



**Input for the Draft General Comment No. 38 on  
Article 22 (Freedom of Association) of the  
International Covenant on Civil and Political Rights**

Considerations on “Foreign Agents” Laws and Foreign  
Funding Restrictions

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## Introduction

1. This Input is provided by the Georgian Young Lawyers' Association (GYLA) in the context of the drafting of General Comment No. 38 on Article 22 of the International Covenant on Civil and Political Rights.
2. It addresses issues concerning freedom of association, democratic participation, and the role of civil society, taking into account the integral part of civil society organizations in the functioning of a democratic society, as well as their essential contribution to the effective operation of international human rights treaties through alternative reports, submissions, strategic litigation, individual communications, and the representation of victims before international and regional mechanisms. The document highlights that shrinking civic space threatens democracy and human rights at the national level, while also undermining the effective functioning of international mechanisms, limiting their ability to obtain objective information on human rights situation in States and by hindering individuals' access to international mechanisms.
3. The document discusses recent legislative trends affecting civil society organizations, namely restrictions related to foreign funding. Based on interpretations by international and regional mechanisms, the Committee observations, and expert assessments, the document examines emerging legislative trends, their cumulative and contextual impact on civil society organizations, and their intersection with other Covenant rights, with a view to supporting the Human Rights Committee in clarifying applicable standards under Article 22.

## Freedom of Association as a fundamental Aspect of Democracy

4. Freedom of association is considered to be a vital aspect of any democratic system.<sup>1</sup> This freedom allows the very existence of political parties, pluralistic expression and enables choice in popular representation, since associations endure as vehicles of political expression.<sup>2</sup> The European Court of Human Rights (ECtHR) has on numerous occasions affirmed the direct relationship between democracy, pluralism and the freedom of association. Indeed, the way in which national legislation enshrines this freedom and its practical application by the authorities reveal the state of democracy in the country concerned.<sup>3</sup> The participation of citizens in the democratic process is to a large extent achieved through belonging to associations in which they may integrate with each other and pursue common objectives collectively.<sup>4</sup>
5. The significance of freedom of assembly in a democratic society extends beyond enabling the existence of political parties. It also safeguards the capacity of individuals to come together around shared interests and take collective action that contribute to public discourse and democratic participation.<sup>5</sup> Freedom of association is also important for persons belonging to minorities, including national and ethnic minorities as forming an association in order to

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<sup>1</sup> Taylor P. M., A Commentary on the International Covenant on Civil and Political Rights UN Human Rights Committee's monitoring of ICCPR Rights, Cambridge University Press, 2020, p. 610.

<sup>2</sup> Ibid.

<sup>3</sup> ECtHR, *Gorzelik and Others v. Poland* [GC], Application no. 44158/98, 17 February 2004, par. 88; ECtHR, *Sidiropoulos and Others v. Greece*, Application no. 26695/95, 10 July 1998, par. 40.

<sup>4</sup> ECtHR, *Moscow Branch of the Salvation Army v. Russia*, Application no. 72881/01, 5 October 2006, par. 61.

<sup>5</sup> Cf. Taylor P. M., A Commentary on the International Covenant on Civil and Political Rights UN Human Rights Committee's monitoring of ICCPR Rights, Cambridge University Press, 2020, p. 611.

express and promote its identity may be instrumental in helping such communities to preserve and uphold their rights.<sup>6</sup>

