



2023/2122(INI)

28.11.2023

OPINION

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on Budgetary Control

on transparency and accountability of non-governmental organisations funded
from the EU budget
(2023/2122(INI))

Rapporteur for opinion: Clare Daly

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SUGGESTIONS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Budgetary Control, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- having regard to its resolution of 8 March 2022 on the shrinking space for civil society in Europe¹,
 - having regard to the Council conclusions of 10 March 2023 on the application of the EU Charter of Fundamental Rights; the role of the civic space in protecting and promoting fundamental rights in the EU,
 - having regard to its resolution of 13 July 2023 on recommendations for reform of European Parliament's rules on transparency, integrity, accountability and anti-corruption²,
 - having regard to the Treaty on European Union (TEU), in particular Article 11 thereof,
 - having regard to the Charter of Fundamental Rights of the European Union (the Charter), and in particular Article 12 thereof,
 - having regard to the European Convention on Human Rights, in particular Article 11 thereof,
 - having regard to its resolution of 7 October 2020 on the establishment of an EU Mechanism on Democracy, the Rule of Law and Fundamental Rights³,
 - having regard to the Joint Guidelines on Freedom of Association adopted by the European Commission for Democracy Through Law (Venice Commission) and the Organization for Security and Co-operation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) in December 2014,
 - having regard to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012⁴,
- A. whereas non-governmental organisations (NGOs), grassroots and community organisations, trade unions, activist groups, human rights defenders and many other civil society actors are the backbone of civic space, and constitute the legal and political framework in which people and groups can meaningfully participate in the political,

¹ OJ C 347, 9.9.2022, p. 2.

² Texts adopted, P9_TA(2023)0292.

³ OJ C 395, 29.9.2021, p. 2.

⁴ OJ L 193, 30.7.2018, p. 1.

economic, social and cultural life of their societies;

- B. whereas civil society plays a crucial role in promoting and defending the rights and values enshrined in Article 2 TEU and the fundamental rights under the Charter, both at European and at national level, as well as in protecting women, LGBTIQ+ persons, persons with disabilities, minorities, migrants and refugees and other vulnerable groups; whereas to this end, it is crucial that civil society actors benefit from an environment that allows them to thrive throughout the Union;
- C. whereas civil society actors play a central role in democracy by exercising public oversight over political power as an essential component of a rule of law ecosystem of healthy democracies, articulating and relaying to policy makers the aspirations and interests present in society, engaging in advocacy and litigation, contributing to informed policy-making with their expertise and knowledge of what goes on on the ground and fostering active and responsible citizenship, thereby promoting active public participation in the democratic process and governance, increasing transparency at Union and Member State level, and fostering public debate and pluralism in society; whereas some governments have a tendency to use pretexts in order to place restrictions on NGOs, causing them to face an unsafe environment with increasingly worrying attacks, including via legislation;
- D. whereas the Council conclusions on the role of civic space and promoting fundamental rights in the EU and Parliament's resolution on shrinking civic space in the EU call for the protection of civic space and for the active protection of civil society organisations (CSOs);
- E. whereas Article 63 of the Treaty on the Functioning of the European Union, together with Articles 7, 8 and 12 of the Charter enshrines the freedom of association at all levels and protects non-profit organisations against discriminatory, unnecessary and unjustified restrictions regarding the financing of their activities; whereas the freedom of association is one of the essential foundations of a democratic and pluralist society, as it allows citizens to act collectively in fields of mutual interest and to contribute to the proper functioning of public life; whereas freedom of association includes not only the ability to create or dissolve an association but also the ability for that association to operate without unjustified interference by the state; whereas the ability to seek, secure and use resources is essential to the operation of any association;
- F. whereas the Court of Justice of the European Union confirmed in its judgment in Case C-78/18 *European Commission v Hungary*⁵ that the obligations of declaration and publicity may, in certain circumstances, be liable to limit the capacity of CSOs to receive financial support or have a deterrent effect on the participation of donors;
- G. whereas the Venice Commission indicated in its 'Report on Funding of Associations' of March 2019 that some public disclosure obligations can be imposed on associations with 'public utility status', but these obligations should be limited to information on how the public funds obtained by the association concerned are spent; the disclosure obligations should not be extended to all financing, including from private donors; and

⁵ Judgment of the Court of Justice of 18 June 2020, *European Commission v Hungary*, C-78/18, ECLI:EU:C:2020:476.

all reporting should be subject to a duty to respect the rights of donors, beneficiaries and staff, as well as the right to protect business confidentiality; whereas international standards on freedom of association require that no restrictions may be placed on its exercise other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others;

