



Warsaw, 6 October 2023

Integrating civil society in the work of national parliaments and international parliamentary organizations

Opinion of the Open Dialogue Foundation to the Vancouver Declaration and Resolutions, adopted by the OSCE Parliamentary Assembly at the 13th Annual Session in Vancouver, 30 June – 4 July 2023.

The opinion was presented to OSCE PA Vice-President Kyriakos Hadjiyianni at the presentation of the Declaration and its conclusions during the 2023 OSCE ODIHR Warsaw Human Dimension Conference.

In the opinion of the Open Dialogue Foundation the Vancouver Declaration seems to reflect a deep understanding of the necessity of partnership between civil society and parliamentarians in order to improve the legislative process. **We believe the involvement of civil society actors is essential in strengthening the capacity of democratic systems - both at the national and transnational level - to resist abuses and attacks of malign states:** be it totalitarian, authoritarian or hybrid regimes/ill democracies (such as, sadly, our host country - today's Poland, or its ally Hungary) - whatever we call them.

According to our years-long experience, European and international institutions tend to be rather slow in responding to ever-evolving challenges represented by non-democratic countries, their enablers and facilitators. To counter them, dynamic cooperation with MPs has become a key path in the defence of the persecuted: civic activists, journalists, opposition leaders, lawyers, disobedient prosecutors and inconvenient judges (like in Poland) as well as businesspeople and all those associated with them. To maximise the effect, we engage parliamentarians both at national and transnational level.

Over ten years, through close co-operation with OSCE PA members, the Open Dialogue Foundation, alongside other human rights initiatives, has been able to protect hundreds of political prisoners and political refugees in the OSCE region. Civil society efforts made OSCE PA the first forum addressing the issue of transnational oppression by malign states, such as the abuse of Interpol, the Schengen Information System, mutual legal assistance or the abuse of AML/CFT laws leading to financial exclusion of regimes' opponents. **Therefore, ensuring smooth access for civil society to the sessions of parliaments and transnational institutions, in**



order to update parliamentarians on emerging threats to democratic societies, remains of vital importance.

We believe that implementation of the recommendations 18 and 19 of the Vancouver Declaration would allow to greatly improve the cooperation between civil society and parliamentarians. Certainly, both national parliaments and transnational assemblies should establish a supportive legislative framework for public participation.

What are the main obstacles faced by civil society organisations in this regard? And what could make their work more effective?

In general, rules of procedure (governing access to parliaments, transnational assemblies and their works) should become more transparent and less arbitrary. The system used by the European Parliament may and - in our view - should serve as the role model. It is vital for there to be a transparency register, governed by an apolitical body in charge of granting accreditations and access to the premises.

Obtaining accreditation should depend on meeting formal criteria, not rely solely on "sponsorship" by members of a given assembly or - for instance, in the case of PACE - an extremely rare, discriminatory instance of having representation in five Council of Europe Member States. It should be renewed on an annual basis, the processing of applications should be continuous and allow access to all premises to facilitate in-person meetings with MPs and relevant staff. In particular, civil society representatives should be allowed, without discrimination, access to common spaces of parliaments and assemblies to conduct their human rights work independent of previously assigned MP who are not always able to accompany them.

Additionally, accredited civil society representatives should have the right to invite guests (such as lawyers, experts or victims of human rights violations) to take part in their advocacy work, providing information on - obviously - who will be invited and for what purpose. Relevant procedures should be developed for activists to attend meetings and sessions as observers.

All procedures in place should have reasonable deadlines and, when an accreditation or other application is refused - justification and remedies.

Obstruction of access to parliaments and assemblies' (such as PACE or OSCE PA) premises and sessions remains a significant problem. We believe no MP or a group of MPs should actively seek to prevent activists from entering premises where meetings, sessions and all kind of formal and informal gatherings take place. It should not be allowed to obstruct the work of civil society organisations because their views or agenda are not shared by some MPs.



Attacks on civil society may also take the form of slander - false and damaging statements by diplomats, MPs and lobbyists of autocrats and kleptocrats. Sadly, it is not uncommon to face unacceptable and unfounded allegations against civil society organisations - and even against MPs cooperating with them, formulated by other MPs in order to undermine such cooperation. Usually, diplomats and MPs representing non-democratic states (such as Russia, Kazakhstan or Azerbaijan, but recently also Poland) abuse their power to attack critical voices. And sometimes they can influence and prejudice their colleagues from democratic countries as well.

