**Recommendation CM/Rec(2007)14 on the legal status of NGOs in Europe, Paras. 7, 26, 72, 74 and 75**

I. Basic principles
(...) 7. NGOs with legal personality should have the same capacities as are generally enjoyed by other legal persons and should be subject to the administrative, civil and criminal law obligations and sanctions generally applicable to those legal persons.

IV. Legal personality
 A. General
  26. The legal personality of NGOs should be clearly distinct from that of their members or founders. (...)

VII. Accountability
 B. Supervision
  72. In most instances, the appropriate sanction against NGOs for breach of the legal requirements applicable to them (including those concerning the acquisition of legal personality) should merely be the requirement to rectify their affairs and/or the imposition of an administrative, civil or criminal penalty on them and/or any individuals directly responsible. Penalties should be based on the law in  force and observe the principle of proportionality. (...)
  74. The termination of an NGO or, in the case of a foreign NGO, the withdrawal of its approval to operate should only be ordered by a court where there is compelling evidence that the grounds specified in paragraphs 44 and 45 above have been met. Such an order should be subject to prompt appeal.
 C. Liability
  75. The officers, directors and staff of an NGO with legal personality should not be personally liable for its debts, liabilities and obligations. However, they can be made liable to the NGO, third parties or all of them for professional misconduct or neglect of duties.

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65. The existence of legal personality has been recognised by the European Court as essential for the functioning of many NGOs (see Sidiropoulos and Others v. Greece, no. 26695/95, 10 July 1998 and Gorzelik and Others v. Poland [GC], no. 44158/98, 17 February 2004) and such personality would be meaningless if it were not distinct from that of those who have established the organisation or who belong to it. However, as Paragraph 75 of the Recommendation makes clear, the distinct personality of an organisation from that of its founders and members should not be an obstacle to either of the latter being held liable to third parties or the NGO itself for any professional misconduct or neglect of duties arising from their involvement in the activities of the NGO. (...)
Paragraph 72
128. NGOs, like everyone else, are subject to the law and sanctions may thus be imposed on them for failing to observe its requirements. However, it is essential that the principle of proportionality be respected in both framing and applying sanctions for non-compliance with a particular requirement. Moreover there should always be a clear legal basis for any sanctions that are imposed in a given case. (...)
Paragraph 74
130. The need to respect the principle of proportionality should mean that resort to the sanction of enforced termination of an NGO for the reasons set out in Paragraph 44 of the Recommendation should be very rare. An extremely well-founded basis for such drastic action as enforced termination is essential; see United Communist Party of Turkey and Others v. Turkey, no. 19392/92, 30 January 1998, Socialist Party and Others v. Turkey [GC], no. 21237/93, 25 May 1998 and Refah Partisi (The Welfare Party) and Others v. Turkey [GC], nos. 41340/98, 41342/98, 41343/98 and 41344/98, 13 February 2003.
131. Moreover in making any assessment about the need for enforced termination it will be important to be sure that the reprehensible activities of members and even office-holders of an NGO can justifiably be regarded as engaging the responsibility of the latter; see Dicle for the Democratic Party (DEP) of Turkey v. Turkey, no. 25141/94, 10 December 2002. (...)
133. The principles set out in this provision are a necessary consequence of the legal personality of an NGO. Such personality confers on it a separate existence from its members and founders and it should normally, therefore, be the only one liable for its debts, liabilities and obligations. However, legal personality cannot operate as a barrier to liability on the part of an NGO’s members, founders and staff for any professional misconduct or neglect of duties with regard to its functioning that affects the rights or other legal interests of third parties.
134. In some countries it is possible to choose to establish an NGO with legal personality where the officers can be held personally liable for the NGO’s debts, liabilities and obligations (for example, informal associations in the Netherlands).

**Fundamental Principles on the Status of Non-Governmental Organisations in Europe, Principles 24, 70, 71, 72 and 73**
Legal personality
24. Where an NGO has legal personality this should be clearly distinct from that of its members or of its founders who should, in principle, not therefore be personally liable for any debts and obligations that the NGO has incurred or undertaken. (...)

Supervision
70. In most instances the appropriate sanction against an NGO will merely be the requirement to rectify its affairs and/or the imposition of an administrative, civil or criminal penalty on it and/or any individuals directly responsible. Penalties shall be based on the law in force and observe the principle of proportionality.
71. In exceptional circumstances and only with compelling evidence, the conduct of an NGO may warrant its dissolution.

Liability
72. The officers, directors and staff of an NGO with legal personality should not in principle be personally liable for its debts, liabilities and obligations.
73. The officers, directors and staff of an NGO with legal personality may be liable to it and third parties for misconduct or neglect of duties.

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38. The provisions relating to the legal personality of NGOs are one of the cornerstones of their status, since they permit NGOs to have an existence in their own right, separate from those of their members or founders. This enables them to enjoy elementary civic rights, such as the initiation of legal proceedings, but also to engage in practical dealings essential for their operation, for example rental of premises or opening of a bank account. It is important to note that paragraphs 24 and 25 of the fundamental principles are to be read together with paragraphs 72 and 73 on liability. (...)
In supervising the activities of NGOs, the administrative authorities should apply the same assumption as holds good for individuals, namely that, failing proof to the contrary, their activities are lawful. The powers of the administrative authorities and the police, notably as regards search and seizure, and the penalties that may be imposed, must be consistent with the principle of proportionality and be subject to judicial supervision.
73. The fundamental principles specify that dissolution of an NGO – the ultimate penalty – should be used only a last resort. Such cases should be extremely rare, and it must be shown that there is a very sound basis for taking a measure of this kind. Although the measure may appear warranted, to be valid it must, in turn, also be subject to effective judicial review.
74. The principles established under this head are themselves a consequence of an NGO’s legal personality. The NGO has separate existence from its members and founders, and it alone is liable for debts and obligations entered into on its behalf, save in case of misconduct or neglect of duties by a member of staff or management. In the latter cases, the NGO or others affected should be able to take legal action against the person responsible in order to obtain compensation for the damage caused.