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**THE DRAFT AMENDMENTS TO THE SLOVAKIA FRAMEWORK REGULATION
GOVERNING NON-GOVERNMENTAL ORGANISATIONS INTRODUCING THE
CONCEPT OF “FOREIGN SUPPORTED ORGANISATIONS”**

An opinion adopted by the Expert Council on NGO Law of the Conference of INGOs
of the Council of Europe

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INDEX

A. Introduction	3
B. Draft Amendments	4
1. The rationale and background to the draft amendments	4
2. The proposed changes	6
C. Assessment of Compliance	7
1. The Process of Adoption	7
2. The lack of a Legitimate Aim	8
3. The Lack of Proportionality and the Absence of Discrimination	11
D. Conclusion	15
Appendix: Amendments to the NGO Framework Regulation	17

A. INTRODUCTION

1. This opinion examines the compatibility of the draft amendments ('the draft amendments') to the Slovakia framework regulation governing non-governmental organisations ('NGOs')¹ with European standards protecting freedom of association and related rights and, in particular, the European Convention on Human Rights ('the ECHR').
2. The draft amendments were introduced to the National Council (Parliament) by MPs rather than the Government. Having passed their first reading on April 30, 2024, they are now awaiting a second reading in the National Council.
3. The draft amendments aim to regulate "foreign-supported organisations". For this purpose, they seek to revise: the Law No. 213/1997 on non-governmental organisations providing public benefit services, as amended ('Law No. 213/1997'); Law No. 34/2002 on foundations and on the change of Civil Code ('Law on Foundations'), as amended; Law No. 147/1997 on non-investment funds and on supplementing Act No. 207/1996, as amended; Law No. 83/1990 on associations of citizens, as amended ('Law on Associations'); Law No. 116/1985 on the conditions of activity of organisations with an international element in the Czechoslovak Socialist Republic, as amended; and Law No. 346/2018 on the Registry of Non-Governmental Non-Profit Organisations and on Amendments and Supplements to Certain Laws, as amended. ('Law No. 346/2018').²
4. The draft amendments have been criticised by opposition parties and NGOs³. In addition, the Council of Europe Commissioner for Human Rights has called for the rejection of the draft amendments⁴ and the European Commission has pledged to initiate an infringement procedure against Slovakia if they are enacted, citing a prior Court of Justice of the European Union ('CJEU') ruling against Hungary. That case established that discriminating against NGOs receiving foreign funding violates European Union law.⁵
5. The opinion begins by outlining the rationale for and background to the draft amendments. Thereafter, it sets out the specific changes that they would affect if

¹ Pursuant to the Slovak law, an *association* ('zdrúženie') is a membership organization established by legal or natural persons, foreign or domestic alike, to pursue mutual or public benefit goals. A *foundation* ('nadácia') is an asset-based organization established by any legal or natural person to pursue one or more public benefit purposes as defined in the law. A *non-profit organization providing public benefit services* - NPO (nezisková organizácia) is a special form of an NGO that may be established by legal or natural persons or by a government agency to provide public benefit services as defined in the law to public, on equal terms and conditions. A *non-investment fund* ('neinvestičný fond') is a not-for profit legal entity which accumulates assets for publicly beneficial purposes, as defined in the law. Council of Foundations, *Nonprofit Law in Slovakia*, <https://cof.org/country-notes/nonprofit-law-slovakia>

² The text of the draft amendments is set out in the Appendix.

³ <https://civicspacewatch.eu/slovakia-ngo-draft-law-stigmatises-csos-mirroring-hungarys-path/>

⁴ <https://www.coe.int/en/web/commissioner/-/slovak-republic-new-draft-laws-risk-having-a-chilling-effect-on-civil-society-and-interfering-with-independence-of-public-service-media>

⁵ *Commission v Hungary* (Transparency of associations), [Case C-78/18](https://eur-lex.europa.eu/eli/jud_2020/018/oj), judgment of 18 June, 2020.

adopted and then assesses their compatibility with relevant European standards before concluding with an overall evaluation of them.

6. The opinion is based on an unofficial translation of the draft amendments.

B. DRAFT AMENDMENTS

1. *The rationale and background to the draft amendments*

7. The Explanatory Note ('the Note') accompanying the amendments outlines the underlying rationale for their introduction. According to this, the *general objective* of the amendments is to:

increase the *transparency* of funding for non-governmental, non-profit organisations, which is a key element in strengthening public trust in these organisations, by disclosing and publishing information on donations and donors if the amount exceeds the legally defined threshold, either as a single donation or cumulatively).⁶

8. The Note further states that disclosing and publishing this information would achieve several *specific objectives*, namely: increasing the credibility and *transparency* of NGOs;⁷ enhancing oversight of their funds and income to strengthen protections against *money laundering* and the *financing of terrorism*;⁸ encouraging *responsible management* of NGOs through added accountability;⁹ and fostering *public trust* and engagement.¹⁰

9. Regarding the need for greater *transparency*, the Note states that the public:

has the right to be informed about the sources of funding for NGOs operating in the public space. Disclosure of contributions, donations, and loans will enable monitoring of the resources NGOs raise and how they manage them.¹¹

10. The Note further asserts that:

publishing detailed information on contributions, donations, and loans will enable more effective monitoring and oversight of financial flows. Both the public and supervisory authorities will gain better insight into how these funds are used, allowing them to identify irregularities or misuse. Additionally, the proposal aims to

⁶ *Explanatory Note*, Section A. ('General part'), para. 2; emphasis added.