Parliaments may also serve as a tool of persecution. We all know laws on so-called 'foreign agents', although this can take different forms. In our case, it happened at least twice - in Moldova and Poland. In Vlad Plahotniuc's Moldova, the parliament he almost fully controlled issued a report on the alleged national security threats posed by our Foundation in cooperation with the country's democratic, pro-European opposition. This resulted in a malicious investigation against us launched by the country's prosecution service and lots of slander - in Moldova and abroad. Similarly, in the Polish parliament's intelligence committee, in the presence of the secret services representatives, the allegedly anti-stated activities of ODF were discussed and widely publicised afterwards, becoming fodder for government propaganda. All of this contributed to the banks' decision to terminate our accounts.

Since it is no secret that our organisation is conflicted, alongside other human rights watchdogs with the current Polish authorities over the issues such as the rule of law and humanitarian crisis on the border with Belarus, I would like to point out one situation where representatives of the Polish ruling political party Law and Justice (PiS), led by MP Arkadiusz Mularczyk, who's also the deputy minister of foreign affairs, tried to undermine our advocacy work.

Since 2017 the Open Dialogue Foundation has become a target for representatives of the Polish PiS government, whose actions were harshly criticised in the Resolution on the independence of judges, including the one adopted by the Parliamentary Assembly of the Council of Europe on January 26, 2021. Mularczyk, supported by his British ally, Conservative MP Ian Liddell-Grainger, initiated a series of actions based on manipulative and false claims (including alleged breaches of the Assembly's rules) to block our advocacy campaign at PACE. He accused us of 'dictating' allegedly anti-Polish amendments to the resolution and even to influence the activities of pro-resolution MPs in other ways (incl. financial incentives, i.e. bribery). Fortunately, his unfounded allegations resulted in Mularczyk's temporary disciplinary ban from speaking at PACE (June-September 2021).

By all means, his aim was to limit the influence of NGOs at PACE and exclude inconvenient organisations from its work. Unlike the Sejm (lower chamber of the Polish parliament), PACE is not surrounded by fences and barriers and its leadership



does not ban civil activists from entering it, as the Speaker of the Sejm and the Commander of the Marshal's (Sejm's) Guard do.

Speaking of national parliaments - Poland is nowadays a prime example, even in the very physical sense - of a closed legislature where rules are established and enforced by force at the arbitrary request of the speaker. No matter how legally dubious and questioned by courts afterwards - the speaker just does as he wishes. Around 2017 a blacklist of people, mainly pro-rule of law and pro-women's rights activists, was introduced by the speaker and they were banned from entering parliament. ODF's Supervisory Board Chair, Bartosz Kramek, was supposed to be amongst them. Without any sound legal basis. And the work of opposition MPs cooperating with them was seriously hampered.

What should be done to protect civil society against such attacks? The answer is accountability. Codes of conduct should include a prohibition and accountability mechanisms against this kind of abuse. Civil society representatives should be empowered to file complaints for review by an independent body entitled to impose, or at least, to recommend, specific sanctions.

Furthermore, there should be a clear obligation for any individuals registering in the transparency register to reveal any links/professional dependencies on a government or another state and state-related institution under the sanction of removal from the register.

There are very different standards of cooperation between parliaments and civil society. In our opinion the 'friendliest' legislatures among the largest European countries would be those of Germany and Italy, the least - France. It is usually much easier to organise a meeting or an event at the Bundestag than at the French National Assembly. However, this seems to be linked both to their regulations and local political cultures.

A separate issue is the practical blocking of accreditation at the UN, meaning that it's virtually impossible for us to obtain ECOSOC accreditation. Notoriously, this is blocked by countries such as Russia and China. It constitutes an example of authoritarian capture of an international organisation.

An important, not to be missed aspect is the process of organisation of observation missions to third countries and cooperation with NGOs in this field. The composition of delegations, and their agendas should be known well in advance and NGOs should have the opportunity to meet with foreign politicians - their members. In this context, it is also important to apply the principle of limited trust in undemocratic (and not fully democratic) governments, which may promote their own organisations (so-called GONGOs) at the expense of persecuted, actual civil society organisations.



Last but not least, procedures and regulations are one side of the coin. The other is individual willingness of MPs to meet, listen and get involved in defence of human rights, the rule of law and democracy. We need it more than ever.