INTERNATIONAL STANDARDS ON FREEDOM OF ASSOCIATION

29 June 2022

Luben Panov







European Center for Not-for-Profit Law

- Based in the Hague, Netherlands
- Has worked in more than 25 countries in Europe and beyond
- Specialized expertize in civil society law and policy, including registration, operation and access to resources:
 - <u>Assessing the environment for civil society</u>
 - International standards on access to foreign funding for CSOs
 - <u>Summary of the OHCHR Guidelines on</u> <u>Participation</u>



- <u>European Convention for the Protection of</u> <u>Human Rights and Fundamental Freedoms</u>
- <u>Council of Europe Recommendation</u> <u>CM/Rec(2007)14 of the Committee of Ministers</u> <u>to member states on the legal status of</u> <u>non-governmental organisations in Europe</u>
- <u>OSCE/ODIHR-Venice Commission Joint</u> <u>Guidelines on Freedom of Association</u>
- Reports of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association (e.g. <u>Report on Best Practices In</u> <u>Promoting The Rights To Freedom Of Peaceful</u> <u>Assembly And Of Association and the Report on</u> <u>Comparing States' Treatment Of Business And</u> <u>Associations</u>)





FREEDOM OF ASSOCIATION BASICS (ECHR ART 11)

- **Prescribed by law** accessible (published) and sufficiently clear to enable people to foresee the consequences of their actions.
- Serve a legitimate aim not an illustrative list and interpreted narrowly:
 - national security or public safety,
 - for the prevention of disorder or crime,
 - for the protection of health or morals, or
 - for the protection of the rights and freedoms of others
- Necessary in a democratic society pressing social need and the measure would not limit the right to a larger extent than necessary



- Equal treatment no discrimination on grounds, such as age, birth, colour, gender, gender identity, health condition, <u>immigration or residency status</u>, language, <u>national, ethnic or social origin</u>, political or other opinion, physical or mental disability, property, race, religion or belief, sexual orientation or other status. (OSCE/ODIHR and Venice Commission)
- Access to funding 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; <u>requiring</u> <u>CSOs to obtain Government approval prior to receiving</u> <u>funding;.....</u> (UN Special Rapporteur on the rights to freedom of peaceful assembly and association)

IMPORTANT ELEMENTS





- Joint Guidelines on Freedom of associations, OSCE/ODIHR and Venice Commission:
- **Principle 1:** Presumption in favour of the lawful formation, objectives and activities of associations
- **Principle 2:** The state's duty to respect, protect and facilitate the exercise of the right to freedom of association (incl. ensuring requirements are not too burdensome)
- **Principle 8:** Good administration of legislation, policies and practices concerning associations:
 - Authorities act in an impartial and timely manner and are free from political and other influence
 - Information as to their procedures and functioning easy to understand and comply with
 - Qualified staff



ESTABLISHMENT

- <u>Everyone</u> has the right to freedom of peaceful assembly and to freedom of association with others (art. 11, ECHR)
- Existence of clear and reasonable formal requirements (no subjectivity)
- <u>Timeline</u> 1 day (Georgia); 3 days (Bulgaria); Estonia (5 days); 15 days (Moldova); 30 days (Azerbaijan)
 - 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)
- Registration to receive legal entity status:
 - Online registration (Georgia, Estonia, Bulgaria)
 - Decentralized process



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- Who reviews the registration application:
 - The registration agency (Georgia, Bulgaria)
 - The court (Estonia)
- What do they review:
 - Whether all documents listed in law are submitted
 - Whether the statute contains all mandatory elements
 - Whether objectives contradict the law
 - The name (whether it is similar to an existing CSO)
- Providing time to submit missing documents
- Appeal of refusal





How to improve implementation

- •What are the problems registration authorities face?
- •What are the problems CSOs face?
- •Are there any difficulties with interpretation of the legal text?
- •What type of support registration officials need?
- •What support do CSOs need?



THANK YOU!



This project is funded by the European Union. The content of this presentation is the sole responsibility of B&S Europe led consortium and does not necessarily reflect the views of the European Union.



