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STEERING COMMITTEE ON DEMOCRACY (CDDEM)

UPDATING RECOMMENDATION CM/Rec(2007)14 OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON THE LEGAL STATUS OF NON-GOVERNMENTAL ORGANISATIONS IN EUROPE

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RECOMMENDATION CM/REC(2026) XX
OF THE COMMITTEE OF MINISTERS TO MEMBER STATES
ON THE LEGAL STATUS OF CIVIL SOCIETY ORGANISATIONS IN EUROPE

(Adopted by the Committee of Ministers on XX/XX/2026 at the XXth meeting of the Ministers' Deputies)

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve greater unity between its members and that this aim may be pursued through the adoption of common rules;

Aware of the essential contribution made by civil society organisations (CSOs) to the development, realisation and protection of democracy, the rule of law and human rights, in particular through the promotion of public awareness, participation in public life and securing the transparency and accountability of public authorities, as well as through the equally important contribution of CSOs to the cultural life and social well-being of democratic societies;

Taking into consideration the invaluable contribution also made by CSOs to the achievement of the aims and principles of the United Nations Charter and of the Statute of the Council of Europe;

Having regard to the recognition in the Reykjavik Principles for Democracy adopted at the Fourth Summit of Heads of State and Government of the Council of Europe (Reykjavík, 16-17 May 2023) of the essential role of civil society for a functioning democracy and commitment to supporting and maintaining a safe and enabling environment in which civil society and human rights defenders can operate free from hindrance, insecurity and violence;

Noting that the contributions of CSOs are made through an extremely diverse body of activities which can range from acting as a vehicle for communication between different segments of society and public authorities, through the advocacy of changes in law and public policy, the provision of assistance to those in need at all times, including during armed conflict and afterwards, the identification of innovative solutions to societal problems, the elaboration of technical and professional standards, the monitoring of compliance with existing obligations under national and international law, and on to the provision of a means of personal fulfilment and of pursuing, promoting and defending interests shared with others;

Bearing in mind that the existence of many CSOs is a manifestation of the right of their members to freedom of association under Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter "the Convention") and of their host country's adherence to principles of democratic pluralism;

Having regard to the European Social Charter (revised) (ETS No. 163), in particular to Article 5 thereof, to Articles 3, 7 and 8 of the Framework Convention for the Protection of National Minorities (ETS No. 157) and to Article 3 of the Convention on the Participation of Foreigners in Public Life at Local Level (ETS No. 144);

Recognising that the operation of CSOs entails responsibilities as well as rights;

Considering that the best means of ensuring ethical, responsible conduct by CSOs is to promote **effective** self-regulation, **while underlining that the regulation of them should always be risk-based and proportionate in its requirements**;

Taking into consideration the case law of the European Court of Human Rights, ~~and~~ the views of United Nations human rights treaty bodies, the reports and opinions of the European Commission for Democracy through Law (Venice Commission) and the Expert Council on NGO Law of the Conference of International Non-Governmental Organisations, as well as the Guidelines on Freedom of Association, jointly published by the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Co-operation in Europe (OSCE);

Taking into account the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, United Nations General Assembly Resolution A/RES/53/144;

Drawing upon 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(2016)3 on human rights and business; Recommendation CM/Rec(2017)83 on guidelines for civil participation in political decision-making; Recommendation CM/Rec(2018)11 on the need to strengthen the protection and promotion of civil society space in Europe; Recommendation CM/Rec(2022)6 of the Committee of Ministers to member States on protecting youth civil society and young people, and supporting their participation in democratic processes; and Recommendation CM/Rec(2024)2 on countering the use of strategic lawsuits against public participation (SLAPPs).

Having regard to the European Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations (ETS No. 124) (hereinafter Convention No. 124) and to the desirability of enlarging the number of its contracting parties;

Expressing deep concern at the shrinking space for civil society resulting, *inter alia* from restrictive laws, policies and measures and thereby stifling dissident voices and precluding accountability;

Expressing grave concern about the considerable and increasing number of allegations and reports of threats of a serious nature, risks and dangers faced by CSOs and those working for or with them, online and offline, and the prevalence of impunity for violations and abuses against them in many countries, where they face threats, harassment and attacks and suffer insecurity, including through restrictions on, *inter alia*, the rights to freedom of expression, association or peaceful assembly, and the right to privacy, or through abuse of criminal or civil proceedings;

Convinced that States must not only refrain from unnecessary, unlawful or arbitrary interferences with the rights of CSOs, but are also under a positive obligation to actively protect and promote a safe and enabling environment in which they can operate safely without harassment, intimidation, stigmatisation and violence;

