



## OBJECTIONS

### **To Article 6 of the Draft Law on “Making Amendments and Additions to the RA Law “On Non Governmental Organizations”**

The Center of Information Law and Policy of INTERNEWS Media Support NGO expresses its concern on Article 6 of the draft law on making amendments and additions to the RA Law “On Non Governmental Organizations” (hereinafter referred to as the Draft).

The above mentioned Article aims at enforcing the NGOs to publish annual information (a report) on the activity and use of property (including financial) in the printing media with not less than one thousand printing circulation

*Our objections on the above mentioned addition are based on the following arguments:*

1. Submission of information by the NGOs is always welcome in order to ensure transparency of the organization. However, submission of information (reports) by the procedure established by the Draft, which is moreover of a mandatory nature, in our opinion, contradicts the provisions of Recommendation Rec(2007)14 of the Committee of Ministers to member states<sup>1</sup>.
2. The NGOs receiving any form of public support should expect to account for the use made of it. It is not unreasonable for NGOs to be required to report each year on the activities that they have undertaken and the accounts for the profit and loss concerned. However, such a reporting obligation should not be unduly burdensome and should not require the submission of excessive detail about either the activities or the accounts<sup>2</sup>. This reporting obligation is without prejudice to any particular reporting requirement in respect of a grant or donation. This requirement is distinct from any generally applicable requirement regarding the keeping and inspection of financial records and the filing of accounts.
3. In this respect “Human Rights Watch” organization states that the activity of the NGOs must be regulated by the appropriate state bodies only on issues of tax compliance or on issues related to corresponding requirements, if the activity requires licensing (e.g. a license for the permission to provide medical service)<sup>3</sup>.

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<sup>1</sup> Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organizations in Europe

<sup>2</sup> Explanatory Memorandum to Recommendation CM/Rec (2007) 14 of the Committee of Ministers to member states on the Legal Status of Non-Governmental Organisations in Europe) point 114, para 62 :

<sup>3</sup> Human Rights Watch, Proposals on Changes to the Russian Federal Laws on Regulating NGOs, Reporting, 3rd point, Retrieved from <http://www.hrw.org/node/83165>

4. Indeed, according to the Draft big human and financial resources are required for publishing the whole financial and accounting activity of the year as well as reports submitted to tax and other authorities in the press, the necessity of which, in our opinion, is not duly justified. In addition, NGOs are obliged by the procedure already established by the law to be accountable for the whole financial activity they carry out.

5. At the same time, in compliance with the Recommendation, NGOs that are legal entities should enjoy the same capacities as are generally enjoyed by other legal entities, irrespective of their commercial or non-commercial status. They should be subject to the administrative, civil and criminal law obligations and sanctions generally applicable to those legal persons.<sup>4</sup> In our opinion, Article 6 of the Draft sets an additional and unenforceable requirement for other legal entities, which is a biased attitude towards NGOs.

6. Despite the Draft being justified by the complaints and suggestions submitted by the NGOs in relation to this law, we think that the legal economic consequences of these amendments and additions rise from the interests of neither NGOs nor Armenian civil society. Moreover, to our mind, as a consequence of the adoption of the Draft, first of all the activity of the concerned NGOs will be in difficulty.

7. **Suggestion:** Not ignoring the justification of the Draft which is “to ensure the transparency principle of the activity of the organization”, as a solution we suggest making available the whole information related to the activity of the organization and finances by the manner chosen by the organization itself based on its capabilities, i.e. via its web page, e-mails or via any other means which are not seriously burdensome from the financial point of view. In result the purposes established by the Draft will be achieved.

Summarising all the above mentioned points and taking as grounds the significance of the issues raised in the Draft we consider it necessary to conduct public discussions with the authors of the Draft, NGO representatives and other stakeholders, creating the atmosphere of legal certainty and foreseeability for business entities, as well as providing an opportunity for the representatives of the related field to express their concerns and opinions.

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<sup>4</sup> CoE Rec (2007)14, para. 7 - NGOs with legal personality should have the same capacities as are generally enjoyed by other legal persons and should be subject to the administrative, civil and criminal law obligations and sanctions generally applicable to those legal persons.