

Citizens' omnibus: making cross-border associational life a reality

Civil Society Europe's contribution to the Citizen Omnibus initiative

Freedom of association for citizens is a fundamental right recognised by article 12 of the EU Charter of Fundamental Rights (CFR) and enshrined in the democratic principles of the Treaty and notably article 11 TEU. Despite this, citizens cannot exert this right across borders contrary to citizens that would like to establish a business and they face many and sometimes insurmountable challenges in operating across borders.

The lack of recognition of the non-profit sector at the EU level creates several problems of legal certainty, difference of treatment and stability of the legal framework when citizens active in non-profit associations want to operate in a Member State different from the country of their establishment.

Since there is no automatic recognition of the associations within the Single Market, when extending activities to new countries, it is difficult for citizens to understand legal requirements, and new procedures have to be enforced in each country in which the organisation aims to operate. Very often the only option available to citizens is to set up a new organisation, which is often not possible, as it requires additional resources and is a lengthy procedure. Moreover, currently, rules are further developed at the regional and/or local level, thus adding one more layer of complexity. The administrative procedures and requisites to be met in each country need to happen in the local language (which in the case of some regions may not even be the national language of the country).

Some Member States require the creation of a local branch of a foreign Association to operate in that country such as, for instance, to employ staff or have other citizens contribute as volunteers. Nonetheless restrictions remain and it may be subject to specific administrative requirements. Obstacles in the recognition of volunteering and of diplomas across countries create further obstacles for the organisation of activities across borders.

Often citizens leading a non profit have to rely on a local partner when organising activities abroad that require the signature of commercial contracts, as providers require the use of a local VAT number. Partners have then to make advance payments and deal with all the administrative burden.

Furthermore the access to banking services for citizens is hindered when they gather into an association. As a consequence of incorrect transposition or overly restrictive interpretation of EU anti-money laundering (AML) and counterterrorism legislation, many banks apply derisking practices to holders of bank accounts for non profits. We have several instances of bank accounts blocked or denial of provisions of banking services to non profit associations (transfer of funds, credit cards, etc). And banks also increasingly question direct payments that non-profit associations receive from abroad (also inside the EU) because of the AML, including funding support. In addition to bank derisking, certain aspects of undue implementation of money laundering and terrorism financing policies are limiting the operating space for associations. Even though not required by the EU Directives, certain countries consider non-profit associations as quasi-obliged entities requiring more strenuous reporting requirements, without clearly identified risks. The adoption of centralised registers on Beneficial owners, while it could simplify the life of citizens that are engaged as Board

members in non profits associations, often leads to additional problems. This is due to the fact that these registers are often not consistent or linked to other registers where Board members have to be registered and that different financial actors (banks, accountants, donors, etc) often require either the same or additional information, often with greater details. This also creates issues regarding data protection in a situation where citizens that are elected in the Board of a non-profit are not beneficiaries of the funds and often do not also have any direct control on them.

Despite ECJ rulings confirming the non-discrimination principle and the free flow of capital, there are still rules in place which provide that citizens that would like to donate to non profit associations in other countries are denied all or some tax benefits which domestic legislators have granted to resident nonprofits and their donors. It is difficult for associations to ensure that donors from abroad receive the same tax treatment as donors from the country of establishment of the organisation. Some organisations have to find solutions through partnerships with non profit associations of the same country as the donor. These obstacles that citizens face in exerting the freedom of association can also have a detrimental impact on many citizens. In the case of emergencies such as floods, pandemic or massive arrival of people fleeing their country because of war, the possibility to coordinate effectively the help of volunteers and citizens from other countries is strongly hindered. More generally the deployment of key services for citizens such as people with disabilities or people with rare health conditions is also affected. Some areas, such as education and culture would strongly benefit by removing those obstacles from an EU framework that would ensure access to the single market freedoms.

In short, we currently lack a comprehensive solution for citizens that are active on non-profit organisations in Europe – and as long as non-profit organisations are put on the same level as genuine enterprises,.

