

THE LEGAL SPACE FOR NON-GOVERNMENTAL ORGANISATIONS IN EUROPE



THE LEGAL SPACE FOR NON-GOVERNMENTAL ORGANISATIONS IN EUROPE

Civil society's perception of the implementation of
Council of Europe CM Recommendation (2007)14
to Member States on the Legal Status of
Non-Governmental Organisations in Europe

By Jeremy McBride
on behalf of the Expert Council on NGO Law

The opinions expressed in this work are the responsibility of the author(s) and do not necessarily reflect the official policy of the Council of Europe.

The reproduction of extracts (up to 500 words) is authorised, except for commercial purposes as long as the integrity of the text is preserved, the excerpt is not used out of context, does not provide incomplete information or does not otherwise mislead the reader as to the nature, scope or content of the text. The source text must always be acknowledged as follows “© Council of Europe, year of the publication”. All other requests concerning the reproduction/translation of all or part of the document, should be addressed to the Directorate of Communications, Council of Europe (F-67075 Strasbourg Cedex or publishing@coe.int).

All other correspondence concerning this document should be addressed to the Department of Democracy and Governance of the Council of Europe.

Department of Democracy and Governance

Council of Europe
F-67075 Strasbourg Cedex
France
E-mail: NGO-unit@coe.int

Cover and layout:
Documents and Publications Production
Department (SPDP), Council of Europe

This publication has not been copy-edited by the SPDP Editorial Unit to correct typographical and grammatical errors.

© Council of Europe, December 2021
Printed at the Council of Europe

The Expert Council on NGO Law (Expert Council) was established by the Conference of International Non-Governmental Organisations (INGOs) of the Council of Europe in 2008. It contributes to ensuring an enabling environment for non-governmental organisations (NGOs) throughout Europe. It is composed of 15 members with, inter alia, legal expertise, wide NGO experience and knowledge of human rights standards and good practice. Members are appointed by the Conference of INGOs for a three-year term and serve in their personal capacity.

www.coe.int/en/web/ingo/ngo-legislation

The views expressed in this study represent the views of its author and the Expert Council of NGO Law and not necessarily those of the Council of Europe.

This publication is financed by a contribution from the Ministry for Foreign Affairs of Finland.

Contents

THE LEGAL SPACE FOR NON-GOVERNMENTAL ORGANISATIONS IN EUROPE	5
I. INTRODUCTION	5
II. RECOMMENDATION CM/REC(2007)14	6
A. Awareness of Recommendation CM/Rec(2007)14	6
B. Availability of text in an official language	6
C. Dissemination and use of Recommendation CM/Rec(2007)14	7
D. Objectives of NGOs	8
E. Establishing NGOs without legal personality	12
F. Founders, members and management of NGOs with legal personality	12
G. Establishment of an NGO with legal personality	17
H. Length of process	20
I. Suspending and dissolving NGOs	21
J. Foreign NGOs	25
K. Restrictions on foreign cooperation	26
L. Fundraising	27
M. Public benefit status	29
N. Publication and reporting requirements	30
O. Consultation obligations	32
III. THE PANDEMIC	33
A. Impact on fulfilling requirements	33
B. Good practices emerging	34
C. Being kept informed	35
D. Consultation	36
E. Impact on perception	36
F. Provision of public support	37
G. Impact on funding	38
IV. CONCLUSION	39
APPENDIX 1	
RECOMMENDATION CM/REC(2007)14 OF THE COUNCIL OF EUROPE COMMITTEE OF MINISTERS TO MEMBER STATES ON THE LEGAL STATUS OF NON-GOVERNMENTAL ORGANISATIONS IN EUROPE	42
I. Basic principles	43
II. Objectives	43
III. Formation and membership	44
A. Establishment	44
B. Statutes	44
IV. Legal personality	45
A. General	45
B. Acquisition of legal personality	45
C. Branches; changes to statutes	45
D. Termination of legal personality	46
E. Foreign NGOs	46
V. Management	46
VI. Fundraising, property and public support	46
A. Fundraising	46
B. Property	46
C. Public support	47
VII. Accountability	47
A. Transparency	47
C. Liability	48
VIII. Participation in decision making	48

APPENDIX 2
EXPLANATORY MEMORANDUM TO RECOMMENDATION CM/REC(2007)14
OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON THE LEGAL STATUS OF
NON-GOVERNMENTAL ORGANISATIONS IN EUROPE

49

Introduction	49
Preamble	50
I. Basic principles	51
II. Objectives	54
III. Formation and membership	55
A. Establishment	55
B. Statutes	55
C. Membership	56
IV. Legal personality	57
A. General	57
B. Acquisition of legal personality	58
C. Branches; changes to statutes	60
D. Termination of legal personality	61
E. Foreign NGOs	61
V. Management	61
VI. Fundraising, property and public support	62
A. Fundraising	62
B. Property	62
C. Public support	63
VII. Accountability	64
A. Transparency	64
B. Supervision	65
C. Liability	66
VIII. Participation in decision making	66

THE LEGAL SPACE FOR NON-GOVERNMENTAL ORGANISATIONS IN EUROPE

Civil society's perception of the implementation of Council of Europe CM Recommendation (2007)14 to Member States on the Legal Status of Non-Governmental Organisations in Europe

I. INTRODUCTION

1. This Study is concerned with the implementation of Recommendation CM/Rec(2007)14 of the Council of Europe Committee of Ministers to member states on the legal status of non-governmental organisations in Europe ("Recommendation CM/Rec(2007)14").
2. In particular, it looks at its implementation not just in Council of Europe member states but also in Belarus and Kosovo*.
3. In adopting Recommendation CM/Rec(2007)14, the Committee of Ministers was aware of the wide range of contributions being made by non-governmental organisations ("NGOs") in Europe and beyond and, in particular, their essential one to the development and realisation of democracy and human rights.
4. It also recognised that the existence of many NGOs is a manifestation of the right of their members to freedom of association under Article 11 of the European Convention on Human Rights ("the European Convention") and of their host country's adherence to principles of democratic pluralism.
5. The Committee of Ministers thus recommended that the governments of member states be guided in their legislation, policies and practice by the minimum standards set out in Recommendation CM/Rec(2007)14.¹
6. NGOs can take many forms. In particular, they can be entities with or without legal personality and ones which are membership-based and others that have no membership.
7. Moreover, while the existence of many NGOs will involve physical manifestations (such as in their activities and premises), some may operate primarily or even exclusively in an online environment.
8. In forming NGOs in the countries of Europe, a wide variety of names can be used for the entities through which they are established, with association, charity, company limited by guarantee, foundation and non-commercial or non-profit organisation being among those most often seen.
9. Unfortunately, the position of NGOs and the exercise of the right to freedom of association is not always a secure one. As the Secretary General of the Council of Europe has observed:

invoking otherwise legitimate concerns such as the fight against corruption or fight against terrorism as a pretext to target selected associations, human rights defenders or civil society leaders. Discrimination, notably on grounds of political views, religion, ethnic background or sexual orientation, is inflicted on the pretence of protecting the interests of society at large or moral imperatives such as religious and traditional family values. Organisations that work to protect the rights of migrants and asylum seekers have been subjected to new criminal penalties and special financial regulations.²

* All references to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

1. For the text of Recommendation CM/Rec(2007)14 and its Explanatory Memorandum, see the Annex.
2. *State of democracy, human rights and the rule of law A democratic renewal for Europe*, Report by the Secretary General of the Council of Europe, 2021, p. 49.

10. It is, therefore, timely to consider how well the detailed framework for the legal status of NGOs that is set out in Recommendation CM/Rec(2007)14 is being fulfilled in practice, which is the object of the present Study.
11. The Study is based on the responses to a questionnaire sent to NGOs in all Council of Europe member states, Belarus and Kosovo*, as well as some follow-up questions to clarify particular points. Responses were received from NGOs in all these countries.
12. The questions asked of the NGOs were based on the principal issues identified by Recommendation CM/Rec(2007)14 as pertinent for the legal status of NGOs. In addition, certain questions were also asked about the impact that the Covid-19 pandemic has had on NGOs.
13. The responses received from the NGOs are analysed and collated in the following sections, with the relevant question footnoted at the outset of each section, dealing first with the answers relating to Recommendation CM/Rec(2007)14 and then those concerned with the impact of the pandemic, followed by a conclusion.
14. The responses under each theme are grouped by the similarity of the situation in particular countries, with some qualifying details included in the footnotes. In a few instances some questions could not be answered by particular NGOs. In the case of one country, the responses mainly concerned the position in one of the jurisdictions in it.³
15. The selection of the NGOs which were requested to respond to the questionnaire was made by reference to the breadth of their expertise and of their familiarity with the general situation in their country. Nonetheless, the responses – which varied in the level of detail provided, particularly as regards the different forms of NGO in a country – represent the perspective of the NGOs concerned and the analysis based on them is not claimed to be the definitive account of the situation for each country.⁴

II. RECOMMENDATION CM/REC(2007)14

A. Awareness of Recommendation CM/Rec(2007)14⁵

16. The NGOs in twenty-nine countries⁶ reported that they were aware of Recommendation CM/Rec(2007)14 before being asked to complete the questionnaire.
17. However, those in twenty other countries⁷ stated that they had not heard of it before.

B. Availability of text in an official language⁸

18. Recommendation CM/Rec(2007)14 was adopted in English and French.
19. Its text was reported to be available in at least one of the official languages of twenty-one countries,⁹ the majority of which do not include either English or French as one of those languages¹⁰.
20. However, it was reported not to be available in any of the official languages of twenty-six others.¹¹

3. The United Kingdom (namely, England and Wales).

4. The response for the United Kingdom was mainly concerned with the position in one of its three jurisdictions; England and Wales.

5. Had you heard of Recommendation CM/Rec(2007)14 of the Council of Europe Committee of Ministers to member states on the legal status of non-governmental organisations in Europe before receiving this questionnaire?

6. Albania; Armenia; Austria; Azerbaijan; Belarus; Bulgaria; Croatia; Cyprus; Estonia; France; Georgia; Germany; Hungary; Iceland; Ireland; Italy; Liechtenstein; Lithuania; Montenegro; the Netherlands; North Macedonia; Norway; Poland; Romania; the Russian Federation; San Marino; Spain; Turkey; and Ukraine.

7. Andorra; Belgium; Bosnia and Herzegovina; the Czech Republic; Denmark; Finland; Greece; Kosovo*; Latvia; Luxembourg; Malta; the Republic of Moldova; Monaco; Portugal; Serbia; the Slovak Republic; Slovenia; Sweden; Switzerland; and the United Kingdom.

8. Is Recommendation CM/Rec(2007)14 available in the official language(s) and, if so, who was responsible for making the translation?

9. Azerbaijan; Austria; Belarus; Belgium; Bulgaria; the Czech Republic; France; Germany; Ireland; Liechtenstein; Lithuania; Luxembourg; Malta; Monaco; the Russian Federation; San Marino; Spain; Sweden; Switzerland; Ukraine; and the United Kingdom.

10. I.e., Azerbaijan; Austria; Belarus; Bulgaria; the Czech Republic; Germany; Liechtenstein; Lithuania; Malta; the Russian Federation; San Marino; Spain; Sweden; Switzerland; and Ukraine.

11. Albania; Andorra; Armenia; Bosnia and Herzegovina; Croatia; Cyprus; Estonia; Finland; Georgia; Greece; Hungary; Iceland; Kosovo*; Latvia; the Republic of Moldova; Montenegro; the Netherlands; North Macedonia; Norway; Poland; Portugal; Romania; Serbia; the Slovak Republic; Slovenia; and Turkey.

21. Furthermore, the NGOs in two others¹² stated that they had no knowledge regarding its actual availability in the official language, although a translation is available in the official language of one of them¹³.
22. Translations were reported to have been made available with the assistance of the Council of Europe in four countries¹⁴ and by bodies operating within a fifth country¹⁵. It was not made clear who was responsible for the other translations that exist.

C. Dissemination and use of Recommendation CM/Rec(2007)14¹⁶

23. In respect of seventeen countries,¹⁷ it was reported that no official use had been made of Recommendation CM/Rec(2007)14 with respect to the drafting of legislation, policies and practices or in training of officials and that, apart from one of them,¹⁸ there had also been no official dissemination by these countries of it.
24. As regards twenty-three other countries,¹⁹ it was reported that there was either no awareness of this occurring or it was not possible to establish any such instances.
25. However, some account was reported to have been taken of Recommendation CM/Rec(2007)14 when new NGO legislation was being prepared in seven countries²⁰ and, for an eighth country,²¹ it was stated that it had been taken into account in the drafting of policies and practice as well as legislation.
26. Moreover, it was reported that there had been some official dissemination of Recommendation CM/Rec(2007)14 to NGOs in two countries²² and that, in one of them, it has been the subject of academic and expert publications²³.
27. Furthermore, the NGOs in four other countries²⁴ stated that it had been published on an official website but had not otherwise been disseminated and the NGO in a fifth country²⁵ reported that there had just been a mention of it in one of the official websites.
28. In respect of two other countries,²⁶ it was reported that Recommendation CM/Rec(2007)14 had only been disseminated by NGOs.
29. Only three NGOs reported that Recommendation CM/Rec(2007)14 had been used in the training of officials in their countries.²⁷
30. In respect of four countries,²⁸ it was reported that NGOs had referred to Recommendation CM/Rec(2007)14 when advocating for civil society development and legislative reform.

12. Denmark and Italy.

13. It is available in Italian at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016802ec26e>

14. Azerbaijan (a joint initiative of the NGO consulted and the Council of Europe office in Baku); the Russian Federation (it has also been translated by the Moscow branch of International Centre for Non-for-Profit law (ICNL) and published in print); Switzerland (Council of Europe translations); and Ukraine (by the Council of Europe office)

15. Sweden (as a result of a collaboration between NOD, a platform to facilitate cooperation and dialogue between government and civil society, and the Swedish Agency for Youth and Civil Society (MUCF)).

16. How has the Recommendation been: (a) taken into account in the drafting of legislation, policies and practice, (b) disseminated by the government to NGOs and the public in general, as well as to parliamentarians, relevant public authorities and educational institutions, and (c) used for the training of officials?

17. Albania; Armenia; Belarus; Bulgaria; Hungary; Iceland; Kosovo*; Latvia; the Netherlands; Norway (but its content is reflected in law and practice); Romania; the Russian Federation; Serbia; the Slovak Republic; Slovenia (however reference had been made to the Fundamental Principles on the Status of Non-governmental Organisations when adopting legislation on NGOs); Sweden (but it was observed that "most Swedish organisations are not in favour of governance over civil society and that they prefer a self-regulating sector. The lack of legislation, policies and practice provides flexibility and therefore security to non-governmental organisations"); and Turkey.

18. Bulgaria.

19. Andorra; Azerbaijan (referring to the absence of many positive developments); Belgium; Bosnia and Herzegovina; Croatia; the Czech Republic; Denmark; Estonia; France; Georgia; Germany; Greece; Ireland; Italy; Liechtenstein; Luxembourg; Malta; the Republic of Moldova; Monaco; Portugal; San Marino; Switzerland; and the United Kingdom.

20. Austria; Cyprus; Lithuania; Montenegro; North Macedonia; Poland; and Ukraine.

21. Spain.

22. Austria and Poland.

23. Poland (there was, however, no awareness of any use being made of it in the training of officials).

24. Bulgaria (Ministry of Justice); Lithuania (Ministry of Social Security and Labour); the Czech Republic (the Government Council for Non-Governmental Non-Profit Organisations); and Ukraine (Ministry of Justice).

25. Germany (that of the Ministry of Justice and Consumer Protection).

26. Azerbaijan and the Russian Federation.

27. Austria; Bulgaria; and Cyprus (a one-off event).

28. Albania, Azerbaijan, Belarus and Cyprus.

31. Also, it was stated that an NGO for one country²⁹ had referred to Recommendation CM/Rec(2007)14 in a training which it had organised for officials and NGO representatives following the reform of NGO legislation.

D. Objectives of NGOs³⁰

In general

32. **No specific limits on objectives were reported in respect of three countries.**³¹
33. Furthermore, in respect of four other countries,³² it was reported that the only limit on the objectives of NGOs was that they must not carry out any kind of activity prohibited by law and, for yet two others,³³ that they must, in addition, be non-profit-making.
34. As regards one country,³⁴ the only specific restrictions relating to objectives were that these be non-profit oriented and that NGOs pursue the purposes expressed in their statute or charter. However, in addition, it was reported that there were also restrictions on activities in this country that could lead to the dissolution of NGOs pursuing them.³⁵
35. As regards another country,³⁶ it was stated that NGOs should pursue “legitimate purpose(s) as expressed in their statute or charter.
36. For two other countries,³⁷ it was reported the relevant legislation specifies, in addition to a requirement to be non-profit-making, the particular nature of the objectives that can be pursued by associations and foundations.

29. Ukraine

30. Are there any legal restrictions on the objectives which can be pursued by NGOs and, in particular, is there any prohibition on them engaging in any form of activities that a governmental or legislative authority has defined as “political”? If so, what sense is given to the term ‘political’ and how is its use justified?

31. Italy; Luxembourg; and San Marino.

32. Iceland; Liechtenstein; the Republic of Moldova (but see also the grounds for dissolution relating to activities in fn. 244); and Portugal.

33. Portugal and Switzerland.

34. The United Kingdom. In addition, in the United Kingdom, the name of a company limited by guarantee must not be offensive.

35. As to which see 244 below.

36. Albania (“legitimate” is generally understood as covering activities in the good and interest of the public. The law on nonprofit organisations defines the “activity in the good and interest of the public” as any activity that supports and develops spiritual and other humanitarian values for the individual and society, protects human life or health, secures and realizes public and social services, help and support in cases of disasters, protects the environment and develops culture and education about it, supports and develops cultural and historical values and traditions, science, education, physical and spiritual education, helps in the development of good habits and democratic values as well as any other aspect in the good and interest of the public).

37. Croatia (for associations these can be to protect their interests or to promote the protection of human rights and freedoms, environmental protection and sustainable development, humanitarian, social, cultural, educational, scientific, sports, health care, technical, information, professional or other beliefs and goals that are not contrary to the Constitution and law and for foundations they are purposes the fulfilment of which promote civil and human rights and freedoms, democratic institutions, development of society and local communities, protection of environment and nature and sustainable development, international development assistance and cooperation, as well as cultural, educational, scientific, spiritual, sports, health, humanitarian, social or any other social activity that promotes the common benefit and action for the common wellbeing and contributes to achieving the highest values of the constitutional order) and Montenegro (NGOs are defined as being established in order to realise common interests or for realisation of public interest, i.e., social and health protection, poverty reduction, protection of persons with disabilities, social care for children and youth, assistance to the elderly, protection and promotion of human and minority rights, rule of law, development of civil society and volunteerism, Euro-Atlantic and European integration of Montenegro, institutional and non-institutional education, science, art, culture, technical culture, environmental protection, agriculture and rural development, sustainable development, consumer protection, gender equality, fight against corruption and organised crime, fight against addiction, as well as other areas of public interest determined by a special law). However, with respect to Croatia, see also the grounds for dissolution based on activities in fn. 244

37. However, in respect of one of those two countries³⁸ and thirty-three other ones,³⁹ it was reported that the law specifies those objectives and activities that – in addition to those restrictions in some of them relating to political activities that are noted below – cannot be pursued.

38. Montenegro.

39. Armenia (activities which are inherent in religious organisations, parties, trade unions, foundations and other forms of non-profit organisations as these entities are not regulated by the Law on NGOs, and see the grounds for dissolution in fn. 244); Austria (anything for which the implementation of another law is applicable, such as the Law on Political Parties); Belarus (propaganda of war or extremist activities, as well as facilitating the provision by foreign states of benefits and advantages with regard to political, religious views or nationality in violation of the law. Also foundations cannot pursue goals connected with the identification and expression of political will of citizens. In practice, those pursuing democratic goals human rights, minority interests and LGBTQ+ will not be registered); Azerbaijan (see the restrictions on political activities discussed below and the grounds for dissolution in fn. 244); Belgium (those contravening public order); Bosnia and Herzegovina (those contrary to the constitutional order of Bosnia and Herzegovina or of the Federation of Bosnia and Herzegovina or directed at its violent destruction or aimed at disseminating ethnic, racial, religious or any other hatred or discrimination prohibited by the constitution and the law); Bulgaria (contrary to the prohibitions in the constitution regarding those directed against sovereignty or territorial integrity of the country and the unity of the nation, as well as those directed towards the incitement of racial, national, ethnical or religious enmity or seeking to achieve goals through violence); Cyprus (aiming or tending to undermine the Republic, the democratic institutions, the security of the Republic, the public order, the public safety, the public health, the public morals, the fundamental rights and freedoms of the individual or the rights of persons with disabilities. These limits apply to associations, federations and other forms of legal entities registered under the Associations, Foundations and other relevant matters law but not to NGOs established as not-for-profit companies); the Czech Republic (those that would limit human rights, spread hatred, support violence or establish a quasi-state organs without an official permit, as well as violate public order); Denmark (inciting violence); Estonia (contrary to law, public order or good morals. However, at the time of registration, a refusal can only be based on the proposed name being contrary to good morals. The registration of religious organisations can be refused when their activities damage public order, health, morals or the rights and freedoms of others); Finland (those contrary to law or good practice or organised in a military manner. In addition a special licence is required for training in gun use that is other than solely for the purpose of hunting); France (an illicit object, contrary to the laws, to good intentions, or which was intended to attain the integrity of the national territory and the republican form of government); Georgia (activities which aim to overthrow or forcibly change the constitutional order, to infringe on the independence and territorial integrity of the country, or to propagandise war or violence, to stir up national, ethnic, religious or social strife, or to form an armed group, activities contradicting the applicable laws, recognized moral standards, the constitutional and legal principles of Georgia); Germany (objectives that are unconstitutional or illegal, including denying that the holocaust took place, glorifying the Nazi era, racism, and similar objectives); Greece (the scope of all NGOs must be in compliance with democratic institutions and rescue organisations are not permitted); Hungary (those that are directed at the acquisition or exercise of power by force or to exercise power in an autocratic form, involve, constitute or abet the commission of a crime, that violate the rights and freedoms of others, not contrary to law, that create armed bodies, that provide assistance to asylum-seekers or obtaining residence for those who enter or reside illegally and that pursue public functions conferred under the exclusive jurisdiction of public bodies); Kosovo* (those violating the constitutional order or human rights and freedoms and those, that promote racial, ethnic or religious hatred); Latvia (those that are a threat to the State or public security); Lithuania (it is prohibited to establish and operate associations whose purpose or methods of operation are to forcibly overthrow or change the constitutional order or violate the integrity of the territory of the State, promote war, and violence, authoritarian or totalitarian rule, incite racial, religious, social discord, violate human rights and freedoms, public order and to perform actions contrary to the laws and to the universally recognised norms of international law, to act in the interests of other states if they are contrary to the interests of the State); Malta (see those that can be the subject of suspension in fn. 224); Monaco (they must not violate the law, undermine the independence or institutions of the Principality, the fundamental rights and freedoms recognised therein, public order or good morals, national security or be of a sectarian nature); Montenegro (they cannot be political organisations, religious communities, sports organisations and trade unions as these are governed by separate legislation. See also the grounds for dissolution based on activities in fn. 244); the Netherlands (acts contrary to public order, i.e., acts that violate the generally accepted principles of the legal system and covers acts likely to result in a threat to national security or the international legal order or the disruption of the democratic rule of law or public authority, as well as those leading to infringement of human dignity, violence or incitement to hatred or discrimination); North Macedonia (they cannot be chambers, churches, political parties, religious communities and groups or trade unions, which are regulated by other laws. See also the grounds for dissolution based on activities in fn. 244); Norway (objectives prohibited by criminal law); Poland (there is a constitutional prohibition on programmes based upon totalitarian methods and the modes of activity of nazism, fascism and communism, as well as on programmes or activities that sanction racial or national hatred, the application of violence for the purpose of obtaining power or to influence the State policy, or provide for the secrecy of their own structure or membership. In addition, the Law on Associations does not permit the creation of an association based on the principle of unconditional obedience of members to its authorities); the Russian Federation (Article 13.5 of the Constitution states that “the creation and activities of public associations whose aims and actions are aimed at a forced change of the fundamental principles of the constitutional system and at violating the integrity of the Russian Federation, at undermining its security, at setting up armed units, and at instigating social, racial, national and religious strife shall be prohibited.” And Article 16 of the Law on Public Associations in its Article 16 provides that “the establishment and activities of public associations whose aims or actions are aimed at carrying out extremist activities are prohibited” but it is also specified that “the inclusion in the founding and programme documents of public associations of provisions defending the ideas of social justice cannot be regarded as incitement to social discord”); Serbia (they cannot be directed towards violent overthrow of the Constitutional system and breach of the territorial integrity of the Republic of Serbia, violation of guaranteed human or minority rights or causing and encouraging inequality, hatred and intolerance based on racial, national, religious or other affiliation or orientation, as well as sex, gender, physical, mental or other characteristics and abilities); the Slovak Republic (see also the grounds for dissolution based on activities in fn. 244); Slovenia (those intended to bring about a forcible change to the constitutional order, the commission of an offence or the incitement of nationalistic, racial, religious or other forms of inequality, the propagation of nationalistic, racial, religious or other forms of hatred and intolerance and incitement to war); Spain (any glorification of totalitarianism. In addition, NGOs cannot be organised as a church or other religious community, political party or trade union or chamber); Sweden (activities that are of a military or quasi-military nature, or constitute persecution of a population group on grounds of ethnic origin, colour or other such conditions); Turkey (see the grounds for dissolution based on activities in fns. 221 and 244. In addition, associations may not form platforms among themselves or with other foundations, unions and similar other civil society organizations to realize an object and to operate in a field restricted by the law); and Ukraine (purposes or actions aimed at the liquidation of the Ukrainian independence, changing the constitutional order through violent actions, infringement of territorial sovereignty and integrity of the state, jeopardising national security, illegal seizing of power, war and violence propaganda, incitement to racial, interethnic and religious hatred, attacks on rights and freedoms of individuals, propaganda of communist and/or Nazi totalitarian regimes and their symbols).

38. In one country,⁴⁰ a particular form of NGO cannot promote human rights.

Political

39. It was reported in respect of one country⁴¹ that NGOs can express their opinions on the programmes of political parties and socio-political organisations, as well as individual candidates and their programmes. In addition, NGOs in that country are free to advocate and participate in the decision-making process and to seek and receive public information.
40. In respect of another country,⁴² it was reported that NGOs are not prohibited from having links with political parties.
41. For yet another two countries,⁴³ it was reported that there was no separate law on political parties, which thus take the form of associations.
42. However, in another seven countries,⁴⁴ political parties were stated to be a separate type of legal entity from civil society organisations.
43. In respect of six countries,⁴⁵ there were said to be no formal restriction on NGOs undertaking “political” activities and, for two others,⁴⁶ it was reported that the only restriction on them undertaking political activities was that they were then excluded from having charitable status.
44. For one country,⁴⁷ it was reported that NGOs may receive financial support from political parties but cannot provide such support to them and that there is no regulation of advocacy or lobbying activities.
45. As regards another country,⁴⁸ it was said that NGOs are prohibited from engaging in “political” work when they accept donations from certain sources or above a certain amount.
46. In respect of yet another country,⁴⁹ it was reported that certain NGOs may pursue their objectives by political means when this is only done occasionally and also, when compared to their other activities, this being done to a limited extent.
47. In certain countries, there are restrictions on NGOs undertaking the following various forms of political activities:
- participating in elections or financing political parties;⁵⁰
 - promoting the interests of a political party or a political candidate at the local, national or international level;⁵¹
 - campaigning;⁵²

40. Ireland (those that have charitable status).

41. The Republic of Moldova (however, there was reported to be a hostile political discourse suggesting that NGOs are instrumental for foreign interests seeking to influence national politics and undermine national sovereignty).

42. Ukraine (the objectives of associations can include not only protecting rights and freedoms but also satisfying public interests, including economic, social, cultural and environmental ones).

43. Andorra and Monaco.

44. Albania; Austria; Latvia; Montenegro; North Macedonia; Spain; and the United Kingdom. But see also the following footnote.

45. Albania; Andorra; Croatia; Cyprus; the Czech Republic; and Hungary (this does not apply to NGOs with public benefit status. “Direct political activities” are defined as activities on behalf of a party, delegation or candidates in elections. Political parties are a special form of association requiring separate registration and specific rules apply to them).