⁷ *Explanatory Note*, Section A. para. 3.

⁸ *Explanatory Note*, Section A., para. 4.

⁹ *Explanatory Note*, Section A., para. 4.

¹⁰ *Explanatory Note*, Section A., para. 5.

¹¹ *Explanatory Note*, Section A. para. 3.

strengthen protections against *money laundering* and the *financing of terrorism* within the financial management of NGOs.¹²

11. The Note also maintains that:

public disclosure of funding information encourages NGOs to be more *accountable* and *transparent* in their *management*, leading to improved financial practices and more responsible use of donated or borrowed funds¹³

12. Finally, the Note suggests that transparent disclosure of funding will help the *public* and *stakeholders*

better understand NGOs' missions". This, in turn, is expected to foster *trust* and *engagement*, benefiting both NGOs and citizens. It is further argued that tighter financial control over NGOs could have a positive impact on the *state budget*.¹⁴

13. The Note attempts to present the amendments as "NGO-friendly" and in compliance with domestic law, "international treaties to which the Slovak Republic is bound," and "the law of the European Union."¹⁵

14. As is clear from the foregoing, although the Note sets out its justification for the proposed tightening of reporting requirements, none is provided for introduction of the status of "foreign-supported organization", which are the most controversial and the core of the amendments.

15. Although the draft amendments were not proposed by the Government, the Prime Minister had previously called for legislation to scrutinise some NGOs following large-scale demonstrations sparked by the murder of an investigative journalist and his fiancée. These protests, which ultimately led to his resignation, were attributed by the Prime Minister to NGOs funded by George Soros, whom he accused of attempting to destabilise the country.¹⁶

16. Moreover, when the current Slovak government signed the coalition agreement in October 2023, the re-elected Prime Minister declared it the end of the "reign of political NGOs" in Slovakia.¹⁷

17. The Government's hostility toward so-called "political" NGOs is further evidenced by officials' statements pledging to allocate public funds only to NGOs pursuing "noble"

¹² *Explanatory Note*, Section A., par. 4; emphasis added.

¹³ *Explanatory Note*, Section A., par. 4; emphasis added.

¹⁴ *Explanatory Note*, Section A., par. 5.

¹⁵ *Explanatory Note*, Section A, last paragraph.

¹⁶ <https://www.euractiv.com/section/elections/news/fico-blames-soros-for-provoking-instability-in-slovakia/> and <https://www.bloomberg.com/politics/articles/2018-03-06/slovak-premier-sees-soros-behind-plan-to-topple-his-government?embedded-checkout=true>.

¹⁷ <https://balkaninsight.com/2023/10/27/a-new-age-of-fico-dawns-in-slovakia/>.

(non-political) causes, such as supporting children, people with disabilities, and other vulnerable groups.¹⁸

2. The proposed changes

18. The draft amendments would be incorporated into various pieces of legislation by adding new articles or provisions to existing ones, complicating their evaluation.
19. The draft amendments to the Law on the Registry of Non-Governmental Non-Profit Organisations introduce the status of “foreign-supported organisation” for NGOs, receiving foreign funding exceeding 5000 euros. Income generated from the *European Union* (EU) funds is excluded from the prescribed 5,000 euros threshold. However, this does not seem to be the case with grants generated from the EU *Member States* or members of the *European Free Trade Association*.
20. The amendments further provide that an NGO shall notify the registry office in writing within 90 days that it meets the conditions set out for a foreign-supported organisation, upon which the registry office shall add to the name of an NGO words “foreign-supported organisation”. An NGO is required to use this new designation in all acts it performs in the course of the business. Failure to register as “foreign-supported organisation” shall result in fines up to 5000 euros.
21. Implementation of these requirements are supported by amendments to Law on Associations and Law on Foundations.
22. The draft amendments to the Law on Associations and Law on Foundations introduce similar changes. Associations with budget exceeding € 50 000 shall have to provide annual reports (foundations are obliged to provide annual reports under current legislation). Reports of associations and foundations shall include inter alia list of donors, summary of contributors and creditors, who’s donations, contributions or financial support exceeds € 5000. Association’s failure to file a report or remedy deficiencies pointed out by the ministry can result in fines up to 1000 euros and subsequent liquidation (presumably analogical requirements for foundations are already in the current legislation).

¹⁸<https://ecnl.org/news/slovakia-civil-society-under-threat>.