6. Civil society organizations (CSOs) play important role in supporting democracy, such as by monitoring government behavior and raising the alarm when governments violate democratic norms.<sup>7</sup> They also help preserve democracy through creating domestic networks where citizens can interact, build trust, and share information.<sup>8</sup>
7. Research shows that shrinking civic spaces and mounting restrictions on CSOs correlate strongly with a deterioration of democratic institutions.<sup>9</sup> They affect the potential of CSOs to facilitate citizen participation in public life and to act as a conduit between communities and institutions.<sup>10</sup> This is particularly detrimental to minority or marginalized groups.<sup>11</sup>
8. CSOs' efforts substantively feed into the monitoring work of international and regional bodies, contributing to key monitoring and reporting processes, including the UN Universal Periodic Review and UN treaty bodies' concluding observations.<sup>12</sup> As the Human Rights Committee has noted, the NGOs have been playing an important role in the implementation of the Covenant and have been making contributions at all stages of the Committee's activities.<sup>13</sup> In general, they provide important information relevant to the conduct of the Committee's activities and have a catalytic role in enhancing the implementation of the Covenant at the domestic level.<sup>14</sup>
9. CSOs play a crucial role in the effective functioning of international and regional human rights treaties, particularly through litigation and individual communications on behalf of victims. As ECtHR has stressed, in modern-day societies, recourse to collective bodies such as associations is one of the accessible means, sometimes the only means, available to people whereby they can defend their particular interests effectively.<sup>15</sup>
10. In "*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*", case regarding climate change response, ECtHR granted standing (*locus standi*) to Swiss NGO *Verein KlimaSeniorinnen Schweiz*, emphasizing "the special feature of climate change as a common concern of humankind and the necessity of promoting intergenerational burden-sharing in this context".<sup>16</sup> In this case, with regards to *locus standi* of associations the ECtHR noted that it

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<sup>6</sup> ECtHR, *Gorzelik and Others v. Poland* [GC], Application no. 44158/98, 17 February 2004, par. 93.

<sup>7</sup> Smidt, H., Johansson, J. & Richter, T. *Civil Society Under Attack: The Consequences for Horizontal Accountability Institutions*. *St Comp Int Dev* 60, 2025, p. 83. <https://doi.org/10.1007/s12116-023-09423-x>, [17.12.2025]

<sup>8</sup> Ibid.

<sup>9</sup> Ibid. see also OSCE PA SPECIAL REPRESENTATIVE ON GENDER ISSUES, THE 2024 REPORT ON GENDER ISSUES: Fostering free and inclusive societies: The role of civil society organizations in a time of democratic decline, 2024, p. 9, <https://www.oscepa.org/en/documents/special-representatives/gender-issues/report-17/4995-2024-gender-report-fostering-free-and-inclusive-societies-the-role-of-civil-society-organizations-in-a-time-of-democratic-decline-eng/file>, [17.12.2025].

<sup>10</sup> OSCE PA SPECIAL REPRESENTATIVE ON GENDER ISSUES, THE 2024 REPORT ON GENDER ISSUES: Fostering free and inclusive societies: The role of civil society organizations in a time of democratic decline, 2024, p. 9, <https://www.oscepa.org/en/documents/special-representatives/gender-issues/report-17/4995-2024-gender-report-fostering-free-and-inclusive-societies-the-role-of-civil-society-organizations-in-a-time-of-democratic-decline-eng/file>, [17.12.2025].

<sup>11</sup> Ibid.

<sup>12</sup> FRA, EUROPE'S CIVIL SOCIETY: STILL UNDER PRESSURE, UPDATE 2022, [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2022-protecting-civic-space\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2022-protecting-civic-space_en.pdf), [17.12.2025], See also CCPR/C/104/3.

<sup>13</sup> CCPR/C/104/3, par. 3.

<sup>14</sup> Ibid.

<sup>15</sup> ECtHR, *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], Application no. 53600/20, 9 April 2024, par. 489.

<sup>16</sup> Ibid, par. 499.

will have regard to such factors as the purpose for which the association was established, that it is of non-profit character, the nature and extent of its activities within the relevant jurisdiction, its membership and representativeness, its principles and transparency of governance and whether on the whole, in the particular circumstances of a case, the grant of such standing is in the interests of the proper administration of justice.<sup>17</sup>

11. The Human Rights Committee has noted that NGOs play an important role in providing assistance to alleged victims of human rights violations under the Covenant in submitting individual communications to the Committee under the Optional Protocol.<sup>18</sup> This once again demonstrates the essential function of CSOs in upholding international human rights law and advancing its implementation.
12. The United Nations Human Rights Council in its 2016 resolution 32/31 recognized the important role of civil society at the local, national, regional and international levels and noted that civil society facilitates the achievement of the purposes and principles of the United Nations, and that the restriction of civil society space therefore has a negative impact upon their achievement.<sup>19</sup> The Human Rights Council encouraged the special procedures, the treaty bodies and relevant United Nations bodies, agencies, funds and programmes to continue to address relevant aspects of civil society space in the framework of their respective mandates.<sup>20</sup>

