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**STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)**

DRAFTING GROUP ON CIVIL SOCIETY
AND NATIONAL HUMAN RIGHTS INSTITUTIONS
(CDDH-INST)

**Draft Declaration of the Committee of Ministers
on the need to strengthen the protection and promotion
of the civil society space in Europe¹**

¹ Adoption *ad referendum* going to an end by Monday 16 July 2018 end of business.

The Committee of Ministers of the Council of Europe,

1. Reaffirming the commitment to the Statute of the Council of Europe and the latter's aim to achieve a greater unity between its members, inter alia, by promoting common standards and carrying out activities in the field of human rights and fundamental freedoms;
2. Recalling the member States' obligation to secure to everyone within their jurisdiction the rights and freedoms enshrined in the European Convention on Human Rights (ETS No. 5) and the Protocols thereto, and where relevant their obligations arising from the European Social Charter (ETS No. 35, and from its revised version ETS No. 163), as well as other European and international human rights instruments;
3. Recalling the interdependence between the European Convention on Human Rights and the other activities of the Council of Europe in the field of human rights, democracy and the rule of law, the objective being to develop the common democratic and legal space founded on respect for human rights and fundamental freedoms;
4. Reaffirming that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and should be enjoyed by everyone without discrimination;
5. Recalling the United Nations Declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognised human rights and fundamental freedoms of 9 December 1998 (UN Declaration on Human Rights Defenders), the UN General Assembly Resolution 48/134 of 20 December 1993 on National Human Rights Institutions and the subsequent UN General Assembly Resolutions on National Human Rights Institutions and on Human Rights Defenders;
6. Recalling Recommendation No. R (85) 13 of the Committee of Ministers on the institution of the ombudsman of 23 September 1985, Recommendation No. R (97) 14 of the Committee of Ministers to member States on the establishment of independent national institutions for the promotion and protection of human rights (NHRIs) of 30 September 1997, Resolution (97)11 of the Committee of Ministers on cooperation between NHRIs of Member States and between them and the Council of Europe of 30 September 1997, and Recommendation CM/Rec (2007)14 of the Committee of Ministers to member States on the legal status of non-governmental organisations in Europe of 10 October 2007;
7. Recalling the Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities, adopted on 6 February 2008, and its Guidelines for civil participation in political decision making, adopted on 27 September 2017, and noting in particular that the said Declaration of the Committee of Ministers acknowledged that "whereas the prime responsibility and duty to promote and protect human rights defenders lies with the state, the Council of Europe shall also contribute to creating an enabling environment for Human Rights Defenders and protect them and their work in defending human rights", and that the Committee of Ministers further agreed to "keep under review the question of further Council of Europe action in this field";
8. Reaffirming the commitment made by Heads of State and Government meeting at their Third Summit in Warsaw 2005 that the Council of Europe "shall – through its various mechanisms and institutions – play a dynamic role in protecting the right of individuals and promoting the invaluable engagement of non-governmental organisations, to actively defend human rights";
9. Welcoming the activities that the Council of Europe Commissioner for Human Rights has undertaken in support of human rights defenders, mindful that protection of human rights defenders as well as the development of an enabling environment for their activities fall within the scope of his mandate, as defined in the Committee of Ministers' Resolution (99) 50 of 7 May

1999, and recalling the States' duty to cooperate with the Commissioner by facilitating his/her visits, providing adequate responses and entering into dialogue with him/her about the situation of human rights defenders when so required;

