Appendix

Background information and arguments in support of our requests:

I. We would like to point out that, in Romania, the regulatory and reporting framework already contains all the tools for collecting information that may be considered, where appropriate, to be in the public interest, and the competent Romanian authorities receive this information from the private sector and can impose sanctions if this does not happen. The legislative initiative completely ignores the fact that **the Romanian state can accurately identify who the donors and sponsors of an NGO are** by cross-referencing the accounting, tax and banking reports already existing in the ANAF system:

Thus, with the exception of churches (religious organizations) and homeowners' associations, all associations, foundations and federations established under Government Ordinance 26/2000 must keep their accounts using the double-entry system[1] . Below are some of the mandatory reports for NGOs and the ways in which the Romanian state can already, at present, identify their donors:

- annually: balance sheet, profit and loss account for the previous financial year, and related explanatory notes. From the financial year 2023 onwards, the obligation to submit a cash flow statement[2] has also been introduced for NGOs which, during the financial year, received sums in the form of grants, sponsorships, sums redirected from taxes (e.g. 3.5% of income tax, redirections from corporation tax/micro-enterprise tax) or other similar forms. The declaration contains information on the receipts mentioned above and how these sums were used (salary payments, purchases, rent, etc.).
- From 2025, associations and foundations are required to submit declarations via the SAF-T system, which provides Romanian state institutions with access to highly detailed information regarding the organisation's transactions and enables them to identify the parties involved in those transactions. Through this declaration, ANAF gains direct access, in a structured electronic format, to the organisation's accounting database. Any donor whose name and tax identification number/CNP has been entered into the accounting software for the recording of accounting entries automatically becomes visible and identifiable to the state.
- In order to receive a sponsorship, an NGO must be registered in the Register of entities/religious organizations for which tax deductions are granted. When a company sponsors an NGO and wishes to deduct that amount from its tax, it is required by law to submit a specific report that includes the name and tax identification number of the NGO.

[1] Unlike single-entry bookkeeping (where you simply note down how much money has come in and how much has gone out, as in a savings notebook), double-entry bookkeeping provides a complete picture: it shows not only **how much money** has moved, but also **where it came from** and **where it went**.

[2] Ministry of Finance Order No. 470/2024 on the reporting of information regarding funding received by non-profit legal entities and Ministry of Finance Order No. 255/2025 setting out the cash flow statement, issued pursuant to Article 34(3^1) (3^1) of Accounting Law No. 82/1991, were introduced by Government Emergency Ordinance No. 115/2023 on certain fiscal and budgetary measures

- For sums redirected via the 3.5% scheme, the state has direct control over the source: it is the state that processes the forms, verifies the individual's tax identification number and transfers the funds from the treasury to the NGO's account. The state has full control over this process.
- In the case of donations from individuals: for amounts exceeding 25,000 lei, the Romanian Civil Code requires the parties to enter into a donation contract in authentic form (at a notary). This contract must include full identity details (name, CNP, address). Notaries periodically report the authenticated documents to the state. For amounts under 25,000 lei: if donated by bank transfer, the donor's identity must be recorded; if the donation is in cash, a receipt or payment order must be issued, including the payer's identification details ( ), and this must be recorded in the NGO's accounts, to which the Romanian state has access. If the NGO receives cash and does not record it in its accounts (does not issue a receipt or a cash receipt), the act constitutes an administrative offence or a criminal offence (tax evasion). During an audit, ANAF inspectors verify the correlation between the physical cash stock in the safe and the book balance in the Cash Register. Any unjustified surplus or shortfall results in severe fines and the confiscation of the sums involved.
- Through banking regulations and those relating to the prevention of money laundering and terrorist financing[3] : ANAF has access to the Centralised Register of Bank Accounts, which lists the names of legal entities and individuals who have made transfers to a non-governmental organisation. Under the law on the prevention and combating of money laundering, banks automatically report to the National Office for the Prevention and Combating of Money Laundering (ONPCSB) any suspicious transactions or those exceeding the legal thresholds, where the donor's identity must be verified.
- In the case of cross-border transfers: any external bank transfer initiated by a foreign donor to the lei or foreign currency account of an NGO in Romania must include the donor's name, IBAN code/account number and the bank of origin. Commercial banks in Romania have a legal obligation to monitor and report to the National Office for the Prevention and Combating of Money Laundering (ONPCSB) any external transactions exceeding the legal thresholds. In these reports, the donor's full identity is disclosed to the state.

Within Romania's legal financial circuits, the tax and banking authorities already have the ability to reconstruct the identity of donors through existing accounting, tax and banking mechanisms. The pseudo-anonymity a donor may choose applies exclusively in relation to the general public or to publication on the association's website; however, tax and banking authorities can identify the individual by checking accounting documents or the money trail.

