



Joint Civil Society Position Paper on the European Parliament Proposal for a European Association Statute

We welcome the European Parliament Report on A Statute for European Cross Border Associations and non-profit organisations as an important contribution to the recognition and strengthening of the role and enabling framework of civil society organisations in Europe, both by proposing a regulation for a European Association and by proposing Minimum benchmarks for not-for-profit associations at national level.

Civil society organisations, notably Associations, NGOs and Foundations that gather and empower citizens and/or advocate and work for the public good have been calling for the creation of such a European Statute for several decades given the hurdles that we face in cross border cooperation. A Statute for the European Cooperative Society has existed since 2003, but the other actors of social economy, notably associations and foundations are still waiting for a EU level framework.

Civil society organisations are important actors in Europe: one out of five persons living in the European Union volunteers in a non-profit organisation, and one out of three jobs is created by the third sector. Yet there are still no instruments at European Union level to encompass this reality.

We also have been calling for a European strategy on an enabling civil society space. Despite the important contribution that Civil Society has given to addressing the consequences of the pandemic and of the different economic, social, environmental and democratic crises, civil society organisations advocating for the public good are facing increasing challenges to operate, to advocate for the common good and act as watchdogs.

We are confident that the European Parliament as a whole will support these proposals and we call for a close dialogue with civil society organisations and with EU institutions as regards to follow up discussions and translation into legislation and policy.

In this context we call on the European Commission to ensure that provisions for the European Association Statute and the minimum standards are fully in compliance with the freedom of



association, expression and assembly as enshrined in international law and in the EU Charter of Fundamental Rights.

We also consider that a European Association Statute would not be fully effective without a European Foundation Statute, given the important and complementary role of the philanthropy sector.

The Social Economy Action Plan provides a further opportunity for completing this framework, notably through measures aiming at the definition of the operating framework and the recognition of the sector. We are looking forward to the study on a comparative analysis of the legal and operating framework of associations in the EU and actions to address issues related to tax treatment of cross border donations to public benefit organisations.

On a European Association Statute:

We welcome the proposal for a regulation that would be directly applicable and would further enhance the development of common initiatives among civil society organisations in Europe, as well as fostering innovative solutions for the common good.

We believe that a future regulation should bring real EU added value by encouraging legal or natural persons from several member States to create a European Association.

A future legal form should be attractive and accessible to as many associations as possible including grass roots by cutting unnecessary red tape and disproportionate reporting.

Furthermore, bodies responsible at national and European level for the registration of the European association should promote and foster associative life and refrain from exercising any supervisory role in order to guarantee civic freedoms, including the independence of organisations. A better balance should be struck between transparency and the exercise of civic freedoms, as transparency is increasingly used across Europe as a pretext to overburden and control the sector with disproportionate registration, declarative and reporting obligations

We welcome the reference to the involvement of representatives of civil society to the meetings and consultation of the European body, but we believe that this is not enough as civil society organisations should be closely involved in all matters concerning them and in particular on the development, review or change of legislative and administrative framework governing them. We would like therefore to see representatives of EU level civil society involved from the onset on the



drafting of regulation and part of any regulatory body or appeals committee. We are also concerned about the supervisory powers allocated to the national associations body, notably as regards overseeing of activities of associations.

We support the call to the European Commission for a participatory status for public benefit organisations at Union level and of measures that support a regular, meaningful and structured dialogue with representative organisations in line with article 11 TEU.

On Common Minimum Standards:

We welcome the proposal for developing Minimum standards at EU level for civil society organisations as they can contribute to developing and reinforcing an enabling environment for associations and foundations, fostering and nurturing the diversity, plurality and independence of civil society organisations promoting fundamental rights.

Civil society is among the key checks and balances for the rule of law. When democracy or the rule of law is at stake, civil society organisations are among the first to be attacked or repressed.

It is also critical that EU law and national law deriving from it is also fully in line with civic freedoms and the adoption of minimum standards can contribute to achieve this, as long as they are fully compliant with international law.

In particular the resolution accompanying the proposal stresses the importance of the independence of non-profit organisations and the need to ensure an enabling environment respecting their plurality and understanding their role as contributors to the provision of services on the ground but also advocates for the public good and monitoring public policies.

We also would like to note that such standards need to encompass the differences in national rules and practices that govern associations and in this sense, we welcome the call on the Commission to analyse and make a comparative analysis of the different forms under which non-profit organisations operate in Member States.

We also believe that these standards should be flexible enough and take into account the different realities of civil society organisations, such as whether they are membership based organisations or foundations, their size, the number of employees, whether they engage volunteers, and the scope of their actions (service provision, advocacy, etc.). Those standards should also be proportionate, and preserve the independence of organisations, and this should be reflected in



the rules for establishment, governance and reporting. In no way the approximation of Member States laws as regards formation, registration, operations, financing and reporting should be in breach of EU Charter of Fundamental rights, international law or affect civic freedoms.

We welcome the proposal to establish a set of rules on equal treatment, cross border conversions and mergers in order to facilitate mobility of civil society organisations across borders.

We also would like to highlight the report's call on establishing principles and standards in order to avoid any undue restriction to cross border financing, in line with the rules on free movement of capital. However, we consider that more should be done in this respect. In particular, equal treatment of donations and access to donations and related tax incentive aspects should be ensured based on ECJ rulings. Also, restrictions on cross border philanthropy should be tackled in line with the EU rules on the freedom of capital. The development of guidelines or a code of conduct could be considered.

Finally, we welcome the fact that the report notes that rules on combating money laundering and terrorism financing must be applied in accordance with the principles of necessity and proportionality, having regard in particular to risk assessment obligations under international and EU law.

Concerning the development of these minimum standards, we underline that Civil society organisations should be closely involved in the definition or change of provisions, legal, administrative and fiscal measures affecting them and the exercise of the right of association, assembly and expression.