## **Emerging trend of “Transparency” and “Foreign Funding” Regulations and Their Misuse**

13. The shrinking of civil space has emerged as one of the most concerning trends affecting democratic governance. This phenomenon increasingly manifests through laws and practices that restrict the freedom of association, particularly targeting CSOs. A recurring pattern is the adoption of legislation aimed at organizations receiving foreign funding, often through the introduction of “foreign agent” type registries. Such laws have recently been adopted in Russia,<sup>21</sup> Hungary,<sup>22</sup> and Georgia,<sup>23</sup> and similar regulatory models continue to appear in other jurisdictions.<sup>24</sup>
14. These laws typically create a new legal category of organizations and subject them to stigmatizing labels such as “foreign agents”<sup>25</sup> or equivalent terms.<sup>26</sup> Even where the word “agent” is not explicitly used, the terminology and its connotations remain the same, conveying allegations of external control or disloyalty.<sup>27</sup> The designation is commonly triggered by the

<sup>17</sup> Ibid, par. 502.

<sup>18</sup> CCPR/C/104/3, par. 13.

<sup>19</sup> A/HRC/RES/32/31, [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/32/31](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/32/31), [17.12.2025].

<sup>20</sup> Ibid.

<sup>21</sup> ECtHR, *Ecodefence and Others v. Russia*, Application no. 9988/13, 14 June 2022.

<sup>22</sup> CJEU, Case C-78/18, 18 June 2020.

<sup>23</sup> Venice Commission, CDL-PI(2024)013, 2024, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI\(2024\)013-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2024)013-e), [17.12.2025]; Venice Commission, CDL-AD(2025)034, 2025, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2025\)034-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2025)034-e), [17.12.2025].

<sup>24</sup> EXPERT COUNCIL ON NGO LAW, CONF/EXP(2025)2, 31 January 2025, <https://rm.coe.int/expert-council-opinion-on-the-amendments-to-the-slovakia-ngos-laws-doc-/1680b3f82b>, [16.12.2025]; Reuters, Kazakhstan lawmakers propose Russian-style ‘foreign agent’ law, 12 February, 2025, <https://www.reuters.com/world/asia-pacific/kazakhstan-lawmakers-propose-russian-style-foreign-agent-law-2025-02-12/>, [16.12.2025].

<sup>25</sup> ECtHR, *Ecodefence and Others v. Russia*, Application no. 9988/13, 14 June 2022.

<sup>26</sup> Venice Commission, CDL-PI(2024)013, 2024, par.71, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI\(2024\)013-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2024)013-e), [17.12.2025];

<sup>27</sup> Ibid.

receipt of foreign funding, without any meaningful assessment of actual dependency, control, or agency in the organisation's activities.<sup>28</sup> In other cases, where the "agent" status is not defined by certain threshold of foreign funds receives, legislation relies on vague, overly broad, or unforeseeable criteria, which in practice still focus on foreign funding and enable arbitrary and discriminatory application.<sup>29</sup>

15. These laws frequently introduce unjustified disclosure requirements, burdensome reporting and auditing obligations, severe sanctions for non-compliance, and, in some instances, an obligation to include stigmatizing disclaimers in public communications indicating the organization's "agent" status.
16. Such framework usually creates a choice between either refusing all "foreign funding" or incurring additional expenses relating to reporting, accounting and audit services and abiding by the other requirements, such as the labelling of publications and frequent inspections.<sup>30</sup> By imposing that choice on the organizations, they have to opt for either exclusively domestic or foreign funding, thereby effectively restricting the available funding options.<sup>31</sup> According to the European Court of Human Rights (ECtHR), in such cases enforced choice between accepting foreign funding and soliciting domestic State funding represents a false alternative.<sup>32</sup>
17. The restrictions usually cause CSOs reputational harm, the scaling back of activities and closure.<sup>33</sup>
18. Although such measures are usually justified by States on grounds of transparency, they fail to demonstrate connection to a legitimate aim or to establish the necessity and proportionality of the restrictions imposed.<sup>34</sup>
19. A number of international and regional human rights bodies, including the European Court of Human Rights (ECtHR)<sup>35</sup> and the Court of Justice of the European Union (CJEU)<sup>36</sup>, have examined such legislative frameworks and found them to be incompatible with the right to freedom of association. Similarly, expert bodies such as the Venice Commission<sup>37</sup> and OSCE ODIHR<sup>38</sup> have consistently assessed these regulatory models as violating freedom of association.
20. The Human Rights Committee has on several occasions addressed such laws:

