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MEMBER OF THE EUROPEAN COMMISSION  
JUSTICE

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Dear Ms Besozzi,

Thank you for your letter of 2 May 2023. We are grateful for the unwavering vigilance of civil society organisations in protecting the foundations of our free democracies and we thank you for not only raising your concerns with us, but for keeping us accountable.

In the following, I would like to address the three key factors highlighted in your statement, which was addressed to President von der Leyen and myself.

The first part of your statement refers to the requirement for an impact assessment that precedes any initiatives expected to have a significant economic, social, or environmental impact. Let me assure you that the Commission intends to conduct a full impact assessment. We decided to take more time to consult broadly and gather more information in order to address also the concerns we heard. These consultations will build on the wealth of evidence already gathered through a public consultation, a call for evidence, focus groups with key actors, two Flash Eurobarometer surveys and a supporting study.

This brings me to your second point, which is the concern that there is a lack of clarity and purpose when it comes to the proposed legislative instrument. Let me reassure you that it is our intention to include in the legal proposal clear definitions of relevant concepts, as well as provide necessary clarity on the scope, purpose and aim of the measures to be enacted.

Thirdly, in your statement, you refer to the Venice Commission Guidelines on Freedom of Association, from which you highlight the importance of access to various resources for civil society groups. The Commission fully shares your view, therefore, the package will neither limit nor restrict access to funding in any way. Civil society organisations will still be able to receive donations and financial contributions both from within and outside of the EU. The legislative instrument neither intends to ban foreign funding, nor to create a system of licensing or preauthorisation system.

Ms Carlotta Besozzi  
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The main goal of the legislative instrument is intended to be twofold: first, to allow the establishment of a level playing field across the internal market and put an end to the ever-growing issue of obstacles to cross-border activities caused by fragmentation. Secondly, to put additional safety measures in place to protect the European democratic sphere from covert foreign interference. This will help meet the expectations of our citizens to provide for more transparency and accountability in our democracies and in politics.

As for the reference to the case *European Commission v Hungary*, the Commission continues to stand by the beliefs and reasoning that motivated the proceedings against Hungary in the first place. The importance of the freedom of association in a pluralist and democratic society cannot be understated, and it is not lost on us how any legislation impacting the scope of this right, but especially the rules on financing, can have a chilling effect on civil society. Besides not placing restrictions on funding, we are being particularly careful in the drafting process to ensure that any possible restrictions to the fundamental rights of the Charter, particularly that to the freedom of expression and association, meet the strictest requirements of proportionality.

We are fully mindful of the risks and challenges that come with this task, just as we are mindful of the essential role civil society plays in countering foreign interference and supporting democratic resilience. The preparation of this proposal is being underpinned by careful considerations of necessary safeguards to prevent any unintended consequences with the potential to hamper the work of civil society organisations, including misuse and stigmatisation. We are committed to ensure that the package paves the way towards not only increased transparency and a unified approach to the issue of covert influence, but also deeper participation and effective involvement of civil society organisations in public policy making.

An important element of the package will be the proposed Commission Recommendation on civic engagement, which aims to introduce measures to encourage Member States to create and maintain an enabling environment for civil society organisation and human rights defenders, to ensure their effective participation. The proposal thus reflects our commitment to not only defend democracy from foreign threats, but to actively empower and strengthen both citizens and civil society.

I would like to reiterate that we take the points you raised very seriously, and our services will be keeping them under close consideration during the preparation of the package. This is important legislation and we will make sure it will be balanced, meaningful, and effective.

We look forward to continuing valuable exchanges on these topics in our common efforts to nurture and protect democracy and I thank you once again for your contribution.

Yours sincerely,

(e-signed)

Didier REYNDERS