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Analysis of the Draft Laws On Introducing Changes to the Tax Code and to Some Other Laws to Ensure Public Transparency of the Financing of Public Associations and the Use of International Technical Assistance¹

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On July 10, 2017, the text of two Draft Laws² was posted on the website of the Verkhovna Rada (Ukrainian Parliament). The Draft Laws were initiated by the President of Ukraine and contain provisions imposing new reporting and disclosure requirements on civil society organizations (CSOs), registered in the form of a public organization, which receive annual revenue greater than approximately \$18,500.

The International Center for Not-for-Profit Law (ICNL) prepared this analysis at the request of the Ukrainian Center for Independent Political Research (UCIPR). The primary focus of this analysis is to compare provisions of the Draft Laws with the international best practices represented by the Council of Europe's Recommendation (2007)14 on the Legal status of non-governmental organizations in Europe (Recommendation CM/Rec(2007)14),³ Fundamental Principles on the Status of Non-governmental Organizations in Europe (specifically referenced by the drafters of the Draft Laws in the explanatory notes) (Fundamental Principles),⁴ and Guidelines on Freedom of Association.⁵ In addition, ICNL compared provisions in the Draft Laws with relevant provisions in laws of other democratic countries in Europe and the US.⁶ The purpose of this analysis is to help the reader determine whether the Draft Laws are in compliance

¹ This analysis is made possible by the support of the American people through the United States Agency for International Development (USAID). The contents are the sole responsibility of ICNL and do not necessarily reflect the views of USAID or the United States Government.

² On Draft Law of Ukraine No. 6675 and Draft Law of Ukraine No. 6674 On Introducing Changes to the Tax Code of Ukraine to Ensure Public Transparency of the Financing of Public Associations and the Use of International Technical Assistance (Draft Amendments to Tax Code) http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62215; and Draft Law of Ukraine No. 6674 On Introducing Changes to Some Legislative Acts to Ensure Public Transparency of Information on Finance Activity of Public Associations and on the Use of International Technical Assistance (Draft Amendments to Law on Public Associations (PAs)) http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62214 (jointly referred to as Draft Laws).

³ Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe (Adopted by the Committee of Ministers on 10 October 2007 at the 1006th meeting of the Ministers' Deputies), https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805d534d.

⁴ Approved by participants at the multilateral meetings held in Strasbourg on 19 to 20 November 2001, 20 to 22 March 2002 and 5 July 2002, <http://www.osce.org/odihr/37858>.

⁵ The joint OSCE/ODIHR and Venice Commission Guidelines on Freedom of Association, 2015 (Guidelines on Freedom of Association), <http://www.osce.org/odihr/132371>.

⁶ Please note that we only analysis provisions directly relating to CSOs and did not analyze other provisions relating to public servants, public legal entities, and businesses.

with the international law and international best practices (and European standards of regulation of CSOs in particular).

The Draft Laws introduce new reporting requirements for CSOs in the forms of public organizations⁷ with annual revenue over 300 monthly subsistence minimums (approximately \$18,500). The Draft Laws require CSOs to post reports on the website of the Ukrainian State Fiscal Service. CSOs are required to submit detailed information, including the total amount of the public organization's income and a list of all legal and physical persons from which CSOs received income in excess of 50 subsistence monthly minimums (approximately \$3,000), the total amount of payments to third persons, a list of legal and physical persons if annual payment to a person is over 50 subsistence minimums (approximately \$3,000), the participation of CSO management in other organizations, and many other requirements. Failure to post required information results in the removal of CSOs from the registry of non-profit organizations, meaning the loss of tax privileges and/or penalties.

The Draft Laws were introduced by the Ukrainian government to the Parliament shortly⁸ after the President of Ukraine signed another law targeting CSOs conducting anti-corruption activities, as well as their managers and members. The law imposed a requirement on CSO managers, amongst others, to post detailed personal financial information online, in a manner similar to a requirement for government officials who are required to post e-declarations reporting on their property and all income as an anti-corruption measure. The law raised concerns amongst Ukrainian and international organizations and activists, who consider them a major deterioration in the legal environment with regard to the treatment of CSOs and activists, as well as regarding efforts to prevent and counteract corruption in Ukraine.

