (representing more than half of the person's working time) or a "regular activity" (involving at least ten contacts over the preceding twelve months). No doubt aware of the impracticability of the system thus established, the Minister of Justice, in his instructions to prosecutors, sought to transpose the threshold conditions applicable to lobbyists.⁸⁶ However, such instructions *contra legem* have no legal effect and do not affect the actions of the HATVP. The list of stakeholders involved in interactions falling within the scope of "communication" is considerably broader than that applicable to interest representation.

73. As for the solid guarantees of independence offered by the HATVP, given the indiscriminate nature of the reporting obligations laid down in the texts and the extensive logic that runs through them, they do not constitute adequate and sufficient protection for the exercise of freedom of association.
74. In terms of their content, the reporting obligations have the effect of imposing particularly burdensome administrative procedures on the NGOs concerned, especially as they must be renewed every three months. The volume of information to be provided, accompanied where necessary by supporting documents, is likely to compromise the management of the structures concerned. This will inevitably result in a severe financial and organisational burden for the NGOs concerned, in conditions that are likely to compromise their ability to carry out their main activities.⁸⁷ Furthermore, given their scope, the data collected by the HATVP does not appear to be considered as being proportionate to the purposes of the processing.⁸⁸
75. Furthermore, the NGOs concerned are now required to identify the organisational, financing and control arrangements of their donors, beyond the often summary information available on the internet, which will require them to seek clarification from their foreign funders. They will also be obliged to transmit the latter's data to the HATVP.

⁸⁵ Deliberation No. 2025-031 of 7 May 2025 giving an opinion on a draft decree on the transparency of influence activities carried out on behalf of a foreign principal.

⁸⁶ Circulars from the Minister of Justice of 8 October 2024 and 21 January 2026, cited above.

⁸⁷ See in this regard *Ecodefence and Others v. Russia*, cited above.

⁸⁸ For example, the "transfer of funds without consideration", which is a common activity for associations working in the field of combating extreme poverty, would imply, provided that it is perceived as being carried out for the purpose of promoting the interests of the foreign principal, the collection and transmission of the beneficiaries' first and last names, dates and places of birth, regardless of the amount of the sum paid.

Such measures are likely to place them in a difficult position vis-à-vis international donors and discourage financial support from them.

76. Ultimately, the legislator seems to have extended the net of state control as far as possible, while tightening the mesh to increase the chances of apprehending processes of influence that are by nature hidden, changing and even evanescent. This maximalist logic, based on an undifferentiated treatment of actors, disregards the considerable constraints thereby imposed on NGOs, while also running counter to the principle of data minimisation which underpins the GDPR.
77. Although the NGOs concerned will not be singled out by an ostracising designation, the obligation now imposed on them to disclose to their institutional interlocutors "the interests they represent" is likely to cast suspicion on them and seriously hamper their activities.
78. Similarly, the reporting obligations now imposed on NGOs receiving foreign funding expose them to controls that must be regarded as disproportionate. This is the case with the on-site checks carried out by the HATVP, as well as the possibility it has to "*take copies, by any means and on any medium, of professional documents of any kind, wherever they may be held*", it being understood that professional secrecy is not enforceable against it. It should be noted that the activities on which the HATVP's control is based are legal.
79. Admittedly, the checks in question are subject to authorisation by the liberties and detention judge. However, it must be recalled that this form of ex ante judicial intervention is subject to inherent limitations, as the Constitutional Council itself has had occasion to emphasise.⁸⁹ The judge will decide on the basis of a possible breach of reporting obligations (and not on the existence of serious and consistent evidence that the activities carried out are illegal), based on the information provided by the HATVP. It is reasonable to assume that the conditions for authorising the measure will be relatively unrestrictive. In addition, the judge's decision gives the HATVP broad powers, particularly in terms of copying documents relating to the organisation and financing of the structure, but also to its activities. The HATVP may come into possession of particularly sensitive information concerning the association and its beneficiaries. In this regard, the European Court considers that search warrants must be drafted in such a way as to limit their effects.⁹⁰ However, the exercise of its powers by the HATVP is not really controlled, except in the unlikely event that the judge decides to attend the operations in person.
80. At the same time, failure to report exposes NGOs to criminal investigations, which may also involve special investigative techniques, initially designed for serious and complex cases

⁸⁹ Decision No. 2019-778 DC of 21 March 2019.

⁹⁰ See *Avaz Zeynalov v. Azerbaijan*, nos. 37816/12 and 25260/14, § 78, 22 April 2021, at para. 88.

and particularly intrusive. In the absence of underlying illegal activity, this state of the law appears seriously inappropriate.