- H. whereas recent corruption allegations involving the EU institutions have underlined the need to pay more attention to scrutiny and transparency regarding EU funding;
1. Emphasises the crucial role played by civil society, which comprises, inter alia, grassroots and community organisations, trade unions, activist groups, human rights defenders and NGOs in promoting and upholding democratic values, equality, the rule of law and fundamental rights, and in ensuring civic participation and the accountability of governments, as well as state and private actors;
 2. Stresses, moreover, civil society's crucial role in providing societal benefits and assistance, in particular for the most vulnerable and marginalised groups, as well as promoting their rights and interests, and in providing space for a diversity of opinions and positions to be expressed and heard, thereby allowing citizens to take an active part in setting the political agenda;
 3. Stresses that civil society is a broader category than that of NGOs; acknowledges the diversity of NGOs as regards their size, from large international organisations to small regional or local organisations; as regards resources, from organisations that mostly rely on paid employees to organisations consisting mostly of volunteers; and as regards staff, policy outlook and activities; notes, therefore, that they should not be perceived as a singular bloc; emphasises further that the historical development of the NGO sector varies across Europe and that it is essential to recognise that sensitivity must be deployed in addressing issues regarding NGOs in different parts of Europe;
 4. Notes that in spite of the risks of some NGOs being leveraged by state and private actors for their own ends, many of them play a significant role in exposing public and private wrongdoing and strengthening accountability; stresses, therefore, that they must be protected, including through the provision of and access to adequate and transparent funding at all levels – public and private, domestic and foreign – on which many organisations rely;
 5. Recalls that the Treaties require the EU institutions and EU Member States to maintain an open, transparent and regular dialogue with representative associations and civil society; stresses the importance for EU Member States and EU institutions of providing adequate funding to programmes aimed at protecting and promoting fundamental rights and the values enshrined in the EU Treaties; recognises the role NGOs and CSOs play in implementing these programmes;
 6. Remains deeply concerned by threats to and unjustified attacks on NGOs in some Member States and at European level; strongly denounces the fact that such threats and attacks include increasing crackdowns on and the curtailing of political speech and action at all levels across the EU, proposing and adopting legislation that imposes

discriminatory obligations on NGOs, which restrict or ban their activities, actions both against organisations and their infrastructure and against their staff or volunteers, online and offline intimidation and harassment, negative public statements and smear campaigns, verbal threats and legal and physical attacks; stresses that some NGOs also face excessive administrative controls or audits, politically motivated funding cuts and overly strict legal requirements for their formation and registration;

7. Recalls that civil society actors at all levels need appropriate and sufficient human, material and financial resources to carry out their missions effectively and that the freedom to seek, receive and use such resources is not circumscribed by national borders and is an integral part of the right to freedom of association;
8. Is deeply concerned that access to funding, including foreign funding, continues to be hindered by restrictive rules in several Member States, such as disproportionately burdensome application and selection procedures regarding EU funds under shared management, attempts to introduce rules penalising NGOs, rules on political advertising and foreign interference in elections that affect advocacy and watchdog activities, funding conditionality requirements and transparency laws that are perceived as stigmatising, and negative campaigns against CSOs receiving foreign funding;
9. Calls for the Member States and the EU to improve the legal environment for civil society through the provision of adequate funding and by ensuring that any measure restricting the right of associations to seek, secure and use resources, including foreign resources, must pursue one of the legitimate aims under Article 11(2) of the European Convention on Human Rights and be fully compliant with fundamental rights in accordance with the case-law of the Court of Justice of the European Union and of the European Court of Human Rights, as well as with the recommendations of the Venice Commission; calls for the Member States and the EU to provide appropriate legal remedies for civil society in the event of any restrictions;
10. Calls for the Member States and the EU to ensure that access to funding and other resources for NGOs is made through clear, transparent and non-discriminatory procedures, and without undue impediments;
11. Underlines that transparency and accountability measures, as well as the monitoring of how public money is spent, are important for upholding democracy and are two of the guiding budgetary principles of the European Union enshrined in the Financial Regulation⁶; emphasises that transparency and accountability measures must only serve the purpose of ensuring legitimate public scrutiny; recalls that international standards on freedom of association and freedom of assembly require authorities to apply a presumption in favour of NGOs' liberty to seek and receive funding from any source; stresses, therefore, that reporting requirements for NGOs must be applied to all beneficiaries of EU funding without discrimination, and must be strictly necessary, proportionate and justified to the specific aims pursued; stresses further that these

⁶ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

reporting requirements should take into account the resources, size and staff available to a beneficiary of EU funding and the scope of its activities;

