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## Human Rights and Democracy Violation Early Warning *Weekly Newsletter* No. 38

### The New Income Tax Law – A New Strain on Civic Society in Serbia

As part of austerity measures to cope with the current economic crisis, a new *Law on Citizens' Income Taxation* (passed on Apr. 29, 2009<sup>1</sup> by the *People's Assembly of the Republic of Serbia*) is in force as of May 8, 2009. It stipulates that taxes payable on authors' and/or experts' fees (*honoraria*) be dramatically increased: if an author or an expert has a permanent job, the tax to be paid on his/her fee will jump from 33.7% to 50.6%, whereas the fees payable to those who are unemployed will now be burdened with 76.8% in taxes - up from 48.3% .

It is with a sense of deepest concern -- and indeed alarm -- that we raise this issue that threatens to suffocate not only ongoing and pending projects funded by international donors, public or private alike, but the functioning of much of the NGO activities. Humanitarian and charitable efforts, scientific and other research, free-lance journalism, cultural and art work will also be affected by this measure.

On more than one occasion has the NGO community in Serbia pointed out that these groups' and organizations' position in present-day Serbia is far from what it should be in a democratic society ruled by law. Apart from the absence of a sound legal framework which would not only clearly define their socially useful and nonprofit character, NGOs -- and especially human rights defenders -- are in desperate need of basic protection from attacks coming from individuals, groups, organizations and parties who view them as traitors and foreign mercenaries. This circumstance alone influences potential donors when contemplating support to such NGOs, because it often surfaces that diplomatic relations with Serbia's government are ranked higher than cooperation with the civic society in solving burning problems of the society.

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<sup>1</sup> The adoption procedure in this case, too, was not transparent: YUCOM is not aware that a draft of the new law was published or submitted to the public for debate prior to adoption by Parliament.



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Long before the new legislation, and in disregard of repeated attempts by the NGO community to open a discussion on tax exemption for NGOs as nonprofit entities, civic society associations have been treated in the same way as any commercial operation, i.e. their finances were burdened with heavy taxes - the same as commercial businesses. In addition to that, project funding has been additionally aggravated by: legal insecurity; safety risks; exchange rate fluctuations; considerable outflow of funds to purposes completely dissociated with the project; steep bank fees.

We hope it is commonly understood that NGOs in Serbia do not embark on projects related to the promotion of civic values and democratic institutions in order to fix holes in the government's budget or subsidize public spending that has swollen out of all proportions. We are equally sure that an average European or US tax payer would not be pleased to know that his/her money is wasted to sustain Serbia's mastodon bureaucracy. These draconian measures will most directly and severely hit Serbian NGOs and their ongoing projects, and make potential donors think at least twice before deciding to fund any additional endeavors. In a long run, such steps of a government as irresponsible as ours will deter both foreign and domestic donors and cooperation partners from initiating, funding and implementing projects related to a range of social, educational, political, ecological, cultural and humanitarian character which this government is unable or unprepared to carry out.

It is for these reasons that Serbian NGOs have insisted on passing a modern, EU-inspired legislation which would identify NGOs and other civic society associations and their work as socially desirable and useful, as well as situate their financial aspect in a clearly defined set of criteria applicable to non-profit treatment. A government which won the last election riding high on the wave of Serbia's promised EU future presently uses the global economic meltdown as an excuse for its own failures and victimizes the civic society associations, experts, artists and cultural workers as if they were to blame for those failures.

It is therefore essential that the Government and Parliament of Serbia reconsider the new legal provision which boils down to punishing the civic society associations for whatever benefits they have contributed to the community through their work, as well as to speed up the adoption of relevant legislation which would finally define the conditions for their development and activism free from administrative, fiscal and any other hindrances that may be imposed by the authorities.



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We call upon donors -- hitherto and potential, governmental and non-governmental, national and international -- not to perceive the new tax regulations in Serbia as a step aimed at deterring them from continuing their long, successful and mutually beneficial engagement in alleviating a large number of problems affecting all walks of life in a traumatized post-war society such as Serbia is.

***Outlook:***

Should the new tax regulations remain in place, and the authorities persist in ignoring the dramatic need to define a favorable legal, administrative and fiscal framework for an unhindered evolvement of civic society's features and activities, Serbia will continue to fail one of the most important tests as a potential candidate for EU-membership, and slow down its development into a free and open society based on the rule of law and functioning democratic institutions.