C. ASSESSMENT OF COMPLIANCE

23. The process of adopting restrictions on the right to freedom of association, as well as their substance, must comply with Article 11 of the ECHR and other European standards.
24. Such restrictions must, in particular:
- Be adopted through a transparent and participatory process;
 - Pursue a legitimate aim;
 - Follow the principles of proportionality and non-discrimination.
25. In addition to the right to freedom of association, other rights - such as the right to privacy (Article 8 of the ECHR) and freedom of expression (Article 10 of the ECHR) - may also be engaged. The interplay of these rights must be considered in assessing the proposed measures.
26. Apart from the case law of the European Court of Human Rights ('the ECtHR'), guidance in assessing compliance can be drawn from [Recommendation CM/Rec\(2007\)14 on the Legal Status of NGOs in Europe](#) ('Recommendation CM/Rec(2007)14'), the European Commission for Democracy through Law (Venice Commission) and the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR)'s [Joint Guidelines on Freedom of Association](#) ('the Joint Guidelines') and the case law the Court of Justice of the European Union ('the CJEU').

1. *The Process of Adoption*

23. Despite their likely significant impact on NGOs, on the right to freedom of association and its related rights, the draft amendments were introduced directly to Parliament, falling short of prior *ex-ante*/risk assessment and proper public consultation.
24. As a result, it remains unclear what credible evidence, if any, supports the justification for adopting draft amendments, as the Explanatory Note provides no such information. Indeed, the European Commission has highlighted ongoing issues in Slovakia with the lack of evidence-based policy, particularly regarding the use of fast-track procedures.¹⁹

¹⁹ European Commission, [2023 Rule of Law Report](#); Country Chapter on the rule of law situation in Slovakia.

25. Both Recommendation CM/Rec(2007)14²⁰ and the Joint Guidelines²¹ underscore that any regulation interfering with freedom of association should be adopted through a democratic, participatory, and transparent process.
26. Similarly, the Venice Commission's [Check List on the Rule of Law](#) emphasises that providing the public with an opportunity to contribute meaningfully to the legislative process is a key element of lawmaking.²²
27. The lack of evidence-based and inclusive policy in the preparation of the amendments further reinforces the concerns raised by NGOs and other stakeholders that the draft amendments do not comply with European standards.

2. The Lack of a Legitimate Aim

28. There are significant issues with the general and stated objectives of the amendments, as most of them appear not to satisfy the requirement of legitimacy.
29. In respect of the additional disclosure and labelling requirements imposed on NGOs-the recipient of foreign funds in the name of *transparency* (which is stated as both general and specific objective of the amendments), the Venice Commission noted that the goal of enhancing *transparency*:
- would by itself not appear to be a legitimate aim as described in the above international instruments; rather, transparency may be a means to achieve one of the above-mentioned aims set out in Article 11 (2) ECHR.²³
30. Recommendation CM/Rec(2007/14 does provide for the possibility of certain, limited transparency requirements being imposed on NGOs that receive some form of *public*

²⁰ Para. 77. The Explanatory Memorandum to Recommendation CM/Rec(2007)14 further clarifies that: "it is essential that NGOs not only be consulted about matters connected with their objectives but also on proposed changes to the law which have the potential to affect their ability to pursue those objectives. Such consultation is needed not only because such changes could directly affect their interests and the effectiveness of the important contribution that they are able to make to democratic societies but also because their operational experience is likely to give them useful insight into the feasibility of what is being proposed" (para. 139).

²¹ Principle 9. See also Principle 8 and the Explanatory Note to the Joint Guidelines, para. 33., which provides that any legislation impacting on NGOs needs to be developed in a manner that is timely, free of political influence and transparent. The Joint Guidelines further clarifies that NGOs should be consulted in the process of introducing and implementing any regulations or practices that concern their operations (para. 106.). See also Venice Commission, [Opinion on the Law on nongovernmental organisations \(Public Associations and Funds\) as amended of the Republic of Azerbaijan](#), CDL-AD (2014)043), 15 December 2014, para. 42.

²² Venice Commission, *Rule of Law Checklist*, p. 13, para. 5 item iv.

²³ Venice Commission and OSCE/ODHIR, [Joint Opinion on Draft Law No. 140/2017 on amending Governmental Ordinance no. 26/2000 on Associations and Foundations](#), (*Joint Opinion on the Romanian Draft Law*). CDL(2018)008,, para. 64..

support.²⁴ The Recommendation also envisages all NGOs being required to submit their books, records and activities to inspection by a supervising agency but only where there has been a failure to comply with reporting requirements or where there are reasonable grounds to suspect that serious breaches of the law have occurred or are imminent.²⁵

