



To:

European Commission First Vice President, Frans Timmermans

European Commissioner Věra Jourová, justice, consumers and Gender Equality

Cc: Mr Daniel Braun, member of Cabinet of Ms Jourová

Mr Emmanuel Crabit, Director Fundamental Rights and Rule of Law

Ms Raluca Pruna, Head of unit Financial Crime

Brussels, 11 October 2018

Dear Commissioner,

Civil Society Europe, the European Foundation Centre and Dafne are writing to you to draw your attention to recent developments in Romania that are having a chilling effect on civil society organisations.

Civil Society Europe has addressed a note to the members of the Civil Liberties Committee in advance of the discussion on the rule of law last week. You can find the note on this [link](#) and attached to our e-mail.

A number of provisions are being discussed in the Romanian Parliament and by the Government which affect the freedom of association and assembly in a context where NGOs have been vocal to criticize the lack of transparency and instances of corruption of Romanian authorities.

We would like to highlight in particular:

- the Plesoiu proposal that if adopted would increase disproportionately the reporting obligations for all NGOs and foundations, also in comparison with private companies, as well as the general conditions of obtaining and maintaining the status 'public interest' organisation, including preventing criticism of draft legislation and policies, with non-compliance leading to dissolution. These provisions were also reviewed negatively by the Venice Commission;
- the reform of the law on public assembly which would transform the notification process of demonstrations into an authorization process, in contradiction with international rules. In addition, it is planned to lower significantly safeguards and scrutiny against the use of force by the police against protesters, in the aftermath of the brutal intervention of 10<sup>th</sup> August 2018.

A more urgent issue which is of direct EU competence is the transposition of the DIRECTIVE 2015/849 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

The draft legislation is being reviewed by the Romanian Chamber and should be adopted by the end of the month.



The draft imposes on NGOs and foundations the status of obliged entity (translated as “reporting entity”), placing civil society organisations as providers of financial services, such as banking institutions, auditors, accountants, notaries, providers of gambling services, real estates or trusts and companies insofar as they provide financial services (article 3), with the same due diligence obligations towards partners or individuals (article 10). As far as we are aware no risk assessment has been conducted that would justify such extension to not for profit associations and foundations. In addition, lack of compliance of any given organisation would lead to dissolution.

Furthermore, this provision is also coupled with the wrong translation of beneficial owner into “real beneficiary”. This would include every single person actually assisted by civil society. Thus, the personal data of abuse victims, vulnerable individuals with human rights under threat, journalists or children participating in any kind of NGO activity should be reported, and this in breach of the EU General Regulation on Data Protection.

We would also like to add that the Romanian legislation already foresees that associations and foundations are subjects to the obligation to report any activity that might contribute to money laundering to the National Office for Prevention and Combating Money Laundering and to have a designated person within the organisation for this purpose.

If you also consider that the draft law in addition to imposing disproportionate provisions on civil society organisations, which are not all the target of the fight against Money laundering, at the same time removes provisions such as on Political Exposed Persons, which were already included in the 3rd directive, and this in a context of repeated corruption scandals, we are therefore wondering whether there is not an attempt to gold plating.

We would like therefore to suggest that information is urgently requested to the Romanian authorities on the draft legislation together with the provision of guidance on the interpretation of the key provisions of the directive.

Unfortunately, we are also aware that the transposition of the Directive has raised a number of questions in other Member States and it would be therefore useful to ensure that its key provisions and its application as regards civil society are further clarified whether through a guidance note or using the occasion of meetings with member States.

We are attaching the English translation of the most relevant articles in the current draft as well as a table confronting some of the article of the EU Directive with the current draft Romanian text in English.

We are at your disposal of your team and services for any further information

Jean Marc Roirant  
President CSE

Gerry Salole  
Executive Director EFC

Max von Abendroth  
Executive Director DAFNE



[Civil Society Europe](#) (CSE) brings together 27 European networks of civil society organisations (CSO) working towards regenerating the European project around the shared values of Equality, Solidarity, Inclusiveness and Democracy. Our main objectives: to facilitate and enable dialogue between European civil society organisations and policy-makers and help strengthening CSOs in their activities and relations with the institutions. Contact : Carlotta Besozzi, Coordinator [contact@civilsocietyeurope.eu](mailto:contact@civilsocietyeurope.eu)  
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#### [The European Foundation Centre \(EFC\)](#)

The EFC is the platform of institutional philanthropy with a focus on Europe, but also with an eye to the global philanthropic landscape. As a network of foundations and philanthropic institutions, we communicate to stakeholders the value of organised philanthropy to society, to help nurture an environment in which it can flourish. The EFC serves as a hub of sector exchange and intelligence, to help our members increase the impact of their added value in society. Contact: Gerry Salole | [gsalole@efc.be](mailto:gsalole@efc.be) | +32.2.508.3050

#### [Donors and Foundations Networks in Europe \(DAFNE\)](#)

DAFNE is Europe's largest network of donors and foundations associations. With 26 member associations with a collective membership of more than 10,000 foundations and grant-makers, DAFNE is a leading voice of European foundations. It underpins individual activities of its members by encouraging dialogue and collaboration between the national associations. DAFNE is currently chaired by Felix Oldenburg, General Secretary of the Association of German Foundations. Contact: Max von Abendroth | [max.abendroth@dafne-online.eu](mailto:max.abendroth@dafne-online.eu) | +32 494 505 179