46. Estonia (for this purpose, the Income Tax Act defines a political association as one that is a political party or election coalition or if its main objective or principal activity is organising campaigns or collecting donations for or against a political party or election coalition or a person running for an elected or appointed office for the performance of public duties, Such activities would also be considered to be “hidden financing” of political parties or campaigns, which is prohibited by the Political Parties Act); and the United Kingdom (charities cannot have a ‘political purpose’ which is not just concerned with party politics but covers any purpose that is aimed at: furthering the interests of a particular political party; securing or opposing any change in the law, whether in the United Kingdom or overseas; and securing or opposing a change in the policy or decisions of central government or local authorities or other public bodies, whether in the United Kingdom or overseas. However, a charity that assists people in poverty may provide politicians with information derived from this work and about the consequences of government policies on its clients).

47. Turkey.

48. Ireland (this restriction covers work to promote, oppose or comment on public policy, which can cover advocacy work at any time and not just advocacy in connection with an election or referendum. For the details, see fn. 303).

49. Germany (those that are registered charities are – with the exception of certain expressly stated purposes – not entitled to influence the formation of political will and the shaping of public opinion. Political education, which is a non-profit purpose in the tax code, thus now requires neutrality and does not allow NGOs to develop or advocate their own political opinion in general. This has led to some losing their charitable status and others not taking part in demonstrations or publishing political statements for fear of losing that status).

50. Azerbaijan.

51. Malta. (NGOs also cannot be controlled by or related or affiliated to a political party).

52. Kosovo*.

- making any financial, material or other kind of contribution to a political party;⁵³
 - engaging in the pre-election campaigns of political parties and candidates, fundraising for political parties and their candidates and financing of candidates and political parties;⁵⁴
 - performing the activities of a political party;⁵⁵
 - engaging in any political activities directly or through third parties and disseminating political advertising;⁵⁶ or
 - pursuing political goals and carrying out political activities that are characteristic solely of political parties⁵⁷.
48. In respect of one country,⁵⁸ it was reported that there is a very elaborate definition of what constitutes “political activities”, which must not be undertaken by NGOs designated as “foreign agents”.
49. For two countries,⁵⁹ it was reported to be considered to be a good practice for NGOs not to be politically affiliated or to serve political purposes.
50. Moreover, as regards two other countries,⁶⁰ it was stated that NGOs cannot seek to exercise the powers of State and local authorities.

53. Georgia (but it is possible to serve the purpose of institutional development of political parties in general; e.g., through educational programmes, seminars and public conferences); Kosovo*; and the Republic of Moldova.

54. Bosnia and Herzegovina and the Slovak Republic.

55. North Macedonia (i.e., they cannot provide direct or indirect financing to a particular political party or influence the elections, with the latter covering participation in the organisation of elections and the election campaign of a particular political party or directly or indirectly finance its election campaign).

56. Lithuania (This applies to charitable and support foundation. Political advertisement is understood as information disseminated by a state politician, political party, member of a political party, participant in a political campaign on their behalf and/or in any form and by any means, whether in return for payment or free of charge during or between political campaigns, to influence voters’ motivation in elections or referendums or the dissemination that promotes a state politician, political party, member of a political party or participant in a political campaign, as well as their ideas, goals or programme).

57. Bulgaria.

58. The Russian Federation. Thus, an organisation recognised as engaging in “political activity” is one that carries out activities in the field of “state-building; protection of the foundations of the constitutional system; federal structure; protection of sovereignty and territorial integrity; rule of law; state and public security; national defence; foreign policy; socio-economic and national development; development of the political system; activities of state bodies; local self-government bodies or law-enforcement”. The types of activities considered “political are: participation in the organization and holding of public events in the form of meetings, rallies, demonstrations, marches or picketing or in various combinations of these forms, organization and holding of public debates, discussions and speeches; participation in activities aimed at obtaining a particular result in elections or referenda, in the monitoring of elections or referenda, in the formation of electoral or referendum commissions, and in the activities of political parties; public appeals to state agencies, local authorities and the officials, as well as other actions influencing the activities of these bodies, including those aimed at adopting, amending or repealing laws or other regulatory legal acts; dissemination, including through the use of modern informational technology, of opinions on the decisions made and policies implemented by the governmental agencies; formation of social and political views and beliefs, including through opinion polls and the publication of the results or other sociological research; involving citizens, including minors, in these activities; and financing of these activities. Activities not considered political are those pertaining to “science; culture; art; health care; protection of public health; social services; social support and protection of citizens; protection of mother and child; social support for disabled persons; promotion of healthy lifestyles; physical culture and sports; protection of flora and fauna; and charitable activities”. In practice, these exemptions are not always taken into consideration by the authorities when listing the NGOs as “foreign agents”. For example, several NGOs which work on the environmental protection or public health issues have been designated as “foreign agents” by the Russian Ministry of Justice. As to designation as a “foreign agent”, see paras. 151 and 161.

59. Albania and Romania.

60. Azerbaijan and the Slovak Republic (unless authorised by a specific law).

E. Establishing NGOs without legal personality⁶¹

51. In respect of thirty-eight countries,⁶² there was said to be no requirement that NGOs can only be established as legal entities, with additionally there being no conditions applicable to the establishment of NGOs that do not have that legal status.
52. In respect of another country,⁶³ there was reported to be a requirement for NGOs in a particular field to have legal personality but that otherwise this was not required.
53. For three other countries,⁶⁴ there was reported to be a requirement to send a notification to the Ministry of Justice or a local government body about the establishment of an NGO which will not then seek to become a legal entity.
54. Although there was said to be no requirement in one country for NGOs not established as legal entities to present their founding documents to the authorities or to be registered, it was said that they can still be included in the unregistered associations “foreign agents” register.⁶⁵
55. Moreover, although there were reported to be no legal provisions governing NGOs without legal personality in two countries,⁶⁶ it was not clear that their establishment was thus precluded.
56. However, in respect of three other countries,⁶⁷ it was stated that the establishment of NGOs without legal personality was definitely not possible and that, in yet another,⁶⁸ the organisation of or participation in the activity of such an organisation amounts to an administrative offence.

F. Founders, members and management of NGOs with legal personality⁶⁹

Founders

57. In respect of eighteen countries,⁷⁰ there were reported to be no restrictions regarding who can establish an NGO.

61. Is it possible to establish NGOs without them having to take on the form of an entity with legal personality and, if so, are there any conditions – whether as a matter of law or practice – which must be observed when doing this?

62. Albania (the general practice, however, is to establish NGOs as legal entities); Armenia (it is possible to organise public initiatives without creating a legal entity); Austria (but legal personality is required to act officially and with the assistance of membership fees and/or state aid programmes); Belgium; Bulgaria (there is no requirement to become a legal person but NGOs in the process of incorporation must specify this in documents related to their activities); Croatia (informal associations are subject to regulations applicable to partnerships but civic initiatives cannot participate in legal transactions or receive funds from the public sector); Cyprus (but they may not be recognised or consulted by government or sent official information); Denmark; Estonia; Finland; France (all its acts are those of its members. Furthermore, its name cannot be protected, it cannot open a bank account, sign a lease, receive public subsidy or donations or collect donations or legacies); Georgia; Germany (a group acting by a collective will, an unregistered membership association or a trust without legal personality); Hungary; Iceland (without legal personality it is not possible to get an id number and so open a bank account); Ireland (but they cannot enter into contracts or own property); Kosovo* (informal networks and initiatives); Latvia (civil actors can act as a non-formal movement but this is not seen as an NGO); Liechtenstein (not generally used); Lithuania (but this is not common); Luxembourg; the Republic of Moldova (not generally used and they are not able to access financial resources in the form of grants or contracted services); Malta; Montenegro (informal group of citizens); the Netherlands; Norway (groups, movements, campaigns, etc.); Poland (the main form is an “ordinary association”, which requires 3 founders, must express the will to establish an organisation, adopt the rules and decide on the appointment of a representative or a board. An ordinary association may receive funds for its operation from membership fees, donations, inheritance, association property, public collections, and also subsidies. There are also parish councils and parents’ councils in schools); Portugal; Romania; the Russian Federation (they must have at least 3 participants who approve the articles of association); Serbia; the Slovak Republic (informal associations); Slovenia (a civic initiative); Spain; Sweden; Switzerland (they can be established as simple partnerships governed by the Code of Obligations); Turkey (platforms, initiatives and groups); and the United Kingdom (unincorporated associations).

63. Greece (those working in the migration field).

64. Azerbaijan; Poland (a formal assessment is made of the completeness and correctness of the application and the association must obtain a REGON number (public statistics registration number) and NIP (tax identification number)); and Ukraine.

65. The Russian Federation.

66. Italy and Monaco.

67. Bosnia and Herzegovina; North Macedonia; and San Marino.

68. Belarus.

69. Are there any restrictions (e.g., as to age or nationality or other status) as to who can (a) establish an NGO, (b) become a member of one or (c) be a member of the body responsible for its management?

70. Albania; Austria; the Czech Republic; Denmark; Hungary; Iceland (but those responsible for registration and finances must be over 18); Ireland (with the exception of a company limited by guarantee as non-EU/EEA and non-Swiss citizens are excluded); Italy; Kosovo*; Latvia; Liechtenstein; Malta; Monaco; Norway; Portugal; Spain; Sweden; and Switzerland.

58. For two other countries,⁷¹ these capacities were stated to be open to citizens, legal persons and non-citizens residing in it. However, in one of them,⁷² this was said not to include members of the armed forces, law enforcement officers and certain civil servants.
59. For two countries,⁷³ it was reported that founders of one kind of NGO need only be 16 years' old, except in the case of one of them⁷⁴ where this would mean that they would also become trustees of an NGO that was a charity.
60. In respect of seven other countries,⁷⁵ it was reported that any legal or natural person (whether a national or foreign but having reached the age of 18) or any group of such persons can establish an NGO. In one other country,⁷⁶ the same requirements were said also to be applicable but with the additions that foreign citizens must be resident and natural persons must have full legal capacity.
61. For one country,⁷⁷ it was stated that founders must be at least 18 years' old and foreign citizens and stateless persons must be legally present there.
62. In the case of another country,⁷⁸ it was reported that every person residing there can found an NGO, with the qualification that that foreign founders must be permanently resident there.
63. There were said to be a range of requirements for founders in one country⁷⁹ that depended on the nature of the NGO concerned. Thus, foreign citizens can establish international public associations but not national or local ones. In addition, foreign citizens cannot establish a foundation without first registering their contribution as foreign aid. Moreover, citizens must be 18 in order to be able to establish a public association or 16 to establish a youth and children public association. However, citizens who are on the "preventive watch list" cannot be founders at all. Furthermore, legal entities cannot be founders of public associations.
64. The restrictions with regard to becoming a founder were also reported to differ in another country⁸⁰ according to the type of NGO involved.
65. In respect of another country,⁸¹ it was reported that at least one founder must be a citizen over 18 years old.
66. Similarly, in yet another country,⁸² it was stated that 3 of the 5 founders – whether natural or legal persons – must be resident there.
67. For four other countries,⁸³ there were said to be some restrictions on the extent to which children and persons deprived of legal capacity could be founders and, for one of them,⁸⁴ it was stated that at least one of the three founders required must also be of legal age.
68. However, in two other countries,⁸⁵ it was reported to be possible for children who are 14 to be founders of an NGO in some circumstances.

71. Bosnia and Herzegovina (for at least a year) and Turkey.

72. Turkey (those who are working in institutions whose organizational laws have restrictive provisions to that effect).

73. France (associations) and the United Kingdom (trustees of charity must be 18 but the founders of a company limited by guarantee or a charitable incorporated organisation can be 16).

74. United Kingdom.

75. Bulgaria; Estonia; (those aged 15-17 can establish youth organisations and churches without parental consent); Georgia; Germany (depending on the legal form of the NGO and the necessity of legally and not merely advantageous actions, funders must be of legal age and legally capable or hold a consent of their legal guardian); Greece; Lithuania (foreign citizens must do it through a notary as the electronic establishment of an NGO requires a qualified e-signature, which is available only to citizens); and Slovenia.

76. Poland.

77. The Russian Federation (there are, however, certain exceptions regarding foreign citizens and stateless persons, namely, those whose stay or residence has been declared undesirable, those held in a place of deprivation of liberty pursuant to a court decision and those prosecuted under the provisions of anti-extremist and anti-terrorist legislation).

78. Azerbaijan.

79. Belarus.

80. Ukraine (only individuals who are citizens or foreigners and stateless persons residing there and are at least 18 years old can found public associations; children who are 14 years old can found youth and children CSOs and legal entities of private law (including associations with legal personality) can found civil unions).

81. The Slovak Republic (civic association but the citizenship restriction is not necessarily applied in practice).

82. North Macedonia.

83. Croatia (both require the certified written consent of their legal representative or guardian); Finland (founders must be over the age of 15); North Macedonia (founders can be over 15 but their legal representative's consent is required); and the Netherlands (only with the consent of their legal representative although a child who is 16 can request the cantonal judge to give her/him certain powers of an adult which would overcome this qualification).

84. Croatia.

85. Austria (by agreement with the authorities) and Montenegro (with the consent of their parents).

69. In respect of one country,⁸⁶ it was stated that founders cannot be persons deprived of legal capacity and must also be resident there.
70. For one country,⁸⁷ it was reported that public authorities and institutions, state and municipal enterprises may not be founders of NGOs. Moreover, for two other countries,⁸⁸ it was reported that political parties, religious organisations, trade unions and legal entities not authorised by law to establish NGOs cannot be founders of them.
71. In respect of one country,⁸⁹ it was stated that a founder cannot be someone sentenced in it or elsewhere to imprisonment for certain offences.
72. For yet another country,⁹⁰ it was said that registration can be refused where a proposed founder has been convicted of crime due to lack of honesty or moral disgrace, although in practice this seems to be interpreted to cover conviction for any crime. In that country, there appears also to be a practice of requiring that the person concerned has an address in its non-occupied area.⁹¹

Members

73. In respect of twenty-two countries,⁹² there were reported to be no restriction as to who can become members.
74. For one country,⁹³ membership was said to be restricted to natural persons in the case of certain forms of NGO.
75. In respect of another country,⁹⁴ there was stated to be generally no limit on membership of NGOs but that there are age restrictions where this entails a particular role in them.
76. For one country, membership was reported to be open to anyone over 16.⁹⁵
77. As regards two other countries,⁹⁶ it was reported that members must in almost all cases be over 18. This was also said to be so in another one,⁹⁷ which additionally was reported to require foreign citizens and stateless persons to be legally present in it and to have some provisions for membership of youth and children's public associations⁹⁸.

86. Serbia.

87. The Republic of Moldova (this restriction does not apply to educational institutions) Previous requirements as to the age and residence of founders who are natural persons have been removed.

88. Armenia and Slovenia.

89. San Marino (namely, two years' imprisonment for offences against property, public faith, the public economy or for drug trafficking, committed in the last 15 years, as well as any sentence for corruption, use of invoices for non-existent operations, tax evasion, usury, fraudulent bankruptcy, or recycling, for crimes committed in the last 15 years. In addition, this disqualification applies to those who have received even non-final convictions or are involved in an ongoing criminal trial for mafia associations or financing terrorism).

90. Cyprus.

91. In practice, this is something that can be established by a utility bill.

92. Albania; Austria; Bosnia and Herzegovina; Cyprus; the Czech Republic; Finland; Georgia; Iceland (no fees or financial commitments can respectively be collected or undertaken by those under 18); Italy; Kosovo*; Latvia; Liechtenstein; Luxembourg (however, an association will not be able to take advantage of legal personality with regard to third parties – who will nevertheless have the right to make a statement against it – if three-fifths are not citizens); Malta; Monaco; Montenegro; Norway; Portugal (but a youth association must have 80% of its members who are 30 or less); Slovenia; Spain; Sweden; and Switzerland.

93. Ukraine (legal entities can be members of civil unions but not of public associations)

94. The United Kingdom (those who are directors of companies limited by guarantee must be over 16 and those involved in running any form of NGO that is a charity must be over 18).

95. France.

96. Estonia (but persons aged 15-17 can join youth organisations and church without parental consent) and Germany (for legally and not merely advantageous actions members must be of legal age and legally capable or hold a consent of their legal guardian).

97. The Russian Federation (there are, however, certain exceptions, namely, those whose stay or residence has been declared undesirable, those held in a place of deprivation of liberty pursuant to a court decision and those prosecuted under the provisions of anti-extremist and anti-terrorist legislation).

98. The age requirements for membership of these are respectively 14 and 8.

78. In respect of ten other countries,⁹⁹ it was stated that there were only certain conditions to be observed in respect of membership by children and that, in one of them,¹⁰⁰ membership of persons under full guardianship must be terminated.
79. For one country,¹⁰¹ it was reported that membership in youth NGOs is terminated at the age of 35.
80. In respect of two countries,¹⁰² it was stated that public authorities and institutions, state and municipal enterprises may not be members and, for another country,¹⁰³ it was reported that it is not possible for members of the armed forces, law enforcement officers and certain civil servants to become members but it is possible for legal entities and foreign citizens who are resident.
81. As regards one country,¹⁰⁴ it was said that a person sentenced in it or elsewhere to imprisonment for certain offences cannot become a member of an NGO.
82. In respect of another country,¹⁰⁵ it was reported that political parties, religious organisations, trade unions and legal entities not authorised by law to establish NGOs cannot be members of them.

Management

83. In respect of fifteen countries,¹⁰⁶ it was reported that there are no restrictions as to who can serve on management bodies.
84. For one country,¹⁰⁷ it was stated that the members of the management must have full civil rights and, in the case of one form of NGO, also a clean criminal record.
85. As regards another country,¹⁰⁸ it was said that non-citizens who are not resident should not constitute a majority of the members of an NGO's management body.
86. In respect of two other countries,¹⁰⁹ there was reported to be no restriction on the nationality of members of the management body but that they must be over 16.
87. In respect of two countries,¹¹⁰ there was said to be a requirement for the majority of directors of certain NGOs to be resident in it, while it was reported for one other country¹¹¹ that the residence requirement applies to the chairperson, who must also be over 18.
88. For one country,¹¹² it was stated that there seems to be a reluctance to accept board members who are not nationals but that there is no specific legal requirement to that effect.

99. Armenia (upon application of a legal representative of those under 14 and of those between 14 and 18 if they are not recognised as fully capable), written consent from them in the case of children who are 14 and above); Austria (they must be 14); Belarus (the consent of their legal representatives is required for those under 16); Bulgaria (those aged 15-18 can be members but those under 14 can only do so through their guardians); Croatia (a written statement is required by a legal representative or guardian of those under 14 and written consent from them in the case of children who are 14 and above); Lithuania (persons under 18 can only be members of associations whose aims relate to the needs of children and young people); the Netherlands (the consent of their parents); North Macedonia (those under 14 require their legal representative's consent); Poland (persons under 16 years of age may be members of the association with the consent of their guardians and without the right to vote); Romania (those over 14 can be members with the consent of their parents or guardians); and Serbia (the consent of the legal representative of a child under 14).

100. Bulgaria.

101. Azerbaijan.

102. Azerbaijan and the Republic of Moldova (this restriction does not apply to educational institutions).

103. Turkey (the civil servants so restricted are those who are working in institutions whose organizational laws have restrictive provisions to that effect).

104. San Marino (namely, two years' imprisonment for offences against property, public faith, the public economy or for drug trafficking, committed in the last 15 years, as well as any sentence for corruption, use of invoices for non-existent operations, tax evasion, usury, fraudulent bankruptcy, or recycling, for crimes committed in the last 15 years. In addition, this disqualification applies to those who have received even non-final convictions or are involved in an ongoing criminal trial for mafia associations or financing terrorism).

105. Armenia.

106. Albania; Austria; the Czech Republic; Italy; Kosovo*; Latvia; Liechtenstein; Malta; Montenegro; Norway; Portugal (but for youth associations 80% of the executive body members must be 30 or less); Spain; Sweden; Switzerland; and Ukraine (but a person may have to resign in order to be a candidate for the position of public official to avoid any conflict of interest).

107. Poland (the requirement of a clean criminal record applies to public benefit organisations).

108. Turkey.

109. France (subject to the prior written agreement of their legal representative, they may perform all useful acts for its administration, with the exception of the acts of disposition) and the United Kingdom (in the case of companies limited by guarantee. Their offices must, however, be in the country. For charities, the members of the management body must be over 18).

110. Ireland (this applies where a charitable tax exemption is being sought) and Hungary (in the case of foundations).

111. Finland (exceptions can be granted by the Patent and Registration Office).

112. Cyprus.

89. In respect of five other countries, it was reported that the only requirements relating to management concern the participation of minors in the NGO's assembly: in one of them,¹¹³ this must be provided for in the statute and consent must have been given by their legal representative or guardian; in two others,¹¹⁴ just the consent of the parents or guardian is required; and in another two,¹¹⁵ such participation is not permitted.
90. For one country,¹¹⁶ it was said that the majority of the members of the management board must be resident in it and that they cannot be under 18.
91. As regards four countries,¹¹⁷ it was reported that the members of the management board must be over 18.
92. In respect of three other countries,¹¹⁸ it was stated that members must be at least 18 years old to serve on the elected bodies of a public association.
93. For another country,¹¹⁹ it was reported that the representative of the NGO must be resident in it and also be over 18.
94. Apart from the general requirements governing membership of an NGO, it was said that lawyers cannot be members of the management body in one country,¹²⁰ that government representatives cannot be on the board of certain NGOs in another country¹²¹ and that public servants in a third one¹²² are subject to certain restrictions on so acting.
95. Again, apart from the general requirements governing membership of an NGO, it was said that certain persons are disqualified from serving on their management bodies in two other countries.¹²³
96. Similarly, for yet another country,¹²⁴ it was reported that the members of the management board must not have been convicted of a wilful criminal offence in the case of a certain form of NGO.

113. Croatia (exceptionally, if an association's statute specifies membership categories, the statute may also specify that only certain categories of members comprise the assembly of the association, i.e., that only such categories of members have the right to decide in the assembly. Adults without legal capacity to act participate in the work of the assembly, and may decide in the assembly in the manner prescribed by the statute. Members of an association who are minors participate in the work of the association's assembly in the manner prescribed by the statute. Thus, if it is specified by the statute, minors at 14 years of age can decide in the assembly provided that their legal representative or guardian have given their consent).

114. Germany (for legally and not merely advantageous actions) and the Netherlands (although a child who is 16 can request the cantonal judge to give her/him certain powers of an adult which would overcome this qualification).

115. Iceland and Latvia.

116. Monaco.

117. Austria (the authorities can allow those over 14 to serve); Bulgaria; Estonia (but a court can allow those aged 15-17 also to serve. There is no need for any member to have an Estonian address but in such cases a contact person" must be appointed, which is a private licensed service); and Hungary (in the case of foundations, 2 of the 3 members of their boards must also be resident).

118. Belarus; Lithuania; and Slovenia.

119. North Macedonia.

120. Serbia.

121. Belgium (those accredited and financed to carry out development cooperation activities).

122. Georgia (a public servant has no right to hold any position in a legal entity under private law (which includes NGOs) if it is associated with salary receipt or membership of a representative body of any level. They are also deprived of the right to be a legal representative or proxy of any natural or legal person (Law of Georgia on Conflict of Interest and Corruption in Public Service, Arts. 13.2 13.9).

123. Hungary (those convicted of committing a crime until exonerated from the detrimental consequences of having a criminal record and those subject to a prohibition on exercising the profession of executive officer and the executive officer of a former public benefit organisation that was dissolved on account of tax and customs liabilities cannot become the chairperson of another such organisation until 3 years have elapsed) and Turkey (under the Law on the Prevention of Financing of Proliferation of Weapons of Mass Destruction – which entered into force on December 31, 2020 – those convicted of crimes within the scope of the Law on the Prevention of Financing of Terrorism No. 6415, or of crimes of drug trafficking and money laundering, are prohibited from joining the organs of associations other than the general assembly, even if the sentences of those persons were pardoned. In the event that a prosecution is initiated against the board members or staff of associations and an indictment is issued by the public prosecutor as regards these crimes, the Minister of Interior can – following the approval of the indictment by a penal court or the trial stage of the proceedings has commenced – suspend the individuals or the organs that the relevant individuals hold a post as a temporary measure. Furthermore, according to Law on Association, where the chairperson and members of the board of directors or auditors or staff of association is being tried for having in any way, spent, expropriated or pawned or sold, hidden, destroyed, denied, falsified or depreciated money or money-like documents, promissory notes or other goods belonging to the association that were entrusted to him/her for the benefit of himself/herself or others, the court can temporarily suspend the accused from their duties in the organs during the trial).

124. The Slovak Republic (non-profit organisations, foundations and non-investment funds. In the case of the last, its board cannot include a beneficiary of it).

97. Also, for one country,¹²⁵ it was stated that a person sentenced in it or elsewhere to imprisonment for certain offences cannot serve on an NGO's management body.
98. Furthermore, in respect of another country,¹²⁶ it was said that the grounds for being disqualified from serving on a management body differ according to the type of NGO.
99. For yet another country,¹²⁷ it was reported that a bar on serving on the management body applies to persons who are subject to certain orders made by a court and also to those with a particular criminal record.

G. Establishment of an NGO with legal personality¹²⁸

100. In order to establish an association with legal personality, it was reported in respect of five countries¹²⁹ that they explicitly require that a meeting first be held for this purpose and that such a meeting is required in some instances in another one¹³⁰. Although this was not reported as something specifically required elsewhere, it is something that is likely to occur in most others even if not obligatory.
101. However, for three countries,¹³¹ it was stated that one or more persons must be authorised to perform the acts of registration and to follow the registration process.
102. For two countries,¹³² it was stated that the application must be signed in the presence of a notary public and that in another¹³³ this must be approved by a notary.
103. In respect of just one country, it was reported that an association acquires legal personality as soon as the intention to exist as a corporate body is apparent from its articles of association,¹³⁴ while it was said of eight others that legal personality is acquired through either a public declaration,¹³⁵ or by a notarial deed,¹³⁶ or by a founding meeting or signing a founding document,¹³⁷ or by submission of the founding declaration and annexes to a public body.¹³⁸

125. San Marino (namely, two years' imprisonment for offences against property, public faith, the public economy or for drug trafficking, committed in the last 15 years, as well as any sentence for corruption, use of invoices for non-existent operations, tax evasion, usury, fraudulent bankruptcy, or recycling, for crimes committed in the last 15 years. In addition, this disqualification applies to those who have received even non-final convictions or are involved in an ongoing criminal trial for mafia associations or financing terrorism).

126. The United Kingdom (persons can be banned from serving as a director of a company limited by guarantee if they have: traded when they knew that the company concerned was insolvent; not kept proper accounting records; not paid; not filed accounts; and committed various fraud offences. It is not possible for someone to be a charity trustee or senior manager if s/he has an unspent convictions for: offences involving dishonesty or deception; specified terrorism offences; specified money laundering offences; specified bribery offences; the offence of contravening a Charity Commission Order or Direction; offences of misconduct in public office, perjury, or perverting the course of justice; and for aiding attempting or abetting any of those offences).

127. The Republic of Moldova (thus, the following are precluded from serving on an NGO's management body (a) person who, by law or court decision, are prohibited from holding the position of administrator or another position that grants the right of disposal over tangible assets; (b) adult natural persons protected by guardianship, insofar as, by court decision, their right of disposition was limited or they were not allowed to conclude independently or with the assistance of the guardian the legal acts of patrimony administration, except for the legal acts provided of the Civil Code; and (c) persons with an unquenchable criminal record for crimes against property, economic crimes, crimes committed by persons with a position of responsibility or by the person who manages organizations, committed with intent).

128. What requirements must be observed to (a) establish an NGO with legal personality or (b) amend the instrument by which an NGO has been established?

129. Azerbaijan; Belarus; the Czech Republic; Germany; and the Republic of Moldova.

130. Hungary (where an association is founded on the basis of the standard founding document. In other cases the written agreement of the founders is sufficient).

131. Albania; Azerbaijan; and the Republic of Moldova (just one person is required).

132. Albania; Andorra; and Germany (in the case of membership and incorporated organisations).

133. Azerbaijan.

134. Switzerland.

135. France (associations. This declaration is made to the prefecture, can be done online and is without charge. However, in Alsace-Moselle there is a requirement to obtain registration from the court registry. A declaration regarding prohibited objects is null. The declaration must contain: a copy of the minutes of the constituent assembly, signed by at least one founder; a copy of the statutes, dated and signed, by at least 2 directors, giving their names and functions; a list of the directors mentioning their name, profession, domicile and nationality; a list of member associations (in case of union or federation of associations); Hungary (associations) and Monaco (this does not apply where there is a wish to derogate from the general requirements regarding the appointment or domicile of directors or regarding the appointment of directors where the NGO is mainly open to minors. In such cases, consultation with the Conseil d'Etat is first required))

136. The Netherlands.

137. Liechtenstein (the statute must be in line with rules prescribed by legislation) and Norway.

138. Austria (it is an administrative offence not to give such a notification); Portugal (one of the administrative agencies throughout the country); and Turkey (the relevant local administrative authority. This applies only to associations; foundations have to be registered with the approval of a court).