<sup>28</sup> ECtHR, *Ecodefence and Others v. Russia*, Application no. 9988/13, 14 June 2022, par. 134-135.

<sup>29</sup> Venice Commission, CDL-AD(2025)034, 2025, par. 58, 64. [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2025\)034-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2025)034-e), [17.12.2025].

<sup>30</sup> ECtHR, *Ecodefence and Others v. Russia*, Application no. 9988/13, 14 June 2022, par 167-168.

<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

<sup>33</sup> CCPR/C/RUS/CO/8, par. 34; see also GYLA, HUMAN RIGHTS SITUATION IN GEORGIA 2025 Assessment of the Georgian Young Lawyers' Association December 10, 2025, pp. 10-12, [https://admin.gyla.ge/uploads\\_script/publications/pdf/HUMAN%20RIGHTS%20SITUATION%20IN%20GEORGIA%2025.pdf](https://admin.gyla.ge/uploads_script/publications/pdf/HUMAN%20RIGHTS%20SITUATION%20IN%20GEORGIA%2025.pdf), [16.12.2025].

<sup>34</sup> ECtHR, *Ecodefence and Others v. Russia*, Application no. 9988/13, 14 June 2022.

<sup>35</sup> Ibid; see also ECtHR, *Kobaliya and Others v. Russia*, Application no. 39446/16, 22 October 2024.

<sup>36</sup> CJEU, Case C-78/18, 18 June 2020.

<sup>37</sup> Venice Commission, CDL-AD(2025)034, 2025, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2025\)034-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2025)034-e), [17.12.2025]; Venice Commission, CDL-PI(2024)013, 2024, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI\(2024\)013-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2024)013-e), [17.12.2025].

<sup>38</sup> OSCE ODIHR, Opinion-Nr.: NGO-GEO/506/2024 [NR], 2024, <https://odihr.osce.org/odihr/569922>, [17.12.2025].

21. In concluding observations CCPR/C/RUS/CO/7 on the committee expressed concern about the amendments introduced in 2012 to Federal Law No. 121-FZ of Russia on Non-Commercial Organizations, requiring non-commercial organizations receiving foreign funding and engaging in “political activities” to register as “foreign agents”, and about their adverse impact on the freedom of expression, assembly and association.<sup>39</sup> The Committee noted with concern that the definition of “political activity” in the law is very broadly construed and permits authorities to register as “foreign agents”, without their consent or a court decision, non-governmental organizations (NGOs) conducting diverse activities related to public life, including NGOs working on human rights and environmental issues.<sup>40</sup> The Committee was also concerned about the complex procedure of removal from the “foreign agent” register and regrets that the amendments led to restrictions on the operations of NGO activities and to suspension or voluntary closure of some NGOs.<sup>41</sup> The Committee called on the state repeal or revise the legislation.<sup>42</sup>
22. In its concluding observations CCPR/C/RUS/CO/8 on Russia, the Committee, reiterated previous concluding observations, expresses its deep concern about legislation that severely restricts freedom of association, including provisions on “foreign agents”.<sup>43</sup> It was further concerned about the expansion of these restrictions, including through the law broadening the categories of “foreign agents” to include additional groups.<sup>44</sup>
23. Similarly, in its concluding observations CCPR/C/HUN/CO/6 on Hungary, the Committee expressed concern about unreasonable, burdensome and restrictive conditions imposed on some non-governmental organizations receiving foreign funding, including the requirement that certain NGOs should register as “foreign-supported organizations” and publicly identify their foreign supporters.<sup>45</sup> the Committee noted a lack of sufficient justification for the imposition of these requirements, which appear to be part of an attempt to discredit certain NGOs, including NGOs dedicated to the protection of human rights in Hungary.<sup>46</sup>
24. It is clear that such legal regimes unduly restrict freedom of association and are incompatible with regional and international human rights treaties. Number of human rights mechanisms have already found them incompatible with human rights standards. The above-mentioned concluding observations of the Human Rights Committee further confirm that the Committee shares this position and considers such legislation incompatible with Article 22 of the ICCPR. Nevertheless, the relatively recent emergence and rapid spread of these laws continue to require greater interpretative clarity. In this context, reiterating these positions in a General Comment would be particularly valuable in preventing interpretative gaps and reinforcing established standards.