31. However, the state should not require associations to be accountable and transparent; it should only encourage and facilitate them to be such.²⁶
32. The need for the transparency requirement to be linked to the legitimate aim has been confirmed in the case law. Thus, in *Commission v. Hungary* the CJEU noted that transparency cannot justify national legislation which is based on the assumption that NGOs in receipt of financial support from abroad are suspect.²⁷
33. Similarly, in *Ecodefence and Others v. Russia*, the ECtHR noted that legitimate aim for the increase of transparency requirements for NGOs needs to be proven.²⁸
34. Regarding the legitimacy of measures aimed at strengthening the *responsible management* of NGOs, Recommendation CM/Rec(2007)14 emphasizes that the management of NGOs is primarily the responsibility of their members and governing bodies.
35. The need for any legislation imposing additional restrictions on the management of the *already existing* NGOs to be mindful of the requirement for permissible interference has been affirmed in *Ecodefence and Others v. Russia*. Thus, the ECtHR noted that imposition of new requirements on previously existing organisations needs to be justified as being, in particular, necessary in a democratic society.²⁹
36. Regarding permissibility of additional measures imposed by a Member State to strengthen *public trust* in NGOs, in light of the aforementioned principles guiding NGO management, the feasibility of introducing such measures primarily falls within the organisation's autonomous decision-making power, rather than the State.
37. There may be instances which would justify measures aimed at enhancing public trust for specific categories of organisations, such as those receiving public funds or holding public benefit status. However, such measures must comply with strict requirements for permissible interference with the freedom of association and related rights. This entails

²⁴ Paragraphs 62, 63 and 65.

²⁵ Paragraph 68.

²⁶ The Joint Guidelines, para. 224.

²⁷ [Case C-78/18](#), judgment of 18 June, 2020, at para. 70.

²⁸ No. [9988/13](#), 14 June 2022, at para. 122. See also *Kobaliya and Others v. Russia*, no. [39446/16](#), 22 October 2024, at paras. 142 and 146.

²⁹ *Ibid*, *Ecodefence and Others*, at para. 152.

the State's obligation to demonstrate a compelling and sufficient link between those measures and the legitimate aim they seek to achieve, among others.³⁰

38. Given the foregoing problems with the stated general and specific objectives of the amendments, the only conceivably legitimate aim that might justify the introduction of the new disclosure requirement for NGOs reaching the prescribed respective monetary thresholds would be to strengthen protection against money laundering and the financing of terrorism.

39. However [Recommendation 8](#) of the Financial Action Task Force ('the FATF') - which is solely concerned with terrorist financing abuse by NGOs - stipulates that:

countries should review the adequacy of laws and regulations that relate to non-profit organisations which the country has identified as being vulnerable to terrorist financing abuse. Countries should apply *focused* and *proportionate* measures, in line with the *risk-based approach*, to such NPOs to protect them from terrorist financing abuse (emphasis our).³¹

40. Consistent with the above, in *Ecodefence and Others v. Russia*, the ECtHR observed that while States may have legitimate reasons to monitor financial operations in accordance with international law, with a view to preventing money laundering and terrorism and extremism financing, the ability of an association to solicit, receive and use funding in order to be able to promote and defend its cause constitutes an integral part of the right to freedom of association, and therefore only "relevant and sufficient" reasons may justify interference with freedom of association (paras. 159, 165).³²

41. Despite this, no risk assessment analysis was conducted before introducing the new disclosure requirement. The 2023 MONEYVAL enhanced follow-up report on Slovakia states that "during the period under review (2016–2019), there were *no cases* where NPOs (NGOs, as noted) were used or misused for *money laundering* or *terrorism financing*" (emphasis added). The report also highlights that Slovakia "did not conduct a *formal review* of the adequacy of measures, including laws and regulations, related to the subset of the NPO sector that might be vulnerable to abuse for terrorism financing support"(emphasis added).³³

³⁰ Expert Council on NGO Law, [The Internal Governance of Non-Governmental Organisations](#), at para. 17.

³¹ See also FATF, [Interpretative Note to Recommendation 8](#), p. 52. and Par. 165 with reference to the other pertinent case law. See also Expert Council on NGO Law, [Opinion on the Compatibility of the Amendments to the Croatia Law on Associations and the Law on Foundations with the European Standards](#), 2023, paras. 30-33; Expert Council on NGO Law, [Non-Governmental Organisations and the Implementation of Measures Against Terrorism Financing and Money Laundering](#).

³² See also CJEU case *Commission v. Hungary*, [Case C-78/18](#), judgment of 18 June, 2020, para. 69.

³³ MONEYVAL, [Anti-money laundering and counter-terrorist financing measures, Slovak Republic 2nd Enhanced Follow-up Report & Technical Compliance Re-Rating](#), p. 5, paras (b) and (c).

42. Therefore, considering the above, the draft amendments do not comply with European standards, because they fail to provide a legitimate aim for the introduction of such restrictions.

3. The Lack of Proportionality and the Discriminatory Effect

43. The new disclosure and labelling requirements, as well as the sanctions proposed for non-compliance, run counter to requirements to observe proportionality and to avoid discrimination.

a. Disclosure requirements

44. As the Expert Council on NGO Law ('the Expert Council') has noted, there may be instances in which a government may have well founded reasons to require the disclosure of an identity of those who make donations to an NGO. However, such disclosure should not be automatically required by reference just to amount involved.³⁴

45. Moreover, regarding the duty to disclose personal data of donors, Recommendation CM/Rec(2007)14 provides that all reporting should be subject to a duty to respect the rights of donors, beneficiaries and staff, as well as the right to protect legitimate business confidentiality.³⁵

46. The Venice Commission has also observed that publishing donors' personal data could make them publicly identifiable. Such disclosure might reveal their affiliations, political opinions, or beliefs based on their support for specific NGOs, which is protected under the right to respect for private life privacy under Article 8 of the ECHR.