104. For one country, it was reported that a foundation may be established by a founding document, a will or agreement as to succession.¹³⁹ For that same country, it was also reported that the form of NGOs established through a public declaration must still be registered by the competent general courts and that these have the power to reject it and to require deficiencies to be corrected.¹⁴⁰
105. On the other hand, for two other countries,¹⁴¹ it was stated that NGOs can seek to be entered in a register but this is not obligatory.
106. However, in respect of thirty-three countries, it was reported that legal personality is only acquired after approval of the association's articles, charter or statute by one of the following: a court or court official;¹⁴² a ministry;¹⁴³ a registry;¹⁴⁴ or other public body.¹⁴⁵ Moreover, for three of the countries concerned,¹⁴⁶ it was stated that the relevant instrument must have been certified by a notary.
107. Apart from the generally applicable requirements of being in writing, stating its founders, objects, management or organisation and procedure for amendment and submitting the NGO's articles, charter or statute and/or the application to be formally established, it was said that one country¹⁴⁷ also requires that its resources be indicated. However, for five other countries,¹⁴⁸ this was stated only to be applicable to a certain form of NGO.

139. Hungary.

140. Hungary (associations).

141. Liechtenstein (Commercial Registry) and Norway (Register of Non-Profit Organisations or Register of Business Enterprises).

142. Albania (Tirana District Court); Estonia; Germany (this is decided upon by a court official rather than a judge in the case of a membership organisation – but there is no obligation to seek legal personality – and an incorporated organisation. However, the approval of the deed establishing a foundation will be by a government agency as determined by the relevant Land government); and Poland.

143. Azerbaijan (Ministry of Justice); Belarus (international and republican (national) public associations and foundations); Bosnia and Herzegovina (Federal Ministry or a cantonal body if it will operate in just one canton); the Slovak Republic (Ministry of Interior); and Ukraine (Ministry of Justice through Territorial Justice Departments or Administrative Services Centres).

144. Armenia (State Registrar of Legal Entities); Bulgaria (the Trade Register or the Non-Juridical Persons Register); Croatia (Register of Business Entities); Cyprus (District Registrar; there are separate regimes for volunteers, sports organisations and charitable foundations, as well as for NGOs formed under company legislation); the Czech Republic (State registry); Finland (Finnish Patent and Registration Office); Georgia (National Agency of Public Registry of the Ministry of Justice); Germany (Register of Associations); Iceland (Register of Companies or Register of Organisations for the Public Good); Ireland (Companies Registration Office; this applies to companies limited by guarantee – the most popular form of NGO – but not to trusts); Kosovo* (Department of NGOs); Latvia (Register of Associations and Foundations); Lithuania; Luxembourg (Trade and Companies Register); Malta (Registrar for Legal Persons); Montenegro (Ministry of Public Administration, Digital Society and Media); North Macedonia (Central Register); the Russian Federation; and San Marino (Register of Associations).

145. Belarus (Minsk or Regional Executive Committee for local public associations); Italy (the Revenue Agency of territorial competence); the Republic of Moldova (the Public Service Agency on behalf of the State Registration Authority); Slovenia (administrative unit for a society but a district court for an institute and the relevant ministry for the foundation's competence); and the United Kingdom (Companies House for a company limited by guarantee, the Charity Commission in the case of a charitable incorporated organisation and the Financial Conduct Authority for a community benefit society. A trust does not require registration unless it is seeking charitable status, which is handled by the Charity Commission unless its income is less than 5,000 GBP (ca. 5,921 EUR) as no registration is then required).

146. Albania (as well as the establishment act); Italy; and Poland.

147. Switzerland.

148. Azerbaijan (foundations need 10,000 AZN (5,000 EUR) charter capital); Hungary (the funds of the foundation); Poland (a foundation requires a founding fund of a minimum 1,000 PLN (250 EUR) for entities which run economic activity and an undefined amount "sufficient to launch activity" for entities which run exclusively non-paid activity); the Republic of Moldova (foundations are required to submit a document confirming the subscribed capital, which should be the equivalent of at least 2 average salaries per economy); the Slovak Republic (foundation – the value of the endowment capital and the value and subject of the property contribution that each founder invested in the foundation's capital when establishing the foundation; non-investment fund – the amount of the monetary deposit of each founder (at least EUR 66)); and Turkey (foundations must have 80,000 TL founding capital).

108. In addition, it was reported that certain other matters may have to be submitted in some countries.¹⁴⁹
109. The use of a particular model of articles, charter or statute was also said to be sometimes insisted upon in one country.¹⁵⁰
110. There was reported to be a fee payable for registration in twelve countries,¹⁵¹ while none was said to be required in five others¹⁵².
111. The number of founders said to be required varied considerably. Thus, for membership-based NGOs it is just 2 in twelve countries,¹⁵³ 3 in fourteen countries,¹⁵⁴ 5 in two countries,¹⁵⁵ 7 in three countries,¹⁵⁶ 9 in one country,¹⁵⁷ 10 in one country,¹⁵⁸ 10 for a local association but 50 for a national one in one country¹⁵⁹ and there must be at least 20 in one country¹⁶⁰.
112. For thirteen countries,¹⁶¹ it was reported that the process can be completed online and, that, in respect of another one,¹⁶² this is not possible despite the law providing that it can be done electronically.

149. Albania (the establishment act); Azerbaijan (a document on the legal address of the NGO), Belarus (legal address); Georgia (the consent of the director/chief to be appointed, the document confirming its permanent address, the personal documents of the applicant and confirmation of payment for registration); Hungary (the founding document, the name and residence of the applicant, the name and registered office of the organisation; the name and residence of the organisation's representative and the extent and nature of the exercise of representation); Kosovo* (personal data of the founders); Latvia (the establishment decision and confirmation of the status of a foreign legal person who is a founder); the Republic of Moldova (the declaration of consent to the use of a natural person's name (obtained from the State Registration Authority), document certifying the establishment of the headquarters, the document confirming the subscribed capital in the case of a foundation and the approval of the specialised body of the public administration in the case of national associations and national sort federations); Montenegro (the founding act); the Netherlands (provisions relating to the distribution of surplus finds on dissolution); Portugal (personal data of the founders); North Macedonia (the establishment act, a programme of action, the decision on the election of the bodies and the data of their members, the decision on the election of a representative and her/his data, minutes of the founding meeting and a statement certified by a notary public and signed by the representative confirming that the performance of the activity accords with the law and that the conditions for registration have been fulfilled); the Russian Federation (personal data of founders, address of the NGO's permanent body, confirmation of authority to use a name or symbol protected by law and of the legal status of a foreign founder and, where applicable, application to be included in the register of non-commercial organisations performing the functions of "foreign agent"); the Slovak Republic (for a civic association – its members (name, surname, address of permanent residence, date of birth and birth number), registered seat, the designation of bodies and officials authorised to act on behalf of the association, provisions on organisational units, who may act on its behalf until they are set up and management principles; non-profit organisation – registered seat, period for which it is established (if not for an indefinite period), identification data of the first members of the board of directors, supervisory board (auditor), director and members of another body, (if established), monetary contributions and non-monetary contributions (determined by an expert opinion); foundation – registered office, identification of all founders, the period for which it is established, identification of the first administrator of the foundation and the first members of other bodies of the foundation, if appointed, conditions for disposing of the foundation's property, determination of the circle of persons to whom the foundation's funds are provided and the conditions under which foundation's funds are provided to third parties; non-investment fund – registered office, the time for which it is set up and the designation of the person appointed to perform the acts related to the establishment of the fund); and the United Kingdom (the personal details of those who will manage a charity).

150. The Republic of Moldova.

151. Azerbaijan (11 AZN (5.5 EUR) for both public unions and foundations); Belarus (10 basic units (94 EUR) for international and national public associations and 0.5 basic units (4.7 EUR) for local public associations); Cyprus (50, 100 and 150 EUR for respectively associations, foundations/institutions and federations); Croatia (an administration fee of HRK 35 (EUR 4.6) plus a fee of HRK 55 (EUR 7.27) for entry in the Register of Business Entities); Georgia (100 GEL or 200 GEL for an accelerated decision); Italy (200 EUR plus 16 EUR in revenue stamps); Latvia (11.38 EUR with exemptions for associations of disabled people, orphans or large families and those having amongst their aims the organisation of children and student events. There is also a 10% discount for electronic submissions); Luxembourg (14.61 EUR); Liechtenstein (100 SFR but registration is not obligatory); Malta (40 EUR); Poland (not for associations carrying exclusively non-paid activities but 600 PLN (ca. 130 EUR) for associations and foundations planning to engage in commercial activity and 250 PLN (ca. 54 EUR) for foundations which exclusively carry out non-paid activities); the Russian Federation (ca. 46 EUR); and the United Kingdom (40 GBP (ca. 47 EUR) or 12 GBP (ca. 14 EUR) if done online for a company limited by guarantee but there is no fee to register any form of charity).

152. Kosovo*; the Republic of Moldova; Switzerland; Turkey; and Ukraine.

153. Armenia; Austria; Azerbaijan (for public unions but in practice it is usually three); Belgium; Estonia; France; Latvia; the Republic of Moldova; the Slovak Republic; (for civic associations); Switzerland; Ukraine; and the United Kingdom (for a company limited by guarantee or a charitable incorporated organisation – although the Charity Commission prefers 3 for the latter – but 3 for a community benefit society).

154. Andorra; Bosnia and Herzegovina; Croatia; the Czech Republic; Finland; Iceland; Italy; Kosovo*; Lithuania (for an association); Luxembourg; Malta; Montenegro; Romania; and the Russian Federation.

155. North Macedonia (but just 2 already established NGOs for a union of NGOs) and Poland.

156. Bulgaria (for an association); Germany and Ireland (for a company limited by guarantee but 2 for an unincorporated association).

157. Portugal (to constitute the three legal organs; Board, Fiscal Council and General Assembly).

158. Hungary (for an association but only 1 for a foundation).

159. Belarus; in addition 10 citizens and 3 foreign citizens are required in order to establish an international public association.

160. Cyprus.

161. Azerbaijan; Belarus; Bulgaria; Estonia; Georgia; Hungary; Iceland; Kosovo*; Lithuania; Malta; Poland; the Russian Federation; and the United Kingdom

162. North Macedonia (in practice this is not allowed for establishing a new NGO).

113. There was said to be no requirement to notify or register changes in one country.¹⁶³
114. Moreover, for another country,¹⁶⁴ there was said to be just a requirement for the procedure for amendment to be specified in the charter or statute, which must then be notified.
115. However, for one country,¹⁶⁵ it was reported that changes must be submitted with a request for entry in the Register of Associations and, for another one,¹⁶⁶ that an application must be made to the competent court to register the changes
116. In respect of fifteen other countries,¹⁶⁷ it was reported that the changes must, after their adoption, be submitted to the same body for approval as required for establishment.
117. In the case of a country for which a declaration is sufficient to establish an NGO,¹⁶⁸ there must also be a declaration regarding any changes to the charter or statute.
118. There was said to be a fee for registration of changes in ten countries¹⁶⁹ and, in respect of another,¹⁷⁰ it was stated that the changes must be certified by a notary.

H. Length of process¹⁷¹

119. A significant variation in time taken for establishment was reported.
120. Thus, in respect of two countries,¹⁷² it was said that this will only be as long as it takes for the articles to be adopted since this is the sole basis for establishment.
121. However, where some form of registration is involved, the period from receipt of the documentation to establishment – which was not necessarily what was provided in the law – was stated to vary from: 1-3 days in nine countries;¹⁷³ through 1-14 days in one country;¹⁷⁴ 5 days in two countries;¹⁷⁵ a few days in two countries;¹⁷⁶ a week in three countries;¹⁷⁷ 1-8 weeks in one country;¹⁷⁸ 10 days in one country;¹⁷⁹ 15 days in seven countries;¹⁸⁰ several weeks in one country;¹⁸¹ 28 days in one country;¹⁸² 30 days in seven countries;¹⁸³ less than a month in one country;¹⁸⁴ 2 to 6 weeks in one country;¹⁸⁵ 40 days in one country;¹⁸⁶

163. Switzerland.

164. Albania (to Tirana District Court).

165. Croatia (this is required for changes related to: the statute, name, goals and activities, seat and seat address, choice of legal representatives, regardless of whether they are persons from the previous mandate, selection and recall of the liquidator and dissolution of the association).

166. Hungary.

167. Azerbaijan; Bulgaria; Croatia; Cyprus; Estonia; Georgia; Ireland; Italy; Latvia; the Republic of Moldova; North Macedonia; Poland; the Russian Federation; the Slovak Republic; and Ukraine.

168. France (i.e., to the prefecture. This requirement also applies to changes to the NGO's directors).

169. Austria (14.30 EUR plus 3.90 per sheet for additional enclosures up to a maximum of 21.80 EUR); Bulgaria (13 EUR if done electronically but otherwise 25 EUR); Estonia (20 EUR); Finland (50-180 EUR); Georgia (100 GEL (28 EUR) or 200 GEL (56 EUR) for an accelerated procedure); Hungary (10,500 HUF (30 EUR) for foundations but associations are exempt); Latvia (8.54 EUR with similar exemptions to those for the initial registration of associations); North Macedonia (an administrative fee); Portugal (300 EUR); and Ukraine (the fee is approximately 6.5 EUR and is less than that for other legal entities).

170. Italy.

171. How long does the process of establishment or amendment normally take?

172. Norway (but entry in the associated registers, if chosen, will take a few days) and Switzerland.

173. Austria (1 day); Iceland (1-2 days); Georgia (1 day or the same day if the fee for the accelerated procedure is paid); Liechtenstein (the same day); Monaco (1 day except where consultation with the Conseil d'Etat is required (see fn. 135) when it can be up to 2 months); the Netherlands (the same day); Portugal (same day); Turkey (same day for associations but 1-2 weeks for foundations); and Ukraine (1 day for charitable organisations and 3 days for public associations).

174. Finland (applications filed electronically take 1 day but those sent by mail take up to 14 days).

175. Estonia and North Macedonia.

176. Italy and the United Kingdom (for a company limited by guarantee but a matter of months in the case of obtaining charitable status).

177. Latvia; Bulgaria; and Serbia (3-7 days).

178. Lithuania (1 week if done electronically but 2-8 weeks if done through a notary).

179. Armenia (but only 2 if the sample forms of documents are used).

180. Albania; France; Hungary (if done online under a simplified procedure but otherwise up to 60 days with a possible 45 days to correct deficiencies); Ireland; the Republic of Moldova; the Slovak Republic; and Spain (10-15 days).

181. Belgium (but it could also be a few days).

182. The Russian Federation (this is for public associations and movements. For other types of non-commercial organisations it is 14 days but for both types several days need to be added for review of the registration by the tax authorities).

183. Andorra; Belarus (but in practice much longer on account of alleged technical shortcomings); Bosnia and Herzegovina; Croatia; the Czech Republic; Kosovo*; and Montenegro.

184. San Marino.

185. Germany (for membership organisations but 4-12 weeks for a foundation and 1-3 weeks for a membership organisation).

186. Azerbaijan

less than 2 months in one country;¹⁸⁷ a few days to a few months in one country;¹⁸⁸ 3 months in one country;¹⁸⁹ several months in one country;¹⁹⁰ up to 6 months in one country;¹⁹¹ and 6 months being the minimum in one country¹⁹².

122. In respect of one country,¹⁹³ it was reported that an application is considered entered if there is no decision within the prescribed deadline.
123. In the case of six countries,¹⁹⁴ it was stated that these periods were normally met. However, in seven others, it was said that the process is not compliant with them in practice, taking a month or much longer,¹⁹⁵ months,¹⁹⁶ around 90 days,¹⁹⁷ up to 5-6 months¹⁹⁸ and over a year¹⁹⁹.
124. In one country, there was reported to be no specific deadline but that there is an average time.²⁰⁰
125. For amendments to articles, charters and statutes, the deadlines were also reported as varying, ranging from 1 day,²⁰¹ through 3 days,²⁰² a few days,²⁰³ 5 days,²⁰⁴ a week²⁰⁵, 15 days,²⁰⁶ 30 days,²⁰⁷ 2-64 days,²⁰⁸ several weeks to several months²⁰⁹ to three months²¹⁰ or even longer,²¹¹ with the delays in meeting them occurring in those countries that have such problems for the initial establishment of an NGO, as well as in one other²¹².
126. However, for one country, it was said that no indication is given in the legislation regarding a deadline for processing an application for approval of amendments by the competent authority.²¹³

I. Suspending and dissolving NGOs²¹⁴

127. There were reported to be no circumstances in five countries²¹⁵ in which an NGO – with or without legal personality – could either be prohibited on a temporary basis from pursuing its objectives or be permanently closed down.
128. However, in respect of five other countries,²¹⁶ it was reported that this was so only as regards a temporary suspension of the activities of NGOs and, for another country,²¹⁷ it was said that this was the case as regards being permanently closed down.

187. Luxembourg.

188. Malta (the longer period is the result of the country being grey-listed by the Financial Action Task Force).

189. Cyprus

190. Poland.

191. Romania.

192. Greece (this is for associations but only 10 days for a non-profit civil society organisation),

193. Croatia (but a 15-day deadline can be set to adapt a statute that does not comply with the law or where missing information needs to be supplied)

194. Armenia; Estonia; Italy; Kosovo*; Latvia; and the Republic of Moldova.

195. Bulgaria (generally a month but there are cases involving minority NGOs that have taken nearly 30 years without being registered)

196. Azerbaijan (on account of returns for shortcomings for which a 20-day deadline for fixing exists) and Spain (3 months).

197. The Russian Federation.

198. Albania (on account of a lack of clarity as to the required documents) and Hungary.

199. Cyprus (in some instances, with requests for changes to the statute that are not required by the legislation and inconsistent approaches to decision-making by different decision-making bodies).

200. Poland (i.e. several months).

201. Georgia (or the same day if the accelerated procedure is paid for).

202. Ukraine (1 day for charitable organisations and 3 days for public associations).

203. Italy and the United Kingdom (for a company limited by guarantee)

204. Azerbaijan (if the amendment is made correctly and does not contradict the law) and Estonia.

205. Bulgaria; Latvia; and Serbia.

206. Albania; the Republic of Moldova (normally met); Spain (10-15 days); and Ukraine (but registration can be prolonged to 15 days in the case of public associations but this is not common)

207. Kosovo*.

208. Finland.

209. Poland.

210. Cyprus.

211. Hungary (up to a year and a half in some cases)

212. The Republic of Moldova (on account of the lack of familiarity of civil servants with the legislation).

213. Croatia (the only deadline mentioned in the Associations Act with regards to amendments is that a request for entry of changes in the Register of Associations has to be submitted no later than 60 days after the decision on a change was made).

214. Are there circumstances in which an NGO – with or without legal personality – can be (a) prohibited on a temporary basis from pursuing its objectives or (b) permanently closed down?

215. Bulgaria; Norway (but sanctions can be imposed on individuals forming, participating in, recruiting members into or providing financial or other material support for a terrorist organisation when it has taken steps to achieve the purpose by unlawful means); Romania; Sweden; and Switzerland.

216. Germany; Hungary; Lithuania; Montenegro; and Slovenia.

217. Portugal.

Suspension

129. In respect of one country,²¹⁸ it was reported that a court could immediately suspend an NGO where its activity was considered to be a serious threat to the public.
130. Moreover, for two countries,²¹⁹ it was stated that an NGO can be subjected to a temporary ban on its activities where it violates the law or, in one of them,²²⁰ the provisions of its own constitution.
131. For one country,²²¹ there is a power to suspend the activities of an NGO where those sitting in its organs other than the general assembly and “other related personnel” face prosecution for various offences connected to terrorism, drug production and trafficking and money laundering.
132. In respect of another country,²²² it was said that the possibility of suspending the activity of an NGO is envisaged in legislation but that no mechanism for its implementation had as yet been adopted.
133. For five other countries,²²³ it was reported that there is provision for imposing bans on specific activities by NGOs.
134. In respect of another five countries,²²⁴ it was stated that the activities of an NGO can be temporarily suspended if these involve prohibited activities or objectives.
135. Furthermore, there was reported to be the possibility in one country²²⁵ of the members of an NGO obtaining a court order to suspend temporarily its activity where they claim that their rights have been violated by it.
136. For two other countries,²²⁶ it was stated that there was a possibility of suspending the activity of an NGO pending proceedings for its dissolution.

218. Albania (where there is no serious threat, the court can inform the NGO about an activity that is in violation of the law and give it 30 days for this to be corrected).

219. Denmark (but only if they work or seek to achieve their goal through violence, incitement to violence or similar criminal influence of people who think differently; this requires confirmation by a court order) and Poland.

220. Poland.

221. Turkey (where suspending the persons concerned from their duties is not sufficient, the Law on the Prevention of Financing of Proliferation of Weapons of Mass Destruction – which entered into force on December 31, 2020 – authorises the Minister of Interior to immediately apply to the civil courts of first instance to request a temporary suspension of activities of the association and an approval of this decision and the dissolution of the association when the aforementioned “temporary measure” are deemed ineffective but only where the NGO is being prosecuted).

222. The Russian Federation (under the law on “measures to exert influence on persons involved in violations of fundamental human rights and freedoms and of the rights and freedoms of citizens of the Russian Federation”).

223. Croatia (performance of certain activities or transactions, ban on obtaining of licenses, authorisations, concessions or subventions, ban on transaction with beneficiaries of the national or local budgets, and confiscation. According to Article 16, a ban on performance of certain activities or transactions may be imposed on one or more activities or transactions, the performance of which was a criminal offence. A ban on performance of certain activities or transactions may be imposed on the legal person on the basis of court judgement for the period of one to three years as of the moment the judgement becomes final, if further performance of certain activities or transactions would represent a danger to life, health or security of persons, or hazardous to property, or economy, or if the legal person has already been punished for the same or similar criminal offence); Greece (activities in the migration field if the NGO is not registered in the NGO registry); Iceland (where the objectives are contrary to the law. In addition, the activities of an NGO with public benefit status can be suspended where these are contrary to the law or its objectives); Latvia (those that are a threat to the State or public security upon a court ruling); Portugal (those subject to civil or criminal proceedings); and the United Kingdom (only in respect of those activities contrary to the general law).

224. Finland (only where proceedings have been taken to have the NGO terminated); Georgia (if NGOs perform essential commercial activities and divide incomes between members/management, etc. as dividends – which they are not permitted to do – a court can suspend its operation until it ceases those activities); Kosovo* (for activities violating the constitutional order, human rights and freedoms or that promote racial, national, ethnic or religious hatred); Malta (those that: (a) are not pursuing statutory purposes, (b) involve making collections outside their objects, (c) unlawful, (d) involve failing to comply with governance standards, (e) involve misapplication of funds, (f) involve operating after formally dissolved, (g) involve improper enrolment for public benefit status or (i) do not have a public purpose, as well where the association has not been functioning for over 24 consecutive months. This applies to enrolled associations only and a suspension can become permanent as regards those under heads (a)-(e) if a cancellation order is made but this does not affect the ability to continue to operate without the benefits of enrolment. In addition it is possible to suspend the activities of an association that is not enrolled where it is making public collections without authorisation, the activities are unlawful, it is not complying with governance requirements or is misapplying funds. The designated activities can be made subject to a permanent suspension order); and Serbia (as to those objectives, see fn. 39); and North Macedonia (action directed to the violent destruction of the constitutional order, encouraging and promoting military aggression, terrorism-related, contrary to the constitution and the law, violating the rights and freedoms of others and causing national, racial or religious hatred or intolerance).

225. Azerbaijan (the suspension can last for up to a year but can also be lifted if the violation is remedied).

226. Latvia (upon an application of the State Revenue Service or a prosecutor) and the Republic of Moldova (at the request of the Ministry of Justice).

137. There was also reported to be the possibility in one country²²⁷ of temporarily closing down an NGO if (a) it creates an obstacle for the elimination of an emergency situation or (b) it fails to eliminate deficiencies stemming from violations of legislation or its charter after being subject to administrative liability for not having rectified those identified in a notification by the Ministry of Justice.
138. In respect of another country,²²⁸ there was said to be a power for a court to suspend the activities of an NGO for one to six months if it failed to rectify any irregularities notified in a written warning from the registration authority.
139. For yet another country,²²⁹ it was stated that a court has a similar power of suspension where the NGO has committed a gross violation of the law or there has been a significant violation or falsification while establishing it. In this case, a reasonable time will be set for eliminating the violation and the court must be satisfied that it has been eliminated.

Dissolution

140. Apart from decisions by members, the expiry of a term specified in the statute or in the event of bankruptcy, there was reported to be the possibility of permanently closing down an NGO on account of:
- violations of the law of an irremediable nature by the founders during registration in one country²³⁰ or it not being lawfully established in three other countries²³¹ or its registration being invalid in another one²³²;
 - non-payment of a registration fee in one country;²³³
 - no longer meeting the criteria set by the law for registration in another country;²³⁴
 - non-compliance with taxation requirements in one country²³⁵ and substantial tax arrears in another²³⁶;
 - various forms of inactivity in the case of eleven countries;²³⁷
 - use of its assets or income for purposes other than for which it was constituted in two countries;²³⁸
 - its membership falling to a particular level in eight countries;²³⁹
 - engaging in gainful activity in one country²⁴⁰ or profit-making ones in another one²⁴¹ or economic activity becoming its main activity in a third one²⁴² or otherwise misusing the general purpose for which an association can be established in a fourth country²⁴³;

227. Azerbaijan.

228. Belarus. The irregularities can be very minor.

229. Armenia (a gross violation of the law is a failure to eliminate violations within the prescribed deadline and a significant violation or falsification relating to establishment is one which, if known at the time of establishment or registration, the NGO would not have been established or registered).

230. Belarus.

231. Albania; Bulgaria and Estonia (a material violation of the law or the establishing resolution is void and the corresponding violation cannot be eliminated).

232. The Russian Federation.

233. The Netherlands.

234. The Czech Republic.

235. Greece.

236. Hungary (in the case of public benefit organisations).

237. Croatia (the fact that twice the time necessary for a regular meeting of the assembly to be held has elapsed without the meeting having been held, and upon the request of a member when the number of the association's members has fallen below the number of founders required for the establishment of an association, and the competent body of the association has not made a decision on the acceptance of new members within one year of the occurrence of that fact); the Czech Republic (not having a legal representative for more than two years); Estonia (the authority of the management body having been terminated more than two years ago and no new one having been elected); Italy (by members); Lithuania (failure to provide annual reports for 2 years although in practice it is 5 years); Monaco (one who lacks the organs necessary for its functioning for more than six months or who, for more than five years, has not engaged in any activity); the Netherlands (no directors are registered for at least a year or they have died or are unreachable); North Macedonia (twice as much stipulated time for the meeting of the highest body has passed); San Marino (those contrary to public order or the law); and the United Kingdom (if believed to be no longer "trading" in the case of a company limited by guarantee)

238. Belgium and Luxembourg.

239. Belarus (below the legal requirements); Belgium (below the legal requirement); Estonia (below the number required for establishment); Hungary (below 10 for 6 consecutive months); Latvia (a single member or another number specified in the statute); Lithuania (below the number required for establishment); the Republic of Moldova (a single member and no addition within 3 months); and North Macedonia (below the number required for establishment).