In the explanatory notes to the Draft Laws, the governmental authors of the Draft Laws claim that the need for adoption of the Draft Laws is based on the need to increase transparency around the receipt and use of resources by CSOs. They also claim that proposed Draft Laws are based on European standards of regulation of activities of CSOs, and, in particular on the Fundamental Principles on the Status of Non-governmental Organizations in Europe.

Ukrainian CSO experts, however, concluded that new reporting requirements “partially overlap those already existing and impose additional burden that does not correlate with the best practices of the democratic states.”⁹ CSO experts also believe that the new reporting requirements discriminate against CSOs, as public law entities and businesses do not have to comply with such reporting and disclosure requirements.

This Analysis concludes that the Draft Laws do not represent international best practice, will likely negatively impact the CSO sector, and restrict freedom of association. The key issues with the draft laws include:

1. Reporting requirements are imposed without a properly justified, legitimate reason.
2. Reporting requirements are of a discriminatory nature.

⁷ A public organization is just one type of a non-commercial organization or civil society organizations (CSOs). The majority of traditional CSOs operate as public organizations.

⁸ The President of Ukraine signed the Law of Ukraine on Introducing Changes to Some Laws of Ukraine relating to Financial Control over Certain Categories of Public Officials on March 27, 2017.

⁹ Analysis of Draft Laws prepared by UCIPR on July 13, 2017.

3. Reporting requirements violate the privacy of managers of CSOs, donors, and beneficiaries of CSOs' activities.

In light of adoption of March 27 law, the Draft Laws may demonstrate a troublesome trend of a deterioration of the legal environment for civil society in Ukraine.

Additionally, the Draft Laws have not been developed in consultation with CSOs so far. The right to participation is guaranteed in Article 25 of the International Covenant on Civil and Political Rights (ICCPR). Moreover, Recommendation CM/Rec(2007)14 provides that: "NGOs should be consulted during the drafting of primary and secondary legislation which affects their status, financing or spheres of operation."¹⁰ It is important that the governmental drafters and members of the parliament conduct meaningful consultations regarding the content of the Draft Laws and take CSOs' recommendations into account before adopting them.

Below, we will review the key issues with the Draft Laws in light of international good practices. In a separate section, we will compare reporting requirements in the Draft Laws with reporting requirements for CSOs in other democratic countries.

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| <ol style="list-style-type: none">1. Reporting requirements are imposed without a properly justified, legitimate reason. |
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The governmental drafters justify adoption of the Draft Laws by referring to "the need to improve the mechanism of ensuring publicity of receiving and using financial and other resources by CSOs."

In the explanatory notes, the Draft Laws' governmental drafters reference provisions of the Fundamental Principles:

As regards its activities and financial position, an NGO is accountable to a number of parties, first and foremost its members. It is good practice that it should submit an annual report on its accounts and activities to them. Secondly, an NGO, which has benefited from public support or preferential tax treatment can be expected to account to the community concerning the use made of public funds. Lastly, donors may stipulate by contract that an NGO is required to report on the use made of individual donations.¹¹

The above-quoted provision, however, does not justify the requirements in the Draft Laws. As a part of the close review of the above-quoted provision, it is important to assess the Draft Laws on their compliance with the international law as such.¹²

¹⁰ Section 77.

¹¹ Section 66.

¹² Convention for the Protection of Human Rights and Fundamental Freedoms (4 November 1950) as amended by Protocols Nos. 11 and 14 Article 11 1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests. 2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others; see also article 22.1 of the International Covenant on Civil and Political Rights (16 December 1966).

The new reporting requirements introduced in the Draft Laws are considered burdensome for CSOs and, therefore, potentially interfere with and restrict freedom of association. Ukrainian CSOs' opinion that the proposed requirements are burdensome, difficult (if not impossible) for small CSOs to comply with, and interfere with the freedom of association, shall be taken into account in this case, especially taking into consideration that CSOs have not been consulted in a meaningful way during the drafting of the Draft Laws.

