



## **European network of legal experts in gender equality and non-discrimination**

### **NEWS REPORT**

**Country:** Romania  
**Title:** The Parliament adopted money laundering provisions which paralyze NGOs, in particular those supporting vulnerable groups  
**Date:** 31 October 2018  
**Expert:** Iordache, Romanița

#### **Context**

**Issue at stake:** Risk of shutting down of NGOs providing services to vulnerable groups due to restrictive anti-money laundering provisions

**Ground of discrimination:** All grounds

**Source:** Legislation

**Field:** Other

**Applicable law:** Directive 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing

#### **Content**

**Policy development:** Under the claim that it adopts legislation to ensure the transposition of the Directive 2015/849 of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, the Romanian Chamber of Deputies casted on 25 October 2018 the final vote in adopting an Anti-money Laundering Law.

The bill is criticised both for the irregularities in the voting procedures and the repeat voting as well as for its actual content which is described as having a “chilling effect” on civil society organizations. Though no research or impact studies were done, under this law, NGOs are defined as “reporting entities” similar to for-profit entities such as banking institutions, auditors, accountants, notaries, providers of gambling services, real estates or trusts and companies insofar as they provide financial services. This status comes with due diligence obligations towards partners or individuals, obligations which entail additional procedures and costs to report activities. The legislators exempted from this status the 18 organizations representing national minorities present in the Romanian Parliament. Other NGOs representing the same national and ethnic minorities will be however under the same obligations.

The sanction of the failure of an organisation to comply with those obligations would lead to dissolution of the NGO. Even more cumbersome is that this provision is also coupled with the wrong translation of “beneficial owner” into “real beneficiary” in the text of the

Law. In the adopted language of the law, every single person actually assisted in any way by civil society organizations will have to be reported to the Anti-money Laundering authorities in maximum 30 days from the date when the service was provided by the NGO. This means that, regardless of the type of service or assistance provided, an NGO will have to record and notify authorities and share the personal data of their beneficiaries – persons with disabilities, persons belonging to national and ethnic minorities or to religious minorities, persons living with HIV/AIDS, abuse victims, victims of human rights violations, LGBTQ persons receiving psychological or legal assistance, journalists or children participating in any kind of NGO activity.

**Key points of analysis:** The law is a poor transposition of Directive 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and in breach of the EU General Regulation on Data Protection. Its application leads to an arbitrary limitation of the freedom of association as it creates unjustified and disproportionate burdens on NGOs. Furthermore, in relation to NGOs providing any kind of support services, education or awareness work in relation with beneficiaries belonging to vulnerable groups, the excessive requirements in the legislation are not only paralysing the activity of the NGOs but are also infringing the right to privacy and confidentiality and lead to discrimination against their beneficiaries.

**Internet link source:**

Legislative history and text of the bill available in Romanian here:

[http://www.cdep.ro/pls/proiecte/upl\\_pck2015.proiect?idp=17322](http://www.cdep.ro/pls/proiecte/upl_pck2015.proiect?idp=17322).

An appeal in English against the provisions is available here:

<https://civilsocietyeuropedot.eu.files.wordpress.com/2018/10/letter-to-vp-timmermans-commissioner-jourova-aml-transposition-romania-public.pdf>.