47. Furthermore, the public availability of this information may discourage donors and potential contributors, creating a chilling effect that could jeopardise access by NGOs to resources.³⁶

48. The requirement to disclose their personal data can only be deemed proportional if there are "relevant and sufficient" reasons supporting it.³⁷

³⁴ Expert Council, [Opinion on the NGO Law of the Republic of Azerbaijan in the Light of Amendments Made in 2009 and 2013 and Their Applications](#), paras. 188, 190-191.

³⁵ Paragraph 64. See also *Kobaliya and Others v. Russia*, no. [39446/16](#), 22 October 2024, para. 103; *Commission v. Hungary*, [Case C-78/18](#), judgment of 18 June, 2020, paras. 120-134; Article 8 of the ECHR; and Articles 7 and 8(1) of the Charter of Fundamental Rights of the European Union.

³⁶ *Joint Opinion on the Romanian Draft Law*, para. 67. See also Expert Council, [International Standards Related to the Reporting and Disclosure Requirements for Non-Governmental Organisations](#), para. 38 and Expert Council, [Opinion on the Hungarian Draft Act on the Transparency of the Organisations Supported from Abroad](#), paras. 68.-70.

³⁷ *Kobaliya and Others v. Russia*, no. [39446/16](#), 22 October 2024, para. 68.

49. Thus, apart from failure to provide any reasons of necessity or evidence of wrongdoing, a requirement to disclose information about donors can give rise to the issue of *proportionality*, if the legitimate goal such a measure purports to serve can be accomplished by less intrusive interference. The frequency, the level of detail, the overall costs incurred by a NGO to comply with such a measure, as well as the probability and the nature of the perceived risks associated with the disclosure of donors and others' private data, would be the major factors in the overall deliberation of its compliance with the requirement of proportionality.³⁸

50. Disclosing private data of donors can also give rise to the issue of *discrimination*.³⁹

b. Labelling requirements

51. Regarding the new labelling requirements, the amendments envisage that a "foreign-supported organisation" shall be deemed an NGO which receives financial or other material benefits received directly or indirectly from a foreign natural or legal person or from a domestic entity that has the designation "foreign-supported organisation" and whose contributions individually or in the aggregate for a calendar year exceed € 5,000.⁴⁰

52. The wording of the foregoing restrictions neglects the rulings of the ECtHR and the CJEU in respect of the similar requirements set out in the Russian "Foreign Agents" Law⁴¹ and the Hungarian "Transparency" Law,⁴² respectively.

53. As noted by the Venice Commission, as compared to the label of "foreign agents", the label "organisation receiving foreign funding" appears to be more neutral and descriptive, but the context in which it is introduced matters.⁴³

54. Similarly, it is noted by the *Expert Council* that the general restrictions imposed on NGOs receiving foreign funding are based on the false assumption that there is undeniable link between the foreign source of income and pursuing the interest of a foreign donor, whether it is a private entity or a foreign State.⁴⁴

³⁸ *Joint Opinion on the Romanian Draft Law*, para. 69 and Expert Council, [International Standards Related to the Reporting and Disclosure Requirements for Non-Governmental Organisations](#), paras. 54-56.

³⁹ Expert Council, [International Standards Related to the Reporting and Disclosure Requirements for Non-Governmental Organisations](#), paras. 57-58. See also *Ecodefence and Others v. Russia*, no. [9988/13](#), 14 June 2022, paras. 188-189; *Kobaliya and Others v. Russia*, no. [39446/16](#), 22 October 2024, para. 117.

⁴⁰ As compared to the Hungarian *Law on the transparency of organisations supported from abroad*, which was struck by the CJEU, the amendments envisage a higher foreign donation threshold to trigger their application (€5,000, compared to the Hungary's threshold of €1,500).

⁴¹ *Ecodefence and Others v. Russia*, no. [9988/13](#), 14 June 2022 and *Kobaliya and Others v. Russia*, , no. [39446/16](#), 22 October 2024

⁴² *Commission v. Hungary*, [Case C-78/18](#), judgment of 18 June, 2020.

⁴³ Venice Commission, [Report on Funding on Associations](#), paras. 55=59.

⁴⁴ Expert Council, [The Law on Georgia on Transparency of Foreign Influence](#), paras. 72-73.

