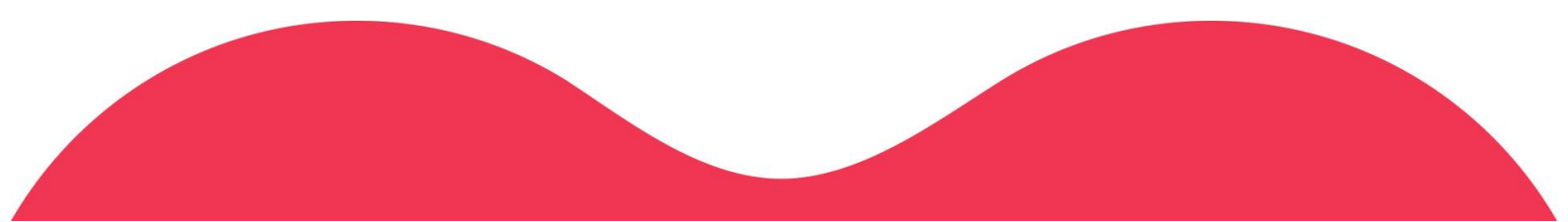


17/06/2024

Philea statement of concern about “foreign agent type of law” in Slovakia



Philea concerned about Slovakian “foreign agent type of law” - June 2024

I. Introduction

Philea is very worried about Slovakia’s attempts to introduce a “foreign agent type of law” that would label civil society organisations in receipt of more than €5,000 per year in foreign funding as an “organisation with foreign support”. The Slovak Parliament already approved the bill at the first reading in April and it is now in its second reading in Bratislava. While the stated aim of the proposed law to amend the existing NGO law is to increase transparency of civil society organisations’ funding, it will stigmatise those that receive foreign funding.

We are of the opinion that the law is in conflict with European core values and fundamental rights and freedoms, and we call on the Slovakian government to withdraw the law immediately. The bill resembles Hungary’s past NGO law and a law recently approved in Georgia.

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 do not consider the proposed law to be in line with these principles.

What does the law suggest?

The bill would force organisations that receive more than €5,000 per year from foreign sources, including funding from other national non-governmental organisations (NGOs) that receive foreign funding, to label themselves as “foreign-funded organisations”. NGOs would have to disclose the identity and nationality of all donors, contributors, and creditors whose donations, contributions or loans exceed €5,000 per year in an annual report.

NGOs with an annual income of more than €50,000 would have to submit an annual report to the Ministry of the Interior, which could fine and dissolve NGOs if they fail to comply with reporting and labelling obligations.



Conflict with European core values and rights and international law

The **right of civil society organisations to receive funding from national and international sources is an essential component of the right to association.**

The legislative proposal would require non-governmental organisations (NGOs) to label themselves as foreign funded organisations and to disclose foreign funding beyond €5,000, which restricts access to financing for NGOs. It has the potential to **stigmatise NGOs that receive foreign funding and put them under suspicion.** It would also add **barriers to cross-border philanthropy,** and hence **impinge on freedom of association and the free flow of capital.** It would have a detrimental and chilling impact on Slovakian civil society organisations' activities.

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 Council of Europe Human Rights Commissioner Michael O'Flaherty wrote to Slovakia's parliamentary leadership in May this year to ask the Slovak parliament to reject an amendment to the law on non-profit organisations as potentially *"incompatible with EU law, including on the ground of unjustified interferences with the right to freedom of association."*
- 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). In addition, the Council in its conclusions on civic space at the 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 also condemned efforts 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.”

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 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. The proposed law would seriously limit the space for civil society and cross-border philanthropy.

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, as explained in [our Manifesto](#), which highlights 4 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 Slovakian Parliament to reject the law.



About Philea

With individual philanthropies and national-level infrastructure organisations in over 30 countries as members, we unite over 7,500 public-benefit foundations that seek to improve life for people and communities in Europe and around the world.

Our vision is for philanthropy to use its full potential to co-shape and support a pluralistic, just and resilient society that centres people and planet.

Our mission is to enable, encourage and empower the philanthropic community to build a better today and tomorrow.

We galvanise collective action and amplify the voice of European philanthropy. Together we:

- **Co-create knowledge and learn** from effective practices
- **Collaborate** around current and emerging issues
- **Promote enabling environments** for doing good

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