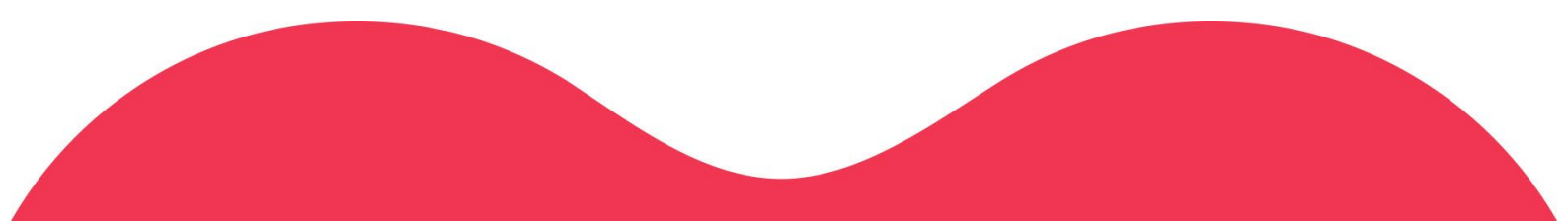


14/05/2024

Philea statement of concern about “Transparency of Foreign Influence” law in Georgia



Philea concern about law on “Transparency of Foreign Influence” in Georgia - May 2024

I. Introduction

Philea is deeply worried about the attempts in Georgia to re-introduce a draft law on “Transparency of Foreign Influence”, and about the violence that has been used in Georgia against those who have been protesting the law over the past weeks. The law was approved on 14 May 2024 in its third reading with 84 votes in favour and 30 votes against. The President’s signature is still needed, but her veto would also be overridden by a majority vote in Parliament, and as such the law is expected to pass into effect in the coming weeks. Last year, the Georgian government and the ruling party had withdrawn a similar law proposal.

We are very concerned that the law is now being approved, and this amid ongoing large and intense protests of local citizens, as well as European and international protests. We are deeply concerned about the violence being used towards media, civil society and citizens protesting on the streets. We are of the strong opinion that the law is in conflict with European core values and fundamental rights and freedoms, and we call on the Georgian government to withdraw the law immediately. Elections are coming up in Georgia in the autumn of this year, and there are voices stating that this vote should focus minds on the urgent need for regime change.

II. Concerns about the law

An enabling space for civil society, including philanthropy, is a vital element of European core values such as democracy, rule of law and fundamental rights, including the freedom of association and free flow of capital, both within and across borders. We believe that the law on “Transparency of Foreign Influence” is not in line with these principles.

Conflict with European core values and rights, and international law

We understand that the law will require non-governmental organisations (NGOs) and other actors to disclose foreign funding, which restricts access to



financing for NGOs and will **stigmatise NGOs that receive foreign funding and put them under suspicion**. It will also add **barriers to cross-border philanthropy**, and impinge on freedom of association and the free flow of capital. It will have a detrimental and chilling impact on civil society organisations' activities. Under the new rules, civil society groups receiving more than 20 percent of their income from abroad will be required to register as "organizations serving the interests of a foreign power," a label that stigmatises them.

Any proposed measure to address foreign interference/influence must first undergo a very careful assessment of the impact on fundamental rights, given the concerns on the civic freedoms of expression, association and assembly. Any **policy to prevent "foreign interference" must be risk-based, proportionate and fit for purpose, and must take into account fundamental rights**. Moreover, it must not unduly restrict legitimate cross-border funding to civil society organisations.

The freedom of association includes the right for civil society organisations (be they associations or foundations) to access resources from different sources (public as well as private/philanthropic). It also includes the right to use resources and to act/give grants across borders. Access to finance for civil society organisations across borders must not be unduly restricted. Civil society organisations receiving foreign funding, as well as philanthropic organisations that give grants and support civil society organisations, must not be stigmatised or put under suspicion.