Recognising therefore the need to update and replace Recommendation CM/Rec(2007)14 of the Committee of Ministers to member States on the legal status of non-governmental organisations in Europe and thereby facilitate a safe and enabling legal and institutional environment for the creation and continued operation of CSOs and contribute to the protection and promotion of civil society space in Europe,

Recommends that the governments of member States:

1. fully implement, through their legislation, policies and practices, the provisions **[DE: measures]** set out in the appendix to this recommendation;
2. in implementing the guidelines, take account of the rights guaranteed by the European Convention on Human Rights, *the European Social Charter*, the case law of the European Court of Human Rights, relevant recommendations and declarations of the Committee of Ministers and related international standards;
3. inform other relevant stakeholders, notably CSOs, about the provisions **[DE: measures]** set out in the appendix to this recommendation;
4. promote the goals of this recommendation at the national level, including, in the national and, where appropriate, regional or minority languages of the member State, engage and co-operate with all interested stakeholders to achieve the widest possible dissemination of its content, and exchange expertise and practices across borders with a view to establishing consistent policies to the establishment and operation of CSOs;
5. evaluate on a regular basis the effectiveness of the measures taken in the implementation of the provisions **[DE: measures]** set out in the appendix to this recommendation, including through consultation and dialogue with CSOs; and
6. examine, within the Committee of Ministers, the implementation of this Recommendation five years after its adoption and thereafter periodically.

Appendix to Recommendation CM/Rec(2026)XX

I. Basic principles

1. For the purpose of this recommendation, CSOs are voluntary self-governing bodies or organisations established to pursue the essentially non-profit-making objectives of their founders or members. They do not include political parties.
2. CSOs encompass bodies or organisations established both by individual persons (natural or legal) and by groups of such persons. They can be either membership or non-membership based.
3. CSOs can be either informal bodies or organisations or ones which have legal personality and can also exist only in the online sphere.
4. CSOs can choose to be local, regional, national or international in their composition and sphere of operation.

5. CSOs should enjoy the rights to freedom of expression, assembly and association and all other universally and regionally guaranteed rights and freedoms applicable to them.
6. CSOs should not be subject to direction by public authorities.
7. CSOs with legal personality should have the same capacities as are generally enjoyed by other legal persons and should be subject to the administrative, civil and criminal law obligations and sanctions generally applicable to those legal persons.
8. The legal and fiscal framework applicable to CSOs should constitute a safe and enabling environment, offline and online so that their establishment and continued operation is encouraged and facilitated. In particular, such an environment should ensure that CSOs, their members and volunteers are protected against harassment, intimidation, stigmatisation and violence and are not subject to unjustified legislative and practical restrictions.
9. CSOs should not distribute any profits which might arise from their activities to their members or founders but can use them for the pursuit of their objectives.
10. Acts or omissions by public authorities affecting CSOs should be subject to administrative review and be open to challenge by them in an independent and impartial court with full jurisdiction.

II. Objectives

11. CSOs should be free to determine the particular focus of their objectives including whether these relate to a single or several issues and whether these concern one or more sectors of society.
12. CSOs should be free to pursue their objectives and choose the means to achieve them, provided that those objectives and the means employed to pursue them are both consistent with the requirements of a democratic society and are not contrary to generally applicable criminal offences, except where such offences are themselves inconsistent with international human rights standards.
13. CSOs should be free to undertake research, education and advocacy on issues of public debate, regardless of whether the position taken, idea expressed, or outcome sought is in accord with government policy or requires a change in the law. Advocacy based on international standards should not be regarded as the representation of any form of foreign interests.
14. CSOs should be free to support or oppose a particular candidate or party, including in an election or a referendum, provided that they are transparent in declaring their motivation. Any such support should also be subject to legislation on the funding of elections and political parties and on the grant of public benefit status.
15. CSOs should be free to engage in any lawful economic, business or commercial activities in order to support their not-for-profit activities without any special authorisation being required, but subject to any licensing or regulatory requirements generally applicable to the activities concerned.
16. CSOs should be free to pursue their objectives through membership of associations, federations and confederations of CSOs, whether national or international as well as through collaboration with other CSOs in their countries or elsewhere

III. Formation and membership

A. Establishment

17. Any person, be it legal or natural, national or non-national, or group of such persons, should be free to establish CSOs – whether informal, existing online only or having legal personality - and, in the case of non-membership-based CSOs, should be able to do so by way of gift or bequest.

18. Two or more persons should be able to establish a membership-based CSO but a higher number can be required where legal personality is to be acquired, so long as this number is not set at a level that could discourage establishment.

