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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**

**(VENICE COMMISSION)**

**In co-operation with**

**OSCE/ODIHR**

**and**

**THE PRESIDENCY OF IRELAND OF THE COMMITTEE OF MINISTERS  
OF THE COUNCIL OF EUROPE**

**International round table**

**CIVIL SOCIETY:  
EMPOWERMENT AND ACCOUNTABILITY**

**Council of Europe, Strasbourg  
Tuesday, 13 September 2022**

**(Hybrid format)**

**ONLINE OPENING ADDRESS**

**by**

**Ms Dunja Mijatović  
Human Rights Commissioner, Council of Europe**

**On-line speech by Dunja Mijatović**  
Council of Europe Commissioner for Human Rights

Strasbourg and online, 13 September 2022

Your excellencies, distinguished speakers, dear participants,

It is a great pleasure and honour for me to be here with you today, even though I would have preferred to see you all in person. I would like to thank the organisers for inviting me to speak on such an important and timely issue, namely the interplay between the right of civil society actors to participate in public affairs and the legitimate interests of state authorities to ensure transparency and accountability of all actors in public life.

As you all know, as Council of Europe Commissioner for Human Rights, I have a special role in supporting human rights defenders and civil society in Europe, and my predecessors and I have been dealing with various challenges in that area on many occasions and in a number of European countries.

For example, since 2013, my Office has consistently addressed the shortcomings of the Russian law on NGOs receiving foreign funding, which were pejoratively labelled as “foreign agents” by the authorities. Not only has this law had disastrous consequences for Russian civil society, ranging from stigmatisation to the dissolution of hundreds of leading human rights organisations in the country, it has also served as an inspiration for stigmatising and punitive laws in other countries.

The misuse of transparency requirements and accountability of civil society groups by illiberal governments under the pretext of protecting national interests has been further compounded by another major challenge. This is the lack of clear distinction between (i) lobbying carried out by for-profit private groups, (ii) political activities and (iii) advocacy by civil society actors. In December 2018, I organised a [roundtable](#) with human rights defenders and civil society activists to assess, among other issues, how lobbying rules in various Council of Europe member states interfere with the right of civil society groups to participate in public affairs.

The outcome of the discussion made it clear that it is, indeed, difficult to make a clear-cut distinction between those activities, and the laws and practice in various European countries varies significantly. While acknowledging that states have a legitimate interest to ensure transparency and accountability, the main three recommendations stemming from that discussion were the following:

- ✓ to conduct **impact assessments** before introducing any regulatory initiative affecting the existence and operation of civil society organisations;
- ✓ to **repeal or amend any legislation that hinders the rights** of human rights defenders and civil society organisations, including the right to freedom of association, expression and peaceful assembly, and their ability to carry out their legitimate work. In this respect, it is necessary to **avoid over-broad definitions** in laws on counter-terrorism and incitement, as well as those regulating transparency, elections and lobbying activities;
- ✓ to **differentiate** between ordinary advocacy activities by civil society organisations working for the promotion and protection of human rights, and lobbying groups that are compensated for lobbying on behalf of private-business interests.

In this context, I find the following basic principles set fifteen years ago by the Committee of Ministers of our organisation in its [Recommendation](#) on legal status of NGOs particularly relevant:

- that activities of civil society organisations should be presumed lawful in the absence of contrary evidence;
- that NGOs should be free to solicit and receive funding, including from foreign sources;
- and that any interference with the right to freedom of association, including sanctions and penalties, should observe the principles of necessity and proportionality.

To conclude, it would be useful to further develop international guidelines and terminology to ensure that the right of civil society actors to effectively participate in public affairs – one of the core preconditions for flourishing democratic societies - is duly secured. I believe that this conference represents a very good opportunity to contribute to this important task, and I wish you all fruitful and productive discussions.

I am sure we will have many occasions to meet and cooperate in the future on this and other key human rights topics.

Thank you.