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URGENT OPINION ON THE LAW AMENDING ACT NO. 213/1997 COLL. ON NON-PROFIT ORGANIZATIONS PROVIDING PUBLIC BENEFIT SERVICES AND AMENDING OTHER ACTS (PRINT 245, ADOPTED ON 16 APRIL 2025)

Slovak Republic

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The Urgent Opinion was prepared in consultation with Ms. Gina Romero, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, as part of the *Framework for Joint Action for the protection and promotion of civic space*.

Based on an unofficial English translation of the Law provided to the OSCE Office for Democratic Institutions and Human Rights.

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EXECUTIVE SUMMARY

The main purpose of this Urgent Opinion is to analyze the Law Amending Act No. 213/1997 Coll. on Non-profit Organizations providing Public Benefit Services and Amending Other Acts (print 245), initially registered in March 2024, as adopted on 16 April 2025 (hereinafter "the Law"). The Urgent Opinion provides an overview of the key human rights concerns raised from the perspective of international human rights standards and OSCE human dimension commitments, primarily the rights to freedom of association and freedom of expression, but also other rights, including to respect for private life, participate in public affairs, and the right to non-discrimination.

The rights to freedom of association and freedom of expression are a cornerstone of a vibrant, pluralistic and participatory democracy and underpins the exercise of a broad range of other human rights. Any restriction on the right to freedom of association must meet the strict three-part test under international human rights law, namely that it must be prescribed by law, pursue one of the legitimate aims exhaustively recognized under international law and be necessary in a democratic society and proportionate to reach this aim. In addition, any restrictions must be non-discriminatory. The state's positive duty to facilitate the exercise of freedom of association should be reflected in the legislative framework and by creating an enabling environment in which associations can operate.

The initial Draft Law as adopted in first reading on 30 April 2024 was aiming, among others, to introduce the obligation for not-for-profit NGOs to register as "organizations with foreign support" when receiving financial or other material benefits directly or indirectly from a foreign natural or legal person exceeding 5,000 euros annually. Some amendments substantially altering the Draft Law were introduced by deputies and approved shortly after by the Constitutional and Legal Affairs Committee of the National Council (Parliament) of the Slovak Republic on 20 March 2025 (hereinafter "the March 2025 Amendments"), ahead of the second parliamentary reading. These amendments were, among others, introducing measures to regulate so-called "lobbying" activities by not-for-profit NGOs, with a ground for dissolution by the Minister of Interior for non-compliance with the requirements, but removing the requirement to register as "organizations with foreign support". One day before the second reading, on 15 April 2025, another set of amendments introduced substantial changes to the Draft Law, removing the provisions on "lobbying" and related requirements, as well as the ground for dissolution in case of non-compliance with newly introduced regulation of "lobbying" activities by not-for-profit NGOs. The Draft Law as last amended, which still retained new reporting and disclosure requirements, was then passed in second and third reading on 16 April 2025.

Overall, the legislative process was marked by an expedited pace of the parliamentary proceedings, especially with the second and third readings, and the absence of meaningful and inclusive consultations with those potentially affected. This significantly undermined the transparency and quality of democratic deliberation, raising serious concerns given the significant impact of the adopted Law on fundamental rights.

The adopted Law introduces new reporting obligations for non-profit organizations and associations, as well as sanctions in case of non-compliance with the new legislative provisions, invoking transparency as a key objective of the adopted Law.

While the final version of the amendments does not retain the provisions on "lobbying" activities by not-for-profit NGOs and the dissolution ground for non-compliance with the newly introduced requirements, the adopted Law still fails to meet the strict requirements set by international human rights law for restricting the right to freedom of association.

As underlined by ODIHR in previous opinions, enhancing transparency does not *by itself* constitute a legitimate aim for restricting the right to freedom of association as exhaustively set out in international instruments. There may be circumstances where transparency may serve as a means in the pursuit of one or more of such legitimate aims, such as to protect national security, ensure public order or the prevention of crimes including corruption, embezzlement, money-laundering or terrorism financing. While the justification only formally invokes the latter, it does not elaborate the reasoning in any way, nor does it provide evidence that the pursued legislation targeting not-for-profit NGOs specifically is warranted for this purpose. The mechanism envisaged by the adopted Law cannot be considered as strictly required or proportionate to a legitimate aim.

The reasons adduced by national authorities to justify the Draft Law are generally not relevant or sufficient, failing to demonstrate why the existing legal framework and registration/reporting obligations are insufficient and/or ineffective. Moreover, no proper justification is provided for introducing new reporting obligations targeting only not-for-profit organizations and for their differential treatment compared to other private law entities. Furthermore, the adopted Law is not based on a thorough risk assessment of its potential impact on civil society organizations or other stakeholders.

There are a number of requirements that can be imposed on civil society organizations and are justifiable from a human rights perspective. These include some forms of notification or registration to acquire legal personality, tax and customs declarations or certain reporting requirements *when receiving public support*. These obligations already exist in the domestic legal framework, and could be assessed to identify possible improvements.

The level of details and types of information required by the new reporting obligations appear burdensome and costly, especially for smaller not-for-profit NGOs, which could in turn severely deplete their capacity to engage in their core activities. Moreover, far-reaching reporting and disclosure requirements may interfere both with the right to privacy of members, founders, donors, beneficiaries and staff, as well as of the association, and more generally with the right to freedom of association of the above persons and entities and cannot be justified as being "necessary in a democratic society". The provisions on monitoring and the powers of the supervisory authority are broadly defined and appear excessive, potentially leaving room to arbitrary, and potentially discriminatory, interpretation and application. The amount of the contemplated fines in case of repeated non-compliance with the new requirements could be up to 6 times the average monthly wages, and for any further non-compliance the Law does not foresee an upper limit, which is disproportionate and fails to satisfy the principle of legal certainty. The Law also lacks provisions guaranteeing access to effective remedies in order to challenge or seek review of decisions taken by the registry office and the ministry in the context of its implementation that may infringe the right to freedom of association and freedom of expression.

As analysed in greater details below, overall, the new obligations introduced by the adopted Law fall short of the strict requirements of legality, legitimacy, necessity, proportionality and non-discrimination provided in international human rights law governing the imposition of restrictions on the right to freedom of association.

As a consequence, the Urgent Opinion concludes that **the adopted Law contains serious deficiencies from the perspective of international human rights standards and OSCE human dimension commitments and should be reconsidered altogether**.

As part of its mandate to assist OSCE participating States in implementing their OSCE human dimension commitments, ODIHR reviews, upon request, draft and existing laws to assess their compliance with international human rights standards and OSCE commitments and provides concrete recommendations for improvement.

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I. INTRODUCTION

1. On 8 April 2025, the Slovak National Centre for Human Rights sent to the OSCE Office for Democratic Institutions and Human Rights (hereinafter "ODIHR") a request for a legal review of the Draft Law Amending Act No. 213/1997 Coll. on Non-profit Organizations providing Generally Beneficial Services (print 245), initially registered with the National Council of the Slovak Republic (Parliament) in March 2024,[1] and reflecting the amendments approved by the Constitutional and Legal Affairs Committee of the Parliament on 20 March 2025 ahead of the second parliamentary reading (hereinafter "the March 2025 Amendments").
2. On 9 April 2025, ODIHR responded to this request, confirming the Office's readiness to prepare an opinion on the compliance of the Draft Law with international human rights standards and OSCE human dimension commitments. On 15 April 2025, a new set of amendments was introduced, which effectively removed certain provisions introduced by the March 2025 Amendments, including on "lobbying" activities by not-for-profit NGOs and the ground for dissolution for non-compliance with the newly introduced requirements. The Draft Law reflecting these latter amendments was adopted on 16 April 2025. The Urgent Opinion analyses the Law as adopted (hereinafter "the adopted Law"), while a short analysis of the March 2025 Amendments, included in the initial request, is also included in Annex 1 to the Urgent Opinion.
3. Given the short timeline to prepare this legal review as, at the time of the request, the Draft Law was soon to be adopted by the National Council of the Slovak Republic, ODIHR decided to prepare an Urgent Opinion on the Law, which does not provide a detailed analysis of all its provisions but primarily focuses on the most concerning issues relating to the March 2025 Amendments and the adopted law.
4. This Urgent Opinion was prepared in response to the above request. ODIHR conducted this assessment within its mandate to assist the OSCE participating States in the implementation of their OSCE human dimension commitments.[2] While ODIHR recommends to reconsider the introduced reporting obligations, monitoring powers and fines, the analysis offered in this Urgent Opinion aims to inform the discussions on this matter by providing an overview of the human rights concerns posed by the March 2025 Amendments and the adopted Law.

II. SCOPE OF THE OPINION

5. The scope of this Urgent Opinion covers only the adopted version of the law as of 16 April 2025. Thus limited, the Urgent Opinion does not constitute a full and comprehensive review of the entire legal and institutional framework regulating associations and other non-profit organizations in the Slovak Republic. Annex 1 to this Urgent Opinion also contains an analysis of the key concerning issues of the March 2025

1 See the webpage of the National Council of the Slovak Republic on the Draft Law <here>.
2 In particular, CSCE/OSCE, *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE*, 29 June 1990, para. 9.3; and Charter of Paris for a New Europe (1990), where the OSCE participating states affirmed that "*…without discrimination, every individual has the right to (…) freedom of association."* See also OSCE, *Istanbul Document 1999*, para. 27, where OSCE participating States committed to "*enhance the ability of NGOs to make their full contribution to the further development of civil society and respect for human rights and fundamental freedoms*".

Amendments as initially submitted by the requestor, due to the importance of the issues covered and the potential impact such provisions may have, should these be reconsidered in the future.

6. The Urgent Opinion raises key issues and provides indications of areas of concern. In the interest of conciseness, it focuses more on those provisions that require amendments or improvements than on the positive aspects of the Law as adopted on 16 April 2025. The ensuing legal analysis is based on international and regional human rights and rule of law standards, norms and recommendations as well as relevant OSCE human dimension commitments.

7. Moreover, in accordance with the *Convention on the Elimination of All Forms of Discrimination against Women*[3] (hereinafter "CEDAW") and the *2004 OSCE Action Plan for the Promotion of Gender Equality*[4] and commitments to mainstream gender into OSCE activities, programmes and projects, the Urgent Opinion integrates, as appropriate, a gender and diversity perspective.

8. This Urgent Opinion is based on an unofficial English translation of the adopted Law and March 2025 Amendments provided by the Slovak National Centre for Human Rights, which is attached to this document as an Annex. Errors from translation may result. Should the Urgent Opinion be translated in another language, the English version shall prevail.

9. In view of the above, ODIHR would like to stress that this Urgent Opinion does not prevent ODIHR from formulating additional written or oral recommendations or comments on respective subject matters in the Slovak Republic in the future.

III. LEGAL ANALYSIS AND RECOMMENDATIONS

1. RELEVANT INTERNATIONAL HUMAN RIGHTS STANDARDS AND OSCE HUMAN DIMENSION COMMITMENTS

10. The right to freedom of association is a cornerstone of a vibrant, pluralistic and participatory democracy and underpins the exercise of a broad range of other human rights.[5] The right to freedom of association is about the ability of persons to act collectively in pursuit of common interests, which may be those of the members of associations themselves, of the public at large or of certain sectors of the public.[6] Associations often play an important and positive role in achieving goals that are in the public interest, as recognized at the international and regional levels.[7] Freedom of association is also an essential prerequisite for the exercise of other fundamental

3 *UN Convention on the Elimination of All Forms of Discrimination against Women* (hereinafter "CEDAW"), adopted by General Assembly resolution 34/180 on 18 December 1979. The Slovak Republic became a State Party to the CEDAW on 28 May 1993 by succession.

4 See *OSCE Action Plan for the Promotion of Gender Equality*, adopted by Decision No. 14/04, MC.DEC/14/04 (2004), par 32.

5 See ODIHR and Venice Commission, *Joint Guidelines on Freedom of Associatio*n, CDL-AD(2014)046, paras. 1 and 8. See also European Court of Human Rights (ECtHR), *Gorzelik v. Poland*, no. 44158/98, 17 February 2004, para. 92, where Court underlined that associations formed for different purposes, including advocating for political agendas, but also "*protecting cultural or spiritual heritage, pursuing various socio-economic aims, proclaiming or teaching religion, seeking an ethnic identity or asserting a minority consciousness, are also important to the proper functioning of democracy*", also emphasizing that: "*The harmonious interaction of persons and groups with varied identities is essential for achieving social cohesion. It is only natural that, where a civil society functions in a healthy manner, the participation of citizens in the democratic process is to a large extent achieved through belonging to associations in which they may integrate with each other and pursue common objectives collectively*."

6 See ODIHR and Venice Commission, *Joint Guidelines on Freedom of Association*, CDL-AD(2014)046, paras. 47 and 76.

7 See ODIHR and Venice Commission, *Joint Guidelines on Freedom of Association*, CDL-AD(2014)046, para. 9.

freedoms, such as the freedom of expression, but also, for example, freedom of religion or belief, the right to participate in public life, etc. Freedom of association is also closely interlinked with the right to freedom of peaceful assembly[8] as for instance, associations often organize assemblies to express opinions and influence public debate, while public assemblies can eventually give rise to the establishment of new associations.[9] Although the right to freedom of association is not an absolute right, it can be limited, or derogated from, only under the strict conditions stipulated in international human rights instruments.

1.1. Rights to Freedom of Association and Expression, and Other Rights

11. The right to freedom of association is enshrined in all major international human instruments, including Article 22 of the International Covenant on Civil and Political Rights (ICCPR).[10] The right of associations to seek, secure and utilize resources is also protected by this right, as otherwise freedom of association would be deprived of all meaning.[11] Furthermore, the 1998 UN Declaration on Human Rights Defenders[12] confirms that "*everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels*" (Article 1) and stipulates that states have to adopt measures to ensure this right. The Declaration further provides specifically that "*everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means in accordance with Article 3 of the present Declaration*" (Article 13). The right of access to funding is to be exercised within the juridical framework of domestic legislation – provided that such legislation is consistent with international human rights obligations (Article 3).