B. Statutes

19. CSOs with legal personality should normally have statutes, comprising the constitutive instrument or instrument of incorporation and, where applicable, any other document setting out the conditions under which they operate.

20. The statutes of a CSO with legal personality should generally specify:

- a. its name;
- b. its seat;
- c. its objectives;
- d. its powers;
- e. the highest governing body;
- f. the frequency of meetings of this body;
- g. the procedure by which such meetings are to be convened;
- h. the way in which this body is to approve financial and other reports;
- i. the procedure for changing the statutes and dissolving the organisation or merging it with another CSO.

21. The highest governing body of membership-based CSOs should be the membership and its agreement should be required for any change in the statutes. For non-membership CSOs the highest governing body should be the one specified in the statutes.

C. Membership

22. No person should be required by law or otherwise compelled to join a CSO, other than a body or organisation established by law to regulate a profession in those States which treat such an entity as a CSO.

23. The ability of any person, be it natural or legal, national or non-national, to join membership-based CSOs should not be unduly restricted by law and, subject to the prohibition on unjustified discrimination, should be determined primarily by the statutes of the CSOs concerned.

24. Members of CSOs should be protected from the misuse of their personal data and from expulsion contrary to their statutes.

25. Persons belonging to a CSO should not be subject to any sanction because of their membership. This should not preclude such membership being found incompatible with a particular position or employment.

26. Membership-based CSOs should be free to allow non-members to participate in their activities.

IV. Legal personality

A. General

27. The legal personality of CSOs should be clearly distinct from that of their members or founders.

28. A CSO created through the merger of two or more CSOs should succeed to their rights and liabilities.

B. Acquisition of legal personality

29. The rules governing the acquisition of legal personality should, where this is not an automatic consequence of the establishment of a CSO, be objectively framed and should not be subject to the exercise of a free discretion by the relevant authority.

30. The rules for acquiring legal personality should be widely published and the process involved should be easy to understand and satisfy.

31. Persons can be disqualified from forming CSOs with legal personality following a conviction by a court for an offence that has demonstrated that they are unfit to form one. Such a disqualification should be proportionate in scope and duration.

32. Applications in respect of membership-based CSOs should only entail the filing of their statutes, their addresses and the names of their founders, directors, officers and legal representatives. In the case of non-membership-based CSOs, there can also be a requirement of proof that the financial means to accomplish their objectives are available.

33. Legal personality for membership-based CSOs should only be sought after a resolution approving this step has been passed by a meeting to which all the members had been invited.

34. Fees can be charged for an application for legal personality, but they should not be set at a level that could discourage applications.

35. Any evaluation of the acceptability of the objectives of CSOs seeking legal personality should start with a presumption that they are lawful, be well-informed and respectful of the notion of political pluralism. In particular, it should be factually based and not be driven by prejudices.

36. The authority responsible for granting legal personality, if any, should act independently and impartially in its decision making. Such a body should have sufficient, appropriately qualified staff for the performance of its functions and should normally use online processes.

37. A reasonable time limit should be prescribed for taking a decision to grant or refuse legal personality and an adequate opportunity to correct errors in an application should be given before taking any such decision and, following a resubmitted application, any further errors found should only relate to changes made to the original application.

38. Legal personality should not be refused unless: (a) there has been a failure to submit all the clearly prescribed documents required; (b) a name has been used that is patently misleading, or is not adequately distinguishable from that of an existing natural or legal person in the State concerned or constitutes in itself a present and imminent threat to public order; (c) there is an objective in the statutes which is clearly inconsistent with the requirements of a democratic society; or (d) those seeking this are disqualified from forming CSOs.

39. All decisions should be communicated to the applicant(s) and any refusal should include written reasons and be subject to appeal to a court.

40. Decisions on qualification for financial or other benefits to be accorded to CSOs, including public benefit status, should be taken independently from those concerned with its acquisition of legal personality and preferably by a different authority.

41. A record of the grant of legal personality to CSOs, where this is not an automatic consequence of the establishment of CSOs, should be readily accessible to the public.

42. CSOs should not be required to renew their legal personality.

C. Branches; changes to statutes

43. CSOs should not require any authorisation to establish branches, whether within the country or (subject to paragraph 820 below) abroad. However, CSOs should not be required to have a branch in a certain location in order to have the right to operate there.

44. CSOs should not require approval by a public authority for a subsequent change in their statutes, unless this affects their name or objectives. The grant of such approval should be governed by the same process as that for the acquisition of legal personality, but such a change should not entail the CSOs concerned being required to establish itself as a new entity. There can be a requirement to notify the relevant authority of other amendments to their statutes before these can come into effect.