In order for such requirements/restrictions to be legitimate, they shall be in strict compliance with international standards:¹³

In particular, any restriction shall be prescribed by law and must have a legitimate aim. . . . The only legitimate aims recognized by international standards for restrictions are national security or public safety, public order (ordre public), the protection of public health or morals and the protection of the rights and freedoms of others. The scope of these legitimate aims shall be narrowly interpreted.¹⁴

Any restriction on the right to freedom of association and on the rights of associations, including sanctions, must be necessary in a democratic society and, thus, proportional to their legitimate aim. The principle of necessity in a democratic society requires that there be a fair balance between the interests of persons exercising the right to freedom of association, associations themselves and the interests of society as a whole. The need for restrictions shall be carefully weighed, therefore, and shall be based on compelling evidence. The least intrusive option shall always be chosen. A restriction shall always be narrowly construed and applied¹⁵ and shall never completely extinguish the right nor encroach on its essence. . . . All restrictions must be based on the particular circumstances of the case, and no blanket restrictions shall be applied.¹⁶

Neither the Draft Laws nor the explanatory notes provide any evidence of present problems causing damage to the public interest by CSOs (public organizations in particular) not reporting information required by the Draft Laws. Since there is no evidence of existing problems, it is impossible to justify proposed requirements as “necessary in democratic society” or “proportionate,” failing two tests assessing the permissibility of proposed measures restricting freedom of association. On this matter, the Venice Commission stated that: “legitimate aim of

¹³ Convention for the Protection of Human Rights and Fundamental Freedoms (4 November 1950) (ECHR) as amended by Protocols Nos. 11 and 14 Article 11 1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests. 2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others; see also article 22.1 of the International Covenant on Civil and Political Rights (16 December 1966).

¹⁴ Section 34 of the Guidelines on Freedom of Association.

¹⁵ See OSCE/ODIHR and Venice Commission, Guidelines on Political Party Regulation (Warsaw: ODIHR, 2011), Principle 4: Proportionality

¹⁶ Section 35 of the Guidelines on Freedom of Association.

ensuring transparency [cannot] justify measures which hamper[] the activities of non-commercial organizations operating in the field of human rights, democracy and the rule of law.”¹⁷

Furthermore, the above-quoted provision from the Fundamental Principles, shall be read in conjunction with other sections of the Fundamental Principles, and specifically section 70: “The best means of ensuring ethical, responsible conduct by NGOs is to promote self-regulation in this sector at the national and international levels. Responsible NGOs are increasingly conscious of the fact that the sector's success depends to a large extent on public opinion concerning their efficiency and ethics.” There is an obvious difference between a legal requirement and a measure voluntarily self-imposed by a CSO, with the latter, possibly be identified as a proportionate measure to address issues, causing the governmental drafters to propose adoption of the Draft Laws.

In addition, a “narrowly construed and applied” restriction can only be properly defined if there is specific evidence of problems, with restrictions designed to solve these specific problems. As mentioned above, the drafters failed to identify such problems and present evidence of their presence. A requirement/restriction under the Draft Laws is not “narrowly construed and applied,” failing to be based on “the particular circumstances of the case.” Requirements in the Draft Laws do not apply select, “high-risk,” or another special category of CSOs under particular circumstances to address a specific problem, but rather to “public organizations” as a type of CSOs. There are 78,331 public organizations¹⁸ operating in Ukraine. Many of them receive annual revenue equivalent to greater than \$18,500, making them subject to reporting requirements under the Draft Laws. The Draft Laws do not provide with any justification why public organizations (including those not in the registry of non-profit organizations and therefore not benefiting from special preferences), and not, for example, charitable organizations, foundations, and any other types of CSOs, shall be subject to the new requirements.

Special reporting requirements may apply, under specific circumstances, to recipients of state/public funds, or to CSOs with preferential status compared to other CSOs. The “narrowly construed and applied” restriction would also envision minimal reporting requirements only as appropriate to addressing a particular problem. Therefore, it is never appropriate to use another country’s example, when imposing new restrictions on the freedom of association, without identifying a country’s own needs to address specific problems, and appropriate measures to address these problems. In some instances, restrictions appropriate in one country might be absolutely inappropriate in another country.

