

## Open Society Justice Initiative Input

### CIVIC SPACE IN MULTILATERAL INSTITUTIONS

#### ACTIONS BY MEMBERS OF THE EUROPEAN PARLIAMENT

Over the last months there have been a number of actions led by MEPs that question the transparency and accountability of NGOs and the use of EU funds for lobbying and advocacy. The aim seems to be to sow doubt regarding the role of NGOs, particularly in the run up to the negotiations on the EU's new Multi-Annual Financing Framework 2021-2027 (MMF). To date the below are some of the main steps taken:

- At the beginning of 2017 MEP Pieper presented an own initiative report to the budgetary control committee on '**Budgetary Control of Financing NGOs from the EU Budget**' which was due to be voted in April 2017. The draft report, which included unsubstantiated and inaccurate information, suggested that NGOs use EU funds to negatively influence EU policies.<sup>[2]</sup> It proposed funding conditionalities on NGOs '*whose objectives are contrary to... strategic, commercial and security policy objectives of the European Institutions*' and introduced a number of proposals that, rather than making budgetary control procedures more effective, would disproportionately increase the administrative burden on NGOs.
- The Social Democrats and Greens requested the [withdrawal of the report](#) - and the European Commission sent a letter affirming the transparency and accountability requirements in place in relation to EU funding. Civil society networks in Brussels also called for the withdrawal of the report. The report was shelved in May 2017 and the coordinators of the budgetary control committee asked the **Court of Auditors for a special assessment on EU funding of NGOs**. The Court of Auditors is starting the assessment which will likely be completed in 2019.
- MEPs have, however continued to mobilize around the issue. A hearing was held in the European Parliament (together with NGO Monitor) in June and over the summer MEPs took parts of Mr Pieper's report and proposed them as amendments to a report on the '**Transparency, Accountability and Integrity in the EU Institutions**'. The amendments were rejected in the plenary vote but it seems likely that further initiatives will emerge – draining the resources of civil society and continuing to promote a message that undermines and questions the role of NGOs.

#### INITIATIVES RELATED TO COMBATTING TERRORISM

Organisations have documented the impact that Recommendation 8 of the Financial Action Taskforce had on civil society: namely the proliferation of policies that resulted in disproportionate regulation of the sector. Recommendation 8 singled out NGOs, labeling them as inherently vulnerable to terrorist financing. This led to unintended consequences including increased surveillance and state regulation, difficulties in accessing and distributing financial resources,

onerous and restrictive laws, and the reduction of civil society space. In summary, it strengthened existing state tools used to clamp down on civil society.

Following significant [advocacy work](#) by a group of civil society organisations, funded by private foundations, Recommendation 8 was amended in 2016, removing the wording that stated that the non-profit sector was 'particularly vulnerable' to terrorist abuse. This was a significant gain but the much damage was already done to the sector. Further information can be found at: <http://fatfplatform.org/special-recommendation-8/>

Despite this experience, some of the same factors risk being replicated through other processes, including the European Commission's [Supranational Risk Assessment](#) (SNRA) which was carried out from 2016-17 to help the EU and Member States identify, analyse and address money laundering and terrorist financing risks of various sectors.

The SNRA looked at both the collection and transfer of funds by NGOs and assessed the level of risk. Concerns from civil society focused on the fact that the threat and vulnerability analysis was based on very limited information and failed to include a granular assessment, taking into account the diversity of the sector. The SNRA concluded that whilst only a small number of organisations are likely to be at risk, the level of risk is, none the less, significant.

This remains problematic when the sector is assessed as a whole and future standards are then applied to the sector, rather than to specific activities that might be of higher risk. The next step in the process will be the development of soft law standards. Hopefully this process can include a more comprehensive review of the sector and the participation of organisations likely to be implicated by future standards.

To date the consultation has been problematic. Initially only a small number of specialist organisations were invited and even when broadened, to include some of the Brussels based NGO networks, documents were provided so late that it was impossible for membership based organisations to consult their networks.

Another example is the process that led to the adoption, in early 2017, of an **EU Directive on Combatting Terrorism**. The text was initially proposed by the European Commission at the end of 2015, without an impact assessment – a step that is a requirement for all EU legislation. The negotiations were fast-tracked with minimal space for inputs from civil society organisations. Again contrary to practice, no public hearing was held in the European Parliament and it was very difficult to ensure that the human rights implications of the proposed text were fully considered.

These examples again reflect practice at national level where legislation on counter-terrorism is rushed through with minimal avenues for participation and, at the same time, NGOs themselves become a target of disproportionate regulation that diminishes the sector.

<sup>[1]</sup> A robust legal framework, a conducive political environment, access to information, avenues for participation and long-term support and resources for civil society.

<sup>[1]</sup> One of the only references in the draft report was to the reports of NGO Monitor – an organization that monitors the work of civil society organisations but directs the majority of its work to challenging organisations that work in/on Palestine.