Furthermore, the additional processing of personal data thus becomes an excessive obligation, which violates the principles of personal data processing, in accordance with Article 5 of EU Regulation 679/2016 (GDPR)

II. **The sanction of 'automatic suspension of activities'** is a very vague phrase, contrary to the principles of quality and precision in law, and constitutes a severe restriction on the right of

[3] Law 129/2019

association. The legislative initiative introduces a legally undefined sanction, more severe than many existing administrative or criminal sanctions.

The phrase "automatic suspension of a legal person's activities" is not defined in Romanian law and does not exist as a general legal concept in the context of NGOs. Government Ordinance 26/2000 does not regulate the suspension of the activities of associations and foundations, and Romanian law does not provide for an automatic and general suspension of the activities of a private legal person.

The sanction is incompatible with the principle of proportionality of sanctions and is more severe than regimes existing in criminal or administrative law. The suspension of a legal person's activities is a supplementary penalty provided for in Article 140 of the Criminal Code; in other words, criminal liability of the legal person is established. Even in that context, it is the judge who decides whether to apply the supplementary penalty of suspension, that is, 'the prohibition of the legal person's activity or one of its activities in the course of which the offence was committed'. In the proposed amendment, all the activities of an NGO are automatically suspended ('by operation of law'), regardless of the legal relationships it currently has (commercial, employment, voluntary, etc.).

Furthermore, the proposed measure of suspension by operation of law is even stricter than the measures applicable to administrative sanctions in the field of consumer protection, for example. In Government Ordinance 21/1992 on consumer protection, the additional penalty under Article 56 is "the suspension or definitive withdrawal, as the case may be, of the notice, agreement or authorisation to carry out an activity", i.e. it specifies precisely the administrative act in question, not "the activity".

III. In a democratic state, transparency must aim to ensure accountability in the exercise of public power, not to turn private organisations into objects of permanent public suspicion. The legislative initiative fails the test of necessity and proportionality in relation to Article 11 of the European Convention on Human Rights and Article 12 of the Charter of Fundamental Rights of the European Union.

European standards consistently distinguish between legitimate reporting obligations to public authorities and mechanisms for the disproportionate public exposure of organisations and their supporters. Relevant is the CJEU case C-78/18, ***European Commission v Hungary*** *(Transparency of associations[4])*, judgment of 18 June 2020, ECLI:EU:C:2020:476, in which the Court of Justice of the European Union held that excessive obligations regarding the public disclosure of NGO funding:

- have a stigmatising effect;
- create mistrust towards organisations;
- discourage donors;
- affect freedom of association and the free movement of capital.

Similarly, the Council of Europe and the OSCE/ODIHR recently (in 2025) criticised the draft legislation, which subsequently became law in Slovakia: Council of Europe – letter on the Slovak draft law on NGOs,

[4] CJEU – Case C-78/18 Commission v Hungary

OSCE/ODIHR – legal opinion on the Slovak draft law, and the Venice Commission's opinion on the Slovak law.

Subsequently, the Constitutional Court of **Slovakia** declared the law adopted in 2025 on NGOs and the transparency of funding to be unconstitutional, noting that NGOs cannot be treated as public authorities and that excessive disclosure obligations and associated sanctions affect the freedom of association.[5]

At the same time, the obligation to publish the identity of funders mirrors the logic of 'foreign agents' legislation, which has already been criticised or sanctioned at European level for its effects on freedom of association and civic participation. Recent European experience shows that such legislative mechanisms are frequently justified on grounds of transparency, but can lead to stigmatisation, delegitimisation and a deterrent effect on civic participation, particularly when accompanied by excessive obligations regarding the public disclosure of donors and disproportionate sanctions.

In practice, these mechanisms are often based on the idea that the authorities do not have sufficient information regarding the source of NGO funding and that there is a systemic risk of uncontrolled external influence. However, as we have shown in section I, the Romanian authorities already have extensive access to NGOs' financial information through existing fiscal, accounting and banking mechanisms. In these circumstances, the legislative initiative does not demonstrate the existence of a pressing social need that would justify the introduction of an additional obligation of generalised public disclosure of donors.

Using transparency as a pretext for such an obligation or as a justification for punitive measures against NGOs risks turning a legitimate democratic principle into a tool incompatible with pluralism and free civic participation.

[5] https://memo98.sk/article/russian-law-the-constitutional-court-ruled-that-the-law-is-unconstitutional; https://www.ustavnysud.sk/docDownload/88485671-308f-48f9-a429-e49dfa02611b