The issue of requiring a transparency is further clarified in the Guidelines on Freedom of Association:

224. The need for transparency in the internal functioning of associations is not specifically established in international and regional treaties owing to the right of associations to be free from interference of the state in their internal affairs. However,

¹⁷ Venice Commission Opinion on federal law no. 129-fz on amending certain legislative acts (Federal law on undesirable activities of foreign and international non-governmental organisations) (2016) and Opinion on federal Law N. 121-FZ on Non-Commercial Organisations (“Law on Foreign Agents”), on Federal Laws N. 18-FZ and N. 147-FZ and on Federal Law N. 190-FZ on Making Amendments to the Criminal Code (“Law on Treason”) of the Russian Federation.

¹⁸ http://www.ukrstat.gov.ua/edrpoj/ukr/EDRPU_2017/ks_opfg/ks_opfg_0717.htm.

openness and transparency are fundamental for establishing accountability¹⁹ and public trust. The state shall not require but shall encourage and facilitate associations to be accountable and transparent. This issue has also been addressed by recommendations of the Committee of Ministers of the Council of Europe in the context of non-governmental organizations.²⁰

2. Reporting requirements are of a discriminatory nature.

The Guidelines on Freedom of Association state:

225. Reporting requirements, where these exist, should not be burdensome, should be appropriate to the size of the association and the scope of its operations Associations should not be required to submit more reports and information than other legal entities, such as businesses, and equality between different sectors should be exercised. Special reporting is permissible, however, if it is required in exchange for certain benefits, provided it is within the discretion of the association to decide whether to comply with such reporting requirements or forgo them and forsake any related special benefits, where applicable²¹.

Ukrainian CSOs are concerned that the reporting requirements under the Draft Laws are discriminatory to CSOs, compared to other public legal and business entities. That the burdensome reporting requirements only apply to CSOs organized as public organizations serves to highlight the unfair, discriminating nature of the Draft Laws.

CSOs are required to report on:

the personal composition of the governing bodies of the public organization;

the number of members of the public organization, the amount of membership fees established for the reporting year, and their actual entry into the public organization's account;

the total amount of the public organization's income from natural persons, enterprises, institutions and organizations, including through the implementation in Ukraine of programs (projects) of international technical or other assistance, and a list of entities from which, in the course of the year, income was obtained in excess of 50 subsistence minimums for able-bodied persons, such amount being determined as of January 1 of the reporting year;

the number of the public organization's employees employed on a full-time and part-time basis, total expenditures on their labor remuneration, and the list of ten employees who were paid the largest amounts of wages in the reporting year;

the public organization's total expenses for the benefit of other natural persons (including natural persons-entrepreneurs) and legal entities, a detailed list of such persons and

¹⁹ See Fundamental Principles, paras. 60-65.

²⁰ Section VII of the Recommendation CM/Rec(2007)14.

²¹ Section 225 of the Guidelines on Freedom of Association.

entities and the total amounts of expenses made for their benefit if the annual expenses for the benefit of one such natural person or legal entity exceeds 50 subsistence minimums for able-bodied persons, such amount being determined as of January 1 of the reporting year; and

the participation of the public organization's executives in the governing bodies of other public organizations, as well as in other legal entities under private law²².

It is not clear why only CSOs organized as public organizations shall submit such information or why this particular information shall be submitted. As mentioned before, other organizations, even tax-exempt charities or other entities which are recipients of state funds or implementers of international technical assistance programs, do not have to comply with the new requirements.

A public organization is defined under Ukrainian law as “a public association the founders and members (participants) of which are physical persons.”²³ “A public association is a voluntary association of physical persons and/or legal entities under private law for the purpose of exercising and protecting rights and freedoms and satisfying public, among them economic, social, cultural, environmental, and other interests. A public association may conduct its activity with or without legal entity status. A public association with legal entity status is a non-entrepreneurial (non-commercial) company for which making profit is not the main purpose.”²⁴

What is clear, however, is that the reporting requirements put public organizations at a disadvantage compared to others, and without an obvious, legitimate reason.