D. Termination of legal personality

45. The legal personality of CSOs should only be terminated (a) pursuant to the voluntary act of their members – or in the case of non-membership-based CSOs, its governing body – or (b) in the event of bankruptcy, prolonged inactivity or serious misconduct.

V. Management

46. The persons responsible for the management of membership-based CSOs should be elected or designated by the highest governing body or by an organ to which it has delegated this task. The management of non-membership-based CSOs should be appointed in accordance with their statutes.

47. The management and decision-making bodies of CSOs should be in accordance with their statutes but CSOs should otherwise be free to determine the arrangements for pursuing their objectives. In particular, CSOs should not need any authorisation from a public authority in order to change their internal structure or rules. However, there can be a requirement that CSOs whose members are exclusively children should only take decisions of a financial nature in accordance with the guidance of an appropriately qualified adult.

48. CSOs can be required to ensure that those concerned in their decision-making avoid any conflicts between their economic, financial or other interests on a professional, personal or family level that can affect, or be perceived by others as likely to have affected, the decision reached.

49. The appointment, election or replacement of officers, and, subject to paragraphs 23-and 24 above, the admission or exclusion of members should be a matter for the CSOs concerned. Persons may, however, be disqualified from acting as an officer of a CSO following conviction by a court for an offence that has demonstrated that they are unfit for such responsibilities. Such a disqualification should be proportionate in scope and duration.

50. CSOs should not be subject to any specific limitation on non-nationals being on their management, staff or acting as volunteers in them.

VI. Funding, property and public support

A. Funding

51. CSOs should be free to solicit and receive funding – financial, or in-kind donations – not only from public bodies in the member State in which they are established or operating but also from institutional or individual donors, another State or multilateral agencies, subject only to the laws generally applicable to customs, foreign exchange, taxation, money laundering and terrorist financing, as well as those on the funding of elections and political parties where the funding concerned is to be used to provide support for or opposition to a party or candidate.

52. It should not be presumed that funding received by CSOs from any source other than ones in the member State in which they are established or operating is contrary to those laws or is for inadmissible objectives. Moreover, CSOs receiving funding from any source other than ones in the member State in which they are established or operating should not be required to label themselves or their activities as being in receipt of such funding. Similarly, CSOs in receipt of such funding should not be stigmatised or otherwise subjected to any adverse consequences on that account.

B. Property

53. CSOs with legal personality should have access to banking facilities without unjustified or disproportionate restrictions.

54. CSOs with legal personality should be able to sue for the redress of any harm caused to their property.

55. CSOs MF: with legal personality can be required to act on independent advice when selling or acquiring any land, premises or other major assets where they receive any form of public support.

56. CSOs MF: with legal personality can be required not to utilise property acquired on a tax-exempt basis for a non-tax-exempt purpose.

57. CSOs MF: with legal personality can use their property to pay their staff and can also reimburse all staff and volunteers acting on their behalf for reasonable expenses thereby incurred.

58. CSOs with legal personality can designate a successor to receive their property in the event of their personality being terminated, but only after their liabilities have been cleared and any rights of donors to repayment have been honoured. However, in the event of no successor being designated or the CSO concerned having recently benefited from public funding or other form of support, it can be required that the property either be transferred to another CSO or legal person that most nearly conforms to its objectives or be applied towards them by the State. Moreover, the State can be the successor where either the objectives or the means used by the CSO concerned to achieve those objectives have been found by a court to be inadmissible.

C. Public support

59. CSOs should be assisted and encouraged in the pursuit of their objectives through the provision of public funding and other forms of public support, such as exemption from income and other taxes or duties on membership fees, funds and goods received from donors or governmental and international agencies, income from investments, rent, royalties, economic activities and property transactions, as well as incentives for donations through income tax deductions or credits, and access to facilities and infrastructure. The provision of such public support should be recognised by States as an integral part of the safe and enabling environment to be ensured for CSOs and should support their sustainability.

60. The grant of any form of public support for CSOs should be governed by clear and objective criteria and accessible procedures, with decisions on the award of such a grant being taken by an autonomous body.

61. The nature and beneficiaries of the activities undertaken by CSOs can be relevant considerations in deciding whether or not to grant them any form of public support, but the provision of public support should always be consistent with the prohibition on discrimination.

62. The grant of public support can also be contingent on the CSOs concerned falling into a particular category or regime defined by law or having a particular legal form.

63. The receipt by CSOs of public support should not lead to restrictions on the exercise of their right to freedom of expression and, in particular, on their ability to undertake advocacy on issues of public debate other than those arising from the grant of public benefit status and on the funding of elections and political parties. Such support should not be withdrawn solely on account of this freedom being exercised.