240. The Slovak Republic.

241. Georgia (repetitive essential commercial activities during which profits are divided between members).

242. Estonia.

243. France.

- its objectives or activities in thirty-two countries;²⁴⁴
- non-compliance by an NGO designated as “foreign agent” with a prohibition on it implementing certain activities in one country;²⁴⁵
- provocation of discrimination, harassment or violence against a person or group of persons on the basis of their origin or their affiliation or their non-affiliation with an ethnic group, a nation, a race or a definite religion or propagate ideas or theories that tend to justify or encourage discrimination, hatred or violence in one country;²⁴⁶
- entry in the terrorist listing or activity in support of terrorism in three countries;²⁴⁷
- failing to rectify deficiencies stemming from violations of legislation or its charter after being warned about them in three countries²⁴⁸ or having been suspended in another country²⁴⁹;
- not bringing its statutes into line with the legislation governing them in one country;²⁵⁰
- various penalties having been imposed by the tax and customs authorities in one country;²⁵¹
- activities contrary to its objectives in eight countries;²⁵²
- becoming incapable of fulfilling its objectives in two countries²⁵³ or of fulfilling its obligations in another one²⁵⁴;

244. In the case of Belgium, the Czech Republic, Estonia, France, Georgia, Hungary, Kosovo*, Latvia, Lithuania, the Netherlands, the Russian Federation, Serbia and Ukraine, see the prohibited activities and objectives listed for them in fn. 39. In addition to them, there are additional activities that can be the basis for dissolution in France (attacking territorial integrity or the republican form of government) and the Russian Federation (those contrary to law or in violation of the constitution). For countries other than the foregoing, the relevant objectives and activities are: Albania (activity that is illegal or conflicts with the Constitution); Armenia (carrying out an act of forcibly overthrowing the constitutional order or inciting hatred or propagating violence or war); Azerbaijan (its purpose or method of activity aims to overthrow, violently change or violate the country's territorial integrity, propagate war, violence and cruelty, incite social, national and religious hatred and other criminal acts); Belarus (those violating the law but see also the prohibited objectives and activities in fn. 39); Bosnia and Herzegovina (continuing activities that are prohibited (see fn. 39) for which it has been fined); Bulgaria (contrary to the constitutional prohibitions (see fn. 39), the laws and good morals); Croatia (the penalty of termination may be imposed on a legal person if it has been established for the purpose of committing criminal activities or if it has used its activities primarily to commit criminal offences); Finland (see those listed in fn. 39) (but there is provision for a caution instead if termination is not required by the public interest); Germany (see those listed in fn. 39 but also disseminating hate speech); Iceland (where the objectives are contrary to the law but dissolution on this basis is not known to have occurred); Luxembourg (serious breach of law or public order); the Republic of Moldova (if contrary to the interests of national security, public safety, law enforcement or prevention of crime, protection of health, morals and the rights and freedoms of others and is necessary in a democratic society); Monaco (see those listed in fn. 39), as well as an object or activities that are likely to cause serious difficulties with a foreign government); Montenegro (contrary to the laws and the constitution); North Macedonia (activities directed towards violent destruction of the constitutional order of the country; encouraging and promoting of military aggression and causing of national, racial or religious hatred or intolerance, terrorism-related activities and activities that are contrary to the constitution or the law and that violate the freedoms and rights of others); the Slovak Republic (those reserved for political parties and movements or the practice of religion or belief in churches and religious societies and those aimed at denying or restricting the personal, political or other rights of citizens on the grounds of nationality, sex, race, origin, political or other opinion, religion or social status, inciting hatred and intolerance for those reasons, promoting violence or otherwise violating the constitution and the law); Slovenia (see fn. 39 but not foreseen for foundations or institutes); Turkey (elements threatening national security, public safety, public order and peace, public health and public morality or an element of crime and in addition those referred to in fn. 221); and the United Kingdom (an organisation can be proscribed by the Government if it believes that it is concerned in terrorism, i.e., the organisation commits or participates in acts of terrorism, prepares for terrorism, promotes, encourages terrorism (including the unlawful glorification of terrorism) or is otherwise concerned in terrorism. Being a member or supporting a proscribed organisation etc. is a criminal offence).

245. The Russian Federation (the prohibition is a matter for the Ministry of Justice to determine).

246. France.

247. Bulgaria; France; and the Netherlands.

248. Azerbaijan (upon an application to a court by the Ministry of Justice after being twice warned in one year); Belarus (within a year of a written warning); and the Republic of Moldova (failure to submit the annual activity report after the repeated request of the Ministry of Justice is the reason for initiating the forced liquidation procedure if the activity report was not submitted within 6 months from the second request).

249. Armenia.

250. Cyprus.

251. Hungary (where a public benefit organisation was sanctioned by store closure, or received a financial penalty imposed instead of such store closure and where its tax number was suspended or withdrawn).

252. Belarus (this must be systematic); Belgium (if a serious contravention); Estonia; Finland (where this is substantial but there is provision for a caution instead if termination is not required by the public interest); Luxembourg (if a serious contravention); Monaco; Poland; and the Russian Federation.

253. Hungary and Luxembourg.

254. France (as a result of disagreement between members).

- not submitting the mandatory annual information for three consecutive years in one country,²⁵⁵ not filing annual accounts in another country²⁵⁶ and not filing annual reports in a third one²⁵⁷;
 - violation of the principle of voluntary participation and activity in one country;²⁵⁸
 - violations of the criminal law in six countries;²⁵⁹
 - provocation of armed demonstrations in the street or taking on the form of a militia in one country;²⁶⁰
 - a violation of the law on mass events in one country;²⁶¹
 - pursuing illegal activities that violate public order in one country;²⁶²
 - a violation of a licencing requirement for specific activities in one country;²⁶³ and
 - violation of the requirements established by law for the use of foreign non-reimbursable assistance in one country²⁶⁴.
141. In respect of one country, it was stated that an NGO can be prohibited temporarily from pursuing its objectives or permanently closed down where this is consistent with the requirements in Article 11(2) of the European Convention on Human Rights.²⁶⁵
142. For another country, it was said that there is provision in the constitution authorising dissolution in certain circumstances but that this requires a law to be adopted, which had not so far happened.²⁶⁶
143. In respect of yet another country, it was reported that the ceasing of particular activities or complete closure of an NGO may be effected by a threat of prosecution.²⁶⁷

J. Foreign NGOs²⁶⁸

144. There were reported to be no special rules for foreign NGOs in thirty countries.²⁶⁹
145. Moreover, in respect of one country,²⁷⁰ it was stated that no consent is required for the operation of a foreign NGO there and that registration of a branch is discretionary rather than an obligation. This was also said to be the situation as regards one-off activities by a foreign NGO in another country²⁷¹ but otherwise the general requirements relating to the establishment of an NGO would need to be met if it wished to establish a subsidiary there.
146. In addition, it was reported that foreign NGOs cannot operate in one country²⁷² without first establishing their branches or sections as legal entities there. Furthermore, it was said that foreign NGOs, or certain

255. Belarus (the information concerns the continuation of the association's activities, its legal address, measures taken and number of members and information on its elected bodies).

256. Belgium (but it is possible to file them before the end of the proceedings concerned).

257. Estonia (technically not dissolution but this will lead to a removal from the registry).

258. The Slovak Republic.

259. The Czech Republic; France; Liechtenstein; Georgia (any criminal activity that might be performed by the organization and is directly mentioned in Criminal Code); Spain (if also prohibited by the court); and Poland.

260. France.

261. Belarus.

262. The Czech Republic.

263. Finland (training in the use of firearms whose sole purpose is not hunting where the requisite permission has not been obtained but there is provision for a caution instead if termination is not required by the public interest).

264. Belarus.

265. Austria.

266. Denmark (for NGOs that work or seek to achieve their goal through violence, incitement to violence or similar criminal influence of people who think differently; this requires confirmation by a court order. Use is made instead of the associations and criminal law to deal with such NGOs).

267. Ireland (only for those caught by the prohibition on "political work"; see fn. 303).

268. Are there any special rules applicable to the operation of NGOs that have been established in another State?

269. Albania; Armenia (except that separate subdivisions of an international or foreign organisation operating in the country do not have the status of a legal entity); Austria; Bulgaria; the Czech Republic; Denmark; Estonia; Finland; Germany (certainly if established in another EU Member State but generally those from elsewhere have no problem); Hungary; Iceland (cross-border organisations cannot acquire public benefit status); Ireland (so long as their legal establishment is compliant with relevant company law); Italy; Latvia; Liechtenstein; Lithuania; Luxembourg; Malta (they must also have 3 administrators and, if none are resident, a local representative must be appointed); the Republic of Moldova; Montenegro; the Netherlands; North Macedonia (unless otherwise stipulated by a ratified international agreement); Norway; Portugal; Romania; Serbia; Slovenia; Switzerland; Ukraine; and the United Kingdom (they will usually require a United Kingdom legal structure for reasons such as employing staff, renting premises, gaining tax advantages or seeking funding from charities there).

270. Georgia (if a foreign NGO is not willing to undergo administrative procedures, it is not prohibited to find a way and gather a group aligned in a form of unregistered union (association)/initiative group and authorise them with power of representation or engage in a collaboration with existing NGO's and grant them representative powers and conclude a memorandum/contract).

271. France.

272. San Marino.

forms of them, cannot operate in eight other countries²⁷³ without first being registered or receiving official consent.

147. In one of the nine countries just referred to,²⁷⁴ there was reported to be an additional requirement that the heads of branches or representations of foreign NGOs must be permanently resident there and that the deputy of a branch or representation be a citizen.
148. In another of those nine countries,²⁷⁵ it was stated that NGOs are required to submit in advance programmes and other documents relating to proposed events, the holding of which must be approved by the Ministry of Justice and with any non-compliance in this regard providing a basis for their liquidation. In addition, it was said that the NGOs in this country are required to report twice a year on their “political activities” and their spending of foreign funds.²⁷⁶ Also, it was reported that in this country the structural (sub)divisions of foreign NGOs cannot, unlike other NGOs, have their registered address in residential premises and that it is not possible for any organisation designated as “undesirable” to undertake any work in it.²⁷⁷
149. In respect of two other countries,²⁷⁸ no information was available.

K. Restrictions on foreign cooperation²⁷⁹

150. There were reported to be no formal restrictions in forty-five countries²⁸⁰ on NGOs cooperating with NGOs established in another state.
151. In respect of one country,²⁸¹ it was stated that cooperation by NGOs with ones established in another State that have been labelled as “undesirable” can lead to administrative and criminal sanctions for both the physical or legal persons residing in it and citizens residing elsewhere. In addition, it was said that an

273. Andorra (under the same procedure for national NGOs); Azerbaijan (which requires the conclusion of an agreement with the Ministry of Justice but there is no deadline for the latter to consider the application of a foreign NGO to sign an agreement with it, which can take months. After concluding the agreement, registration will still also required); Belarus (with the Minsk or Regional Executive Committee with the consent of the relevant government authorities and only for purposes connected with social support and protection of citizens, accident and catastrophe prevention, environmental and animal protection peace, family, health, education, culture and other socially useful activities); Croatia (there are special regulations on the condition related to particular activities); Cyprus (open to those established in states that have ratified the European Convention on Recognition of the Legal Personality of International Non-Governmental Organisations and provided registration does not conflict with national and public security, the prevention of crime and the protection of the freedoms and rights of third parties and provided this is not likely to endanger transnational relations or the maintaining of international peace and security); Kosovo* (there is a need to prove that it is a legal person in the country of origin); Poland (foreign foundations can establish their representative office there upon the consent of the minister competent for their particular activities but foreigners may establish foundations on the same conditions as citizens); the Russian Federation (Ministry of Justice); and Turkey (with the Ministry of Interior).

274. Azerbaijan.

275. The Russian Federation.

276. As to the meaning of “political activities” in this context, see fn. 58.

277. According to the Article 3.1. of the law “on Sanctions for Individuals Violating Fundamental Human Rights and Freedoms of the Citizens of the Russian Federation”, the foreign organisation can be declared “undesirable”, if the activities, conducted by such organisation are threatening the foundations of the constitutional order of the Russian Federation; the defence capability of the country or the security of the state. The article then specifies, that these activities include basically everything, what has something to do with elections or referendums (the activities, which promote or hinder the nomination of candidates; the election of registered candidates; the promotion of an initiative for a referendum and a referendum and so on). Amendments in 2021 expanded this article, which now states, that the organisation can be declared “undesirable” if it provides intermediary services (especially of the financial nature, but not only) to the organisations, which have been already declared “undesirable” with a goal to carry out activities that threaten the foundations of the constitutional order, the defence capability or security of the state.

278. Bosnia and Herzegovina and Monaco.

279. Are there any restrictions on NGOs working, or otherwise cooperating, with NGOs that have been established in another State?

280. Albania; Andorra; Armenia, (NGOs, in accordance with their charter, may also be a member of international or foreign non-commercial organisations); Austria (so long as this is consistent with Article 11(2) of the European Convention on Human Rights); Azerbaijan; Belarus (but there are prosecutions where funds from foreign foundations are used to pay fines of demonstrators against the government); Belgium; Bosnia and Herzegovina; Bulgaria; Croatia; Cyprus (but there are proposals to impose some under a proposed law on public benefit organisations); the Czech Republic; Denmark (but there can be difficulties in making bank transfers to countries in crisis); Estonia; Finland; France; Georgia; Germany (transnational giving may be affected by tax rules); Hungary; Iceland; Ireland; Italy; Kosovo*; Latvia; Liechtenstein; Lithuania; Luxembourg; Malta (but there are controls on remitting funds overseas); the Republic of Moldova; Montenegro; the Netherlands; North Macedonia; Norway; Poland; Portugal; Romania; San Marino; Serbia; Slovenia; Spain; Sweden; Switzerland; Turkey (but creation of a joint legal entity would require approval and there is a requirement to notify local authorities before distributing charitable funding to other countries); Ukraine (public associations can cooperate with foreign NGOs following laws of Ukraine and international treaties ratified by Ukraine); and the United Kingdom.

281. The Russian Federation (as to the labelling an NGO as “undesirable” see fn. 277. Such labelling has been applied, e.g., to the European Endowment for Democracy (Belgium), the Association of Schools of Political Studies of the Council of Europe (France) and the German-Russian Exchange/DRA (Germany).

NGO in that country which engages in “political activities” and receives funds or other resources from an entity (or individual) based abroad can be designated as a “foreign agent”.²⁸²

152. For one country,²⁸³ no information was said to be available and for another two countries no information was provided²⁸⁴.

L. Fundraising²⁸⁵

153. In thirty-three countries,²⁸⁶ there were reported to be no restrictions as to the sources from which funding can be sought or requirements regarding the disclosure or reporting of funds received.
154. However, although there was also stated to be no restriction on the sources from which funding can be sought in seven other countries, there was said to be requirements in them regarding disclosure of sources from which funding has actually been obtained either for all NGOs²⁸⁷ or for just those working in a particular field,²⁸⁸ or where these are of a certain kind²⁸⁹ or where a certain amount has been received²⁹⁰. In one of these countries,²⁹¹ it was said that amounts received above a certain level must also be reported to the tax authorities.
155. In one of the last group of countries, the NGOs receiving funding exceeding a certain threshold from outside the country had been required to separately register this and to declare and publish that they are foreign funded. Although the legislation concerned has been repealed, the list of the NGOs so described is still accessible.²⁹² Legislation subsequently adopted requires all NGOs to list the individual names of their final donors (i.e., the names of natural person donors and the names of such persons with a certain level of influence over legal person donors or the executive officers of them).
156. For one country,²⁹³ it was stated that there is regulation applicable to public collections on behalf of NGOs.
157. In respect of another country,²⁹⁴ it was reported that the only prohibition is on fundraising from sources implicated in terrorist activities, while for yet in another country,²⁹⁵ it was stated that there is a requirement

282. As to the meaning of “political activities” and “foreign agent”, see paras. 48, 151 and 161.

283. Monaco.

284. Greece and the Slovak Republic.

285. Are there restrictions applicable to the fundraising that can be undertaken by NGOs, in particular as regards the sources that can be approached and obligations to report or otherwise disclose particular amounts and the identity of their sources?

286. Albania; Andorra; Armenia (although the annual report must give details of an NGO’s property); Austria; Belgium (but co-financing of activities supported by the State must come from OECD member states); Bosnia and Herzegovina; Croatia; Cyprus (although generally applicable regulations on organising charity events to raise money must be observed); the Czech Republic; Denmark; Estonia (but there is a review as to whether there is sufficient regulation in lobbying); Georgia; Greece; Iceland (although there are accounting requirements for NGOs with public benefit status); Italy; Latvia; Liechtenstein; the Republic of Moldova; Monaco; Montenegro; the Netherlands; North Macedonia; Norway (NGOs are subject to criminal provisions on money laundering and other financial crimes and there is a self-regulating system created by NGOs – “The Fundraising Control” – whose organisations disclose financial information, their structure and other key information); Portugal; Romania; San Marino; Serbia; Slovenia; Spain; Sweden (but there is some self-regulation through the Swedish Fundraising Association (Giva Sverige) – a membership body for fundraising organisations in Sweden. Member organisations are required to comply with a ‘Quality Code’ and guidelines for ethical fundraising. In addition, the Swedish Fundraising Control – another non-profit association – monitors fundraising among the public. Members receive a special bank account that works as a quality stamp for legitimate fundraising organisations. Members are required to report and disclose annual accounts and to conduct ethical marketing and provide trustworthy information); Switzerland; Ukraine (but there are draft laws under consideration regarding disclosure and other requirements with respect to foreign funding); and the United Kingdom (fundraising in England, Wales and Northern Ireland is regulated by the Fundraising Regulator, a voluntary regulator, which applies and promotes the Code of Fundraising Practice. The Code outlines a set of standards and methods for ethical fundraising. There are legal requirements for disclosure to the Charity Commission, particularly if the donation is unsolicited. This is primarily to protect against money laundering. Charities do not have to name their donors publicly).

287. Hungary (these must be published); Kosovo* (they must be disclosed to an NGO’s bank); and Lithuania (these must be included in the annual report and to the State Tax Administration in the case of charitable and support foundations).

288. Luxembourg (the funds for development cooperation must be collected in it).

289. The Slovak Republic (foundations that receive donations of more than 338 EUR from the same donor).

290. Germany (cash deposits in a bank account that exceed 10,000 EUR but this is a general requirement) and Poland (NGOs must publish in their annual report and website sources of income: donations, gifts, grants etc from legal entities if they exceed 15 000 PLN (ca 4000 EUR) yearly).

291. Poland (where NGOs receive donations, gifts, grants etc from legal entities exceeding 15 000 PLN (ca 4000 EUR) yearly, they must inform the tax office about them by providing the names of the legal entity, city, country and the amounts concerned).

292. Hungary (9 million HUF (25,700 EUR) and in addition all donors providing more than 500,000 HUF (1,400 EUR) must be individually listed in the reports with their personal data). Erasure of this data was required by the repealing measure but it is still on the Civil Information Portal.

293. Malta (this requires the NGOs concerned to be enrolled).

294. Bulgaria (as indicated by the Council of Ministers, international organisations, or the competent authorities of another State).

295. Turkey (e.g., activities in public space, campaigns and collection of donations by SMS).

to obtain permission for any income-generating activity conducted in a place other than the headquarters of the NGO concerned.

158. For one country,²⁹⁶ there was said to be a requirement to draw up a table of funding received every year, distinguishing whether this came from banking or financial intermediaries, public administrations or members, donations or other sources.
159. As regards another country,²⁹⁷ there was reported to be a requirement to register all donations above a certain level, as well as all grants from and service contracts with a foreign source and a bar on donations to certain NGOs. Moreover, for yet another country,²⁹⁸ it was stated that a special permit must be first obtained in order to receive a donation from abroad and this can only be for a limited range of objectives.
160. For one country,²⁹⁹ there was reported to be requirements to keep special accounts for public funding above a certain level,³⁰⁰ to make a particular commitment in order to receive any public funding³⁰¹ and to keep a separate statement of certain funding received from outside the country³⁰².
161. In respect of one country,³⁰³ it was said that donations cannot be received from most international sources and there are also restrictions on the nature or amount of donations from domestic sources.
162. For yet another country,³⁰⁴ it was reported that funding cannot be received from any entity labelled “undesirable” and that the receipt of any foreign funding,³⁰⁵ as well as that any methodological and organisational support received from natural persons based abroad, by an NGO which engages in “political activities” can lead to it being designated as a “foreign agent”.³⁰⁶

296. San Marino (to be sent to the Bureau Activités de Controle).

297. Azerbaijan (all donations exceeding 200 AZN must be registered. Moreover, in order to issue a grant to an NGO, foreign entities must sign an agreement with the Ministry of Justice and register a branch or representation in the country. Foreign citizens cannot make donations to a local NGO).

298. Belarus (particularly, agricultural machinery, sport, history and culture, health care education, social protection, registered religious organisations, emergencies, environmental protection, waste management, international and national events by public bodies and public research). In addition, a fee of 0.5% of the amount received is charged for registration.

299. France.

300. Associations that have received public donations or subsidies of more than 153,000 EUR are required to draw up special accounts. These accounting documents must be published in the Official Journal. In addition, they must appoint an auditor.

301. The “Republican Commitment Contract” requires associations receiving public subsidies to respect the principles of “freedom, equality, fraternity and human dignity, as well as the symbols of the Republic”, not to “call into question the secular character of the Republic” and to “refrain from any action that undermines public order”. This is a condition for obtaining grants. In the event of non-compliance with its commitments, the association may be required to return the subsidies (those received after the date of non-compliance)

Specific provisions concern sports associations and federations. The contract of republican commitment to be signed in order to obtain a licence will have to include “a commitment to ensure the protection of the physical and moral integrity of people, in particular minors, against sexist and sexual violence”.

302. Associations partially financed by natural persons residing abroad or by foreign public or private legal persons must keep a separate statement of these benefits and resources (Art. 21). The statement must specifically include “contributions of equity capital, loans, grants, manual donations, sponsorship of skills, loans of labour, deposits, gifts and voluntary contributions”.

303. Ireland (The bar on international donations relates to the use of income for “political purposes” but in practice this affects most NGOs (see fn. 48). In addition, there is a bar on anonymous donations of more than €100, cash donations of more than €200, and donations of more than €2,500 from one source. Within these limitations, donations of more than €200 may only be received from ‘corporate donors’ (including trusts) if the corporate donor is registered on the Standards in Public Office commission (SIPO) Register of Corporate Donors and provides a statutory declaration with its donation. Moreover, if NGOs wish to use small domestic donations of more than €100 that are permissible for ‘political purposes’, they must; (1) know the name and address of all donors, (2) register with SIPO and state the nature, purpose and estimated amount of donations and their proposed use for every year, (3) open a separate bank account into which all donations for ‘political purposes’ are lodged and out of which only work for ‘political purposes’ can be funded, and (4) notify SIPO of all donations exceeding the statutory limits and send the prohibited excess to SIPOC within 14 days, following which SIPOC will share such details with both Houses of Parliament).

304. The Russian Federation.

305. “Foreign funding” is defined to cover not only funding received directly from foreign sources but also any that which is received from the Russian nationals and Russian organisations, who themselves receive it from abroad.

306. As to the two concepts, see fns. 48, 151 and 161.

M. Public benefit status³⁰⁷

163. There was reported to be provision for according some form of charitable or public benefit status (with various financial benefits accruing) either to NGOs themselves in thirty countries³⁰⁸ or to their activities and programmes in two other countries³⁰⁹.

307. Can particular NGOs be recognised as having some form of “public benefit” status and, if so, what conditions must be observed and what advantages are there in having this status?

308. Andorra (those so declared by the Government as fulfilling objectives in the general interest); Austria; Belgium; Bosnia and Herzegovina (those entrusted by law with performing public competencies, leading to tax and customs exemptions); Bulgaria; Estonia (working for public interest and having a charitable nature); France (those having an object of a philanthropic, educational, scientific, social, family or cultural character); Georgia (those accorded the status of charity organisation, which is for work in fields such as: protecting human rights and the environment; development of democracy and civil society; education and science; culture and art; physical education; and amateur sports); Germany (i.e., those recognised as charities); Hungary; (where services are available to persons other than an NGO's members, employees and volunteers and contributes to meeting the common needs of society and individuals); Iceland (as of November 2021 NGOs rendering services to specific groups such as invalids and poor people enjoy VAT deductions from fundraising activities, income tax deductions on gifts and exceptions from income and property taxes); Ireland (i.e. those recognised as charities, namely, those whose purpose is any of the following: prevention or relief of poverty or economic hardship, advancement of education, advancement of religion and any other purpose that is of benefit to the community. Charities benefit from reduced tax liabilities and tax relief on donations); Kosovo* (activities involving humanitarian aid, support for persons with special needs, social welfare, protection or care for vulnerable animals, environmental protection and any other activity serving the public interest); Latvia (public benefit activity is defined as that which provides a significant benefit to society or a part thereof, especially if it is directed towards charitable activities, protection of civil rights and human rights, development of civil society, education, science, culture and promotion of health and disease prophylaxis, support for sports, environmental protection, provision of assistance in cases of catastrophes and extraordinary situations, and raising the social welfare of society, especially for low-income and socially disadvantaged person groups. Associations granted public benefit status benefit from tax rebates); Luxembourg; Malta (promoting or serving the general public interest or the interest of a sector of the general public, whether directly or indirectly, a matter of discretion exercised by the Commissioner of Voluntary Organisations and tends to exclude advocacy groups); the Republic of Moldova (for a period of 5 years, a decision of the Certification Commission attributes this status to non-commercial organisations that carry out activities which contribute to the development and support of a) education and training; b) science, culture and art; c) sports, physical education and social tourism; d) the non-commercial sector and non-commercial organisations; e) democracy and human rights; f) health care; g) social protection of persons with disabilities, as well as other disadvantaged persons and groups; h) creation of new jobs; i) eradication of poverty; j) promoting peace, preventing and over-coming civil, social, ethnic and religious conflicts; k) crime prevention and contributing to counteracting it; l) environmental protection; m) protection of cultural heritage and historical monuments; n) civic spirit and activism, including participation in the decision-making process and ensuring the transparency of the public sector; o) the local community has been active for at least one year until the application is submitted; provides purposes for public utility activities; has a board consisting of at least 3 persons, who are not employees of the non-profit organisation and who supervise its activity; has a control body according to art. 20; the members of the management and control bodies of the non-commercial organisation respect the rules regarding the conflict of interests; has no debts to the national public budget for the previous fiscal periods; does not have as a founder or member political parties or socio-political organisations; does not support the activity of a political party or an electoral competitor; publishes the annual activity report; The advantages of the status are: fiscal facilities under the law; the right to use public property free of charge or on preferential terms; non-reimbursable financing; contracting works and services; special purpose financing, including social order); Monaco (those NGOs whose object pursues a goal of general interest or whose activity contributes to a public service mission or contributes to the reputation of the Principality); the Netherlands; North Macedonia; Norway (tax authorities have established a list of non-profit organisations (including foreign ones) which qualify for supporters to receive a tax reduction for their gifts to them); Poland (the conditions applicable are: members of the governing bodies cannot be persons sentenced for criminal offence; all income must be used for public benefit activities; the economic activity (if conducted) shall not be the dominant activity; the NGO must have been in operation for at least two years and have the status of a supervisory authority; its charter must prohibit the granting of loans or collateral, and the transfer of property to members or members of governing bodies; and there are more complex accounting requirements. About 10,000 out of over 120,000 registered foundations and associations have this status); Portugal; the Russian Federation (it is possible that a non-commercial organisation can be designated either as (a) a “socially oriented organisation” if it undertakes activities directed at addressing social problems and the development of civil society or (b) a “socially oriented organisation” if it renders socially useful services); Slovenia (if its operations exceed the interests of its founders or members and it is of overall benefit); Spain; Sweden (the conditions are that (1) the purpose of the organisation benefits the public, (2) at least 90% of the operations should contribute to meet this public benefit, (3) at least 80% of the income should be used to meet this public benefit, and (4) the organisation should be open to anyone who wishes to become a member); Turkey (the NGOs must have been operating for at least a year. In the case of associations it is also required that (a) their buying and selling transactions have exceeded 200,000 TL (ca. 18,136 Euro) within the past year, in accordance with the conditions of competition, with at least half of the annual income for this purpose, (b) they have assets and annual income at a level to realize the purpose stated in their charter; and (c) the purposes and activities to be carried out should be of quality that will contribute to social development and solve issues and needs at local and national levels, beyond the needs of their members. In the case of foundations, it is required that (a) they have 1.873.000TL (ca. 169,819 Euro) worth of income-generating assets and at least 169.000TL (ca. 15,322 Euro) of annual income and (b) they have at least one or more of the following activities; health, social assistance, education, scientific research and development, culture and environmental protection and afforestation, as their scope of activity. A higher level of assets is required for foundations operating for the previous 6 months. Foundations aiming to serve a specific region or a certain group of people are not granted tax exemption); Ukraine (CSOs with non-profit status are exempted from 18% income tax); and the United Kingdom (those NGOs that have been accorded charitable status).