In order to help solve some of the aforementioned issues, we believe that **the approval of the proposed Directive on European Cross-Border Associations (ECBA) could be an important step forward, providing end-user simplification in several administrative procedures and hindrances that would make it easier for citizens to exercise their right of association as stipulated in the art. 12 CFR.**

Below a table of examples¹ of cross-border administrative problems that would be solved by ECBAs, as well as three concrete examples of obstacles to cross-border cooperation where the ECBA would have made the difference:

<p>Some Member States require the creation of a local branch of a foreign Association to operate in that country such as, for instance, to employ staff. Nonetheless restrictions remain and it may be subject to specific administrative requirements.</p>	<p>The ECBAs will be recognised all over the EU and be equally treated as national ECBAs.</p>
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¹ The examples are taken from [CSE Contribution to EC Consultation on a proposal for a legislative initiative on Cross-border activities of associations.](#)

<p>Most Member States do not allow Associations to change their seat to another Member State. Also when this is possible in the country of origin this may be denied by the country of destination.</p>	<p>The recognition of the legal personality and capacity throughout the EU will allow the transfer of the legal seat and of the assets of the organisation (such as ongoing contracts) among the Member States.</p>
<p>Cross-border merger for associations is uncertain, contrary to business.</p>	<p>If the legislation is adopted with the proposals of the European Parliament, it will be possible to merge associations from different (EU) countries.</p>
<p>Some Member States' administrative practices prevent Associations from organising their activities in another (EU) country (e.g. requesting that the general assembly modifying statutes takes place in the country where they are based, while it is practice that European organisations organise these meetings in different EU countries).</p>	<p>The ECBA legislation will provide a uniform set of rules that will allow such transnational activities.</p>
<p>Often Associations have to rely on a local partner when organising activities abroad that require the signature of commercial contracts, as providers require the use of a local VAT number. Partners then have to make advance payments and deal with all the administrative burden.</p>	<p>ECBAs will have a single registration number valid in all the EU.</p>
<p>Associations face difficulties in receiving funding from foreign entities and donors within the EU. Furthermore derisking practices by banks limit access to banking and financial services.</p>	<p>The Directive recognises the freedom to receive public and private funding from a country different from that of registration. Paired with the recognition of the legal personality in all the Member States, it should make it easier for banks to consider ECBAs less 'risky'.</p>
<p>Due to interpretation of competition rules, state aid rules and procurement rules, Non Profit Association from other (EU) countries are often considered as enterprises instead of being treated as national Associations.</p>	<p>The principle of equal treatment in the Directive will ensure that ECBAs from a third country will be subject to the same rules as national ECBAs (and therefore as the recognised most similar or most used national legal form for Associations that the national ECBAs are equated to).</p>

<p>Some Member States apply Restrictions to the advocacy activities of Associations.</p>	<p>In addition to the country specific recommendations within the Rule of Law report, the Directive as amended by the European Parliament clearly bans any restrictions or additional requirements regarding the ECBAs' participation in matters of public debate, whether carried out on a regular or on an occasional basis.</p>
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Case study 1: civil society engagement in crises situations: the Russian war of aggression on Ukraine and the floods in Central Europe

It is estimated that around 5000 NGOs participated in active assistance to people affected by the full-scale invasion in Ukraine in February 2022². A study conducted by Klon-Jawor (2024) in the cluster of organisations dealing with migration issues shows that “Most of the organizations surveyed (32%) indicate that foreign non-governmental organizations are their key partners, followed by other non-governmental organizations in Poland (28%).”³

In the early days following the start of the full-scale invasion of Ukraine, the Polish federation of NGOs OFOP received a high volume of inquiries from foreign organizations and Polish organizations that had been offered assistance by entities from outside of Poland regarding appropriate procedures. Despite the fact that a special coordinating group for humanitarian assistance was established bringing together Polish NGOs and NGOs arriving from other countries (including INGOs) difficulties have nevertheless persisted in this context.⁴ Many organisations had to sign new partnerships or hire personnel to be able to accommodate the cooperation with foreign partners, and secure funding. However, the administrative burden that is associated with creating new structures and new procedures in a situation of crisis significantly slows down the essential response to the affected. ECBA would enable long-term cross-border planning, which has many advantages in terms of savings in resources and time due to the elimination of complex administrative procedures and easier access to know-how and financial resources.

Given that many organizations supporting Ukrainian refugees and responding to emergencies have faced significant funding cuts due to the U.S. funding freeze, we believe that pooling resources is a sensible and necessary approach in these difficult and challenging times.⁵ Furthermore, ECBAs could offer a valuable opportunity to enhance crisis response and

² [ile organizacji społecznych \(NGO\) pomaga uchodźcom z Ukrainy w Polsce? - rp.pl](https://ileorganizacji.org.pl/ile-organizacji-spoecznych-ngo-pomaga-uchodzcom-z-ukrainy-w-polsce?r=1)

³ Julia Bednarek, Marta Gumkowska Beata Charycka. Kiedy praca w kryzysie staje codziennością. Lokalne organizacje społeczne. Raport z Badań 2024. Warszawa: Klon Jawor, maj 2024.