Rulings and positions that support our position:

- The European Court of Justice ruling against the Hungarian LexNGO in June 2020 (C-78/18): In this landmark judgement, the Court set out a substantive element of freedom of association—the right to access funding (including foreign funding). Also the Council in its conclusions on civic space end 2022 acknowledges that *"civil society actors at all levels need appropriate and sufficient human, material and financial resources to carry out their missions effectively and that the freedom to seek, receive and use such resources is an integral part of the rights to freedom of association"*.
- Such principles are also enshrined in international law. The [OSCE/Venice Commission Guidelines on Freedom of Association](#), principle 7, paragraph 221 states that *"the right to freedom of association would be deprived of meaning if groups wanting to associate did not have the ability to access resources of different types, including financial, in-kind, material and*

human resources, and from different sources, including public or private, domestic, foreign or international.”

- The EU previously condemned the proposal last year by the Georgian government to introduce a similar provision: *“The proposed draft law on ‘transparency of foreign influence’ raises serious concerns. Creating and maintaining an enabling environment for civil society organisations and ensuring media freedom is at the core of democracy. It is also key to the EU accession process and part of the 12 priorities, notably priority 7 on media freedom and priority 10 on the involvement of civil society. The European Union is supporting Georgia in its reform efforts, responding to the country’s own aspirations for continued development and EU membership, as enshrined in Georgia’s Constitution. The draft law’s adoption would be inconsistent with these aspirations and with EU norms and values.”*

As Philea we certainly believe in and are supportive of transparency efforts – also round civil society – as long as they do not hamper and stigmatise legitimate civil society action, and as long as they are in line with fundamental rights. While transparency of civil society and other actors in society is important, transparency should certainly not be used as an instrument to limit civil society to operate freely and to access funding from abroad.

The Georgian law on “Transparency of Foreign Influence” will, however, put up barriers to accessing resources and will stigmatise foreign funding of Georgian civil society organisations. Furthermore, it is not in line with fundamental rights and European core values.

Important role of civil society

Civil society organisations play a crucial role in addressing societal issues and helping us move towards a society that works for people and the planet, and that leaves no one behind. A strong and enabling civil society space is critical for the resilience of our democracies: It is needed to protect and promote fundamental rights, and to combat disinformation.

Unintended consequences

This law will have an undue impact on the freedom of expression, association and assembly. We are also concerned that this law will confine NGOs/civil society organisations to a (foreign) interest representation role, which removes the attention from their core role of contributing to solving societal issues – oftentimes complementary to, and in many cases also in collaboration with, government initiatives.



EU candidate status of Georgia at risk

The suggested “Transparency of Foreign Influence” law potentially also puts the EU candidate status of Georgia at risk. The status was granted under the condition that certain European Commission recommendations issued on 8 November 2023 would be implemented, including the need for civil society to operate freely and for the government of Georgia to fight disinformation against the EU and its core values.

Running counter to the situation in other European countries

The law also runs counter to the overall trends of civil society and philanthropy regulation in Europe. As Philea, we map and analyse the operating space for philanthropy across the wider Europe, and we see that foreign funding restrictions are the rare exception (see our 2021 analysis, [“Comparative Highlights of Foundation Laws”](#)).

This work has fed into the call for a Single Market for Philanthropy in [our Manifesto](#), which highlights key recommendations for policymakers: Provide enabling frameworks for philanthropy, also across borders; engage in better dialogue with philanthropy; and develop new tools for co-granting and co-investing for the public good in Europe.

III. Call to action

We call on the Georgian government/Georgian Parliament to withdraw the “Transparency of Foreign Influence” law. Violence against media and protesters must be ended; and the Georgian government should continue to implement reforms that are in line with European core values and freedoms.

About Philea

Philea nurtures a diverse and inclusive ecosystem of foundations, philanthropic organisations and networks in over 30 countries that work for the common good. With individual and national-level infrastructure organisations as members, it unites over 7,500 public-benefit foundations that seek to improve life for people and communities in Europe and around the world. Philea galvanises collective action and amplifies the voice of European philanthropy, and in all it does, it is committed to enhancing trust, collaboration, transparency, innovation, inclusion and diversity.

www.philea.eu