309. Albania (VAT exemption for 3-year renewable periods for supply activity by NGOs whose activity is of a social, educational, cultural or sport nature or which perform economic activity relating to health and education services, with such an exemption also applied to imported goods for these activities. The total income from economic activity should not be higher than 20% of the total annual income.) and Croatia (with funding for these from public and EU sources, as well as tax reliefs for those implementing such programmes and activities as well as those who financially support them. The activities concerned are those that: contribute to the protection and promotion of human rights, protection and promotion of the rights of national minorities, protection and promotion of the rights of persons and children with disabilities, elderly and disabled, equality, peacemaking and fight against violence and discrimination, promotion of the values of the Homeland War, protection, care and education of children and youth and their active participation in society, prevention and fight against all forms of addiction, development of a democratic political culture, protection and promotion of the rights of minority groups in society, promotion and development of volunteering, social services and humanitarian work, encouraging and development of social entrepreneurship, protection of consumers' rights, environmental and nature protection and protection and preservation of cultural goods, sustainable development, development of the local community, international development cooperation, health protection, development and promotion of science, education, life-long learning, culture and art, technical and information culture, sports, volunteer firefighting, search and rescue and other activities that, by their nature or special regulations related to the financing of public needs in certain areas, may be considered as activities for the public benefit).

164. In the case of one country,³¹⁰ it was stated that NGOs can acquire such a status only by becoming a specific form of institution.
165. In respect of nine countries,³¹¹ it was reported that there is no provision for charitable or public benefit status.
166. However, for one other country,³¹² it was reported that associations all benefit from limited obligations regarding tax and certain preferential rates to use State facilities.
167. In respect of two other countries,³¹³ it was stated that there is some legal recognition for the concept of public benefit status but that no implementing mechanism had as yet been adopted.
168. In addition, it was reported that the introduction of such a status is under consideration in two countries which do not currently have it.³¹⁴ However, in one of these there are already some arrangements for providing certain NGOs with tax exemptions.³¹⁵

N. Publication and reporting requirements³¹⁶

Publication

169. In respect of seven countries,³¹⁷ it was reported that a requirement to publish accounts and a report on activities applies to all NGOs with legal personality.
170. Moreover, such a requirement was said to apply: in three countries³¹⁸ only to those NGOs whose assets and/or income is above a certain level; in eight countries³¹⁹ to just those NGOs who receive public funding or have a public benefit status; and in one country³²⁰ only where NGOs engage in any business activities.
171. For two other countries,³²¹ it was stated that such a publication requirement applies only to NGOs of a particular nature, while for another³²² it was said to apply to all organisations except religious unions.
172. In respect of three countries,³²³ it was reported that there is only a requirement for NGOs to publish their accounts.

310. Greece (i.e., public benefit institution, which have a different legal and tax status).

311. Armenia (but certain NGOs – particularly ones related to arts and culture and so-called creative unions – have an influential position in their areas, with significant assets as part of the Soviet heritage); Belarus; Italy; Liechtenstein (but associations such as those concerned with cultural, social and sporting activities receive public funding); Montenegro (but NGOs with legal personality are defined by law as legal entities to realise common interests or ones of public interest); Romania; Serbia; the Slovak Republic (but civic associations, foundations and non-profit organisations providing generally beneficial services and non-investment funds are public benefit in default); and Switzerland.

312. San Marino.

313. Azerbaijan (this has a definition of a charitable organisation in the tax code but no arrangement for obtaining this status) and Lithuania (criteria for application are being developed).

314. Cyprus (there is a draft law that has been pending since 2010) and the Czech Republic (no draft law as yet).

315. Cyprus (there are guidelines and a reference in the Tax Law that allows NGOs to obtain philanthropic status from the Ministry of Finance. Around 400 NGOs are currently registered with the Ministry and thus obtain some tax exemptions).

316. Are some or all NGOs required each year to publish their accounts and a report on their activities and are there any other reporting requirements which must be observed?

317. Armenia; Denmark; Greece; Hungary (as well as a public benefit status report (as to which see fn. 323) is also required even if the NGO does not have that status); the Republic of Moldova (an annual activity report with information on the activities carried out, the value of financial means and other material obtained and used. To be prepared within 6 months of the year covered. The competent public authority can also request that the report be submitted to it); North Macedonia; and the Russian Federation (all are made publicly available on a portal run by the Ministry of Justice).

318. Albania (those with assets and/or income of 30 million ALL or more (ca. 235,000 EUR) must publish annual financial statements and a performance report on their activity on their websites); Austria (income over 1 million EUR); and Norway (those with economic activities of more than 2 million NOK or with assets of more than 20 million NOK or more than 20 staff on average).

319. Bulgaria; Croatia (an association that implements programs and projects of interest for the public benefit financed from public sources notifies the general public and donors who provided the financing at least once a year on its activities, scope, manner of acquisition and use of donors' funds, via its website or in any other appropriate manner. An association shall use those funds referred exclusively for the implementation of approved programs or projects.); Georgia (those with charity organisation status); Italy (the size of the funds and their origin); Luxembourg; the Netherlands; Poland (organisations with public benefit status and all foundations whether or not they have that status); Portugal; and Ukraine (on the expenditure of the public funding received)

320. Sweden.

321. Azerbaijan (foundations are required to publish their annual financial report) and the Slovak Republic (foundations, non-profit organisation and non-investment funds).

322. Belarus.

323. Belgium (although some larger ones must also publish a report on activities); North Macedonia (on the NGO's website); and Romania.

173. For one country,³²⁴ there was said also to be a specific requirement to keep the public informed concerning their activities and the use of donations through their normal channels of communication (i.e., a website or newsletter).
174. For another country,³²⁵ it was stated that there is no requirement to publish accounts or report on activities but that many undertake it on a voluntary basis for reasons of transparency and public relations.
175. For yet another country,³²⁶ it was reported that there is only an obligation for NGOs to provide an annual report, a balance sheet and income statement to their members.
176. In respect of some countries, it was reported that the publication of the accounts and/or reports on activities is undertaken by the public body to which NGOs have an obligation, as discussed in the following paragraphs, to submit them.

Reporting

177. For nine countries,³²⁷ it was stated that there is an obligation for all NGOs to submit a report on their activities (substantial and financial) to a public authority and, for nine other countries,³²⁸ it was said that this obligation exists only for certain NGOs.
178. In respect of one country,³²⁹ it was reported that NGOs must comply with a request by the competent public authority to submit such a report.
179. For another country,³³⁰ it was stated that the accounts and reports on activities are submitted annually to the Ministry of Justice for publication on a portal run by it. In addition, it was said that there is a requirement for NGOs designated as “foreign agents” to submit every six months reports on their activities, the personal composition of their governing bodies and staff.³³¹ Also, it was stated that they must report quarterly on their spending and use of property and on their income from foreign sources.³³²
180. There was reported to be an obligation in twelve countries³³³ for NGOs to submit their annual accounts to a public body. This was said also to apply in another country,³³⁴ but only if the NGOs concerned are also subject to an audit requirement.

324. Hungary.

325. The Czech Republic.

326. Liechtenstein.

327. Albania (annual financial statements, a consolidated report of their activity and the audit report where this is mandatory); Estonia (the registering body which allows access to them for a 2 EUR fee; this applies to all legal entities); Germany (foundations, to their government supervisory agencies. NGOs with specific objectives have additional reporting obligations and charities only need to file reports with their tax office every 3 years); Hungary (to the National Office for the Judiciary, together with a public benefit status report which specifies the organisation’s public benefit activities, the main target groups and achievements of such activities, and the data and indices necessary for determining the public-benefit status); Lithuania (to the Centre of Registers, which makes them publicly available online); the Russian Federation; Slovenia; Spain (to the public registry in which they are registered); and the United Kingdom (to Companies House in the case of companies limited by guarantee and to the Charity Commission in the case of charities).

328. Bosnia and Herzegovina (those entrusted with performing public competencies; usually to the Ministry of Justice); Cyprus (all have to submit some sort of data and report on activity (e.g., that Board meetings and AGMs happened, when this was and the number of members present). Associations, foundations and not for profit companies have to submit a financial report. In addition, not for profit companies and foundations have to submit audited accounts, as do federations and associations where their income is more than 40,000 EUR); Georgia (charity organisations); Ireland (NGOs taking the form of companies must submit them to the Companies Registration Office); Kosovo* (public benefit organisations must submit them to the Department of NGOs); Luxembourg (public benefit organisation must submit them to the Registre du Commerce et des Societes); Monaco (public benefit organisations to the Ministère d’État); Poland (associations must submit the report to tax and supervisory authorities); Portugal (they must be sent to the Presidency Ministry by NGOs having public utility status); and San Marino (those receiving public funding or tax apportionment must submit them to the Direction de la Finance Publique).

329. The Republic of Moldova.

330. The Russian Federation.

331. As to designation as “foreign agent”, see paras. 151 and 161. These activity reports must also be published online or via the mass media.

332. The annual financial statement of such NGOs is also subject to a mandatory external audit.

333. Cyprus (NGOs registered under the general NGO legislation to the relevant Registrar, together with the number of members, the date of the AGM and the names of board members. An auditor’s report is also required if the turnover is above 40,000 EUR or the entity is an institution (a form of foundation) There is no requirement for NGOs registered as charitable foundations to publish their accounts or publish a report on their activities.); Iceland; Ireland (charities); Latvia (to the State Revenue Service); Malta; the Republic of Moldova (to the State Tax Service and National Bureau of Statistics); Montenegro (to the tax administration); North Macedonia (the competent authority); San Marino (to a court); Serbia (they are published on the website of the Serbian Business Registers Agency); Turkey (depending on their nature, to the Information System of Associations (DERBIS) or the Directorate General of Foundations); and Ukraine (to the tax authorities).

334. Switzerland (a full audit is required where it has total assets of CHF 10 million, turnover of CHF 20 million and an average of 50 full-time staff and a limited audit is required if requested by a member with personal liability or an obligation to provide further capital).

181. One country³³⁵ was reported to have a mandatory quarterly reporting requirement for all NGOs receiving foreign aid.
182. In one other country,³³⁶ there was said to have been a requirement for NGOs that were directly or indirectly receiving support from abroad exceeding 9 million HUF (ca. 25,700 EUR) to register, declare and publish that they are “foreign funded”. However, the Court of Justice of the European Union held that this requirement was discriminatory and unjustified with regard to the restrictions on foreign donations to civil society organisations.³³⁷
183. In respect of three countries,³³⁸ there was reported to be an obligation to declare their beneficial owners and, for another country,³³⁹ it was said that there is an obligation to report changes in their management and status, as well as their bankruptcy or dissolution.
184. For one country,³⁴⁰ it was reported that there are multiple obligations to report to public bodies.

O. Consultation obligations³⁴¹

185. There was reported to be a general provision for consultation on draft laws in twenty-three countries.³⁴² However, it was also stated that: this requirement did not seem to be being taken seriously in practice in three of them;³⁴³ the period allowed was not always enough to study and respond to the proposal in the case of two others;³⁴⁴ and both of these qualifications were applicable for yet another country³⁴⁵.
186. In five other countries,³⁴⁶ the consultation requirement was reported to apply only to draft legislation in certain fields.
187. In respect of one other country,³⁴⁷ apart from a general consultation requirement for draft bills or other documents of programmatic or strategic importance, there was said to be a consultation requirement regarding bills or drafts of public policies) concerning NGOs in general, both of which are regularly bypassed, as well as a requirement for local government to consult NGOs prior to adopting annual and multi-annual cooperation programmes with them.
188. For sixteen countries,³⁴⁸ there was said to be no requirement as to consultation on draft legislation but that there was some practice of this occurring – either with the public in general or with just particular

335. Belarus.

336. Hungary.

337. Case C-78/18, *European Commission v. Hungary*, 18 June 2020, ECLI:EU:C:2020:476.

338. Albania; Luxembourg (in the Register of Beneficial Owners); and the Netherlands (foundations; in the UBO Register).

339. Bulgaria (to the Non-Profit Juridical Persons Register).

340. Azerbaijan (including to the Ministry of Justice, the Ministry of Taxes and the Ministry of Finances).

341. What legal requirements are there to consult NGOs prior to the adoption of proposals for legislation, administrative decisions and official policies?

342. Albania; Armenia (there are also public councils under ministries and hearings in the national assembly in which members of NGOs can participate); Austria; Azerbaijan; Belgium; Bulgaria; Croatia; Cyprus; Denmark; Estonia (almost all draft legislation is public); Georgia (only draft laws initiated by the Government); Greece; Germany (those at the federal level); Hungary; Kosovo* (through an online platform); Latvia; Lithuania (only since 2021); Montenegro; the Netherlands; Norway; Serbia; Switzerland; and Ukraine (as regards those affecting constitutional rights, freedoms and duties of citizens, life citizens interests, including environmental issues, legal status of public associations, their reporting and operation).

343. Albania; Cyprus; and Greece.

344. Armenia (the minimum period required to be given for public discussion is 15 days).

345. Hungary.

346. Bulgaria (such as activity of civil organisation, environmental issues and minority and integration issues); Greece (migration issues); Malta (those specified in the legislation on voluntary organisations); the Republic of Moldova (those that may have a social, economic, environmental impact on the way of life and human rights, on culture, health and social protection, on local authorities, public services); and Ukraine (those regulating constitutional rights, freedoms and duties of citizens, including environmental issues and the legal status of public associations).

347. Poland (trade unions, employers and religious organisations have different platforms of cooperation (dialogue bodies) with decision makers and much wider legal possibilities to get involved in consultation procedures (sometimes obligatory for decision-makers).

348. Belarus; Bosnia and Herzegovina; Iceland; Ireland; Italy; Liechtenstein; Luxembourg; Monaco; North Macedonia; Portugal; Romania; the Slovak Republic; Slovenia; Spain; Turkey; and the United Kingdom.

organisations – in twelve of them³⁴⁹. In respect of two other countries,³⁵⁰ there was reported to be a practice of consulting NGOs on proposed legislation, administrative decisions and official policies based on their expertise or area of work.

189. For one country,³⁵¹ there was stated to be a non-binding guide for drafters of legislation as to consultation.
190. In respect of another country,³⁵² there was reported to be some possibility for consultation through membership of consultative bodies of ministries and the presidential administration, as well as through discussions on draft municipal legal acts and engaging in a mechanism of “public ecological expertise”, which aims at implementing the rights of citizens to a favourable environment by preventing the negative impacts of economic and other activities.
191. However, as regards eight other countries,³⁵³ the consultation requirement was said also to be applicable to proposed policies and, for three other countries,³⁵⁴ it was said that such a requirement only applied in certain fields. For another country,³⁵⁵ there was stated to be no requirement as to consultation on policies but that it can happen in practice.
192. The consultation requirement was reported as also extending to proposed administrative decisions in three countries.³⁵⁶
193. In three countries,³⁵⁷ there was stated to be no requirement or practice relating to consultation.

III. THE PANDEMIC

A. Impact on fulfilling requirements³⁵⁸

194. The ability to fulfil reporting requirements in some instances was reported to have been affected in three countries by either the limited digital systems within the administration in one of them³⁵⁹ or the poor broadband service in another of them³⁶⁰ or the inability in a third one to first approve them at annual meetings as these could not be held³⁶¹.

349. Belarus (there is public consultation of draft acts affecting the rights, freedoms and obligations of citizens and legal entities, certain areas of regulation of social relations and those having an impact on the conduct of business. Those concerning state secrets and taxes cannot be the subject of consultation); Bosnia and Herzegovina; Iceland; Ireland (as part of the budgetary process and through participation in various bodies developing government policy); Italy (parliamentary commissions may consult some organisations); Liechtenstein; Luxembourg; North Macedonia (generally the bigger and more recognised NGOs are consulted during the drafting of legislation linked to their expertise or area of work); Romania (usually NGOs are invited for consultations before the adoption of proposals for legislation, administrative and official policies); the Slovak Republic (as a result of using a petition procedure for which the support of 500 natural and/or legal persons is required); Slovenia (following a political commitment by the National Assembly, which is rarely respected); Turkey (left to ministerial discretion); and the United Kingdom (there will often be a public consultation exercise and NGOs can feed into government or parliamentary consultations and questions).

350. Andorra and Sweden.

351. Finland.

352. The Russian Federation (but NGOs designated as “foreign agents” are unlikely to be able to participate in the consultative bodies).

353. Albania; Azerbaijan; Bulgaria; Croatia (in relation to the adoption of general acts or other strategic or planning documents, public consultations are required when these affect the interests of citizens and legal persons); Estonia (most ministries have “strategic partners” in civil society); Georgia; Latvia; and the Republic of Moldova.

354. Bulgaria (where there is reference to civil society in them); Cyprus (such as environmental ones); and Lithuania (the work of municipal institutions and bodies).

355. The United Kingdom (Government department often establish their own structures and processes for engaging their specific stakeholders, including key NGOs for particularly policies).

356. Azerbaijan, Latvia and the Republic of Moldova (those that may have a social, economic, environmental impact on the way of life and human rights, on culture, health and social protection. , on local authorities, public services).

357. The Czech Republic; France; and San Marino.

358. Have there been any administrative requirements for NGOs which it has not been able to comply with due to the pandemic (e.g., holding of annual meetings and making reports)?

359. Croatia.

360. Ireland (especially in rural areas).

361. Cyprus.

195. In addition, it was stated that there was no possibility of holding annual meetings in two countries³⁶² and, for another one,³⁶³ it was said that this was only possible where this was specifically stipulated in an NGO's statute.
196. However, no problems of compliance with requirements on the holding of annual meetings or the submission of reports were reported in respect of fifteen countries.³⁶⁴
197. Moreover, sanctions for non-compliance with some of these requirements were stated not to have been applied in three countries.³⁶⁵
198. In addition, it was reported that annual meetings were allowed to be moved to an online format in the case of fifteen countries³⁶⁶ and that, in two other countries,³⁶⁷ the same approach was taken for all decision-making meetings.
199. Also, it was reported that, in nine countries,³⁶⁸ the deadlines for holding annual meetings had been postponed and that, for twelve countries,³⁶⁹ the deadlines for submission of reports had been postponed.
200. Furthermore, in respect of one country,³⁷⁰ it was said that the mandates for management bodies had been extended where these were expiring.
201. However, for another country,³⁷¹ it was reported that there had been increase in the number of inspections by financial authorities.
202. No information regarding the existence of problems of compliance with administrative requirements was said to be available in respect of three countries.³⁷²

B. Good practices emerging³⁷³

203. Various good practices were reported to have emerged in the course of the pandemic.
204. These included:
 - the use of online meetings and communication in twenty-one countries;³⁷⁴
 - online registration;³⁷⁵
 - recognition of value of online services and the need for extension to matters not currently covered in two countries;³⁷⁶
 - creation of an electronic register for notification and consultation in three countries;³⁷⁷

362. Cyprus (no provision was made for use of online format. This meant amendments to statutes in line with new legislation could not be adopted and a dissolution process was initiated against the 2,400 NGOs concerned. The dissolution notice followed a change in the law in August 2020. Later in November 2020, the Ministry issued a circular allowing online AGMs, even if not foreseen by the statutes of an NGO, but that was after the dissolution process had started. The first notices announcing dissolution were issued in December 2020, after a two-month grace period to conform had elapsed) and Ukraine.

363. North Macedonia (the Central Registry would not otherwise recognise annual meetings held online).

364. Andorra; Armenia (particularly because of online possibilities); Austria (online systems were already in place); Bosnia and Herzegovina; the Czech Republic; Hungary; Iceland (annual meetings could be held online); Kosovo* (through online working); the Republic of Moldova; Montenegro; the Netherlands; Norway; Romania; Slovenia; and Sweden.

365. Lithuania; Malta; and Portugal.

366. Azerbaijan; Belarus; Croatia; Denmark; Finland; France; Georgia; Germany; Ireland (the online approach applied to other requirements as well); Latvia; Liechtenstein; Poland; Serbia; Ukraine (in the case of some NGOs, others organised in person meetings with due regard to health and safety requirements); and the United Kingdom (in the case of charities).

367. Estonia and Hungary.

368. Belgium; Bulgaria; France; Italy; Latvia; Luxembourg; Portugal; San Marino; and Turkey.

369. Belgium; Estonia; France; Italy; Latvia; the Russian Federation; San Marino; the Slovak Republic; Spain; Sweden; Ukraine; and the United Kingdom.

370. Estonia.

371. Belarus.

372. Greece; Monaco; and Switzerland.

373. Have any good practices been established which help NGOs carry out their work and which should continue (such as allowing for online registration and online consultations)?

374. Albania; Azerbaijan (with state officials to exchanges ideas, problems and solutions); Belarus; Belgium; Estonia; Germany; Greece (with other NGOs); Hungary; Iceland; Italy (parliamentary hearings); Kosovo*; Liechtenstein (board meetings); Lithuania (meetings); Malta; the Republic of Moldova (parliamentary hearings); the Netherlands; North Macedonia (the majority of NGOs opted for communication this way between themselves and with state actors and other relevant bodies); Norway; Poland; San Marino (with public authorities) and Ukraine (with public authorities).

375. Georgia and Iceland.

376. Armenia; Spain; and Ukraine.

377. Albania; Luxembourg; and the Russian Federation.

- online consultation in seven countries;³⁷⁸
- acceptance of online assemblies even where these were not provided for in the NGO's statutes in two countries;³⁷⁹
- establishing a special NGO group to share information and liaise with government in one country;³⁸⁰
- continuing digitalisation to allow access to information and use of services in two countries;³⁸¹
- becoming more aware of digitalisation in one country³⁸² and facilitating awareness of it in another one³⁸³;
- working from home in two countries;³⁸⁴
- provision on advice on how to continue operations consistent with the sanitary requirements in one country;³⁸⁵
- NGOs being entrusted with a role to tackle problems arising from the crisis in one country³⁸⁶ or just doing this on their own initiative in another one³⁸⁷;
- allowing certain activities to be rescheduled in one country;³⁸⁸ and
- not charging for rent in publicly-owned properties in one country³⁸⁹.

205. However, in respect of ten countries,³⁹⁰ it was stated that no good practices had emerged.

C. Being kept informed³⁹¹

206. In respect of twenty-nine countries,³⁹² NGOs reported that they had continued to receive information about changes to laws, policies and practices which might have an impact on their work. However, this was said not always to occur in the case of nine others³⁹³ and there was reported to be no change in the existing practice as regards another one³⁹⁴.
207. Furthermore, in the case of one country,³⁹⁵ information about such changes was said to have been published on official websites but that nothing had been addressed to NGOs directly.
208. In the case of yet another country,³⁹⁶ it was stated that such information was being provided to NGOs by a weekly bulletin prepared by a particular NGO.
209. In respect of six countries,³⁹⁷ it was reported that they had not continued to receive information about such changes.

378. Georgia; the Netherlands; North Macedonia; the Republic of Moldova; Norway; Serbia; and the Slovak Republic.

379. Azerbaijan and Croatia.

380. Ireland.

381. Azerbaijan (the Ministry of Justice introduced an e-window system for NGOs, which allows them to submit applications on registration of grants, service contracts and donations online. Also they can use this system to update their registry data (i.e. change of board, chairman, etc)) and the Russian Federation.

382. Germany.

383. France.

384. Germany and the Republic of Moldova.

385. France.

386. Croatia (youth associations undertook awareness raising of responsible behaviour among youth).

387. The Czech Republic.

388. Luxembourg (for development NGOs).

389. Croatia.

390. Bulgaria; Cyprus; Denmark (the registration system was already online and consultations were also normally over the phone); Monaco; Montenegro; Portugal; Romania; Slovenia; Sweden (online arrangements already existed); and Switzerland.

391. Have NGOs continued to receive information about changes to laws, policies and practices which might have an impact on their work?

392. Andorra; Austria; Azerbaijan; Belarus; Belgium; Denmark; Estonia (but nothing too-NGO specific); Finland; France (but more regular updating was required); Georgia (but this information is made publicly available rather than sent directly to NGOs); Germany (but particularly through efforts of NGOs and NGO umbrella organisations); Greece; Iceland; Kosovo*; Latvia; Liechtenstein; Lithuania (but it was not easy to keep up with all the changes); Luxembourg; Malta (through the Council for the Voluntary Sector); Norway; Romania; the Russian Federation; San Marino (through the press); the Slovak Republic (mainly through a civic association); Sweden; Switzerland; Turkey; Ukraine; and the United Kingdom (partly through NGO bodies).

393. Bulgaria (some policies and practices were not accessible online); the Czech Republic (sometimes deliberately but also on account of a lack of means or opportunity); Hungary; Ireland; the Republic of Moldova (the online platform normally used has not been in all cases); the Netherlands (but mostly so); North Macedonia (generally as regards smaller and rural NGOs); Serbia; and Spain.

394. Italy (the principles of administrative transparency of public acts have not changed either positively or negatively).

395. Poland.

396. Ukraine.

397. Albania; Armenia; Bosnia and Herzegovina; Croatia; Cyprus (notably this absence of information included a very significant amendment to the law on Associations and Foundations); and Slovenia.

210. Moreover, it was stated that there was no public mechanism for this purpose in one country³⁹⁸ and that the position was not known in the case of another one³⁹⁹.

D. Consultation⁴⁰⁰

211. In respect of eighteen countries,⁴⁰¹ it was reported that NGOs had been consulted on changes to laws, policies and practices that were made in connection with measures to deal with the pandemic and that, for another one,⁴⁰² it had been possible to make comments on proposals regarding such changes.

212. It was stated that the consultation process had not always been satisfactory for four other countries,⁴⁰³ and that, for another five countries, it had either not been general or consistent⁴⁰⁴ or had not been real⁴⁰⁵.

213. However, no such consultation was reported to have occurred in respect of twenty-one countries.⁴⁰⁶

E. Impact on perception⁴⁰⁷

214. The pandemic was reported as having had no impact on the perception of NGOs in seventeen countries,⁴⁰⁸ while it was stated that it was not possible to establish whether it had had any impact in three others⁴⁰⁹.

215. In respect of nine other countries,⁴¹⁰ it was said that, while those working in response to Covid-19 had improved their image, there had been no general change in the public view of NGOs. However, for another country,⁴¹¹ it was stated that public trust in NGOs had increased.

216. For another five countries,⁴¹² it was reported that the atmosphere seemed hostile to NGOs but that this was not seen as being specifically related to the pandemic.

217. However, the restrictions imposed in response to the pandemic were said to have limited some of the activities of NGOs and thus to have had a negative impact on their perception in another three countries.⁴¹³

398. Portugal.

399. Monaco.

400. Have NGOs been consulted on changes to laws, policies and practices that have been changed in the connection with measures to deal with the pandemic?

401. Austria; Azerbaijan (online meetings between NGO representatives officials in the executive and legislative branches about possible future steps, including legislation); Belgium; Denmark; Estonia (as much as possible in the circumstances); Finland (to a limited extent); Ireland (to a limited extent); Kosovo*; Latvia; Liechtenstein; Luxembourg (as regards practices); the Netherlands (mostly so); North Macedonia (for the purpose of mitigating the crisis' effects and properly addressing the needs of the most vulnerable categories of citizens, the Government's Council for cooperation with and development of the civil society sector nominated two members from NGOs to actively participate in the work of the Crisis Management Center);. Norway (but not always sufficiently in the first phase of the pandemic); Romania; Sweden; Switzerland (in the regular procedure); and the United Kingdom.

402. Iceland.

403. The Czech Republic (the State mostly focused on other groups and parts of society (trade unions, business or state officials and medical experts) and, although there was some space for exchange, the cooperation between the State/government and civil society was relatively limited, inefficient and not always productive); Germany (better at the local than the federal level); North Macedonia (particularly as regards those of people with disabilities); and Serbia (there was not always presentation of the relevant documents and the volume of legislative changes at one point made it impracticable to respond to them all).

404. Malta; Portugal (only members of the Economic and Social Council); San Marino (only those with the aim of social and solidarity volunteering); and the Slovak Republic

405. Lithuania (1 day to provide comments on a 50 page draft).

406. Albania; Andorra; Armenia; Belarus; Bulgaria; Croatia (there has also been a shortening of the duration of e-consultations for a number of acts); Cyprus (but no changes relating to the pandemic); France; Georgia; Greece; Hungary; Italy; the Republic of Moldova; Monaco; Montenegro; Poland (but NGOs were consulted on plans for the use of European Union recovery funds following substantial pressure from the civic sector); the Russian Federation; Slovenia; Spain; Turkey; and Ukraine.

407. Has there been any change in the way that NGOs are perceived and, if so, has this had a positive or negative effect on their work?

408. Austria; Belgium; Bosnia and Herzegovina; Croatia; Denmark; Germany (despite playing a major role in staffing vaccination centres); Iceland; Kosovo*; Liechtenstein; Luxembourg; Monaco; Montenegro; Norway; Portugal; Romania; the Slovak Republic; and Switzerland.

