



EUROPEAN COMMISSION

Maroš Šefčovič
Vice-President

A 003785 12.05.2022

Brussels, 11/05/2022

Dear President Metsola,

The Commission would like to thank the European Parliament for its resolution with recommendations to the Commission on a statute for European cross-border associations and non-profit organisations, adopted on 17 February 2022, in accordance with Article 225 of the Treaty on the Functioning of the European Union (TFEU).

The resolution calls on the Commission to submit two legislative proposals: a Regulation creating the legal form of “European Associations”, and a Directive harmonising common minimum standards for Non-Profit Organisations in the EU.

In addition, the European Parliament also requests the Commission to i) undertake a comparative analysis of forms of non-profit organisations and use the results of this analysis to accompany the legislative proposals with a list of national forms covered; ii) to develop a dedicated, comprehensive strategy to strengthen civil society in the EU; iii) support a regular, meaningful and structured dialogue with civil society and assess the possibility of developing a participatory status for public benefit organisations at EU level; iv) promote the public benefit activities of non-profit organisations and facilitate the mutual recognition of public benefit tax-exempt organisations, including philanthropic organisations.

The Commission welcomes the resolution which was discussed in the College at its meeting of 11 May 2022. In accordance with the political commitment made by President von der Leyen in her Political Guidelines as regards resolutions adopted by the European Parliament under Article 225 TFEU, the Commission will follow-up the resolution appropriately in full respect of proportionality, subsidiarity and better law making principles and will also assess other alternative approaches in order to achieve the goals identified by the Parliament.

Ms Roberta Metsola
President of the European Parliament

The Commission concurs with the Parliament that non-profit organisations significantly contribute to the EU green and digital transitions and to the resilience of the EU economy as a whole, as well as support individuals to actively participate in the EU democratic life. The Commission also agrees that non-profit organisations face obstacles when engaging in activities across borders. As outlined in the resolution, such obstacles may have a negative impact on the further development of civil society and its potential to address societal challenges, by unduly restricting fundamental rights, such as the right of association, expression and information, and deter non-profit entities from extending their activities across borders.

Therefore, the Commission fully shares the European Parliament's objective to promote and support the role of associations and other non-profit organisations in the EU as social and economic actors and intends to follow-up the objectives and the recommendations of the resolution as described below.

1) Request to propose a Regulation on a statute for a European Association and a Directive on common minimum standards for non-profit organisations in the Union:

The Commission agrees that creating a legal form for associations, and potentially other non-profit organisations at Union level can contribute to an enabling environment for such organisations, supporting the functioning of the Single Market while contributing to the Union's social and economic cohesion. Past attempts to allow such entities, be it associations or foundations, to acquire a European statute and facilitate their cross-border activities, failed. For instance, the 1990 Commission proposal to create a European Association and the 2012 Commission proposal on a Statute for a European Foundation were withdrawn, failing to secure sufficient support among Member States.

The socio-economic potential of non-profit organisation has certainly increased in the last decade. Today, they play an even more significant role in our economy while providing a continuous support to individuals to actively participate to the democratic life.

In light of this, the Commission will propose, within the respect of the principles of subsidiarity and proportionality and Member States' competences and better law making, a legislative initiative to allow associations and potentially other non-profit organisations, if relevant and feasible, to enjoy fully the single market freedoms, while protecting their fundamental rights and freedom of association more generally. The Commission will examine how the envisaged legislative proposal could seek to create, for the non-profit organisations in its scope, additional legal forms in national law, which, based on identified harmonised criteria, would be recognised in other Member States' jurisdictions by mutual recognition.

The ongoing study on the legal regimes of associations and landscapes in the 27 Member States, will provide relevant information to identify associations and comparable entities throughout the Union. An additional study will be launched soon in the context of the preparatory work of the legislative proposal. This study will enable us to acquire missing data on non-profit organisations and identify the gaps in the functioning of the single market for non-profit organisations. Finally, the Commission will complete in May a study on cross-border cooperation best practices by social economy organisations, which may feed into the preparatory work and that will be published when finalised. These three strands of work will enable to address the current data gap regarding non-profit associations and support our future action in the matter. They will also address the Parliament's request to the Commission to undertake a comparative analysis of forms of non-profit organisations and use the results of this analysis to accompany the legislative proposal with a list of national forms covered.

2) Request to develop a dedicated, comprehensive strategy to strengthen civil society in the Union:

The Commission recognises the crucial role played by civil society organisations for the well-functioning of our democracies, and it is aware of different challenges they face in some Member States. Fostering a supportive environment for civil society organisations, which is a shared responsibility of the EU and its Member States, is already one of the key objectives of the Commission's Strategy to strengthen the application of the Charter of Fundamental Rights in the EU, adopted in December 2020¹ and the 2022 report on the application of the Charter of Fundamental Rights will be dedicated to the role of the civic space in protecting and promoting Charter rights. Assessment of the civil society and its enabling environment is also an inevitable part of the annual Rule of Law report. The Commission is using a toolbox to support and protect civil society organisations and rights defenders. This includes: monitoring of the situation and reporting about that, acting in case of violation of EU law, financial support and constant dialogue.

The Commission will examine how to build on all these tools to further strengthen civil society in the EU.

3) Request to put in place a system complemented by measures to support a regular, meaningful and structured dialogue with civil society and representative organisations:

The Commission recognises the importance of having a meaningful relationship with civil society and is committed to having an open and constructive cooperation and dialogue with CSOs and having regular meetings, in accordance with Article 11 TEU. This article is already being implemented through a wide range of decentralised forms of structured dialogue and consultations with civil society, spanning numerous policy areas. These include, for instance, structured civil society dialogues in the field of trade and agriculture, various platforms such as the European Migration Forum or the European Civil Protection Forum, as well as the newly established Civil Dialogue Group under the new Citizens, Equality, Rights and Values Programme. This is also exemplified by the consultation ahead of the adoption of several Strategies, the creation in 2020 of the Expert group on the views of migrants in the field of migration, asylum and integration and by the creation of platforms for exchanges with CSOs in the implementation of those strategies. The Commission will consider how to further improve its dialogue and engagement with citizens and stakeholders, also taking into account the experience from the Conference on the Future of Europe.

4) Request to promote NPOs public benefit activities of facilitating the mutual recognition of public benefit tax-exempt organisations, including philanthropic organisations:

Finally, as announced in the Action Plan on Social Economy, the Commission will address these issues and will issue guidance on relevant taxation frameworks for social economy entities (including associations and foundations), based on available analysis and input provided by Member States' authorities and social economy stakeholders. It will also publish guidance clarifying the existing rules on the tax treatment of cross-border public benefit donations affecting foundations and associations and the implementation of the principle of non-discrimination with Member States².

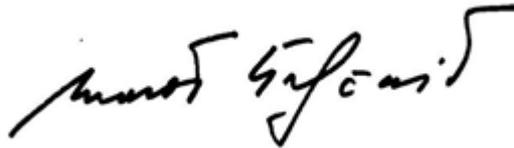
¹Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Strategy to strengthen the application of the Charter of Fundamental Rights in the EU <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0711&qid=1608047356199> .

²Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Building an economy that works for people: an action plan for the social economy*, page 8.

Overall, the Commission considers that this package of legislative and non-legislative measures can meet the Parliament's requests, ensure the best added value at EU level in line with the principles of subsidiarity and proportionality, and put in place appropriate forms for cooperation between the non-profit-organisations and EU citizens.

The Commission looks forward to continuing engaging with the Parliament on this matter.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Maroš Šefčovič', written in a cursive style.

Maroš Šefčovič