12. Furthermore, the UN Human Rights Council's Resolution 22/6 on protecting human rights defenders urged States "*to acknowledge publicly the important and legitimate role of human rights defenders [...] by respecting the independence of their organizations and by avoiding the stigmatization of their work*" and "*to ensure that reporting requirements placed on [associations] do not inhibit functional autonomy*", that "*restrictions are not discriminatorily imposed on potential sources of funding*", and that "*no law should criminalize or delegitimize activities in defence of human rights on account of the geographic origin of funding thereto*".[13] The UN Special Rapporteur on the rights to freedom of peaceful assembly and association has also emphasized that "*associations should be free to seek, receive and use foreign funding without any special authorization being required*"[14] and that stigmatizing or delegitimizing the work of foreign-funded non-

8 UN Human Rights Committee, General Comment No. 37 on the Right to Peaceful Assembly, CCPR/C/GC/37, 17 September 2020, para 112.

9 See for instance: Solidarnosc, History in dates (accessed on 9 May 2023) and Gilets Jaunes in France: Journal Officiel - Annonce 861, 15 March 2022 (accessed on 11 May 2023).

10 International Covenant on Civil and Political Rights (hereinafter "ICCPR"), adopted by the UN General Assembly by resolution 2200A(XXI) of 16 December 1966. The Slovak Republic became a State Party to the ICCPR on 28 May 1993 by succession.

11 See e.g., UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, 2013 Report, A/HRC/23/39, paras. 8 and 81(d), which specifies that "*associations – registered and unregistered – can seek, receive and use funding and other resources from natural and legal persons, whether domestic, foreign or international, without prior authorization or other undue impediments, including from individuals; associations, foundations or other civil society organizations; foreign Governments and aid agencies; the private sector; the United Nations and other entities*"; and 2022 Report on Access to resources, A/HRC/50/23, 10 May 2022, para. 22 and supplementary guidelines: General principles and guidelines on ensuring the right to civil society organisations to have access to resources, HRC/53/38/Add.4, 23 June 2023, para. 1. See also e.g., ODIHR and Venice Commission, *Joint Guidelines on Freedom of Association*, CDL-AD(2014)046, para. 102; and Council of Europe Committee of Ministers, Recommendation CM/Rec(2007)14 on the legal status of non-governmental organisations in Europe, adopted on 10 October 2007, para. 50.

12 UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (hereinafter "UN Declaration on Human Rights Defenders") of 9 December 1998, adopted unanimously by the United Nations General Assembly (A/RES/53/144).

13 UN Human Rights Council, Resolution 22/6 on protecting human rights defenders, A/HRC/RES/22/6, 21 March 2013, paras. 5 and 9.

14 UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Report on Access to resources, A/HRC/50/23, 10 May 2022, para. 22.

government organizations (NGOs)[15] or subjecting them to special audit requirements and investigations, constitute undue restrictions to the right to freedom of association.[16]

13. At the Council of Europe level, Article 11 of the European Convention on Human Rights and Fundamental Freedoms (ECHR)[17] as well as relevant case-law of the European Court of Human Rights (ECtHR) set standards regarding the right to freedom of association. In this respect, the compatibility of legislation specifically targeting associations exercising "political activities" and receiving funding or other kind of assistance from abroad (so-called "foreign agents" legislation) has been the focus of the 2022 judgment in the case *Ecodefence and Others v Russia.*[18] Several recommendations of the Committee of Ministers of the Council of Europe also offer useful guidance regarding the issue of funding of non-governmental organizations and related matters, including *Recommendation Rec(2007)14 on the Legal Status of Non-Governmental Organisations in Europe* (hereinafter "CoE Recommendation Rec(2007)14*"*),[19] Recommendation Rec(2003)4 of 8 April 2003 on common rules against corruption in the funding of political parties and electoral campaigns, (hereinafter "Recommendation on funding"),[20] and Recommendation on the legal regulation of lobbying activities in the context of public decision-making (hereinafter "CoE Recommendation on lobbying").[21] In particular, the CoE Committee of Ministers has stressed the freedom of NGOs to solicit and receive funding from a variety of public and non-public sources, including other states or multilateral agencies.[22]

14. At the European Union (EU) level, acknowledging that many OSCE participating States are Member States of the EU or candidate countries for accession to the EU, it is important to take into consideration EU primary legislation and the EU Charter on Fundamental Rights,[23] especially Articles 11 and 12 on rights to freedom of expression and information and freedoms of peaceful assembly and of association, respectively. The case-law of the Court of Justice of the European Union (CJEU) is also of relevance, especially the 2020 judgment of *Commission v. Hungary*.[24]

15. At the OSCE level, the OSCE participating States committed "*to ensure that individuals are permitted to exercise the right to association, including the right to form, join and participate effectively in non-governmental organizations which seek the promotion and protection of human rights and fundamental freedoms*" (1990 Copenhagen Document).[25] In addition, in the 1990 Paris Document, they affirmed that *"…without discrimination,*

15 UN Special Rapporteur on the rights to freedom of peaceful assembly and of association,, Report on Protecting the rights to freedom of peaceful assembly and of association from stigmatization, A/79/263, 31 July 2024, paras 39-42.

16 UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, 2013 Report, UN DOC A/HRC/23/39, 24 April 2013, para. 20 and supplementary guidelines: General principles and guidelines on ensuring the right to civil society organisations to have access to resources, HRC/53/38/Add.4, 23 June 2023, para. 1.

17 *Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms*, Article 11, signed on 4 November 1950, entered into force on 3 September 1953. The ECHR was ratified by the former Czech and Slovak Federal Republic on 18 March 1992 and following the decision of the Committee of Ministers of the Council of Europe, at the 496th meeting of the Ministers' Deputies, on 30 June 1993, the Slovak Republic is considered a State Party to the ECHR as from 1 January 1993.

18 European Court of Human Rights (ECtHR), *Ecodefence and others v. Russia*, nos. 9988/13 and 60 others, 14 June 2022, para. 96.

19 Council of Europe, Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe, adopted on 10 October 2007.

20 Council of Europe, Recommendation Rec(2003)4 of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns, adopted 8 April 2003.

21 Council of Europe, Recommendation Rec(2017)2 of the Committee of Ministers to member States on the legal regulation of lobbying activities in the context of public decision making, adopted on 22 March 2017.

22 Council of Europ,e Committee of Ministers, Recommendation CM/Rec(2007)14 on the legal status of non-governmental organisations in Europe, para. 50, stating that "*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*."

23 Charter of Fundamental Rights of the European Union, 2012/C 326/02, which Article 12 specifically refers to the freedom to associate "at all levels, in particular in political, trade union and civic matters".

24 Court of Justice of the European Union (CJEU), *Commission v. Hungary*, Case C-78/18, 18 June 2020.

25 CSCE/OSCE, *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE*, 29 June 1990, Section 10.3.

every individual has the right to (…) freedom of association."[26] The OSCE participating States have also committed themselves to "*recognize as non-governmental organisations those which declare themselves as such, according to existing national procedures, and to facilitate the ability of such organizations to conduct their national activities freely on their territories*" (1991 Moscow Document)[27] and to "*enhance the ability of NGOs to make their full contribution to the further development of civil society and respect for human rights and fundamental freedoms*" (1999 Istanbul Document).[28]

16. The Urgent Opinion also makes reference to the 2014 ODIHR-Venice Commission Joint Guidelines on Freedom of Association,[29] the 2020 ODIHR-Venice Commission *Guidelines on Political Party Regulation*[30] and the Financial Action Task Force (FATF) Recommendations 8 and 24 on, respectively, non-profit organisations ("Recommendation 8") and transparency and beneficial ownership of legal persons ("Recommendation 24").[31] The present Opinion also refers to other opinions and reports published by ODIHR and/or the Venice Commission in this field, especially those addressing legislation aimed at regulating associations receiving "foreign funding" or introducing new reporting requirements in the name of enhancing "transparency" of the civil society sector.[32] The Reports[33] and Letters of concerns published by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, especially the Letter dated 30 November 2022 addressed to the Russian Federation relating to the Federal Law No. 121-FZ dated 20 July 2012 and subsequent amendments[34] are also of particular relevance.

17. Relevant international standards concerning the right to freedom of expression, including the freedom to seek, receive and impart information and ideas of all kinds without interference by public authority and regardless of frontiers,[35] the prohibition of discrimination[36] and the right to respect for private life[37] are also referred to in the present Urgent Opinion. Additionally, the Opinion also touches upon the right to take part in the

26 CSCE/OSCE, Charter of Paris for a New Europe, 21 November 1990, p. 3.
27 CSCE/OSCE, Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, 3 October 1991, Section 43.
28 OSCE, Istanbul Document, 19 November 1999, para. 27.
29 ODIHR and Venice Commission, *Joint Guidelines on Freedom of Association*, CDL-AD(2014)046.
30 ODIHR and Venice Commissions, *Guidelines on Political Party Regulation* (2nd ed., 2020), CDL-AD(2020)032.
31 International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation - The FATF Recommendations, as updated in 2023.
32 See e.g., ODIHR, Urgent Opinion on the Law "On Transparency of Foreign Influence" of Georgia (30 May 2024); ODIHR, Note on Legislative Initiatives on Transparency and Regulation of Associations Funded from Abroad or So-called "Foreign Agents Laws" and Similar Legislation and their Compliance with International Human Rights Standards (25 July 2023); ODIHR and Venice Commission, Joint Opinion on the Draft Law of Republika Srpska on the Special Registry and Publicity of the Work of Non-Profit Organisations (12 June 2023), CDL-AD(2023)016; ODIHR, Urgent Interim Opinion on the Draft Law on Non-Profit Non-Governmental Organizations and Draft Amendments on "Foreign Representatives" of the Kyrgyz Republic (12 December 2022); ODIHR and Venice Commission, Romania - Joint Opinion on Draft Law No. 140/2017 on amending Governmental Ordinance No. 26/2000 on Associations and Foundations, CDL-AD(2018)004; Joint Opinion on Draft Law no. 6674 on Introducing Changes to some Legislative Acts to ensure Public Transparency of Information on Finance Activity of Public Associations and of the Use of International Technical Assistance and on Draft Law no. 6675 on Introducing Changes to the Tax Code of Ukraine to ensure Public Transparency of the Financing of Public Associations and of the Use of International Technical Assistance, CDL-AD(2018)006-e; Joint Interim Opinion on the Draft Law Amending the Law on Non-Commercial Organisations and Other Legislative Acts of the Kyrgyz Republic, CDL-AD(2013)030. See also Venice Commission, Opinion on Federal Law n. 121-fz on non-commercial organisations ("law on foreign agents"), on Federal Laws n. 18-fz and n. 147-fz and on Federal Law n. 190-fz on making amendments to the criminal code ("law on treason") of the Russian Federation; Russian Federation - Opinion on the Compatibility with international human rights standards of a series of Bills introduced to the Russian State Duma between 10 and 23 November 2020, to amend laws affecting "foreign agents", CDL-AD(2021)027; Hungary – Preliminary Opinion on the Draft Law on the Transparency of Organisations Receiving Support from Abroad, CDL-PI(2017)002, and Venice Commission, Report on Funding of Associations, CDL-AD(2019)002.
33 See <Annual thematic reports | OHCHR>.
34 See UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Letter OL RUS 16/2022 dated 30 November 2022 addressed to the Russian Federation relating to the Federal Law No. 121-FZ dated 20 July 2012 and subsequent amendments.
35 Cf. Article 19 of the ICCPR and Article 10 of the ECHR.
36 Article 26 of the ICCPR; Article 14 of the ECHR and Protocol no. 12 to the ECHR. The Slovak Republic has signed on 4 November 2000 the Protocol no. 12 to the ECHR but has not yet ratified it.
37 Article 17 of the ICCPR and Article 8 of the ECHR.

conduct of public affairs as guaranteed by Article 25 of the ICCPR.[38] With respect to the latter, the UN OHCHR *Guidelines for States on the effective implementation of the right to participate in public affairs* (2018)[39] provide that States should create and maintain a safe and enabling environment that is conducive to the exercise of the right to participate in public affairs. This entails, among others, to create the legal framework in which the equal right to participate in public affairs is recognized, protected and implemented in national constitutions and legal frameworks and laws, policies and institutional arrangements ensure the equal participation of individuals and groups in the design, implementation and evaluation of any law, regulation, policy, programme or strategy affecting them.[40] The legitimate and vital role of civil society actors regarding participation in public affairs should be recognized. The independence and pluralism of such actors should be respected, protected and supported, and States should not impose undue restrictions on their ability to access funding from domestic, foreign or international source.[41]

18. Based on the above, members of associations and associations themselves are the holders of human rights, including the rights to freedom of association, freedom of expression and to respect for private life. Moreover, the state has the obligation to respect, protect and facilitate the exercise of the right to freedom of association and any legislative initiatives or amendments should be approached from this perspective.[42]

1.2. Restrictions on the Rights to Freedom of Association and Expression

19. Any restriction on the rights to freedom of association and expression must be compatible with the strict three-part test set out in, respectively, Article 22 of the ICCPR and Article 11 (2) of the ECHR, and Article 19 (3) of the ICCPR and Article 10 (2) of the ECHR. This test requires any restriction to be provided by law (requirement of legality), to be in pursuit of one or more of the legitimate aims listed exhaustively in the respective treaty/convention,[43] to be necessary in a democratic society and to respect the principle of proportionality (which *inter alia* presupposes that any imposed restriction should represent the least intrusive measure among all those possible means effective enough to achieve the designated objective).[44] In addition, the restriction must be non-discriminatory (Articles 2 and 26 of the ICCPR and Article 14 of the ECHR and Protocol 12 to the ECHR[45]).

38 Article 25 of the ICCPR.

39 UN OHCHR, *Guidelines for States on the effective implementation of the right to participate in public affairs,* 20 July 2018, available at: <GuidelinesRightParticipatePublicAffairs_web.pdf>.

40 *Ibid.* See also ODIHR and Venice Commission, *Joint Guidelines on Freedom of Association*, CDL-AD(2014)046, Principle 8 and para. 106.