### **Other forms of funding Restrictions Undermining Art. 22**

25. Similar to “foreign agent” laws, sometimes other restrictions on foreign funding are imposed based on presumption that all foreign funding constitutes a threat to national security. It is

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<sup>39</sup> CCPR/C/RUS/CO/7, par. 22.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>43</sup> CCPR/C/RUS/CO/8, par. 34.

<sup>44</sup> Ibid.

<sup>45</sup> CCPR/C/HUN/CO/6, par. 53.

<sup>46</sup> Ibid.

essential that any limitation on access to foreign funding meet the strict requirements of necessity in a democratic society and avoid arbitrariness.

26. One such restriction is making the receipt of foreign funding dependent on prior governmental consent. Regulations of this kind have recently been adopted in Georgia, accompanied by broad monitoring and enforcement powers granted to the Anti-Corruption Bureau (soon to be merged with the State Audit Office).<sup>47</sup> According to the Venice Commission, these amendments to the Law on Grants lack sufficient justification, clear criteria for refusal, or effective safeguards, creating a significant risk of arbitrary enforcement.<sup>48</sup> The Bureau's wide investigatory powers, including the power of requesting immediate freezing of accounts, combined with tight procedural timelines and harsh sanctions, threaten fairness and due process.<sup>49</sup>
27. In its concluding observations CCPR/C/AZE/CO/4 on Azerbaijan the Human Rights Committee raised concerns regarding restrictive regulations on grants and donations received by public associations and NGOs, including the ban on foreign funding, and heavy penalties for violations of the relevant legislation.<sup>50</sup> The Committee called on the state to ensure that legal provisions regulating NGO grants allow access to foreign funding.<sup>51</sup>
28. It is therefore clear that other forms of arbitrary restrictions on foreign funding, whether through blanket bans or prior consent requirements, are incompatible with Article 22 of the ICCPR. In order to ensure that CSOs are able to perform their role as the "watchdogs of society", they should be free to solicit and receive funding from a variety of sources.<sup>52</sup>

## Importance of Context Analysis when Evaluating Art. 22 Restrictions

29. Restrictive legislation of this kind is often accompanied by broader State actions that undermine the ability of CSOs to operate freely and that contribute to their stigmatization. Such a broader environment must be taken into account when assessing the necessity and proportionality of any specific restriction or State interference.
30. For example, in its assessment of Hungary's legislation, Venice Commission noted "*although the highly stigmatising term "foreign agent" is not, and wisely so, used by the Hungarian legislator, it is doubtful whether in the current situation, marked by strong statements directed against civil society organisations funded from abroad, the expression "organisations receiving support from abroad" could be perceived in a neutral, descriptive way. This rhetoric has contributed to the controversy surrounding the debate about the merits of the Draft Law*".<sup>53</sup> Similarly, in its assessment of comparable legislation in Georgia, the Venice Commission also took into account the hostile environment created towards Georgian civil society actors<sup>54</sup>

<sup>47</sup> Venice Commission, CDL-AD(2025)034, 2025, par. 20, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2025\)034-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2025)034-e), [17.12.2025];

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> CCPR/C/AZE/CO/4, par. 40-41.

<sup>51</sup> Ibid.