12. Warns against introducing further requirements for NGOs as compared to other beneficiaries; insists that any additional EU measures on reporting requirements should be led by the principles of necessity and proportionality; recalls that imposing obligations of registration, declaration and publication on certain categories of CSOs directly or indirectly receiving support from abroad must be in line with the principles of non-discrimination, the right to respect for private and family life, the right to the protection of personal data and the right to freedom of association, as stated by the Court of Justice of the European Union in Case C-78/18 (*European Commission v Hungary*); recalls the need to focus on the accountability and transparency of the budget, and its use and implementation by the beneficiaries, rather than on measures regarding their organisation and governance;
13. Considers that it would be helpful to have comprehensive data from the Commission on the extent and effectiveness of the implementation of the different EU programmes which provide support to NGOs in achieving the goal of bolstering civic space and participation, as part of their evaluation; considers further that the managing authorities and the Commission should maintain a list of projects awarded grants in line with the explicit requirement in the Common Provisions Regulation⁷ to create a list of operations selected for support by the funds publicly available on the website in at least one of the official languages of the institutions of the Union and to update that list at least every four months;
14. Welcomes the establishment of Citizens, Equality, Rights and Values (CERV) Programme for the period 2021-2027, which provides direct funding to CSOs from the EU budget; recalls Parliament's role in securing an increased budget for the programme in the negotiations with the Council and the Commission on the multiannual financial framework (MFF) 2021-2027; calls on the Commission and the Council to ensure that the budget for the programme is increased in the next MFF to account for inflation and the need to support CSOs in building a resilient and participatory democracy; calls on the Commission to make the tender procedures in the CERV programme transparent and user-friendly, and to avoid overly complicated requirements that are difficult to fulfil for CSOs, as well as to ensure the necessary flexibility in the process of re-granting the funds to local and grassroots organisations by operators in Member States in order to ensure that the money reaches those working closest to citizens; recalls that any reporting obligations must be proportionate and feasible for the organisation to fulfil, taking into account its size and the level of funds;
15. Stresses that reporting obligations and transparency should be in place to ensure that EU money is well spent, while avoiding unnecessary burdens on organisations; believes that current EU legislation on scrutiny, due diligence and transparency is likely sufficient with minor adjustments, which should apply to all beneficiaries of EU funds, and could,

⁷ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).

inter alia, address the concerns expressed by the European Court of Auditors, for achieving proportionate transparency goals;

16. Emphasises that a disproportionate increase in reporting and transparency requirements for NGOs under various pretexts should be avoided in order not to undermine civic space;
17. Calls, however, on the Commission to step up its work on streamlining databases and on increasing the user-friendliness of the Financial Transparency System (FTS) to improve transparency and accessibility; stresses that, within the FTS, all types and subtypes of beneficiaries, including for-profit organisations, should be searchable as a category in the register, rather than providing distinct categories just for NGOs or non-profits; calls on the Commission to facilitate better support for applicants when accessing EU funding, as well as increased institutional funding for organisations;
18. Recalls that the circumvention of transparency and accountability requirements cannot be prevented or remedied by creating new, burdensome rules on transparency and accountability, or conducting comprehensive financial pre-screening of NGOs before they are listed in the Transparency Register, or developing a centralised certification system for NGOs wishing to apply for EU funding, which create further legal and administrative obstacles and may hinder smaller NGOs from receiving EU or foreign funds;
19. Appreciates the fact that the Commission has enhanced the access status for the European Anti-Fraud Office (OLAF) in order to obtain information on the financial misconduct of individual NGOs, to investigate them and to impose appropriate sanctions in the event of fraud, corruption and other irregularities related to EU funds, in compliance with the applicable regulations;
20. Appreciates the fact that the Commission ensures that all applicants or beneficiaries of EU funding are required to publish annually the number, amounts and nature of lobbying contacts they have, and welcomes the fact that a growing number of EU-funded NGOs publish their pursued interests and financial data online, in compliance with the applicable regulations, while adding that a more proactive approach from NGOs to public transparency that goes beyond the existing requirements for EU grant funding would be expected;
21. Welcomes Parliament's decision of 13 September 2023 amending Parliament's Rules of Procedure with a view to strengthening integrity, independence and accountability; calls on all EU institutions to better implement the current provisions on the EU Transparency Register; insists that the EU Transparency Register should be strengthened by increasing its budget and its staff so that it is able to offer support to all applicants and registrants, particularly small entities and NGOs, throughout the registration process and to verify the information they provided more thoroughly; stresses that it is imperative that NGOs do their utmost to ensure compliance with the EU data protection regime;
22. Calls on the Commission to assess the feasibility and necessity of EU legislation in establishing transparency requirements for all organisations that engage in direct political lobbying, independent of their legal status and sources of funding;