55. In *Ecodefence and Others v. Russia*, the ECtHR held that singling out NGOs based on their sources of funding is likely to result in their stigmatisation.⁴⁵ The Court further noted that it is incumbent on a government to prove that the current legislation does not contain sufficient mechanism to exercise scrutiny over the receipt and spending of funds by NGOs, including funds from foreign sources, and that the introduction of a new labelling requirements for those NGOs meets the requirement “necessary in a democratic society”. The Russian government’s failure to do so prevented the Court from assessing the rationale of the new labelling requirements. Thus, the Court found the lack of *proportionality* with respect to Article 11 of the ECHR (paras. 139-141).
56. Similarly, in the *Commission v. Hungary* the CJEU ruled that the provisions of the Transparency Law – imposing similar disclosure and labelling requirements as the amendments – unduly stigmatised and discriminated against “organisations in receipt of support from abroad”.⁴⁶
57. The CJEU noted that, given the circumstances, the designation “organisation in receipt of support from abroad” was likely to have a deterrent effect on the participation of non-national donors in the financing of civil society and thus would hinder the activities of those organisations and the achievement of the aims which they pursue. In its view, the new disclosure and labelling obligations were of such a nature as to create a generalised climate of mistrust vis-à-vis targeted NGOs in Hungary, and to stigmatise them. This gave rise to the violation of freedom of association.⁴⁷
58. Given the likelihood that the new restrictions are likely to stigmatise NGOs receiving foreign funds and impart that they inevitably pursue foreign interests, they will be inconsistent with the requirements relating to proportionality and non-discrimination on that account also.⁴⁸

c. Sanctions

59. Finally, there are issues with the provisions in the amendments setting out to regulate sanctions levied on NGOs which fail to meet the new disclosure and labelling requirements.
60. Certainly, the ECtHR has noted that there must be “relevant and sufficient reasons” justifying the choice of sanctions, which would duly consider the proportionality of a fine, in particular in relation to its impact on an NGO ability to continue its work.⁴⁹

⁴⁵ No. [9988/13](#), 14 June 2022, para. 136.

⁴⁶ [Case C-78/18](#), judgment of 18 June, 2020, para. 69.

⁴⁷ *Ibid.*, paras. 118-19 and 140.

⁴⁸ See Expert Council, [Stigmatisation of Non-Governmental Organisations in Europe](#), paras. 60-71.

⁴⁹ *Ecodefence and Others v. Russia*, no. [9988/13](#), 14 June 2022, at para. 183.

61. Moreover, the gravity of a fine would not necessarily be a decisive factor in this respect. Rather, depending on circumstances, the ECtHR might as well deem lighter sanctions levied on NGO an interference failing the proportionality test.⁵⁰
62. In addition, the guiding principles enshrined in Recommendation CM/Rec(2007)14 with respect to sanctions against NGOs is that, in most instances, the appropriate sanction against NGOs for breach of the legal requirements should merely be the requirement to rectify their affairs. Insofar as administrative, civil or criminal penalties are imposed on NGOs and/or any individuals directly responsible, they should be based on the law in force which is otherwise applicable to legal entities, and observe the principle of proportionality.⁵¹
63. Furthermore, the Joint Guidelines provide that sanctions levied on NGOs should observe the principle of proportionality. This entails that the least intrusive option shall always be chosen, that a restriction shall always be narrowly construed and applied, and shall never completely extinguish the right nor encroach on NGOs essence. In addition, restrictions must be based on the particular circumstances of the case, and no blanket restrictions shall be applied.⁵²
64. As noted by the Expert Council, “the failure to follow these precepts has been the basis for many successful challenges to the imposition of sanctions on NGOs”.⁵³
65. However, the sanctions that would be levied on NGOs pursuant to the draft amendments fall short of the established European standards.
66. This is particularly so as regards those provisions envisaging the most egregious of the sanctions; dissolution for the repeated failure to meet otherwise administrative obligation. The fact that the Ministry of Interior, rather than courts, decide on the dissolution of an NGO in the first instance only compounds the problem.

⁵⁰ See, e.g., *Karaçay v. Turkey*, no. [6615/03](#), 27 March 2007, at para. 37. See also *Tebieti Mühafize Cemiyeti and Israfilov v. Azerbaijan*, no. [37083/03](#), 8 October 2009, at para. 63 and *Vona v. Hungary*, no. [35943/10](#), 9 July 2013, para. 57.

⁵¹ Paragraphs 7 and 72.

⁵² Respectively paragraphs 7 and 72 and Principle 10.

⁵³ [Sanctions and Liability with Respect to NGOs](#), para. 82.

D. CONCLUSION

67. As has been seen, the amendments give rise to a number of procedural and substantive issues.
68. As for the procedural issues, the amendments were enacted falling short of prior *ex-ante* or risk assessment and proper public consultation.
69. The lack of *ex-ante* impact assessment denied the stakeholders an opportunity to consider whether this legislative initiative was indeed deemed necessary, and if so, what legitimate goals it would have possibly served.
70. Similarly, the lack of risk assessment denied the stakeholders an opportunity to identify a sub-category of vulnerable NGOs which would have merit the introduction of targeted, proportionate and evidence-based measures to strengthen protection against money laundering and financing of terrorism.
71. In addition, the lack of proper public consultation denied the public an opportunity to meaningfully participate in the process of drafting of the amendments.
72. As for the substantive issues, the new disclosure and labelling requirements do not comply with the European standards protecting freedom of association and the right to privacy, in particular.
73. Namely, the general and specific objectives outlined in the amendments—aside from the legitimate need to strengthen protections against money laundering and the financing of terrorism—fail to meet the legitimacy requirement. The proponents of the draft have not provided any evidence to establish a credible link between the stated goals and the exhaustive grounds for legitimate interference with freedom of association and the right to privacy.
74. In addition, the lack of credible evidence to support the general and specific objectives of the draft raises concerns about the proportionality of the newly imposed requirements, especially in light of the noted issues with meeting the legitimacy requirement.
75. Furthermore, measures imposed in the name of the protection against money laundering and financing terrorism also give rise to the issue of proportionality, since those were not preceded by any risk assessment.
76. The lack of clarity and proportionality gives the Ministry of Interior an unwarranted discretionary power in the process of supervision of the compliance with the new requirements. The power granted to the Ministry to dissolve an NGO for repeatedly failing to comply with the new disclosure and labelling requirements is particularly concerning.