64. A material change in the statutes or activities of CSOs can lead to the alteration or termination of any grant of public support to them. Public support should not be withdrawn without giving adequate notice and justification to the CSOs concerned.

VII. Accountability

A. Transparency

65. CSOs which (a) have been granted any form of public support or (b) whose activities can be justifiably characterised as lobbying as defined in Recommendation CM/Rec(2017)2 or the representation of foreign interests or (c) whose activities have been established as bringing them within the Financial Action Task Force's definition of non-profit organisation, can be required to make publicly available reports on their accounts and an overview of their activities either online or through a submission to a designated supervising body. Such a disclosure or reporting requirement should not be unduly burdensome and should normally be just an annual one. In any event, the CSOs concerned should not be made subject to any duplication of requirements relating to such disclosure or reporting.

66. CSOs which have been granted any form of public support can be required to make publicly known the proportion of their funds used for fundraising and administration.

67. All disclosure and reporting requirements should be subject to a duty to respect the rights of donors, beneficiaries, members, staff and volunteers, including their right to respect for private life, as well as the right to protect legitimate business confidentiality.

68. CSOs 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.

B. Supervision

69. The activities of CSOs should be presumed to be lawful in the absence of contrary credible evidence.

70. CSOs should only be required to submit their accounting books, records and activities to inspection by a supervising agency where there has been a failure to comply with a disclosure or reporting requirement or where there are reasonable grounds to suspect that serious breaches of the law have occurred or are imminent.

71. CSOs should not be subject to search and seizure or any form of surveillance without objective grounds for taking such measures and appropriate judicial authorisation.

72. No external intervention in the running of CSOs should take place unless a serious breach of the legal requirements applicable to CSOs has been established or is reasonably believed to be imminent.

73. CSOs should generally be able to request suspension of any administrative measure taken in respect of them. Refusal of a request for suspension should be subject to prompt judicial challenge.

74. In most instances, the appropriate sanction against CSOs for breach of the legal requirements applicable to them (including those concerning the acquisition of legal personality) should merely be the requirement to rectify their affairs. In more serious cases of non-compliance, the sanction may entail the imposition of an administrative, civil or criminal penalty on them and/or any individuals directly responsible. Penalties should be based on the law in force and observe the principle of proportionality.

75. The termination of the legal personality of CSOs should only be ordered by a court where there is compelling evidence that the grounds specified in paragraph 45 above have been met. Such an order should be subject to prompt appeal.

C. Liability

76. The officers, directors and staff of CSOs with legal personality should not be personally liable for their organisations' debts, liabilities and obligations. However, they can be made liable under civil or criminal law for professional misconduct or neglect of duties.

77. CSOs should not be held liable for the acts or omissions of their officers, directors or staff except where those acts or omissions are clearly related to and can be justifiably regarded as carried out in the context of their role within the CSO concerned.

78. Persons acting as a volunteer with a CSO should not be subject to any sanction merely on that account. This should not preclude such volunteering being found incompatible with a particular position or employment.

VIII. Participation in decision making

79. Governmental and other official bodies at all levels should ensure the equal, inclusive and effective participation of CSOs in all phases of the political decision-making process including in the monitoring and

evaluation of its implementation. This participation should be facilitated by ensuring appropriate and timely disclosure of, or access to, official information and by following clearly defined and transparent procedures.

80. CSOs should be similarly consulted in a timely, inclusive and effective manner during the drafting of primary and secondary legislation which will affect their status, financing or spheres of operation.

81. Private sector actors should be encouraged to actively engage with CSOs in the development, implementation, and evaluation of policies, technologies, and business practices that have impacts on human rights or civic space.

IX. Foreign CSOs

82. Without prejudice to applicability of the articles laid down in Convention No. 124 for those States that have ratified that convention, foreign CSOs can be required to obtain approval from a member State, in a manner consistent with the provisions of paragraphs 29 to 32 and 34 to 40 above, in order to operate in it. They should not have to establish a new and separate entity for this purpose. Approval to operate can only be withdrawn in the event of bankruptcy, prolonged inactivity or serious misconduct.

83. Foreign CSOs should be subject to the requirements in paragraphs 65 to 78 above, only in respect of their activities in the member State giving them approval to operate in it.

84. Provision should be made to facilitate the continued operation of CSOs which have been forced to relocate from the country in which they were established.

85. The withdrawal by a member State of the approval for foreign CSOs to operate in it should only be ordered where there is compelling evidence that the grounds specified in paragraphs 45 and 75 above have been met. Such an order should be subject to prompt appeal to a court.