<sup>52</sup> ECtHR, Ecodefence and Others v. Russia, Application no. 9988/13, 14 June 2022, par 167-168.

<sup>53</sup> Venice Commission, CDL-AD(2017)015, par. 24, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2017\)015](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2017)015), [17.12.2025].

<sup>54</sup> Venice Commission, CDL-PI(2024)013, 2024, par. 71, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI\(2024\)013-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2024)013-e), [17.12.2025].



31. It is also important to recognize that States might try to justify “foreign agent” legislation by adopting textually similar provisions to laws in other jurisdictions. However, the existence of textual similarities does not exclude fundamentally different purposes, effects, and modes of implementation.
32. A clear illustration of this concern is Georgia’s recently adopted “Foreign Agents Registration Act”, which is textually analogous to the United States Foreign Agents Registration Act. As the OSCE ODIHR has observed, *“Importing legislation from one country to another should always be approached with caution and needs to be considered in the context of the broader national institutional and legal framework.”*<sup>55</sup> Likewise, the Venice Commission stressed that *“the mere replication of the language of a foreign statute cannot evidently, in itself, secure compliance with international standards, particularly in a substantively different domestic context. What matters is not only the statutory text, but also the underlying legal principles, the relevant case-law, the institutional framework within which the statute operates.”*<sup>56</sup> Accordingly, the Venice Commission noted that the authorities’ reliance on the United States law as an “exact analogue” cannot, in itself, support the compatibility of Georgia’s Foreign Agents Registration Act with international human rights standards.<sup>57</sup>
33. Such legislative restrictions sometimes form part of a broader system of restrictive laws, reinforced by additional legislative measures aimed at shrinking civic space. For example, in its 2025 opinion, the Venice Commission assessed several Georgian laws concerning so-called “foreign influence”, including the Law on Grants and the Foreign Agents Registration Act. While examining the incompatibility of each law with international human rights standards individually, the Commission also expressly considered their cumulative impact. According to the Commission *“Individually, and even more so when taken together, these measures impose extensive and overlapping obligations combined with harsh liability provisions that disproportionately burden and subject to control those engaged in democratic oversight and rights advocacy. Overall, the legal framework created by GEOFARA and the related Laws cannot be regarded as compatible with the principles of legal certainty and proportionality in a democratic society. Their cumulative effect is coercive, stigmatising, and ultimately inconsistent with democratic pluralism.”*<sup>58</sup>

## Intersection with Other ICCPR articles

34. It is clear from the above analysis that such restrictions constitute a violation of Article 22 of the ICCPR. However, they are also closely linked to, and result in violations of, other human rights. More broadly, these restrictions undermine the fundamental principles of human rights and democratic pluralism,<sup>59</sup> affecting not only the right to freedom of association but also, freedom of expression, equality and non-discrimination, and the right to respect for private life.

### *Freedom of Expression (ICCPR Article. 19)*

<sup>55</sup> OSCE ODIHR, Georgia’s foreign agents legislation raises concerns over negative impact on civil society, OSCE human rights office says, 02.05.2025, <https://odihr.osce.org/odihr/588667>, [17.12.2025].

<sup>56</sup> Venice Commission, CDL-AD(2025)034, 2025, par. 40, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2025\)034-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2025)034-e), [11.12.2025];

<sup>57</sup> Ibid.

<sup>58</sup> Ibid. 111.

<sup>59</sup> Ibid.



35. In *“Ecodefence and Others v. Russia”*, the ECtHR interpreted Article 11 (freedom of association) of the European Convention on Human Rights (the Convention) in light of Article 10 (freedom of expression). According to the ECtHR two key concepts of the Act (“political activity”, “foreign funding”) falling short of the foreseeability requirement and judicial review failing to provide adequate and effective safeguards against the arbitrary and discriminatory exercise of the wide discretion left to the executive would be sufficient for a finding of a violation of Article 11, interpreted in the light of Article 10.<sup>60</sup> In *“Kobaliya and Others v. Russia”* the ECtHR found violation of Article 10 of the Convention and concluded that *“the ‘foreign agent’ legislative framework and its application to the applicants was arbitrary and was not ‘necessary in a democratic society’”. Moreover, such legislation has contributed to shrinking democratic space by creating an environment of suspicion and mistrust towards civil society actors and independent voices, thereby undermining the very foundations of a democracy.*<sup>61</sup> Similarly, in its concluding observations, the Human Rights Committee has expressed concerns arising from such legislation not only under Article 22, but also under Article 19 of the ICCPR.<sup>62</sup>