23. Stresses that top-down national regulation involves the risk of politically driven control of NGOs and that a cautious approach should be applied in this regard; emphasises that measures that could contribute to excessive state monitoring should be avoided; stresses further that anti-corruption measures should be strictly proportional and must not be used as a justification for excessive reporting and transparency requirements for NGOs that would undermine their activities and restrict freedom of association; deplores the reported cases of excessive disclosure obligations recently introduced in some Member States;
24. Warns emphatically against the weaponisation of the concept of ‘foreign interference’ and emphasises that this can be and is being used by governments to repress and stigmatise civil society and NGOs; emphasises, however, that some stakeholders may be used as a tool of influence by foreign entities ultimately affecting the democratic process in Member States; believes, therefore, that there is no one-size-fits-all approach to dealing with civil society;
25. Deplores the smear campaigns against NGOs, including those which pursue advocacy and research activities in the area of the environment and human rights, under the pretext, for example, that they are predominantly financed by foreign funding, which aims to undermine their credibility.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	28.11.2023
Result of final vote	<div style="display: flex; justify-content: flex-end; align-items: center;"> <div style="margin-right: 10px;">+:</div> <div>31</div> </div> <div style="display: flex; justify-content: flex-end; align-items: center;"> <div style="margin-right: 10px;">-:</div> <div>25</div> </div> <div style="display: flex; justify-content: flex-end; align-items: center;"> <div style="margin-right: 10px;">0:</div> <div>4</div> </div>
Members present for the final vote	Abir Al-Sahlani, Pietro Bartolo, Theresa Bielowski, Vladimír Bilčík, Malin Björk, Vasile Blaga, Karolin Braunsberger-Reinhold, Patrick Breyer, Saskia Bricmont, Annika Bruna, Damien Carême, Clare Daly, Lena Düpont, Lucia Ďuriš Nicholsonová, Cornelia Ernst, Nicolaus Fest, Evin Incir, Sophia in 't Veld, Patryk Jaki, Marina Kaljurand, Assita Kanko, Fabienne Keller, Łukasz Kohut, Moritz Körner, Jeroen Lenaers, Juan Fernando López Aguilar, Nadine Morano, Javier Moreno Sánchez, Maite Pagazaurtundúa, Pina Picierno, Birgit Sippel, Vincenzo Sofo, Tineke Strik, Annalisa Tardino, Yana Toom, Milan Uhrík, Tom Vandendriessche, Elena Yoncheva, Javier Zarzalejos
Substitutes present for the final vote	Daniel Freund, José Gusmão, Rasa Juknevičienė, Beata Kempa, Matjaž Nemec, Janina Ochojska, Jan-Christoph Oetjen, Kostas Papadakis, Silvia Sardone, Paul Tang, Petar Vitanov, Axel Voss, Tomáš Zdechovský
Substitutes under Rule 209(7) present for the final vote	Mathilde Androuët, Tom Berendsen, Jarosław Duda, Rosa Estaràs Ferragut, Pär Holmgren, Andrey Kovatchev, Antonius Manders, Riho Terras

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

31	+
Renew	Abir Al-Sahlan, Lucia Ďuriš Nicholsonová, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Jan-Christoph Oetjen, Maite Pagazaurtundúa, Yana Toom
S&D	Pietro Bartolo, Theresa Bielowski, Evin Incir, Marina Kaljurand, Łukasz Kohut, Juan Fernando López Aguilar, Javier Moreno Sánchez, Matjaž Nemec, Pina Picierno, Birgit Sippel, Paul Tang, Petar Vitanov, Elena Yoncheva
The Left	Malin Björk, Clare Daly, Cornelia Ernst, José Gusmão
Verts/ALE	Patrick Breyer, Saskia Bricmont, Damien Carême, Daniel Freund, Pär Holmgren, Tineke Strik

25	-
ECR	Vincenzo Sofo
ID	Mathilde Androuët, Annika Bruna, Nicolaus Fest, Silvia Sardone, Annalisa Tardino, Tom Vandendriessche
NI	Kostas Papadakis, Milan Uhrík
PPE	Tom Berendsen, Vasile Blaga, Karolin Braunsberger-Reinhold, Jarosław Duda, Lena Düpont, Rosa Estaràs Ferragut, Rasa Juknevičienė, Andrey Kovatchev, Jeroen Lenaers, Antonius Manders, Nadine Morano, Janina Ochojska, Riho Terras, Axel Voss, Javier Zarzalejos, Tomáš Zdechovský

4	0
ECR	Patryk Jaki, Assita Kanko, Beata Kempa
PPE	Vladimír Bilčík

Key to symbols:

+ : in favour

- : against

0 : abstention