

Civil Society Europe Note for EP Plenary Debate

Monday 13 February

Commission Statement on EU funding allocated to NGOs incriminated in the recent corruption revelations and the protection of EU financial interests

Point on overall context:

It is important to put today's plenary debate in context of shrinking civil society space and civil dialogue with NGOs. NGOs have championed further transparency at EU level for years and the result has been that they are subject to a massive difference between what is expected of NGOs and for example companies, consultancies etc. Let's take today's debate to shine a light on this reality and broaden out some of the safeguards so that there is true transparency in how any interest groups or individual can approach the EU, not just for NGOs.

We cannot laud the work of NGOs in responding to successive crises - the pandemic, the Ukraine response, the cost-of-living- on the one hand and then place expectations on them in accessing the EU institutions that are far greater than other interest groups on the other. This sends a message that the EU does not want to enable the work of civil society and values it differently to business and other interests.

Potential issues that could be raised during the debate:

More transparency and accountability for NGOs

- *EP Administration should deny access to non-registered interest representatives and NGOs. The access of NGOs must be preceded by obligatory transparency checks. The respective Committee secretariat must be obliged to do transparency checks.*

Comment: This should be applied to all interest representatives. NGOs have higher transparency obligations than industry. The Transparency Register should be mandatory for NGOs and business, consultancies, individuals alike.

Comprehensive pre-screening before inclusion in the transparency register

- *The current guidelines for the registration of interest representatives and NGOs in the TR are insufficient. There should be a systematic pre-screening as part of the registration process*
- *To this end funding from EU funds must be traceable from the direct beneficiary to the final beneficiary*

Comment: It is important to note that the financial regulations have legitimate exceptions which are important for safeguarding democracy and individual rights. For example, human rights defenders who do brave and important work in often the most difficult circumstances who will be endangered if their financial information is made traceable.

- *All incoming and outgoing payment must be disclosed as part of the registration in the transparency register, including the transfer of funds from one NGOs to another*

Comments: If we are talking about accounts and sources of funding including non-EU, this is already the case for NGOs, but not for all interest representatives in the TR. Provision of adopted accounts and audits is also possible and we provide them to the European Commission and granting authorities anyway. As regards access to all incoming and outgoing payments this is not a realistic or legal option for any legal entity. External auditors or funders perform these checks.

- *An NGO that is funded by another NGO must disclose all information about its donor NGO*

Comment: This should be applied to all interest groups and not just NGOs as it is now the case. And why would this only apply to other donor NGOs as illicit funds could come from elsewhere. Not clear what 'all information' means.

- *The internal organisation structure of an NGO must comply with democratic principles. If NGOs are all already suspected of fraud and or demonstrably linked to criminal activities or allegations of harassment/violence, this must be documented in a public blacklist. These NGOs must be denied access to the European institutions and EU funding*

Comment: As regards fraud and criminal activities this is already covered by the financial regulation (See article 136 of the [Financial Regulations](#)) although there is no public blacklist. [EDES](#) is a system listing all legal entities that have been found in breach of the financial regulations and also covers NGOs. It is not clear to us why NGOs would be singled out of all private and public bodies also receiving EU funding. Adherence to democratic principles and EU values is not covered by the database. We note for instance in this sense the influence of undemocratic third countries through think tanks, companies, other private bodies, the creation of GONGOs by authoritarian and illiberal regimes, extremist groups, astroturfing, etc. However, EDES does not cover shared management funding with Member States. We would recommend extending it.

The publication of contractual agreements between the European Commission and NGOs on the conditions for receiving EU funding

- *the European Commission must publish all contracts with NGOs in which the Commission outsources the implementation of policies or the drafting of legislation to NGOs*

Comment: The European Commission publishes information on contracts signed with NGOs whether this is part of a project or an operating grant. Also, information on the results of projects including specific reports and publications or events funded is also available to the public with very limited exceptions. We are not aware of EC contracting NGOs for the drafting of policies or legislation. However, the European Commission and the European Parliament contract consultancies or companies for impact assessment studies in view of the preparation of legislation or for the organisation of own events/reports.

- *The Commission must draw up a standard contract with NGOs for the conditions for receiving funding*

Comment: It is already the case according to financial rules, such contracts are tailored according to the funding programme and examples can be found on the funding portal of the European Commission. It is important to note that the financial rules apply equally to all beneficiaries of EU funding.

- *This contract must be legally binding for all EU institutions and agencies.*

Comment: Contracts to beneficiaries of EU funding (whether NGOs, other private bodies or public bodies) may slightly vary according to EU institutions and funding programmes, or to the type of funding (grant, tender, etc) but they all are in compliance with the financial regulations. This is also the case for all contracts implemented by Executive agencies.

- *Only in this way the EP Budgetary Control Committee can keep an overview of the Commission's NGO networks and if necessary, intervene and deny access to the Parliament*

Comment: The European Commission gathers data for all beneficiaries in a unique [Financial Transparency System](#). Issues with data availability or consistency with specific program information should be improved, but it is an issue that has nothing to do with data requirements on NGOs or other beneficiaries. Also, the FTS does not cover shared management funding and we would recommend connecting it to the national databases. There are also different tools that the Budgetary Control Committee and the European Court of Auditors have to access relevant and up to date information on beneficiaries. Again, it is not clear why NGOs are singled out as they are subject to the same system and requirements as other beneficiaries of EU funding. Also NGOs as a category in percentage are far from being an important beneficiary of EU funding (In 2016, when an EP study was released on the funding of NGOs, this amounted to less than 2% of the budget).

Demand for an NGO regulation/Law

- *In the interest of clarity, legal certainty and the rule of law, transparency regulations for NGOs should be transferred into an EU regulation/law. This NGO Regulation must systematically define NGOs. Here large NGOs that are registered in the Transparency Register should be treated in the same way as companies and fulfil the same reporting obligations.*

Comment: I think there is a misunderstanding as companies have less requirements than NGOs in the Transparency Register. Companies report on their estimation of lobbying costs whereas NGOs not only disclose sources of funding but report their total operating budget. Which incidentally bears no relationship to their actual lobbying cost. In fact, it would be much better for NGOs to have the exact same reporting requirement as companies so comparative analysis can be possible.

We are in favour of a definition of NGOs/civil society organisations working for the public benefit. We also note the recommendation that the European Court of Auditors made in its Special Report 35/2018.

Demand for an initiative report in the CONT Committee

- *The results of the ongoing CONT study on the funding of NGOs (follower MEP Markus Pieper) must be taken up with the experiences and consequences of the current corruption scandal and be taken up on an own initiative report of the committee on budgetary control. From this binding recommendations for Parliament's future dealings with non - governmental organisations must be derived*

Comment: We do not believe that a specific report on the funding of NGOs would make much sense to address issues related to the Qatar-gate. Also, there is a high risk that this would generate a chilling effect on NGOs, working for the public good or on accountability of EU institutions. However, we believe that a comprehensive report on interest groups encompassing all categories (NGOs, companies, business/professional associations, academia, consultants, think tanks, including the sprawling network of consultancies, think tanks, business associations linked for instance to big tech companies or third countries). Such a report should look at the prevalent issue of "astroturfing".