#### *Right to Privacy (ICCPR Article 17)*

36. With regards to Hungarian law, the CJEU has found violations of Articles 7 (Right to respect for private life) and Article 8(1) (Right to the protection of personal data) of the Charter of Fundamental Rights of the European Union.<sup>63</sup> These articles correspond to the Article 17 of the ICCPR.<sup>64</sup> The Law entailed obligations of declaration and publication of name, country and city of residence of the natural persons who grant financial support reaching certain thresholds to civil society organisations established in Hungary, and the amount of that support.<sup>65</sup> According to the CJEU, the fact that natural or legal persons with their residence or their registered office in another Member State or in a third country have granted to civil society organisations established in Hungary financial support reaching the thresholds provided for by the law does not allow such persons to be regarded as public figures.<sup>66</sup> Even if, given their specific aims, some of those organisations and those persons must be regarded as participating in public life in Hungary, the fact remains that granting such financial support does not entail the exercise of a political role.<sup>67</sup> Consequently, the CJEU concluded that the obligations of declaration and publication provided for by the Transparency Law limit the right to respect for private and family life.<sup>68</sup>

37. In *“Kobaliya and Others v. Russia”* the ECtHR found a violation of Article 8 of the Convention (right to respect for private and family life) as concerned the individual applicants.<sup>69</sup> The Court

<sup>60</sup> ECtHR, *Ecodefence and Others v. Russia*, Application no. 9988/13, 14 June 2022, par 118.

<sup>61</sup> ECtHR, *Kobaliya and Others v. Russia*, Application no. 39446/16, 22 October 2024, par. 98.

<sup>62</sup> Venice Commission, CDL-AD(2025)034, 2025, par. 114, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2025\)034-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2025)034-e), [17.12.2025]; Venice Commission, CDL-PI(2024)013, 2024, par. 76, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI\(2024\)013-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2024)013-e), [17.12.2025].

<sup>63</sup> CJEU, Case C-78/18, 18 June 2020.

<sup>64</sup> See CCPR General Comment No. 16, see also Taylor P. M., *A Commentary on the International Covenant on Civil and Political Rights* UN Human Rights Committee’s monitoring of ICCPR Rights, Cambridge University Press, 2020, pp. 458-459.

<sup>65</sup> CJEU, Case C-78/18, 18 June 2020, par 127.

<sup>66</sup> Ibid, 131.

<sup>67</sup> Ibid.

<sup>68</sup> Ibid, 132.

<sup>69</sup> ECtHR, *Kobaliya and Others v. Russia*, Applications no. 39446/16, 22 October 2024.

found that being designated as a “foreign agent” had serious repercussions on the applicants’ social and professional lives and reputations, amounting to an interference with their right to respect for private life.<sup>70</sup> The Court could not see how publication of the applicants’ personal data and the obligation to submit frequent and detailed reports on their income and expenses had served any other purpose than to overburden and intimidate them.<sup>71</sup> The Court also concluded that barring the designated individuals from participation in entire professions, cutting them off from the entirety of the youth population, and depriving them of revenue from private advertisers did not pursue the stated aim of upholding national security or transparency and could not be justified as being necessary in a democratic society.<sup>72</sup>

### *Right to Equality (ICCPR Article 26)*

38. In its assessment of Georgia’s “Foreign Influence” law, the Venice Commission recalled that “*in the Moscow Branch of the Salvation Army v. Russia Case, the ECtHR was reluctant to accept the foreign origin of a non-commercial organisation as a legitimate reason for a differentiated treatment; and the same reluctance would a fortiori be in place in case of mere foreign funding*”.<sup>73</sup> It concluded that the restrictions set by the law did not meet the principle of non-discrimination.<sup>74</sup> It is worth noting that in its concluding observations on Hungary, the Human Rights Committee has also raised concerns regarding the foreign influence law under Article 26 of the ICCPR.<sup>75</sup>