41 UN OHCHR, *Guidelines for States on the effective implementation of the right to participate in public affairs*, 20 July 2018.

42 See Principle 2 of the ODIHR-Venice Commission *Joint Guidelines on Freedom of Association*, CDL-AD(2014)046. According to the European Court of Human Rights, "genuine and effective respect for freedom of association cannot be reduced to a mere duty on the part of the State not to interfere" (ECtHR, *Ouranio Toxo and Others v. Greece*, no. 74989/01, 20 October 2005, para. 37 and *"[t]he Convention is intended to guarantee not rights that are theoretical or illusory but rights that are practical and effective"* (see ECtHR, Airey v. Ireland, no. 6289/73, 9 October 1979).

43 For Article 22 (2) of the ICCPR, these are national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. For Article 11 (2) of the ECHR, the aims are: the protection of public health or morals, and the protection of the rights and freedoms of others. For Article 19 (3) ICCPR: *(a) for respect of the rights or reputations of others; (b) for the protection of national security or of public order (ordre public), or of public health or morals*"; For Article 10(2) ECHR: "*in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*"

44 See ODIHR and Venice Commission, *Joint Guidelines on Freedom of Association*, CDL-AD(2014)046, Principle 10 and para. 113.

45 The Slovak Republic has signed on 4 November 2000 the Protocol no. 12 to the ECHR but has not yet ratified it. Though not legally binding on the Slovak Republic, in principle, pursuant to Article 18 of the Vienna Convention on the Law of Treaties (to which the Slovak Republic became a State Party on 28 May 1993 by succession), "*a state is obliged to refrain from acts which would defeat the purpose of a treaty when […] it has signed the treaty*". Hence, following the signature of the Protocol no. 12 to the ECHR, the Slovak Republic should not be adopting legislation that would be in flagrant contradiction with the provisions of the Protocol, thus defeating its very purpose of this Convention and being in violation of Article 18 of the Vienna Convention on the Law of Treaties.

20. The grounds for restrictions listed in international instruments should not be supplemented by additional grounds in domestic legislation and should be narrowly interpreted by the authorities.[46] Restrictions must be applied only for those purposes for which they were prescribed and must be directly related to the specific aim being pursued (Article 18 of the ECHR).

21. The requirement that any restrictions on the right to freedom of association be 'prescribed by law' not only requires that the restriction should have an explicit basis in domestic law, but also refers to the quality of the law in question.[47] While acknowledging that absolute precision is not possible and that many laws are inevitably couched in terms which, to a greater or lesser extent, are vague and whose interpretation and application are questions of practice,[48] laws must be sufficiently clear and precise to enable an individual to assess whether or not his or her conduct would be in breach of the law and to foresee the likely consequences of any such breach.[49] This also means that the law must be formulated in terms that provide a reasonable indication as to how these provisions will be interpreted and applied.[50]

22. The test of 'necessary in a democratic society' means that any restriction imposed on the rights of freedom of association and expression, whether set out in law or applied in practice, must meet a "pressing social need",[51] be proportionate to the legitimate aim pursued and the reasons justifying it must be relevant and sufficient.[52] As underlined in the Joint Guidelines, this means that only convincing and compelling reasons for introducing such limitations are acceptable and only indisputable imperatives can interfere with the enjoyment of the right to freedom of association.[53] The means used should be proportionate to the aim pursued, which also means that where a wide range of interventions may be suitable, the least restrictive or invasive means must always be used.[54] In addition, restrictions must never entirely extinguish the right nor deprive it of its essence or causing a chilling effect.[55] In addition, restrictions must not be discriminatory, either directly or indirectly.[56]

46 ODIHR and Venice Commission, *Joint Guidelines on Freedom of Association*, CDL-AD(2014)046, Principle 9 and para. 34.
47 *Ibid.* para. 34, requiring the law to be "*precise, certain and foreseeable*".
48 See, for example, ECtHR, *Kudrevičius and Others v. Lithuania* [GC], no. 37553/05, 15 October 2015, para. 109. See also ECtHR, *Perinçek v. Switzerland* [GC], no. 27510/08, 15 October 2015, para. 131, where the Court underlined that: "*A norm could not be regarded as a "law" unless it was formulated with sufficient precision to enable the person concerned to regulate his or her conduct: he or she needed to be able – if need be with appropriate advice – to foresee, to a degree that was reasonable in the circumstances, the consequences that a given action could entail. However, the Court went on to state that these consequences did not need to be foreseeable with absolute certainty, as experience showed that to be unattainable.*"
49 See, for example, ECtHR, *Hashman and Harrup v. the United Kingdom* [GC], no. 25594/94, 25 November 1999; *Gillan and Quinton v. the United Kingdom*, no. 4158/05, 12 January 2010; *Kudrevičius and Others v Lithuania* [GC], no. 37553/05, 15 October 2015. See also UN HRC, General comment No. 34 on Article 19 of the ICCPR, CCPR/C/GC/34, para. 25. See also ECtHR, *The Sunday Times v. the United Kingdom (No. 1)*, no. 6538/74, paras. 48-49; and *Perinçek v. Switzerland* [GC], no. 27510/08, 15 October 2015, para. 131.
50 See e.g., Venice Commission, Rule of Law Checklist, CDL-AD(2016)007, para. 58. In addition, see ECtHR, *The Sunday Times v. the United Kingdom (No. 1)*, no. 6538/74, where the Court ruled that "*the law must be formulated with sufficient precision to enable the citizen to regulate his conduct," by being able to foresee what is reasonable and what type of consequences an action may cause*."
51 This means that a restriction must be considered imperative, rather than merely 'reasonable' or 'expedient': ECtHR, *Chassagnou v. France* [GC], nos. 25088/94, 28331/95 and 28443/95, 29 April 1999. "Necessary" is not synonymous with "indispensable", neither has it the flexibility of such expressions as "admissible", "ordinary", "useful", "reasonable" or "desirable"; see ECtHR, *The Sunday Times v. the United Kingdom (No. 1),* no. 6538/74*,* para. 59.
52 See, for example, ECtHR, *Taranenko v. Russia*, no. 19554/05, 15 May 2014. In relation to freedom of expression, see, for example, ECtHR, *Janowski v. Poland* [GC], no. 25716/94, 21 January 1999, paras. 31 and 35.
53 ODIHR and Venice Commission, *Joint Guidelines on Freedom of Association*, CDL-AD(2014)046, para. 111.
54 ODIHR and Venice Commission, *Joint Guidelines on Freedom of Association*, CDL-AD(2014)046, paras. 112-113. See also e.g., ECtHR, *Perinçek v. Switzerland* [GC], no. 27510/08, 15 October 2015, para. 273.
55 ODIHR and Venice Commission, *Joint Guidelines on Freedom of Association*, CDL-AD(2014)046, para. 24.
56 ODIHR and Venice Commission, *Joint Guidelines on Freedom of Association*, CDL-AD(2014)046, Principle 5 and para. 123.

2. BACKGROUND

23. Article 29 of the Constitution of the Slovak Republic guarantees the right to freedom of association. According to Article 29 (3), this freedom can only be limited "*in the cases provided for by law, where this is necessary in a democratic society for the security of the state, the protection of public order, the prevention of criminal offences or the protection of the rights and freedoms of others"*. Article 30 of the Constitution guarantees that citizens shall have the right to participate in the administration of public affairs. Public participation is further enshrined in Law No. 400/2015 Coll. on the Creation of Legal Regulations, which states that *"[t]he aim of lawmaking is to prepare, with the participation of the public, legislation that will become a functional part of a balanced, transparent and stable legal order of the Slovak Republic (hereinafter referred to as the "legal order") compatible with the law of the European Union and the international legal obligations of the Slovak Republic*."

24. The Constitution of the Slovak Republic also prohibits discriminatory restrictions on fundamental rights and freedoms (Article 13 (3)). The right to privacy is enshrined in Articles 16 and 19 of the Constitution. The right to access information is guaranteed by Article 26 of the Constitution and further specified by Freedom of Information Act No. 211/2000 Coll., as amended and supplemented by other laws (Freedom of Information Act). According to this Act, the obliged persons include: state authorities, municipalities, higher territorial units, as well as legal persons established by these, and health insurance companies. The Act stipulates that "*a special law may provide for an obligation to disclose information also to another legal person or natural person*" (Article 2 (4)).

25. The national legal framework further foresees several types of not-for-profit non-governmental organizations, which are governed by separate pieces of legislation[57] that the Draft Law is seeking to amend. According to the Act No. 83/1990 on Associations of Citizens, as amended, an "association" is a membership organization established by citizens or legal persons to pursue mutual or public benefit goals. The Act No. 34/2002 on Foundations defines such entities as "*a purposeful grouping of property established for the support of public benefit purpose*" as defined in the law, which may be founded by any legal or natural person. As per the Act No. 213/1997, a non-profit organization providing public benefit services (hereinafter referred to as "NPOs") is a special form of not-for-profit NGOs that may be established by legal or natural persons or by a government agency to provide public benefit services – as defined in the law – to the public, on equal terms and conditions. A non-investment fund is a not-for-profit legal entity which accumulates assets for publicly beneficial purposes (see Act No. 147/1997). A separate Act also regulates Organizations with an International Element (Act No. 116/1985). In 2021, a new Act No. 346/2018 on the Registry of Non-Governmental Non-Profit Organisations and on Amendments and Supplements to Certain Laws, as amended (hereinafter referred to as "Act on the Registry of Non-Governmental Non-Profit Organisations") entered into force introducing a single Register for the organizations governed by the previously mentioned Acts. This Urgent Opinion will refer to all these

57 Including the Act No. 213/1997 on Non-Governmental Organisations providing Public Benefit Services, as amended (hereinafter referred to as "NGO Act"); Act No. 34/2002 on Foundations and on the change of Civil Code, as amended (hereinafter referred to as "Act on Foundations"); Act No. 147/1997 on Non-investment Funds and on supplementing Act No. 207/1996, as amended; the Act No. 83/1990 on Associations of Citizens, as amended (hereinafter referred to as "Act on Associations"); the Act No. 116/1985 on the Conditions of Activity of Organisations with an International Element in the Czechoslovak Socialist Republic, as amended.

entities collectively as "not-for-profit NGOs",[58] unless a reference to a specific legal entity is made.

26. The Draft Law was initially registered with the Parliament by a group of deputies on 27 March 2024. The initial Draft Law, as adopted in first reading on 30 April 2024, was aiming, among others, to introduce the obligation of not-for-profit NGOs to register as "organizations with foreign support" when receiving financial or other material benefits directly or indirectly from a foreign natural or legal person exceeding 5,000 euros annually. Further, the amendments required a not-for-profit NGO to notify the registry office in writing within 90 days of meeting the conditions set out for a foreign-supported organization, upon which the registry office would have added the label "foreign-supported organization" to the name of an NGO. A not-for-profit NGO would then have been required to use this new designation in all acts it performs in the course of the business. A fine of up to 5,000 euros was envisaged in case of failure to register as "foreign-supported organization". The Explanatory Note published along with the initial draft amendments from March 2024 states that the aim of the legislation is to "…*increase the transparency of funding for non-governmental, non-profit organisations, which is a key element in strengthening public trust in these organisations, by disclosing and publishing information on donations and donors if the amount exceeds the legally defined threshold, either as a single donation or cumulatively*." The proposed amendments also affect other laws, including the Freedom of Information Act.

27. The Draft Law proposed in March 2024 was introduced by several deputies, which was not subjected to any public consultation requirements prior to submitting draft laws to the Parliament.[59] In November 2024, a revised version of the amendments was circulated in the committees but not made public. In March 2025 these new draft amendments were debated and adopted on the same day at the meeting of the Constitutional and Legal Affairs Committee without their prior publication or public discussion (see comments regarding the process of preparing and adopting the Law in Sub-Section 8 *infra*).

28. The March 2025 Amendments were envisaging to replace the obligation of not-for-profit NGOs to register as "organisations with foreign support" with the obligation for them to register for "lobbying" when considered to engage in "lobbying activities" as defined in the then Draft Law. These amendments were further setting forth additional obligations, beyond the mandatory registration in the lobby register, including to notify policy-makers that they are being lobbied, and to publish quarterly reports about the "lobbying activities". Similarly to the original amendments from March 2024, the proposal envisaged the requirements for registration, reporting and disclosure of donors' personal data, for those organizations carrying out "lobbying activities". The amendments further introduced a new provision adding not-for-profit NGOs that manage public funds to the list of persons subject to the obligation to provide information under the Freedom of Information Act (see Annex 1 for an analysis of the March 2025 Amendments).

58 The Urgent Opinion acknowledges the inherent difficulty of defining the term "non-governmental organizations", including at the international level as there is no universal definition of what constitutes a non-governmental organization. Of note, the Council of Europe's Recommendation Rec(2007)14 on the Legal Status of Non-Governmental Organisations in Europe, defines non-governmental organizations as "voluntary self-governing bodies or organisations established to pursue the essentially non-profit-making objectives of their founders or members", and do not include political parties (see para. 1). At times, the present Urgent Opinion also uses the term "civil society organization" as used by the OECD Development Assistance Committee, understood as "all non-market and non-state organizations outside of the family in which people organize themselves to pursue shared interests in the public domain [including] community-based organizations and village associations, environmental groups, women's rights groups, farmers' associations, faith-based organizations, labour unions, co-operatives, professional associations, chambers of commerce, independent research institutes and the not-for-profit media."

59 See Law No. 350/1996 Coll. on the Rules of Procedure of the National Council of the Slovak Republic, <https://www.slov-lex.sk/ezbierky/pravne-predpisy/SK/ZZ/1996/350/20210901>.