⁴ NGO Forum „Razem”, for more see: [0 działaniach NGO Forum „Razem”: trzy lata „Razem” 2022 - 2025 - MapujPomoc.pl](https://ileorganizacji.org.pl/0-dzialaniach-ngo-forum-razem-trzy-lata-razem-2022-2025-MapujPomoc.pl)

⁵ The impact of the freezing of US funds on the activities of non-governmental organizations working in the field of migration and integration in Poland. Analysis of the results of a survey conducted between April 22 and May 6, 2025, developed by Sieć Mapuj Pomoc (coordinated by Fundacja To Proste) in cooperation with Fundacja Ukraina, Fundacja Q, Polskie Forum Migracyjne, Stowarzyszenie Nomada and Fundacja w Stronę Dialogu

assistance by strengthening connections with local communities. By enabling local associations (or groups of citizens) to form ECBAs, ECBAs could deliver more targeted and context-sensitive support than many INGOs or large relief agencies.⁶ As such, ECBAs could become a vital component of the EU's preparedness strategy, allowing for the flexible movement of personnel and resources across Member States—while preserving the essential principle of community-led response.

Similar challenges occurred in September 2024, when Central Europe was affected by the floods resulting from the storm Boris (impacting Poland, Austria, the Czech Republic, Slovakia, Hungary, and Romania). The border areas (Polish-Czech border) were the most affected. Again, cross-border cooperation on all levels (including when it comes to local CSOs operating on both sides of the border) was essential. The scale of the disaster overwhelmed emergency services, necessitating international assistance and the deployment of military personnel for rescue and relief operations. In total, approximately two million individuals in the region were directly impacted, facing displacement, loss of homes, and psychological trauma.⁷ Again, forming ECBAs in border areas would be a very good way to effectively address the effects of emergencies due to the same need to accumulate resources and coordinate responses across borders.

Case study 2: the Marrakech VIP Treaty and the accessible printed formats for people with disabilities

Another potential of cross-border activities enabled by ECBAs relates to the implementation of the Marrakech Treaty, ratified by the EU, which provides copyright exemptions to non-profit entities fulfilling the Treaty criteria to adapt print materials, such as printed books, music scores or magazines, to accessible formats (e.g. Braille or audio formats) for persons with disabilities. The Marrakech Treaty also enables the possibility of free flow of these adapted materials across countries towards other non-profit organisations fulfilling the Treaty criteria, as well as to print-disabled individuals. The ECBA would facilitate that associations specialised in adapting print material could join forces at EU level to share resources, reach out to more affected people and therefore make this accessible content easily available to persons with disabilities across the EU.

Case study 3: The delivery of specific services for people with disabilities: the case of guide dogs

The ECBA will help ease the deployment of specific services for people with disabilities, in a context where logistical difficulties pair up with recognition issues from Member States of service providers for people with disabilities. An example of this is the case of guide dogs. There is no mutual recognition of the certification of guide dogs within the EU, and while some countries recognise only dogs trained in their country's training schools, others also

⁶ "Localization is defined as the recommended standard for operation in crisis interventions by many international organizations, see for example: „ Localization of humanitarian action allows for timely, cost-effective and relevant humanitarian response with greater community acceptance, trust and accountability, as well as pathways for transition, recovery, durable solutions and sustainable development. It enhances local response capacities enabling communities to rapidly respond to crises and steer their own solutions." Source: Localization Framework And Guidance Note For IOMs Humanitarian Response, p 5. https://emergencymanual.iom.int/sites/g/files/tmzbd11956/files/2023-12/iom_geneva_iomlocalisationframework_english_digital77_1.pdf

⁷ [Climate change and high exposure increased costs and disruption to lives and livelihoods from flooding associated with exceptionally heavy rainfall in Central Europe – World Weather Attribution](#)

accept those certified by international associations. Furthermore, not all countries have certified dog training schools. While an ECBA would not solve the issue straightaway, it would help deliver dogs trained in other countries to people in a particular country where no dog training school exists. Furthermore, via the principle of mutual recognition and the European nature of the ECBA, it will be easier for such an association to be recognised also by Member States that have guiding dogs schools.