## **Conclusion**

39. The Input draws attention to the fundamental place of freedom of association in a democracy and highlights the essential role of civil society to its realization. It further emphasizes that CSOs are key actors in the effective functioning of international human rights mechanisms, supporting implementation of regional and international treaties, including through submissions, reports, individual communications, litigation and the representation of victims. Therefore, shrinking civic space weakens democracy and human rights on national level, limits access to information for international institutions and makes it more difficult for individuals to engage with international mechanisms.
40. The input demonstrates that so-called “foreign agents” laws and other restrictive regimes targeting access to foreign funding constitute a serious interference with the right to freedom of association under Article 22 of the ICCPR. Whether through stigmatizing registration requirements, excessive reporting obligations, prior authorization schemes, or blanket prohibitions on foreign funding, such measures consistently fail to satisfy the requirements of legality, necessity, and proportionality in a democratic society. This conclusion is supported by the practice and assessments of international and regional human rights bodies, including the Human Rights Committee, the ECtHR, the CJEU, the Venice Commission, and OSCE ODIHR.

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<sup>70</sup> Ibid, 110-114.

<sup>71</sup> Ibid.

<sup>72</sup> Ibid, 115.

<sup>73</sup> Venice Commission, CDL-PI(2024)013, 2024, par. 93, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI\(2024\)013-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2024)013-e), [17.12.2025].

<sup>74</sup> Ibid, 96.

<sup>75</sup> CCPR/C/HUN/CO/6, par. 53.

41. These restrictions rarely exist in isolation. As illustrated above, they are often accompanied with broader hostile environment marked by stigmatizing rhetoric, administrative pressure, and overlapping legislative measures aimed at shrinking civic space. Their cumulative effect is coercive and chilling, undermining the ability of civil society organizations to function independently and to fulfil their role as democratic watchdogs and vehicles of democratic pluralism. This broader context is therefore essential when assessing state interference under Article 22.
42. The Impact of such measures extends beyond freedom of association. “Foreign agent” regimes and arbitrary funding restrictions are closely connected with violations of other ICCPR rights, including freedom of expression (Article 19), the right to privacy (Article 17), and equality and non-discrimination (Article 26).
43. In this context, General Comment No. 38 provides an important opportunity for the Human Rights Committee to reaffirm, consolidate, and further develop its established practice under Article 22 of the ICCPR. In particular, the General Comment provides opportunity to reaffirm the important role of civil society organizations as independent actors contributing to democratic governance, pluralism, and the protection of human rights and further clarify that the ability of associations to seek, receive, and use resources from a diversity of sources, including foreign funding, constitutes an integral component of the right to freedom of association. At the same time, it is important the General Comment confirms that legislative frameworks such as so-called “foreign agents” laws or other foreign funding-related restrictions that arbitrarily limit access to resources, impose stigmatizing labels, or otherwise undermine the independent functioning of civil society organizations are incompatible with the Covenant. Finally, the General Comment provides an opportunity to emphasize that any restrictions affecting associations must be assessed in light of their true purpose, context, and cumulative impact, and must meet the strict requirements of legality, legitimacy, and necessity in a democratic society.

## About GYLA

*The Georgian Young Lawyers' Association (GYLA) is one of the largest and most trusted human rights organizations in Georgia, which has been fighting to protect human rights since 1994. Over the years, GYLA has played a significant role in the protection of human rights, strengthening democracy, and establishing the rule of law.*

*GYLA actively monitors and scrutinizes the activities of all branches of government to ensure they adhere to human rights protection standards. The organization conducts studies, prepares reports, and develops recommendations, advocating for necessary reforms at both national and international levels. GYLA was the first organization in Georgia to offer free legal aid, significantly enhancing public access to justice. This service remains available throughout the country. Additionally, GYLA develops strategic litigation as a key tool for advancing human rights, advocating within domestic and international legal frameworks. A number of precedent cases won by GYLA have had a meaningful, positive impact on people's everyday lives.*

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