29. The Explanatory Note, especially the general part defining the objectives of the Draft Law, had not been amended to explain the *rationale* for introducing the March 2025 Amendments, although these amendments were substantially altering the substance of the Draft Law with almost all the provisions being revised. The reason provided for this change reflected in the apparent need to align the Draft Law with the interpretation of European law by the Court of Justice of the European Union. On 2 April 2025, the government adopted a resolution formally endorsing the March 2025 Amendments and confirmed that the proposed legislation fully corresponds to the objectives of the Programme Declaration of the Government of the Slovak Republic 2023 - 2027 in the area of transparency in the functioning of non-governmental not-for-profit organizations.[60]

30. On 15 and 16 April 2025, further amendments were introduced which essentially removed the provisions on "lobbying" activities by not-for-profit NGOs and on dissolution in case of non-compliance. However, the objective of transparency is maintained as explained in the justifications of the 16 April 2025 amendments, and the requirement to submit a "transparency statement" for all not-for-profit NGOs is retained in the adopted Law. This statement, in addition to a breakdown of income by source and a breakdown of expenditure as envisaged in the March 2025 Amendments, should include information about the countries in which an NGO uses its funding, if this is outside the territory of the Member States of the European Union, the States that are party to the Agreement on the European Economic Area and the Swiss Confederation. The latest amendments also expand the provision on fines, by providing, in case of a third and further fines, the lower limit of the rate of the fine, namely 5,000 euros, but not indicating any upper limit.

31. The Draft Law incorporating these amendments was adopted on 16 April 2025. The Law will now proceed to be signed by the President upon which it will enter into force on 1 June 2025. The Urgent Opinion will analyse the Law as adopted on 16 April 2025, while including an analysis of the provisions on "lobbying" and dissolution as reflected in the March 2025 Amendments in Annex 1.

3. OBJECTIVE OF THE LAW

32. The adopted Law maintains, as in the case of the previous amendments, that the provisions pursue transparency. The justifications to the amendments introduced on 16 April 2025 note that it "… *is necessary to also collect data on persons who are members of defined bodies of NGOs, which will contribute to transparency, prevention of conflicts of interest and potentially also criminal activities, e.g. in the field of money laundering…".* International instruments such as the ICCPR and ECHR allow for limitations on the freedom of association when pursuing a legitimate aim and complying with the strict requirements set out in international human rights instruments for justifying restrictions to the right to freedom of association. The Joint Guidelines on Freedom of Association emphasize that "*only convincing and compelling reasons*" for imposing such limitations are acceptable. As the Guidelines state, "*only indisputable imperatives can interfere with the enjoyment of the right to freedom of association*".[61]

60 See: Detail materiálu | Portal OV.
61 ODIHR and Venice Commission, Joint Guidelines on Freedom of Association, CDL-AD(2014)046 para. 111.

33. As underlined in ODIHR and/or Venice Commission's previous opinions and reports,[62] enhancing transparency does not *by itself* constitute a legitimate aim as described in the above international instruments,[63] although there may be circumstances where this may be a means in the pursuit of one or more of the legitimate aims recognized as allowing restrictions on this right, such as public order or the prevention of crimes such as corruption, embezzlement, money-laundering or terrorism financing.[64] Generally speaking, enhancing transparency and accountability is an essential component of good public governance applicable to the public sector but not to private associations or other not-for-profit NGOs, unless they are funded from public sources[65] or performing essential democratic functions, such as political parties, which may justify the imposition of specific reporting or disclosure requirements as underlined in the Joint Guidelines and in the Council of Europe's Committee of Ministers' *Recommendation CM/Rec(2007)14*.[66]

34. With respect to NGOs that receive some form of public support, the *Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe* ("Recommendation CM/Rec(2007)14") envisages the possibility of certain reporting and public disclosure requirements, namely, as regards submitting accounts and an overview of their activities every year, making known the proportion of their funds used for fundraising and administration and having their accounts audited by an institution or person independent of their management.[67]

35. Hence, enhancing transparency, while important, does not in itself constitute a legitimate aim sufficient to justify restrictions on the right to freedom of association and the right to privacy of the not-for-profit NGOs, their members, founders, donors and beneficiaries. Furthermore, any restriction must be necessary to avert a real, tangible danger—not merely a hypothetical one.[68] Depending on the final aim, some alternative, less intrusive means can be applied. With respect to invoking transparency to help with the oversight of financial flows and preventing money-laundering and the financing of terrorism, ODIHR and the Venice Commission noted that *"[a]bstract 'public concern' and 'suspicions' about the legality and honesty of financing of NGO sector, without pointing to a substantiated concrete risk analysis concerning any specific involvement of the NGO sector in the commission of crimes, such as corruption or money-laundering cannot constitute a legitimate aim justifying restrictions to this right"*.[69]

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62 See e.g., ODIHR and Venice Commission, ODIHR and Venice Commission, Joint Opinion on the Draft Law of Republika Srpska on the Special Registry and Publicity of the Work of Non-Profit Organisations, 12 June 2023, para. 25; Joint Opinion on Draft Law no. 6674 on Introducing Changes to some Legislative Acts to ensure Public Transparency of Information on Finance Activity of Public Associations and of the Use of International Technical Assistance and on Draft Law no. 6675 on Introducing Changes to the Tax Code of Ukraine to ensure Public Transparency of the Financing of Public Associations and of the Use of International Technical Assistance, CDL-AD(2018)006-e, para. 35. See also ODIHR, Urgent Interim Opinion on the Draft Law on Non-Profit Non-Governmental Organisations and Draft Amendments on "Foreign Representatives" of the Kyrgyz Republic (12 December 2022), para. 107; and Venice Commission, CDL-AD(2019)002, Report on Funding of Associations, paras. 61 and 80.

63 See e.g., ODIHR and Venice Commission, Joint Opinion on the Draft Law of Republika Srpska on the Special Registry and Publicity of the Work of Non-Profit Organisations, 12 June 2023, para. 25; ODIHR, Urgent Interim Opinion on the Draft Law on Non-Profit Non-Governmental Organisations and Draft Amendments on "Foreign Representatives" of the Kyrgyz Republic (12 December 2022), para. 107; and Venice Commission, Report on Funding of Associations, CDL-AD(2019)002, paras. 61 and 80.

64 Ibid.

65 The Joint ODIHR-Venice Commission Guidelines on Freedom of Association acknowledge that the receipt of public support may justify the imposition of reporting requirements, though they should not be too burdensome and, at the very least, should be proportionate to the level of public support received (see ODIHR and Venice Commission, Joint Guidelines on Freedom of Association, CDL-AD(2014)046, para. 214).

66 ODIHR and Venice Commission, Joint Guidelines on Freedom of Association, CDL-AD(2014)046, paras. 225-226. See also Council of Europe Committee of Ministers, Recommendation CM/Rec(2007)14 on the legal status of non-governmental organisations in Europe, adopted on 10 October 2007, paras. 62-65.

67 Paragraphs 62, 63 and 65.

68 ODIHR and Venice Commission, Joint Opinion on the Draft Law of Republika Srpska on the Special Registry and Publicity of the Work of Non-Profit Organisations, 12 June 2023, para. 25.

69 *ODIHR Note on Legislative Initiatives on Transparency and Regulation of Associations Funded from Abroad or So-called "Foreign Agents Laws" and Similar Legislation and their Compliance with International Human Rights Standards*, 2023, para. 30; and Venice Commission, Report on Funding of Associations, CDL-AD(2019)002, para. 81.

36. The legislators, however, fail to present any tangible evidence supporting the claim that not-for-profit NGOs lack transparency or misuse their funds. The legislators also do not provide any data-backed reports or studies that would showcase examples of such organizations being misused for the legalization of proceeds from criminal activities and financing of terrorism and a risk analysis of the proposed legislation addressing the issue, as mandated by the Recommendation 8 of the Financial Action Task Force.

37. As highlighted in the Joint Guidelines on Freedom of Association, "…*[e]nsuring that an interference by the state in the exercise of a fundamental freedom does not exceed the boundaries of necessity in a democratic society requires striking a reasonable balance between all countervailing interests and ensuring that the means chosen be the least restrictive means for serving those interests*".[70] The Guidelines further note that *"[a]t the legislative stage, this should be done by assessing whether a planned interference in the exercise of the right to freedom of association is justified in a democratic society, and whether it is the least intrusive of all possible means that could have been adopted. The state must, therefore, bear the burden of proving that any restrictions pursue a legitimate aim that cannot be fulfilled by any less intrusive actions."*[71]

38. The explanations mentioned in the amendments of 16 April 2025 do not provide any justification of why such regulation is necessary and how it balances out the limitations on the exercise of the freedom of association and other associated rights. Moreover, the legislators have not provided any targeted analysis of the impact the draft amendments may have on these freedoms, explaining how the proposed amendments are the least intrusive means to achieve the pursued objective (and are therefore proportionate). The explanations provided to justify the introduction of the amendments of 16 April 2025 and adopted Law fail to substantiate or demonstrate the insufficiency, ineffectiveness, inadequacy or gaps in the existing legal framework, justifying the adoption of new measures.

39. The adopted Law introduces new reporting obligations only for not-for-profit NGOs but not for other legal entities, such as for-profit entities. There is nothing in the justifications provided that can be regarded as objective and reasonable for imposing these requirements only on not-for-profit NGOs. The Law is also not backed by any studies or risk-analysis justifying the difference in treatment between not-for-profit NGOs and other private, legal entities. Without providing any sufficient evidence and justification for this differential approach in regulating different entities of private law, they could be regarded as being discriminatory. Such impact should be analysed from the perspective of sectoral equity, meaning that measures that apply to associations should not be more exacting than those generally applicable to business or commercial entities.[72] As underlined in the ODIHR-Venice Commission Joint Guidelines on Freedom of Association, associations should not be required to submit more reports and information than other legal entities, such as businesses; equality between different sectors should be exercised.[73]

70 ODIHR and Venice Commission, *Joint Guidelines on Freedom of Association*, CDL-AD(2014)046 , para 112.
71 ODIHR and Venice Commission, *Joint Guidelines on Freedom of Association*, CDL-AD(2014)046 para, para 113.
72 See ODIHR and Venice Commission, Joint Guidelines on Freedom of Association (2015), paras. 225 and 228. See also e.g., UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, 2013 Report, A/HRC/23/39, para. 24.
73 See ODIHR and Venice Commission, Joint Guidelines on Freedom of Association (2015), paras. 156 and 225.

4. REPORTING REQUIREMENTS

4.1. Transparency Statement

40. The adopted Law retains the obligation to submit an annual "transparency statement" by the different types of not-for-profit NGOs. For associations and organizations with an international element, this requirement is applicable when their income exceeds 35,000 euros in a calendar year.

41. This "transparency statement" should include an overview of revenue by source and an overview of expenditure, countries in which the funds are used if outside of the EU, Switzerland and the European Economic Area, a summary of the persons who have contributed to the activities of the non-profit organization, including the amount of the monetary donation, monetary contribution or value of the loan received and the identifying data of the person who contributed to the activities. This data should include in the case of a natural person whose contribution's value exceeds 5,000 euros per calendar year, the name and surname. In the case of contributions by legal persons, the information submitted should include the name or business name, identification number and registered office address. The statement should also include identification data of a natural person who is "*a body or member of a body of a non-profit organisation*". This data should include the first and last name, as well as the date of creation or termination of his/her function, if this function was created or terminated during the calendar year. In case of a Foundation, the statement should, in addition to the above, show a breakdown of income by source, expenditure by type of activity and the costs for the administration of the Foundation. Associations and organizations with an international element are exempted from the disclosure of members of the internal governance bodies in case they are composed of all members of the organisation.

42. The Ministry of Finance shall create the template of the "transparency statement", which should be submitted in the "public part of the register of financial statements", meaning that the information included in the "transparency statement" are publicly available. If following the publications, facts are discovered requiring the statement to be changed, the not-for-profit NGO is obliged to do so without delay.

43. Currently certain NGOs, such as NPOs, Foundations, and Funds already have an obligation to submit annual reports. In the case of NPOs for example, the Act No. 213/1997 provides in §34 that the annual report shall include: a) an overview of the activities carried out in the calendar year, indicating the relation to the purpose of the establishment of the non-profit organisation, b) the annual accounts and an assessment of the key data contained therein, c) the statutory auditor's opinion on the annual accounts, if the statutory auditor has audited them, d) a summary of cash receipts and payments, e) a breakdown of the extent of revenue (income) by source, f) the state and movement of the assets and liabilities of the not-for-profit organisation, g) changes and new composition of the bodies of the non-profit that occurred during the year, and h) other data determined by Board. The justification for the additional reporting through the "transparency statements" is that "*…there is no unified annual report form and annual reports are stored as unstructured documents in the register of accounts, a new structured statement needs to be introduced.*"

44. Even if the newly introduced "transparency statement" as such appears to be a mere administrative requirement, the level of details and types of information required by the adopted Law, appear burdensome and costly, especially for smaller not-for-profit NGOs and could have a chilling effect for the creation of organizations in the future. This could

in turn severely deplete their capacity to engage in their core activities. The Joint Guidelines on Freedom of Association provide that reporting requirements, where these exist, should be appropriate to the size of the association and the scope of its operations.[74] It is noted that *"[e]xcessively burdensome or costly reporting obligations could create an environment of excessive state monitoring which would hardly be conducive to the effective enjoyment of freedom of association*."[75] To assess the proportionality of the proposed new reporting requirements, it is also important to look at the overlap of additional reporting obligations with other already existing reporting obligations (whether they are of a fiscal nature or otherwise).[76]

45. The legislators also do not propose to scale the requirements based on the size of the NGO. In the case of associations and organizations with an international element, the submission of the "transparency statement" is required when the annual threshold of 35,000 euros per financial year is reached. This however broadens the pool of NGOs subject to such declaratory obligations as this amount will be calculated by adding the incomes of several NGOs with the same individual serving in one of their internal governance bodies. This can have a serious negative impact on many small NGOs, especially those that select representatives of larger NGOs as their board members to improve their functioning and gain professional advice. All such NGOs would be then subject to the reporting obligations even if their annual income does not exceed the given threshold. The Law also does not sufficiently define the criteria based on which the Ministry will determine the exact rules for the proposed reporting requirements, which only adds to the Law's lack of legal certainty and does not appear to meet any legitimate need or be proportionate to the stated purpose of the Law.