States must refrain from adopting measures that disproportionately target or burden NGOs, such as imposing onerous vetting rules, procedures or other NGO-specific requirements not applied to the corporate sector.²⁵ The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association calls upon states to ensure equal treatment between NGOs and businesses in laws and practices regulating, inter alia, reporting and access to resources, including foreign resources. He emphasized that there is no basis in international human rights law for imposing more burdensome reporting requirements upon NGOs than upon businesses or other entities and that justifications such as protecting state sovereignty are not legitimate bases under international human rights instruments.²⁶

<p>3. Reporting requirements violate the privacy of managers of CSOs, donors, and beneficiaries of CSOs' activities.</p>
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The Draft Laws require CSOs to report and post the following information online, amongst other information:

²² Section I.2 of the Draft Amendments to Law on Public Associations.

²³ Section 1.3 of the Law of Ukraine on Public Associations as of March 22, 2012.

²⁴ Sections 1.1 and 1.5 of the Law of Ukraine on Public Associations as of March 22, 2012.

²⁵ Protecting civic space and the right to access resources - General Principle 3: Civil society and the corporate sectors should be governed by an equitable set of rules and regulations (sectoral equity). UN Special Rapporteur on the rights to freedom of peaceful assembly and of association and A Community of Democracies project funded by Sweden.

²⁶ 49 UN Special Rapporteur on the rights to freedom of peaceful assembly and of association. Factsheet: Comparing treatment of business & associations (General Assembly Report – Oct. 2015).

- a list of entities from which, in the course of the year, income was obtained in excess of 50 subsistence minimums for able-bodied persons, such amount being determined as of January 1 of the reporting year;
- the number of the public organization’s employees employed on a full-time and part-time basis, total expenditures on their labor remuneration, and a list of the ten employees who were paid the largest amounts of wages in the reporting year;
- the public organization’s total expenses for the benefit of other natural persons (including natural persons-entrepreneurs) and legal entities, a detailed list of such persons and entities, and the total amounts of expenses made for their benefit if the annual expenses for the benefit of one such natural person or legal entity exceeds 50 subsistence minimums for able-bodied persons, such amount being determined as of January 1 of the reporting year; and
- the participation of the public organization’s executives in the governing bodies of other public organizations, as well as in other legal entities under private law.

The Fundamental Principles state:

67. However, reporting requirements must be tempered by other obligations relating to the respect for privacy and confidentiality. In particular, a donor's desire to remain anonymous must be observed. The respect for privacy and confidentiality is, however, not unlimited. In exceptional cases, the general interest may justify that authorities have access to private or confidential information, for instance in order to combat black market money transfers. Any exception to business confidentiality or to the privacy and confidentiality of donors, beneficiaries and staff shall observe the principle of necessity and proportionality.²⁷

For every single requirement to disclose information, there should be a solid rationale, why disclosure of such information is necessary (a legitimate aim). The rationale will only be legitimate, if a particular, real-life problem is identified, and it is clear that a new requirement seeks to remedy and prevent this particular problem in the future.

Recommendation CM/Rec(2007)14 states:

“64. All reporting should be subject to a duty to respect the rights of donors, beneficiaries and staff, as well as the right to protect legitimate business confidentiality.”

The Guidelines on Freedom of Association also clearly state:

228. All regulations and practices on oversight and supervision of associations should take as a starting point the principle of minimum state interference in the operations of an association. As noted elsewhere in these Guidelines, the right to privacy applies to an association and its members; this means that oversight and supervision must have a clear legal basis and be proportionate to the legitimate aims they pursue.²⁸

²⁷ Section 67 of the Fundamental Principles.

²⁸ Venice Commission, “Opinion on Federal Law N. 121-FZ on Non-Commercial Organizations (“Law on Foreign Agents”), on Federal Laws N. 18-FZ and N. 147-FZ and On Federal Law N. 190-FZ on Making Amendments to the Criminal Code (“Law on Treason”) of the Russian Federation,” CDL-AD(2014)025, 27 June 2014, para. 90.