10. Taking note of the Secretary General of the Council of Europe's proposal in his third annual report on the state of human rights, democracy and the rule of law to establish, under his authority, a mechanism strengthening the protection of human rights defenders focusing on reprisals against human rights defenders related to their interaction with the Council of Europe;
11. Taking into account the Guidelines on Freedom of Association, jointly developed by the Office for Democratic Institutions and Human Rights (ODIHR) of the Organisation for Security and Co-operation in Europe (OSCE) and the European Commission for Democracy through Law of the Council of Europe (Venice Commission), the ODIHR/OSCE Guidelines on the Protection of Human Rights Defenders and its 2017 report "The Responsibility of States";
12. Noting the European Union Guidelines on Human Rights Defenders, which contain suggestions for practical measures by EU member States and other states willing to implement them, to support and protect human rights defenders;
13. Recognising that human rights defenders include anyone who, individually or with others, acts to protect or promote human rights, regardless of their profession or other status, and that NHRIs and civil society organisations working on the protection and promotion of human rights are human rights defenders;
14. Strongly reaffirming that everyone has the right, individually and in association with others, to promote and strive for the protection and realisation of human rights and fundamental freedoms at the national, regional and international levels, as laid out in the UN Declaration on Human Rights Defenders, and, as recalled by the UN General Assembly Resolution 72/247 of 24 December 2017, encouraging leaders in all sectors of society and in their respective communities, including political, military, social and religious leaders and leaders in business and the media, to express public support for human rights defenders in society, including women human rights defenders, and in cases of threat, harassment, violence, discrimination, racism and other violations and abuses committed against them, including killings, to take a clear stance in rejection of such practices and offences;
15. Underscoring the positive, important and legitimate roles of all human rights defenders, including NHRIs and civil society organisations, in independently promoting and advocating for the realisation of all human rights including by engaging with Governments, across the local, national, regional and international levels, organising awareness raising and education activities, and contributing to the efforts in the implementation of the obligations and commitments of States in this regard;
16. Recognising and valuing the work of all human rights defenders, including NHRIs and civil society organisations, which each make important contributions to an environment of active respect for and promotion of human rights, democracy and the rule of law in Europe;
17. Bearing in mind that the existence of civil society organisations expressing a diverse range of views and interests is a manifestation of the right to freedom of association under Article 11 of the European Convention on Human Rights and of their host country's adherence to principles of democratic pluralism and commitment to human rights and the rule of law;
18. Deploring the fact that human rights defenders, including journalists and media workers, are still all too often victims of violations and abuses of their rights, threats and attacks, despite efforts at both national and international levels, and considering that human rights defenders merit special attention, as such violations may indicate the general situation of human rights in the state concerned or a deterioration thereof;

19. Expressing its deep concern at the shrinking space for civil society following *inter alia* from restrictive laws, policies and austerity measures taken recently by member States;
20. Expresses grave concern about the considerable and increasing number of allegations and reports of threats of a serious nature, risks and dangers faced by human rights defenders, including women human rights defenders, online and offline, and the prevalence of impunity for violations and abuses against them in many countries, where they face threats, harassment and attacks and suffer insecurity, including through restrictions on, *inter alia*, the rights to freedom of expression, association or peaceful assembly, and the right to privacy, or through abuse of criminal or civil proceedings;
21. Convinced that States must not only refrain from unnecessary, unlawful or arbitrary interferences with the rights of human rights defenders, and but are also under a positive obligation to actively protect and promote a safe and enabling environment in which they can operate safely without stigmatisation and fear of reprisals;
22. Expresses the need to strengthen the protection and promotion of the civil society space in Europe and, to this end, calls on member States to:
 - a. ensure an enabling legal framework and a conducive political and public environment for human rights defenders, including journalists and bloggers, enabling individuals, groups, civil society organisations and NHRIs to freely carry out activities, on a legal basis, consistent with international law and standards, to strive for the protection and promotion of all human rights and fundamental freedoms;
 - b. ensure that legislation, in particular on freedom of association, peaceful assembly and expression, is drafted and applied in conformity with international human rights law and standards and, where appropriate, seek advice from the Commissioner for Human Rights, the Venice Commission and the Expert Council on NGO Law of the Conference of International Non-Governmental Organisations as well as other bodies of the Council of Europe;
 - c. remove any unnecessary, unlawful or arbitrary restrictions to the civil society space, in particular with regards to freedom of association, peaceful assembly and expression;
 - d. ensure that various forms of hate crime, including acts of violence and hate speech, public incitement to hatred and violence, are prohibited under their national law and take measures to prevent and combat cases of hate crime and hate speech, in particular by carrying out effective investigations in order to avoid-end impunity;
 - e. ensure that everyone, including all human rights defenders, can effectively participate in decision-making, notably by giving them full access to information, in line with the Council of Europe Convention on Access to Official Documents (ETS no. 205);
 - f. ensure timely and transparent public consultations in policy development and draft legislation, especially where it may affect civil society;
 - g. address the gaps existing in the implementation on the national level of international law and standards relevant to the protection of civil society and the promotion of its work, as identified in the Analysis of the Steering Committee for Human Rights (CDDH) on the impact of current national legislation, policies and practices on the activities of civil society organisations, human rights defenders and NHRIs;
 - h. establish effective, independent, pluralistic and adequately funded NHRIs in compliance

with the Paris Principles, or where they already exist, strengthen them for the protection and promotion of all human rights and fundamental freedoms, including their role to protect and promote vibrant civil society space, cooperate and seek assistance, when needed, from the European Network of National Human Rights Institutions (ENNHRI), as well as from regional and international bodies such as the Office of the United Nations High Commissioner for Human Rights (OHCHR), the ODIHR/OSCE, the Council of Europe Commissioner for Human Rights, and the Venice Commission;