46. **The parallel reporting obligations,** the level of details and types of information required, **and their cumulative impact are excessive and burdensome, and as such the new requirements are disproportionate.** The adopted Law is unlikely to address any of the alleged objectives or concerns raised instead shifting the focus on and continuing to target not-for-profit NGOs.[77] Even if seemingly neutral, these new obligations run a risk of having a stigmatizing effect on NGOs.

4.2. Right to Privacy

47. All reporting obligations should at the same time ensure respect for the rights, including the right to respect for private life protected under Article 17 of the ICCPR and Article 8 of the ECHR, of members, founders, donors, beneficiaries and staff, as well as the right of the association to protect legitimate business confidentiality.[78]

74 ODIHR and Venice Commission, *Joint Guidelines on Freedom of Association* (2015), para. 225.

75 See ODIHR and Venice Commission, CDL-AD(2018)006-e, *Ukraine –Joint Opinion on Draft Law no. 6674 "On Introducing Changes to Some Legislative Acts to Ensure Public Transparency of Information on Finance Activity of Public Associations and of the Use of International Technical Assistance" and on Draft Law No. 6675 "On Introducing Changes to the Tax Code of Ukraine to Ensure Public Transparency of the Financing of Public Associations and of the Use of International Technical Assistance"*, para. 40.

76 See e.g. Venice Commission, *Report on Funding of Associations*, CDL-AD(2019)002, para. 111.

77 See, for example, the EC Rule of Law Report 2024, p. 35, where the EC described the targeting of NGOs working on these issues in the section called *"The environment for civil society organisations deteriorated, particularly for those with the role of overseeing state activities, and in the area of human rights":* https://commission.europa.eu/document/download/b4b142ba-2515-49fa-9693-30737384264e_en?filename=56_1_58083_coun_chap_slovakia_en.pdf.

78 See ODIHR and Venice Commission, *Joint Guidelines on Freedom of Association*, CDL-AD(2014)046, paras. 228 and 231. See also Council of Europe Committee of Ministers, *Recommendation CM/Rec(2007)14 on the legal status of non-governmental organisations in Europe*, adopted on 10 October 2007, para. 64, which states: *"[a]ll 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*". See also Council of Europe, *Fundamental Principles on the Status of Non-governmental Organisations in Europe* and Explanatory Memorandum, para. 67, which provides: *"[…] reporting requirements must be tempered by other obligations relating to the respect for privacy and confidentiality. In particular, a donor's desire to remain anonymous must be observed. The respect for privacy and confidentiality is, however, not unlimited. In exceptional cases, the general interest may justify that authorities have access to private or confidential information, for instance in order to combat black market money transfers. Any exception to business confidentiality or to the privacy and confidentiality of donors, beneficiaries and staff shall observe the principle of necessity and proportionality*".

48. According to the Joint Guidelines on Freedom of Association, "*the right to privacy applies to an association*" (para. 228) and *"[l]egislation should contain safeguards to ensure the respect of the right to privacy of the clients, members and founders of the associations, as well as provide redress for any violation in this respect*" (para. 231). The UN Special Rapporteur also noted that "*Public disclosure requirements may include confidential and human rights sensitive information, unduly impinging on fundamental privacy rights, in violation of applicable privacy laws, and may expose individuals to serious risks of reprisals.*"[79] Hence, obligations to report should be tempered by other obligations relating to the right to security of beneficiaries and to respect for their private lives and confidentiality; any interference with respect for private life and confidentiality should observe the principles of legitimacy, necessity and proportionality.[80]

49. Regarding donors specifically, in some circumstances, exposure of donors and contractors of associations could potentially affect donors' readiness to continue their support for and co-operation with these associations if they were publicly identified.[81] In principle, a donor's desire to remain anonymous must be observed.[82] In addition, in relation to the public disclosure obligations, the Venice Commission noted that "*such a drastic measure, as 'public disclosure obligation' may only be justified in cases of political parties and entities formally engaging in remunerated lobbying activities."*[83] The present legal provisions would not only interfere with the donors' personal privacy, protected by Articles 17 of the ICCPR and Article 8 of the ECHR, but also not be compliant with international personal data protection standards.[84]

50. The requirement to publicly disclose information on funds received and how they are spent may be legitimate in the case of public funding allocated to associations, but "public disclosure obligations" should not be extended to all financing, including from private donors.[85]

51. At the same time, far-reaching public disclosure requirements **may interfere both with the right to privacy of members, founders, donors, beneficiaries and staff, as well as of the association, and more generally with the right to freedom of association of the above persons and entities and cannot be justified as being "necessary in a democratic society".** Much less intrusive reporting or disclosure rules could be designed, for example, requiring only the publication of anonymous data or total figures.[86]

52. The extent of the information also requires the not-for-profit NGOs to be equipped with the necessary legal, financial and administrative support, and allocate time to collect this information. If the organizations provide any information that is incorrect or incomplete, the body in charge of the review has broad discretion to request resubmission. However,

79 See UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Letter OL RUS 16/2022 dated 30 November 2022 addressed to the Russian Federation relating to the Federal Law No. 121-FZ dated 20 July 2012 and subsequent amendments, p. 3.

80 Explanatory Memorandum to the *Recommendation CM/Rec(2007)14 on the legal status of non-governmental organisations in Europe*, para. 116.

81 See e.g., ODIHR, *Urgent Interim Opinion on the Draft Law on Non-Profit Non-Governmental Organizations and Draft Amendments on "Foreign Representatives" of the Kyrgyz Republic* (12 December 2022), para. 66.

82 Council of Europe, *Fundamental Principles on the Status of Non-governmental Organisations in Europe* and Explanatory Memorandum, para. 67.

83 Venice Commission, Report on Funding of Associations, CDL-AD(2019)002.

84 Such as Council of Europe, *Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data* (CETS No. 108), 28 January 1981, and *Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data;* and the EU General Data Protection Regulation (GDPR) – Official Legal Text (gdpr-info.eu).

85 See e.g., Council of Europe Committee of Ministers, *Recommendation CM/Rec(2007)14 on the legal status of non-governmental organisations in Europe*, adopted on 10 October 2007, para. 64, which provides that 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. See also Venice Commission, Report on Funding of Associations, CDL-AD(2019)002, para. 108.

86 See e.g., ODIHR, *Urgent Interim Opinion on the Draft Law on Non-Profit Non-Governmental Organizations and Draft Amendments on "Foreign Representatives" of the Kyrgyz Republic* (12 December 2022), para. 67.

what would account for incomplete or incorrect is unclear. The procedures could risk becoming lengthy and costly audits on not-for-profit NGOs.

5. MONITORING AND SUPERVISION

53. The Law provides that the Ministry of Interior (in the case of an organization with an international element) or the Ministry of Finance (in the case of NPOs, associations, foundations and funds) shall be entitled to evaluate the contents of the transparency statements.

54. If these monitoring bodies find deficiencies or facts that are grounds for correcting the statement, it shall invite the not-for-profit NGO to remedy the deficiencies found or to correct the statement within a specified period, which shall not be less than 30 days and not more than 60 days, and at the same time to inform the registry office of the measures taken. Those organizations are obliged to provide the registration authority assistance in the performance of its supervision, and upon request of the registration authority, to submit documents, information, explanations or other information within a specified period of time. The registry office can process, without the consent of the data subject, personal data with which it comes into contact in the exercise of supervision under the Law.

55. As underlined by ODIHR and the Venice Commission in previous joint opinions, "*states have a right to satisfy themselves that an association's aim and activities are in conformity with the rules laid down in legislation*", but they must do so "*in a manner compatible with their obligations under the European Convention"* and other international instruments, meaning that *"state bodies should be able to exercise some sort of limited control over non-commercial organisations' activities with a view to ensuring compliance with relevant legislation within the civil society sector, but such control should not be unreasonable, overly intrusive or disruptive of lawful activities*."[87] As recommended in the Joint Guidelines on Freedom of Association, "*legislation should define the procedure for appointing supervisory bodies, as well as the grounds for inspecting associations, the duration of inspections and the documents that need to be produced during inspection*".[88]

56. The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association has noted that, while independent bodies may have a legitimate reason to examine associations' records to ensure transparency and accountability, states must ensure that this procedure is not arbitrary and respects the rights of individuals to non-discrimination and privacy, as it would otherwise put the independence of associations and the safety of their members and beneficiaries at risk.[89] The ODIHR and Venice Commission Joint Guidelines likewise acknowledged that the *"oversight and supervision of associations should not be more intrusive than those applicable to private businesses. They should always be carried out based on the presumption of lawfulness of the aims and activities of associations."*[90]

87 See ODIHR and Venice Commission, *Ukraine – Joint Opinion on Draft Law No. 6674 "On Introducing Changes to Some Legislative Acts to Ensure Public Transparency of Information on Finance Activity of Public Associations and of the Use of International Technical Assistance" and on Draft Law No. 6675 "On Introducing Changes to the Tax Code of Ukraine to Ensure Public Transparency of the Financing of Public Associations and of the Use of International Technical Assistance"*, CDL-AD(2018)006-e, para. 40.

88 See e.g., ODIHR and Venice Commission, *Joint Guidelines on Freedom of Association*, CDL-AD(2014)046, para. 229.

89 UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, 2013 Report, A/HRC/23/39, para 65.

90 See ODIHR and Venice Commission, *Joint Guidelines on Freedom of Association*, CDL-AD(2014)046, para. 228. See also Venice Commission's *Report on Funding of Associations*, CDL-AD(2019)002, para 13.

57. There is not much detail as to the form that the monitoring would take, other than that the registry office or the Ministry of Finance is entitled to request the necessary information. The process by which this information or data is to be sought is also unclear. The possibility of instituting the monitoring process depends on a decision of these authorized bodies. There is, however, no criteria or specification of evidential standard for the institution of the process other than that the registry office or Ministry hold that deficiencies or grounds for correcting the statement are found. Moreover, the type of information that may be uncovered during the supervision may cover personal data, and potentially sensitive information – e.g., information revealing political opinions, religious or other beliefs, or health or sexual life – of members, beneficiaries or donors, which may not be compliant with the key principles of personal data processing, especially purpose limitation and data minimization.[91]

58. Principle 1 of the Joint Guidelines on Freedom of Association enshrines the presumption in favour of the lawful formation, objectives, and activities of associations. As underlined by ODIHR and the Venice Commission in previous joint opinions, "*states have a right to satisfy themselves that an association's aim and activities are in conformity with the rules laid down in legislation*", but they must do so "*in a manner compatible with their obligations under the European Convention*" and other international instruments, meaning that "*state bodies should be able to exercise some sort of limited control over non-commercial organisations' activities with a view to ensuring compliance with relevant legislation within the civil society sector, but such control should not be unreasonable, overly intrusive or disruptive of lawful activities*."[92]

59. In order for a measure to be "prescribed by law", the legislation must also clearly specify the circumstances and criteria based on which inspections may be carried out. Otherwise, this could allow an overbroad discretion on the side of the authorities, with potential for abuse or misuse. The provisions on monitoring in the adopted Law are defined in a manner that could be used, in practice, to excessively interfere with and hinder the exercise of the right to freedom of association. Moreover, monitoring bodies enjoy a broad discretion when carrying out the monitoring, research and study as it allows these bodies to use and process *any* personal data it comes across in the exercise of their supervision, which can include any personal or confidential data, including sensitive personal information.

60. The Law provides for the possibility of handling and processing any personal data that has become available in the context of supervision by the relevant bodies which may include confidential or sensitive data, especially as the purpose of the Law is broadly defined. As stated in Article 6 of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108),[93] *"[p]ersonal data revealing racial origin, political opinions or religious or other beliefs, as well as personal data concerning health or sexual life, may not be processed automatically unless domestic law provides appropriate safeguards*". Indeed, such data are especially sensitive and should in principle require additional safeguards seeing the

91 See especially EU General Data Protection Regulation (GDPR) – Official Legal Text (gdpr-info.eu) as an EU candidate country, Article 5; and Council of Europe, *Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data* (CETS No. 108), 28 January 1981, which entered into force in the Slovak Republic on 1 January 2001.On 15 June 2023, Slovakia deposited its instrument of ratification of the *Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data* (CETS No. 223), which aims at further enhancing personal data protection mechanisms.

92 See ODIHR and Venice Commission, CDL-AD(2018)006-e, *Ukraine – Joint Opinion on Draft Law No. 6674 "On Introducing Changes to Some Legislative Acts to Ensure Public Transparency of Information on Finance Activity of Public Associations and of the Use of International Technical Assistance" and on Draft Law No. 6675 "On Introducing Changes to the Tax Code of Ukraine to Ensure Public Transparency of the Financing of Public Associations and of the Use of International Technical Assistance"*, para. 40.

93 See Council of Europe, *Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data* (CETS No. 108), 28 January 1981.

risks that the processing of sensitive data may present for the interests, rights and fundamental freedoms of the data subject, notably a risk of discrimination.[94] The Slovak Republic also ratified the Amending Protocol to the Convention for the Protection of Individuals with regard to the Processing of Personal Data (CETS No. 223), which requires additional safeguards regarding the handling of such sensitive data.[95] Accordingly, the handling or using of any sensitive data should be approached with extremely high caution. Therefore, the Law should narrowly define the scope of the personal data that may be requested, as well as include clear guidance how to treat the data if obtained, while ensuring full compliance with international personal data protection standards.

61. **Based on the above, the provision on monitoring and the powers of the monitoring authority are broadly defined and appear excessive, potentially leaving room to arbitrary, and potentially discriminatory, interpretation and application.**

6. FINES

62. Where the not-for-profit NGOs do not meet the requirements with respect to the submission of the transparency statement or the annual report (as per the existing requirements under the Law on NPOs, amongst other), the registry office can impose a fine of up to 1,000 euros. If the not-for-profit NGOs fail to remedy the situation in the following 30 days, a further fine is imposed of up to 10,000 euros. The adopted Law of 16 April 2025 adds that a third and further fine shall have the lower limit of 5,000 euros, without providing an upper limit. Regarding the sanction mechanisms, the Joint Guidelines underline that NGOs should not be sanctioned repeatedly for one and the same violation or action.[96] In light of the observations in the previous sections that the adopted Law does not pursue a legitimate objective as reflected in international human rights instruments, nor attests to a particular necessity, and unduly impacts the right to association and right to privacy, among others, the imposition of fines would only further aggravate the infringement of these rights.