Without a legitimate aim (See section 1. Reporting requirements imposed are without a legitimate reason.), exposure of the personal financial information of managers, employees, members as well as donors and beneficiaries, is not appropriate.

There is a concern amongst CSOs in Ukraine, that under the current circumstances, exposing the names of managers and employer of CSOs, by posting their income, job titles and names, would make it unsafe for them, potentially making them subject to harassment. Such a risk certainly affects the wiliness of individuals to work for CSOs and has a negative impact on CSOs activities. CSOs believe that not exposing the names of individuals managers, and even more importantly, employees, while reporting on their compensation with CSOs, while posting job titles and compensations, would allow for transparency of CSOs activities with the public, but, at the same time would not put in potential danger individuals working for CSOs.

Overview of US Law and Key Differences with Ukrainian Draft Laws

In the United States, at the federal level, most charities²⁹ (organizations exempt from income tax under section 501(a)) are required to submit annual reports through Form 990³⁰ under the Internal Revenue Code. Form 990 requires reporting on the organization's tax exempt and other activities, finances, governance, compliance with certain federal tax filings and requirements, and compensation paid to certain persons. It is a public document. The public relies on Form 990 as their primary or sole source of information about a particular organization. How the public perceives an organization in such cases can be determined by information presented on its return. Form 990 is the primary report filed by charities, not in addition to tax reporting.

While on surface, there are similarities between US law and the Ukrainian Draft Laws, there are important differences between reporting for US Charities and that proposed under the Ukrainian Draft Laws:

- In the US, reporting for charities is tax reporting, and not in addition to tax reports, as in Ukraine.
- In the US, only charities are subject to reporting; in Ukraine, public organizations as a type of a non-commercial legal entity are subject to reporting requirements, regardless of whether they benefit from special tax treatment or not (i.e., whether or not they are included into the registry of non-profit organizations managed by the Ukrainian State Fiscal Service).
- In the US, the key purpose of reporting is to inform the government and the public of how an organization spends their tax exempt income, to ensure that the organizations are not abusing their tax privilege; in Ukraine, the purpose is unclear, as it is not defined in the Draft Laws or explanatory notes.
- US law does not require managers of charities to the disclose their participation in the governing bodies of other public organizations, as well as in other legal entities under

²⁹ Organizations with annual gross income less than \$25,000 are exempt from these reporting requirements.

³⁰ Or 990-EZ, or 990-N depending on special type of organization under 501(a)

private law, like Ukrainian Draft Laws do, unless there are transactions between the charity and the other entity, which might create a conflict.

General Overview of Reporting and Disclosure Requirements for CSOs in Europe³¹

Please note that none of the European countries impose such burdensome reporting requirements on all public organizations (or associations), as those defined by the Ukrainian Draft Laws.

In all of the European countries, CSOs shall file some types of reports with the government. Certain kinds of CSOs (i.e., CSOs with so-called charitable, public benefit, or similar status (PBO)), benefiting from tax exemptions, often shall submit more substantial reports than other CSOs.

Most commonly, CSOs with a PBO status files reports with the tax authorities.

The specific reporting requirements vary from country to country. Here, we provide just a few examples, reflecting the experience of German and French CSOs, which is representative of the experience of Western European countries. We specifically focus on reporting and disclosure requirements for associations at large and for associations with PBO status. We are not focusing on reporting requirements under special circumstances, for example, as a result of receipt of state funds (such as French associations which receive over 153,000 euro in state funds annually) or reporting requirements for special types of organizations (i.e., French Public Utility Foundations or Associations (Fondations/Associations reconnues d'utilité publique)) as they do not reflect experience of the majority of CSOs.

In France, associations³² may serve either a private or public benefit purpose.³³ French law recognizes two forms of public benefit status: (1) general interest, in which the organization's donors are eligible for tax benefits and the organization is eligible for exemption from corporate taxes provided it meets the criteria set in the tax law, and (2) public utility, which entitles the organization to the benefits of general interest status as well as additional tax and fiscal preferences. Associations of general interest³⁴ do not need to file annual returns, unless they receive over 153,000 euro annually in state funding. Associations with public utility status do need to file annual returns; however, these require less information than required by the Ukrainian Draft Laws and are not subject to mandatory public disclosure. French associations – the activities of which are not licensed under a special ministry – decide for themselves, usually through self-regulatory bodies such as the Comité de la Charte, which information about their activities to disclose to the public.

