

The **draft law** submitted at the end of November 2022, ironically initiated by a group of members of [parliament](#) from of the liberal party, aims to amend the law on the functioning of associations and foundations and would add restrictive conditions to **NGOs'** otherwise legal right to challenge an administrative act in court (for example, environmental or construction permits) by:

Introducing the financial liability of the members of the board of directors for any damage caused to third parties if the action is rejected by a **final court decision**. It is worth noting that there is no individual liability of a representative of the public administration, for example, in the case of a final decision that finds an administrative act illegal.

New conditions are introduced for an organisation to be 'entitled' to challenge an administrative act in court: the organisation must be at least two years old, it must prove that 'the association has actively pursued the goals mentioned in the statute that are related to the contested administrative act' and it must put forward a deposit (like a guarantee) of one per cent of the investment value (maximum RON 50 000 / EUR 10 000).

The draft law also suggests prohibiting a person from being a **member of the board of directors of an organisation** if in the last five years they were a member of the board of an association that was dissolved by court decision.

The draft law proposes that these measures have a retroactive effect, in the sense that they also apply to pending cases in court.

The proposed changes cover any court action that organisations take, including bringing authorities to court for breaches of the law, such as failing to comply with regulations on transparency and public participation.

The proposal raised serious concerns with the Economic and Social **Committee** and the Superior **Council** of Magistracy, neither of which gave a favourable recommendation for adoption.

However, this hasn't stopped the members of the senate from introducing even further amendments that, if adopted, would mean nothing else than the dissolution of hundreds if not thousands of NGOs.

Concretely, the project initiator perfected his assault on civil society by introducing an amendment (number 7 on the list) by which the organisations which receive funding through the '3.5 per cent income tax mechanism' must disclose the names of the individual private donors, under the sanction of dissolution. This sponsorship mechanism allows any employee to choose where to direct 3.5 per cent of their 16 per cent tax on income every year.

If they don't choose, the state takes it anyway and distributes it totally non-transparently to

the church, the army or some unknown NGOs of public utility. The problem is, the receiving beneficiary (i.e. the NGO who was chosen as recipient of the funds from this 3.5 per cent tax) has no control over the source of money, as the fiscal authorities transfer the funds from the state budget to the NGO's account, providing only the town where the individual donor was based. So, in practice, meeting this requirement alone would be impossible and hence reason to dissolve an organisation.

The proposed changes are a clear attempt to weaken the ability of civil society to exercise its mission to protect the public interest and are closer in line with totalitarian regimes than with **European democracy** and the rule of law.

When the draft law was first submitted to the parliament, 160 organisations and groups of citizens wrote to the initiators of this law and requested that they withdraw their signatures from this document. To no avail.

Today the law was up for a vote in the plenary of the senate (the first chamber of the parliament), but they voted for the proposal to be sent back to the committee dealing with judicial matters for further analysis. It will feature on the plenary's agenda again in a week. Once the law passes the Senate, it will go for further debate and a final vote in the second chamber. This can last as little as a month. During this time, the ombudsman, the president or any political party can (and should) bring this law to the Constitutional Court and challenge its flagrant breaches of constitutional principles.

Attempts to intimidate civil society are not new, neither in the region nor in Romania, although Romania's parliament is displaying an energetic escalation in such efforts as of late. From the not-so-veiled **accusations** that [environmental](#) NGOs are to blame for the increased price of electricity and gas in late 2021, to blunt attempts to dissolve them altogether, many politicians appear determined to do whatever it takes to clamp down any form of public scrutiny. But this is only making us more united and more determined to fight any threat to a clean environment and a sustainable future, Bankwatch writes.