63. In any case, even assuming that imposing fines could be justified, these sanctions must always be consistent with the principle of proportionality, that is, they must be the least intrusive means to achieve the desired objective and their proportionality must be ensured. Imposition of even the minimum fine could be disproportionate if the breach concerned is not a particularly significant one, such as the unintentional submission of inaccurate information in the transparency statement. In this respect, the Joint Guidelines on Freedom of Association emphasized that when there is a breach of a legal requirement,

94 The Slovak Republic has ratified ratified *Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data* (CETS No. 223) on 15 June 2023, which aims at further enhancing personal data protection mechanisms, proposed new Article 6(1) and (2) of the Convention 108 underlines such risks; in addition, see*Explanatory Report – CETS 223 – Automatic Processing of Personal Data (Amending Protocol)*, 10 October 2018 and Convention 108, *Guidelines on the Protection of Individuals with regard to the Processing of Personal Data by and for Political Campaigns* (2021), para. 4.3.5.

95 See *Explanatory Report – CETS 223 – Automatic Processing of Personal Data (Amending Protocol)*, 10 October 2018, which further provides examples of the types of additional safeguards that could be considered alone or in combination regarding the handling of such sensitive data, including the data subject's explicit consent, a law covering the intended purpose and means of the processing or indicating the exceptional cases where processing such data would be permitted, a professional secrecy obligation, measures following a risk analysis. Risk assessment prior to processing should assess whether data are protected against unauthorised access, modification and removal/ destruction and should seek to embed high standards of security throughout the processing; such an assessment should be informed by considerations of necessity and proportionality, and the fundamental data protection principles across the range of risks including physical accessibility, networked access to devices and data, and the backup and archiving of data; see Convention 108, *Guidelines on the Protection of Individuals with regard to the Processing of Personal Data by and for Political Campaigns* (2021), para. 4.3.5.

96 ODIHR and Venice Commission, Joint Guidelines on Freedom of Association, CDL-AD(2014)046, para 240.

the first response should be to request rectification of the omission and a fine or other small penalty should only be issued at a later date, if appropriate.

64. Compared to the average nominal monthly wages in the Slovak Republic,[97] the amount of the contemplated sanctions could be up to six times the average monthly wages, which is clearly disproportionate. When assessing the proportionality of the sanctions, the ECtHR has looked at the nature, essentially regulatory, of the offences and compared the amounts with the monthly minimum salary (thirty to thirteen times), and concluded that such fines were liable to become an instrument for suppressing dissent and could not be deemed proportionate.[98] Even in cases where the amounts of the fine[99] to the average gross monthly salary in Republika Srpska,[100] were ranging from 0.5 to 2.5 average monthly salaries, ODIHR and the Venice Commission have concluded that "*the range of fines that could be imposed could well be especially problematic for some entities treated as NPOs, especially if they have a small funding base*".[101]

65. Finally, the adopted Law lacks provisions guaranteeing access to effective remedies in order to challenge or seek review of decisions taken by the registry office and the ministry in the context of its implementation that may infringe the right to freedom of association and freedom of expression.

66. **The amount of the fines envisaged in the adopted Law of 16 April 2025 in case of non-compliance with reporting requirements is excessive for mere non-compliance with relatively minor infringements. Any action or sanction affecting an association must be preceded by an administrative process, which can be challenged before an independent court with full jurisdiction**.[102]

7. OTHER ISSUES

67. The adopted Law makes not-for-profit NGOs (who receive public funding) fall within the scope of the Freedom of Information Act. The ICCPR General Comment No. 34 clarifies that the right of access to information provided in Art. 19 ICCPR pertains to the information held by public bodies.[103] Public bodies are defined as *"..[a]ll branches of the State (executive, legislative and judicial) and other public or governmental authorities, at whatever level – national, regional or local – [that] are in a position to engage the responsibility of the State party."*[104] The Comment further concludes that *"...[t]he designation of such bodies may also include other entities when such entities are carrying out public functions."*[105]

68. While the General Comment does not exclude the possibility of other entities becoming obliged to provide access to information, it states that such entities should be carrying out a public function. When NGOs receive public funds in the form of subsidies or grants, it can be argued that these are still managed under the authority of the public body that is

97 EUR 1524,- in 2024, see < Average monthly wage in economy of the SR in the 4th quarter and in 2024>.
98 European Court of Human Rights, *Ecodefence and others v. Russia*, nos. 9988/13 and 60 others, 14 June 2022, paras. 181-185.
99 The average nominal monthly wage of an employee in the Slovak economy for the entire year 2024 reached EUR 1 524, see <Statistical Office of the Slovak Republic>
100 For March 2023, the average gross monthly wage amounts to BAM 1910, see Institute of Statistics - Republika Srpska (rzs.rs.ba).
101 See ODIHR and Venice Commission, *Joint Opinion on the Draft Law of Republika Srpska on the Special Registry and Publicity of the Work of Non-Profit Organisations*, 12 June 2023, para. 72.
102 Council of Europe Committee of Ministers, *Recommendation CM/Rec(2007)14 on the legal status of non-governmental organisations in Europe*, paras. 10 and 74, see also ODIHR and Venice Commission, *Joint Guidelines on Freedom of Association*, CDL-AD(2014)046, Principle 11.
103 UN Human Rights Committee: General comment No. 34, Article 19: Freedoms of opinion and expression (CCPR/C/GC/34), para 18: https://docs.un.org/en/CCPR/C/GC/34.
104 UN HRC: General Comment No. 34, para 7.
105 UN HRC: General Comment No. 34, para 19.

carrying out the public function and an NGO typically has reporting obligations towards such body.

69. The adopted Law suggest that NGOs will be obliged to respond to the requests concerning their handling of public funds, but do not clarify what happens in cases when an NGO receives a request for information related to the management of other funding sources. The amendments also suggest that the obligations would apply retroactively,[106] which would clearly contradict the principle of foreseeability.

8. RECOMMENDATIONS RELATED TO THE PROCESS OF PREPARING AND ADOPTING THE LAW

70. OSCE participating States have committed to ensure that legislation will be "*adopted at the end of a public procedure, and [that] regulations will be published, that being the condition for their applicability*" (1990 Copenhagen Document, para. 5.8). Moreover, key commitments specify, *"[l]egislation will be formulated and adopted as the result of an open process reflecting the will of the people, either directly or through their elected representatives*" (1991 Moscow Document, para. 18.1). As emphasized in the Joint Guidelines on Freedom of association:

> "*Associations and their members should be consulted in the process of introducing and implementing any regulations or practices that concern their operations. They should have access to information and should receive adequate and timely notice about consultation processes. Furthermore, such consultations should be meaningful and inclusive, and should involve stakeholders representing a variety of different and opposing views, including those that are critical of the proposals made. The authorities responsible for organizing consultations should also be required to respond to proposals made by stakeholders, in particular where the views of the latter are rejected*."[107]

71. The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association specifically recommends to states to "*Meaningfully engage with civil society organizations when adopting any measures affecting their right to seek, receive and use funding*".[108] Public consultations constitute a means of open and democratic governance as they lead to higher transparency and accountability of public institutions, and help ensure that potential controversies are identified before a law is adopted.[109] Consultations on draft legislation and policies, in order to be effective, need to be inclusive and to provide relevant stakeholders with sufficient time to prepare and submit recommendations on draft legislation; the State should also provide for an adequate and timely feedback mechanism whereby public authorities should acknowledge and respond to contributions.[110] To guarantee effective participation, consultation mechanisms should allow for input at an early stage, from the initial policymaking phase *and throughout the process*,[111] meaning not only when the draft is being prepared but also when it is discussed before Parliament, be it during public hearings or during the meetings of the

106 The new amendments from March 2025, point 37.
107 ODIHR and Venice Commission, *Joint Guidelines on Freedom of Association* (2015), para. 106.
108 See e.g., UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, 2022 Report on Access to resources, A/HRC/50/23, 10 May 2022, para. 64(f) and supplementary guidelines: *General principles and guidelines on ensuring the right to civil society organisations to have access to resources*, HRC/53/38/Add.4, 23 June 2023, para. 29. See also the Joint Declaration on Protecting the right to freedom of association in light of "Foreign Agents"/ "Foreign Influence" Laws, 13 September 2024, section III.
109 See *Recommendations on Enhancing the Participation of Associations in Public Decision-Making Processes* (from the participants to the Civil Society Forum organized by ODIHR on the margins of the 2015 Supplementary Human Dimension Meeting on Freedoms of Peaceful Assembly and Association), Vienna 15-16 April 2015.
110 See ODIHR, *Guidelines on Democratic Lawmaking for Better Laws* (2024), Principle 7.
111 See ODIHR, *Guidelines on Democratic Lawmaking for Better Laws* (2024), Principle 7.

parliamentary committees. Given the sensitivity and importance of such a wide-ranging reform, it is fundamental that all voices are heard, even those that may be critical of the proposed initiatives with a view to address the issues being raised and achieve broad political consensus and public support within the country about such a reform. Ultimately, this tends to improve the implementation of laws once adopted, and enhance public trust in public institutions in general.

72. The initial Draft Law was introduced by deputies, and therefore not subject to any public consultation requirements in order to submit draft laws to the Parliament.[112] The other sets of amendments were also introduced by deputies, without any form of prior public consultations, and the pace of the parliamentary proceedings, including of committee work, did not allow for any meaningful and inclusive consultations with those potentially affected, especially not-for-profit organizations and the wider public, at odds with the principles of democratic lawmaking.[113] While accelerated lawmaking may at times be necessary, such urgent procedures should only be applied in exceptional circumstances, they must be limited to true cases of urgency, where circumstances do not allow for the usual conduct of proceedings, both within government and particularly before parliament.[114] Under no condition should fast-track procedures be applied simply to achieve policy objectives quickly, or to circumvent rules on public consultation or impact assessments, avoiding relevant verification, consultation and oversight mechanisms. Such misuse affects the quality of legislation, weakens external checks on the government and disregards the principle of the separation of powers.

73. It is concerning that legislation of this nature, touching upon core human rights obligations, has been rushed through the legislative process, and in a manner that does not do justice to the weight of this legislative initiative. The adopted Law was rushed through in the second and third reading which took place on the very same day, and merely 24 hours after key changes were introduced. The expedited pace of the legislative procedure before the Parliament significantly undermined the transparency and quality of democratic deliberation — which raise serious concerns given the significant impact of the adopted Law on fundamental rights.

74. The legal drafters have prepared an Explanatory Statement to the initial Draft Law, which lists a number of reasons justifying the contemplated reform, but does not mention the research and impact assessment on which these findings are based. In principle, laws and public decision-making should be prepared, discussed and adopted on the basis of well-founded arguments, scientific evidence and data, including information deriving from impact assessments and consultations with the public and other stakeholders.[115] Given the potential impact of the Draft Law on the exercise of human rights and fundamental freedoms, an in-depth regulatory impact assessment, including on human rights compliance, is essential, which should contain a proper problem analysis, using evidence-based techniques to identify the most efficient and effective regulatory option.[116] In the event that such an impact assessment has not yet been conducted, the legal drafters are encouraged to undertake such an in-depth review, to identify existing problems, and adapt proposed solutions accordingly.

75. Further, numerous amendments were introduced that changed the very essence of the Draft Law as initially submitted and adopted in first reading. While it is welcome that

112 See Law No. 350/1996 Coll. on the Rules of Procedure of the National Council of the Slovak Republic, <https://www.slov-lex.sk/ezbierky/pravne-predpisy/SK/ZZ/1996/350/20210901>.
113 See ODIHR, *Guidelines on Democratic Lawmaking for Better Laws* (2024), Principle 7.
114 See ODIHR, *Guidelines on Democratic Lawmaking for Better Laws* (2024), Principle 11 and para. 238.
115 See *ODIHR Guidelines on Democratic Lawmaking for Better Laws* (January 2024), Principle 5, Evidenced-based lawmaking.
116 See e.g., ODIHR, *Preliminary Assessment of the Legislative Process in the Republic of Uzbekistan* (11 December 2019), Recommendations L and M; and Venice Commission, *Rule of Law Checklist*, CDL-AD(2016)007, Part II.A.5.

some of the key concerning provisions have been removed from the Law prior to its adoption, the legislative process has been undermined by the lack of public consultations and any meaningful discussions.

76. It is recommended to the legal drafters to ensure that legislative initiatives impacting fundamental rights, including the right of association, are not only subjected to inclusive, extensive and effective consultations, including with civil society and representatives of various communities, offering equal opportunities for women and men to participate and that sufficient time is provided for a meaningful parliamentary debate, but also to ensure that a proper feedback mechanism is in place. The concerns pertaining to the deficiencies in the processing of this Law are only exacerbated by the apparent lack of a regulatory impact assessment. Further, as an important element of good law-making, a consistent monitoring and evaluation system of the implementation of the said amendments and their impact should also be put in place that would efficiently evaluate the operation and effectiveness of the Law should it come into effect.[117]

77. **ODIHR remains at the disposal of the authorities for further assistance in this matter, especially with respect to the identification of possible legislative or other alternatives to address genuine, concrete concerns that correspond to the legitimate aims provided by international human rights law.**

[END OF TEXT]

117 See e.g., See ODIHR, *Guidelines on Democratic Lawmaking for Better Laws* (2024); see also OECD, *International Practices on Ex Post Evaluation* (2010).