81. The severity of the penalties attached to the reporting obligations in itself raises a serious issue under Article 11 of the European Convention, and also under Article 10 where the triggering act consists in the expression of opinions or the dissemination of information.⁹¹ The Strasbourg Court warns that sanctions in this area must not constitute

a form of censorship aimed at deterring applicants from expressing criticism or undermining the essential contribution of civil society to the management of public affairs [or] hindering the work of NGOs (...) in the exercise of their role as independent observers and 'watchdogs'.⁹²

82. The European Court ruled that fines often representing several years of subsistence income and threatening the financial viability of NGOs could not be considered proportionate, particularly given the essentially regulatory nature of the offences⁹³. In the present case, the same conclusion applies to the penalties provided for failure to comply with reporting obligations for legal persons and, *a fortiori*, natural persons. In the case of the former, the amount of the fine incurred appears impossible for an association to bear, except in very exceptional cases where it has very substantial own funds. Indeed, such an item of expenditure does not appear to be chargeable to the operating or action subsidies received by the NGO concerned. As for the latter, the custodial sentence and the amount of the fine incurred, equivalent to more than two years' minimum wage, appear to be grossly disproportionate. This is all the more so given that criminal prosecution can be initiated without any prior warning from the authorities.

83. The freezing of the funds and resources of the entity concerned by the administration for a period of six months, in the event of "interference", appears equally problematic. It should first be noted that, in the case of an association, such a measure, which is moreover renewable, constitutes a means of neutralisation equivalent in practice to forced dissolution. It is indeed unlikely that an association could recover after suffering such a measure, which effectively deprives it of the means to act and to honour its contractual commitments to its funders and, where applicable, to its salaried staff. However, the grounds taken into account by the text go far beyond those provided for the dissolution of associations. As has been said,⁹⁴ the triggering event taken into account may be limited to the dissemination of false or even simply inaccurate information. It should be recalled here that, for the purposes of Article 10 of the European Convention, "*the limit not to be exceeded*" by the persons concerned is where the speech "*degenerates into a call for violence, hatred or intolerance*".⁹⁵

⁹¹ *Ecodefence and Others v. Russia*, cited above.

⁹² *Kobaliya and Others v. Russia*, cited above, at para. 87; *Társaság a Szabadságjogokért v. Hungary*, no. 37374/05, 14 April 2009, at para. 27.

⁹³ *Ecodefence and Others v. Russia*, cited above, at para. 185.

⁹⁴ See above, para. 59.

⁹⁵ *Baldassi and Others v. France*, no. 15271/16, 11 June 2020, at para. 79.

E. CONCLUSION

84. Ultimately, the measures adopted seem to be driven by a desire to avoid any loophole in state control of foreign influence, regardless of the cost in terms of the exercise of freedom of association. The significant bureaucratic burden resulting from the new reporting requirements, the legal uncertainty associated with the vague concepts used by the legislator and the severity of the penalties incurred are all factors that weaken the voluntary sector, which depends on foreign funding, particularly in the field of solidarity and the defence of fundamental rights. As a result, this initiative is likely to deter the NGOs concerned from accessing sources of funding, even though they desperately need it.⁹⁶
85. Furthermore, the extension, in certain areas, of measures previously reserved for the fight against terrorism shows that the law applicable to NGOs is now subject to a logic of exception. This development is all the more troubling given that freedom of association has historically been the cornerstone of the constitutional protection of civil liberties in France.⁹⁷ It calls for a response commensurate with the democratic challenges it poses.
86. Driven by the entirely legitimate desire to combat all forms of manipulation of the public for the purpose of destabilising institutions, French lawmakers lost sight of the compelling interests at stake. In particular, they overlooked the essential contribution made by NGOs to the functioning of public life and, by extension, to curbing the harmful effects of disinformation. At a time when France's two highest courts, in unison with the Constitutional Council, are sounding the alarm about threats to the rule of law in the country,⁹⁸ it seems urgent to reverse the perspective and provide civil society organisations with the operational facilities and resources they need to create the conditions for a democratic revival.

⁹⁶ Subsidies to associations in France fell by 41% between 2005 and 2020, according to a 2024 opinion by the Economic, Social and Environmental Council, while the share of public procurement, with competitive bidding, increased.

⁹⁷ Constitutional Council Decision No. 71-44 DC of 16 July 1971, known as the Freedom of Association Decision

⁹⁸ "At the Court of Cassation, a solemn hearing on the 'ill winds' blowing on the rule of law," *Le Monde*, 10 January 2026; "The Constitutional Council and the Council of State to the rescue of a battered rule of law," *Le Monde*, 21 January 2026.