

Opinion by the European Center for Not-for-profit Law on the special provisions of the draft Law on noncommercial organizations of the Republic of Moldova

This opinion examines the compatibility of Chapter VI on Special Provisions (Special Provisions) to the draft Law on Noncommercial Organizations of the Republic of Moldova (draft Law¹) with international standards and best practices, particularly the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the Council of Europe's Recommendation (2007) 14 on the Legal status of non-governmental organisations in Europe (CoE Recommendation on the Legal status of NGOs in Europe) and OSCE/ODIHR-Venice Commission Joint Guidelines on Freedom of Association (OSCE/ODIHR Joint Guidelines on Freedom of Association).

For many years, the European Center for Not-for-Profit Law (ECNL) has been supporting local efforts in creating enabling framework legislation for the operation of civil society organizations (CSOs)². The draft Law on Noncommercial Organizations is a result of a thorough background research³ and policy solutions developed in a participatory manner by the cross-sectoral working group. We commend the Ministry of Justice for its best efforts to involve CSOs in the drafting of the Law to ensure an open, consultative process.

On the other hand, we were surprised to learn about the Special Provisions that the Ministry of Justice introduced to the draft Law on July 5, 2017 expediently, without prior

consultation and disregarding the opinion of the working group that is responsible for drafting the Law.⁴ The Special Provisions threaten CSOs' ability to take part in the conduct of public affairs and their right to access domestic and foreign resources. They also impose burdensome reporting requirements and penalties, including for managers of the CSOs. This is contrary to international standards and good regulatory practices, and potentially violates domestic laws on transparency in decision-making and Moldova's international commitments, such as the Open Government Partnership agenda.

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