³¹ A Comparative Overview of Public Benefit Status in Europe, David Moore, Katerina Hadzi-Miceva, and Nilda Bullain, http://www.icnl.org/research/journal/vol11iss1/special_1.htm.

³² Law on Associations of July 1, 1901

³³ <https://www.cof.org/content/france#Types>.

³⁴ Conferred upon associations and foundations pursuant to a decision of the *Conseil d'Etat*.

German associations³⁵ (Verein) can be either public benefit or mutual benefit. Public benefit organizations (organizations serving the general interest), including in the form of association, may enjoy special tax benefits if they meet the requirements of the tax law. Mutual benefit associations are only required to submit tax reports. Associations with the status of a public benefit organizations are required to submit more detailed tax reports, but these reports are not subject to public disclosure³⁶ and they do not submit additional reports in addition to these tax reports. Foundations are obligated to submit annual reports to the state supervisory authorities according to state foundation's laws,³⁷ and these are also not subject to public disclosure. German CSOs decide for themselves which information about their activities to disclose to the public.

Certain European countries do require organizations with public benefit status to submit additional reports subject to public disclosure (i.e., Bulgaria or Poland).

In Poland, PBOs must prepare and submit an annual activity report and annual financial statement to the Ministry of Social Security. "The annual report consists of a narrative account and a financial statement. The financial statement shall include information on expenses related to the statutory goals, business activities, administration, as well as on the number of employees, total amount of remuneration, value of assets and liabilities of the organization. The financial part of the annual report shall also include information on purchased properties, tasks commissioned by public administration units under the provisions of the public benefit and volunteer work Act of law and the public tenders Act of law. The organization shall make its report public – e.g., by making it available in its headquarters or on its website."³⁸ The level of detail to be provided in these reports is much more limited compared to requirements under Ukrainian Draft Laws.

In Bulgaria, associations could be both mutual benefit and public benefit. Both of these types of organizations are required to submit annual financial reports to the National Statistical Institute. They also need to submit tax declarations to the National Revenue Agency in case they engage in economic activities. All of these documents are quite general and do not provide information about individual transactions, but rather overall income and expenditure. Only public benefit organizations are required to submit activity reports and make that information publicly available. A non-profit legal entity pursuing activities for public benefit shall prepare report on its activities once per year, which should include data about:³⁹

1. "substantial activities, funds spent for such purposes, their relevance to the objectives and the programs of the organization and the results attained;

³⁵ Law on Associations (*Vereinsgesetz*) of 1964.

³⁶ Accountability & Transparency: A Comparative Study of German Nonprofit Organizations, Public Agencies and Forprofit Corporations, Berlin and Heidelberg, Juli 2011 A collaborative project of the Hertie School of Governance (HSoG) and the Centre for Social Investment (CSI) of Heidelberg University https://www.csi.uni-heidelberg.de/Berlin/AccountabilityTransparency_ExecutiveSummary.pdf

³⁷ <https://www.cof.org/content/germany#Types>.

³⁸ <http://www.pozYTEK.gov.pl/Public,Benefit,Organizations,554.html>.

³⁹ Sections (2)-(3) of art. 40 of the Bulgarian Law on Non-profit Legal Entities, promulgated SG No 81/06. 10. 2000, and last amended by SG No74/20.09.2016.

2. amount of properties received in grant and revenues from other activities conducted for the purpose of raising funds;
3. the kind, the amount, the value and the purpose of received donations, as well as data about the donors;
4. financial results.
(3) The annual report for the activity and the financial statement of the non-profit legal entity pursuing activities for public benefit shall be submitted in paper or in electronic form. They are public and shall be published in the bulletin and the Internet site of the central register.”

These requirements are also simpler than those proposed by the Ukrainian Draft Laws.