409. Estonia; Hungary; and Malta (but volunteer engagement is suffering as a result of increasing compliance requirements).

410. Andorra; Belarus; the Czech Republic (in general the public image of NGOs has been worsening); Georgia; Ireland; the Netherlands; the Russian Federation (with a positive connotation for those that are "socially oriented" or are providing "socially beneficial services" and a negative one for those designated as "foreign agents"); San Marino (those working in the field of social and solidarity volunteering); and Ukraine.

411. The United Kingdom (to a 6-year high).

412. Bulgaria; Cyprus; the Republic of Moldova; Serbia (although it probably results more from certain smear campaigns following criticism by NGOs of the response to the pandemic); and Slovenia.

413. Armenia; Greece (a consequence of the limited physical presence of NGOs but this had been mitigated); and Turkey.

218. Nonetheless, in various countries, positive effects of the pandemic for NGOs were reported as including: the recognition of the importance of their role in the provision of support services in five countries;⁴¹⁴ the improved confidence in them as a result of the front line support which they provided in two countries;⁴¹⁵ improved cooperation both among NGOs themselves and between them and public administration in one country;⁴¹⁶ the impact of online meetings with officials in one country;⁴¹⁷ an increase in volunteering in three countries;⁴¹⁸ the creation of a special support funds for affected activities in two countries;⁴¹⁹ and the receipt of protective equipment and training in three countries⁴²⁰.
219. For one other country,⁴²¹ there was said to have been a significant improvement in the public perception of NGOs, which had already been underway before the pandemic.
220. No information was said to be available in respect of two countries.⁴²²

F. Provision of public support⁴²³

221. In respect of one country,⁴²⁴ it was reported that the pandemic had not affected the continuation of public support normally being given.
222. Moreover, in many countries some support was stated to have been provided to NGOs in order to enable them to continue to carry out their activities.
223. In twenty-six countries, this support was reported to have been in the form of grants or other financial support for those NGOs – or certain categories of them – that have been affected by the pandemic.⁴²⁵
224. In the case of some countries, NGOs were said to have benefited from: more general measures in six of them;⁴²⁶ some funding being brought forward and support being provided in respect of equipment for online work in three of them;⁴²⁷ and rent not being charged or reduced where they occupied publicly-owned premises in another three⁴²⁸. In one instance,⁴²⁹ it was stated that a needs assessment was also being conducted.
225. For one country,⁴³⁰ there was also reported to have been an additional grant contest in 2020 for NGOs dealing with the impact of the pandemic.
226. The support took the form of providing equipment needed for the work which certain NGOs undertook in one country.⁴³¹

414. Albania; Azerbaijan; Lithuania (but it also exposed the lack of institutional capacity, means and other resources); North Macedonia; and Spain.

415. Italy (previously the climate around them had been very tense) and North Macedonia.

416. Latvia.

417. Azerbaijan.

418. Albania; Latvia; and Sweden.

419. Latvia and Ukraine (online platforms and training from international donors).

420. The Republic of Moldova (especially social service providers – from international donors), Switzerland and Ukraine (international and private donors).

421. Poland (in particular with a high level of public trust and a declining view that NGO funds were misused for personal gain).

422. Albania and France.

423. Have NGOs received any support from the State, inter-governmental organisations or other bodies to enable them to continue carrying out their work (such as the provision of personal protective equipment, emergency loans and training)?

424. Kosovo*.

425. Albania (those providing e-health care solutions and psychological social services); Austria; Azerbaijan; Belgium; the Czech Republic (those that were socially-oriented); Denmark (a corona help packages for NGOs to have losses covered); Estonia (but non-profits were not always treated in the same way as businesses); Georgia; Germany (but only 25% of NGOs could apply); Iceland; Ireland; Liechtenstein; Lithuania; Luxembourg; Malta (but there was no transparency as to the allocation of funding); the Netherlands; North Macedonia (but this had an adverse effect on funding of programmes for gender equality and discrimination which was reallocated for this purpose); Norway; Poland (salary subsidies and preferential loans); Portugal (for those with public utility status); the Russian Federation (tax exemptions and loans for staff salaries in the case of “socially oriented” NGOs); Slovenia; Sweden (covering fixed costs where they had a company identity number); Switzerland; Ukraine (for those focused on the more vulnerable); and the United Kingdom (but not all the funds allocated have been distributed).

426. France (deferred tax payments, loans and sectoral aid); Italy (social security benefits for staff); Latvia (deferred tax payments); Serbia (contribution to staff wages); the Slovak Republic (subsidies on maintenance of jobs); and the United Kingdom (subsidies on maintenance of jobs).

427. Austria; Italy; and the Slovak Republic.

428. Croatia; Latvia; and the Russian Federation (for “socially oriented” NGOs”).

429. Croatia.

430. The Russian Federation (funding of 2 billion RBL was shared between 900 NGOs).

431. San Marino (protective equipment for those delivering drugs or food to families in quarantine).

227. No support of any kind was reported to have been provided in twelve countries⁴³² and, for another one,⁴³³ it was stated that it was not known whether this had occurred.

G. Impact on funding⁴³⁴

228. In respect of nine countries,⁴³⁵ it was reported that so far the pandemic had not had any effect on the level of public funding and that, for another three,⁴³⁶ the impact had not been significant
229. For five other countries,⁴³⁷ it was stated that there was no data available as yet regarding the effect on the level of all sources of funding or it was inconclusive.
230. However, it was stated that there had been or appeared to have been a decrease in the overall level of such funding in the case of twenty-four other countries.⁴³⁸
231. Moreover, for two countries,⁴³⁹ it was reported that the provision of funding had been formally or effectively suspended, while it was said to have been increased just for some NGOs in the case of another three countries⁴⁴⁰.
232. In two countries⁴⁴¹ amongst these different groupings, there was reported to have also been some readjustment of budgets to take account of the costs for preventing Covid-19 transmission.
233. In the case of fourteen countries,⁴⁴² it was stated that the impact on funding had been on private and international sources as much as on public ones.
234. Moreover, even where public funding has not been affected, there was said to have been a decrease in funding from the private sector in nine countries,⁴⁴³ while it was stated to have increased in just one country⁴⁴⁴.
235. In respect of one country,⁴⁴⁵ it was said that funding came essentially from members of NGOs and that, while this had so far remained sound, it could eventually be affected by changing situation of such members.

432. Andorra; Armenia; Belarus; Bosnia and Herzegovina; Bulgaria; Cyprus; Greece; Hungary; Montenegro; Romania; Spain; and Turkey.

433. Monaco.

434. What has been the impact of the pandemic on the funding of NGOs?

435. Azerbaijan (public grant contests have continued to be held); Belarus; Georgia; Kosovo*; Lithuania; Monaco; Norway; Romania; and Switzerland.

436. Cyprus; Estonia; and San Marino (but there had been some loss of income as a result of not being able to hold some activities).

437. Austria; Greece; the Netherlands; the Slovak Republic; and the United Kingdom (but the number of charities with no reserves has tripled).

438. Albania (a decrease of approximately 60%); Armenia (following redistribution of priorities); Belgium; Bosnia and Herzegovina; Bulgaria; the Czech Republic; France (decreased public subsidies); Hungary (as a result of budget cuts and postponed decisions); Ireland; Latvia; Liechtenstein (no specific percentage); Malta (an indirect consequence of extensions to projects being funded without any provision for the additional costs to be borne); the Republic of Moldova (some NGOs claim that they had difficulties accessing funding, with a drop by 17% in the percentage designation mechanism in 2020. However, in 2021, the mechanism produced an increase by over 50%, returning to the pre pandemic trend); Montenegro (no specific percentage); North Macedonia; Portugal (no specific percentage); Poland (especially funding from local government); Serbia (no specific percentage); Spain (no specific percentage); Slovenia (but this was not solely on account of the pandemic); Spain; Sweden (loss of grants for regular activities); Turkey (this was not the case for all NGOs as the position did not change for some and a few saw an increase in funding); and Ukraine (a 30% reduction)

439. Croatia (support from cities and municipalities); Italy (the provision of funds has been delayed); and the Republic of Moldova (some financing has been delayed).

440. Armenia (unspecified redistribution of priorities); Iceland (especially those working on children's issues and domestic violence) and Luxembourg (development NGOs).

441. The Republic of Moldova and Ukraine (i.e., protective equipment and the switch to online activities).

442. Belarus (both from domestic and foreign donors); Bosnia and Herzegovina (only an impression); Bulgaria (funding decisions were postponed); the Czech Republic (but there has been some increase in support from individual donors); France (as result of the curtailment of activities); Italy (the exact impact is not yet clear but unemployment seems to be affecting donations and funding linked to tax returns); Latvia (both donations and income from economic activities); Liechtenstein (income from activities); Malta (as a result of not being able to undertake public collections); the Netherlands (income from activities); North Macedonia (particularly as a result of restructuring programming, ending projects ahead of schedule and defunding projects); Poland (a decline in donations from companies and individuals); Portugal (income from activities); Spain; and Sweden (fall in membership fees and revenue from sales).

443. Andorra (following a cut back on activities); Azerbaijan; Belgium; Germany (performance fees plummeted but 47% of NGOs reported an increase in donations from January to August 2020); Iceland (door-to-door sales and fundraising events have not been possible); Kosovo* (although donors did try to help overcome the situation); Luxembourg (no fundraising events could be held); Norway (income-generating events could not be held); and the Russian Federation (but this has been mitigated by fundraising campaigns, assistance from major grant-making foundations and grants provided by government).

444. Estonia.

445. Switzerland.

236. In the case of one country,⁴⁴⁶ it was reported that there had been an increase in giving by members of the public to a particular form of NGO.
237. In the case of three countries,⁴⁴⁷ it was stated that funding from European Union and international donors had been maintained and/or extended. However, for one other country,⁴⁴⁸ it was reported that additional restrictions on the access of NGOs to foreign aid have been introduced.
238. Fears were reported in respect of two countries⁴⁴⁹ about the impact that budget cuts will have when the pandemic ends, as well as regarding the possible effects on private funding through the tax designation mechanism in respect of another country⁴⁵⁰.

IV. CONCLUSION

239. It is undoubtedly very positive that NGOs in the majority of countries surveyed seemed to be aware of the existence of Recommendation CM/Rec(2007)14. Nonetheless, it is a matter of concern that NGOs in just over two-fifths of the countries surveyed still did not appear to be aware of it.
240. This lack of knowledge might partly be explicable by the limited extent to which Recommendation CM/Rec(2007)14 has been translated into official languages other than those of the Council of Europe. However, this is not a complete explanation as there were NGOs unaware of Recommendation CM/Rec(2007)14 even where it was available in an official language of their country and there was also familiarity with it by some NGOs even though it had not been translated into the official language of their country.
241. The need for concern about the limited awareness of Recommendation CM/Rec(2007)14 is reinforced by the fact that many Council of Europe member states do not seem to have acted upon the specific recommendation for governments to:
- be guided in their legislation, policies and practice by the minimum standards set out in this recommendation;
 - take account of these standards in monitoring the commitments they have made; and
 - ensure that this recommendation and the accompanying Explanatory Memorandum are translated and disseminated as widely as possible to NGOs and the public in general, as well as to parliamentarians, relevant public authorities and educational institutions, and used for the training of officials.
242. This is all the more disappointing given that the European Court takes Recommendation CM/Rec(2007)14 into account in the application of the right to freedom of association under Article 11 of the European Convention.⁴⁵¹
243. There is clearly a need for greater efforts to be made to ensure that Recommendation CM/Rec(2007)14 is not only better known by NGOs but also by parliaments and public authorities, with the latter two giving effect to its provisions in legislation and decisions that can affect the operation and activities of NGOs.
244. At first sight, the limits on the objectives that can be pursued by NGOs seen in the responses for many countries do not seem that extensive. However, the responses on issue need to be read together with the responses to the question relating to suspension and dissolution, especially regarding such measures being directed to the activities of NGOs. Many of the grounds for suspension and dissolution referred to – which operate as limits on the activities and objectives of NGOs – are broadly framed and could be open to application in an abusive and disproportionate manner.
245. It is also a matter of concern that there seem to be extensive limits in some countries on “political” activities being undertaken by NGOs, especially as there can be a broad approach to the way such activities are defined.
246. Although these deficiencies are not seen in the majority of countries, there are certainly some which seem not to act in accordance with the emphasis in Recommendation CM/Rec(2007)14 that NGOs should not

446. The United Kingdom (charities).

447. Cyprus; Romania; and Ukraine.

448. Belarus. However, the current socio-political crisis was said to have had a greater impact on the financing of NGOs than the pandemic.

449. Ireland and Lithuania.

450. The Slovak Republic.

451. See *Tebieti Mühafize Cemiyeti and Israfilov v. Azerbaijan*, no. 37083/03, 8 October 2009, at para.39, *Croatian Golf Federation v. Croatia*, no. 66994/14, 17 December 2020, at para. 61 and *Kavala v. Turkey*, no. 28749/18, 10 December 2019, at para. 76.

only enjoy the right to freedom of expression but should be free to undertake research, education and advocacy on issues of public debate, regardless of whether the position taken is in accord with government policy or requires a change in the law, as well as be free to support a particular candidate or party in an election or a referendum provided that they are transparent in declaring their motivation.

247. The ability to establish form NGOs, whether with or without legal personality, seems generally consistent with the standards set out in Recommendation CM/Rec(2007)14. However, some of the requirements do seem overly bureaucratic.
248. More importantly, there seems to be considerable variation in the time taken to process applications where some form of approval is required. It does not appear, therefore, that the process always complies with the stipulation in Recommendation CM/Rec(2007)14 that a reasonable time limit should be prescribed for taking a decision to grant or refuse legal personality, even where the formal limit meets that requirement. Furthermore, such a process compares very unfavourably with the simple and speedy procedures seen in some countries, with establishment of an NGO in a number of them even being possible simply by the agreement of those wanting to establish one. Some countries could, therefore, usefully adopt the practices seen in others.
249. It was encouraging to see reports of an openness to foreign NGOs being able to operate in many countries, as well as a readiness to allow NGOs within them to collaborate with NGOs abroad. This is in marked contrast to the readiness of one country to characterise NGOs outside it as undesirable and to its designation as foreign agents those NGOs in the country who work with ones abroad. An approach that has been attempted or appears to be under consideration in some other countries.
250. Not only is such stigmatisation unwarranted but it is also clearly incompatible with the recognition in Recommendation CM/Rec(2007)14 of the essential contribution made by NGOs to the development and realisation of democracy and human rights. Moreover, the particular negative impact of such laws and policies on collaboration and cooperation between NGOs within European countries runs counter to the notion of a common European legal space, which is underpinned by the European Convention.
251. The recognition in many countries of some form of public benefit or charitable status for NGOs or their activities is more than welcome as it reflects the important contribution that NGOs make to social well-being and the assistance to those in need.
252. However, the adoption of measures to enable NGOs and their activities to acquire such status undoubtedly could be even more widespread. Certainly, the value of the contribution that can be made by NGOs in meeting the needs of many in their countries was evident in the responses to the question about the attitude of public towards them. These showed that this had become more favourable in the course of the Covid-19 pandemic on account of the recognition of the value of the services that they were providing.
253. In some countries, the requirements for NGOs to submit reports on their accounts and an overview of their activities to a designated supervising body seems to go beyond the stipulation in Recommendation CM/Rec(2007)14 that this should apply to those granted any form of public support. This is potentially problematic, not because NGOs are hostile to transparency and accountability but because the demands on them can be excessive and unnecessarily frequent and repetitive. Moreover, this becomes especially concerning where such requirements are accompanied by legislative measures that seek to portray the legitimate activities undertaken by NGOs in a negative light and where they involve an extensive understanding given to the concept of their "beneficial owners".
254. Despite the relevant and extensive practical experience of NGOs, it is disappointing that not all countries seem prepared to draw upon such valuable experience in the development of their laws and policies through consulting them, whether pursuant to specific legislative requirements for consultation or as a matter of practice. Certainly, the need for such consultation on public policy objectives and decisions was strongly emphasised in Recommendation CM/Rec(2007)14.
255. The Covid-19 pandemic has proved a challenging time for NGOs and it is encouraging that in many countries steps were taken to mitigate its consequences through the provision to them of financial and other support, as well as by showing some flexibility in the way particular institutional and reporting requirements were to be fulfilled. Nonetheless, this approach was not universal and this has made the life of some NGOs particularly difficult at a time when they were fulfilling their objective of providing assistance to others.
256. Undoubtedly some countries were better placed to cope with the practical difficulties created by the need to maintain social distancing because they already had online systems in place. Some other countries

adopted such systems as part of their response to the pandemic and also helped NGOs who required support in moving some of their operations online.

257. The need for a more generalised adoption of online systems should not, however, be seen as only appropriate in times of a pandemic. Online systems have the potential at all times to be beneficial for both NGOs and public authorities, leading to speedier and less costly procedures and means of communication. In addition, their absence does seem to be a factor in the failure in some countries to consult and keep NGOs informed about developments relevant to their work.
258. The pandemic has had an adverse impact on the funding of many NGOs, although public regard and support for their work has led to an increase in individual donations to some of them. Furthermore, the various forms of public support provided during the pandemic helped many NGOs to at least survive. However, there is much uncertainty about the longer-term financing of NGOs. Although this can be expected for the services which many of them provide, there is a need to ensure that the NGOs can also continue to make their essential contribution through promoting public awareness, participating in public life and securing the transparency and accountability of public authorities.
259. The responses to the questionnaire show that much still remains to be done to ensure the realisation of the important standards set out in Recommendation CM/Rec(2007)14. There are clearly good foundations for this task in many countries. However, there is a need not only for these to be reinforced so that a truly enabling environment is provided for them but also for the failure to comply with them in some countries to be quickly remedied.

Appendix 1

RECOMMENDATION CM/REC(2007)14 OF THE COUNCIL OF EUROPE COMMITTEE OF MINISTERS TO MEMBER STATES ON THE LEGAL STATUS OF NON-GOVERNMENTAL ORGANISATIONS IN EUROPE

(Adopted by the Committee of Ministers
on 10 October 2007 at the 1006th
meeting of the Ministers' Deputies)

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve greater unity between its members and that this aim may be pursued through the adoption of common rules;

Aware of the essential contribution made by non-governmental organisations (NGOs) to the development and realisation of democracy and human rights, in particular through the promotion of public awareness, participation in public life and securing the transparency and accountability of public authorities, and of the equally important contribution of NGOs to the cultural life and social well-being of democratic societies;

Taking into consideration the invaluable contribution also made by NGOs to the achievement of the aims and principles of the United Nations Charter and of the Statute of the Council of Europe;

Having regard to the Declaration and Action Plan adopted at the Third Summit of Heads of State and Government of the Council of Europe (Warsaw, 16-17 May 2005);

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

Bearing in mind that the existence of many NGOs is a manifestation of the right of their members to freedom of association under Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms and of their host country's adherence to principles of democratic pluralism;

Having regard to Article 5 of the European Social Charter (revised) (ETS No. 163), Articles 3, 7 and 8 of the Framework Convention for the Protection of National Minorities (ETS No. 157) and Article 3 of the Convention on the Participation of Foreigners in Public Life at Local Level (ETS No. 144);

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

Considering that the best means of ensuring ethical, responsible conduct by NGOs is to promote self-regulation;

Taking into consideration the case law of the European Court of Human Rights and the views of United Nations human rights treaty bodies;

Taking into account the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, United Nations General Assembly Resolution A/RES/53/144;

Drawing upon the Fundamental Principles on the Status of Non-Governmental Organisations in Europe;

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

Recommends that the governments of member states:

- be guided in their legislation, policies and practice by the minimum standards set out in this recommendation;
- take account of these standards in monitoring the commitments they have made;
- ensure that this recommendation and the accompanying Explanatory Memorandum are translated and disseminated as widely as possible to NGOs and the public in general, as well as to parliamentarians, relevant public authorities and educational institutions, and used for the training of officials.

I. Basic principles

1. For the purpose of this recommendation, NGOs are voluntary self-governing bodies or organisations established to pursue the essentially non-profit-making objectives of their founders or members. They do not include political parties.
2. NGOs encompass bodies or organisations established both by individual persons (natural or legal) and by groups of such persons. They can be either membership or non-membership based.
3. NGOs can be either informal bodies or organisations or ones which have legal personality.
4. NGOs can be national or international in their composition and sphere of operation.
5. NGOs should enjoy the right to freedom of expression and all other universally and regionally guaranteed rights and freedoms applicable to them.
6. NGOs should not be subject to direction by public authorities.
7. NGOs with legal personality should have the same capacities as are generally enjoyed by other legal persons and should be subject to the administrative, civil and criminal law obligations and sanctions generally applicable to those legal persons.
8. The legal and fiscal framework applicable to NGOs should encourage their establishment and continued operation.
9. NGOs should not distribute any profits which might arise from their activities to their members or founders but can use them for the pursuit of their objectives.
10. Acts or omissions by public authorities affecting an NGO should be subject to administrative review and be open to challenge by the NGO in an independent and impartial court with full jurisdiction.

II. Objectives

11. NGOs should be free to pursue their objectives, provided that both the objectives and the means employed are consistent with the requirements of a democratic society.
12. NGOs should be free to undertake research, education and advocacy on issues of public debate, regardless of whether the position taken is in accord with government policy or requires a change in the law.
13. NGOs should be free to support a particular candidate or party in an election or a referendum provided that they are transparent in declaring their motivation. Any such support should also be subject to legislation on the funding of elections and political parties.

14. NGOs should be free to engage in any lawful economic, business or commercial activities in order to support their not-for-profit activities without any special authorisation being required, but subject to any licensing or regulatory requirements generally applicable to the activities concerned.
15. NGOs should be free to pursue their objectives through membership of associations, federations and confederations of NGOs, whether national or international.

III. Formation and membership

A. Establishment

16. Any person, be it legal or natural, national or non-national, or group of such persons, should be free to establish an NGO and, in the case of non-membership-based NGOs, should be able to do so by way of gift or bequest.
17. Two or more persons should be able to establish a membership-based NGO but a higher number can be required where legal personality is to be acquired, so long as this number is not set at a level that discourages establishment.

B. Statutes

18. NGOs with legal personality should normally have statutes, comprising the constitutive instrument or instrument of incorporation and, where applicable, any other document setting out the conditions under which they operate.
19. The statutes of an NGO with legal personality should generally specify:
 - a. its name;
 - b. its objectives;
 - c. its powers;
 - d. the highest governing body;
 - e. the frequency of meetings of this body;
 - f. the procedure by which such meetings are to be convened;
 - g. the way in which this body is to approve financial and other reports;
 - h. the procedure for changing the statutes and dissolving the organisation or merging it with another NGO.
20. The highest governing body of a membership-based NGO should be the membership and its agreement should be required for any change in the statutes. For other NGOs the highest governing body should be the one specified in the statutes.

C. Membership

21. No person should be required by law or otherwise compelled to join an NGO, other than a body or organisation established by law to regulate a profession in those states which treat such an entity as an NGO.
22. The ability of any person, be it natural or legal, national or non-national, to join membership-based NGOs should not be unduly restricted by law and, subject to the prohibition on unjustified discrimination, should be determined primarily by the statutes of the NGOs concerned.
23. Members of NGOs should be protected from expulsion contrary to their statutes.
24. Persons belonging to an NGO should not be subject to any sanction because of their membership. This should not preclude such membership being found incompatible with a particular position or employment.
25. Membership-based NGOs should be free to allow non-members to participate in their activities.

IV. Legal personality

A. General

26. The legal personality of NGOs should be clearly distinct from that of their members or founders.
27. An NGO created through the merger of two or more NGOs should succeed to their rights and liabilities.

B. Acquisition of legal personality

28. The rules governing the acquisition of legal personality should, where this is not an automatic consequence of the establishment of an NGO, be objectively framed and should not be subject to the exercise of a free discretion by the relevant authority.
29. The rules for acquiring legal personality should be widely published and the process involved should be easy to understand and satisfy.
30. Persons can be disqualified from forming NGOs with legal personality following a conviction for an offence that has demonstrated that they are unfit to form one. Such a disqualification should be proportionate in scope and duration.
31. Applications in respect of membership-based NGOs should only entail the filing of their statutes, their addresses and the names of their founders, directors, officers and legal representatives. In the case of non-membership-based NGOs there can also be a requirement of proof that the financial means to accomplish their objectives are available.
32. Legal personality for membership-based NGOs should only be sought after a resolution approving this step has been passed by a meeting to which all the members had been invited.
33. Fees can be charged for an application for legal personality but they should not be set at a level that discourages applications.
34. Legal personality should only be refused where there has been a failure to submit all the clearly prescribed documents required, a name has been used that is patently misleading or is not adequately distinguishable from that of an existing natural or legal person in the state concerned or there is an objective in the statutes which is clearly inconsistent with the requirements of a democratic society.
35. Any evaluation of the acceptability of the objectives of NGOs seeking legal personality should be well informed and respectful of the notion of political pluralism. It should not be driven by prejudices.
36. The body responsible for granting legal personality should act independently and impartially in its decision making. Such a body should have sufficient, appropriately qualified staff for the performance of its functions.
37. A reasonable time limit should be prescribed for taking a decision to grant or refuse legal personality.
38. All decisions should be communicated to the applicant and any refusal should include written reasons and be subject to appeal to an independent and impartial court.
39. Decisions on qualification for financial or other benefits to be accorded to an NGO should be taken independently from those concerned with its acquisition of legal personality and preferably by a different body.
40. A record of the grant of legal personality to NGOs, where this is not an automatic consequence of the establishment of an NGO, should be readily accessible to the public.
41. NGOs should not be required to renew their legal personality on a periodic basis.

C. Branches; changes to statutes

42. NGOs should not require any authorisation to establish branches, whether within the country or (subject to paragraph 45 below) abroad.
43. NGOs should not require approval by a public authority for a subsequent change in their statutes, unless this affects their name or objectives. The grant of such approval should be governed by the same process as that for the acquisition of legal personality but such a change should not entail the NGO concerned

being required to establish itself as a new entity. There can be a requirement to notify the relevant authority of other amendments to their statutes before these can come into effect.

D. Termination of legal personality

44. The legal personality of NGOs can only be terminated pursuant to the voluntary act of their members – or in the case of non-membership-based NGOs, its governing body – or in the event of bankruptcy, prolonged inactivity or serious misconduct.

E. Foreign NGOs

45. Without prejudice to applicability of the articles laid down in Convention No. 124 for those states that have ratified that convention, foreign NGOs can be required to obtain approval, in a manner consistent with the provisions of paragraphs 28 to 31 and 33 to 39 above, to operate in the host country. They should not have to establish a new and separate entity for this purpose. Approval to operate can only be withdrawn in the event of bankruptcy, prolonged inactivity or serious misconduct.

V. Management

46. The persons responsible for the management of membership-based NGOs should be elected or designated by the highest governing body or by an organ to which it has delegated this task. The management of non-membership-based NGOs should be appointed in accordance with their statutes.
47. NGOs should ensure that their management and decision-making bodies are in accordance with their statutes but they are otherwise free to determine the arrangements for pursuing their objectives. In particular, NGOs should not need any authorisation from a public authority in order to change their internal structure or rules.
48. The appointment, election or replacement of officers, and, subject to paragraphs 22 and 23 above, the admission or exclusion of members should be a matter for the NGOs concerned. Persons may, however, be disqualified from acting as an officer of an NGO following conviction for an offence that has demonstrated that they are unfit for such responsibilities. Such a disqualification should be proportionate in scope and duration.
49. NGOs should not be subject to any specific limitation on non-nationals being on their management or staff.

VI. Fundraising, property and public support

A. Fundraising

50. NGOs should be free to solicit and receive funding – cash or in-kind donations – not only from public bodies in their own state but also from institutional or individual donors, another state or multilateral agencies, subject only to the laws generally applicable to customs, foreign exchange and money laundering and those on the funding of elections and political parties.

B. Property

51. NGOs with legal personality should have access to banking facilities.
52. NGOs with legal personality should be able to sue for the redress of any harm caused to their property.
53. NGOs with legal personality can be required to act on independent advice when selling or acquiring any land, premises or other major assets where they receive any form of public support.
54. NGOs with legal personality should not utilise property acquired on a tax-exempt basis for a non-tax-exempt purpose.
55. NGOs with legal personality can use their property to pay their staff and can also reimburse all staff and volunteers acting on their behalf for reasonable expenses thereby incurred.