77. It is understood that a revised version of the draft amendments was circulated between two readings for debate in parliamentary committees. While those seem to focus on Act No. 213/1997 (NGOs providing publicly beneficial services),⁵⁴ the serious concerns raised by the original draft amendments indicate that any need for additional policy measures targeting transparency of NGOs sources of funding should only be determined through an inclusive process that adheres to sound principles of policy development and aligns with European standards.

⁵⁴ VIA IURIS, Analysis of the amendment of the Member of the National Council of the Slovak Republic Adam Lučanský to the proposal of the Members of the National Council of the Slovak Republic Rudolf HULIAK, Dagmar KRAMPLOVÁ, Milan GARaj and Adam LUČANSKÝ for the bill amending Act No. 213/1997 Coll. on non-profit organisations providing generally beneficial services, as amended, and amending and supplementing certain acts. Prepared for Platform for Democracy by Katarína Batková and Peter Čuroš. However, it was not possible for the Opinion to consider the revised draft, as it was not publicly available.

APPENDIX: DRAFT AMENDMENTS

Draft Amendments to the Law on Associations

New disclosure requirements in the annual report

The new Article 16a of the Law would impose new disclosure requirements in the annual report of associations and would read as follows:

- (1) An association whose income in a calendar year exceeds EUR 50 000 is obliged to draw up an annual report for the previous calendar year by 30 June each year.
- (2) The annual report of the association shall include:
 - (a) an overview of the activities carried out during the period under review, indicating the relationship to the statutory goals of the association,
 - (b) the annual accounts and an assessment of the key data contained therein,
 - (c) a *list of donors*, if the value of donations or the amount of funds from the same donor individually or in aggregate for a calendar year exceeds EUR 5 000 in the minimum scope of name, surname and nationality, if it is a natural person, if it is a natural person - entrepreneur, also the business name and identification number, and if it is a legal person, the name or business name, identification number and registered office address of the person who provided the donations or funds and the amount of the donations or the funds,
 - (d) a summary of contributors, if the amount of contributions from the same contributor individually or in total for a calendar year exceeds EUR 5 000, in the minimum scope of the name, surname and nationality, if it is a natural person, if it is a natural person - entrepreneur, also the business name and identification number, and if it is a legal person, the name or business name, identification number and registered office address of the person who made the contributions, the amount of the contributions and the date of receipt of the contributions,
 - (e) a summary of creditors, if the amount of the loan or other type of financial support from the same creditor individually or in total for a calendar year exceeds EUR 5 000, in the minimum scope of name, surname and nationality, if it is a natural person, if it is a natural person - entrepreneur, also the business name and identification number, and if it is a legal person, the name or business name, identification number and the address of the registered office of the person, which provided the loan or other type of financial support, the amount of the loan or other type of financial support and the date of receipt of the loan or other type of financial support,
 - (f) such other information as the statutory body may determine.
- (3) If, after the publication of the annual report, facts are discovered which justify its correction, the association is obliged to carry out the correction without delay.
- (4) The association shall deposit the annual report in the public part of the register of accounts no later than 15 July.

Fines

The new Article 16b would read as follows:

- (1) If an association fails to file an annual report pursuant to section 16a(4), the Department may impose a fine of up to €1,000 on the association for breach of this obligation.

(2) In imposing a fine and deciding on the amount of the fine under subsection (1), the Ministry shall take into account the gravity, duration and consequences of the infringement and the repeated failure to comply with or breach of the obligations.

(3) A fine may be imposed within two years from the date on which the Ministry became aware of the breach of duty, but not later than three years from the date of the breach of duty.

(4) The fine shall be payable within 30 days from the date of entry into force of the decision imposing the fine.

(5) In the decision to impose a penalty, the Department shall specify a reasonable period of time for the filing of the annual report, which shall not be less than 30 days.

(6) The imposition of a fine under this Act shall be without prejudice to the provisions relating to compensation for damages and shall not extinguish the obligations imposed by this Act.

(7) The proceeds from fines shall be revenue of the State budget.

Oversight

The new Article 16 would read as follows:

1) The Ministry of Interior shall evaluate the contents of the annual report of the association.

(2) If the Ministry finds deficiencies, it shall invite the association to remedy the deficiencies within a specified period of time and at the same time inform the Ministry of the measures taken.