- i. respect the freedom of human rights defenders, including civil society organisations, to seek, receive and utilise resources from domestic, foreign and international sources;
- j. co-operate with the Council of Europe human rights mechanisms and in particular with the European Court of Human Rights in accordance with the European Convention on Human Rights, as well as with the Commissioner for Human Rights by facilitating his/her visits, providing adequate responses and entering into dialogue with him/her about the situation of human rights defenders when so requested;
- k. consider signing and ratifying the 1995 Additional Protocol to the European Social Charter and to consider recognising the right of national NGOs fulfilling the criteria mentioned therein to lodge collective complaints before the European Committee of Social Rights;

23. Calls on member States to take effective measures to protect the civil society space, in particular to:

- a. prevent violations of the rights of human rights defenders including smear campaigns, threats and attacks against them, as well as other attempts to hinder their work, online as well as offline;
- b. ensure independent and effective investigation of such acts and hold those responsible accountable through appropriate administrative measures and/or criminal proceedings, and ensure that criminal, civil and administrative laws and proceedings are not applied in a way that hinder and criminalise the work of human rights defenders;
- c. strengthen the independence of their judicial systems and ensure the existence of effective remedies for those whose rights and freedoms are violated;
- e.d. protect the free exercise of the profession of lawyer and ensure that lawyers are not exposed to undue pressure nor to harassment, attacks and other threats related to their important role of protecting human rights and fundamental freedoms;
- e.e. consider giving, or where appropriate strengthening, the competence and capacity of independent NHRIs to effectively carry out their roles to protect civil society space through their monitoring, investigation, reporting and complaints handling functions;
- e.f. facilitate the effective access of human rights defenders, NHRIs and civil society organisations, to international and regional human rights mechanisms, including the European Court of Human Rights, the European Committee of Social Rights and other human rights protection mechanisms in accordance with applicable procedures;
- f.g. provide measures for swift assistance and protection to human rights defenders in danger in third countries, such as, where appropriate, attendance at and observation of trials and/or, if feasible, the issuing of emergency visas;

24. Calls on member States to take effective measures to promote the civil society space, in particular to:

- a. devote adequate resources to ensure the stable funding of ~~all~~-human rights defenders, including NHRIs and civil society organisations, and increase efforts to promote their activities;
 - b. ensure women human rights defenders are able to access specific support, funding, and protection, including against gender-based violence, and guarantee an environment in which they can work free from violence and discrimination online as well as offline;
 - c. explicitly recognise the legitimacy of all human rights defenders, including NHRIs and civil society organisations, and publicly support their work, acknowledging their contribution to the advancement of human rights and the development of a pluralistic society;
 - d. facilitate and support programmes to guarantee that all human rights defenders have access to the necessary skills, tools and training they require without discrimination, so that they are enabled and equipped to conduct their human rights work;
25. Calls on all Council of Europe bodies and institutions to pay special attention to issues concerning the enabling environment in which all human rights defenders, including NHRIs and civil society organisations, can safely and freely operate in Europe. This shall include:
- a. providing information and documentation, including on relevant case law and other European standards, as well as encouraging co-operation and awareness-raising activities with civil society organisations and encouraging human rights defenders' participation in Council of Europe activities;
 - b. ensuring that Council of Europe local offices promote civil society, NHRIs' and human rights defenders' work and give visibility to key judgments of the European Court of Human Rights and recommendations of the Commissioner for Human Rights, the Venice Commission and Parliamentary Assembly resolutions concerning the safe and enabling environment for human rights defenders;
26. Resolves to:
- a. pay special attention to the execution of judgments of the European Court of Human Rights concerning human rights defenders and the enabling environment for human rights work which have yet to be implemented;
 - b. ensure continuous dialogue and debates on threats to civil society, NHRIs and human rights defenders, in particular to address threats and attacks on human rights defenders and to express concern for the unjustified detention and criminal charges which effectively lead to freezing of civil society work in the Council of Europe member States;
 - c. keep under review the question of further Council of Europe action in this field.