56. NGOs with legal personality can designate a successor to receive their property in the event of their termination, but only after their liabilities have been cleared and any rights of donors to repayment have been honoured. However, in the event of no successor being designated or the NGO concerned having recently benefited from public funding or other form of support, it can be required that the property either be transferred to another NGO or legal person that most nearly conforms to its objectives or be applied towards them by the state. Moreover the state can be the successor where either the objectives or the means used by the NGO to achieve those objectives have been found to be inadmissible.

C. Public support

57. NGOs should be assisted in the pursuit of their objectives through public funding and other forms of support, such as exemption from income and other taxes or duties on membership fees, funds and goods received from donors or governmental and international agencies, income from investments, rent, royalties, economic activities and property transactions, as well as incentives for donations through income tax deductions or credits.
58. Any form of public support for NGOs should be governed by clear and objective criteria.
59. The nature and beneficiaries of the activities undertaken by an NGO can be relevant considerations in deciding whether or not to grant it any form of public support.
60. The grant of public support can also be contingent on an NGO falling into a particular category or regime defined by law or having a particular legal form.
61. A material change in the statutes or activities of an NGO can lead to the alteration or termination of any grant of public support.

VII. Accountability

A. Transparency

62. NGOs which have been granted any form of public support can be required each year to submit reports on their accounts and an overview of their activities to a designated supervising body.
63. NGOs which have been granted any form of public support can be required to make known the proportion of their funds used for fundraising and administration.
64. 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.
65. NGOs which have been granted any form of public support can be required to have their accounts audited by an institution or person independent of their management.
66. Foreign NGOs should be subject to the requirements in paragraphs 62 to 65 above only in respect of their activities in the host country.

B. Supervision

67. The activities of NGOs should be presumed to be lawful in the absence of contrary evidence.
68. NGOs can be required to submit their books, records and activities to inspection by a supervising agency 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.
69. NGOs should not be subject to search and seizure without objective grounds for taking such measures and appropriate judicial authorisation.
70. No external intervention in the running of NGOs should take place unless a serious breach of the legal requirements applicable to NGOs has been established or is reasonably believed to be imminent.
71. NGOs should generally be able to request suspension of any administrative measure taken in respect of them. Refusal of a request for suspension should be subject to prompt judicial challenge.
72. In most instances, the appropriate sanction against NGOs for breach of the legal requirements applicable to them (including those concerning the acquisition of legal personality) should merely be the

requirement to rectify their affairs and/or the imposition of an administrative, civil or criminal penalty on them and/or any individuals directly responsible. Penalties should be based on the law in force and observe the principle of proportionality.

73. Foreign NGOs should be subject to the provisions in paragraphs 68 to 72 above only in respect of their activities in the host country.
74. The termination of an NGO or, in the case of a foreign NGO, the withdrawal of its approval to operate should only be ordered by a court where there is compelling evidence that the grounds specified in paragraphs 44 and 45 above have been met. Such an order should be subject to prompt appeal.

C. Liability

75. The officers, directors and staff of an NGO with legal personality should not be personally liable for its debts, liabilities and obligations. However, they can be made liable to the NGO, third parties or all of them for professional misconduct or neglect of duties.

VIII. Participation in decision making

76. Governmental and quasi-governmental mechanisms at all levels should ensure the effective participation of NGOs without discrimination in dialogue and consultation on public policy objectives and decisions. Such participation should ensure the free expression of the diversity of people's opinions as to the functioning of society. This participation and co-operation should be facilitated by ensuring appropriate disclosure or access to official information.
77. NGOs should be consulted during the drafting of primary and secondary legislation which affects their status, financing or spheres of operation.

Appendix 2

EXPLANATORY MEMORANDUM TO RECOMMENDATION CM/REC(2007)14 OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON THE LEGAL STATUS OF NON-GOVERNMENTAL ORGANISATIONS IN EUROPE

Introduction

1. For several years now the Council of Europe has been working to reinforce the legal framework for civil society in Europe. The work has led to the adoption of the European Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations (hereinafter Convention No. 124), which is the only binding international legal instrument to date on these organisations (hereinafter NGOs).
2. In 1996 specific discussions began on the status of non-governmental organisations in the Council of Europe, leading to the adoption in 1998 of “Guidelines for the Development and Reinforcement of NGOs in Europe”, followed in 2002 by the “Fundamental Principles on the Status of Non-governmental organisations in Europe”, which constitute a logical and vital complement to Convention No. 124 where national action by NGOs is concerned. Even though these Fundamental Principles have no legal force under the rules and regulations of the Council of Europe, the Committee of Ministers took note of them with satisfaction in 2003 and recommended circulating them as widely as possible in the member states.
3. Also in 2003, the Council of Europe carried out a survey of its member states concerning the legal framework for the setting up and functioning of NGOs. This survey was geared to analysing national legislation on NGOs from the angle of its compatibility with the aforementioned Fundamental Principles. The results were utilised in the Secretary General’s thematic monitoring report on “freedom of association”, which the Ministers’ Deputies considered in October 2005.
4. In December 2005, in the light of this monitoring report, the Committee of Ministers decided to set up a Group of Specialists on the Legal Status of Non-Governmental Organisations (CJ-S-ONG), mandating it, under the authority of the European Committee on Legal Co-operation (CDCJ), to continue examining the proposal for a new non-binding legal instrument in the form of a draft recommendation on the legal status of NGOs in Europe, taking account of the “Fundamental Principles on the Status of Non-governmental Organisations in Europe” and the Secretary General’s thematic report on “freedom of association”.
5. The CJ-S-ONG met twice in 2006 to prepare the draft recommendation on the legal status of non-governmental organisations in Europe. It was chaired by Mr Eberhard Desch (Germany), member of the CDCJ. Its scientific expert, Mr Jeremy McBride (United Kingdom), provided an invaluable contribution to its work.
6. Approved on 1 March 2007 by the CDCJ, the text of Recommendation CM/Rec(2007)14 of the Council of Europe Committee of Ministers to member states on the legal status of non-governmental organisations in Europe was adopted by the Committee of Ministers on 10 October 2007, at the 1006th meeting of the Ministers’ Deputies.

7. This instrument targets the legislator, the national authorities and the NGOs themselves. It aims to recommend standards to shape legislation and practice vis-à-vis NGOs, as well as the conduct and activities of the NGOs themselves in a democratic society based on the rule of law.
8. None of the provisions of this Recommendation can be interpreted as implying a limitation of a right or safeguard already recognised by a member state vis-à-vis the NGOs, or as preventing a member state from recognising wider rights and safeguards.

Preamble

9. The success of efforts to bring about societies committed to democracy and human rights in all the member states of the Council of Europe owes much to the activities of NGOs, whether as formal entities or less formal ones. Their contribution is of historical importance and they continue to have a significant part to play in ensuring that this commitment is not weakened and that indeed democracy and human rights are more effectively secured. The importance of their role has been recognised recently at the universal level in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, United Nations General Assembly Resolution A/RES/53/144 (hereinafter UN Declaration on Human Rights Defenders) and at the regional level in the Action Plan of the Third Summit. Without the extensive campaigning and educational work of NGOs, many would be unaware of, and uninvolved in, the decision making that will affect them and the societies in which they live. Although this contribution to matters of public choice is vital, their part in developing and maintaining a rich cultural life and promoting and securing the social well-being of all in society is equally indispensable.
10. Moreover NGOs, in view of their continuing contribution in the fields of culture, democracy, human rights and social justice, are inevitably central to fulfilment of the goals for which the United Nations and the Council of Europe were established. They do so through their work in individual countries, whether as partners of the two organisations or in reliance on the standards that they have elaborated, and through their participation in international and regional fora.
11. At its Third Summit, Heads of State and Government envisaged the Council of Europe “as the primary forum for the protection and promotion of human rights in Europe” playing “a dynamic role in protecting the right of individuals and promoting the invaluable engagement of non-governmental organisations, to actively defend human rights.”
12. It is important to recognise the diverse ways in which NGOs can operate, not least because this needs to be borne in mind when establishing the legal framework applicable to them and determining the support (both direct and indirect) that public authorities can provide towards ensuring the success of their undertakings. The list here is illustrative of this diversity and should not be regarded as exhaustive.
13. Although NGOs play an essential part in securing human rights, the ability to establish and operate those that are membership-based organisations is itself a human right, guaranteed at the regional level for everyone by Article 11 of the European Convention on Human Rights (hereinafter the European Convention) and for particular groups or forms of organisation by Article 5 of the European Social Charter (revised), Articles 3, 7 and 8 of the Framework Convention for the Protection of National Minorities and Article 3 of the Convention on the Participation of Foreigners in Public Life at Local Level. Furthermore the ability of NGOs to contribute to public life and to express a wide range of views is itself a key element of the pluralism that is the hallmark of a true democracy.
14. This Recommendation is particularly concerned with the legal and fiscal framework required to ensure that NGOs can continue to make their various contributions to public and social life. It also draws attention to the limitations on objectives and activities that NGOs must observe, particularly those that are anti-democratic or are concerned with the making and distribution of profits. In addition, it highlights responsibilities that can arise from receiving public support for their activities as well as underlining their responsibility to be transparent and to observe the generally applicable law.
15. This Recommendation reflects and builds upon the elaboration given to broadly framed guarantees of freedom of association and other human rights and fundamental freedoms that has been provided in rulings of the European Court of Human Rights (hereafter the European Court) and the views of the UN human rights treaty bodies. It has also drawn upon the formulation of standards specifically concerned with NGOs. This is important because they also deal with matters which do not have a foundation in the right to freedom of association.

16. Although most NGOs are established within, and restrict their operations to, the territory of an individual member state, there are many NGOs which have objectives of relevance to two or more member states and which also have a membership which is international in character. Convention No. 124 was adopted in order to facilitate the operation of the latter NGOs. While implementation of this Recommendation could also contribute to this objective, the absence from it of any requirement to recognise the legal personality of NGOs established in other member states means that the further enlargement of the number of contracting parties to Convention No. 124 remains highly desirable.
17. Implementation of this Recommendation will require member states to take full account of the standards that it sets out in all their legislation, policies and practices that have any bearing on the formation, operation and termination of NGOs. Moreover, as an elaboration of more general commitments, these standards should provide a useful basis for assessing how satisfactory have been the steps taken to fulfil those commitments. Furthermore implementation of this Recommendation will only be fully successful through the widest possible dissemination of the standards set out in it. This would need them to be made available not only to all who have some role in regulating NGOs and NGOs themselves but also to the public which a) has a legitimate interest in the work of NGOs in particular as beneficiaries of their activities and b) is the source of members for those that are membership-based. In addition realisation of the standards will require them to be used in the training of all officials concerned with the activities of NGOs.

I. Basic principles

Paragraph 1

18. There is no universal definition of NGO, a term which can be used to cover a wide range of bodies operating within both states and intergovernmental organisations. The definition adopted for the purpose of this Recommendation emphasises certain qualities regarded as constituting the essential character of these bodies, namely, that their establishment and continued operation is a voluntary act (i.e., a matter of choice for those founding and belonging to them and, in the case of non-membership bodies, those entrusted with their direction), that they are self-governing rather than under the direction of public authorities and that their principal objective is not to generate profits from the activities that they undertake.
19. NGOs can go under various names such as associations, charities, foundations, non-profit corporations, societies and trusts but it is their actual nature rather than their formal designation that will bring them within the scope of this Recommendation. Thus the designation of a particular entity as “public” or “para-administrative” should not prevent it from being treated as an NGO if that is an accurate reflection of its essential characteristics; see *Chassagnou v. France*, nos. 25088/94, 28331/95 and 28443/95, 29 April 1999.
20. Political parties are excluded from the definition as in many countries they are the subject of separate provisions from those applicable to NGOs generally. However, this exclusion does not preclude states from choosing to treat such parties as NGOs.
21. Moreover those professional bodies established by law to which members of a profession are required to belong for regulatory purposes are also likely to fall outside the definition on account of the failure to comply with the requirement of voluntariness and freedom from direction by public authorities – this has led the European Court to consider such bodies as falling outside the protection for freedom of association under Article 11 of the European Convention; see *Le Compte, Van Leuven and De Meyere v. Belgium*, nos. 6878/75 and 7238/75, 23 June 1981 – but again this exclusion does not prevent states from treating them as NGOs. Nonetheless the voluntary aspects of their activities could be sufficient to bring sub-entities that they establish within the definition; e.g., the human rights committee of a bar association.

Paragraph 2

22. The diversity of NGOs is reflected in the fact that they can be both membership and non-membership-based bodies, echoing the distinction in the explanatory report on Convention No. 124 between “associations” (“a number of persons uniting together for some specific purpose”) and “foundations” (“an identified property devoted to a given purpose”). Furthermore the persons establishing NGOs can be natural or legal, including a combination of these, and NGOs themselves (uniting several such bodies to pursue aspects of their objectives collectively).

Paragraph 3

23. In many instances, as the European Court recognised in *Sidiropoulos and Others v. Greece*, no. 26695/95, 10 July 1998 and *Gorzelik and Others v. Poland* [GC], no. 44158/98, 17 February 2004, the right to act collectively would have no practical meaning without the possibility of creating a legal entity in order to pursue the objectives of an organisation. The absence of this possibility will thus result in a violation of Article 11 of the European Convention. Nonetheless those establishing NGOs may find that their objectives, particularly if they are relatively limited in scope or duration, can be achieved through a less formal structure and that there is, therefore, no need for them to have legal personality.
24. It should, therefore, be generally open to those forming NGOs (or their members if the decision is taken after they have been established) to choose whether they should become an entity which has legal personality or they will be (or remain) one that has no formal legal status. However, this does not preclude the law of a member state from conferring legal personality as an automatic consequence of the establishment of an NGO, i.e., without the need for any formal approval before this status can be obtained.

Paragraph 4

25. Although many NGOs may have a focus that is local or regional in character, the objectives of some NGOs may be best pursued at the national or international level and in the case of others there may be a need to work at several or even all of these levels. The choice of level(s) at which to operate should always be a matter for those founding and belonging to the organisations concerned. It may well be that those belonging to an NGO will wish to change the level(s) at which it operates and they should be free to make such a change.

Paragraph 5

26. Freedom of expression is especially important for NGOs in the pursuit of their objectives. However, although some human rights and freedoms are only enjoyed by those who found and belong to NGOs (see Appl. No. 7805/77, *X and Church of Scientology v. United Kingdom*, 16 DR 68 (1979) and *Wilson, National Union of Journalists and Others v. United Kingdom*, nos. 30668/96, 30671/96 and 30678/96, 2 July 2002), there are many others which contribute to their ability to operate effectively, notably, the prohibition on discrimination, the right to a fair hearing, the prohibition on retrospective penalties, the right to respect for private life and correspondence, the right to freedom of assembly, the right to peaceful enjoyment of possessions and the right to an effective remedy.
27. Furthermore a failure to respect the human rights and freedoms of those who belong to membership-based NGOs – especially the right to life, the right to liberty and security of the person, the right to freedom of thought, conscience and religion, the right to freedom of association, the right to political participation and freedom of movement – will often undermine the pursuit by those organisations of their objectives.

Paragraph 6

28. Although subject to the law like everyone else, the freedom from direction by public authorities is essential to maintain the “non-governmental” nature of NGOs. This freedom should extend not only to the decision to establish an NGO and the choice of its objectives but also to the way it is managed and the focus of its activities. In particular there should be no attempts by public authorities to make NGOs effectively agencies working under their control (see the finding of a violation of Article 11 of the European Convention in *Sigurdur A Sigurjónsson v. Iceland*, no. 16130/90, 30 June 1993 as a result of an attempt to use a taxi association to administer the provision of taxi services) or to interfere with the choice by an NGO of its leaders or representatives (see the finding of violations of freedom of religion under Article 9 of the European Convention, which imposes a similar obligation to Article 11 in this regard, in *Serif v. Greece*, no. 38178/97, 14 December 1999, *Hasan and Chaush v. Bulgaria* [GC], no. 30985/96, 26 October 2000 and *Metropolitan Church of Bessarabia and Others v. Moldova*, no. 45701/99, 13 December 2001 following such interferences).
29. This does not mean that public authorities cannot choose to provide particular assistance to NGOs pursuing objectives that they consider to be of particular importance but the latter should be free to decide whether to accept or continue to receive such assistance. Furthermore neither legislation nor

other forms of pressure should be used to make NGOs undertake particular activities considered to be of public importance.

Paragraph 7

30. The conferment of legal personality on NGOs need not involve the grant of any greater legal powers than those enjoyed by other legal persons; the most essential ones for their operation are likely to be those inherent in such personality, namely, the ability to enter into contracts related to the pursuit of their objectives, to make payments for the goods and services thereby obtained, particularly through the operation of bank accounts, and the ability to own property. However, it ought always to be possible to confer greater capacities on certain types of NGOs and indeed this may be essential for the pursuit of their objectives. Thus additional rights that have been recognised as necessary for NGOs include: the observation of trials and other proceedings⁴⁵²; participation in public affairs and criticism of governmental actions⁴⁵³; promotion of human rights ideas⁴⁵⁴; provision of advice⁴⁵⁵; provision of information to international organisations⁴⁵⁶; and seeking information⁴⁵⁷. At the same time, the enjoyment of legal capacities carries with it the responsibility to act within the law and NGOs should not expect any exemption from the application of the administrative, civil and criminal law obligations and sanctions that are generally applicable to legal persons. The application of the general law to NGOs does not, as the following paragraph makes clear, preclude the extension to NGOs of financial and other benefits not available to other legal persons.

Paragraph 8

31. In view of the contribution that NGOs can make to the achievement of a wide range of societal objectives, it is appropriate to have a legal and fiscal framework applicable which facilitates their establishment and continued operation. The former entails in particular a flexible regime governing the acquisition of legal personality and an approach towards the regulation of their activities that is not overly strict or heavy-handed. The latter can be best achieved through non-taxable grants, direct relief from certain taxes on income and expenditure and the provision of incentives to taxpayers to support the activities of NGOs (see further Paragraph 57 of the Recommendation).

Paragraph 9

32. The freedom to establish NGOs is essentially civil and political in character rather than an economic right. So NGOs should not be established with the principal objective of making profits from their activities. Any profits accruing from those activities should be ploughed back into the pursuit of their objectives rather than be distributed to their members or founders. Nevertheless this does not mean that membership-based NGOs cannot exist to advance the interests of their members, securing economic as much as moral, physical, social or spiritual benefits for them.

Paragraph 10

33. The Recommendation recognises the need for some regulatory controls over the establishment and continued operation of NGOs. However, it is essential that such controls are not applied in either a mistaken or improper manner. Fundamental safeguards against such a possibility occurring will be provided by the administration being prepared itself to review decisions that it has taken and by the supervisory control of the courts. Indeed in a state governed by the rule of law it is essential that NGOs and their members should be able to challenge acts or omissions affecting them in an independent court which has the capacity to review all aspects of their legality. Without this latter possibility there is likely to be a violation of the right to an effective remedy under Article 13 of the European Convention.

452. UN Declaration on Human Rights Defenders, Art. 9(3)(b) and Document of the OSCE Moscow Meeting, 1991, para. 43.

453. Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters ("Aarhus Convention"), Arts. 6-8, European Charter on the Statute for Judges, Art. 1.8, UN Declaration on Human Rights Defenders, Art. 8 and Document of the OSCE Moscow Meeting, 1991, para. 43.

454. UN Declaration on Human Rights Defenders, Art. 7.

455. UN Declaration on Human Rights Defenders, Art. 9(3)(c).

456. UN Declaration on Human Rights Defenders, Art. 9(4).

457. Aarhus Convention, Art. 4.

II. Objectives

Paragraph 11

34. NGOs should be able to pursue any objective that can be pursued by an individual since a grouping of individuals cannot make that objective inherently objectionable. Although the pursuit of unlawful objectives can generally be prohibited, this should not preclude the pursuit of a change in the law (including the constitution) by lawful means as it is of the essence of democracy to allow diverse political programmes to be proposed and debated; see Appl. No. 7525/76, *X v. United Kingdom*, 11 DR 117 (1978) (advocacy of criminal law reform) and *The Socialist Party and Others v. Turkey* [GC], no. 21237/93, 25 May 1998) (advocacy of a federal constitution).
35. Moreover it is essential that activities prohibited by the law do not cover any activities that are protected under universally and regionally guaranteed rights and freedoms; see the reliance in *Sidiropoulos and Others v. Greece*, no. 26695/95, 10 July 1998 on the fact that Conference on Security and Cooperation in Europe documents allowing the formation of associations to protect cultural and spiritual heritage had been signed by the respondent state in supporting the conclusion that the objective of preserving and developing the traditions and folk culture of a region was perfectly legitimate.
36. However, it is not permissible either to use anti-democratic means to pursue a change in the law or the constitution or to seek a change that is inherently anti-democratic; see *Refah Partisi (The Welfare Party) and Others v. Turkey* [GC], nos. 41340/98, 41342/98, 41343/98 and 41344/98, 13 February 2003.

Paragraph 12

37. The ability of NGOs to undertake research, education and advocacy on issues of public debate will often be crucial in the pursuit of their objectives. It would be pointless of them to undertake such research, education and advocacy if they were not also able to disagree with governmental policy or propose changes in the law.

Paragraph 13

38. Although NGOs are not political parties, support by the former for the latter in elections and referenda can be an important means of realising a particular objective, whether in whole or in part, as the outcome of an election or referendum may lead to a change in law or policy favourable to that objective. NGOs should, therefore, be free to provide that support but this may be conditioned on them being transparent in declaring their motivation, particularly to ensure that their members and funders are aware of such support being given and that the law on the funding of elections and political parties is observed. That law may, for example, set limits on the level of funding that can be provided or prohibit funding from sources outside the state concerned.
39. Furthermore, while NGOs should be able to support political parties on particular issues, such support may be incompatible with the objectives of some funders, whether because they are prohibited from supporting any form of advocacy or because their public status requires them to be non-partisan, and they should, therefore, be able to refuse or withdraw financial and other benefits where this support is given.

Paragraph 14

40. The fact that NGOs are non-profit-making is one of their essential characteristics, distinguishing them in particular from commercial enterprises. However, NGOs will be unable to pursue their objectives without some source of income and this can be provided not only by fees, grants and donations but also through undertaking economic, business or commercial activities.
41. There should, therefore, be no obstacle to them undertaking such activities subject to the prohibition on the income thereby derived being distributed to their members and founders (see Paragraph 9 of the Recommendation) and to the licensing and regulatory requirements generally applicable to those activities.
42. The ability to undertake economic, business or commercial activities should also not preclude a requirement that certain modalities be followed, such as the formation of a subsidiary company for this purpose.

Paragraph 15

43. Associations, federations and confederations of NGOs (which are themselves NGOs) play an important role in that they foster complementarity amongst such bodies and allow them to reach a wider audience, as well as enabling them to share services and set common standards. NGOs, in pursuit of their objectives, should thus be free to join or not join such associations, federations and confederations.

III. Formation and membership

A. Establishment

Paragraph 16

44. As it is a fundamental principle that any person or group of persons should be free to establish an NGO, restrictions on the formation of NGOs either by persons who do not have the nationality of the state in which this takes place or by legal persons should not be imposed. In the case of non-nationals, this freedom is also specifically recognised in Article 3 of the Convention on the Participation of Foreigners in Public Life at Local Level (ETS No. 144).
45. Moreover, subject to their evolving capacities, the freedom of association explicitly guaranteed to children by Article 15 of the Convention on the Rights of the Child would enable them to found NGOs.
46. In the case of a non-membership-based NGO, establishment should be possible through the making of a gift where the founder is alive or of a bequest following his or her death. However, this provision should not be interpreted as being applicable to all legal forms. In some countries, for instance, the possibility of establishment by will does not exist for all non-profit-making legal forms.

Paragraph 17

47. No minimum number is prescribed in guarantees of freedom of association for the number of persons required to establish a membership-based NGO. The guarantee of this freedom to everyone should, in principle, mean that only two persons are required to establish such a body. However, it is accepted that the acquisition of legal personality might afford a justification for setting a higher threshold for the establishment of a membership-based NGO. Nonetheless there could be no justification for setting a minimum that clearly discouraged or inhibited the establishment of membership-based NGOs.

B. Statutes

Paragraph 18

48. NGOs, especially those with legal personality, must heed the needs of various parties – members, founders, users, beneficiaries, donors, staff and public authorities – as regards their organisation and decision-making processes. This is most easily achieved by NGOs with legal personality having clear statutes, howsoever described under the law of the member state in which they have been established, setting out the conditions under which they are to operate. Nonetheless it is recognised that in some legal systems it is possible to achieve this goal without formally adopted statutes (e.g., informal associations in the Netherlands).

Paragraph 19

49. The requirements set out in this paragraph concern the matters that are most likely to be crucial to establishing the conditions under which NGOs are to operate. Those establishing or belonging to NGOs (as well as those responsible for their direction in the case of non-membership-based bodies) are free to specify additional matters in their statutes but they should not normally be under any obligation to do so. The term “powers” refers to the authority given by the statutes (expressly or impliedly) to do particular things in pursuit of an NGO’s objectives.

Paragraph 20

50. The requirement that the membership should form the highest governing body of a membership-based NGO is a manifestation of the exercise of freedom of association by their members. This does not mean

that the members cannot delegate the authority to take action to other bodies but they should always be able to revoke that delegation and determine the matter themselves.

51. Such a consideration does not apply in the case of non-membership-based NGOs and so the highest governing body should be determined by the statutes, whether as originally drawn up by their founders or as subsequently amended in the prescribed manner.

C. Membership

Paragraph 21

52. Freedom of association has a very important negative dimension, namely, that persons should not be unduly coerced into joining or remaining members of an NGO to which they do not wish to belong on account of ethical, philosophical, political or religious grounds. In particular individuals should not be required to forego their objections to membership of a particular NGO in order to retain a job or to continue to pursue their livelihood; see in the context of trade unions, *Young, James and Webster v. United Kingdom*, no. 7601/76 and 7806/77, 13 August 1981.
53. Outside of the context of work, it would also be unacceptable for someone to be compelled to belong to an NGO where they had a deep-seated objection to one or more of its objectives; see *Chassagnou v. France*, nos. 25088/94, 28331/95 and 28443/95, 29 April 1999 with regard to enforced membership of a hunting association. It does not matter whether the constraints imposed on someone to belong to an NGO are directly imposed by the law or are merely facilitated by it.
54. However, a requirement that someone join a professional association as part of the regulatory control of that profession would not be objectionable so long as there is no restriction on the members setting up their own organisation in addition to the one which they were obliged to join; see *Le Compte, Van Leuven and De Meyere v. Belgium*, nos. 6878/75 and 7238/75, 23 June 1981.

Paragraph 22

55. The guarantee of freedom of association in Article 11 of the European Convention and in other human rights instruments is applicable to “everyone” within a State’s jurisdiction and the scope for imposing limitations will thus be quite narrow. Certainly children should not be excluded – particularly since this freedom is also specifically guaranteed to them by Article 15 of the Convention on the Rights of the Child – but that does not preclude the adoption of protective measures to ensure that they are not exploited or exposed to moral and related dangers. Any limitations on their ability to join membership-based NGOs will need to take account of their evolving capacities and, as well as being proportionate and respecting legal certainty, should never be such as totally to exclude them from becoming members.
56. Similarly the freedom should normally be exercisable by persons who are non-nationals and any limitation on this would need to be compatible with the limited authorisation to restrict the political activity of non-nationals allowed under Article 16 of the European Convention; see *Piermont v. France*, nos. 15773/89 and 15774/89, 27 April 1995. It would thus be hard to justify a bar on political activity in the non-party context and impossible to do so for one where no politics was involved at all (e.g., in the field of sport and culture).
57. It is possible that a prohibition on involvement in NGOs might be a legitimate consequence of having committed certain offences but its scope and duration must always respect the principle of proportionality (see *Applic. No. 6573/74, X v. The Netherlands*, 1 DR 87 (1974)) and a ban on membership as an automatic consequence of imprisonment would never be justified.
58. The essence of freedom of association is that individuals should be free to choose with whom they associate and so the law should not normally enable someone to join an NGO against the wishes of its members. However, there would be a good justification for constraining the freedom of members of an association to determine whom to admit as new members where this was done in order to fulfil obligations to prevent discrimination on any inadmissible ground and thereby protect the rights of others, as permitted by Article 11(2) of the European Convention.

Paragraph 23

59. As with admission, the expulsion of someone from a membership-based NGO is generally a matter for the organisation itself. However, the rules governing membership in its statute must always be observed

and national law should thus ensure that someone facing expulsion or who has been expelled has available an effective means on insisting on such observance; see Appl. No. 10550/83, *Cheall v. United Kingdom*, 42 DR 178 (1985). Moreover the rules governing expulsion should not be wholly unreasonable or arbitrary; in particular there should be a fair hearing before any decision is taken.