ANNEX 1 –ANALYSIS OF VARIOUS PROVISIONS OF THE MARCH 2025 AMENDMENTS

On the justifications invoked for the March 2025 Amendments

1. The March 2025 Amendments replaced the registration of "foreign-supported organizations" initially envisaged in the Draft Law introduced in March 2024 by the registration of not-for-profit NGOs carrying out so-called "lobbying" with a view to ensure transparency of "lobbying" by these actors. The justification mentioned in the Resolution of the Constitutional and Legal Affairs Committee for introducing these new provisions on "Lobbying" (Article VI of the Draft Law as amended in March 2025) referred to the Government Program for 2023-2027 in which a commitment is made to strengthen transparency and prepare anti-corruption legislation. The justification further asserted that not-for-profit NGOs engage in lobbying activities "*aimed at influencing political decisions or changing legislation in line with their interests and objectives*", and warned that leaving such lobbying unregulated would contribute to opacity, leave way for manipulation, create risks of conflicts of interest and may result in strong influence that could outweigh public interest considerations. The explanation further outlined that regulating lobbying by not-for-profit NGOs could lead to increased social accountability, promote democratic processes and allow for public scrutiny, amongst other. At the same time, there was no mention of potential risks associated with lobbying carried out by other entities, such as businesses and other groups of interest – which potentially trigger even more important risks.
2. The several reports were also invoked as justification for introducing the March 2025 Amendments. The European Commission in its annual Rule of Law Reports on the Slovak Republic regularly remarked that the country lacked a regulation on lobbying activities. This issue is typically raised in the context of prevention of corruption, asset declaration and the concept of revolving doors[118] and frequently refers to the GRECO reports as the main authority on the topic.[119] According to the latest European Commission Rule of Law Report on the Slovak Republic, the Slovak government actually committed itself to implement a new National Anti-Corruption Strategy 2024-2029 and a related Action Plan to address the above issues and implement the regulation of lobbying. Contrary to the March 2025 Amendments, the Strategy is thematically planned to include measures on asset declarations, and ethics of top executive officials along with the regulation of lobbying, rather than lobbying regulation specifically targeting NGO lobbying activities.[120]
3. Further, the GRECO report that was invoked as justification for the March 2025 Amendments calls for lobbying regulation to be introduced in Slovakia, but without any specific reference to potential regulation of lobbying by not-for-profit NGOs; rather, it calls for a comprehensive approach to regulating lobbying, including rules on persons with top executive functions in central governments expressly to prevent lobbying activities towards the government for a lapse of time after they leave office.[121] Therefore invoking these reports as a justification for the March 2025 Amendments is misleading.

118 i.e., the practice of holding job positions in the private sector that are directly related to functions previously exercised by public officials.
119 See e.g. European Commission: 2024 Rule of Law Report: Country Chapter on the rule of law situation in Slovakia: <https://commission.europa.eu/document/download/b4b142ba-2515-49fa-9693-30737384264e_en?filename=56_1_58083_coun_chap_slovakia_en.pdf>, First EC Rule of Law Report on Slovakia from 2020: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A52020SC0324> etc.
120 European Commission: 2024 Rule of Law Report: Country Chapter on the rule of law situation in Slovakia, p. 14.
121 GRECO, Fifth Evaluation Round Preventing corruption and promoting integrity in central governments (top executive functions) andlaw enforcement agencies, second compliance report, Slovak Republic, 17 April 2024, para 24.

On the definition of "lobbying" as reflected in the March 2025 Amendments

1. The March 2025 Amendments defined "lobbying" by not-for-profit NGOs as "*direct or indirect influence on the decision-making of a public official, a senior civil servant in a service office, which is the Office of the President of the Slovak Republic, a ministry or other central body of state administration, or a person, who provides consultancy services or processes expert documents for the President of the Slovak Republic, a member of the Government, a State Secretary or the head of another central body of state administration,* […] *in the performance of his/her function, if it is performed more than once during a calendar quarter*." The activities of trade unions, employers' organizations and registered sports organizations were considered to fall outside the scope of the definition. Currently, as indicated above, there are no specific legislation on lobbying in Slovakia. The definition envisaged in the March 2025 Amendments was problematic for several reasons, including that it was drafted in a broad manner and it only targeted CSOs excluding other potential lobbying groups/entities.

2. The Recommendation CM/Rec(2017)2 of the Committee of Ministers to member States on the legal regulation of lobbying activities in the context of public decision making ("Recommendation CM/Rec(2017)2") and the 2025 OECD's revised Recommendation of the Council on Transparency and Integrity in Lobbying and Influence ("the 2025 OECD Lobbying Recommendation") are important guidelines with respect to lobbying regulation. ODIHR has also underlined that "*any legislation regulating lobbying should strictly define the meaning of lobbying, ensuring that it primarily targets those who receive compensation for carrying out lobbying activities and that it does not cover all advocacy activities by civil society organizations or participation in public consultations*".[122]

3. At the outset, it must be noted that international guidelines require definitions in the area of lobbying to "*clearly and unambiguously define what is lobbying and who is to be considered a lobbyist and lobbying target*".[123] At the same time, definitions need to be broad enough to cover a variety of activities and keep up with technological advances. International guidelines only suggest two categories of exceptions from the rules on lobbying: private citizens' interactions with public officials concerning their private affairs, save for where it may concern individual economic interests of sufficient size or importance; and public officials, diplomats and political parties acting in their official capacities.

4. Recommendation CM/Rec(2017)2 defines "lobbying" as "*promoting specific interests by communication with a public official as part of a structured and organised action aimed at influencing public decision making*". "Public decision making" is used to cover decision-making within the legislative and executive branches, whether at national, regional or local level and the term "public official" is understood to mean any person exercising a public function, whether elected, employed or otherwise, in the legislative

122 ODIHR, Guidelines on Democratic Lawmaking for Better Laws, 2024, paras. 75 and 91: "*regulation of lobbying activities should not be unduly burdensome and should seek to balance the need for transparency with safeguards for the rights of individuals and associations, including the rights to freedom of expression and opinion, freedom of association and the right to participate in public affairs. Individuals and associations have the right to express their opinions and petition public officials, bodies and institutions, whether individually or collectively, and to participate in public affairs by campaigning for political, legislative or constitutional change.100 While some civil society organizations may be involved in lobbying, not all contacts between civil society and politicians or political institutions, nor forms of advocacy by civil society organizations should be characterized as lobbying*". See also ODIHR, Urgent Opinion on Draft Rules Governing the Activity of Representation of Interests, 2021, para. 21, which underlines that lobbying legislation should be carefully drafted to ensure that not all advocacy and awareness-raising done by civil society organizations in the public domain is qualified as "indirect lobbying", while also ensuring that it does not stifle the very engagement with societal and social issues that are at the core of most civil society organizations' work.

123 TI International Standards for Lobbying Regulation, Lobbyingtransparency.pdf; see also OECD Principles for Transparency and Integrity in Lobbying, Principle 4.

or executive branches. It recommends that its provisions be applied to activities undertaken on behalf of (a) a third party, (b) a person's employer and (c) professional or sectoral interests. While the first two sets of activities would certainly cover the representation of foreign or commercial interests, the activities undertaken by NGOs/CSOs could potentially be seen as falling under the third category, whether the interests being promoted or defended are public or private ones.[124] However, Recommendation CM/Rec(2017)2 also specifies that the legal regulation of lobbying activities should not infringe the democratic right to campaign for political change and change in legislation, policy or practice. Furthermore, the disclosure or reporting requirements listed in the Recommendation are not absolute as the possibility is envisaged of making exemptions to lobbying regulations as long as these are "*clearly defined and justified*".[125]

5. For the purpose of the 2025 OECD Lobbying Recommendation, lobbying and influence activities are understood to refer to "*actions, conducted directly or through any other natural or legal person, targeted at public officials carrying out the decision-making process, its stakeholders, the media or a wider audience, and aimed at promoting the interests of lobbying and influence actors with reference to public decision-making and electoral processes*". Lobbying and influence actors are defined as *"legal persons, domestic or foreign, that engage in lobbying and influence activities on their own behalf, as well as natural or legal persons, domestic or foreign, who engage in lobbying and influence activities on behalf of or under the direction or control of other natural or legal persons, or foreign state interest actors*". Moreover, the OECD Lobbying Recommendation is not exclusively directed to NGOs but is concerned with others engaged in lobbying and influence activities, notably, companies, business and trade associations, consultancies and law firms. Although it does not suggest any specific difference in the treatment of NGOs as opposed to that of for-profit entities in the way regulatory requirements are applied but this is also not precluded.

6. Although the OECD Lobbying Recommendation is directed to those who engage in lobbying and influence activities, this is only a part of its focus. It also entails disclosure requirements by government and other public bodies, the establishment and maintenance of a mandatory public decision-making process footprint, the implementation of transparency and integrity frameworks for all those that provide advice to the government and those undertaking lobbying and influence activities and the establishment of a public integrity framework for public officials.[126]

7. The ODIHR *Guidelines on Democratic Lawmaking for Better Laws* note that lobbying is a legitimate act of political participation, an important means of fostering pluralism and a tool, ultimately, to contribute to better decision-making in the public domain. [127] As for the regulation of lobbying, the *ODIHR Guidelines on Democratic Lawmaking* provide that "…*lobbying activities may be regulated in the interests of transparency and accountability, as an essential component of good public governance applicable to the public sector and to ensure that financially or politically powerful groups do not unduly influence or capture state policies. However, regulation of lobbying activities should not be unduly burdensome and should seek to balance the need for transparency with safeguards for the rights of individuals and associations, including the rights to freedom of expression and opinion, freedom of association and the right to participate in public affairs. Individuals and associations have the right to express their opinions and petition*

124 See the Explanatory Memorandum to Recommendation CM/Rec(2017)2, at para. 12.
125 Principle 3.
126 OECD Lobbying Recommendation Points III b), IV, VI and VII.
127 ODIHR, Guidelines on Democratic Lawmaking for Better Laws, 2024, p. 58.

public officials, bodies and institutions, whether individually or collectively, and to participate in public affairs by campaigning for political, legislative or constitutional change."[128] At the same time, not all contacts between civil society and politicians or political institutions should be considered lobbying, nor should forms of advocacy by civil society organizations be characterized as lobbying.[129] Thus, when drafting or reviewing regulations on lobbying, it is important to define lobbying and who is to be considered a lobbyist clearly and unambiguously, while involving all key actors, including public officials, and also representatives of the lobbying consultancy industry, civil society and independent 'watchdogs' in establishing rules and standards, and putting them into effect.[130]

8. As underlined in the Joint Guidelines on Freedom of Association "…*legal provisions concerning associations need to be well crafted. They need to be clear, precise and certain.*"[131] Further, they state that [the legal provisions] *"should also be adopted through a broad, inclusive and participatory process, to ensure that all parties concerned are committed to their content*."[132] As highlighted by the Venice Commission, the regulation of *"…lobbying as a professional remunerated activity should be clearly defined in the legislation and be clearly distinguished from ordinary advocacy activities of civil society organisations, which should be carried out unhindered."*[133]

9. The reference in the definition of "lobbying" in the March 2025 Amendments to "*direct or indirect influencing of decision-making*" is broad and not sufficiently clear as it does not define the *types* of activities that are considered as influencing decision-making. By providing such an overbroad definition, a vastness of activities would have been brought under the scope of lobbying, whereas individuals, citizens and CSOs may merely be willing to actively engage in public life and exercise their rights to participate in public affairs guaranteed by international instruments. This terminology also lacked precision and gave authorities excessive discretion to determine what may fall within the scope of "lobbying", which undermined the foreseeability of the March 2025 Amendments. The wording "*indirect influence*" is especially problematic, as it lacks the structured, organized or targeted nature typically associated with lobbying, as reflected in Recommendation CM/Rec(2017)2 which refers to "*a structured and organised action aimed at influencing public decision making*" or the OECD Lobbying Recommendation covering "*actions … targeted at public officials carrying out the decision-making process*".[134] In contrast, "indirect influence" could encompass unintended or unforeseen effects of speech or conduct — instances where individuals neither intended nor could reasonably have anticipated that their actions might influence a public official. This vague and broad formulation would have risked leaving any determination of whether indirect influence occurred to potentially subjective or arbitrary interpretation by those in charge of their implementation. As a result, it would have granted excessive discretion to public authorities to decide whether certain activities qualify as lobbying, potentially triggering the application of extensive registration and reporting obligations, even when the persons involved had no intent to engage in lobbying as traditionally defined.

10. This concern was also reinforced by paragraph 41 of the March 2025 Amendments which provided that lobbying "…*may involve various forms of communication, such as in*

128 ODIHR, Guidelines on Democratic Lawmaking for Better Laws, 2024, p. 58.
129 ODIHR, Guidelines on Democratic Lawmaking for Better Laws, 2024, para. 91.
130 ODIHR, Guidelines on Democratic Lawmaking for Better Laws, 2024, para. 91.
131 ODIHR and Venice Commission, Joint Guidelines on Freedom of Association, CDL-AD(2014)046, para 22.
132 ODIHR and Venice Commission, Joint Guidelines on Freedom of Association, CDL-AD(2014)046 para 22.
133 Venice Commission, Report on Funding of Associations, CDL-AD(2019)002, para. 150: https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2019)002-e.
134 Emphasis added.

particular specific meetings, presentations, workshops, media campaigns or the provision of information, analysis or surveys."[135] This gave an impression that any form of public advocacy related to policy-making or other policy-related activities could be arbitrarily considered as lobbying, as long as it was perceived like that by the supervisory authority.

11. In this sense, many human rights could have been ultimately be unduly impacted by the provisions of the March 2025 Amendments, including the freedom of expression, the right to peaceful assembly, and the right to freedom of association. The CJEU, with reference to the caselaw of the ECtHR, held that legislation that significantly hinder the activities or functioning of associations, whether by strengthening the requirements relating to their registration, restricting their ability to obtain financial resources, imposing a declaration obligation and a disclosure obligation that may create a negative image of them, or exposing them to the risk of sanctions, in particular their dissolution, constitutes a restriction of freedom of association.[136] It held that it must be ascertained whether the obligations put in place constitute limitations on the right to freedom of association, in particular inasmuch as they render significantly more difficult the action and the operation of the associations and foundations which are subject to them.[137]

12. Furthermore, the uncertainty as to the applicability of the proposed provisions was also exacerbated in that direct or indirect influence would not be counted as lobbying where this occured only once during a calendar quarter and it would have been very difficult for a not-for-profit NGO that is not registered to appreciate in advance whether it could be brought within the registration requirement as a result of something said or done being treated as indirect influence when it had a reasonable basis for imagining that it had, at most, exercised the kind of influence treated as lobbying on only one occasion and was thus exempt from registering.