(3) If the association has failed to remedy the situation under section 16(b)(5), the Ministry shall dissolve the association under the Article 12(5).

Pursuant to the new Article 20b, the provisions of Article 16a to 16c, as in effect from 1 January 2025, shall apply for the first time in the preparation of the annual report for the calendar year 2025.

Dissolution

The new paragraph (5) added to Article 12 would read as follows:

The Ministry of Interior shall dissolve the association if:

(a) an association fails to deposit the annual report in the public part of the register of financial statements within the time limit specified in the decision on the imposition of a fine pursuant to section 16b(5),

(b) an association has failed to fulfil an obligation under a special regulation 4(a)'.

Amendments to the Law on Foundations

Annual report.

A new Item (d) would be added to Article 35(2), which would impose new disclosure requirements in the annual report of foundations and would read as follows:

a list of donors, if the value of donations or the amount of funds from the same donor, individually or in aggregate for a calendar year, exceeds EUR 5,000, in the minimum range of first name, surname and nationality, if a natural person, the business name and identification number of the entrepreneur and, in the case of a legal person, the name or business name, identification number and registered office address of the person who made the donations or provided the funds and the amount of the donations or funds.

New items (e) and (f) would be added to Article 35(2) which would read as follows:

(e) an overview of the contributors, if the amount of contributions from the same contributor, individually or in aggregate for a calendar year, exceeds EUR 5 000, in the minimum scope of the name, surname and nationality, if a natural person, and, if a natural person - entrepreneur, the business name and identification number, and, if a legal person, the name or business name, identification number and registered office address of the person who made the contributions, the amount of the contributions, and the date of receipt of the contributions.',

(f) a summary of creditors if the amount of the loan or other type of financial support from the same creditor, individually or in aggregate for a calendar year, exceeds EUR 5 000 in the minimum scope of name, surname and nationality, if a natural person, if a natural person-entrepreneur, also the business name and identification number and, if a legal person, the name or business name, identification number and registered office address of the person who granted the loan or other type of financial support, the amount of the loan or other type of financial support and the date on which the loan or other type of financial support was received.

Amendments to the Law on the Registry of Non-Governmental Non-Profit Organisations

Designation of a registered NGO as a foreign-supported organisation

The new Article 6a would read as follows:

(1) A "foreign-supported organisation" shall be deemed to be an enrolled person under section 2(2) of this Act who receives financial or other material benefits received directly or indirectly from a foreign natural or legal person or from a domestic entity that has the designation "foreign-supported organisation" and whose contributions individually or in the aggregate for a calendar year exceed 5,000 euros.

(2) The amount of income under paragraph (1) shall not include income received by the registered person as a source from the *European Union* pursuant to a special law 3a).

(3) The registered person shall notify the registry office in writing that he or she meets the conditions under subsection (1) within 90 days of the date on which those facts occurred.

(4) The registration office shall append the notice under subsection (3) to the particulars of the registered person in the register and shall add to the name of the registered person the addition "foreign supported organisation".

(5) A registered person who is a recipient of funds from abroad shall, after notification under subsection (3), immediately begin to state its name together with the addition "foreign-supported organisation.

6) The designation referred to in subsection (5) shall be legible and the registered person shall be required to display it together with his name in all acts in the course of his business.

(7) The obligation under subsection (5) applies to a registered person designated as a "foreign-supported organisation" for so long as it meets the conditions of a foreign-supported organisation under this Act.

The new Article 6b would read as follows:

(1) If the monetary or other material consideration received by a foreign-supported organisation in the calendar year following the tax period referred to in Article 6a(1) does not exceed EUR 5 000, the association or foundation shall cease to be a foreign-supported organisation and shall notify this fact in writing within 30 days of the deposit of the financial statements or annual report in the public part of the register of financial statements^{3b}).

(2) Upon notification under subsection (1), the registry office shall promptly delete from the register the registration of the registered person as a foreign-funded organisation. The registered person shall no longer be obliged to use the designation "foreign-funded organisation" from the moment of the deletion of this designation.

Fines

The new Article 6c would read as follows:

(1) If a person entered into the Registry fails to comply with the obligation under section 3a(3), the registry office shall, upon becoming aware of the failure, promptly require the registered person to comply with the obligation under section 3a(3) within 30 days of receipt of the notice.

(2) If a person entered into the Registry fails to comply with the obligation even upon the request of the registry office, the Ministry of the Interior may impose a fine of up to EUR 5,000 on that person for breach of this obligation. The fine shall be payable within 30 days from the date on which the decision on the imposition of the fine becomes final.

(3) A fine may be imposed within two years from the date on which the registry office became aware of the breach of duty, but not later than three years from the date of the breach of duty.

(4) The fine shall be payable within 30 days from the date of entry into force of the decision imposing the fine.

(5) In the decision on the imposition of a fine, the Ministry shall set a reasonable time limit for compliance with the obligation under section 3a(3), which shall not be shorter than 15 days.

(6) The proceeds from fines shall be revenue of the State budget."