Paragraph 24

60. Improper sanctions should not be imposed on persons merely because of their membership of an NGO. Thus there ought to be a remedy for anyone dismissed because he or she belongs to a trade union (see Appl. No. 12719/87, *Frederiksen v. Denmark*, 56 DR 237 (1988)) or because of the objectives of any other organisation to which they belong (see *Vogt v. Germany* [GC], no. 17851/91, 26 September 1995).
61. Similarly there ought to be protection for any other forms of sanction or pressures not to belong to an NGO, such as the loss of eligibility for certain benefits or posts; see *Grande Oriente D'Italia di Palazzo Giustiniani v. Italy*, no. 35972/97, 2 August 2001 and *Wilson, National Union of Journalists and Others v. United Kingdom*, nos. 30668/96, 30671/96 and 30678/96, 2 July 2002.
62. There is also a need to provide protection against even more aggressive forms of action taken against persons on account of their membership of an NGO, namely, harassment, intimidation and the use of violence. However, some sanctions will be admissible where membership of an NGO is clearly incompatible with the performance of either a person's responsibilities as an employee or office-holder (see Appl. No. 11002/84, *Van der Heijden v. The Netherlands*, 41 DR 264 (1985)) or of other obligations that have been undertaken (such as where there is a conflict of interest between the interests of two organisations to which a person belongs).
63. The risk of incompatibility where the member is a public employee is expressly recognised in the stipulation in Article 11(2) of the European Convention that the guarantee of freedom of association does not "prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State". However, as with any other conflict of interest, the existence of such an incompatibility must be demonstrated by direct evidence and should not thus be a matter of supposition. Moreover the restrictions must always have a basis in law and respect the principle of proportionality; see the *Vogt case*, *Ahmed and Others v. United Kingdom* [GC], no. 22954/93, 2 September 1998 and *Rekvényi v. Hungary* [GC], no. 25390/94, 20 May 1999. Furthermore those regarded as belonging to the administration of the State should be seen as covering only higher-ranking officials and not all employees paid out of public funds; see the *Vogt* and *Grande Oriente* cases.

Paragraph 25

64. This paragraph confirms that membership of an NGO need not be a precondition to becoming involved in any activities that it might undertake. Whether or not membership is required for this purpose – whether as regards some or all of its activities – should be a matter for the NGO itself to determine. However, membership is essential for participation in meetings of the highest governing body of a membership-based NGO since membership must be a precondition to take part in such meetings (see Paragraph 20 of the Recommendation).

IV. Legal personality

A. General

Paragraph 26

65. The existence of legal personality has been recognised by the European Court as essential for the functioning of many NGOs (see *Sidiropoulos and Others v. Greece*, no. 26695/95, 10 July 1998 and *Gorzelik and Others v. Poland* [GC], no. 44158/98, 17 February 2004) and such personality would be meaningless if it were not distinct from that of those who have established the organisation or who belong to it. However, as Paragraph 75 of the Recommendation makes clear, the distinct personality of an organisation from that of its founders and members should not be an obstacle to either of the latter being held liable to third parties or the NGO itself for any professional misconduct or neglect of duties arising from their involvement in the activities of the NGO.

Paragraph 27

66. It follows from the fact that an NGO has a distinct personality from that of its founders and members that it should be the new organisation created in the event of a merger of two or more existing ones that succeeds to their rights and liabilities.

B. Acquisition of legal personality

Paragraph 28

67. Where the acquisition of legal personality is not an automatic consequence of forming an NGO, there will inevitably have to be a process of assessing whether the legal requirements have been met. In order to minimise the risk of the resulting discretion being inappropriately exercised, the grounds for taking a decision on the grant or refusal of legal personality should always be stated with an appropriate degree of precision and be such as to permit objective assessment of the observance of these legal requirements. The formulation in Paragraph 34 of the Recommendation should serve as a guide in this respect.

Paragraph 29

68. The formation of NGOs will be facilitated if those interested in so doing have ready access to the applicable rules and the process to be followed is easy to understand and to satisfy. The latter requirement could be met by producing a guide to the requirements for establishing an NGO.

Paragraph 30

69. Although the ability to form an NGO ought, in principle, to be open to anyone, some disqualification on being able to do so might be an appropriate consequence of the past activities of the person concerned. This might be particularly the case where the person concerned has been found guilty of an offence which entailed the pursuit of objectives that are not ones for which an NGO might be formed. Similarly a bankruptcy determination might mean that someone ought not to be allowed to establish an NGO, or at least not ones that can be expected to be in receipt of significant funding. In all cases the scope of such restrictions would need to be clearly connected with the activities concerned and their duration should also not be disproportionate.

Paragraph 31

70. In order to ensure that those seeking to establish NGOs are not unduly burdened and that any decision-making process is appropriately focused, the only information that should need to be filed with an application for legal personality will be the statute, the address of the NGO and the details needed to identify the persons concerned.
71. In the case of non-membership-based NGOs, which are likely to require some form of funding or property before they can pursue their objectives, there could be an additional requirement of demonstrating that such funding or property is available so that entities that will never operate cannot be created. However, it is not essential that there be such a requirement, particularly as the circumstances in a particular country may be such that the acquisition of the necessary funding or property is dependent upon the intended recipient first obtaining legal personality.

Paragraph 32

72. The requirement that the members of a membership-based NGO should first adopt a resolution in favour of acquiring legal personality is a reflection of the fact they are its highest governing body. In order for the members to have an opportunity to take part in such an important decision, the invitation of the meeting at which such a resolution is to be adopted must be one that gives them a reasonable prospect of attending – two weeks' notice might be appropriate for this purpose – but it cannot be expected that every member actually attends and the use of proxies ought to be permitted.
73. Proof that the necessary meeting had been held could be provided by a copy of the invitation, evidence of how the invitation to attend was communicated, a record of the proceedings and the signatures of those attending, as well as any authorisations for proxies.

Paragraph 33

74. Although there will be costs involved in the processing of applications to acquire legal personality, the level at which any fees are set should reflect both the desirability of encouraging the formation of NGOs and the fact that their character is essentially non-profit-making.

Paragraph 34

75. The grounds stipulated for refusal of legal personality reflect the only considerations relevant for such a decision. As to names belonging to another or which are confusing, see *Apeh Uldozotteinek Szovetsege, Ivanyi, Roth and Szerdahelyi v. Hungary* (dec.), no. 32367/96, 31 August 1999 and as to inadmissible objectives, see *Metropolitan Church of Bessarabia and Others v. Moldova*, no. 45701/99, 13 December 2001. This underlines the structured nature of the discretion that must be established by national law.

Paragraph 35

76. The case law of the European Court demonstrates the real risk of authorities being too ready to assume the worst about the objectives of an NGO; see, e.g., *United Communist Party of Turkey and Others v. Turkey*, no. 19392/92, 30 January 1998 and *Sidiropoulos and Others v. Greece*, no. 26695/95, 10 July 1998. As the European Court has made clear it is particularly difficult to draw adverse conclusions about broadly framed objectives where an NGO has yet to undertake activities which demonstrate a commitment to the pursuit of inadmissible objectives.
77. It is not appropriate to rely on suspicions or to draw conclusions simply from the use of certain terms in a statement of objectives. While an NGO's stated aims might conceal certain inadmissible objectives and intentions, this is likely to be demonstrated only by concrete action and not in an application for legal personality. Although past behaviour might give some indication as the way in which someone will behave in the future, there will be a need for significant corroboration that a risk exists before such personality could be legitimately refused.
78. Furthermore the importance of political pluralism in a democracy means that the establishment of NGOs with objectives that challenge the established order must be permitted unless there is compelling evidence that they will be pursued in a manner that is anti-democratic and this cannot be assumed simply because change is being proposed; see *Refah Partisi (The Welfare Party) and Others v. Turkey* [GC], nos. 41340/98, 41342/98, 41343/98 and 41344/98, 13 February 2003.

Paragraph 36

79. Although in some countries the responsibility for decisions relating to grant of legal personality to NGOs is vested in courts, this is not an essential means of ensuring that the process is not affected by political considerations. It is sufficient that the body with this responsibility is genuinely independent not only of an executive elected or chosen as part of the political process but also of any other entity whose interests might be affected by the coming into being of a new NGO; see *Metropolitan Church of Bessarabia and Others v. Moldova*, no. 45701/99, 13 December 2001.
80. The body concerned may thus be an administrative one but, whatever its formal status, it is essential that it have an appropriate level of staff to ensure that the requirement of expeditious decision making is fulfilled and that those staff be persons who are suitably qualified and trained for the task expected of them.

Paragraph 37

81. The right to form NGOs with legal personality will only be truly meaningful where any process of approval that may be involved is completed in a reasonably speedy manner; delay in decision making should not be allowed to frustrate the pursuit of the objectives of the proposed organisation. A useful point of comparison in judging what is reasonable might be the time taken to register corporations or business since these also have objectives to be scrutinised and the fulfilment of requirements to be checked. However, in most countries this is something that can be completed in a matter of days rather than of weeks or months. Failure to decide within the prescribed time limit should then be automatically treated as either a refusal of legal personality or the granting of it.

Paragraph 38

82. The provision of a reasoned decision to the person affected by it is a fundamental principle of good administration that not only assists acceptance of a well-founded but adverse decision but also ensures that such a decision can be subjected to appropriate scrutiny. Although the review of a refusal of legal personality might in the first instance be a matter for internal review within the decision-making body, the ultimate guarantee that the rights of those seeking legal personality for an NGO have been respected can only be afforded by an appeal to an independent and impartial court.

Paragraph 39

83. The separation of decision making about the grant of legal personality from that about the grant of financial or other benefits is necessary in order to avoid the possibility of these two quite discrete matters becoming confused, with the result of inappropriate conclusions being reached in respect of the former. Such a risk might be most easily avoided by having two different decision-making bodies but this objective could also be achieved by giving these two functions to separately run units within the same body.

Paragraph 40

84. In order to protect the interests of all who may have dealings with NGOs with legal personality, the fact that this has been granted and the information submitted for this purpose should be recorded in a manner that allows members of the public to check any details that may be of concern to them. Ideally this should take the form of an electronic database that can be accessed without formality or fee over the internet.

Paragraph 41

85. The legal personality granted to an NGO should normally be for an indefinite duration, with this being determined only in accordance with the terms of its statute or pursuant to termination fulfilling the requirements of this Recommendation (see Paragraphs 44 and 74 of the Recommendation). The grant of legal personality should not, therefore, be for a limited duration or subject to a requirement of renewal unless this is the wish of those establishing the NGO concerned.

C. Branches; changes to statutes

Paragraph 42

86. The establishment or accreditation by an NGO of branches should be a matter for its own internal organisation and thus subject only to the requirements of its statute. The only circumstance in which any official authorisation for the establishment of a branch could be required would be where a discrete legal personality for the branch from that of the NGO establishing it was being sought for this purpose. In such a case the grant of approval could be made subject to the rules generally applicable to the grant of legal personality to NGOs.

Paragraph 43

87. Approval for a change in the statutes of an NGO should only be required where this concerns a matter that might be the basis for a refusal to grant legal personality (see Paragraph 34 of the Recommendation). However, the legitimate interest of members of the public in being able to verify the content of the statute of an NGO with which they have dealings would justify a requirement that other changes are notified prior to their coming into force. Therefore a member state may require that a change in the statutes must be entered in the register before it can be applied. This requirement may be necessary for members, those intending to join as members and creditors, bodies granting subsidies, authorities and other contact groups.
88. Although seeking approval for a change should be governed by the procedure already set out with respect to the initial grant of legal personality, the grant of approval should not involve the NGO concerned first having to establish itself as an entirely new entity. The term "approval" for the purpose of this paragraph does not cover any involvement of a lawyer or notary in preparing the change to the statutes.

D. Termination of legal personality

Paragraph 44

89. The termination of the legal personality of an NGO against the will of its members or, in the case of a non-membership-based organisation, its founders is not something that should be easily done as this would undermine the principle that such bodies ought not to be subject to the direction of public authorities (see Paragraph 6 of the Recommendation). Involuntary termination ought, therefore, only to be possible where there is a compelling public interest in so doing. This will be where the NGO concerned has become bankrupt, has not been active for an extensive period – this is probably not something that can be claimed unless at least several years have elapsed between meetings of the highest governing body and there have been at least two failures to file annual reports on their accounts – or has engaged in serious misconduct in the sense of wilfully engaging in activities that are inconsistent with the objectives for which an NGO can be founded (including becoming an essentially profit-making body).

E. Foreign NGOs

Paragraph 45

90. States that have not ratified Convention No. 124 may retain some discretion as to whether they recognise the legal personality of foreign NGOs and as to whether they allow them to operate within their territory but neither can be absolute on account of both the freedom of association guaranteed to those who are resident within them and the recognition by instruments such as the UN Declaration on Human Rights Defenders (Articles 5, 16 and 18) of the legitimacy of international human rights NGOs operating within individual countries. Certainly any process of prior approval to operate should be restricted and should not entail any requirement that NGOs first establish a new and separate entity under the law of the state in which they are seeking to operate. Furthermore the process of approval and its withdrawal should emulate, insofar as appropriate, the approach required for granting and terminating legal personality to NGOs set out in this Recommendation.

V. Management

Paragraph 46

91. In a membership-based NGO the members should ultimately determine who carries out its management but, while in some cases they might decide this directly, they should be free to delegate the task to an intermediary body which may be especially desirable where the membership is particularly large. Nonetheless the status of the membership as the highest governing body must mean that any such delegation cannot be irrevocable.
92. In the case of a non-membership-based NGO the statutes do not have to protect the rights of members and are thus not subject to any particular limitations regarding the choice of management.

Paragraph 47

93. Although the decision-making process of an NGO must always comply with the requirements of its statutes, the limited requirements as to what these must contain and the principle of self-regulation (see Paragraphs 1 and 67 of the Recommendation) mean that there should be no other constraints on how they decide to pursue their objectives and manage the organisation.
94. Thus the NGO should be free to adopt organisational arrangements that it considers appropriate and to change them as and when it considers this to be necessary. Such internal matters should not require the approval of anyone outside the organisation concerned.
95. The freedom that NGOs ought to have with respect to decision making should not, however, lead their management to ignore the wide range of persons with a legitimate interest in the way in which the organisations concerned conduct themselves. The taking into account of these interests will require the use of a number of different techniques – notably consultation and reporting – and their precise form and scope will vary according to the character of the interest in question.

Paragraph 48

96. The freedom of NGOs to determine the arrangements for pursuing their objectives also extends to the choice of officers and the admission and exclusion of members.
97. It is possible that, as with the ability to form an NGO (see Paragraph 30 of the Recommendation), a prohibition on acting as an officer in an NGO might be a legitimate consequence of committing certain offences. In all cases the scope of such restrictions would need to be clearly connected with the activities constituting the offences and their duration should also not be disproportionate.
98. The freedom of NGOs to determine the admission or exclusion of members is subject to the prohibition on discrimination and the right to be protected against arbitrary exclusion.

Paragraph 49

99. Foreign nationals employed by NGOs or involved in their management should be subject to the generally applicable laws of the country in which they are established or operate as regards entry, stay and departure but there should not be any special limitation on such nationals becoming employees or being involved in the management of such organisations.

VI. Fundraising, property and public support

A. Fundraising

Paragraph 50

100. The ability of NGOs to solicit donations in cash or in kind will, notwithstanding the possibility of them also engaging in some economic activity, always be a crucial means for them to raise the funds required in order to pursue their objectives. It is important that the widest range of possible donors can be approached by NGOs.
101. The only limitation on donations coming from outside the country should be the generally applicable law on customs, foreign exchange and money laundering, as well as those on the funding of elections and political parties. Such donations should not be subject to any other form of taxation or to any special reporting obligation.

B. Property

Paragraph 51

102. Access to banking facilities will be essential if NGOs with legal personality are to be able to receive donations and to manage and protect their assets. This does not mean that banks should be placed under an obligation to grant such facilities to every NGO seeking them. However, their freedom to select clients should be subject to the principle of non-discrimination and the ability to operate bank accounts should be a necessary incident of the grant of legal personality to NGOs.

Paragraph 52

103. The possibility of NGOs protecting their property rights, as well as any other legal interests, through being able to bring and defend legal proceedings is essential since any taking of, the loss of control over or damage to their property could frustrate the pursuit of their objectives; see the finding of a violation of the right to peaceful enjoyment of possessions under Article 1 of Protocol No. 1 to the European Convention in *The Holy Monasteries v. Greece*, nos. 13092/87 and 13984/88, 9 December 1994 which concerned a religious entity that had lost the right to bring legal proceedings in respect of its property.

Paragraph 53

104. The fact that assets of some NGOs have come from public bodies and that their acquisition has been assisted by a favourable fiscal framework are reasons to ensure that these assets are carefully managed and that the best value is obtained when buying and selling them. It would, therefore, be appropriate

to adopt a requirement in these cases that NGOs be guided by independent advice when engaging in some or all such transactions.

Paragraph 54

105. It is a corollary of the adoption of a special tax regime to facilitate the acquisition of property for certain purposes that that property should not be utilised for other purposes. In the event of an NGO not being in a position to use the property for such purposes, it could thus be required to return the property concerned to the donor, to transfer it to another NGO that can use it for those purposes or to retain it on payment of the applicable taxes.

Paragraph 55

106. Most NGOs are unlikely to be able to pursue their objectives without employing some staff and/or having volunteers carrying out some activities on their behalf. It should, therefore, be recognised that it is a legitimate use of NGOs' property to pay their employees and to reimburse the expenses of those who act on their behalf. While market conditions and/or legislation will influence the level of payments made to staff, the need to ensure that property is properly used for the pursuit of an NGO's objectives would justify imposing a criterion of reasonableness for the reimbursement of expenses.

Paragraph 56

107. National law should permit an NGO to designate, whether in its statutes or by resolution of its highest governing body, another NGO to receive its assets in the event of its termination. This should, however, only apply to assets left after all the liabilities of the NGO being terminated have been met and this would include the fulfilment of a condition in a donation that funds unspent on the purpose for which it was given should either be returned to the donor or transferred to an NGO specified by the donor.
108. The freedom otherwise left to the NGO to determine who should succeed to its assets will, however, be subject to the prohibition on distributing any profits that it may have made to its members (see Paragraph 9 of the Recommendation) and may also be constrained by an obligation to transfer assets obtained with the assistance of tax exemptions or other public benefits to other NGOs pursuing objectives for which such exemptions or benefits are granted. In addition an NGO whose objectives or activities have been found to be inadmissible for reasons set out in Paragraph 11 of the Recommendation should not have any right to determine the successor to its assets but these should instead be applied by the State for public purposes.

C. Public support

Paragraph 57

109. It is appropriate to grant public support to NGOs since they are often able to answer the needs of society in ways that public bodies cannot. The forms that such support can take will be wide-ranging and will need to be settled according to the conditions prevailing in a country at a particular time. However, various forms of tax exemption, whether directly to the NGOs themselves or indirectly to those who might thereby be encouraged to make donations to them, are likely to be the most useful as they enable NGOs to determine the best use of the resulting income.

Paragraph 58

110. It is essential that clear and objective criteria should govern the grant or refusal of any form of public support to NGOs so that any such decision can be scrutinised by all who may be interested in it – not only the NGOs concerned but also other NGOs working in the same field and members of the public interested in the use made of public resources – and subject to challenge in a court where it is considered that they have not been properly applied.

Paragraph 59

111. In deciding whether to grant public support, or particular forms of it, to an NGO or a certain category of NGO, it will be appropriate to take into account the nature and beneficiaries of any activities undertaken by such an organisation or category of organisation and thereby establish whether they address those

needs of society considered to be a particular priority. What is seen as a priority and thus what forms of activity are regarded as worthy of public support can change over the course of time.

Paragraph 60

112. The provision of public support (in the form of financial or other benefits) for the activities of NGOs is something that can be made contingent upon them qualifying for a special category or regime (e.g., a charity), or even a specific legal form (e.g., a trade union, church or religious association). A failure to obtain such a status or classification or to be allowed to take on such a legal form should not, however, lead to the loss of any legal personality already acquired.

Paragraph 61

113. Since the granting of public support can be conditional upon certain objectives being pursued or certain activities being undertaken, it should be expected that a material change in either those objectives or activities will lead to a review of the provision of this support and possibly its modification or termination.

VII. Accountability

A. Transparency

Paragraph 62

114. Those NGOs receiving any form of public support should expect to account for the use made of it. It is not unreasonable for NGOs to be required to report each year on the activities that they have undertaken and the accounts for the income and expenditure concerned. However, such a reporting obligation should not be unduly burdensome and should not require the submission of excessive detail about either the activities or the accounts. This reporting obligation is without prejudice to any particular reporting requirement in respect of a grant or donation. This requirement is distinct from any generally applicable requirement regarding the keeping and inspection of financial records and the filing of accounts.

Paragraph 63

115. In order to allay any concern that NGOs might not be devoting as much of their resources as is practicable to the pursuit of their objectives, an obligation to require them to disclose the proportion in fundraising and administrative overheads can be imposed. This provision is not meant to set a particular limit for expenditure on fundraising and administrative overheads but to ensure transparency.

Paragraph 64

116. Obligations to report should be tempered by other obligations relating to the right to life and security of beneficiaries and to respect for private life and to confidentiality. In particular a donor's desire to remain anonymous should be respected. However, the need to respect private life and for confidentiality are not absolute and should not be an obstacle to the investigation of criminal offences (e.g., in connection with money-laundering). Nonetheless any interference with respect for private life and confidentiality should observe the principles of necessity and proportionality.

Paragraph 65

117. In order to guarantee objectivity there can be a requirement that NGOs have their accounts audited by a person or institution independent of its management. The scope of any such requirement should take account of the size of the NGO concerned. In smaller ones the requirement of independence might be satisfied where the audit is carried out by a member who has no connection with the management. For those with substantial income and expenditure the use of the services of a professional auditor is likely to be considered more appropriate. It is recognised that there may also be a general legal obligation for all entities with legal personality (including NGOs) of meeting certain objective criteria, such as net value of assets or average number of employees, to have their accounts audited, which would be applicable even where NGOs do not receive any public support.

Paragraph 66

118. Although there is no reason to differentiate between foreign and other NGOs as regards the applicability of reporting and inspection requirements, it is only appropriate to subject foreign NGOs to them in respect of the activities that they actually carry out in the host country.

B. Supervision

Paragraph 67

119. The best means of ensuring ethical, responsible conduct by NGOs is to promote self-regulation in this sector at the national and international level. Certainly responsible NGOs are conscious of the fact that their success depends to a large extent on public opinion concerning their efficiency and ethics. Nonetheless states have a legitimate interest in regulating NGOs so as to guarantee respect for the rights of third parties (whether donors, employees, members or the public) and to ensure the proper use of public resources and respect for the law.
120. In most instances the interests of third parties can be adequately protected by enabling them to bring the relevant matter before the courts; there should generally be no need for a public body to take any other action on their behalf.
121. Whatever the form of regulatory control employed, it is essential that it be governed by objective criteria and be subject to the principle of proportionality so that its exercise can be amenable to control by the courts. It is also vital that public authorities, in supervising the activities of NGOs, apply the same assumption that holds good for individuals, namely, that their activities are lawful unless the contrary is proved.

Paragraph 68

122. It should be possible to scrutinise the financial records and activities of NGOs where there are sufficient grounds for inquiry. In most instances this is only likely to be justified where an NGO has failed to comply with reporting requirements, whether because no report has been made or because what has been produced gives rise to genuine concerns, but it is possible that circumstances will warrant an inquiry even before a report is due. Mere suspicion should not be the basis for any such inquiry; there must always be reasonable basis for believing that impropriety has occurred or is imminent.

Paragraph 69

123. This provision requires that NGOs should have the benefit of the guarantees applicable to the search of persons and premises under Article 8 of the European Convention; see, e.g., *Funke v France*, no. 10828/84, 25 February 1993.
124. Judicial authorisation should normally be obtained prior to any such search taking place but this can be dispensed with where the power is subject to both very strict limits and subsequent judicial control, providing a sufficient guarantee against arbitrary interference with the right to respect for private life; see *Camenzind v. Switzerland*, no. 21353/93, 16 December 1997.

Paragraph 70

125. Intervention by an external body in the actual running of an NGO should be extremely rare. It should be based on the need to bring an end to a serious breach of legal requirements where either the NGO has failed to take advantage of an opportunity to bring itself into line with those requirements or an imminent breach of them should be prevented because of the serious consequences that would follow.

Paragraph 71

126. The possibility of seeking suspension of administrative action is something expected of all administrative law systems – see Recommendation [Rec\(2003\)16](#) of the Committee of Ministers on the execution of administrative and judicial decisions in the field of administrative law – but it is especially important that this is available in respect of directions to an NGO to desist from particular activities as these are

often tied to particular moments in time and so could not usefully be undertaken at a later date after a challenge to the directions has been successfully pursued.

127. Although there may be good reasons in a particular case for refusing suspension of an order to desist from certain activities or of any other measure taken in respect of an NGO, the significance of so doing is such that there should then be the possibility of this being subjected to a prompt judicial challenge.

Paragraph 72

128. NGOs, like everyone else, are subject to the law and sanctions may thus be imposed on them for failing to observe its requirements. However, it is essential that the principle of proportionality be respected in both framing and applying sanctions for non-compliance with a particular requirement. Moreover there should always be a clear legal basis for any sanctions that are imposed in a given case.

Paragraph 73

129. Although there is no reason to differentiate between foreign and other NGOs as regards the applicability of inspection requirements, it is only appropriate to subject foreign NGOs to them in respect of the activities that they actually carry out in the host country.

Paragraph 74

130. The need to respect the principle of proportionality should mean that resort to the sanction of enforced termination of an NGO for the reasons set out in Paragraph 44 of the Recommendation should be very rare. An extremely well-founded basis for such drastic action as enforced termination is essential; see *United Communist Party of Turkey and Others v. Turkey*, no. 19392/92, 30 January 1998, *Socialist Party and Others v. Turkey* [GC], no. 21237/93, 25 May 1998 and *Refah Partisi (The Welfare Party) and Others v. Turkey* [GC], nos. 41340/98, 41342/98, 41343/98 and 41344/98, 13 February 2003.
131. Moreover in making any assessment about the need for enforced termination it will be important to be sure that the reprehensible activities of members and even office-holders of an NGO can justifiably be regarded as engaging the responsibility of the latter; see *Dicle for the Democratic Party (DEP) of Turkey v. Turkey*, no. 25141/94, 10 December 2002.
132. Where enforced termination does appear to be justified, it is a measure that must be adopted by a court and should be subject to appeal. It should only be in the most exceptional case that the effect of a termination ruling would not be suspended until the outcome of an appeal; see the contribution of the absence of such a possibility to the measure being found to be disproportionate in the United Communist and Socialist Party cases.

C. Liability

Paragraph 75

133. The principles set out in this provision are a necessary consequence of the legal personality of an NGO. Such personality confers on it a separate existence from its members and founders and it should normally, therefore, be the only one liable for its debts, liabilities and obligations. However, legal personality cannot operate as a barrier to liability on the part of an NGO's members, founders and staff for any professional misconduct or neglect of duties with regard to its functioning that affects the rights or other legal interests of third parties.
134. In some countries it is possible to choose to establish an NGO with legal personality where the officers can be held personally liable for the NGO's debts, liabilities and obligations (for example, informal associations in the Netherlands).

VIII. Participation in decision making

Paragraph 76

135. Notwithstanding the different perspective of NGOs and public authorities, it is in their common interest and that of society as a whole for them to have available effective mechanisms for consultation and

dialogue so that their expertise is fully exploited. Certainly competent and responsible input by NGOs to the process of public policy formulation can contribute greatly to efforts to find solutions to the many problems that need to be addressed.

136. Although direct consultation and dialogue with all interested NGOs may not be feasible in every instance, the adoption of techniques to facilitate their input through bodies playing a co-ordinating role should be encouraged.
137. No NGO should be excluded from participation on a discriminatory basis and the expression of a diversity of views should be ensured.
138. The quality of the input of NGOs should not be undermined by inappropriate restrictions on access to official information.

Paragraph 77

139. 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.

www.coe.int/en/web/ingo/ngo-legislation

 @CoE_NGO

 @CONFINGO

www.coe.int

The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, including all members of the European Union.

All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law.

The European Court of Human Rights oversees the implementation of the Convention in the member states.



COUNCIL OF EUROPE



CONSEIL DE L'EUROPE