13. The CoE Recommendation CM/Rec(2017)2 provides in this regard that *"[i]t is fundamental that regulations on lobbying should not in any way, form or manner infringe on the right of any citizen, as an individual or part of a collective, to express their opinions and petition public officials, bodies or institutions. Such a right also includes that of campaigning for or against change in legislation, policy or practice. This should be explicitly stated in the lobbying regulation. If not, people may be deterred from exercising their democratic right to express their opinions and participate in the political activity of the State for fear that it is prohibited by the lobbying regulation. If these rights are not explicitly protected in legislation, this may undermine civil society participation and, more generally, democratic discourse and exchange of opinions on important matters*."[138]

14. As the provisions relating to lobbying in the March 2025 Amendments only concerned entities included in the Register of non-governmental non-profit organizations, only those organizations would have been required to register that would be covered by those amendments, and not other entities engaged in the kind of influence characterized as lobbying. Moreover, the definition of "lobbying" in the March 2025 Amendments specifically provided that the activities of trade union organizations, employers' organizations and sports organizations entered in the register of legal entities in sport pursuant to a special regulation should not be considered lobbying. The proposed regulation would also not have applied to others recognized by the OECD Lobbying

135 Proposed new amendments, point 41.
136 Court of Justice of the European Union (CJEU), Commission v. Hungary Case C-78/18, 18 June 2020, para 114.
137 CJEU, Commission v. Hungary Case C-78/18, 18 June 2020, para 115.
138 Council of Europe – Committee of Ministers, Recommendation CM/Rec(2017)2 and explanatory memorandum, Legal Regulation Of Lobbying Activities In The Context Of Public Decision Making, principle 4 para. 30.

Recommendation as engaged in lobbying, namely, companies, business and trade associations, consultancies and law firms.

15. The cumulative effect of the contemplated provisions underscores the need to carefully consider the disproportionate burden that lobbying regulations, should these be reintroduced in the same manner, may impose on NGOs, particularly when compared to for-profit organizations, which typically have greater resources to ensure compliance. Further, the imposition of the requirement for NGOs to register in order to be able to carry out lobbying along with the consequential requirement to publish an annual lobbying report would entail them devoting staff time and resources to fulfil such requirements and disclosing personal information about those involved in their activities raising further concerns related to privacy (see Sub-Section 4.2 *supra*).

16. In light of the above, an overly broad and vague definition of lobbying, may contribute to legal uncertainty risks encompassing a broad range of activities that are essential to democratic processes and active civic engagement. Not-for-profit NGOs, by the very nature of their work, often seek to influence public policy or decision-making over matters of public interest. Thus, when regulating lobbying particular care must be taken to not inadvertently restrict their legitimate work, which falls within the scope of the right to freedom of association. Bringing a wide variety of activities carried out by not-for-profit NGOs under lobbying regulations also risks stigmatizing their role and discouraging meaningful public engagement in public discussions. **Instead, a comprehensive and balanced legal framework should be developed — one that targets clearly defined, professional, remunerated lobbying activities, and carried out by any natural or legal persons seeking to influence policymaking, lawmaking, or public decision-making more broadly – while ensuring that such legislation does not inadvertently restrict the legitimate work of not-for-profit NGOs. Such an approach would ensure transparency while safeguarding the democratic space and the exercise of fundamental freedoms.**

On the discriminatory impact of the obligations on not-for-profit NGOs as contemplated in the March 2025 Amendments

1. A key concern pertaining to the 2025 March Amendments was that it targeted exclusively not-for-profit NGOs (NGOs, NPOs, foundations, associations, and organizations with an international element) and therefore these legal entities were treated differently from other private law entities such as companies and other type of for-profit entities. It could not be discerned from the justifications of the proposed provisions why companies and other for-profit private actors were not brought within the scope of the proposed amendments introducing lobbying regulation. Article 26 of the ICCPR and Article 14 of the ECHR (and Protocol 12 to the ECHR which has been signed though not ratified by the Slovak Republic) prohibit all forms of direct and indirect discrimination understood as a differential treatment without objective and reasonable justification, meaning those that lack a legitimate aim, necessity and proportionality.[139] Without further justification

139 See e.g., ODIHR Note on the Anti-Discrimination Legislation and Good Practices in the OSCE Region (2019), para. 56. See also e.g., European Court of Human Rights, *Zhdanov and Others v. Russia*, no. 12200/08, 16 July 2019, para. 178, on different treatment of and refusal to register associations, where the Court has considered that a difference of treatment of persons in relevantly similar situations "*is discriminatory if it has no objective and reasonable justification; in other words, if it does not pursue a legitimate aim or if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be realised*". See also CJEU, Commission v. Hungary Case C-78/18, where the CJEU considered that the "*differences in treatment depending on the national or 'foreign' origin of the financial support in question, and therefore on the place where the residence or registered office of the natural or legal persons granting the support is established, constitute indirect discrimination on the basis of nationality […] inasmuch as they*

for introducing such a difference in treatment, this would appear contrary to the prohibition on discrimination enshrined in international instruments.[140]

2. Certainly, as regards lobbying activities, not-for-profit NGOs can be regarded as being in a comparable situation to companies, business and trade associations, consultancies and law firms yet no explanation was given for exemption specifically for trade union organizations, employers' organizations and sports organizations. Further, there was nothing in the justifications provided that can be regarded as objective and reasonable for imposing these requirements only on not-for-profit NGOs when any of the possible abuses that might accompany lobbying are much more likely to be attributable to the other actors undertaking activities for this purpose. The March 2025 Amendments were also not backed by any studies or risk-analysis justifying the difference in treatment between not-for-profit NGOs and other private, legal entities. Without providing any sufficient evidence and justification for this differential approach in regulating different entities of private law, they could be regarded as being discriminatory.

On the disclosure obligations as contemplated in the March 2025 Amendments

1. The Venice Commission in its Report on the Funding of Associations clarified the distinction between the "reporting obligations" and "public disclosure obligations". According to the Venice Commission, a *"reporting obligation"* constitutes an obligation to report the origin and amount of funding to the relevant authorities. This is in contrast with a "*public disclosure obligation*", which consists of making public (for example, on the NGO website) the sources of funding and potentially the identity of donors.[141] In relation to the public disclosure obligations, the Venice Commission noted that "*such a drastic measure, as 'public disclosure obligation' may only be justified in cases of political parties and entities formally engaging in remunerated lobbying activities."*[142] The Council of Europe Recommendation CM/Rec(2007)14 highlights that all NGO reporting obligations 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.[143] The Joint Guidelines on Freedom of Association also underline that legislation should also contain safeguards to ensure the respect of the right to privacy of clients, members and founders of associations, as well as provide redress for any violation in this respect.[144]

2. The proposed provision on lobbying in the March 2025 Amendments envisaged several obligations. Firstly, not-for-profit NGOs would have been required to notify the person being lobbied of the fact that lobbying was being carried out and, if that person so requested, to confirm that fact in writing. The list of the lobbied persons in the definition was extensive and the lobbying activity could have been taken to influence not a single one of them but many, if not all of them. This could have resulted in a need for extensive efforts on the side of the NGOs both to contact those who may be liable to be influenced and to provide written confirmation. Secondly, those not-for-profit NGOs that would

establish differences in treatment which do not correspond to objective differences in situations" and concluded that "Hungary has introduced discriminatory, unjustified and unnecessary restrictions on foreign donations to civil society organisations". See also e.g., Venice Commission, *Hungary - Opinion on Draft Law on the Transparency of Organisations Receiving Support from Abroad*, CDL-AD(2017)015, paras. 33-34.

140 See ODIHR and Venice Commission, *Joint Interim Opinion on the Draft Law Amending the Law on Non-Commercial Organisations and Other Legislative Acts of the Kyrgyz Republic*, CDL-AD(2013)030, Section 3. In this respect, as the Joint Guidelines note, "*while the foreign funding of non-governmental organisations may give rise to some legitimate concerns, regulations should seek to address these concerns through means other than a blanket ban or other overly restrictive measures*"; see ODIHR and Venice Commission, Joint Guidelines on Freedom of Association (2015), para. 219.

141 Venice Commission, Report on Funding of Associations, CDL-AD(2019)002, para. 83.

142 Venice Commission, Report on Funding of Associations, CDL-AD(2019)002.

143 Council of Europe Recommendation CM/Rec(2007)14, para. 64.

144 See ODIHR and Venice Commission, Joint Guidelines on Freedom of Association (2015), para. 231.

have undertaken lobbying as a registered person would have been obliged to publish on their website all the information with respect to any lobbying carried out in the previous three calendar months. No obligations of the "lobbied persons" were apparent from the proposed regulation. In view of the level of details and, having regard to the fact that lobbying on a particular issue may not be so time limited, the likely need to report material that was similar to what had already been reported but only differed in the details concerned, may have become burdensome and time-consuming without being particularly useful for those concerned about lobbying activities.

3. The resulting burden that not-for-profit NGOs would have had to bear in terms of human and financial resources to ensure compliance may have discouraged them to engage in public discussions or simply voice concerns about various developments in the country. It was also much more extensive than the general approach followed by States – as summarised in Recommendation CM/Rec(2017)2[145] - which generally consists of the inclusion in a register of information relating the name and contact details of the lobbyist, the subject matter of the lobbying activities and the identity of the client or employer, where applicable. In these circumstances, the administrative burden envisaged in the March 2025 Amendments that would have been imposed on not-for-profit NGOs engaged in lobbying was unlikely to serve any useful purpose and appeared disproportionate, so could not be regarded as necessary in a democratic society.

On the grounds for dissolution as contemplated in the March 2025 Amendments

1. According to March 2025 Amendments, later removed from the Law adopted on 16 April 2025, a not-for-profit NGO could have been dissolved if, for a third time in the last 12 months, this NGO had committed an "administrative offence". The registry office could have requested for it to be dissolved, which in the case of a non-profit organization, foundation or non-investment fund should have been done by the court, and in case of organizations with an international element and associations directly by decision of the Ministry of Interior (see paras. 2, 9, 17, 25, 31 of the March 2025 Amendments).
2. The Council of Europe in its Recommendation CM/Rec(2007)14 also notes that the termination of NGOs should be subject to a voluntary decision of its members or other governing body, or "*in the event of bankruptcy, prolonged inactivity or serious misconduct [emphasis added]*."[146] It further states that penalties imposed on NGOs should observe the principle of proportionality.[147] The ECtHR reviewed how the condition of proportionality should be applied when addressing dissolution of NGOs in several of its judgments. It concluded that failure to respect certain internal management rules or vaguely defined unlawful activities cannot be considered such serious misconduct as to warrant outright dissolution and called for less far-reaching measures.[148]
3. **Dissolution of an not-for-profit NGO should only be applied in exceptional circumstances of very serious misconduct, as a measure of last resort**.[149] The Joint Guidelines underline that NGOs should not be sanctioned repeatedly for one and the same violation or action[150] and that the dissolution of associations should always be a measure of last resort.[151] They should only be applied in cases where the breach gives rise to a

145 Principle 11.
146 CoE CM/Rec(2007)14, para. 44.
147 CoE CM/Rec(2007)14, para. 72.
148 ECtHR: Tebieti Mühafize Cemiyyeti and Israfilov v. Azerbaijan, no. 37083/03, 8 October 2009;
149 *Ibid*. *Joint Guidelines on Freedom of Association*, paras. 234 and 239.
150 ODIHR and Venice Commission, Joint Guidelines on Freedom of Association, CDL-AD(2014)046, para 240.
151 ODIHR and Venice Commission, Joint Guidelines on Freedom of Association, CDL-AD(2014)046, para 234.

serious threat to the security of the state or of certain groups, or to fundamental democratic principles and may never be used as a tool to reproach or stifle its establishment and operations.[152] Associations should not be dissolved owing to minor infringements, or of other infringements that may be easily rectified. In addition, associations should be provided with adequate warning about the alleged violation and be given ample opportunity to correct infringements and minor infractions, particularly if they are of an administrative nature.[153] Generally, **non-compliance with the new registration, reporting, declaratory and other obligations and requirements which are more of an administrative or bureaucratic nature, would not appear to reach the level of seriousness to justify dissolution of a not-for-profit NGO**.

4. This is all more concerning for NGOs that are vocal and critical of the state authorities, as the power to dissolve some types of NGOs lays in the government authorities instead of independent courts. These measures can hardly be considered proportionate in light of the above standards and ECtHR case law or consistent with international human rights standards).[154]

5. **The 2025 March Amendments were particularly concerning as the Ministry of Interior could dissolve organizations with an international element and associations of citizens without having recourse to a court procedure.** It is thus welcome that such a provision is not included in the Law as adopted on 16 April 2024. **Any action or sanction affecting an association must be preceded by an administrative process, which can be challenged before an independent court with full jurisdiction**.[155]

152 ODIHR and Venice Commission, *Joint Guidelines on Freedom of Association*, CDL-AD(2014)046, paras. 239 and 252.
153 *Ibid*. *Joint Guidelines on Freedom of Association*, para. 253.
154 *Ibid*. *Joint Guidelines on Freedom of Association*, para. 178.
155 Council of Europe Committee of Ministers, *Recommendation CM/Rec(2007)14 on the legal status of non-governmental organisations in Europe*, paras. 10 and 74, see also ODIHR and Venice Commission, *Joint Guidelines on Freedom of Association*, CDL-AD(2014)046, Principle 11.

ANNEX 2: Proposed Amendments of 20 March 2025 to the Draft Law Amending Act No. 213/1997 Coll. On Non-profit Organizations providing Public Benefit Services and Amending Other Acts (print 245)

ANNEX 3: Law Amending Act No. 213/1997 Coll. on Non-profit Organizations providing Public Benefit Services and Amending Other Acts (print 245), as adopted on 16 April 2025