

INTERNATIONAL STANDARDS FOR CSO LEGISLATION

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OBJECTIVE

- Discuss some provisions in the legal text on associations
- Provide international standards
- Compare to regulations in other countries



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MAIN SOURCES

- [European Convention for the Protection of Human Rights and Fundamental Freedoms](#)
- [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](#)
- [OSCE/ODIHR-Venice Commission Joint Guidelines on Freedom of Association](#)
- Reports of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association (e.g. [Report on Best Practices In Promoting The Rights To Freedom Of Peaceful Assembly And Of Association](#) and the [Report on Comparing States' Treatment Of Business And Associations](#))



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FOUNDERS

- **In the northern part of Cyprus:**

- Five (5) real and/or legal persons who are "citizens"; or
- Real foreigner persons with permanent residence permit and/or with at least an uninterrupted six (6) years' work and/or residence permit

- **International standards:**

- *Everyone has the right to freedom of peaceful assembly and to freedom of association with others (art. 11, ECHR)*
- *Any person, be it legal or natural, national or non-national, or group of such persons, should be free to establish an NGO (CoE Recommendation)*



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EQUAL TREATMENT

- *When introducing regulations concerning freedom of association, the authorities must not discriminate against any group or individual on any grounds, such as age, birth, colour, gender, gender identity, health condition, immigration or residency status, language, national, ethnic or social origin, political or other opinion, physical or mental disability, property, race, religion or belief, sexual orientation or other status. (OSCE/ODIHR and Venice Commission)*



EXAMPLES

- **Czechia** – no need for residence or citizenship; both individuals and legal entities
- **Estonia** – no need for residence and citizenship; both individuals and legal entities; requirement for 50 % of the Board to be from EU/EEA – abolished in 2018
- **Bulgaria** – no need for residence or citizenship; both individuals and legal entities
- **Republic of Cyprus** – any person has the right to establish an association or foundation or federation and/or union, and participate therein





ESTABLISHMENT

In the northern part of Cyprus:

- 60 days (if not registered within 60 days automatic registration)

International standards:

- *While the time-limit is rather long compared to the regulation in other countries of the Council of Europe, it could be accepted, were it meticulously respected and were the extension of the period truly reserved for "exceptional cases". (Venice Commission on the requirement for 30 days time for registration in Azerbaijan)*



EXAMPLES

- 1 day (Georgia)
- 3 days (Bulgaria)
- 15 days (Moldova)
- If not registered in 30 days – automatic registration (Czechia)
- Online registration (Georgia, Estonia, Bulgaria)



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ASSOCIATION OF FOREIGN ORIGIN & FOREIGN ASSOCIATIONS

- **In the northern part of Cyprus:**
 - Association registered in another country (foreign origin); with majority of voting members are foreigners (foreign association)
 - Activities or collaborations subject to the consent of the "mfa" and with the permission of the "moi".
 - Only on sports, health, human rights, environment and/or special education for people with disabilities.
 - Activity report about their operations every six (6) months.
- **International standards:**
 - Standards for local associations *"should equally be observed with respect to the formation of branches of associations, foreign associations or unions and networks of associations, including those operating at the international level"*. (OSCE/ODIHR and Venice Commission)



EXAMPLES

- **European Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations, 1986** - The legal personality and capacity, as acquired by an NGO in the Party in which it has its statutory office, shall be recognised as of right in the other Parties
- **Bulgaria** – foreign organizations can open branch offices regardless of the area of operation
- **Armenia** – foreign/international organizations may establish separate subdivisions
- **Republic of Cyprus** – recognizes foreign organizations but procedure to register not clear
- **Turkey** – the only country which sets different registration criteria than national CSOs, which requires the approval of a superior authority for registration (TUSEV Report)



ACCESS TO FUNDING

- **In the northern part of Cyprus:**
 - Foreign associations and associations of foreign origin can accept monetary aid through banks with the permission of the “ministry”.
 - Foreign associations can accept in-kind donations with permission; not associations of foreign origin.
 - Permission for public collection.
- **International standards:**
 - *The right to freedom of association not only includes the ability of individuals or legal entities to form and join an association but also to seek, receive and use resources – human, material and financial – from domestic, foreign, and international sources. Under international law, problematic constraints include, inter alia, outright prohibitions to access funding; requiring CSOs to obtain Government approval prior to receiving funding:..... (UN Special Rapporteur on the rights to freedom of peaceful assembly and association)*
 - *Prohibition of discrimination (art. 14, ECHR)*



EXAMPLES

- **Kosovo** - the restriction or blocking of an NGO's access to resources on the basis of nationality or source country origin is prohibited, as well as the stigmatization of those who receive these resources
- **Bulgaria** – no limitations on foreign funding; in-kind support might be subject to customs regime
- **Czechia** – donations from foreign entities and individuals are allowed
- **Republic of Cyprus** – no limitations in the NGO Law
- **Venice commission** – prevention of money-laundering and terrorist financing might be legitimate reasons to restrict foreign funding of NGOs but they *"do not require nor justify either the prohibition of foreign funding or a system of prior authorisation by the government of its receipt by NGOs."*



INSPECTIONS

- Written, certified declaration by the proprietor should be provided to consent to the inspection of the “district governorship” (for addresses categorized as residencies)
- During inspection, the number of members, members list, nationality of members, and information about the association, documents and records, when requested by the inspectors, should be presented or submitted by the association authorities, and access should be granted to administration offices, enterprises, branches, representative offices and extensions.
- If breached - “district governorship”, immediately discharges the association's management and appoints three (3) members of the association for a period not exceeding one (1) month, to hold the association's general assembly





CoE STANDARDS

- 48. The appointment, election or replacement of officers should be a matter for the NGOs concerned.
- 68. NGOs can be required to submit their books, records and activities to inspection by a supervising agency where there has been a failure to comply with reporting requirements or where there are reasonable grounds to suspect that serious breaches of the law have occurred or are imminent.
- 69. NGOs should not be subject to search and seizure without objective grounds for taking such measures and appropriate judicial authorisation.



DISCUSSION & NEXT STEPS

- Evaluate implementation:
 - Has the registration improved?
 - Are there problems with inspections?, etc.
 - Any problems or discrepancies with/about interpretation of the new legal text?
- Impact assessment
 - How the legal text changes affected CSOs?
 - Are unions and others negatively affected?, etc.



THANK YOU!

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